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2009 Legislative Update

Austin, Texas

August 26 -27, 2009

1 **JOHN C. WEST, JR.**
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3 **P.O. BOX 81693**
4 **AUSTIN, TEXAS 78708**

5
6 August 14, 2009
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11 **RE: The Legislative Session of 2009**
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14 Ladies and Gentlemen:
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16 The recent Legislative Session was a very different kind of event than has been the norm
17 in Texas. New leadership in the Texas House resulted in a reorganization and many new
18 Committee Chairs. They got off to a slow start and the latter part of the Session was
19 overshadowed by the controversy over Voter ID. The result in the House was that a lot of bills
20 did not get considered because the House ran out of time. Towards the end of the Session there
21 was a lot of effort expended to save bills and pass them. Meanwhile, the Senate worked to pass
22 its agenda, notwithstanding the frustration that resulted from the new dynamics at work.
23

24 This is a collection of bills that touch upon and impact law enforcement and public
25 safety. Realizing that this includes a wide and ever increasing array of topics, this collections
26 attempts to cover all the relevant and appropriate issues. While some parts of it may not directly
27 impact your assignments, rest assured that they do impact some others in the business.
28

29 The presentation will cover the bills, House first, Senate second, in number order. The
30 pages and lines are both numbered with the hope that it will make the learning process easier for
31 all concerned.
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33 I appreciate you attendance. Please ask any questions that you have and I will attempt to
34 answer them as best as possible. Please keep in mind that the changes are new and the intent of
35 the Legislature is not always clear on the face of the bill. In any event, as we move through the
36 process, we will make the best collective effort we can to understand and absorb these changes.
37

38 Again, on behalf of TPA and myself, thank you for attending the Seminar!
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41 JOHN WEST
42 Attorney at Law
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Biographical Data
John C. West, Jr.

John C. West, Jr. is an attorney who has been involved in public service almost all of his career. John is a "naturalized" Texan and is a graduate of Victoria High School (1962). Prior to entering Law School, he earned his Bachelors Degree from Lamar University in Beaumont (B.A. 1966). John attended law school at the University of Texas at the Austin campus. He graduated and was licensed by the Supreme Court of Texas in 1969 (JD, 1969). After a short period of time spent working in State government, he became an Assistant District Attorney in Bell County, Texas. Subsequently John was an instructor of law enforcement at Lamar University in Beaumont.

When the police legal advisor program was in its early days, John served as such for the cities of Fort Worth and Garland. After almost four years in private legal practice in Dallas, he joined the Texas Department of Public Safety in Austin in the position of Assistant General Counsel. In April of 1982, he was promoted to General Counsel, and on February 2, 1989 he was promoted to the position of Chief of Legal Services. After sixteen and one-half years with DPS, on February 2, 1998, John accepted a position with the Texas Department of Criminal Justice as Deputy General Counsel for Litigation Support. He was later in charge of Preventive Law for TDCJ. On June 1, 2002, he was appointed General Counsel, Office of the Inspector General, Texas Board of Criminal Justice.

John West is a frequent speaker and lecturer on topics related to employment and personnel matters in the law enforcement community. He also presents instruction regarding other law enforcement/legal topics on behalf of the Texas Police Association and other public and private entities. John frequently assists Cities and Civil Service Commissions on a private consultant basis. John has written numerous outlines, books, training aids and papers on a variety of topics. John has been involved the creation with a new set of "Model Civil Service Rules" for Cities covered by Chapter 143. These Rules have customized and have been adopted in a number of Texas cities. John has just launched a new website at www.TexasCivilServiceandMore.com.

John lives in Austin with his wife Betsey and their three sons. John is noted for his willingness to assist people in the law enforcement/public safety/civil service/personnel community throughout Texas.

Correspondence, inquiries and telephone calls may be directed to him at either the letterhead address or 512/663-3521; 512/310-7455 (fax); 512/244-1003 or you may e-mail John at: jwest143@hotmail.com; website: www.TexasCivilServiceandMore.com

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HOUSE BILLS

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H.B. No. 55

AN ACT

relating to an offense of using a wireless communication device while operating a motor vehicle.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 545.425, Transportation Code, is amended to read as follows:

Sec. 545.425. USE OF WIRELESS COMMUNICATION DEVICE; OFFENSE [~~BY CERTAIN MOTORISTS~~]. (a) In this section:

(1) "Hands-free device" means speakerphone capability or a telephone attachment or other piece of equipment, regardless of whether permanently installed in the motor vehicle, that allows use of the wireless communication device without use of either of the operator's hands.

(2) "Wireless communication device" means a device that uses a commercial mobile service, as defined by 47 U.S.C. Section 332.

(b) Except as provided by Subsection (c), an operator may not use a wireless communication device while operating a motor vehicle within a school crossing zone, as defined by Section 541.302, Transportation Code, unless:

(1) the vehicle is stopped; or

(2) the wireless communication device is used with a hands-free device.

(b-1) A municipality, county, or other political subdivision that enforces this section shall post a sign that complies with the standards described by this subsection at the entrance to each school crossing zone in the municipality, county, or other political subdivision. The department shall adopt standards that:

(1) allow for a sign required to be posted under this subsection to be attached to an existing sign at a minimal cost; and

(2) require that a sign required to be posted under this subsection inform an operator that:

(A) the use of a wireless communication device is prohibited in the school crossing zone; and

(B) the operator is subject to a fine if the operator uses a wireless communication device in the school crossing zone.

(c) An operator [~~A person~~] may not use a wireless communication device while operating a passenger bus with a minor passenger on the bus unless [~~except in case of emergency or if~~] the passenger bus is stopped [~~not in motion~~].

1 (d) It is an affirmative defense to prosecution of an
2 offense under this section that:

3 (1) the wireless communication device was used to
4 make an emergency call to:

5 (A) an emergency response service, including a
6 rescue, emergency medical, or hazardous material response
7 service;

8 (B) a hospital;

9 (C) a fire department;

10 (D) a health clinic;

11 (E) a medical doctor's office;

12 (F) an individual to administer first aid
13 treatment; or

14 (G) a police department; or

15 (2) a sign required by Subsection (b-1) was not
16 posted at the entrance to the school crossing zone at the time
17 of an offense committed in the school crossing zone.

18 (e) This section does not apply to:

19 (1) an operator of an authorized emergency vehicle
20 using a wireless communication device while acting in an
21 official capacity; or

22 (2) an operator who is licensed by the Federal
23 Communications Commission while operating a radio frequency
24 device other than a wireless communication device.

25 (f) This section preempts all local ordinances, rules, or
26 regulations that are inconsistent with specific provisions of
27 this section adopted by a political subdivision of this state
28 relating to the use of a wireless communication device by the
29 operator of a motor vehicle.

30 SECTION 2. The change in law made by this Act applies only
31 to an offense committed on or after the effective date of this
32 Act. An offense committed before the effective date of this Act
33 is governed by the law in effect when the offense was committed,
34 and the former law is continued in effect for that purpose. For
35 purposes of this section, an offense was committed before the
36 effective date of this Act if any element of the offense was
37 committed before that date.

38 SECTION 3. This Act takes effect September 1, 2009.

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40 H.B. No. 93

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44
45 AN ACT

46 relating to the reinstatement of good conduct time suspended
47 during a term of imprisonment.

1 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

2 SECTION 1. Section 498.004, Government Code, as amended by
3 Chapters 249 (S.B. 44) and 321 (H.B. 2162), Acts of the 74th
4 Legislature, Regular Session, 1995, is amended by reenacting and
5 amending Subsection (a) and adding Subsection (c) to read as
6 follows:

7 (a) If, during the actual term of imprisonment of an
8 inmate in the department [~~institutional division~~] or in a
9 transfer facility, the inmate commits an offense or violates a
10 rule of the department [~~division~~], the department may forfeit
11 all or any part of the inmate's accrued good conduct time or, in
12 accordance with the policy adopted under Subsection (c), place
13 all or any part of the inmate's accrued good conduct time in
14 suspension. The department may not restore good conduct time
15 forfeited under this subsection but may reinstate good conduct
16 time suspended under this subsection.

17 (c) The department shall establish a policy regarding the
18 suspension of good conduct time under Subsection (a). The
19 policy must provide that:

20 (1) the department will consider the severity of an
21 inmate's offense or violation in determining whether to suspend
22 all or part of the inmate's good conduct time instead of
23 forfeiting the inmate's good conduct time;

24 (2) during any period of suspension, good conduct
25 time placed in suspension may not be used:

26 (A) for purposes of granting privileges to an
27 inmate; or

28 (B) to compute an inmate's eligibility for
29 parole under Section 508.145 or to determine an inmate's date of
30 release to mandatory supervision under Section 508.147;

31 (3) at the conclusion of any period of suspension,
32 the department may forfeit or reinstate the good conduct time
33 placed in suspension based on the inmate's conduct during the
34 period of the suspension; and

35 (4) in determining whether to forfeit or reinstate
36 good conduct time placed in suspension, the department must
37 consider whether any impact to public safety is likely to result
38 from the inmate's release on parole or to mandatory supervision
39 if the good conduct time is reinstated.

40 SECTION 2. This Act takes effect immediately if it
41 receives a vote of two-thirds of all the members elected to each
42 house, as provided by Section 39, Article III, Texas
43 Constitution. If this Act does not receive the vote necessary
44 for immediate effect, this Act takes effect September 1, 2009.

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46 H.B. No. 107
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AN ACT

relating to allowing for certain criminal proceedings in the absence of certain defendants.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 27, Code of Criminal Procedure, is amended by adding Article 27.19 to read as follows:

Art. 27.19. PLEA BY CERTAIN DEFENDANTS.

(a) Notwithstanding any other provision of this code, a court shall accept a plea of guilty or nolo contendere from a defendant who is confined in a penal institution if the plea is made:

(1) in accordance with the procedure established by Article 27.18; or

(2) in writing before the appropriate court having jurisdiction in the county in which the penal institution is located, provided that:

(A) the defendant is notified by the court of original jurisdiction of the right to counsel and the procedures for requesting appointment of counsel, and is provided a reasonable opportunity to request a court-appointed lawyer;

(B) if the defendant elects to proceed without counsel, the defendant must waive the right to counsel in accordance with Article 1.051;

(C) the defendant must waive the right to be present at the taking of the plea or to have counsel present, if the defendant has counsel; and

(D) if the defendant is charged with a felony, judgment and sentence are rendered in accordance with the conditions and the procedure established by Article 42.14(b).

(b) In this article, "penal institution" has the meaning assigned by Section 1.07, Penal Code.

SECTION 2. Article 42.14, Code of Criminal Procedure, is amended to read as follows:

Art. 42.14. IN ABSENCE OF DEFENDANT. (a) In a misdemeanor case, the [The] judgment and sentence [in—a misdemeanor case] may be rendered in the absence of the defendant.

(b) In a felony case, the judgment and sentence may be rendered in the absence of the defendant only if:

(1) the defendant is confined in a penal institution;

(2) the defendant is not charged with a felony offense:

(A) that is listed in Section 3g(a)(1), Article 42.12; or

1 (B) for which it is alleged that:
2 (i) a deadly weapon was used or exhibited
3 during the commission of the offense or during immediate flight
4 from the commission of the offense; and
5 (ii) the defendant used or exhibited the
6 deadly weapon or was a party to the offense and knew that a
7 deadly weapon would be used or exhibited;
8 (3) the defendant in writing before the appropriate
9 court having jurisdiction in the county in which the penal
10 institution is located:
11 (A) waives the right to be present at the
12 rendering of the judgment and sentence or to have counsel
13 present;
14 (B) affirms that the defendant does not have
15 anything to say as to why the sentence should not be pronounced
16 and that there is no reason to prevent the sentence under
17 Article 42.07;
18 (C) states that the defendant has entered into a
19 written plea agreement with the attorney representing the state
20 in the prosecution of the case; and
21 (D) requests the court to pronounce sentence in
22 the case in accordance with the plea agreement;
23 (4) the defendant and the attorney representing the
24 state in the prosecution of the case have entered into a written
25 plea agreement that is made a part of the record in the case;
26 and
27 (5) sentence is pronounced in accordance with the
28 plea agreement.
29 (c) A judgment and sentence may be rendered under this
30 article in the absence of the defendant only after the defendant
31 is notified by the court of original jurisdiction of the right
32 to counsel and the defendant requests counsel or waives the
33 right to counsel in accordance with Article 1.051.
34 (d) In this article, "deadly weapon" and "penal
35 institution" have the meanings assigned by Section 1.07, Penal
36 Code.
37 (e) If a defendant enters a plea of guilty or nolo
38 contendere under Article 27.19, the attorney representing the
39 state may request at the time the plea is entered that the
40 defendant submit a fingerprint of the defendant suitable for
41 attachment to the judgment. On request for a fingerprint under
42 this subsection, the county in which the defendant is confined
43 shall obtain a fingerprint of the defendant and use first-class
44 mail or other means acceptable to the attorney representing the
45 state and the county to forward the fingerprint to the court
46 accepting the plea.

47 SECTION 3. Article 27.19, Code of Criminal Procedure, as

1 added by this Act, and Article 42.14, Code of Criminal
2 Procedure, as amended by this Act, apply to a plea entered or to
3 a judgment and sentence rendered in a criminal case on or after
4 the effective date of this Act, regardless of whether the
5 offense for which the plea is entered or judgment and sentence
6 are rendered is committed before, on, or after that date.

7 SECTION 4. This Act takes effect September 1, 2009.

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9 H.B. No. 148

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14 AN ACT

15 relating to the prosecution of the offense of barratry and
16 solicitation of professional employment.

17 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

18 SECTION 1. Section 38.12(d), Penal Code, is amended to
19 read as follows:

20 (d) A person commits an offense if the person:

21 (1) is an attorney, chiropractor, physician, surgeon,
22 or private investigator licensed to practice in this state or
23 any person licensed, certified, or registered by a health care
24 regulatory agency of this state; and

25 (2) with the intent to obtain professional employment
26 for the person [~~himself~~] or for another, provides [~~sends~~] or
27 knowingly permits to be provided [~~sent~~] to an individual who has
28 not sought the person's employment, legal representation,
29 advice, or care a written communication or a solicitation,
30 including a solicitation in person or by telephone, that:

31 (A) concerns an action for personal injury or
32 wrongful death or otherwise relates to an accident or disaster
33 involving the person to whom the communication or solicitation
34 is provided [~~addressed~~] or a relative of that person and that
35 was provided [~~mailed~~] before the 31st day after the date on
36 which the accident or disaster occurred;

37 (B) concerns a specific matter and relates to
38 legal representation and the person knows or reasonably should
39 know that the person to whom the communication or solicitation
40 is directed is represented by a lawyer in the matter;

41 (C) concerns an arrest of or issuance of a
42 summons to the person to whom the communication or solicitation
43 is provided [~~addressed~~] or a relative of that person and that
44 was provided [~~mailed~~] before the 31st day after the date on
45 which the arrest or issuance of the summons occurred;

46 (D) concerns a lawsuit of any kind, including an
47 action for divorce, in which the person to whom the

1 communication or solicitation is provided [~~addressed~~] is a
2 defendant or a relative of that person, unless the lawsuit in
3 which the person is named as a defendant has been on file for
4 more than 31 days before the date on which the communication or
5 solicitation was provided [~~mailed~~];

6 (E) is provided [~~sent~~] or permitted to be
7 provided [~~sent~~] by a person who knows or reasonably should know
8 that the injured person or relative of the injured person has
9 indicated a desire not to be contacted by or receive
10 communications or solicitations concerning employment;

11 (F) involves coercion, duress, fraud,
12 overreaching, harassment, intimidation, or undue influence; or

13 (G) contains a false, fraudulent, misleading,
14 deceptive, or unfair statement or claim.

15 SECTION 2. The change in law made by this Act applies only
16 to an offense committed on or after the effective date of this
17 Act. An offense committed before the effective date of this Act
18 is governed by the law in effect at the time the offense was
19 committed, and the former law is continued in effect for that
20 purpose. For purposes of this section, an offense was committed
21 before the effective date of this Act if any element of the
22 offense occurred before that date.

23 SECTION 3. This Act takes effect September 1, 2009.

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25 H.B. No. 176
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30 AN ACT

31 relating to the punishment for the offense of aggravated
32 assault.

33 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

34 SECTION 1. This Act shall be known as the Janie Lynn
35 Delapaz Act.

36 SECTION 2. Section 22.02(b), Penal Code, is amended to
37 read as follows:

38 (b) An offense under this section is a felony of the
39 second degree, except that the offense is a felony of the first
40 degree if:

41 (1) the actor uses a deadly weapon during the
42 commission of the assault and causes serious bodily injury to a
43 person whose relationship to or association with the defendant
44 is described by Section 71.0021(b), 71.003, or 71.005, Family
45 Code; [~~or~~]

46 (2) regardless of whether the offense is committed
47 under Subsection (a)(1) or (a)(2), the offense is committed:

1 (A) by a public servant acting under color of
2 the servant's office or employment;

3 (B) against a person the actor knows is a public
4 servant while the public servant is lawfully discharging an
5 official duty, or in retaliation or on account of an exercise of
6 official power or performance of an official duty as a public
7 servant;

8 (C) in retaliation against or on account of the
9 service of another as a witness, prospective witness, informant,
10 or person who has reported the occurrence of a crime; or

11 (D) against a person the actor knows is a
12 security officer while the officer is performing a duty as a
13 security officer; or

14 (3) the actor is in a motor vehicle, as defined by
15 Section 501.002, Transportation Code, and:

16 (A) knowingly discharges a firearm at or in the
17 direction of a habitation, building, or vehicle;

18 (B) is reckless as to whether the habitation,
19 building, or vehicle is occupied; and

20 (C) in discharging the firearm, causes serious
21 bodily injury to any person.

22 SECTION 3. The change in law made by this Act applies only
23 to an offense committed on or after the effective date of this
24 Act. An offense committed before the effective date of this Act
25 is covered by the law in effect immediately before the effective
26 date of this Act, and the former law is continued in effect for
27 that purpose. For purposes of this section, an offense was
28 committed before the effective date of this Act if any element
29 of the offense was committed before that date.

30 SECTION 4. This Act takes effect September 1, 2009.

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32 H.B. No. 221
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37 AN ACT

38 relating to delaying parole eligibility for an individual
39 convicted of certain violent offenses who evades arrest and to
40 the punishment prescribed for the offense of evading arrest or
41 detention.

42 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

43 SECTION 1. Article 42.01, Code of Criminal Procedure, is
44 amended by adding Section 9 to read as follows:

45 Sec. 9. In addition to the information described by
46 Section 1, the judgment should reflect affirmative findings
47 entered pursuant to Article 42.0198.

1 SECTION 2. Chapter 42, Code of Criminal Procedure, is
2 amended by adding Article 42.0198 to read as follows:

3 Art. 42.0198. FINDING REGARDING DELAY IN ARREST OF
4 DEFENDANT. In the trial of an offense under Section 19.02,
5 22.011, or 22.021, Penal Code, on the motion of the attorney
6 representing the state the judge shall make an affirmative
7 finding of fact regarding the number of months that elapsed, if
8 any, between the date an arrest warrant was issued for the
9 defendant following an indictment for the offense and the date
10 the defendant was arrested for the offense. The judge shall
11 enter the affirmative finding in the judgment in the case.

12 SECTION 3. Section 508.145, Government Code, is amended by
13 adding Subsection (d-1) to read as follows:

14 (d-1) Notwithstanding Subsection (d), for every 12 months
15 that elapse between the date an arrest warrant is issued for the
16 inmate following an indictment for the offense and the date the
17 inmate is arrested for the offense, the earliest date on which
18 an inmate is eligible for parole is delayed by three years from
19 the date otherwise provided by Subsection (d), if the inmate is
20 servng a sentence for an offense under Section 19.02, 22.011,
21 or 22.021, Penal Code.

22 SECTION 4. Section 38.04(b), Penal Code, is amended to
23 read as follows:

24 (b) An offense under this section is a Class A [~~B~~]
25 misdemeanor, except that the offense is:

26 (1) a state jail felony if:

27 (A) the actor has been previously convicted
28 under this section; or

29 (B) the actor uses a vehicle while the actor is
30 in flight and the actor has not been previously convicted under
31 this section;

32 (2) a felony of the third degree if:

33 (A) the actor uses a vehicle while the actor is
34 in flight and the actor has been previously convicted under this
35 section; or

36 (B) another suffers serious bodily injury as a
37 direct result of an attempt by the officer from whom the actor
38 is fleeing to apprehend the actor while the actor is in flight;
39 or

40 (3) a felony of the second degree if another suffers
41 death as a direct result of an attempt by the officer from whom
42 the actor is fleeing to apprehend the actor while the actor is
43 in flight.

44 SECTION 5. Section 9, Article 42.01, Code of Criminal
45 Procedure, and Article 42.0198, Code of Criminal Procedure, as
46 added by this Act, apply only to a judgment of conviction
47 entered on or after the effective date of this Act.

1 SECTION 6. Section 508.145, Government Code, as amended by
2 this Act, applies only to the parole eligibility of an inmate
3 serving a sentence for an offense under Section 19.02, 22.011,
4 or 22.021, Penal Code, committed on or after the effective date
5 of this Act. The parole eligibility of an inmate serving a
6 sentence for an offense under Section 19.02, 22.011, or 22.021,
7 Penal Code, committed before the effective date of this Act is
8 governed by the law in effect at the time the offense was
9 committed, and the former law is continued in effect for that
10 purpose. For purposes of this section, an offense was committed
11 before the effective date of this Act if any element of the
12 offense was committed before that date.

13 SECTION 7. The change in law made by this Act applies only
14 to an offense committed on or after the effective date of this
15 Act. An offense committed before the effective date of this Act
16 is covered by the law in effect when the offense was committed,
17 and the former law is continued in effect for that purpose. For
18 purposes of this section, an offense was committed before the
19 effective date of this Act if any element of the offense was
20 committed before that date.

21 SECTION 8. This Act takes effect September 1, 2009.

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23 H.B. No. 348
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28 AN ACT

29 relating to the punishment for theft of certain aluminum,
30 bronze, or copper materials.

31 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

32 SECTION 1. Section 31.03(e), Penal Code, is amended to
33 read as follows:

34 (e) Except as provided by Subsection (f), an offense under
35 this section is:

36 (1) a Class C misdemeanor if the value of the
37 property stolen is less than:

38 (A) \$50; or

39 (B) \$20 and the defendant obtained the property
40 by issuing or passing a check or similar sight order in a manner
41 described by Section 31.06;

42 (2) a Class B misdemeanor if:

43 (A) the value of the property stolen is:

44 (i) \$50 or more but less than \$500; or

45 (ii) \$20 or more but less than \$500 and the
46 defendant obtained the property by issuing or passing a check or
47 similar sight order in a manner described by Section 31.06; or

1 (B) the value of the property stolen is less
2 than:
3 (i) \$50 and the defendant has previously
4 been convicted of any grade of theft; or
5 (ii) \$20, the defendant has previously been
6 convicted of any grade of theft, and the defendant obtained the
7 property by issuing or passing a check or similar sight order in
8 a manner described by Section 31.06;
9 (3) a Class A misdemeanor if the value of the
10 property stolen is \$500 or more but less than \$1,500;
11 (4) a state jail felony if:
12 (A) the value of the property stolen is \$1,500
13 or more but less than \$20,000, or the property is less than 10
14 head of cattle, horses, or exotic livestock or exotic fowl as
15 defined by Section 142.001, Agriculture Code, or any part
16 thereof under the value of \$20,000, or less than 100 head of
17 sheep, swine, or goats or any part thereof under the value of
18 \$20,000;
19 (B) regardless of value, the property is stolen
20 from the person of another or from a human corpse or grave;
21 (C) the property stolen is a firearm, as defined
22 by Section 46.01;
23 (D) the value of the property stolen is less
24 than \$1,500 and the defendant has been previously convicted two
25 or more times of any grade of theft;
26 (E) the property stolen is an official ballot or
27 official carrier envelope for an election; or
28 (F) the value of the property stolen is less
29 than \$20,000 and the property stolen is insulated or
30 noninsulated tubing, rods, water gate stems, wire, or cable that
31 consists of at least 50 percent:
32 (i) aluminum;
33 (ii) bronze; or
34 (iii) copper;
35 (5) a felony of the third degree if the value of the
36 property stolen is \$20,000 or more but less than \$100,000, or
37 the property is:
38 (A) 10 or more head of cattle, horses, or exotic
39 livestock or exotic fowl as defined by Section 142.001,
40 Agriculture Code, stolen during a single transaction and having
41 an aggregate value of less than \$100,000; or
42 (B) 100 or more head of sheep, swine, or goats
43 stolen during a single transaction and having an aggregate value
44 of less than \$100,000;
45 (6) a felony of the second degree if the value of the
46 property stolen is \$100,000 or more but less than \$200,000; or
47 (7) a felony of the first degree if the value of the

1 property stolen is \$200,000 or more.

2 SECTION 2. The change in law made by this Act applies only
3 to an offense committed on or after the effective date of this
4 Act. An offense committed before the effective date of this Act
5 is governed by the law in effect when the offense was committed,
6 and the former law is continued in effect for that purpose. For
7 the purposes of this section, an offense is committed before the
8 effective date of this Act if any element of the offense occurs
9 before that date.

10 SECTION 3. This Act takes effect September 1, 2009.

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12 H.B. No. 358
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17 AN ACT

18 relating to the seizure of the circuit board of a gambling
19 device or equipment, altered gambling equipment, or gambling
20 paraphernalia.

21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

22 SECTION 1. Chapter 18, Code of Criminal Procedure, is
23 amended by adding Article 18.095 to read as follows:

24 Art. 18.095. SEIZURE OF CIRCUIT BOARD OF GAMBLING DEVICE,
25 EQUIPMENT, OR PARAPHERNALIA. For purposes of this chapter, an
26 officer directed under a search warrant to search for and seize
27 a gambling device or equipment, altered gambling equipment, or
28 gambling paraphernalia in the discretion of the officer may:

29 (1) seize only the programmable main circuit board of
30 the device, equipment, or paraphernalia if that circuit board is
31 designed as a subassembly or essential part of the device,
32 equipment, or paraphernalia to provide the information necessary
33 for the device, equipment, or paraphernalia to operate as a
34 gambling device or equipment, altered gambling equipment, or
35 gambling paraphernalia;

36 (2) carry the circuit board before the magistrate;
37 and

38 (3) retain custody of the circuit board as the
39 property seized pursuant to the warrant as required under this
40 chapter.

41 SECTION 2. This Act takes effect September 1, 2009.

42
43 H.B. No. 396
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1 AN ACT

2 relating to expunction of a notice of lis pendens.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

4 SECTION 1. Section 12.007, Property Code, is amended by
5 adding Subsection (d) to read as follows:

6 (d) Not later than the third day after the date a person
7 files a notice for record under this section, the person must
8 serve a copy of the notice on each party to the action who has
9 an interest in the real property affected by the notice.

10 SECTION 2. Chapter 12, Property Code, is amended by adding
11 Section 12.0071 to read as follows:

12 Sec. 12.0071. MOTION TO EXPUNGE LIS PENDENS. (a) A party
13 to an action in connection with which a notice of lis pendens
14 has been filed may:

15 (1) apply to the court to expunge the notice; and
16 (2) file evidence, including declarations, with the
17 motion to expunge the notice.

18 (b) The court may:

19 (1) permit evidence on the motion to be received in
20 the form of oral testimony; and

21 (2) make any orders the court considers just to
22 provide for discovery by a party affected by the motion.

23 (c) The court shall order the notice of lis pendens
24 expunged if the court determines that:

25 (1) the pleading on which the notice is based does
26 not contain a real property claim;

27 (2) the claimant fails to establish by a
28 preponderance of the evidence the probable validity of the real
29 property claim; or

30 (3) the person who filed the notice for record did
31 not serve a copy of the notice on each party entitled to a copy
32 under Section 12.007(d).

33 (d) Notice of a motion to expunge under Subsection (a)
34 must be served on each affected party on or before the 20th day
35 before the date of the hearing on the motion.

36 (e) The court shall rule on the motion for expunction
37 based on the affidavits and counteraffidavits on file and on any
38 other proof the court allows.

39 (f) After a certified copy of an order expunging a notice
40 of lis pendens has been recorded, the notice of lis pendens and
41 any information derived from the notice:

42 (1) does not:

43 (A) constitute constructive or actual notice of
44 any matter contained in the notice or of any matter relating to
45 the proceeding;

46 (B) create any duty of inquiry in a person with
47 respect to the property described in the notice; or

1 (C) affect the validity of a conveyance to a
2 purchaser for value or of a mortgage to a lender for value; and

3 (2) is not enforceable against a purchaser or lender
4 described by Subdivision (1)(C), regardless of whether the
5 purchaser or lender knew of the lis pendens action.

6 (g) The court in its discretion may require that the party
7 prevailing in the expunction hearing submit an undertaking to
8 the court in an amount determined by the court.

9 SECTION 3. The change in law made by this Act applies only
10 to a lis pendens filed on or after the effective date of this
11 Act. A lis pendens filed before the effective date of this Act
12 is governed by the law in effect immediately before that date,
13 and that law is continued in effect for that purpose.

14 SECTION 4. This Act takes effect September 1, 2009.

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16 H.B. No. 400
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21 AN ACT

22 relating to the dismissal of a charge of unlawfully parking a
23 vehicle in a space designated specifically for persons with
24 disabilities.

25 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

26 SECTION 1. Chapter 681, Transportation Code, is amended by
27 adding Section 681.013 to read as follows:

28 Sec. 681.013. DISMISSAL OF CHARGE; ADMINISTRATIVE FEE.

29 (a) In this section, "working day" means any day other than a
30 Saturday, a Sunday, or a holiday on which county offices are
31 closed.

32 (b) The court shall:

33 (1) dismiss a charge for an offense under Section
34 681.011(b)(1) if:

35 (A) the vehicle displayed a disabled parking
36 placard that was not valid as expired;

37 (B) the defendant remedies the defect by
38 renewing the expired disabled parking placard within 20 working
39 days from the date of the offense or before the defendant's
40 first court appearance date, whichever is later; and

41 (C) the disabled parking placard has not been
42 expired for more than 60 days; and

43 (2) assess an administrative fee not to exceed \$20
44 when the charge has been remedied.

45 (c) Notwithstanding Subsection (b)(1)(C), the court may
46 dismiss a charge of unlawfully parking a vehicle in a space
47 designated specifically for persons with disabilities, if at the

1 time of the offense the defendant's vehicle displays a disabled
2 parking placard that has been expired for more than 60 days.

3 SECTION 2. The change in law made by this Act applies only
4 to an offense committed on or after the effective date of this
5 Act. An offense committed before the effective date of this Act
6 is governed by the law in effect when the offense was committed,
7 and the former law is continued in effect for that purpose. For
8 purposes of this section, an offense was committed before the
9 effective date of this Act if any element of the offense was
10 committed before that date.

11 SECTION 3. This Act takes effect September 1, 2009.

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13 H.B. No. 405
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18 AN ACT

19 relating to the authority of an animal control officer to carry
20 a bite prevention stick in the performance of official duties.

21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

22 SECTION 1. Section 46.15, Penal Code, is amended by adding
23 Subsection (g) to read as follows:

24 (g) The provisions of Sections 46.02 and 46.03 prohibiting
25 the possession or carrying of a club do not apply to an animal
26 control officer who holds a certificate issued under Section
27 829.006, Health and Safety Code, and who possesses or carries an
28 instrument used specifically for deterring the bite of an animal
29 while the officer is in the performance of official duties under
30 the Health and Safety Code or is traveling to or from a place of
31 duty.

32 SECTION 2. Section 829.003(a), Health and Safety Code, is
33 amended to read as follows:

34 (a) The department shall prescribe the standards and
35 curriculum for basic and continuing education animal control
36 courses. The curriculum for both the basic and continuing
37 education courses must include the following topics:

38 (1) state laws governing animal control and
39 protection and animal cruelty;

40 (2) animal health and disease recognition, control,
41 and prevention;

42 (3) the humane care and treatment of animals;

43 (4) standards for care and control of animals in an
44 animal shelter;

45 (5) standards and procedures for the transportation
46 of animals;

47 (6) principles and procedures for capturing and

1 handling stray domestic animals and wildlife, including
2 principles and procedures to be followed with respect to an
3 instrument used specifically for deterring the bite of an
4 animal;

5 (7) first aid for injured animals;

6 (8) the documentation of animal cruelty evidence and
7 courtroom procedures;

8 (9) animal shelter operations and administration;

9 (10) spaying and neutering, microchipping, and
10 adoption;

11 (11) communications and public relations;

12 (12) state and federal laws for possession of
13 controlled substances and other medications; and

14 (13) any other topics pertinent to animal control and
15 animal shelter personnel.

16 SECTION 3. Section 829.003(a), Health and Safety Code, as
17 amended by this Act, applies to the curriculum required for
18 basic and continuing education animal control courses offered
19 under Section 829.004, Health and Safety Code, on or after
20 January 1, 2010.

21 SECTION 4. This Act takes effect immediately if it
22 receives a vote of two-thirds of all the members elected to each
23 house, as provided by Section 39, Article III, Texas
24 Constitution. If this Act does not receive the vote necessary
25 for immediate effect, this Act takes effect September 1, 2009.

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27 H.B. No. 453
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32 AN ACT

33 relating to the use of auction proceeds from the sale of certain
34 abandoned motor vehicles to compensate certain property owners.

35 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

36 SECTION 1. Section 683.015, Transportation Code, is
37 amended by adding Subsections (f) and (g) to read as follows:

38 (f) A county law enforcement agency may use funds received
39 from the sale of a motor vehicle abandoned as a result of a
40 vehicular pursuit involving the law enforcement agency and
41 transferred under Subsection (d) to compensate property owners
42 whose property was damaged as a result of the pursuit,
43 regardless of whether the agency would be liable under Chapter
44 101, Civil Practice and Remedies Code. A payment for
45 compensation under this subsection may not exceed any of the
46 following amounts:

47 (1) the net proceeds received from the sale of the

1 motor vehicle abandoned as a result of the pursuit;

2 (2) \$1,000 per property owner, if more than one
3 property owner's property is damaged as a result of the pursuit;
4 or

5 (3) the amount of the property owner's insurance
6 deductible.

7 (g) Before a law enforcement agency may compensate a
8 property owner under Subsection (f) using funds transferred to a
9 county under Subsection (d), the sheriff or constable must
10 submit the proposed payment for compensation for consideration,
11 and the commissioners court shall consider the proposed payment
12 for compensation, at the next regularly scheduled meeting of the
13 commissioners court.

14 SECTION 2. This Act takes effect immediately if it
15 receives a vote of two-thirds of all the members elected to each
16 house, as provided by Section 39, Article III, Texas
17 Constitution. If this Act does not receive the vote necessary
18 for immediate effect, this Act takes effect September 1, 2009.

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20 H.B. No. 498
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25 AN ACT

26 relating to the establishment of an advisory panel to assist
27 with a study regarding the prevention of wrongful convictions.

28 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

29 SECTION 1. (a) The Timothy Cole advisory panel on
30 wrongful convictions is established to assist the Task Force on
31 Indigent Defense established under Subchapter D, Chapter 71,
32 Government Code, in conducting a study and preparing a report
33 regarding the prevention of wrongful convictions as provided by
34 this section.

35 (b) The advisory panel is composed of the following
36 members:

37 (1) the director of the Task Force on Indigent
38 Defense;

39 (2) the chair of the criminal justice committee of
40 the senate or a member of the senate designated by the chair;

41 (3) the chair of the jurisprudence committee of the
42 senate or a member of the senate designated by the chair;

43 (4) the chair of the criminal jurisprudence committee
44 of the house of representatives or a member of the house of
45 representatives designated by the chair;

46 (5) the chair of the corrections committee of the
47 house of representatives or a member of the house of

1 representatives designated by the chair;

2 (6) the executive director of the Texas Criminal
3 Defense Lawyers Association or a representative designated by
4 the executive director;

5 (7) the president of the Texas District and County
6 Attorneys Association or a representative designated by the
7 president;

8 (8) the presiding judge of the court of criminal
9 appeals or a representative who is designated by the presiding
10 judge and who is a judge of the court of criminal appeals;

11 (9) one representative of a public law school in this
12 state, chosen by the deans of the public law schools in this
13 state; and

14 (10) one employee of the office of the governor,
15 appointed by the governor.

16 (c) The director of the Task Force on Indigent Defense is
17 the presiding officer of the advisory panel. The advisory panel
18 shall meet at the call of the presiding officer but not less
19 than three times in person and as needed by telephone conference
20 call.

21 (d) The Task Force on Indigent Defense, with the advice
22 and assistance of the advisory panel, shall conduct a study
23 regarding:

24 (1) the causes of wrongful convictions;

25 (2) procedures and programs that may be implemented
26 to prevent future wrongful convictions;

27 (3) the effects of state law on wrongful convictions,
28 as determined based on state statutes regarding eyewitness
29 identification procedures, the recording of custodial
30 interrogations, postconviction DNA testing, and writs of habeas
31 corpus based on relevant scientific evidence; and

32 (4) whether the creation of an innocence commission
33 to investigate wrongful convictions would be appropriate.

34 (e) The Task Force on Indigent Defense may request that an
35 entity in the legislative, judicial, or executive branch of
36 state government or a political subdivision provide to the
37 advisory panel information related to the advisory panel's
38 duties under this section. On the request of the Task Force on
39 Indigent Defense under this subsection, an entity may provide
40 information to the advisory panel unless the entity is otherwise
41 prohibited from disclosing the information.

42 (f) Not later than January 1, 2011, the Task Force on
43 Indigent Defense shall prepare a report regarding the results of
44 the study conducted under this section and submit the report,
45 after consulting with the advisory panel, to the governor, the
46 lieutenant governor, the speaker of the house of
47 representatives, and the standing committees of each house of

1 the legislature with a representative serving on the advisory
2 panel.

3 (g) This section expires January 1, 2011.

4 SECTION 2. This Act takes effect September 1, 2009.

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6 H.B. No. 523
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11 AN ACT

12 relating to the contents of a receipt issued for payment of a
13 good or service; providing a civil penalty.

14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

15 SECTION 1. Subchapter C, Chapter 501, Business & Commerce
16 Code, as effective April 1, 2009, is amended by adding Section
17 501.1011 to read as follows:

18 Sec. 501.1011. SALES RECEIPT CONTAINING DRIVER'S LICENSE
19 NUMBER PROHIBITED. A person may not print an individual's
20 driver's license number on a receipt that evidences payment for
21 a sale of goods or services and is provided to the individual.

22 SECTION 2. Section 501.102, Business & Commerce Code, as
23 effective April 1, 2009, is amended by amending Subsection (a)
24 and adding Subsection (a-1) to read as follows:

25 (a) A person who violates Section 501.101 [~~this~~
26 ~~subchapter~~] is liable to this state for a civil penalty in an
27 amount not to exceed \$500 for each violation. The attorney
28 general or the prosecuting attorney in the county in which the
29 violation occurs may bring an action to recover the civil
30 penalty imposed under this subsection [~~section~~].

31 (a-1) A person who violates Section 501.1011 is liable to
32 this state for a civil penalty in an amount not to exceed \$500
33 for each calendar month in which a violation occurs. The civil
34 penalty may not be imposed for more than one violation that
35 occurs in a month. The attorney general or the prosecuting
36 attorney in the county in which the violation occurs may bring
37 an action to recover the civil penalty imposed under this
38 subsection.

39 SECTION 3. This Act takes effect January 1, 2010.

40
41 H.B. No. 533
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46 AN ACT

47 relating to civil liability for the trafficking of persons.

1 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

2 SECTION 1. Title 4, Civil Practice and Remedies Code, is
3 amended by adding Chapter 98 to read as follows:

4 CHAPTER 98. LIABILITY FOR TRAFFICKING OF PERSONS

5 Sec. 98.001. DEFINITION. In this chapter, "trafficking of
6 persons" means conduct that constitutes an offense under Chapter
7 20A, Penal Code.

8 Sec. 98.002. LIABILITY. (a) A defendant who engages in
9 the trafficking of persons or who intentionally or knowingly
10 benefits from participating in a venture that traffics another
11 person is liable to the person trafficked, as provided by this
12 chapter, for damages arising from the trafficking of that person
13 by the defendant or venture.

14 (b) It is not a defense to liability under this chapter
15 that a defendant has been acquitted or has not been prosecuted
16 or convicted under Chapter 20A, Penal Code, or has been
17 convicted of a different offense or of a different type or class
18 of offense, for the conduct that is alleged to give rise to
19 liability under this chapter.

20 Sec. 98.003. DAMAGES. (a) A claimant who prevails in a
21 suit under this chapter shall be awarded:

22 (1) actual damages, including damages for mental
23 anguish even if an injury other than mental anguish is not
24 shown;

25 (2) court costs; and

26 (3) reasonable attorney's fees.

27 (b) In addition to an award under Subsection (a), a
28 claimant who prevails in a suit under this chapter may recover
29 exemplary damages.

30 Sec. 98.004. CAUSE OF ACTION CUMULATIVE. The cause of
31 action created by this chapter is cumulative of any other remedy
32 provided by common law or statute.

33 Sec. 98.005. JOINT AND SEVERAL LIABILITY. A person who
34 engages in the trafficking of persons or who intentionally or
35 knowingly benefits from participating in a venture that traffics
36 another person and is found liable under this chapter or other
37 law for any amount of damages arising from the trafficking is
38 jointly liable with any other defendant for the entire amount of
39 damages arising from the trafficking.

40 Sec. 98.006. LIBERAL CONSTRUCTION AND APPLICATION. This
41 chapter shall be liberally construed and applied to promote its
42 underlying purpose to protect persons from human trafficking and
43 provide adequate remedies to victims of human trafficking.

44 SECTION 2. Section 41.008(c), Civil Practice and Remedies
45 Code, is amended to read as follows:

46 (c) This section does not apply to a cause of action
47 against a defendant from whom a plaintiff seeks recovery of

1 exemplary damages based on conduct described as a felony in the
2 following sections of the Penal Code if, except for Sections
3 49.07 and 49.08, the conduct was committed knowingly or
4 intentionally:

- 5 (1) Section 19.02 (murder);
- 6 (2) Section 19.03 (capital murder);
- 7 (3) Section 20.04 (aggravated kidnapping);
- 8 (4) Section 22.02 (aggravated assault);
- 9 (5) Section 22.011 (sexual assault);
- 10 (6) Section 22.021 (aggravated sexual assault);
- 11 (7) Section 22.04 (injury to a child, elderly
12 individual, or disabled individual, but not if the conduct
13 occurred while providing health care as defined by Section
14 74.001);
- 15 (8) Section 32.21 (forgery);
- 16 (9) Section 32.43 (commercial bribery);
- 17 (10) Section 32.45 (misapplication of fiduciary
18 property or property of financial institution);
- 19 (11) Section 32.46 (securing execution of document by
20 deception);
- 21 (12) Section 32.47 (fraudulent destruction, removal,
22 or concealment of writing);
- 23 (13) Chapter 31 (theft) the punishment level for
24 which is a felony of the third degree or higher;
- 25 (14) Section 49.07 (intoxication assault);
- 26 (15) Section 49.08 (intoxication manslaughter); [~~or~~]
- 27 (16) Section 21.02 (continuous sexual abuse of young
28 child or children); or
- 29 (17) Chapter 20A (trafficking of persons).

30 SECTION 3. The change in law made by this Act applies only
31 to a cause of action that accrues on or after the effective date
32 of this Act. A cause of action that accrues before the
33 effective date of this Act is governed by the law in effect
34 immediately before that date, and that law is continued in
35 effect for that purpose.

36 SECTION 4. This Act takes effect immediately if it
37 receives a vote of two-thirds of all the members elected to each
38 house, as provided by Section 39, Article III, Texas
39 Constitution. If this Act does not receive the vote necessary
40 for immediate effect, this Act takes effect September 1, 2009.

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42 H.B. No. 537
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AN ACT

1 relating to the transportation of children in motor vehicles;
2 creating an offense.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

4 SECTION 1. Sections 545.412(e) and (f), Transportation
5 Code, are amended to read as follows:

6 (e) This section does not apply to a person:

7 (1) operating a vehicle transporting passengers for
8 hire, excluding [~~including~~] third-party transport service
9 providers when transporting clients pursuant to a contract to
10 provide nonemergency Medicaid transportation; or

11 (2) transporting a child in a vehicle in which all
12 seating positions equipped with child passenger safety seat
13 systems or safety belts are occupied.

14 (f) In this section:

15 (1) "Child passenger safety seat system" means an
16 infant or child passenger restraint system that meets the
17 federal standards for crash-tested restraint systems as set by
18 the National Highway Traffic Safety Administration.

19 (2) "Passenger vehicle" means a passenger car, light
20 truck, sport utility vehicle, passenger van designed to
21 transport 15 or fewer passengers, including the driver, truck,
22 or truck tractor.

23 (3) "Safety belt" means a lap belt and any shoulder
24 straps included as original equipment on or added to a vehicle.

25 (4) "Secured," in connection with use of a safety
26 belt, means using the lap belt and any shoulder straps according
27 to the instructions of:

28 (A) the manufacturer of the vehicle, if the
29 safety belt is original equipment; or

30 (B) the manufacturer of the safety belt, if the
31 safety belt has been added to the vehicle.

32 SECTION 2. Section 545.413, Transportation Code, is
33 amended by amending Subsection (a) and adding Subsection (b-1)
34 to read as follows:

35 (a) A person commits an offense if:

36 (1) the person:

37 (A) is at least 15 years of age;

38 (B) is riding in [~~the front seat of~~] a passenger
39 vehicle while the vehicle is being operated;

40 (C) is occupying a seat that is equipped with a
41 safety belt; and

42 (D) is not secured by a safety belt; or

43 (2) as the operator of a school bus equipped with a
44 safety belt for the operator's seat, the person is not secured
45 by the safety belt.

46 (b-1) A person commits an offense if the person allows a
47 child who is younger than 17 years of age and who is not

1 required to be secured in a child passenger safety seat system
2 under Section 545.412(a) to ride in a passenger van designed to
3 transport 15 or fewer passengers, including the driver, without
4 securing the child individually by a safety belt, if the child
5 is occupying a seat that is equipped with a safety belt.

6 SECTION 3. Section 545.416, Transportation Code, is
7 amended by adding Subsections (d) and (e) to read as follows:

8 (d) Except as provided by Subsection (e), an operator may
9 not carry another person on a motorcycle unless the other person
10 is at least five years of age. An offense under this subsection
11 is a misdemeanor punishable by a fine of not less than \$100 or
12 more than \$200. It is a defense to prosecution under this
13 subsection that the operator was operating the motorcycle in an
14 emergency or for a law enforcement purpose.

15 (e) Subsection (d) does not prohibit an operator from
16 carrying on a motorcycle a person younger than five years of age
17 who is seated in a sidecar attached to the motorcycle.

18 SECTION 4. The change in law made by this Act applies only
19 to an offense committed on or after the effective date of this
20 Act. An offense committed before the effective date of this Act
21 is covered by the law in effect immediately before the effective
22 date of this Act, and the former law is continued in effect for
23 that purpose. For purposes of this section, an offense was
24 committed before the effective date of this Act if any element
25 of the offense was committed before that date.

26 SECTION 5. This Act takes effect September 1, 2009.

27
28 H.B. No. 548
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33 AN ACT

34 relating to the impoundment of certain motor vehicles involved
35 in the commission of the offense of racing on a highway.

36 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

37 SECTION 1. Section 545.420, Transportation Code, is
38 amended by adding Subsection (i) to read as follows:

39 (i) This subsection applies only to a motor vehicle used
40 in the commission of an offense under this section that results
41 in an accident with property damage or personal injury. A peace
42 officer shall require the vehicle to be taken to the nearest
43 licensed vehicle storage facility unless the vehicle is seized
44 as evidence, in which case the vehicle may be taken to a storage
45 facility as designated by the peace officer involved.
46 Notwithstanding Article 18.23, Code of Criminal Procedure, the
47 owner of a motor vehicle that is removed or stored under this

1 subsection is liable for all removal and storage fees incurred
2 and is not entitled to take possession of the vehicle until
3 those fees are paid.

4 SECTION 2. The change in law made by this Act applies only
5 to an offense committed on or after the effective date of this
6 Act. An offense committed before the effective date of this Act
7 is covered by the law in effect immediately before the effective
8 date of this Act, and the former law is continued in effect for
9 that purpose. For purposes of this section, an offense was
10 committed before the effective date of this Act if any element
11 of the offense was committed before that date.

12 SECTION 3. This Act takes effect September 1, 2009.

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14 H.B. No. 549
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19 AN ACT

20 relating to an affirmative defense to prosecution for certain
21 sex offenses.

22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

23 SECTION 1. Section 21.11, Penal Code, is amended by
24 amending Subsection (a) and adding Subsection (b-1) to read as
25 follows:

26 (a) A person commits an offense if, with a child younger
27 than 17 years of age [~~and not the person's spouse~~], whether the
28 child is of the same or opposite sex, the person:

29 (1) engages in sexual contact with the child or
30 causes the child to engage in sexual contact; or

31 (2) with intent to arouse or gratify the sexual
32 desire of any person:

33 (A) exposes the person's anus or any part of the
34 person's genitals, knowing the child is present; or

35 (B) causes the child to expose the child's anus
36 or any part of the child's genitals.

37 (b-1) It is an affirmative defense to prosecution under
38 this section that the actor was the spouse of the child at the
39 time of the offense.

40 SECTION 2. Section 21.12, Penal Code, is amended by
41 amending Subsection (a) and adding Subsection (b-1) to read as
42 follows:

43 (a) An employee of a public or private primary or
44 secondary school commits an offense if the employee engages in:

45 (1) sexual contact, sexual intercourse, or deviate
46 sexual intercourse with a person who is enrolled in a public or
47 private primary or secondary school at which the employee works

1 ~~[and who is not the employee's spouse]~~; or

2 (2) conduct described by Section 33.021, with a
3 person described by Subdivision (1), regardless of the age of
4 that person.

5 (b-1) It is an affirmative defense to prosecution under
6 this section that the actor was the spouse of the enrolled
7 person at the time of the offense.

8 SECTION 3. Section 22.011(c)(1), Penal Code, is amended to
9 read as follows:

10 (1) "Child" means a person younger than 17 years of
11 age ~~[who is not the spouse of the actor]~~.

12 SECTION 4. Section 22.011(e), Penal Code, is amended to
13 read as follows:

14 (e) It is an affirmative defense to prosecution under
15 Subsection (a)(2):

16 (1) that the actor was the spouse of the child at the
17 time of the offense; or

18 (2) that:

19 (A) [~~1~~] the actor was not more than three
20 years older than the victim and at the time of the offense:

21 (i) [~~A~~] was not required under Chapter
22 62, Code of Criminal Procedure, to register for life as a sex
23 offender; or

24 (ii) [~~B~~] was not a person who under
25 Chapter 62, Code of Criminal Procedure, had a reportable
26 conviction or adjudication for an offense under this section;
27 and

28 (B) [~~2~~] the victim:

29 (i) [~~A~~] was a child of 14 years of age or
30 older; and

31 (ii) [~~B~~] was not a person whom the actor
32 was prohibited from marrying or purporting to marry or with whom
33 the actor was prohibited from living under the appearance of
34 being married under Section 25.01.

35 SECTION 5. Section 39.04, Penal Code, is amended by
36 amending Subsection (f) and adding Subsection (h) to read as
37 follows:

38 (f) An employee of the Texas Department of Criminal
39 Justice, the Texas Youth Commission, or a local juvenile
40 probation department commits an offense if the employee engages
41 in sexual contact, sexual intercourse, or deviate sexual
42 intercourse with an individual ~~[who is not the employee's spouse~~
43 ~~and]~~ who the employee knows is under the supervision of the
44 department, commission, or probation department but not in the
45 custody of the department, commission, or probation department.

46 (h) It is an affirmative defense to prosecution under
47 Subsection (f) that the actor was the spouse of the individual

1 at the time of the offense.

2 SECTION 6. The change in law made by this Act applies only
3 to an offense committed on or after the effective date of this
4 Act. An offense committed before the effective date of this Act
5 is covered by the law in effect when the offense was committed,
6 and the former law is continued in effect for that purpose. For
7 purposes of this section, an offense was committed before the
8 effective date of this Act if any element of the offense
9 occurred before that date.

10 SECTION 7. This Act takes effect September 1, 2009.

11
12 H.B. No. 558
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17 AN ACT

18 relating to law enforcement and judicial procedures for, and the
19 prosecution of, children who engage in conduct constituting
20 public intoxication.

21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

22 SECTION 1. Articles 14.031(a) and (b), Code of Criminal
23 Procedure, are amended to read as follows:

24 (a) In lieu of arresting an individual who is not a child,
25 as defined by Section 51.02, Family Code, and who commits an
26 offense under Section 49.02, Penal Code, a peace officer may
27 release the [an] individual if:

28 (1) the officer believes detention in a penal
29 facility is unnecessary for the protection of the individual or
30 others; and

31 (2) the individual:

32 (A) is released to the care of an adult who
33 agrees to assume responsibility for the individual; or

34 (B) verbally consents to voluntary treatment for
35 chemical dependency in a program in a treatment facility
36 licensed and approved by the Texas Commission on Alcohol and
37 Drug Abuse, and the program admits the individual for treatment.

38 (b) A magistrate may release from custody an individual
39 who is not a child, as defined by Section 51.02, Family Code,
40 and who is arrested under Section 49.02, Penal Code, if the
41 magistrate determines the individual meets the conditions
42 required for release in lieu of arrest under Subsection (a) of
43 this article.

44 SECTION 2. Article 45.058, Code of Criminal Procedure, is
45 amended by amending Subsections (a), (f), and (g) and adding
46 Subsection (g-1) to read as follows:

47 (a) A child may be released to the child's parent,

1 guardian, custodian, or other responsible adult as provided by
2 Section 52.02(a)(1), Family Code, if the child is taken into
3 custody for an offense that a justice or municipal court has
4 jurisdiction of under Article 4.11 or 4.14 [~~, other than public~~
5 ~~intoxication~~].

6 (f) A child taken into custody for an offense that a
7 justice or municipal court has jurisdiction of under Article
8 4.11 or 4.14 [~~, other than public intoxication,~~] may be
9 presented or detained in a detention facility designated by the
10 juvenile court under Section 52.02(a)(3), Family Code, only if:

11 (1) the child's non-traffic case is transferred to
12 the juvenile court by a justice or municipal court under Section
13 51.08(b), Family Code; or

14 (2) the child is referred to the juvenile court by a
15 justice or municipal court for contempt of court under Article
16 45.050.

17 (g) Except as provided by Subsection (g-1), a [A] law
18 enforcement officer may issue a field release citation as
19 provided by Article 14.06 in place of taking a child into
20 custody for a traffic offense or an offense [~~, other than public~~
21 intoxication,] punishable by fine only.

22 (g-1) A law enforcement officer may issue a field release
23 citation as provided by Article 14.06 in place of taking a child
24 into custody for conduct constituting a violation of Section
25 49.02, Penal Code, only if the officer releases the child to the
26 child's parent, guardian, custodian, or other responsible adult.

27 SECTION 3. Section 51.03(f), Family Code, is amended to
28 read as follows:

29 (f) Except as provided by Subsection (g), conduct
30 described under Subsection (b)(1) [~~, other than conduct that~~
31 ~~violates Section 49.02, Penal Code, prohibiting public~~
32 ~~intoxication,~~] does not constitute conduct indicating a need for
33 supervision unless the child has been referred to the juvenile
34 court under Section 51.08(b).

35 SECTION 4. Sections 51.08(a), (b), and (c), Family Code,
36 are amended to read as follows:

37 (a) If the defendant in a criminal proceeding is a child
38 who is charged with an offense other than perjury, a traffic
39 offense, a misdemeanor punishable by fine only [~~other than~~
40 ~~public intoxication~~], or a violation of a penal ordinance of a
41 political subdivision, unless the child [~~he~~] has been
42 transferred to criminal court under Section 54.02 [~~of this~~
43 ~~code~~], the court exercising criminal jurisdiction shall transfer
44 the case to the juvenile court, together with a copy of the
45 accusatory pleading and other papers, documents, and transcripts
46 of testimony relating to the case, and shall order that the
47 child be taken to the place of detention designated by the

1 juvenile court, or shall release the child [~~him~~] to the custody
2 of the child's [~~his~~] parent, guardian, or custodian, to be
3 brought before the juvenile court at a time designated by that
4 court.

5 (b) A court in which there is pending a complaint against
6 a child alleging a violation of a misdemeanor offense punishable
7 by fine only other than a traffic offense [~~or public~~
8 ~~intoxication~~] or a violation of a penal ordinance of a political
9 subdivision other than a traffic offense:

10 (1) except as provided by Subsection (d), shall waive
11 its original jurisdiction and refer the [~~a~~] child to juvenile
12 court if the child has previously been convicted of:

13 (A) two or more misdemeanors punishable by fine
14 only other than a traffic offense [~~or public intoxication~~];

15 (B) two or more violations of a penal ordinance
16 of a political subdivision other than a traffic offense; or

17 (C) one or more of each of the types of
18 misdemeanors described in Paragraph (A) or (B) [~~of this~~
19 ~~subdivision~~]; and

20 (2) may waive its original jurisdiction and refer the
21 [~~a~~] child to juvenile court if the child:

22 (A) has not previously been convicted of a
23 misdemeanor punishable by fine only other than a traffic offense
24 [~~or public intoxication~~] or a violation of a penal ordinance of
25 a political subdivision other than a traffic offense; or

26 (B) has previously been convicted of fewer than
27 two misdemeanors punishable by fine only other than a traffic
28 offense [~~or public intoxication~~] or two violations of a penal
29 ordinance of a political subdivision other than a traffic
30 offense.

31 (c) A court in which there is pending a complaint against
32 a child alleging a violation of a misdemeanor offense punishable
33 by fine only other than a traffic offense [~~or public~~
34 ~~intoxication~~] or a violation of a penal ordinance of a political
35 subdivision other than a traffic offense shall notify the
36 juvenile court of the county in which the court is located of
37 the pending complaint and shall furnish to the juvenile court a
38 copy of the final disposition of any matter for which the court
39 does not waive its original jurisdiction under Subsection (b)
40 [~~of this section~~].

41 SECTION 5. Section 8.07(a), Penal Code, is amended to read
42 as follows:

43 (a) A person may not be prosecuted for or convicted of any
44 offense that the person committed when younger than 15 years of
45 age except:

46 (1) perjury and aggravated perjury when it appears by
47 proof that the person had sufficient discretion to understand

1 the nature and obligation of an oath;

2 (2) a violation of a penal statute cognizable under
3 Chapter 729, Transportation Code, except for conduct for which
4 the person convicted may be sentenced to imprisonment or
5 confinement in jail;

6 (3) a violation of a motor vehicle traffic ordinance
7 of an incorporated city or town in this state;

8 (4) a misdemeanor punishable by fine only [~~other than~~
9 ~~public intoxication~~];

10 (5) a violation of a penal ordinance of a political
11 subdivision;

12 (6) a violation of a penal statute that is, or is a
13 lesser included offense of, a capital felony, an aggravated
14 controlled substance felony, or a felony of the first degree for
15 which the person is transferred to the court under Section
16 54.02, Family Code, for prosecution if the person committed the
17 offense when 14 years of age or older; or

18 (7) a capital felony or an offense under Section
19 19.02 for which the person is transferred to the court under
20 Section 54.02(j)(2)(A), Family Code.

21 SECTION 6. The change in law made by this Act applies only
22 to conduct that occurs on or after the effective date of this
23 Act. Conduct that occurs before the effective date of this Act
24 is covered by the law in effect at the time the conduct
25 occurred, and the former law is continued in effect for that
26 purpose. For the purposes of this section, conduct violating a
27 penal law of this state occurs before the effective date of this
28 Act if any element of the violation occurred before that date.

29 SECTION 7. This Act takes effect September 1, 2009.

30
31 H.B. No. 559
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36 AN ACT

37 relating to the nondisclosure of certain personal information in
38 voter registration records, concealed handgun license records,
39 and tax appraisal records that relates to a justice of the
40 peace.

41 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

42 SECTION 1. Section 13.0021(a)(2), Election Code, is
43 amended to read as follows:

44 (2) "State judge" means:

45 (A) a judge, former judge, or retired judge of
46 an appellate court, a district court, or a county court at law
47 of this state; [~~or~~]

1 (B) an associate judge appointed under Chapter
2 201, Family Code, or a retired associate judge or former
3 associate judge appointed under that chapter; or
4 (C) a justice of the peace.

5 SECTION 2. Section 411.171(4-b), Government Code, is
6 amended to read as follows:

7 (4-b) "State judge" means:

8 (A) the judge of an appellate court, a district
9 court, or a county court at law of this state; [~~or~~]

10 (B) an associate judge appointed under Chapter
11 201, Family Code; or

12 (C) a justice of the peace.

13 SECTION 3. Section 25.025(a), Tax Code, as amended by
14 Chapters 594 (H.B. 41), 621 (H.B. 455), and 851 (H.B. 1141),
15 Acts of the 80th Legislature, Regular Session, 2007, is
16 reenacted and amended to read as follows:

17 (a) This section applies only to:

18 (1) a current or former peace officer as defined by
19 Article 2.12, Code of Criminal Procedure;

20 (2) a county jailer as defined by Section 1701.001,
21 Occupations Code;

22 (3) an employee of the Texas Department of Criminal
23 Justice;

24 (4) a commissioned security officer as defined by
25 Section 1702.002, Occupations Code;

26 (5) a victim of family violence as defined by Section
27 71.004, Family Code, if as a result of the act of family
28 violence against the victim, the actor is convicted of a felony
29 or a Class A misdemeanor; [~~and~~]

30 (6) a federal judge or state judge;

31 (7) [~~+~~] a current or former employee of a district
32 attorney, criminal district attorney, or county or municipal
33 attorney whose jurisdiction includes any criminal law or child
34 protective services matters; and

35 (8) [~~+~~] an officer or employee of a community
36 supervision and corrections department established under Chapter
37 76, Government Code, who performs a duty described by Section
38 76.004(b) of that code.

39 SECTION 4. Section 25.025(a-1)(2), Tax Code, is amended to
40 read as follows:

41 (2) "State judge" means:

42 (A) a judge, former judge, or retired judge of
43 an appellate court, a district court, or a county court at law
44 of this state; [~~or~~]

45 (B) an associate judge appointed under Chapter
46 201, Family Code, or a retired associate judge or former
47 associate judge appointed under that chapter; or

1 (C) a justice of the peace.

2 SECTION 5. To the extent of any conflict, this Act
3 prevails over another Act of the 81st Legislature, Regular
4 Session, 2009, relating to nonsubstantive additions to and
5 corrections in enacted codes.

6 SECTION 6. This Act takes effect September 1, 2009.

7
8 H.B. No. 586

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13 AN ACT

14 relating to the evidence required for the release of a motor
15 vehicle after impoundment of the vehicle for failure to maintain
16 evidence of financial responsibility.

17 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

18 SECTION 1. Section 601.262(c), Transportation Code, is
19 amended to read as follows:

20 (c) The evidence of financial responsibility must cover
21 the two-year period immediately following the date the defendant
22 applies for release of the impounded vehicle. The court, by
23 order, shall permit a defendant to provide evidence of
24 insurability in increments of a period of not less than six
25 months.

26 SECTION 2. This Act takes effect September 1, 2009.

27
28 H.B. No. 590

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33 AN ACT

34 relating to the name of the Crime Stoppers Advisory Council.

35 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

36 SECTION 1. The heading to Chapter 414, Government Code, is
37 amended to read as follows:

38 CHAPTER 414. TEXAS CRIME STOPPERS [~~ADVISORY~~] COUNCIL

39 SECTION 2. Section 414.001(1), Government Code, is amended
40 to read as follows:

41 (1) "Council" means the Texas Crime Stoppers
42 [~~Advisory~~] Council.

43 SECTION 3. Section 414.002(a), Government Code, is amended
44 to read as follows:

45 (a) The Texas Crime Stoppers [~~Advisory~~] Council is within
46 the criminal justice division of the governor's office.

47 SECTION 4. Article 37.073(c), Code of Criminal Procedure,

1 is amended to read as follows:

2 (c) In this article, "crime stoppers organization" means a
3 crime stoppers organization, as defined by Subdivision (2),
4 Section 414.001, Government Code, that is approved by the Texas
5 Crime Stoppers [~~Advisory~~] Council to receive payments of rewards
6 under this article and Article 42.152 [~~of this code~~].

7 SECTION 5. Section 11(a), Article 42.12, Code of Criminal
8 Procedure, is amended to read as follows:

9 (a) The judge of the court having jurisdiction of the case
10 shall determine the conditions of community supervision and may,
11 at any time[~~7~~] during the period of community supervision, alter
12 or modify the conditions. The judge may impose any reasonable
13 condition that is designed to protect or restore the community,
14 protect or restore the victim, or punish, rehabilitate, or
15 reform the defendant. Conditions of community supervision may
16 include, but shall not be limited to, the conditions that the
17 defendant shall:

18 (1) Commit no offense against the laws of this State
19 or of any other State or of the United States;

20 (2) Avoid injurious or vicious habits;

21 (3) Avoid persons or places of disreputable or
22 harmful character;

23 (4) Report to the supervision officer as directed by
24 the judge or supervision officer and obey all rules and
25 regulations of the community supervision and corrections
26 department;

27 (5) Permit the supervision officer to visit the
28 defendant at the defendant's home or elsewhere;

29 (6) Work faithfully at suitable employment as far as
30 possible;

31 (7) Remain within a specified place;

32 (8) Pay the defendant's fine, if one be assessed, and
33 all court costs whether a fine be assessed or not, in one or
34 several sums;

35 (9) Support the defendant's dependents;

36 (10) Participate, for a time specified by the judge
37 in any community-based program, including a community-service
38 work program under Section 16 of this article;

39 (11) Reimburse the county in which the prosecution
40 was instituted for compensation paid to appointed counsel for
41 defending the defendant in the case, if counsel was appointed,
42 or if the defendant was represented by a county-paid public
43 defender, in an amount that would have been paid to an appointed
44 attorney had the county not had a public defender;

45 (12) Remain under custodial supervision in a
46 community corrections facility, obey all rules and regulations
47 of such facility, and pay a percentage of the defendant's income

1 to the facility for room and board;
2 (13) Pay a percentage of the defendant's income to
3 the defendant's dependents for their support while under
4 custodial supervision in a community corrections facility;
5 (14) Submit to testing for alcohol or controlled
6 substances;
7 (15) Attend counseling sessions for substance abusers
8 or participate in substance abuse treatment services in a
9 program or facility approved or licensed by the Texas Commission
10 on Alcohol and Drug Abuse;
11 (16) With the consent of the victim of a misdemeanor
12 offense or of any offense under Title 7, Penal Code, participate
13 in victim-defendant mediation;
14 (17) Submit to electronic monitoring;
15 (18) Reimburse the compensation to victims of crime
16 fund for any amounts paid from that fund to or on behalf of a
17 victim, as defined by Article 56.32, of the defendant's offense
18 or if no reimbursement is required, make one payment to the
19 compensation to victims of crime fund in an amount not to exceed
20 \$50 if the offense is a misdemeanor or not to exceed \$100 if the
21 offense is a felony;
22 (19) Reimburse a law enforcement agency for the
23 analysis, storage, or disposal of raw materials, controlled
24 substances, chemical precursors, drug paraphernalia, or other
25 materials seized in connection with the offense;
26 (20) Pay all or part of the reasonable and necessary
27 costs incurred by the victim for psychological counseling made
28 necessary by the offense or for counseling and education
29 relating to acquired immune deficiency syndrome or human
30 immunodeficiency virus made necessary by the offense;
31 (21) Make one payment in an amount not to exceed \$50
32 to a crime stoppers organization as defined by Section 414.001,
33 Government Code, and as certified by the Texas Crime Stoppers
34 [~~Advisory~~] Council;
35 (22) Submit a DNA sample to the Department of Public
36 Safety under Subchapter G, Chapter 411, Government Code, for the
37 purpose of creating a DNA record of the defendant;
38 (23) In any manner required by the judge, provide
39 public notice of the offense for which the defendant was placed
40 on community supervision in the county in which the offense was
41 committed; and
42 (24) Reimburse the county in which the prosecution
43 was instituted for compensation paid to any interpreter in the
44 case.
45 SECTION 6. This Act takes effect immediately if it
46 receives a vote of two-thirds of all the members elected to each
47 house, as provided by Section 39, Article III, Texas

1 Constitution. If this Act does not receive the vote necessary
2 for immediate effect, this Act takes effect September 1, 2009.

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4 H.B. No. 598
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9 AN ACT

10 relating to the information displayed on certain licenses.

11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

12 SECTION 1. Section 521.001(a), Transportation Code, is
13 amended by adding Subdivisions (3-a) and (8-a) to read as
14 follows:

15 (3-a) "Federal judge" means:

16 (A) a judge of a United States court of appeals;

17 (B) a judge of a United States district court;

18 (C) a judge of a United States bankruptcy court;

19 or

20 (D) a magistrate judge of a United States
21 district court.

22 (8-a) "State judge" means:

23 (A) the judge of an appellate court, a district
24 court, or a county court at law of this state; or

25 (B) an associate judge appointed under Chapter
26 201, Family Code.

27 SECTION 2. Sections 521.054(a) and (b), Transportation
28 Code, are amended to read as follows:

29 (a) This section applies to a person who:

30 (1) after applying for or being issued a [the]
31 license or certificate moves to a new residence [from the]
32 address [stated in the person's application for a license or
33 certificate];

34 (2) has used the procedure under Section 521.121(c)
35 and whose status as a federal judge, a state judge, or the
36 spouse of a federal or state judge becomes inapplicable [moves
37 from the address shown on the license or certificate held by the
38 person]; or

39 (3) changes the person's name by marriage or
40 otherwise.

41 (b) A person subject to this section shall notify the
42 department of the change not later than the 30th day after the
43 date on which the change takes effect and apply for a duplicate
44 license or certificate as provided by Section 521.146. The
45 duplicate license must include the person's current residence
46 address.

47 SECTION 3. Section 521.121, Transportation Code, is

1 amended by amending Subsection (a) and adding Subsection (c) to
2 read as follows:

3 (a) The driver's license must include:

4 (1) a distinguishing number assigned by the
5 department to the license holder;

6 (2) a color photograph of the entire face of the
7 holder;

8 (3) the full name and[~~7~~] date of birth[~~7~~—~~and~~
9 ~~residence address~~] of the holder; [~~and~~]

10 (4) a brief description of the holder; and

11 (5) the license holder's residence address or, for a
12 license holder using the procedure under Subsection (c), the
13 street address of the courthouse in which the license holder or
14 license holder's spouse serves as a federal judge or state
15 judge.

16 (c) The department shall establish a procedure for a
17 federal judge, a state judge, or the spouse of a federal or
18 state judge to omit the license holder's residence address on
19 the license and to include, in lieu of that address, the street
20 address of the courthouse in which the license holder or license
21 holder's spouse serves as a federal judge or state judge. In
22 establishing the procedure, the department shall require
23 sufficient documentary evidence to establish the license
24 holder's status as a federal judge, a state judge, or the spouse
25 of a federal or state judge.

26 SECTION 4. Section 521.142(c), Transportation Code, is
27 amended to read as follows:

28 (c) The application must state:

29 (1) the sex of the applicant;

30 (2) the residence address of the applicant, or if the
31 applicant is a federal judge, a state judge, or the spouse of a
32 federal or state judge using the procedure developed under
33 Section 521.121(c), the street address of the courthouse in
34 which the applicant or the applicant's spouse serves as a
35 federal judge or a state judge;

36 (3) whether the applicant has been licensed to drive
37 a motor vehicle before;

38 (4) if previously licensed, when and by what state or
39 country;

40 (5) whether that license has been suspended or
41 revoked or a license application denied;

42 (6) the date and reason for the suspension,
43 revocation, or denial;

44 (7) whether the applicant is a citizen of the United
45 States; and

46 (8) the county of residence of the applicant.

47 SECTION 5. Section 411.179(c), Government Code, as added

1 by Chapter 1222 (H.B. 2300), Acts of the 80th Legislature,
2 Regular Session, 2007, is amended to read as follows:

3 (c) In adopting the form of the license under Subsection
4 (a), the department shall establish a procedure for the license
5 of a qualified handgun instructor or of a judge, justice,
6 prosecuting attorney, or assistant prosecuting attorney, as
7 described by Section 46.15(a)(4) or (6), Penal Code, to indicate
8 on the license the license holder's status as a qualified
9 handgun instructor or as a judge, justice, ~~district attorney,~~
10 ~~criminal district attorney,~~ or county attorney. In establishing
11 the procedure, the department shall require sufficient
12 documentary evidence to establish the license holder's status
13 under this subsection.

14 SECTION 6. Sections 411.181(a) and (b), Government Code,
15 as amended by Chapters 594 (H.B. 41) and 1222 (H.B. 2300), Acts
16 of the 80th Legislature, Regular Session, 2007, are reenacted
17 and amended to read as follows:

18 (a) If a person who is a current license holder moves from
19 any residence [~~the~~] address stated on the license [~~to a new~~
20 ~~residence address~~], if the name of the person is changed by
21 marriage or otherwise, or if the person's status [~~as a judge,~~
22 ~~justice, district attorney, prosecuting attorney, or assistant~~
23 ~~prosecuting attorney, as a federal judge, a state judge, or the~~
24 ~~spouse of a federal judge or state judge,~~] becomes inapplicable
25 for purposes of the information required to be displayed on the
26 license under Section 411.179 [~~411.179(e)~~], the person shall,
27 not later than the 30th day after the date of the address, name,
28 or status change, notify the department and provide the
29 department with the number of the person's license and, as
30 applicable, the person's:

- 31 (1) former and new addresses; [~~or~~]
- 32 (2) former and new names; or
- 33 (3) former and new status.

34 (b) If the name of the license holder is changed by
35 marriage or otherwise, or if the person's status [~~as a federal~~
36 ~~judge or state judge, or the spouse of a federal judge or state~~
37 ~~judge~~] becomes inapplicable as described by Subsection (a), the
38 person shall apply for a duplicate license. The duplicate
39 license must reflect [~~include~~] the person's current name,
40 residence address, and status.

41 SECTION 7. Section 411.187(a), Government Code, is amended
42 to read as follows:

43 (a) A license may be suspended under this section if the
44 license holder:

- 45 (1) is charged with the commission of a Class A or
46 Class B misdemeanor or an offense under Section 42.01, Penal
47 Code, or of a felony under an information or indictment;

1 (2) fails to display a license as required by Section
2 411.205;

3 (3) fails to notify the department of a change of
4 address, ~~[or]~~ name, or status as required by Section 411.181;

5 (4) carries a concealed handgun under the authority
6 of this subchapter of a different category than the license
7 holder is licensed to carry;

8 (5) fails to return a previously issued license after
9 a license is modified as required by Section 411.184(d);

10 (6) commits an act of family violence and is the
11 subject of an active protective order rendered under Title 4,
12 Family Code; or

13 (7) is arrested for an offense involving family
14 violence or an offense under Section 42.072, Penal Code, and is
15 the subject of an order for emergency protection issued under
16 Article 17.292, Code of Criminal Procedure.

17 SECTION 8. This Act takes effect September 1, 2009.

18
19 H.B. No. 605
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24 AN ACT

25 relating to mileage reimbursement for state employees.

26 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

27 SECTION 1. Sections 660.043(a), (b), and (c), Government
28 Code, are amended to read as follows:

29 (a) The number of miles traveled that are eligible for
30 reimbursement under this subchapter may not exceed the number of
31 miles of the most cost-effective reasonably safe route between
32 the origin of the state employee's travel and the final duty
33 point of the state employee. If a state employee conducts
34 official state business at duty points between the origin of the
35 state employee's travel and the final duty point, the most cost-
36 effective reasonably safe route between the origin and the final
37 duty point shall include the intermediate duty points.

38 (b) In determining the most cost-effective reasonably safe
39 route for purposes ~~[For the purpose]~~ of Subsection (a), a state
40 agency may consider:

41 (1) the route that provides the shortest distance
42 [route] between the origin of the state employee's travel and
43 the final duty point;

44 (2) the route that provides the quickest drive time
45 between the origin of the state employee's travel and the final
46 duty point; and

47 (3) the route that provides the safest road

1 conditions between the origin of the state employee's travel and
2 the final duty point [~~two points is presumed to be the most~~
3 ~~cost effective route. A longer route may be considered the most~~
4 ~~cost-effective route only if:~~

5 [~~(1) the voucher states that the longer route is more~~
6 ~~cost effective;~~

7 [~~(2) the voucher provides a reasonable justification~~
8 ~~for that statement; and~~

9 [~~(3) the statement and justification are made by the~~
10 ~~chief administrator of the state agency making the reimbursement~~
11 ~~or by the chief administrator's designee].~~

12 (c) The number of miles traveled that are eligible for
13 reimbursement under this subchapter may be determined by an
14 employee's vehicle odometer reading or by a readily available
15 electronic mapping service [~~comptroller shall periodically issue~~
16 ~~and update a mileage guide that includes a chart showing the~~
17 ~~number of miles for the shortest route between points. The~~
18 ~~guide also may include a chart showing the number of miles for~~
19 ~~longer routes between points. Farm to market and ranch to~~
20 ~~market roads shall be considered when determining the routings~~
21 ~~between points in this state. The guide may be electronic or~~
22 ~~printed, or both].~~

23 SECTION 2. Section 660.202(c), Government Code, is amended
24 to read as follows:

25 (c) A member of the legislature is entitled to be
26 reimbursed for the member's use of personally owned or leased
27 motor vehicles and the use of rented or public conveyances at
28 the same rate as is provided in the General Appropriations Act
29 for state employees, except that the member may only receive
30 mileage reimbursement for the most cost-effective route between
31 the origin of the member's travel and the final duty point.

32 SECTION 3. Section 660.043(d), Government Code, is
33 repealed.

34 SECTION 4. Section 660.043, Government Code, as amended by
35 this Act, applies only to the determination of reimbursable
36 mileage for state employee travel occurring on or after January
37 1, 2010.

38 SECTION 5. This Act takes effect September 1, 2009.

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40 H.B. No. 608

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44
45 AN ACT

46 relating to posttrial psychological counseling for jurors in a
47 criminal trial or juvenile adjudication hearing involving

1 graphic evidence or testimony.

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

3 SECTION 1. Article 56.04(f), Code of Criminal Procedure,
4 is amended to read as follows:

5 (f) The commissioners court may approve a program in which
6 the crime victim liaison or victim assistance coordinator may
7 offer not more than 10 hours of posttrial psychological
8 counseling for a person who serves as a juror or an alternate
9 juror in a criminal [the] trial [~~of an offense under Section~~
10 ~~19.02, 19.03, 21.11, 22.011, 22.021, 43.05, 43.25, or 43.251,~~
11 ~~Penal Code,~~] involving graphic evidence or testimony and who
12 requests the posttrial psychological counseling not later than
13 the 180th day after the date on which the jury in the trial is
14 dismissed. The crime victim liaison or victim assistance
15 coordinator may provide the counseling using a provider that
16 assists local criminal justice agencies in providing similar
17 services to victims.

18 SECTION 2. The heading to Section 57.003, Family Code, is
19 amended to read as follows:

20 Sec. 57.003. DUTIES [DUTY] OF JUVENILE BOARD AND VICTIM
21 ASSISTANCE COORDINATOR.

22 SECTION 3. Section 57.003, Family Code, is amended by
23 adding Subsection (g) to read as follows:

24 (g) The juvenile board, with the approval of the
25 commissioners court of the county, may approve a program in
26 which the victim assistance coordinator may offer not more than
27 10 hours of posttrial psychological counseling for a person who
28 serves as a juror or an alternate juror in an adjudication
29 hearing involving graphic evidence or testimony and who requests
30 the posttrial psychological counseling not later than the 180th
31 day after the date on which the jury in the adjudication hearing
32 is dismissed. The victim assistance coordinator may provide the
33 counseling using a provider that assists local juvenile justice
34 agencies in providing similar services to victims.

35 SECTION 4. The change in law made by this Act applies only
36 to a criminal trial or juvenile adjudication hearing for which a
37 jury is selected on or after the effective date of this Act. A
38 criminal trial or juvenile adjudication hearing for which a jury
39 is selected before the effective date of this Act is governed by
40 the law as it existed immediately before that date, and that law
41 is continued in effect for that purpose.

42 SECTION 5. This Act takes effect September 1, 2009.

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44 H.B. No. 618
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AN ACT

relating to privileged parking for certain veterans and military award recipients.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. The heading to Section 681.008, Transportation Code, is amended to read as follows:

Sec. 681.008. PARKING PRIVILEGES: CERTAIN VETERANS AND MILITARY AWARD RECIPIENTS.

SECTION 2. Section 681.008(b), Transportation Code, is amended to read as follows:

(b) A vehicle on which license plates issued under Section 504.202, ~~[or]~~ Section 504.315(c), (d), (e), (f), or (g), or Section 504.316 are displayed is exempt from the payment of a parking fee collected through a parking meter charged by a governmental authority other than a branch of the federal government, when being operated by or for the transportation of:

(1) the person who registered the vehicle under Section 504.202(a), ~~[or]~~ Section 504.315(c), (d), (e), (f), or (g), or Section 504.316; or

(2) a person described in Section 504.202(b) if the vehicle is registered under that subsection.

SECTION 3. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2009.

H.B. No. 666

AN ACT

relating to certain costs used to fund drug court programs.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Article 102.0178(a), Code of Criminal Procedure, is amended to read as follows:

(a) In addition to other costs on conviction imposed by this chapter, a person shall pay \$60 [~~\$50~~] as a court cost on conviction of an offense punishable as a Class B misdemeanor or any higher category of offense under:

(1) Chapter 49, Penal Code; or

(2) Chapter 481, Health and Safety Code.

SECTION 2. (a) Section 102.021, Government Code, is amended to conform to Chapter 1263 (H.B. 3060), Acts of the 80th Legislature, Regular Session, 2007, and is further amended to read as follows:

1 Sec. 102.021. COURT COSTS ON CONVICTION: CODE OF CRIMINAL
2 PROCEDURE. A person convicted of an offense shall pay the
3 following under the Code of Criminal Procedure, in addition to
4 all other costs:

5 (1) court cost on conviction of any offense, other
6 than a conviction of an offense relating to a pedestrian or the
7 parking of a motor vehicle (Art. 102.0045, Code of Criminal
8 Procedure) ... \$4;

9 (2) a fee for services of prosecutor (Art. 102.008,
10 Code of Criminal Procedure) ... \$25;

11 (3) fees for services of peace officer:

12 (A) issuing a written notice to appear in court
13 for certain violations (Art. 102.011, Code of Criminal
14 Procedure) ... \$5;

15 (B) executing or processing an issued arrest
16 warrant, [~~or~~] capias, or capias pro fine (Art. 102.011, Code of
17 Criminal Procedure) ... \$50;

18 (C) summoning a witness (Art. 102.011, Code of
19 Criminal Procedure) ... \$5;

20 (D) serving a writ not otherwise listed (Art.
21 102.011, Code of Criminal Procedure) ... \$35;

22 (E) taking and approving a bond and, if
23 necessary, returning the bond to courthouse (Art. 102.011, Code
24 of Criminal Procedure) ... \$10;

25 (F) commitment or release (Art. 102.011, Code of
26 Criminal Procedure) ... \$5;

27 (G) summoning a jury (Art. 102.011, Code of
28 Criminal Procedure) ... \$5;

29 (H) attendance of a prisoner in habeas corpus
30 case if prisoner has been remanded to custody or held to bail
31 (Art. 102.011, Code of Criminal Procedure) ... \$8 each day;

32 (I) mileage for certain services performed (Art.
33 102.011, Code of Criminal Procedure) ... \$0.29 per mile; and

34 (J) services of a sheriff or constable who
35 serves process and attends examining trial in certain cases
36 (Art. 102.011, Code of Criminal Procedure) ... not to exceed \$5;

37 (4) services of a peace officer in conveying a
38 witness outside the county (Art. 102.011, Code of Criminal
39 Procedure) ... \$10 per day or part of a day, plus actual necessary
40 travel expenses;

41 (5) overtime of peace officer for time spent
42 testifying in the trial or traveling to or from testifying in
43 the trial (Art. 102.011, Code of Criminal Procedure) ... actual
44 cost;

45 (6) court costs on an offense relating to rules of
46 the road, when offense occurs within a school crossing zone
47 (Art. 102.014, Code of Criminal Procedure) ... \$25;

1 (7) court costs on an offense of passing a school bus
2 (Art. 102.014, Code of Criminal Procedure) ... \$25;
3 (8) court costs on an offense of truancy or
4 contributing to truancy (Art. 102.014, Code of Criminal
5 Procedure) ... \$20;
6 (9) cost for visual recording of intoxication arrest
7 before conviction (Art. 102.018, Code of Criminal Procedure) ...
8 \$15;
9 (10) cost of certain evaluations (Art. 102.018, Code
10 of Criminal Procedure) ... actual cost;
11 (11) additional costs attendant to certain
12 intoxication convictions under Chapter 49, Penal Code, for
13 emergency medical services, trauma facilities, and trauma care
14 systems (Art. 102.0185, Code of Criminal Procedure) ... \$100;
15 (12) additional costs attendant to certain child
16 sexual assault and related convictions, for child abuse
17 prevention programs (Art. 102.0186, Code of Criminal Procedure)
18 ... \$100;
19 (13) cost for DNA testing for certain felonies (Art.
20 102.020, Code of Criminal Procedure) ... \$250;
21 (14) court cost on an offense of public lewdness or
22 indecent exposure (Art. 102.020, Code of Criminal Procedure) ...
23 \$50;
24 (15) if required by the court, a restitution fee for
25 costs incurred in collecting restitution installments and for
26 the compensation to victims of crime fund (Art. 42.037, Code of
27 Criminal Procedure) ... \$12; [~~and~~]
28 (16) if directed by the justice of the peace or
29 municipal court judge hearing the case, court costs on
30 conviction in a criminal action (Art. 45.041, Code of Criminal
31 Procedure) ... part or all of the costs as directed by the judge;
32 and
33 (17) costs attendant to convictions under Chapter 49,
34 Penal Code, and under Chapter 481, Health and Safety Code, to
35 help fund drug court programs established under Chapter 469,
36 Health and Safety Code (Art. 102.0178, Code of Criminal
37 Procedure) ... \$60.

38 (b) Section 102.0215, Government Code, is repealed.

39 SECTION 3. The change in law made by this Act applies only
40 to an offense committed on or after the effective date of this
41 Act. An offense committed before the effective date of this Act
42 is covered by the law in effect when the offense was committed,
43 and the former law is continued in effect for that purpose. For
44 purposes of this section, an offense was committed before the
45 effective date of this Act if any element of the offense was
46 committed before that date.

47 SECTION 4. This Act takes effect September 1, 2009.

1 H.B. No. 670

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6 AN ACT

7 relating to a qualified privilege of a journalist not to
8 testify.

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

10 SECTION 1. Chapter 22, Civil Practice and Remedies Code,
11 is amended by adding Subchapter C to read as follows:

12 SUBCHAPTER C. JOURNALIST'S QUALIFIED TESTIMONIAL PRIVILEGE IN
13 CIVIL PROCEEDINGS

14 Sec. 22.021. DEFINITIONS. In this subchapter:

15 (1) "Communication service provider" means a person
16 or the parent, subsidiary, division, or affiliate of a person
17 who transmits information chosen by a customer by electronic
18 means, including:

19 (A) a telecommunications carrier, as defined by
20 Section 3, Communications Act of 1934 (47 U.S.C. Section 153);

21 (B) a provider of information service, as
22 defined by Section 3, Communications Act of 1934 (47 U.S.C.
23 Section 153);

24 (C) a provider of interactive computer service,
25 as defined by Section 230, Communications Act of 1934 (47 U.S.C.
26 Section 230); and

27 (D) an information content provider, as defined
28 by Section 230, Communications Act of 1934 (47 U.S.C. Section
29 230).

30 (2) "Journalist" means a person, including a parent,
31 subsidiary, division, or affiliate of a person, who for a
32 substantial portion of the person's livelihood or for
33 substantial financial gain, gathers, compiles, prepares,
34 collects, photographs, records, writes, edits, reports,
35 investigates, processes, or publishes news or information that
36 is disseminated by a news medium or communication service
37 provider and includes:

38 (A) a person who supervises or assists in
39 gathering, preparing, and disseminating the news or information;
40 or

41 (B) notwithstanding the foregoing, a person who
42 is or was a journalist, scholar, or researcher employed by an
43 institution of higher education at the time the person obtained
44 or prepared the requested information, or a person who at the
45 time the person obtained or prepared the requested information:

46 (i) is earning a significant portion of the
47 person's livelihood by obtaining or preparing information for

1 dissemination by a news medium or communication service
2 provider; or

3 (ii) was serving as an agent, assistant,
4 employee, or supervisor of a news medium or communication
5 service provider.

6 (3) "News medium" means a newspaper, magazine or
7 periodical, book publisher, news agency, wire service, radio or
8 television station or network, cable, satellite, or other
9 transmission system or carrier or channel, or a channel or
10 programming service for a station, network, system, or carrier,
11 or an audio or audiovisual production company or Internet
12 company or provider, or the parent, subsidiary, division, or
13 affiliate of that entity, that disseminates news or information
14 to the public by any means, including:

15 (A) print;

16 (B) television;

17 (C) radio;

18 (D) photographic;

19 (E) mechanical;

20 (F) electronic; and

21 (G) other means, known or unknown, that are
22 accessible to the public.

23 (4) "Official proceeding" means any type of
24 administrative, executive, legislative, or judicial proceeding
25 that may be conducted before a public servant, including a
26 proceeding under Rule 202, Texas Rules of Civil Procedure.

27 (5) "Public servant" means a person elected,
28 selected, appointed, employed, or otherwise designated as one of
29 the following, even if the person has not yet qualified for
30 office or assumed the person's duties:

31 (A) an officer, employee, or agent of
32 government;

33 (B) a juror;

34 (C) an arbitrator, referee, or other person who
35 is authorized by law or private written agreement to hear or
36 determine a cause or controversy;

37 (D) an attorney or notary public when
38 participating in the performance of a governmental function; or

39 (E) a person who is performing a governmental
40 function under a claim of right, although the person is not
41 legally qualified to do so.

42 Sec. 22.022. PURPOSE. The purpose of this subchapter is
43 to increase the free flow of information and preserve a free and
44 active press and, at the same time, protect the right of the
45 public to effective law enforcement and the fair administration
46 of justice.

47 Sec. 22.023. PRIVILEGE. (a) Except as otherwise provided

1 by this subchapter, a judicial, legislative, administrative, or
2 other body with the authority to issue a subpoena or other
3 compulsory process may not compel a journalist to testify
4 regarding or to produce or disclose in an official proceeding:

5 (1) any confidential or nonconfidential information,
6 document, or item obtained or prepared while acting as a
7 journalist; or

8 (2) the source of any information, document, or item
9 described by Subdivision (1).

10 (b) A subpoena or other compulsory process may not compel
11 the parent, subsidiary, division, or affiliate of a
12 communication service provider or news medium to disclose the
13 information, documents, or items or the source of any
14 information, documents, or items that are privileged from
15 disclosure under Subsection (a).

16 Sec. 22.024. LIMITED DISCLOSURE GENERALLY. After notice
17 and an opportunity to be heard, a court may compel a journalist,
18 a journalist's employer, or a person with an independent
19 contract with a journalist to testify regarding or to produce or
20 disclose any information, document, or item or the source of any
21 information, document, or item obtained while acting as a
22 journalist, if the person seeking the information, document, or
23 item or the source of any information, document, or item makes a
24 clear and specific showing that:

25 (1) all reasonable efforts have been exhausted to
26 obtain the information from alternative sources;

27 (2) the subpoena is not overbroad, unreasonable, or
28 oppressive and, when appropriate, will be limited to the
29 verification of published information and the surrounding
30 circumstances relating to the accuracy of the published
31 information;

32 (3) reasonable and timely notice was given of the
33 demand for the information, document, or item;

34 (4) in this instance, the interest of the party
35 subpoenaing the information outweighs the public interest in
36 gathering and dissemination of news, including the concerns of
37 the journalist;

38 (5) the subpoena or compulsory process is not being
39 used to obtain peripheral, nonessential, or speculative
40 information; and

41 (6) the information, document, or item is relevant
42 and material to the proper administration of the official
43 proceeding for which the testimony, production, or disclosure is
44 sought and is essential to the maintenance of a claim or defense
45 of the person seeking the testimony, production, or disclosure.

46 Sec. 22.025. NOTICE. An order to compel testimony,
47 production, or disclosure to which a journalist has asserted a

1 privilege under this subchapter may be issued only after timely
2 notice to the journalist, the journalist's employer, or a person
3 who has an independent contract with the journalist and a
4 hearing. The order must include clear and specific findings as
5 to the showing made by the person seeking the testimony,
6 production, or disclosure and the clear and specific evidence on
7 which the court relied in issuing the court's order.

8 Sec. 22.026. PUBLICATION OF PRIVILEGED INFORMATION.
9 Publication or dissemination by a news medium or communication
10 service provider of information, documents, or items privileged
11 under this subchapter is not a waiver of the journalist's
12 privilege.

13 Sec. 22.027. NEWS MEDIA RECORDINGS. Extrinsic evidence of
14 the authenticity of evidence as a condition precedent to the
15 admissibility of the evidence in a civil proceeding is not
16 required with respect to a recording that purports to be a
17 broadcast by a radio or television station that holds a license
18 issued by the Federal Communications Commission at the time of
19 the recording. The court may take judicial notice of the
20 recording license as provided by Rule 201, Texas Rules of
21 Evidence.

22 SECTION 2. Chapter 38, Code of Criminal Procedure, is
23 amended by adding Articles 38.11 and 38.111 to read as follows:

24 Art. 38.11. JOURNALIST'S QUALIFIED TESTIMONIAL PRIVILEGE
25 IN CRIMINAL PROCEEDINGS

26 Sec. 1. DEFINITIONS. In this article:

27 (1) "Communication service provider" means a person
28 or the parent, subsidiary, division, or affiliate of a person
29 who transmits information chosen by a customer by electronic
30 means, including:

31 (A) a telecommunications carrier, as defined by
32 Section 3, Communications Act of 1934 (47 U.S.C. Section 153);

33 (B) a provider of information service, as
34 defined by Section 3, Communications Act of 1934 (47 U.S.C.
35 Section 153);

36 (C) a provider of interactive computer service,
37 as defined by Section 230, Communications Act of 1934 (47 U.S.C.
38 Section 230); and

39 (D) an information content provider, as defined
40 by Section 230, Communications Act of 1934 (47 U.S.C. Section
41 230).

42 (2) "Journalist" means a person, including a parent,
43 subsidiary, division, or affiliate of a person, who for a
44 substantial portion of the person's livelihood or for
45 substantial financial gain, gathers, compiles, prepares,
46 collects, photographs, records, writes, edits, reports,
47 investigates, processes, or publishes news or information that

1 is disseminated by a news medium or communication service
2 provider and includes:

3 (A) a person who supervises or assists in
4 gathering, preparing, and disseminating the news or information;
5 or

6 (B) notwithstanding the foregoing, a person who
7 is or was a journalist, scholar, or researcher employed by an
8 institution of higher education at the time the person obtained
9 or prepared the requested information, or a person who at the
10 time the person obtained or prepared the requested information:

11 (i) is earning a significant portion of the
12 person's livelihood by obtaining or preparing information for
13 dissemination by a news medium or communication service
14 provider; or

15 (ii) was serving as an agent, assistant,
16 employee, or supervisor of a news medium or communication
17 service provider.

18 (3) "News medium" means a newspaper, magazine or
19 periodical, book publisher, news agency, wire service, radio or
20 television station or network, cable, satellite, or other
21 transmission system or carrier or channel, or a channel or
22 programming service for a station, network, system, or carrier,
23 or an audio or audiovisual production company or Internet
24 company or provider, or the parent, subsidiary, division, or
25 affiliate of that entity, that disseminates news or information
26 to the public by any means, including:

27 (A) print;

28 (B) television;

29 (C) radio;

30 (D) photographic;

31 (E) mechanical;

32 (F) electronic; and

33 (G) other means, known or unknown, that are
34 accessible to the public.

35 (4) "Official proceeding" means any type of
36 administrative, executive, legislative, or judicial proceeding
37 that may be conducted before a public servant.

38 (5) "Public servant" means a person elected,
39 selected, appointed, employed, or otherwise designated as one of
40 the following, even if the person has not yet qualified for
41 office or assumed the person's duties:

42 (A) an officer, employee, or agent of
43 government;

44 (B) a juror or grand juror;

45 (C) an arbitrator, referee, or other person who
46 is authorized by law or private written agreement to hear or
47 determine a cause or controversy;

1 (D) an attorney or notary public when
2 participating in the performance of a governmental function; or

3 (E) a person who is performing a governmental
4 function under a claim of right, although the person is not
5 legally qualified to do so.

6 Sec. 2. PURPOSE. The purpose of this article is to
7 increase the free flow of information and preserve a free and
8 active press and, at the same time, protect the right of the
9 public to effective law enforcement and the fair administration
10 of justice.

11 Sec. 3. PRIVILEGE. (a) Except as otherwise provided by
12 this article, a judicial, legislative, administrative, or other
13 body with the authority to issue a subpoena or other compulsory
14 process may not compel a journalist to testify regarding or to
15 produce or disclose in an official proceeding:

16 (1) any confidential or nonconfidential unpublished
17 information, document, or item obtained or prepared while acting
18 as a journalist; or

19 (2) the source of any information, document, or item
20 described by Subdivision (1).

21 (b) A subpoena or other compulsory process may not compel
22 the parent, subsidiary, division, or affiliate of a
23 communication service provider or news medium to disclose the
24 unpublished information, documents, or items or the source of
25 any information, documents, or items that are privileged from
26 disclosure under Subsection (a).

27 Sec. 4. PRIVILEGE CONCERNING CONFIDENTIAL SOURCES. (a) A
28 journalist may be compelled to testify regarding or to disclose
29 the confidential source of any information, document, or item
30 obtained while acting as a journalist if the person seeking the
31 testimony, production, or disclosure makes a clear and specific
32 showing that the source of any information, document, or item:

33 (1) was observed by the journalist committing a
34 felony criminal offense and the subpoenaing party has exhausted
35 reasonable efforts to obtain from alternative sources the
36 confidential source of any information, document, or item
37 obtained or prepared while acting as a journalist;

38 (2) is a person who confessed or admitted to the
39 journalist the commission of a felony criminal offense and the
40 subpoenaing party has exhausted reasonable efforts to obtain
41 from alternative sources the confidential source of any
42 information, document, or item obtained or prepared while acting
43 as a journalist;

44 (3) is a person for whom probable cause exists that
45 the person participated in a felony criminal offense and the
46 subpoenaing party has exhausted reasonable efforts to obtain
47 from alternative sources the confidential source of any

1 information, document, or item obtained or prepared while acting
2 as a journalist; or

3 (4) disclosure of the confidential source is
4 reasonably necessary to stop or prevent reasonably certain death
5 or substantial bodily harm.

6 (b) If the alleged criminal conduct is the act of
7 communicating, receiving, or possessing the information,
8 document, or item, this section does not apply, and Section 5
9 governs the act.

10 (c) Notwithstanding Subsection (b), if the information,
11 document, or item was disclosed or received in violation of a
12 grand jury oath given to either a juror or a witness under
13 Article 19.34 or 20.16, a journalist may be compelled to testify
14 if the person seeking the testimony, production, or disclosure
15 makes a clear and specific showing that the subpoenaing party
16 has exhausted reasonable efforts to obtain from alternative
17 sources the confidential source of any information, document, or
18 item obtained. In this context, the court has the discretion to
19 conduct an in camera hearing. The court may not order the
20 production of the confidential source until a ruling has been
21 made on the motion.

22 (d) An application for a subpoena of a journalist under
23 Article 24.03, or a subpoena of a journalist issued by an
24 attorney representing the state under Article 20.10 or 20.11,
25 must be signed by the elected district attorney, elected
26 criminal district attorney, or elected county attorney, as
27 applicable. If the elected district attorney, elected criminal
28 district attorney, or elected county attorney has been
29 disqualified or recused or has resigned, the application for the
30 subpoena or the subpoena must be signed by the person succeeding
31 the elected attorney. If the elected officer is not in the
32 jurisdiction, the highest ranking assistant to the elected
33 officer must sign the subpoena.

34 Sec. 5. PRIVILEGE CONCERNING UNPUBLISHED INFORMATION,
35 DOCUMENT, OR ITEM AND NONCONFIDENTIAL SOURCES. (a) After
36 service of subpoena and an opportunity to be heard, a court may
37 compel a journalist, a journalist's employer, or a person with
38 an independent contract with a journalist to testify regarding
39 or to produce or disclose any unpublished information, document,
40 or item or the source of any information, document, or item
41 obtained while acting as a journalist, other than as described
42 by Section 4, if the person seeking the unpublished information,
43 document, or item or the source of any information, document, or
44 item makes a clear and specific showing that:

45 (1) all reasonable efforts have been exhausted to
46 obtain the information from alternative sources; and

47 (2) the unpublished information, document, or item:

1 (A) is relevant and material to the proper
2 administration of the official proceeding for which the
3 testimony, production, or disclosure is sought and is essential
4 to the maintenance of a claim or defense of the person seeking
5 the testimony, production, or disclosure; or

6 (B) is central to the investigation or
7 prosecution of a criminal case and based on something other than
8 the assertion of the person requesting the subpoena, reasonable
9 grounds exist to believe that a crime has occurred.

10 (b) The court, when considering an order to compel
11 testimony regarding or to produce or disclose any unpublished
12 information, document, or item or the source of any information,
13 document, or item obtained while acting as a journalist, should
14 consider the following factors, including but not limited to
15 whether:

16 (1) the subpoena is overbroad, unreasonable, or
17 oppressive;

18 (2) reasonable and timely notice was given of the
19 demand for the information, document, or item;

20 (3) in this instance, the interest of the party
21 subpoenaing the information outweighs the public interest in
22 gathering and dissemination of news, including the concerns of
23 the journalist; and

24 (4) the subpoena or compulsory process is being used
25 to obtain peripheral, nonessential, or speculative information.

26 (c) A court may not consider a single factor under
27 Subsection (b) as outcome-determinative in the decision whether
28 to compel the testimony or the production or disclosure of the
29 unpublished information, document, or item, or the source of any
30 information, document, or item.

31 Sec. 6. NOTICE. An order to compel testimony, production,
32 or disclosure to which a journalist has asserted a privilege
33 under this article may be issued only after timely notice to the
34 journalist, the journalist's employer, or a person who has an
35 independent contract with the journalist and a hearing. The
36 order must include clear and specific findings as to the showing
37 made by the person seeking the testimony, production, or
38 disclosure and the clear and specific evidence on which the
39 court relied in issuing the court's order.

40 Sec. 7. PUBLICATION OF PRIVILEGED INFORMATION.
41 Publication or dissemination by a news medium or communication
42 service provider of information, documents, or items privileged
43 under this article is not a waiver of the journalist's privilege
44 regarding sources and unpublished information, documents, or
45 items.

46 Sec. 8. PUBLISHED INFORMATION. This article does not
47 apply to any information, document, or item that has at any time

1 been published or broadcast by the journalist.

2 Sec. 9. REIMBURSEMENT OF COSTS. The subpoenaing party
3 shall pay a journalist a reasonable fee for the journalist's
4 time and costs incurred in providing the information, item, or
5 document subpoenaed, based on the fee structure provided by
6 Subchapter F, Chapter 552, Government Code.

7 Art. 38.111. NEWS MEDIA RECORDINGS. Extrinsic evidence of
8 the authenticity of evidence as a condition precedent to the
9 admissibility of the evidence in a criminal proceeding is not
10 required with respect to a recording that purports to be a
11 broadcast by a radio or television station that holds a license
12 issued by the Federal Communications Commission at the time of
13 the recording. The court may take judicial notice of the
14 recording license as provided by Rule 201, Texas Rules of
15 Evidence.

16 SECTION 3. This Act applies only to information,
17 documents, or items or the source of any information, document,
18 or item obtained or prepared for publication in a news medium or
19 communication service provider on or after the effective date of
20 this Act.

21 SECTION 4. This Act takes effect immediately if it
22 receives a vote of two-thirds of all the members elected to each
23 house, as provided by Section 39, Article III, Texas
24 Constitution. If this Act does not receive the vote necessary
25 for immediate effect, this Act takes effect September 1, 2009.

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27 H.B. No. 671
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32 AN ACT

33 relating to the penalty for theft from a nonprofit organization
34 or by Medicare providers.

35 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

36 SECTION 1. Section 31.03(f), Penal Code, is amended to
37 read as follows:

38 (f) An offense described for purposes of punishment by
39 Subsections (e)(1)-(6) is increased to the next higher category
40 of offense if it is shown on the trial of the offense that:

41 (1) the actor was a public servant at the time of the
42 offense and the property appropriated came into the actor's
43 custody, possession, or control by virtue of his status as a
44 public servant;

45 (2) the actor was in a contractual relationship with
46 government at the time of the offense and the property
47 appropriated came into the actor's custody, possession, or

1 control by virtue of the contractual relationship; [~~or~~]

2 (3) the owner of the property appropriated was at the
3 time of the offense:

4 (A) an elderly individual; or

5 (B) a nonprofit organization; or

6 (4) the actor was a Medicare provider in a
7 contractual relationship with the federal government at the time
8 of the offense and the property appropriated came into the
9 actor's custody, possession, or control by virtue of the
10 contractual relationship.

11 SECTION 2. Section 31.03(h), Penal Code, is amended by
12 adding Subdivision (3) to read as follows:

13 (3) "Nonprofit organization" means an organization
14 that is exempt from federal income taxation under Section
15 501(a), Internal Revenue Code of 1986, by being described as an
16 exempt organization by Section 501(c)(3) of that code.

17 SECTION 3. The change in law made by this Act applies only
18 to an offense committed on or after the effective date of this
19 Act. An offense committed before the effective date of this Act
20 is covered by the law in effect when the offense was committed,
21 and the former law is continued in effect for that purpose. For
22 purposes of this section, an offense was committed before the
23 effective date of this Act if any element of the offense was
24 committed before that date.

25 SECTION 4. This Act takes effect September 1, 2009.

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27 H.B. No. 715
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32 AN ACT

33 relating to motor vehicle inspection stations that perform
34 emissions inspections using only the onboard diagnostic system
35 of inspected vehicles.

36 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

37 SECTION 1. Subchapter F, Chapter 548, Transportation Code,
38 is amended by adding Section 548.3075 to read as follows:

39 Sec. 548.3075. LIMITED EMISSIONS INSPECTIONS. (a) In
40 this section, "limited emissions inspection" means an emissions
41 inspection of a motor vehicle conducted only by using the
42 onboard diagnostic system of the vehicle.

43 (b) A department rule that allows a qualified inspection
44 station to perform a limited emissions inspection of a motor
45 vehicle may not restrict the station to fewer than 150
46 inspections per month.

47 SECTION 2. This Act takes effect December 31, 2010.

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AN ACT

relating to Internet broadcasts of open meetings held by the State Board of Education.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 7.106, Education Code, is amended to read as follows:

Sec. 7.106. MEETINGS. (a) The board shall hold four meetings a year in Austin, Texas, on dates determined by the chair and may hold other meetings as may be called by the chair.

(b) In a manner that complies with Section 551.128, Government Code, the agency shall broadcast over the Internet live video and audio of each open meeting held by the board. Subsequently, the agency shall make available through the agency's Internet website archived video and audio for each meeting for which live video and audio was provided under this subsection.

SECTION 2. This Act takes effect September 1, 2009.

H.B. No. 780

AN ACT

relating to eligibility requirements for a beginning police department position in certain municipalities under municipal civil service.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 143.105, Local Government Code, is amended to read as follows:

Sec. 143.105. ELIGIBILITY FOR BEGINNING POSITION IN POLICE DEPARTMENT. In addition to meeting the eligibility requirements prescribed by Section 143.023, to be certified as eligible for a beginning position with a police department, a person must be at least 21 years of age at the end of the probationary period and have:

(1) served in the United States armed forces and received an honorable discharge;

(2) earned at least 60 hours' credit in any area of study at an accredited college or university, of which not more than 12 hours' credit may be earned for training at the police officer training academy operated or sponsored by the

1 municipality; or
2 (3) been employed full-time for at least five years
3 as a peace officer licensed by:
4 (A) the Commission on Law Enforcement Officer
5 Standards and Education; or
6 (B) an acceptable licensing entity in another
7 state that has law enforcement officer licensing requirements
8 substantially equivalent to those of Chapter 1701, Occupations
9 Code.

10 SECTION 2. The change in law made by this Act applies only
11 to a certification of eligibility for a beginning position in a
12 police department that occurs on or after the effective date of
13 this Act.

14 SECTION 3. This Act takes effect September 1, 2009.

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16 H.B. No. 782

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21 AN ACT
22 relating to registration exemptions for certain foreign
23 commercial motor vehicles.

24 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

25 SECTION 1. Section 648.001(4), Transportation Code, is
26 amended to read as follows:

27 (4) "Foreign commercial motor vehicle" means a
28 commercial motor vehicle, as defined by 49 C.F.R. Section 390.5,
29 that is owned [~~or controlled~~] by a person or entity that is
30 domiciled in or a citizen of a country other than the United
31 States.

32 SECTION 2. Section 648.101, Transportation Code, is
33 amended by amending Subsections (a) and (c) and adding
34 Subsections (d) and (e) to read as follows:

35 (a) A foreign commercial motor vehicle is exempt from
36 Chapter 502 and any other law of this state requiring the
37 vehicle to be registered in this state, including a law
38 providing for a temporary registration permit, if:

39 (1) the vehicle is engaged solely in transportation
40 of cargo across the border into or from a border commercial
41 zone;

42 (2) for each load of cargo transported the vehicle
43 remains in this state:

44 (A) not more than 24 hours; or

45 (B) not more than 48 hours, if:

46 (i) the vehicle is unable to leave this
47 state within 24 hours because of circumstances beyond the

1 control of the motor carrier operating the vehicle; and

2 (ii) all financial responsibility
3 requirements applying to the vehicle are satisfied;

4 (3) the vehicle is registered and licensed as
5 required by the ~~[law of another]~~ country in which the person
6 that owns the vehicle is domiciled or is a citizen as evidenced
7 by a valid metal license plate attached to the front or rear of
8 the exterior of the vehicle; and

9 (4) the country in which the person that owns ~~[or~~
10 ~~controls]~~ the vehicle is domiciled or is a citizen provides a
11 reciprocal exemption for commercial motor vehicles owned ~~[or~~
12 ~~controlled]~~ by residents of this state.

13 (c) A valid ~~[Notwithstanding any]~~ reciprocity agreement
14 between this state and another state of the United States or a
15 Canadian province that exempts currently registered vehicles
16 owned by nonresidents is effective in a border commercial zone.

17 (d) A ~~[a]~~ foreign commercial motor vehicle that engages
18 primarily in transportation of cargo across the border into or
19 from a border commercial zone must be:

20 (1) registered in this state; or

21 (2) operated under the exemption provided by this
22 section.

23 (e) A vehicle located in a border commercial zone must
24 display a valid Texas registration if the vehicle is owned by a
25 person who:

26 (1) owns a leasing facility or a leasing terminal
27 located in this state; and

28 (2) leases the vehicle to a foreign motor carrier.

29 SECTION 3. This Act takes effect September 1, 2009.

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31 H.B. No. 796

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AN ACT

37 relating to the disposition of property alleged to have been
38 illegally acquired and to the use of the photographic evidence
39 of that property in a criminal action.

40 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

41 SECTION 1. Article 38.34, Code of Criminal Procedure, is
42 amended to read as follows:

43 Art. 38.34. PHOTOGRAPHIC EVIDENCE IN THEFT CASES. (a) In
44 this article ~~[As used herein]~~, ~~[the term]~~ "property" means any
45 tangible personal property ~~[offered for sale or lease by a~~
46 ~~person engaged in the business of selling goods or services to~~
47 ~~buyers]~~.

1 (b) A photograph of property that [~~which~~] a person is
2 alleged to have unlawfully appropriated with the intent to
3 deprive the owner of the [~~such~~] property is admissible into
4 evidence under rules of law governing the admissibility of
5 photographs. The [~~and such~~] photograph is as admissible in
6 evidence as is the property itself.

7 (c) The provisions of Article 18.16 [~~of this code~~]
8 concerning the bringing of stolen property before a magistrate
9 for examination are complied with if a photograph of the stolen
10 property is brought before the magistrate.

11 (d) The defendant's rights of discovery and inspection of
12 tangible physical evidence are satisfied if a photograph of the
13 [~~tangible~~] property is made available to the defendant by the
14 state on [~~upon~~] order of any court having jurisdiction over the
15 cause.

16 SECTION 2. Article 47.02, Code of Criminal Procedure, is
17 amended to read as follows:

18 Art. 47.02. RESTORED ON TRIAL. (a) On [~~Upon~~] the trial
19 of any criminal action for theft[~~7~~] or [~~for~~] any other offense
20 involving the illegal acquisition of property [~~which is by law a~~
21 ~~penal offense~~], the court trying the case shall order the
22 property to be restored to the person appearing by the proof to
23 be the owner of the property [~~same~~].

24 (b) On written consent of the prosecuting attorney, any
25 magistrate having jurisdiction in the county in which a
26 [~~Likewise, the judge of any court in which the trial of any~~]
27 criminal action for theft or any other offense involving the
28 illegal acquisition of property [~~which is by law a penal~~
29 ~~offense~~] is pending may hold a [~~7, upon~~] hearing to determine the
30 right to possession of the property. If[~~7, if~~] it is proved to
31 the satisfaction of the magistrate [~~judge of said court~~] that
32 any person is a true owner of the property alleged to have been
33 stolen, and the property [~~which~~] is under the control [~~in~~
34 ~~possession~~] of a peace officer, the magistrate may, by written
35 order, direct the property to be restored to that person [~~such~~
36 ~~owner~~].

37 [~~As to property subject to the Certificate of Title Act~~
38 ~~(Chapter 501, Transportation Code), any magistrate having~~
39 ~~jurisdiction in the county in which the criminal action is~~
40 ~~pending may hold a hearing to determine the right to possession~~
41 ~~of the property, even if a criminal action is pending, upon~~
42 ~~written consent of the prosecuting attorney.]~~

43 SECTION 3. The changes in law made by this Act apply only
44 to a criminal action filed on or after the effective date of
45 this Act and to the admissibility of evidence in that action. A
46 criminal action filed before the effective date of this Act and
47 the admissibility of evidence in that action are covered by the

1 law in effect when the action was filed, and the former law is
2 continued in effect for that purpose.

3 SECTION 4. This Act takes effect September 1, 2009.

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5 H.B. No. 846
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10 AN ACT

11 relating to the license or certificate renewal process for
12 emergency medical services personnel and certain law enforcement
13 officers.

14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

15 SECTION 1. Subchapter C, Chapter 773, Health and Safety
16 Code, is amended by adding Section 773.0415 to read as follows:

17 Sec. 773.0415. LIMITATION ON INFORMATION REQUIRED FOR
18 CERTIFICATE RENEWAL. The requirements and procedures adopted by
19 the department for the renewal of a certificate to practice as
20 emergency medical services personnel issued under this chapter:

21 (1) may not require an applicant to provide unchanged
22 criminal history information already included in one or more of
23 the applicant's previous applications for certification or for
24 certificate renewal filed with the department; and

25 (2) may require the applicant to provide only
26 information relevant to the period occurring since the date of
27 the applicant's last application for certification or for
28 certificate renewal, as applicable, including information
29 relevant to any new requirement applicable to the certificate
30 held by the applicant.

31 SECTION 2. Subchapter G, Chapter 1701, Occupations Code,
32 is amended by adding Section 1701.317 to read as follows:

33 Sec. 1701.317. LIMITATION ON INFORMATION REQUIRED FOR
34 LICENSE RENEWAL. The requirements and procedures adopted by the
35 commission for the renewal of a license issued under this
36 chapter:

37 (1) may not require an applicant to provide unchanged
38 criminal history information already included in one or more of
39 the applicant's previous applications for licensure or for
40 license renewal filed with the commission; and

41 (2) may require the applicant to provide only
42 information relevant to the period occurring since the date of
43 the applicant's last application for licensure or for license
44 renewal, as applicable, including information relevant to any
45 new requirement applicable to the license held by the applicant.

46 SECTION 3. Sections 773.0415, Health and Safety Code, and
47 1701.317, Occupations Code, as added by this Act, apply only to

1 a license or certificate renewed on or after January 1, 2011.

2 SECTION 4. This Act takes effect September 1, 2009.

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4 H.B. No. 846

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9 AN ACT

10 relating to the license or certificate renewal process for
11 emergency medical services personnel and certain law enforcement
12 officers.

13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

14 SECTION 1. Subchapter C, Chapter 773, Health and Safety
15 Code, is amended by adding Section 773.0415 to read as follows:

16 Sec. 773.0415. LIMITATION ON INFORMATION REQUIRED FOR
17 CERTIFICATE RENEWAL. The requirements and procedures adopted by
18 the department for the renewal of a certificate to practice as
19 emergency medical services personnel issued under this chapter:

20 (1) may not require an applicant to provide unchanged
21 criminal history information already included in one or more of
22 the applicant's previous applications for certification or for
23 certificate renewal filed with the department; and

24 (2) may require the applicant to provide only
25 information relevant to the period occurring since the date of
26 the applicant's last application for certification or for
27 certificate renewal, as applicable, including information
28 relevant to any new requirement applicable to the certificate
29 held by the applicant.

30 SECTION 2. Subchapter G, Chapter 1701, Occupations Code,
31 is amended by adding Section 1701.317 to read as follows:

32 Sec. 1701.317. LIMITATION ON INFORMATION REQUIRED FOR
33 LICENSE RENEWAL. The requirements and procedures adopted by the
34 commission for the renewal of a license issued under this
35 chapter:

36 (1) may not require an applicant to provide unchanged
37 criminal history information already included in one or more of
38 the applicant's previous applications for licensure or for
39 license renewal filed with the commission; and

40 (2) may require the applicant to provide only
41 information relevant to the period occurring since the date of
42 the applicant's last application for licensure or for license
43 renewal, as applicable, including information relevant to any
44 new requirement applicable to the license held by the applicant.

45 SECTION 3. Sections 773.0415, Health and Safety Code, and
46 1701.317, Occupations Code, as added by this Act, apply only to
47 a license or certificate renewed on or after January 1, 2011.

1 SECTION 4. This Act takes effect September 1, 2009.

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3 H.B. No. 960
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8 AN ACT

9 relating to providing municipalities and counties access to
10 criminal history record information for sexually oriented
11 business license applicants.

12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

13 SECTION 1. Section 411.122, Government Code, is amended by
14 adding Subsection (b) to read as follows:

15 (b) A municipality or county that requires a sexually
16 oriented business to obtain a license or other permit under
17 Section 243.007, Local Government Code, is entitled to obtain
18 from the department criminal history record information
19 maintained by the department that relates to a person who:

20 (1) is an applicant for a license or other permit for
21 a sexually oriented business issued by the municipality or
22 county;

23 (2) is the holder of a license or other permit for a
24 sexually oriented business issued by the municipality or county;
25 or

26 (3) requests a determination of eligibility for a
27 license or other permit for a sexually oriented business issued
28 by the municipality or county.

29 SECTION 2. This Act takes effect immediately if it
30 receives a vote of two-thirds of all the members elected to each
31 house, as provided by Section 39, Article III, Texas
32 Constitution. If this Act does not receive the vote necessary
33 for immediate effect, this Act takes effect September 1, 2009.

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35 H.B. No. 963
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40 AN ACT

41 relating to the eligibility of certain applicants for
42 occupational licenses.

43 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

44 SECTION 1. Chapter 53, Occupations Code, is amended by
45 adding Subchapter D to read as follows:

46 SUBCHAPTER D. PRELIMINARY EVALUATION OF LICENSE ELIGIBILITY

47 Sec. 53.101. DEFINITIONS. In this subchapter:

1 (1) "License" means a license, certificate,
2 registration, permit, or other authorization that:

3 (A) is issued by a licensing authority; and
4 (B) a person must obtain to practice or engage
5 in a particular business, occupation, or profession.

6 (2) "Licensing authority" means a department,
7 commission, board, office, or other agency of the state that
8 issues a license.

9 Sec. 53.102. REQUEST FOR CRIMINAL HISTORY EVALUATION
10 LETTER. (a) A person may request a licensing authority to
11 issue a criminal history evaluation letter regarding the
12 person's eligibility for a license issued by that authority if
13 the person:

14 (1) is enrolled or planning to enroll in an
15 educational program that prepares a person for an initial
16 license or is planning to take an examination for an initial
17 license; and

18 (2) has reason to believe that the person is
19 ineligible for the license due to a conviction or deferred
20 adjudication for a felony or misdemeanor offense.

21 (b) The request must state the basis for the person's
22 potential ineligibility.

23 Sec. 53.103. AUTHORITY TO INVESTIGATE. A licensing
24 authority has the same powers to investigate a request submitted
25 under this subchapter and the requestor's eligibility that the
26 authority has to investigate a person applying for a license.

27 Sec. 53.104. DETERMINATION OF ELIGIBILITY; LETTER. (a)
28 If a licensing authority determines that a ground for
29 ineligibility does not exist, the authority shall notify the
30 requestor in writing of the authority's determination on each
31 ground of potential ineligibility.

32 (b) If a licensing authority determines that the requestor
33 is ineligible for a license, the licensing authority shall issue
34 a letter setting out each basis for potential ineligibility and
35 the authority's determination as to eligibility. In the absence
36 of new evidence known to but not disclosed by the requestor or
37 not reasonably available to the licensing authority at the time
38 the letter is issued, the authority's ruling on the request
39 determines the requestor's eligibility with respect to the
40 grounds for potential ineligibility set out in the letter.

41 (c) A licensing authority must provide notice under
42 Subsection (a) or issue a letter under Subsection (b) not later
43 than the 90th day after the date the authority receives the
44 request.

45 Sec. 53.105. FEES. A licensing authority may charge a
46 person requesting an evaluation under this subchapter a fee
47 adopted by the authority. Fees adopted by a licensing authority

1 under this subchapter must be in an amount sufficient to cover
2 the cost of administering this subchapter.

3 SECTION 2. Not later than September 1, 2010, a department,
4 commission, board, office, or other agency of the state that
5 issues a license to practice or engage in a particular business,
6 profession, or occupation shall adopt rules necessary to
7 administer Subchapter D, Chapter 53, Occupations Code, as added
8 by this Act.

9 SECTION 3. Section 53.021(a), Occupations Code, is amended
10 to read as follows:

11 (a) A licensing authority may suspend or revoke a license,
12 disqualify a person from receiving a license, or deny to a
13 person the opportunity to take a licensing examination on the
14 grounds that the person has been convicted of:

15 (1) an offense [a felony or misdemeanor] that
16 directly relates to the duties and responsibilities of the
17 licensed occupation;

18 (2) an offense that does not directly relate to the
19 duties and responsibilities of the licensed occupation and that
20 was committed less than five years before the date the person
21 applies for the license;

22 (3) an offense listed in Section 3g, Article 42.12,
23 Code of Criminal Procedure; or

24 (4) a sexually violent offense, as defined by Article
25 62.001, Code of Criminal Procedure.

26 SECTION 4. Subchapter B, Chapter 53, Occupations Code, is
27 amended by adding Section 53.0211 to read as follows:

28 Sec. 53.0211. LICENSING OF CERTAIN APPLICANTS WITH PRIOR
29 CRIMINAL CONVICTIONS. (a) This section does not apply to an
30 applicant for a license that would allow the applicant to
31 provide:

32 (1) law enforcement services;

33 (2) public health, education, or safety services; or

34 (3) financial services in an industry regulated by
35 the securities commissioner, the banking commissioner, the
36 savings and mortgage lending commissioner, or the credit union
37 commissioner.

38 (b) Notwithstanding any law other than Subsection (a) and
39 unless the applicant has been convicted of an offense described
40 by Section 53.021(a), a licensing authority shall issue to an
41 otherwise qualified applicant who has been convicted of an
42 offense:

43 (1) the license for which the applicant applied; or

44 (2) a provisional license described by Subsection

45 (c).

46 (c) A licensing authority may issue a provisional license
47 for a term of six months to an applicant who has been convicted

1 of an offense.

2 (d) The licensing authority shall revoke a provisional
3 license if the provisional license holder:

4 (1) commits a new offense;

5 (2) commits an act or omission that causes the
6 person's community supervision, mandatory supervision, or parole
7 to be revoked, if applicable; or

8 (3) violates the law or rules governing the practice
9 of the occupation for which the provisional license is issued.

10 (e) The licensing authority shall issue the license for
11 which the applicant originally applied to a provisional license
12 holder on the expiration of the provisional license term if the
13 provisional license holder does not engage in conduct described
14 by Subsection (d).

15 (f) If the licensing authority revokes a provisional
16 license under Subsection (d), the provisional license holder is
17 disqualified from receiving the license for which the applicant
18 originally applied.

19 (g) An applicant who is on community supervision,
20 mandatory supervision, or parole and who is issued a provisional
21 license under this section shall provide to the licensing
22 authority the name and contact information of the probation or
23 parole department to which the person reports. The licensing
24 authority shall notify the probation or parole department that a
25 provisional license has been issued. The probation or parole
26 department shall notify the licensing authority if the person's
27 community supervision, mandatory supervision, or parole
28 supervision is revoked during the term of the provisional
29 license.

30 SECTION 5. The changes in law made by this Act by the
31 amendment of Section 53.021(a), Occupations Code, and the
32 addition of Section 53.0211, Occupations Code, apply only to an
33 application for a license filed with a licensing authority, to
34 which Chapter 53, Occupations Code, applies, on or after the
35 effective date of this Act. An application filed before that
36 date is governed by the law in effect when the application is
37 filed, and the former law is continued in effect for that
38 purpose.

39 SECTION 6. This Act takes effect immediately if it
40 receives a vote of two-thirds of all the members elected to each
41 house, as provided by Section 39, Article III, Texas
42 Constitution. If this Act does not receive the vote necessary
43 for immediate effect, this Act takes effect September 1, 2009.

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45 H.B. No. 965
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AN ACT

relating to the issuance of specialty license plates for disabled veterans.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Sections 504.202(b) and (g), Transportation Code, are amended to read as follows:

(b) A veteran of the United States armed forces is entitled to register, for the person's own use, ~~[two]~~ motor vehicles under this section if:

(1) the person has suffered, as a result of military service:

(A) at least a 50 percent service-connected disability; or

(B) a 40 percent service-connected disability because of the amputation of a lower extremity;

(2) the person receives compensation from the United States because of the disability; and

(3) the motor vehicle:

(A) is owned by the person; and

(B) has a manufacturer's rated carrying capacity of two tons or less.

(g) A person who receives ~~[two sets of]~~ license plates under this section may receive a ~~[two]~~ disabled parking placard [placards] under Section 681.004 for each set of license plates without providing additional documentation.

SECTION 2. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2009.

H.B. No. 978

AN ACT

relating to the employment rights of certain individuals with disabilities.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 21.002, Labor Code, is amended by amending Subdivision (1) and adding Subdivisions (2), (11-a), and (12-a) to read as follows:

(1) "Auxiliary aids and services" includes:

(A) qualified interpreters or other effective

1 methods of making aurally delivered materials available to
2 individuals with hearing impairments;

3 (B) qualified readers, taped texts, or other
4 effective methods of making visually delivered materials
5 available to individuals with visual impairments;

6 (C) acquisition or modification of equipment or
7 devices; and

8 (D) services and actions similar to those
9 described by Paragraphs (A)-(C).

10 (2) "Bona fide occupational qualification" means a
11 qualification:

12 (A) reasonably related to the satisfactory
13 performance of the duties of a job; and

14 (B) for which a factual basis exists for the
15 belief that no person of an excluded group would be able to
16 satisfactorily perform the duties of the job with safety or
17 efficiency.

18 (11-a) "Major life activity" includes, but is not
19 limited to, caring for oneself, performing manual tasks, seeing,
20 hearing, eating, sleeping, walking, standing, lifting, bending,
21 speaking, breathing, learning, reading, concentrating, thinking,
22 communicating, and working. The term also includes the
23 operation of a major bodily function, including, but not limited
24 to, functions of the immune system, normal cell growth, and
25 digestive, bowel, bladder, neurological, brain, respiratory,
26 circulatory, endocrine, and reproductive functions.

27 (12-a) "Regarded as having such an impairment" means
28 subjected to an action prohibited under Subchapter B or C
29 because of an actual or perceived physical or mental impairment,
30 other than an impairment that is minor and is expected to last
31 or actually lasts less than six months, regardless of whether
32 the impairment limits or is perceived to limit a major life
33 activity.

34 SECTION 2. Subchapter A, Chapter 21, Labor Code, is
35 amended by adding Section 21.0021 to read as follows:

36 Sec. 21.0021. CONSTRUCTION OF CERTAIN DEFINITIONS. (a)
37 The term "disability":

38 (1) shall be construed in favor of broad coverage of
39 individuals under Subchapters B and C, to the maximum extent
40 allowed under those subchapters; and

41 (2) includes an impairment that is episodic or in
42 remission that substantially limits a major life activity when
43 active.

44 (b) The determination of whether an impairment
45 substantially limits a major life activity must be made without
46 regard to the ameliorative effects of mitigating measures,
47 including:

1 (1) medication, medical supplies, medical equipment,
2 medical appliances, prosthetic limbs and devices, hearing aids,
3 cochlear implants and other implantable hearing devices,
4 mobility devices, and oxygen therapy equipment;

5 (2) devices that magnify, enhance, or otherwise
6 augment a visual image, other than eyeglasses and contact lenses
7 that are intended to fully correct visual acuity or eliminate
8 refractive error;

9 (3) the use of assistive technology;

10 (4) reasonable accommodations and auxiliary aids or
11 services; and

12 (5) learned behavioral or adaptive neurological
13 modifications.

14 SECTION 3. Section 21.005, Labor Code, is amended to read
15 as follows:

16 Sec. 21.005. CONSTRUCTION WITH [EFFECT ON] OTHER [STATE OR
17 FEDERAL] LAWS. (a) This chapter does not relieve a government
18 agency or official of the responsibility to ensure
19 nondiscrimination in employment as required under another
20 provision of the state or federal constitutions or laws.

21 (b) This chapter does not affect the standards for
22 determining eligibility for benefits under Title 5 or under a
23 state or federal disability benefit program.

24 (c) Nothing in this chapter may be construed as the basis
25 for a claim by an individual without a disability that the
26 individual was subject to discrimination because of the
27 individual's lack of a disability.

28 SECTION 4. Section 21.115, Labor Code, is amended to read
29 as follows:

30 Sec. 21.115. BUSINESS NECESSITY. (a) Subject to
31 Subsection (b), an [An] employer does not commit an unlawful
32 employment practice by engaging in a practice that has a
33 discriminatory effect and that would otherwise be prohibited by
34 this chapter if the employer establishes that the practice:

35 (1) is not intentionally devised or operated to
36 contravene the prohibitions of this chapter; and

37 (2) is justified by business necessity.

38 (b) An employer may not use a qualification standard,
39 employment test, or other selection criterion based on an
40 individual's uncorrected vision unless the standard, test, or
41 criterion is consistent with business necessity and job-related
42 for the position to which the standard, test, or criterion
43 applies.

44 SECTION 5. Section 21.128, Labor Code, is amended by
45 adding Subsection (d) to read as follows:

46 (d) A respondent is not obligated to make a reasonable
47 workplace accommodation to a known physical or mental limitation

1 of an otherwise qualified individual under Subsection (a) if the
2 individual's disability is based solely on being regarded as
3 having an impairment that substantially limits at least one
4 major life activity.

5 SECTION 6. The change in law made by this Act applies only
6 to a claim of discrimination based on conduct that occurs on or
7 after the effective date of this Act. A claim of discrimination
8 that is based on conduct that occurs before the effective date
9 of this Act is governed by the law in effect on the date the
10 conduct occurred, and the former law is continued in effect for
11 that purpose.

12 SECTION 7. This Act takes effect September 1, 2009.

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14 H.B. No. 1003
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19 AN ACT

20 relating to notice provided to certain victims or witnesses
21 regarding certain inmates or defendants who are electronically
22 monitored.

23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

24 SECTION 1. Article 56.11, Code of Criminal Procedure, is
25 amended by adding Subsection (a-1) and amending Subsections (d),
26 (e), and (f) to read as follows:

27 (a-1) The Texas Department of Criminal Justice, in the
28 case of an inmate released on parole or to mandatory supervision
29 following a term of imprisonment for an offense described by
30 Subsection (c), or a community supervision and corrections
31 department supervising a defendant, in the case of a defendant
32 convicted of an offense described by Subsection (c) and
33 subsequently released on community supervision, shall notify a
34 victim or witness described by Subsection (a) whenever the
35 inmate or defendant, if subject to electronic monitoring as a
36 condition of release, ceases to be electronically monitored.

37 (d) It is the responsibility of a victim or witness
38 desiring notification of the defendant's release to provide the
39 Texas Department of Criminal Justice, ~~or~~ the sheriff, or the
40 community supervision and corrections department supervising the
41 defendant, as appropriate, with the e-mail address, mailing
42 address, and telephone number of the victim, witness, or other
43 person through whom the victim or witness may be contacted and
44 to notify the appropriate department or the sheriff of any
45 change of address or telephone number of the victim, witness, or
46 other person. Information obtained and maintained by the Texas
47 Department of Criminal Justice, ~~or~~ a sheriff, or a community

1 supervision and corrections department under this subsection is
2 privileged and confidential.

3 (e) The Texas Department of Criminal Justice, ~~[or]~~ the
4 sheriff, or the community supervision and corrections department
5 supervising the defendant, as appropriate:

6 (1) shall make a reasonable attempt to give any
7 notice required by Subsection (a) or (a-1):

8 (A) not later than the 30th day before the date
9 the defendant completes the sentence and is released or ceases
10 to be electronically monitored as a condition of release; or

11 (B) immediately if the defendant escapes from
12 the correctional facility; and

13 (2) may give any notice required by Subsection (a) or
14 (a-1) by e-mail, if possible.

15 (f) An attempt by the Texas Department of Criminal
16 Justice, ~~[or]~~ the sheriff, or the community supervision and
17 corrections department supervising the defendant to give notice
18 to a victim or witness at the victim's or witness's last known
19 mailing address or, if notice via e-mail is possible, last known
20 e-mail address, as shown on the records of the appropriate
21 department or agency, constitutes a reasonable attempt to give
22 notice under this article.

23 SECTION 2. The change in law made by this Act applies only
24 to the notice regarding an inmate or defendant who is ordered,
25 on or after the effective date of this Act, to submit to
26 electronic monitoring as a condition of release. A notice
27 regarding an inmate or defendant who was ordered before the
28 effective date of this Act to submit to electronic monitoring as
29 a condition of release is governed by the law in effect at the
30 time the defendant was ordered to submit to electronic
31 monitoring, and the previous law is continued in effect for that
32 purpose.

33 SECTION 3. This Act takes effect September 1, 2009.

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35 H.B. No. 1020
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40 AN ACT

41 relating to the use, exhibition, or possession of a firearm by
42 public school students participating in certain school-sponsored
43 programs and activities sponsored or supported by the Parks and
44 Wildlife Department.

45 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

46 SECTION 1. Section 37.007, Education Code, is amended by
47 amending Subsection (a) and adding Subsections (k) and (l) to

1 read as follows:

2 (a) Except as provided by Subsection (k), a [A] student
3 shall be expelled from a school if the student, on school
4 property or while attending a school-sponsored or school-related
5 activity on or off of school property:

6 (1) uses, exhibits, or possesses:

7 (A) a firearm as defined by Section 46.01(3),
8 Penal Code;

9 (B) an illegal knife as defined by Section
10 46.01(6), Penal Code, or by local policy;

11 (C) a club as defined by Section 46.01(1), Penal
12 Code; or

13 (D) a weapon listed as a prohibited weapon under
14 Section 46.05, Penal Code;

15 (2) engages in conduct that contains the elements of
16 the offense of:

17 (A) aggravated assault under Section 22.02,
18 Penal Code, sexual assault under Section 22.011, Penal Code, or
19 aggravated sexual assault under Section 22.021, Penal Code;

20 (B) arson under Section 28.02, Penal Code;

21 (C) murder under Section 19.02, Penal Code,
22 capital murder under Section 19.03, Penal Code, or criminal
23 attempt, under Section 15.01, Penal Code, to commit murder or
24 capital murder;

25 (D) indecency with a child under Section 21.11,
26 Penal Code;

27 (E) aggravated kidnapping under Section 20.04,
28 Penal Code;

29 (F) aggravated robbery under Section 29.03,
30 Penal Code;

31 (G) manslaughter under Section 19.04, Penal
32 Code;

33 (H) criminally negligent homicide under Section
34 19.05, Penal Code; or

35 (I) continuous sexual abuse of young child or
36 children under Section 21.02, Penal Code; or

37 (3) engages in conduct specified by Section
38 37.006(a)(2)(C) or (D), if the conduct is punishable as a
39 felony.

40 (k) A student may not be expelled solely on the basis of
41 the student's use, exhibition, or possession of a firearm that
42 occurs:

43 (1) at an approved target range facility that is not
44 located on a school campus; and

45 (2) while participating in or preparing for a school-
46 sponsored shooting sports competition or a shooting sports
47 educational activity that is sponsored or supported by the Parks

1 and Wildlife Department or a shooting sports sanctioning
2 organization working with the department.

3 (l) Subsection (k) does not authorize a student to bring a
4 firearm on school property to participate in or prepare for a
5 school-sponsored shooting sports competition or a shooting
6 sports educational activity described by that subsection.

7 SECTION 2. This Act applies beginning with the 2009-2010
8 school year.

9 SECTION 3. This Act takes effect immediately if it
10 receives a vote of two-thirds of all the members elected to each
11 house, as provided by Section 39, Article III, Texas
12 Constitution. If this Act does not receive the vote necessary
13 for immediate effect, this Act takes effect September 1, 2009.

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15 H.B. No. 1041
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20 AN ACT

21 relating to school district policies addressing sexual abuse of
22 children and establishment of a state strategy to reduce child
23 abuse and neglect and improve child welfare.

24 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

25 SECTION 1. This Act shall be known as Jenna's Law.

26 SECTION 2. Subchapter A, Chapter 38, Education Code, is
27 amended by adding Section 38.0041 to read as follows:

28 Sec. 38.0041. POLICIES ADDRESSING SEXUAL ABUSE OF
29 CHILDREN. (a) Each school district shall adopt and implement a
30 policy addressing sexual abuse of children to be included in the
31 district improvement plan under Section 11.252 and any
32 informational handbook provided to students and parents.

33 (b) A policy required by this section must address:

34 (1) methods for increasing teacher, student, and
35 parent awareness of issues regarding sexual abuse of children,
36 including knowledge of likely warning signs indicating that a
37 child may be a victim of sexual abuse, using resources developed
38 by the agency under Section 38.004;

39 (2) actions that a child who is a victim of sexual
40 abuse should take to obtain assistance and intervention; and

41 (3) available counseling options for students
42 affected by sexual abuse.

43 SECTION 3. (a) In this section, "task force" means the
44 task force established under this section to establish a
45 strategy for reducing child abuse and neglect and improving
46 child welfare.

47 (b) The task force consists of nine members appointed as

1 follows:

- 2 (1) five members appointed by the governor;
- 3 (2) two members appointed by the lieutenant governor;
- 4 and
- 5 (3) two members appointed by the speaker of the house
- 6 of representatives.

7 (c) Members of the task force must be individuals who are
8 actively involved in the fields of the prevention of child abuse
9 and neglect and child welfare. The appointment of members must
10 reflect the geographic diversity of the state.

11 (d) The task force shall elect a presiding officer by a
12 majority vote of the membership of the task force.

13 (e) The task force shall meet at the call of the presiding
14 officer.

15 (f) Chapter 2110, Government Code, does not apply to the
16 task force.

17 (g) The task force shall establish a strategy for reducing
18 child abuse and neglect and for improving child welfare in this
19 state. In establishing that strategy, the task force shall:

20 (1) gather information concerning child safety, child
21 abuse and neglect, and child welfare throughout the state;

22 (2) review the exemptions from criminal liability
23 provided under the Penal Code to a mother who injures her unborn
24 child by using a controlled substance, as defined by Chapter
25 481, Health and Safety Code, other than a controlled substance
26 legally obtained by prescription, during her pregnancy and
27 examine the effect that repealing the exemptions will have on
28 reducing the number of babies who are born addicted to a
29 controlled substance;

30 (3) receive reports and testimony from individuals,
31 state and local agencies, community-based organizations, and
32 other public and private organizations;

33 (4) create goals for state policy that would improve
34 child safety, prevent child abuse and neglect, and improve child
35 welfare; and

36 (5) submit a strategic plan to accomplish those
37 goals.

38 (h) The strategic plan submitted under Subsection (g) of
39 this section may include proposals for specific statutory
40 changes, the creation of new programs, and methods to foster
41 cooperation among state agencies and between the state and local
42 government.

43 (i) The task force shall consult with employees of the
44 Department of Family and Protective Services, the Department of
45 State Health Services, and the Texas Department of Criminal
46 Justice as necessary to accomplish the task force's
47 responsibilities under this Act.

1 (j) The task force may cooperate as necessary with any
2 other appropriate state agency.

3 (k) The governor, lieutenant governor, and speaker of the
4 house of representatives shall appoint the members of the task
5 force not later than October 1, 2009.

6 (l) Not later than November 1, 2010, the task force shall
7 submit the strategic plan required by Subsection (g) of this
8 section to the governor, lieutenant governor, and speaker of the
9 house of representatives.

10 (m) The task force is abolished and this section expires
11 on September 1, 2011.

12 SECTION 4. This Act takes effect immediately if it
13 receives a vote of two-thirds of all the members elected to each
14 house, as provided by Section 39, Article III, Texas
15 Constitution. If this Act does not receive the vote necessary
16 for immediate effect, this Act takes effect September 1, 2009.

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18 H.B. No. 1043
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23 AN ACT

24 relating to the creation of business opportunities for certain
25 former foster children.

26 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

27 SECTION 1. Subtitle B, Title 6, Government Code, is
28 amended by adding Chapter 672 to read as follows:

29 CHAPTER 672. EMPLOYMENT PREFERENCE FOR FORMER FOSTER CHILDREN

30 Sec. 672.001. DEFINITION. In this chapter, "state agency"
31 means a department, commission, board, office, or other agency
32 in the executive branch of state government created by the state
33 constitution or a state statute, including an institution of
34 higher education as defined by Section 61.003, Education Code.

35 Sec. 672.002. EMPLOYMENT PREFERENCE. (a) An individual
36 who was under the permanent managing conservatorship of the
37 Department of Family and Protective Services on the day
38 preceding the individual's 18th birthday is entitled to a
39 preference in employment with a state agency over other
40 applicants for the same position who do not have a greater
41 qualification.

42 (b) This chapter does not apply to:

43 (1) the position of private secretary or deputy of an
44 official or department; or

45 (2) an individual holding a strictly confidential
46 relation to the employing officer.

47 Sec. 672.003. FEDERAL LAW AND GRANTS. To the extent that

1 this chapter conflicts with federal law or a limitation provided
2 by a federal grant to a state agency, this chapter shall be
3 construed to operate in harmony with the federal law or
4 limitation of the federal grant.

5 Sec. 672.004. COMPLAINT REGARDING EMPLOYMENT DECISION OF
6 STATE AGENCY. (a) An individual entitled to an employment
7 preference under this chapter who is aggrieved by a decision of
8 a state agency to which this chapter applies relating to hiring
9 the individual, or relating to retaining the individual if the
10 state agency reduces its workforce, may appeal the decision by
11 filing a written complaint with the governing body of the state
12 agency under this section.

13 (b) The governing body of a state agency that receives a
14 written complaint under Subsection (a) shall respond to the
15 complaint not later than the 15th business day after the date
16 the governing body receives the complaint. The governing body
17 may render a different hiring decision than the decision that is
18 the subject of the complaint if the governing body determines
19 that the employment preference under this chapter was not
20 applied.

21 Sec. 672.005. AGE LIMIT. An individual is entitled to an
22 employment preference under this chapter only if the individual
23 is 25 years of age or younger.

24 SECTION 2. Section 2303.402(c), Government Code, is
25 amended to read as follows:

26 (c) For the purposes of this section, an economically
27 disadvantaged individual is an individual who:

28 (1) was unemployed for at least three months before
29 obtaining employment with the qualified business;

30 (2) receives public assistance benefits, including
31 welfare payments or food stamps, based on need and intended to
32 alleviate poverty;

33 (3) is a low-income individual, as defined by Section
34 101, Workforce Investment Act of 1998 (29 U.S.C. Section
35 2801(25));

36 (4) is an individual with a disability, as defined
37 by 29 U.S.C. Section 705(20)(A);

38 (5) is an inmate, as defined by Section 498.001;

39 (6) is entering the workplace after being confined in
40 a facility operated by the institutional division of the Texas
41 Department of Criminal Justice or under contract with the Texas
42 Department of Criminal Justice;

43 (7) has been released by the Texas Youth Commission
44 and is on parole, if state law provides for such a person to be
45 on parole; [ø]

46 (8) meets the current low income or moderate income
47 limits developed under Section 8, United States Housing Act of

1 1937 (42 U.S.C. Section 1437f et seq.); or
2 (9) was under the permanent managing conservatorship
3 of the Department of Family and Protective Services on the day
4 preceding the individual's 18th birthday.

5 SECTION 3. This Act takes effect September 1, 2009.

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7 H.B. No. 1060
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12 AN ACT

13 relating to certain procedures for forwarding a warrant of
14 arrest or a complaint in a criminal case.

15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

16 SECTION 1. Articles 15.08 and 15.09, Code of Criminal
17 Procedure, are amended to read as follows:

18 Art. 15.08. WARRANT MAY BE FORWARDED [~~TELEGRAPHED~~]. A
19 warrant of arrest may be forwarded by any method that ensures
20 the transmission of a duplicate of the original warrant,
21 including secure facsimile transmission or other secure
22 electronic means or a telegraph transmission from any telegraph
23 office to another in this State. If issued by any magistrate
24 named in Article 15.06, the peace officer receiving the same
25 shall execute it without delay. If it be issued by any other
26 magistrate than is named in Article 15.06, the peace officer
27 receiving the same shall proceed with it to the nearest
28 magistrate of the peace officer's [~~his~~] county, who shall
29 endorse thereon, in substance, these words:

30 "Let this warrant be executed in the county of
31", which endorsement shall be dated and signed
32 officially by the magistrate making the same.

33 Art. 15.09. COMPLAINT MAY BE FORWARDED [~~BY TELEGRAPH~~]. A
34 complaint in accordance with Article 15.05, may be forwarded
35 [~~telegraphed,~~] as provided by Article 15.08 [~~in the preceding~~
36 ~~Article,~~] to any magistrate in the State; and the magistrate
37 who receives the same shall forthwith issue a warrant for the
38 arrest of the accused; and the accused, when arrested, shall be
39 dealt with as provided in this Chapter in similar cases.

40 SECTION 2. Article 15.19(a), Code of Criminal Procedure,
41 is amended to read as follows:

42 (a) If the arrested person fails or refuses to give bail,
43 as provided in Article 15.18, the arrested person shall be
44 committed to the jail of the county where the person was
45 arrested; and the magistrate committing the arrested person
46 shall immediately provide notice to the sheriff of the county in
47 which the offense is alleged to have been committed regarding:

1 (1) the arrest and commitment, which notice may be
2 given by telegraph, mail, or other written means or by secure
3 facsimile transmission or other secure electronic means; and

4 (2) whether the person was also arrested under a
5 warrant issued under Section 508.251, Government Code.

6 SECTION 3. This Act takes effect September 1, 2009.

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8 H.B. No. 1063
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13 AN ACT

14 relating to emergency vehicle access to certain gated
15 communities and multiunit housing projects.

16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

17 SECTION 1. Subchapter E, Chapter 352, Local Government
18 Code, is amended by adding Section 352.1145 to read as follows:

19 Sec. 352.1145. SIREN-OPERATED SENSOR SYSTEMS FOR ELECTRIC
20 GATES. The commissioners court of a county by order may require
21 that each electric gate to a gated community or multiunit
22 housing project be equipped with a gate-operating device that:

23 (1) is approved by the county fire marshal or other
24 similar authority having jurisdiction over fire prevention; and

25 (2) will activate the electric gate on the sounding
26 of an emergency vehicle siren.

27 SECTION 2. This Act takes effect September 1, 2009.

28 H.B. No. 1067
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33 AN ACT

34 relating to a memorandum of understanding between certain
35 authorized entities to share suicide data that does not identify
36 a deceased individual.

37 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

38 SECTION 1. The purpose of this Act is to encourage the
39 prompt reporting of suicide data that does not name a deceased
40 individual and to encourage use of the data for instructive and
41 preventive purposes.

42 SECTION 2. Chapter 193, Health and Safety Code, is amended
43 by adding Section 193.011 to read as follows:

44 Sec. 193.011. MEMORANDUM OF UNDERSTANDING ON SUICIDE DATA.

45 (a) In this section, "authorized entity" means a medical
46 examiner, a local registrar, a local health authority, a local
47 mental health authority, a community mental health center, a

1 mental health center that acts as a collection agent for the
2 suicide data reported by community mental health centers, or any
3 other political subdivision of this state.

4 (b) An authorized entity may enter into a memorandum of
5 understanding with another authorized entity to share suicide
6 data that does not name a deceased individual. The shared data
7 may include:

8 (1) the deceased individual's date of birth, race or
9 national origin, gender, and zip code of residence;

10 (2) any school or college the deceased individual was
11 attending at the time of death;

12 (3) the suicide method used by the deceased
13 individual;

14 (4) the deceased individual's status as a veteran or
15 member of the armed services; and

16 (5) the date of the deceased individual's death.

17 (c) The suicide data an authorized entity receives or
18 provides under Subsection (b) is not confidential.

19 (d) An authorized entity that receives suicide data under
20 a memorandum of understanding authorized by this section may
21 periodically release suicide data that does not name a deceased
22 individual to an agency or organization with recognized
23 expertise in suicide prevention. The agency or organization may
24 use suicide data received by the agency or organization under
25 this subsection only for suicide prevention purposes.

26 (e) An authorized entity or an employee or agent of an
27 authorized entity is not civilly or criminally liable for
28 receiving or providing suicide data that does not name a
29 deceased individual and that may be shared under a memorandum of
30 understanding authorized by this section.

31 (f) This section does not prohibit the sharing of data as
32 authorized by other law.

33 SECTION 3. This Act takes effect immediately if it
34 receives a vote of two-thirds of all the members elected to each
35 house, as provided by Section 39, Article III, Texas
36 Constitution. If this Act does not receive the vote necessary
37 for immediate effect, this Act takes effect September 1, 2009.

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39 H.B. No. 1084
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44 AN ACT

45 relating to shipment of wine to ultimate consumers.

46 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

47 SECTION 1. Section 16.09(e), Alcoholic Beverage Code, is

1 amended to read as follows:

2 (e) The holder of a winery permit may not:

3 (1) sell or ship wine to a minor;

4 (2) deliver wine to a consumer using a carrier that
5 does not hold a carrier's permit under this code; or

6 (3) deliver to the same consumer in this state more
7 than nine [~~three~~] gallons of wine within any calendar month or
8 more than 36 gallons of wine within any 12-month period [~~30-day~~
9 ~~period to the same consumer in this state~~].

10 SECTION 2. Section 54.02, Alcoholic Beverage Code, is
11 amended to read as follows:

12 Sec. 54.02. PROHIBITED ACTIVITIES. The holder of an out-
13 of-state winery direct shipper's permit may not:

14 (1) sell or ship wine to a minor;

15 (2) deliver wine to a consumer using a carrier that
16 does not hold a carrier's permit under this code;

17 (3) deliver to the same consumer in this state more
18 than nine [~~three~~] gallons of wine within any calendar month or
19 more than 36 gallons of wine within any 12-month period [~~30-day~~
20 ~~period to the same consumer in this state~~]; or

21 (4) sell to ultimate consumers more than 35,000
22 gallons of wine annually.

23 SECTION 3. This Act takes effect September 1, 2009.

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25 H.B. No. 1146

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30 AN ACT

31 relating to the hours worked during a week by firefighters in
32 certain municipalities.

33 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

34 SECTION 1. Section 142.0015, Local Government Code, is
35 amended by adding Subsection (e-1) to read as follows:

36 (e-1) Notwithstanding Subsection (d), in a municipality
37 with a population of one million or more that has not adopted
38 Chapter 143, for purposes of determining hours worked, including
39 determining hours worked for calculation of overtime under
40 Subsection (e), all hours are counted as hours worked during
41 which the fire fighter or member of the fire department:

42 (1) is required to remain available for immediate
43 call to duty by continuously remaining in contact with the fire
44 department office by telephone, pager, or radio; or

45 (2) is taking any authorized leave, including
46 attendance incentive leave, vacation leave, holiday leave,
47 compensatory time off, jury duty, military leave, or leave

1 because of a death in the family.

2 SECTION 2. This Act takes effect immediately if it
3 receives a vote of two-thirds of all the members elected to each
4 house, as provided by Section 39, Article III, Texas
5 Constitution. If this Act does not receive the vote necessary
6 for immediate effect, this Act takes effect September 1, 2009.

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8 H.B. No. 1233
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13 AN ACT

14 relating to the court-ordered administration of psychoactive
15 medication to certain criminal defendants.

16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

17 SECTION 1. Section 574.106, Health and Safety Code, is
18 amended by amending Subsection (a-1) and adding Subsection (1)
19 to read as follows:

20 (a-1) The court may issue an order under this section only
21 if the court finds by clear and convincing evidence after the
22 hearing:

23 (1) that the patient lacks the capacity to make a
24 decision regarding the administration of the proposed medication
25 and treatment with the proposed medication is in the best
26 interest of the patient; or

27 (2) if the patient was ordered to receive inpatient
28 mental health services by a criminal court with jurisdiction
29 over the patient, that treatment with the proposed medication is
30 in the best interest of the patient and either:

31 (A) the patient presents a danger to the patient
32 or others in the inpatient mental health facility in which the
33 patient is being treated as a result of a mental disorder or
34 mental defect as determined under Section 574.1065; or

35 (B) the patient:

36 (i) has remained confined in a correctional
37 facility, as defined by Section 1.07, Penal Code, for a period
38 exceeding 72 hours while awaiting transfer for competency
39 restoration treatment; and

40 (ii) presents a danger to the patient or
41 others in the correctional facility as a result of a mental
42 disorder or mental defect as determined under Section 574.1065
43 [~~and~~

44 [~~(B) treatment with the proposed medication is~~
45 ~~in the best interest of the patient].~~

46 (1) For a patient described by Subsection (a-1)(2)(B), an
47 order issued under this section:

1 (1) authorizes the initiation of any appropriate
2 mental health treatment for the patient awaiting transfer; and
3 (2) does not constitute authorization to retain the
4 patient in a correctional facility for competency restoration
5 treatment.

6 SECTION 2. Section 574.1065, Health and Safety Code, is
7 amended to read as follows:

8 Sec. 574.1065. FINDING THAT PATIENT PRESENTS A DANGER. In
9 making a finding under Section 574.106(a-1)(2) that, as a result
10 of a mental disorder or mental defect, the patient presents a
11 danger to the patient or others in the inpatient mental health
12 facility in which the patient is being treated or in the
13 correctional facility, as applicable, [~~as a result of a mental~~
14 ~~disorder or mental defect~~] the court shall consider:

15 (1) an assessment of the patient's present mental
16 condition;

17 (2) whether the patient has inflicted, attempted to
18 inflict, or made a serious threat of inflicting substantial
19 physical harm to the patient's self or to another while in the
20 facility; and

21 (3) whether the patient, in the six months preceding
22 the date the patient was placed in the facility, has inflicted,
23 attempted to inflict, or made a serious threat of inflicting
24 substantial physical harm to another that resulted in the
25 patient being placed in the facility.

26 SECTION 3. Section 574.107(b), Health and Safety Code, is
27 amended to read as follows:

28 (b) The county in which the applicable criminal charges
29 are pending or were adjudicated shall pay as provided by
30 Subsection (a) the costs of a hearing that is held under Section
31 574.106 to evaluate the court-ordered administration of
32 psychoactive medication to:

33 (1) a patient ordered to receive [~~inpatient~~] mental
34 health services as described by Section 574.106(a)(1) after
35 having been determined to be incompetent to stand trial or
36 having been acquitted of an offense by reason of insanity; or

37 (2) a patient who:

38 (A) is awaiting trial after having been
39 determined to be competent to stand trial; and

40 (B) was ordered to receive [~~inpatient~~] mental
41 health services as described by Section 574.106(a)(2).

42 SECTION 4. Article 46B.086, Code of Criminal Procedure, is
43 amended by amending Subsections (a), (b), and (c) and adding
44 Subsection (g) to read as follows:

45 (a) This article applies only to a defendant:

46 (1) who is determined under this chapter to be
47 incompetent to stand trial;

1 (2) who either:
2 (A) remains confined in a correctional facility,
3 as defined by Section 1.07, Penal Code, for a period exceeding
4 72 hours while awaiting transfer to an inpatient mental health
5 facility, a residential care facility, or an outpatient
6 treatment program;
7 (B) is committed to an inpatient mental health
8 facility or a residential care facility for the purpose of
9 competency restoration;
10 (C) is confined in a correctional facility while
11 awaiting further criminal proceedings following competency
12 restoration treatment; or
13 (D) is subject to Article 46B.072, if the court
14 has made the determinations required by Subsection (a) of that
15 article;
16 (3) for whom a correctional facility that employs or
17 contracts with a licensed psychiatrist, an inpatient mental
18 health facility, a residential care facility, or an outpatient
19 treatment program provider has prepared a continuity of care
20 plan that requires the defendant to take psychoactive
21 medications; and
22 (4) [~~+3~~] who, after a hearing held under Section
23 574.106, Health and Safety Code, if applicable, has been found
24 to not [~~to~~] meet the criteria prescribed by Sections 574.106(a)
25 and (a-1), Health and Safety Code, for court-ordered
26 administration of psychoactive medications[~~+ or~~
27 [~~(4) who is subject to Article 46B.072~~].
28 (b) If a defendant described by Subsection (a) refuses to
29 take psychoactive medications as required by the defendant's
30 continuity of care plan, the director of the correctional
31 facility or outpatient treatment program provider, as
32 applicable, shall notify the court in which the criminal
33 proceedings are pending of that fact not later than the end of
34 the next business day following the refusal. The court shall
35 promptly notify the attorney representing the state and the
36 attorney representing the defendant of the defendant's
37 refusal. The attorney representing the state may file a written
38 motion to compel medication. The motion to compel medication
39 must be filed not later than the 15th day after the date a judge
40 issues an order stating that the defendant does not meet the
41 criteria for court-ordered administration of psychoactive
42 medications under Section 574.106, Health and Safety Code,
43 except that, [~~The motion to compel medication~~] for a defendant
44 in an outpatient treatment program, the motion may be filed at
45 any time.
46 (c) The court, after notice and after a hearing held not
47 later than the fifth day after the defendant is returned to the

1 committing court, may authorize the director of the [a]
2 correctional facility or the program provider, as applicable, to
3 have the medication administered to the defendant, by reasonable
4 force if necessary.

5 (g) For a defendant described by Subsection (a)(2)(A), an
6 order issued under this article:

7 (1) authorizes the initiation of any appropriate
8 mental health treatment for the defendant awaiting transfer; and

9 (2) does not constitute authorization to retain the
10 defendant in a correctional facility for competency restoration
11 treatment.

12 SECTION 5. This Act takes effect immediately if it
13 receives a vote of two-thirds of all the members elected to each
14 house, as provided by Section 39, Article III, Texas
15 Constitution. If this Act does not receive the vote necessary
16 for immediate effect, this Act takes effect September 1, 2009.

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18 H.B. No. 1282
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23 AN ACT

24 relating to the penalty for theft of a driver's license,
25 commercial driver's license, or personal identification
26 certificate.

27 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

28 SECTION 1. Section 31.03(e), Penal Code, is amended to
29 read as follows:

30 (e) Except as provided by Subsection (f), an offense under
31 this section is:

32 (1) a Class C misdemeanor if the value of the
33 property stolen is less than:

34 (A) \$50; or

35 (B) \$20 and the defendant obtained the property
36 by issuing or passing a check or similar sight order in a manner
37 described by Section 31.06;

38 (2) a Class B misdemeanor if:

39 (A) the value of the property stolen is:

40 (i) \$50 or more but less than \$500; or

41 (ii) \$20 or more but less than \$500 and the
42 defendant obtained the property by issuing or passing a check or
43 similar sight order in a manner described by Section 31.06; [~~or~~]

44 (B) the value of the property stolen is less
45 than:

46 (i) \$50 and the defendant has previously
47 been convicted of any grade of theft; or

1 (ii) \$20, the defendant has previously been
2 convicted of any grade of theft, and the defendant obtained the
3 property by issuing or passing a check or similar sight order in
4 a manner described by Section 31.06; or

5 (C) the property stolen is a driver's license,
6 commercial driver's license, or personal identification
7 certificate issued by this state or another state;

8 (3) a Class A misdemeanor if the value of the
9 property stolen is \$500 or more but less than \$1,500;

10 (4) a state jail felony if:

11 (A) the value of the property stolen is \$1,500
12 or more but less than \$20,000, or the property is less than 10
13 head of cattle, horses, or exotic livestock or exotic fowl as
14 defined by Section 142.001, Agriculture Code, or any part
15 thereof under the value of \$20,000, or less than 100 head of
16 sheep, swine, or goats or any part thereof under the value of
17 \$20,000;

18 (B) regardless of value, the property is stolen
19 from the person of another or from a human corpse or grave;

20 (C) the property stolen is a firearm, as defined
21 by Section 46.01;

22 (D) the value of the property stolen is less
23 than \$1,500 and the defendant has been previously convicted two
24 or more times of any grade of theft;

25 (E) the property stolen is an official ballot or
26 official carrier envelope for an election; or

27 (F) the value of the property stolen is less
28 than \$20,000 and the property stolen is insulated or
29 noninsulated wire or cable that consists of at least 50 percent:

30 (i) aluminum;

31 (ii) bronze; or

32 (iii) copper;

33 (5) a felony of the third degree if the value of the
34 property stolen is \$20,000 or more but less than \$100,000, or
35 the property is:

36 (A) 10 or more head of cattle, horses, or exotic
37 livestock or exotic fowl as defined by Section 142.001,
38 Agriculture Code, stolen during a single transaction and having
39 an aggregate value of less than \$100,000; or

40 (B) 100 or more head of sheep, swine, or goats
41 stolen during a single transaction and having an aggregate value
42 of less than \$100,000;

43 (6) a felony of the second degree if the value of the
44 property stolen is \$100,000 or more but less than \$200,000; or

45 (7) a felony of the first degree if the value of the
46 property stolen is \$200,000 or more.

47 SECTION 2. The change in law made by this Act applies only

1 to an offense committed on or after the effective date of this
2 Act. An offense committed before the effective date of this Act
3 is covered by the law in effect when the offense was committed,
4 and the former law is continued in effect for that purpose. For
5 purposes of this section, an offense was committed before the
6 effective date of this Act if any element of the offense
7 occurred before that date.

8 SECTION 3. This Act takes effect September 1, 2009.

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10 H.B. No. 1286

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15 AN ACT

16 relating to the issuance of Save Our Beaches specialty license
17 plates.

18 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

19 SECTION 1. Subchapter G, Chapter 504, Transportation Code,
20 is amended by adding Section 504.6275 to read as follows:

21 Sec. 504.6275. SAVE OUR BEACHES LICENSE PLATES. (a) The
22 department shall issue specialty license plates to support the
23 coastal protection and improvement program.

24 (b) After deduction of the department's administrative
25 costs, the remainder of the fee for issuance of the license
26 plates shall be deposited to the credit of the coastal
27 protection and improvement fund established by Section 33.653,
28 Natural Resources Code, to fund the cleaning, maintaining,
29 nourishing, and protecting of state beaches.

30 SECTION 2. This Act takes effect September 1, 2009.

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32 H.B. No. 1310

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37 AN ACT

38 relating to the use of a tanning facility device by a minor.

39 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

40 SECTION 1. Sections 145.008(f), (g), and (i), Health and
41 Safety Code, are amended to read as follows:

42 (f) To ensure the proper operation of the tanning
43 equipment, a tanning facility may not allow:

44 (1) a person younger than 16.5 [~~13~~] years of age to
45 use a tanning device; and

46 (2) a person younger than 18 years of age to use a
47 tanning device unless[+]

1 ~~[(1) the facility receives written permission from~~
2 ~~the person's physician allowing the person to use the device;~~
3 ~~and~~

4 ~~[(2)] the person's parent or legal guardian, in~~
5 ~~person at the facility, consents in writing for the person to~~
6 ~~use the device, which may be revoked at any time [remains at the~~
7 ~~tanning facility while the person uses the device].~~

8 (g) Before any person younger than 18 ~~[16 or 17]~~ years of
9 age uses a tanning facility device for the first time, the
10 person must give the operator a written informed consent
11 statement signed and dated by the person and the person's parent
12 or legal guardian stating that the person and the parent or
13 legal guardian:

14 (1) have ~~[has]~~ read and understood the advisory
15 statement issued by the Texas Medical Board, warning of the
16 dangers of indoor and outdoor tanning and its association with
17 skin cancer, eye damage, and other health risks, provided
18 [warnings given] by the tanning facility;~~[, consents to the~~
19 ~~minor's use of a tanning device,] and~~

20 (2) agree ~~[agrees]~~ that the minor will use protective
21 eyewear at all times while using the tanning device. ~~[In~~
22 ~~addition, a person 13, 14, or 15 years of age must be~~
23 ~~accompanied by a parent or legal guardian who must remain at the~~
24 ~~tanning facility while the person uses the tanning device.]~~

25 (i) A record of each customer using a tanning device shall
26 be maintained at the tanning facility at least until the third
27 anniversary of the date of the customer's last use of a tanning
28 device. The executive commissioner of the Health and Human
29 Services Commission ~~[board]~~ by rule shall prescribe the form and
30 content of the records. The record shall include:

31 (1) the date and time of the customer's use of a
32 tanning device;

33 (2) the length of time the tanning device was used;

34 (3) any injury or illness resulting from the use of a
35 tanning device;

36 (4) any parent or guardian consent required under
37 Subsection (f) or any written informed consent statement
38 required to be signed under Subsection (e) or (g);

39 (5) the customer's skin type, as determined by the
40 customer by using the Fitzpatrick scale for classifying a skin
41 type;

42 (6) whether the customer has a family history of skin
43 cancer; and

44 (7) whether the customer has a past medical history
45 of skin cancer.

46 SECTION 2. Not later than January 1, 2010:

47 (1) the Texas Medical Board shall adopt the advisory

1 statement required under Section 145.008(g), Health and Safety
2 Code, as amended by this Act, and post the advisory statement on
3 the board's Internet website in a form that is easily downloaded
4 and printed by a tanning facility owner or operator; and

5 (2) the executive commissioner of the Health and
6 Human Services Commission shall modify as necessary the
7 prescribed form and content for the records required under
8 Section 145.008(i), Health and Safety Code, as amended by this
9 Act.

10 SECTION 3. (a) Except as provided by Subsection (b), this
11 Act takes effect September 1, 2009.

12 (b) Section 1 of this Act takes effect January 1, 2010.

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14 H.B. No. 1321
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19 AN ACT

20 relating to the discharge of a jury under certain circumstances
21 in a criminal case.

22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

23 SECTION 1. Article 36.29(c), Code of Criminal Procedure,
24 is amended to read as follows:

25 (c) After the charge of the court is read to the jury, if
26 a juror [~~any one of them~~] becomes so sick as to prevent the
27 continuance of the juror's [~~his~~] duty and an alternate juror is
28 not available, or if any accident of circumstance occurs to
29 prevent the jury from [~~their~~] being kept together under
30 circumstances under which the law or the instructions of the
31 court requires that the jury [~~they~~] be kept together, the jury
32 shall be discharged, except that on agreement on the record by
33 the defendant, the defendant's counsel, and the attorney
34 representing the state 11 members of a jury may render a verdict
35 and, if punishment is to be assessed by the jury, assess
36 punishment. If a verdict is rendered by less than the whole
37 number of the jury, each member of the jury shall sign the
38 verdict.

39 SECTION 2. The change in law made by this Act applies only
40 to a trial that commences on or after the effective date of this
41 Act. A trial that commenced before the effective date of this
42 Act is covered by the law in effect on the date the trial
43 commenced, and the former law is continued in effect for that
44 purpose.

45 SECTION 3. This Act takes effect September 1, 2009.

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47 H.B. No. 1343

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AN ACT

relating to blind and disabled pedestrians and failure of the operator of a motor vehicle to yield the right-of-way.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 121.007, Human Resources Code, is transferred to Chapter 552, Transportation Code, renumbered as Section 552.010, and amended to read as follows:

Sec. 552.010 [~~121.007~~]. BLIND [~~AND DISABLED~~] PEDESTRIANS.

(a) No person may carry a white cane on a public street or highway unless the person is totally or partially blind.

(b) The driver of a vehicle approaching an intersection or crosswalk where a pedestrian guided by an assistance animal or carrying a white cane is crossing or attempting to cross shall take necessary precautions to avoid injuring or endangering the pedestrian. The driver shall bring the vehicle to a full stop if injury or danger can be avoided only by that action.

(c) If it is shown on the trial of an offense under this section that as a result of the commission of the offense a collision occurred causing serious bodily injury or death to a blind person, the offense is a misdemeanor punishable by:

(1) a fine of not more than \$500; and

(2) 30 hours of community service to an organization or agency that primarily serves visually impaired or disabled persons, to be completed in not less than six months and not more than one year.

(c-1) A portion of the community service required under Subsection (c)(2) shall include sensitivity training. [The failure of a totally or partially blind or otherwise disabled person to carry a white cane or be guided or aided by an assistance animal does not deprive the person of the rights and privileges conferred by law on pedestrians crossing streets or highways and does not constitute evidence of contributory negligence.]

(d) For the purposes of this section:

(1) "Assistance animal" has the meaning assigned by Section 121.002, Human Resources Code.

(2) "White cane" has the meaning assigned by Section 121.002, Human Resources Code [A person who violates this section commits a Class C misdemeanor].

(e) If conduct constituting an offense under this section also constitutes an offense under another section of this code or the Penal Code, the actor may be prosecuted under either section or both sections.

1 SECTION 2. Section 552.003, Transportation Code, is
2 amended by adding Subsections (d), (d-1), (e), and (f) to read
3 as follows:

4 (d) If it is shown on the trial of an offense under
5 Subsection (a) that as a result of the commission of the offense
6 a collision occurred causing serious bodily injury or death to a
7 visually impaired or disabled person, the offense is a
8 misdemeanor punishable by:

9 (1) a fine of not more than \$500; and

10 (2) 30 hours of community service to an organization
11 or agency that primarily serves visually impaired or disabled
12 persons, to be completed in not less than six months and not
13 more than one year.

14 (d-1) A portion of the community service required under
15 Subsection (d)(2) shall include sensitivity training.

16 (e) For the purposes of this section:

17 (1) "Visually impaired" has the meaning assigned by
18 Section 91.002, Human Resources Code.

19 (2) "Disabled" means a person who cannot walk without
20 the use or assistance of:

21 (A) a device, including a brace, cane, crutch,
22 prosthesis, or wheelchair; or

23 (B) another person.

24 (f) If conduct constituting an offense under this section
25 also constitutes an offense under another section of this code
26 or the Penal Code, the actor may be prosecuted under either
27 section or both sections.

28 SECTION 3. (a) The change in law made by this Act applies
29 only to an offense committed on or after the effective date of
30 this Act. For purposes of this section, an offense is committed
31 before the effective date of this Act if any element of the
32 offense occurs before that date.

33 (b) An offense committed before the effective date of this
34 Act is covered by the law in effect when the offense was
35 committed, and the former law is continued in effect for that
36 purpose.

37 SECTION 4. This Act takes effect September 1, 2009.

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39 H.B. No. 1360
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44 AN ACT

45 relating to the effect under the public information law of the
46 disclosure of certain information by a prosecutor to defense
47 counsel.

1 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

2 SECTION 1. Chapter 38, Code of Criminal Procedure, is
3 amended by adding Article 38.02 to read as follows:

4 Art. 38.02. EFFECT UNDER PUBLIC INFORMATION LAW OF RELEASE
5 OF CERTAIN INFORMATION. A release of information by an attorney
6 representing the state to defense counsel for a purpose relating
7 to the pending or reasonably anticipated prosecution of a
8 criminal case is not considered a voluntary release of
9 information to the public for purposes of Section 552.007,
10 Government Code, and does not waive the right to assert in the
11 future that the information is excepted from required disclosure
12 under Chapter 552, Government Code.

13 SECTION 2. This Act takes effect immediately if it
14 receives a vote of two-thirds of all the members elected to each
15 house, as provided by Section 39, Article III, Texas
16 Constitution. If this Act does not receive the vote necessary
17 for immediate effect, this Act takes effect September 1, 2009.

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19 H.B. No. 1372
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24 AN ACT

25 relating to the definition of victim in relation to certain
26 crime victims' rights.

27 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

28 SECTION 1. Article 56.01(3), Code of Criminal Procedure,
29 as amended by Chapters 66 (H.B. 1489) and 268 (S.B. 6), Acts of
30 the 79th Legislature, Regular Session, 2005, is reenacted and
31 amended to read as follows:

32 (3) "Victim" means a person who is the victim of the
33 offense of sexual assault, kidnapping, aggravated robbery,
34 trafficking of persons, or injury to a child, elderly
35 individual, or disabled individual or who has suffered personal
36 injury or death as a result of the criminal conduct of another.

37 SECTION 2. This Act takes effect immediately if it
38 receives a vote of two-thirds of all the members elected to each
39 house, as provided by Section 39, Article III, Texas
40 Constitution. If this Act does not receive the vote necessary
41 for immediate effect, this Act takes effect September 1, 2009.

42
43 H.B. No. 1465
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1 AN ACT

2 relating to the joinder of a tax lien transferee in a suit to
3 collect a delinquent ad valorem tax.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Section 32.06(i), Tax Code, is amended to read
6 as follows:

7 (i) Except as provided by Section 33.445, a [A]
8 foreclosure of a tax lien transferred as provided by this
9 section may not be instituted within one year from the date on
10 which the lien is recorded in all counties in which the property
11 is located, unless the contract between the owner of the
12 property and the transferee provides otherwise.

13 SECTION 2. Subchapter C, Chapter 33, Tax Code, is amended
14 by adding Section 33.445 to read as follows:

15 Sec. 33.445. JOINDER OF TAX LIEN TRANSFEREE. (a) A
16 taxing unit acting under Section 33.44(a) shall also join each
17 transferee of a tax lien against the property that may appear of
18 record under Section 32.06. After the joinder, the transferee
19 of the tax lien may file its claim and seek foreclosure in the
20 suit for all amounts owed the transferee that are secured by the
21 transferred tax lien, regardless of when the original transfer
22 of tax lien was recorded or whether the original loan secured by
23 the transferred tax lien is delinquent. In the alternative, the
24 transferee may pay all taxes, penalties, interest, court costs,
25 and attorney's fees owing to the taxing unit that filed the
26 foreclosure suit and each other taxing unit that is joined.

27 (b) In consideration of the payment by the transferee of
28 those taxes and charges, each joined taxing unit shall transfer
29 its tax lien to the transferee in the form and manner provided
30 by Section 32.06(b) and enter its disclaimer in the suit.

31 (c) On transfer of all applicable tax liens, the
32 transferee may seek to foreclose the tax liens in the pending
33 suit or in any other manner provided by Section 32.06,
34 regardless of when the original transfer of tax lien was
35 recorded or whether the original loan secured by the transferred
36 tax lien is delinquent. The foreclosure may include all amounts
37 owed to the transferee, including any amount secured by the
38 original transfer of tax lien.

39 (d) All liens held by a transferee who is joined under
40 this section but fails to act in the manner provided by this
41 section are extinguished, and the court's judgment shall reflect
42 the extinguishment of those liens.

43 SECTION 3. Section 33.445, Tax Code, as added by this Act,
44 applies to a suit for foreclosure of an ad valorem tax lien that
45 is pending on the effective date of this Act or that is brought
46 on or after the effective date of this Act.

47 SECTION 4. This Act takes effect September 1, 2009.

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AN ACT

relating to the theft of a military grave marker.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 31.03(e), Penal Code, is amended to read as follows:

(e) Except as provided by Subsection (f), an offense under this section is:

(1) a Class C misdemeanor if the value of the property stolen is less than:

(A) \$50; or

(B) \$20 and the defendant obtained the property by issuing or passing a check or similar sight order in a manner described by Section 31.06;

(2) a Class B misdemeanor if:

(A) the value of the property stolen is:

(i) \$50 or more but less than \$500; or

(ii) \$20 or more but less than \$500 and the defendant obtained the property by issuing or passing a check or similar sight order in a manner described by Section 31.06; or

(B) the value of the property stolen is less than:

(i) \$50 and the defendant has previously been convicted of any grade of theft; or

(ii) \$20, the defendant has previously been convicted of any grade of theft, and the defendant obtained the property by issuing or passing a check or similar sight order in a manner described by Section 31.06;

(3) a Class A misdemeanor if the value of the property stolen is \$500 or more but less than \$1,500;

(4) a state jail felony if:

(A) the value of the property stolen is \$1,500 or more but less than \$20,000, or the property is less than 10 head of cattle, horses, or exotic livestock or exotic fowl as defined by Section 142.001, Agriculture Code, or any part thereof under the value of \$20,000, or less than 100 head of sheep, swine, or goats or any part thereof under the value of \$20,000;

(B) regardless of value, the property is stolen from the person of another or from a human corpse or grave, including property that is a military grave marker;

(C) the property stolen is a firearm, as defined by Section 46.01;

1 (D) the value of the property stolen is less
2 than \$1,500 and the defendant has been previously convicted two
3 or more times of any grade of theft;

4 (E) the property stolen is an official ballot or
5 official carrier envelope for an election; or

6 (F) the value of the property stolen is less
7 than \$20,000 and the property stolen is insulated or
8 noninsulated wire or cable that consists of at least 50 percent:

9 (i) aluminum;

10 (ii) bronze; or

11 (iii) copper;

12 (5) a felony of the third degree if the value of the
13 property stolen is \$20,000 or more but less than \$100,000, or
14 the property is:

15 (A) 10 or more head of cattle, horses, or exotic
16 livestock or exotic fowl as defined by Section 142.001,
17 Agriculture Code, stolen during a single transaction and having
18 an aggregate value of less than \$100,000; or

19 (B) 100 or more head of sheep, swine, or goats
20 stolen during a single transaction and having an aggregate value
21 of less than \$100,000;

22 (6) a felony of the second degree if the value of the
23 property stolen is \$100,000 or more but less than \$200,000; or

24 (7) a felony of the first degree if the value of the
25 property stolen is \$200,000 or more.

26 SECTION 2. This Act takes effect immediately if it
27 receives a vote of two-thirds of all the members elected to each
28 house, as provided by Section 39, Article III, Texas
29 Constitution. If this Act does not receive the vote necessary
30 for immediate effect, this Act takes effect September 1, 2009.

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32 H.B. No. 1474
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37 AN ACT

38 relating to the operation and regulation of charitable bingo and
39 the use of bingo proceeds.

40 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

41 SECTION 1. Section 2001.002, Occupations Code, is amended
42 by adding Subdivisions (4-a), (8-a), and (25-a) and amending
43 Subdivision (6) to read as follows:

44 (4-a) "Bingo chairperson" means an officer or member
45 of the board of directors of a licensed authorized organization
46 who is designated in writing by the organization as responsible
47 for overseeing the organization's bingo activities and reporting

1 to the membership relating to those activities.

2 (6) "Bingo occasion" means a single gathering or
3 session at which a bingo game or [all activities incident to the
4 conduct of] a series of bingo games, including selling and
5 redeeming pull-tab bingo tickets, are conducted on the day and
6 at the times listed on the license issued to [by] a licensed
7 authorized organization[, including the organization's licensed
8 times and any preparatory or concluding activities incident to
9 the conduct of bingo].

10 (8-a) "Crime of moral turpitude" means:

11 (A) a felony;

12 (B) a gambling offense;

13 (C) criminal fraud;

14 (D) forgery;

15 (E) theft;

16 (F) an offense that involves filing false
17 information with a governmental agency; or

18 (G) any offense that:

19 (i) is classified in this state as a Class
20 A misdemeanor; and

21 (ii) puts the honesty and integrity of the
22 individual who committed the offense in question.

23 (25-a) "Regular license" means a license to conduct
24 bingo that is issued by the commission and that expires on the
25 first or second anniversary of the date of issuance unless
26 revoked or suspended before that date by the commission. The
27 term includes an annual license.

28 SECTION 2. Section 2001.059, Occupations Code, is amended
29 by amending Subsection (a) and adding Subsection (g) to read as
30 follows:

31 (a) An officer, bingo chairperson, or authorized
32 representative of a license holder or an attorney, accountant,
33 or bookkeeper employed or retained by a license holder [A
34 person] may request from the commission an advisory opinion
35 regarding compliance with this chapter and the rules of the
36 commission.

37 (g) The commission may refuse to issue an advisory opinion
38 under this section on a matter that the commission knows to be
39 in active litigation.

40 SECTION 3. Subchapter B, Chapter 2001, Occupations Code,
41 is amended by adding Section 2001.060 to read as follows:

42 Sec. 2001.060. REPORTING. (a) On or before June 1 of
43 each even-numbered year, the commission shall prepare and
44 deliver to the governor, the lieutenant governor, the speaker of
45 the house of representatives, and the chairs of the standing
46 committees of the senate and house of representatives with
47 primary jurisdiction over charitable bingo a report stating for

1 each of the preceding two calendar years:

2 (1) the total amount of adjusted gross receipts
3 reported by licensed authorized organizations from their bingo
4 operations;

5 (2) the total amount of net proceeds reported by
6 licensed authorized organizations from their bingo operations;
7 and

8 (3) a comparison of the amounts reported under
9 Subdivisions (1) and (2), including the percentage that the net
10 proceeds represents of the adjusted gross receipts.

11 (b) For purposes of Subsection (a), "adjusted gross
12 receipts" means the amount remaining after deducting prizes
13 paid, excluding prize fees collected from bingo players.

14 (c) For purposes of Subsection (a), the commission shall
15 determine the total amount of net proceeds in a manner that does
16 not reduce gross receipts by the amount of rent paid for the
17 rental of bingo premises by a licensed authorized organization
18 to another licensed authorized organization if the other
19 organization pays rent for the premises to a licensed commercial
20 lessor.

21 SECTION 4. Section 2001.101(a), Occupations Code, is
22 amended to read as follows:

23 (a) The commission may license a person who is an
24 authorized organization eligible for a license to conduct bingo
25 if the person is:

26 (1) a religious society that has existed in this
27 state for at least three [~~eight~~] years;

28 (2) a nonprofit organization:

29 (A) whose predominant activities are for the
30 support of medical research or treatment programs; and

31 (B) that for at least three years:

32 (i) must have had a governing body or
33 officers elected by a vote of members or by a vote of delegates
34 elected by the members; or

35 (ii) must have been affiliated with a state
36 or national organization organized to perform the same purposes
37 as the nonprofit organization;

38 (3) a fraternal organization;

39 (4) a veterans organization that has existed in this
40 state for at least three years; [ø]

41 (5) a volunteer fire department that has existed in
42 this state for at least three years; or

43 (6) a volunteer emergency medical services provider
44 that has existed in this state for at least three years.

45 SECTION 5. Sections 2001.102(a) and (b), Occupations Code,
46 are amended to read as follows:

47 (a) An applicant for a license to conduct bingo must file

1 with the commission an [~~a written, executed, and verified~~]
2 application on a form prescribed by the commission.

3 (b) The application must include:

4 (1) the name and address of the applicant;

5 (2) the names and addresses of the applicant's
6 officers and directors;

7 (3) the address of the premises where and the time
8 when the applicant intends to conduct bingo under the license
9 sought;

10 (4) the name and address of the licensed commercial
11 lessor of the premises, if the applicant intends to lease
12 premises to conduct bingo from a person other than an authorized
13 organization;

14 (5) [~~the capacity or potential capacity for public~~
15 ~~assembly in any premises owned or occupied by the applicant;~~
16 [~~(6) the amount of rent to be paid or other~~
17 ~~consideration to be given, directly or indirectly, for each~~
18 ~~occasion for use of the premises of another licensed authorized~~
19 ~~organization or for use of the premises of a licensed commercial~~
20 ~~lessor;~~
21 [~~(7) all other items of expense intended to be~~
22 ~~incurred or paid in connection with conducting, promoting, and~~
23 ~~administering bingo and the names and addresses of the persons~~
24 ~~to whom, and the purposes for which, the expenses are to be~~
25 ~~paid;~~
26 [~~(8) the specific purposes to and the manner in which~~
27 ~~the net proceeds of bingo are to be devoted;~~
28 [~~(9)~~] a statement that the net proceeds of bingo will
29 go to one or more of the authorized charitable purposes under
30 this chapter;

31 (6) [~~(10)~~] a designation of the applicant
32 organization's bingo chairperson [~~one or more active members of~~
33 ~~the applicant organization~~] under whom bingo will be conducted
34 accompanied by a statement signed by the chairperson [~~each~~
35 ~~designated member~~] stating that the chairperson [~~member~~] will be
36 responsible for the conduct of bingo under the terms of the
37 license and this chapter;

38 (7) [~~(11)~~] a statement that a copy of the application
39 ~~has been sent to the appropriate governing body;~~
40 [~~(12)~~] the name and address of each person who will
41 work at the proposed bingo occasion, the nature of the work to
42 be performed, and a statement as to whether the person has been
43 convicted of a felony, a gambling offense, criminal fraud, or a
44 crime of moral turpitude; and
45 [~~(13)~~] sufficient facts relating to the applicant's
46 incorporation and organization to enable the commission to
47 determine whether the applicant is an authorized organization;

1 (8) a copy of the applicant organization's most
2 recently filed Internal Revenue Service Form 990, if applicable;

3 (9) a letter of good standing from the applicant
4 organization's parent organization, if the organization receives
5 an exemption from federal income taxes as a member of a group of
6 organizations;

7 (10) copies of the applicant organization's
8 organizing instruments, including any bylaws, constitution,
9 charter, and articles of incorporation;

10 (11) verification of the applicant organization's
11 good standing with the secretary of state if the organization is
12 organized under the law of this state; and

13 (12) information necessary to conduct criminal
14 background checks on the applicant organization's officers and
15 directors.

16 SECTION 6. Section 2001.103(e), Occupations Code, is
17 amended to read as follows:

18 (e) Notwithstanding Subsection (c), an authorized
19 organization that holds an annual [~~a regular~~] license to conduct
20 bingo may receive not more than 24 [~~12~~] temporary licenses
21 during the 12-month period following the issuance or renewal of
22 the license. The holder of a license that is effective for two
23 years may receive not more than 24 temporary licenses for each
24 12-month period that ends on an anniversary of the date the
25 license was issued or renewed.

26 SECTION 7. Section 2001.104, Occupations Code, is amended
27 by amending Subsections (b) and (d) and adding Subsection (e) to
28 read as follows:

29 (b) The commission by rule shall establish procedures to
30 determine if the appropriate license fee [~~At the end of the~~
31 ~~license period the license holder and the commission shall~~
32 ~~compute the amount of gross receipts actually recorded during~~
33 ~~the license period to determine if the appropriate fee amount]~~
34 was paid.

35 (d) An applicant shall pay the fees established under
36 Subsection (a) annually. An applicant for a license or renewal
37 of a license may obtain a license that is effective for two
38 years by paying an amount equal to two times the amount of the
39 annual license fee, or by paying the license fee for the first
40 year at the time the applicant submits the application and the
41 fee for the second year not later than the first anniversary of
42 the date the license becomes effective [~~plus \$25~~].

43 (e) A licensed authorized organization may pay in advance,
44 or establish an escrow account with the commission to cover,
45 fees assessed under this chapter for the amendment of a license
46 or issuance of a temporary license.

47 SECTION 8. Section 2001.105(b), Occupations Code, is

1 amended to read as follows:

2 (b) The commission may not issue a license to an
3 authorized organization to conduct bingo if an officer or member
4 of the board of directors of the organization has been convicted
5 of a felony, criminal fraud, a gambling or gambling-related
6 offense, or a crime of moral turpitude if less than 10 years has
7 elapsed since the termination of a sentence, parole, mandatory
8 supervision, or community supervision served for the offense.

9 SECTION 9. Section 2001.106, Occupations Code, is amended
10 to read as follows:

11 Sec. 2001.106. FORM AND CONTENTS OF LICENSE. A license to
12 conduct bingo must include:

13 (1) the name and address of the license holder;

14 (2) the name and address of the bingo chairperson
15 [~~names and addresses of the member or members~~] of the license
16 holder under whom the bingo will be conducted; and

17 (3) the address [~~an indication~~] of the premises where
18 and the time when bingo is to be conducted[+]

19 [~~(4) the specific purposes to which the net proceeds~~
20 ~~of bingo are to be devoted; and~~

21 [~~(5) a statement of whether a prize is to be offered~~
22 ~~and the amount of any authorized prize].~~

23 SECTION 10. Section 2001.107(a), Occupations Code, is
24 amended to read as follows:

25 (a) Unless the organization is a member of a unit that
26 designates a unit manager under Section 2001.437, the bingo
27 chairperson for a licensed authorized organization [~~The person~~
28 ~~designated under Section 2001.102(b)(10)~~] shall complete the
29 [~~eight hours of~~] training required [~~as provided~~] by commission
30 rule. For a unit operating under Subchapter I-1, the unit
31 manager shall complete the training if the unit designates a
32 unit manager under Section 2001.437.

33 SECTION 11. Sections 2001.108(b) and (c), Occupations
34 Code, are amended to read as follows:

35 (b) If the other organization ceased or will cease
36 conducting bingo for the reason stated in Subsection (a)(1), the
37 commission must act on the joint application filed under
38 Subsection (a) not later than the 14th [~~10th~~] day after the date
39 the application is filed with the commission.

40 (c) If the other organization ceased or will cease
41 conducting bingo for the reason stated in Subsection (a)(2), the
42 commission must act on the joint application filed under
43 Subsection (a) not later than the 14th [~~10th~~] day after the date
44 the application is filed with the commission or the date on
45 which the termination takes effect, whichever is later.

46 SECTION 12. Sections 2001.158(b) and (d), Occupations
47 Code, are amended to read as follows:

1 (b) The commission by rule shall establish procedures for
2 determining if the appropriate license fee [~~At the end of the~~
3 ~~license period, the license holder and the commission shall~~
4 ~~compute the amount of the gross rentals actually recorded during~~
5 ~~the license period to determine if the appropriate fee amount]~~
6 was paid.

7 (d) An applicant for a commercial lessor license shall pay
8 the fees established under Subsection (a) annually. An
9 applicant for a license or renewal of a license may obtain a
10 license that is effective for two years by paying an amount
11 equal to two times the amount of the annual license fee, or by
12 paying the license fee for the first year at the time the
13 applicant submits the application and the license fee for the
14 second year not later than the first anniversary of the date the
15 license becomes effective [~~plus \$25~~].

16 SECTION 13. The heading to Section 2001.159, Occupations
17 Code, is amended to read as follows:

18 Sec. 2001.159. LICENSE ISSUANCE OR RENEWAL.

19 SECTION 14. Section 2001.159(a), Occupations Code, is
20 amended to read as follows:

21 (a) The commission shall issue or renew a commercial
22 lessor license if the commission determines that:

23 (1) the applicant has paid the license fee as
24 provided by Section 2001.158;

25 (2) the applicant qualifies to be licensed under this
26 chapter;

27 (3) [~~the applicant satisfies the requirements for a~~
28 ~~commercial lessor under this subchapter;~~

29 [+4+] the rent to be charged is fair and reasonable
30 [~~and will be charged and collected in compliance with Section~~
31 ~~2001.406~~];

32 (4) [+5+] there is no diversion of the funds of the
33 proposed lessee from the lawful purposes under this chapter;

34 (5) [+6+] the person whose signature or name appears
35 in the application is in all respects the real party in interest
36 and is not an undisclosed agent or trustee for the real party in
37 interest; and

38 (6) [+7+] the applicant will lease the premises for
39 the conduct of bingo in accordance with this chapter.

40 SECTION 15. Section 2001.203, Occupations Code, is amended
41 to read as follows:

42 Sec. 2001.203. MANUFACTURER'S LICENSE APPLICATION. (a)
43 An applicant for a manufacturer's license must file with the
44 commission an [~~a written verified~~] application on a form
45 prescribed by the commission.

46 (b) The application must include:

47 (1) the name and address of the applicant and the

1 name and address of each of its locations where bingo supplies
2 or equipment are manufactured;

3 (2) a full description of each type of bingo supply
4 or equipment that the applicant intends to manufacture or market
5 in this state and the brand name, if any, under which each item
6 will be sold;

7 (3) [~~the name and address of the applicant and~~] if
8 the applicant:

9 (A) is not a corporation, the name and home
10 address of each owner; or

11 (B) is a corporation, the name and home address
12 of each officer and director and each person owning more than 10
13 percent [~~or more~~] of a class of stock in the corporation;

14 (4) if the applicant is a foreign corporation or
15 other foreign legal entity, the name, business name and address,
16 and [~~home~~] address of its registered agent for service in this
17 state;

18 (5) the name and address of each manufacturer,
19 supplier, and distributor in which the applicant has a financial
20 interest and the details of that financial interest, including
21 any indebtedness between the applicant and the manufacturer,
22 supplier, or distributor of \$5,000 [~~\$500~~] or more;

23 (6) information regarding whether the applicant or a
24 person required to be named in the application has been
25 convicted in this state or another state of a felony, criminal
26 fraud, a gambling or gambling-related offense, or a crime of
27 moral turpitude;

28 (7) information regarding whether the applicant or a
29 person required to be named in the application is an owner,
30 officer, director, shareholder, agent, or employee of a licensed
31 commercial lessor or conducts, promotes, administers, or assists
32 in conducting, promoting, or administering bingo for which a
33 license is required by this chapter;

34 (8) information regarding whether the applicant or a
35 person required to be named in the application is a public
36 officer or public employee in this state;

37 (9) the name of each state in which the applicant is
38 or has been licensed to manufacture, distribute, or supply bingo
39 equipment or supplies, each license number, the period of time
40 licensed under each license, and whether a license has been
41 revoked, suspended, withdrawn, canceled, or surrendered and, if
42 so, the reasons for the action taken;

43 (10) information regarding whether the applicant or a
44 person required to be named in the application is or has been a
45 professional gambler or gambling promoter;

46 (11) the names and addresses of each manufacturer,
47 supplier, or distributor of bingo equipment or supplies in which

1 the applicant or a person required to be named in the
2 application is an owner, officer, shareholder, director, agent,
3 or employee; and

4 (12) any other information the commission requests.

5 SECTION 16. Section 2001.208(b), Occupations Code, is
6 amended to read as follows:

7 (b) The application must include:

8 (1) the full name and address of the applicant;

9 (2) the name and address of each location operated by
10 the distributor from which bingo supplies or equipment are
11 distributed or at which bingo supplies or equipment are stored;

12 (3) if a noncorporate distributor, the name and home
13 address of each owner;

14 (4) if a corporate distributor, the name and home
15 address of each officer or director and of each person owning
16 more than [~~at least~~] 10 percent of a class of stock in the
17 corporation;

18 (5) if a foreign corporation or other foreign legal
19 entity, the name, business name and address, and [~~home~~] address
20 of its registered agent for service in this state;

21 (6) a full description of the type of bingo supply or
22 equipment that the applicant intends to store or distribute in
23 this state and the name of the manufacturer of each item and the
24 brand name, if any, under which the item will be sold or
25 marketed;

26 (7) the name and address of a manufacturer, supplier,
27 or distributor in which the applicant has a financial interest
28 and the details of that financial interest, including an
29 indebtedness between the applicant and the manufacturer,
30 supplier, or distributor of \$5,000 [~~\$500~~] or more;

31 (8) information regarding whether the applicant or a
32 person required to be named in the application has been
33 convicted in this state or another state of a felony, criminal
34 fraud, a gambling or gambling-related offense, or a crime of
35 moral turpitude;

36 (9) information regarding whether the applicant or a
37 person required to be named in the application is an owner,
38 officer, director, shareholder, agent, or employee of a licensed
39 commercial lessor or conducts, promotes, administers, or assists
40 in conducting, promoting, or administering bingo for which a
41 license is required under this chapter;

42 (10) information regarding whether the applicant or a
43 person required to be named in the application is a public
44 officer or public employee in this state;

45 (11) the name of each state in which the applicant is
46 or has been licensed to manufacture, distribute, or supply bingo
47 equipment or supplies, each license number, the period of time

1 licensed under each license, and whether a license was revoked,
2 suspended, withdrawn, canceled, or surrendered and, if so, the
3 reasons for the action taken;

4 (12) information regarding whether the applicant or a
5 person required to be named in the application is or has been a
6 professional gambler or gambling promoter;

7 (13) the name and address of each manufacturer,
8 supplier, or distributor of bingo equipment or supplies in which
9 the applicant or a person required to be named in the
10 application is an owner, officer, shareholder, director, agent,
11 or employee; and

12 (14) any other information the commission requests.

13 SECTION 17. Sections 2001.211(b), (c), and (d),
14 Occupations Code, are amended to read as follows:

15 (b) If a change occurs after issuance of a manufacturer's
16 or distributor's license, the license holder shall report the
17 change to the commission not later than the 14th [~~10th~~] day
18 after the date of the change.

19 (c) Not later than the 14th [~~10th~~] day after the date of
20 the change, a license holder shall notify the commission of a
21 change in:

22 (1) the license holder's organization, structure, or
23 mode of operation;

24 (2) the identity of persons named or required to be
25 named in the application and the nature or extent of those
26 persons' interest; or

27 (3) any other facts stated in the application.

28 (d) Failure to give a notice required under this section
29 is cause for:

30 (1) denial, suspension, or revocation of a license;
31 or

32 (2) imposition of an administrative penalty or other
33 administrative action.

34 SECTION 18. Subchapter G, Chapter 2001, Occupations Code,
35 is amended by adding Section 2001.3025 to read as follows:

36 Sec. 2001.3025. ACCESS TO CRIMINAL HISTORY RECORD
37 INFORMATION. The commission is entitled to conduct an
38 investigation of and is entitled to obtain criminal history
39 record information maintained by the Department of Public
40 Safety, the Federal Bureau of Investigation identification
41 division, or another law enforcement agency to assist in the
42 investigation of:

43 (1) an applicant for or holder of a license issued
44 under this chapter;

45 (2) a person required to be named in a license
46 application; or

47 (3) an employee or other person who works or will

1 work for a license holder and who is required by another
2 provision of this chapter to undergo a criminal background
3 check.

4 SECTION 19. Section 2001.306(c), Occupations Code, is
5 amended to read as follows:

6 (c) The holder of a license to conduct bingo may not
7 change the location at which it conducts bingo until it has:

8 (1) returned [surrendered] its original license if
9 available, or certified that the license is not available; and

10 (2) received an amended license for the new location.

11 SECTION 20. Section 2001.313, Occupations Code, is amended
12 by amending Subsections (a), (b), (d), (e), (f), and (g) and
13 adding Subsections (b-1), (h), and (i) to read as follows:

14 (a) To minimize duplicate criminal history background
15 checks by the commission and the costs incurred by organizations
16 and individuals, the commission shall maintain a registry of
17 individuals [persons] on whom the commission has conducted a
18 criminal history background check and who are approved to be
19 involved in the conduct of bingo or to act as a bingo operator.

20 (b) An individual [A person] listed in the registry may be
21 involved in the conduct of bingo or act as an operator at any
22 location at which bingo is lawfully conducted.

23 (b-1) An individual's listing on the registry expires on
24 the third anniversary of the date the individual was initially
25 included on the registry. The individual may renew the listing
26 before the expiration date. If the individual fails to renew
27 the listing, the commission shall remove the individual's name
28 from the registry. An individual whose name is removed from the
29 registry may reapply for listing on the registry.

30 (d) An individual [A person] who is not listed on the
31 registry established by this section may not act, and a licensed
32 authorized organization may not allow the individual to act, as
33 an operator, manager, cashier, usher, caller, bingo chairperson,
34 bookkeeper, or salesperson for the [a] licensed authorized
35 organization.

36 (e) The commission may refuse to add an individual's [a
37 person's] name to, or remove an individual's [a person's] name
38 from, the registry established by this section if, after notice
39 and, if requested by the individual, a hearing, the individual
40 [person] is finally determined to have:

41 (1) been convicted of an offense listed under Section
42 2001.105(b);

43 (2) converted bingo equipment in a premises to an
44 improper use;

45 (3) converted funds that are in, or that should have
46 been in, the bingo account of any licensed authorized
47 organization;

1 (4) taken any action, individually or in concert with
2 another person, that affects the integrity of any bingo game to
3 which this chapter applies; [~~or~~]

4 (5) acted as an operator, manager, cashier, usher,
5 caller, bingo chairperson, bookkeeper, or salesperson for a
6 licensed authorized organization without being listed on the
7 registry established under this section;

8 (6) failed to provide a complete application; or

9 (7) participated in any violation of this chapter or
10 rules adopted by the commission for the administration of this
11 chapter.

12 (f) A licensed authorized organization shall report to the
13 commission or its designee the discovery of any conduct on the
14 part of an individual [~~a person~~] registered or required to be
15 registered under this section where there is substantial basis
16 for believing that the conduct would constitute grounds for
17 removal of the individual's [~~person's~~] name from, or refusal to
18 add the individual's [~~person's~~] name to, the registry
19 established by this section. A statement made in good faith to
20 the commission or to an adjudicative body in connection with any
21 such report may not be the basis for an action for defamation of
22 character.

23 (g) An individual [~~A person~~] who has been finally
24 determined to have taken action prohibited by Subsection (e)(2),
25 (3), (4), [~~or~~] (5), (6), or (7) cannot be listed on the registry
26 of approved bingo workers and cannot work as a bingo worker for
27 one year from the date of such determination. Upon expiration
28 of the one-year period, the individual [~~person~~] is eligible for
29 listing on the registry provided a licensee subject to this
30 chapter makes application to list the individual [~~person~~]. In
31 such event, the commission shall take into consideration the
32 facts and circumstances that occurred that led to the applicable
33 action under Subsections (e)(2)-(7) [~~(e)(2)-(5)~~] in deciding
34 whether to list the individual [~~person~~] on the registry.

35 (h) A licensed authorized organization may employ an
36 individual who is not on the registry established by this
37 section as an operator, manager, cashier, usher, caller, or
38 salesperson on a provisional basis if the individual is awaiting
39 the results of a background check by the commission:

40 (1) for a period not to exceed 14 days if the
41 individual is a resident of this state; or

42 (2) for a period to be established by commission rule
43 if the individual is not a resident of this state.

44 (i) An individual who has been removed from the registry
45 under Subsection (e) and has not subsequently been listed on the
46 registry under Subsection (g) may not be employed under
47 Subsection (h).

1 SECTION 21. Section 2001.314, Occupations Code, is amended
2 to read as follows:

3 Sec. 2001.314. IDENTIFICATION CARD FOR APPROVED BINGO
4 WORKER. (a) The commission may require an individual [~~a~~
5 ~~person~~] listed in the registry maintained under Section 2001.313
6 to wear an identification card to identify the individual
7 [~~person~~] to license holders, bingo players, and commission staff
8 while the individual [~~person~~] is on duty during the conduct of
9 bingo. The commission by rule shall prescribe the form and
10 content of the card.

11 (b) The commission shall provide the identification card
12 and shall provide a form to be completed by an individual [~~a~~
13 ~~person~~] that allows the individual [~~person~~] to prepare the
14 identification card. The commission may [~~shall~~] collect a
15 reasonable charge to cover the cost of providing the card or
16 form.

17 (c) An identification card required by the commission
18 under this section to be worn by an individual [~~a person~~] while
19 on duty during the conduct of bingo must be in substantial
20 compliance with the form and content requirements prescribed by
21 the commission under this section.

22 (d) The commission may not require any other individual
23 [~~person~~] licensed under this chapter, or an individual [~~a~~
24 ~~person~~] acting on the license holder's behalf, to wear an
25 identification card, whether or not the individual [~~person~~] is
26 present or performing the individual's [~~person's~~] duties during
27 the conduct of bingo.

28 SECTION 22. Subchapter G, Occupations Code, is amended by
29 adding Sections 2001.315 and 2001.316 to read as follows:

30 Sec. 2001.315. LATE LICENSE RENEWAL. (a) A person who
31 fails to renew the person's license under this chapter before
32 the date the license expires may renew the license after the
33 expiration date by:

34 (1) filing a license renewal application with the
35 commission not later than the 14th day after the date the
36 license expires, paying the applicable annual license fee, and
37 paying a late license renewal fee equal to 10 percent of the
38 annual license fee; or

39 (2) filing a license renewal application with the
40 commission not later than the 60th day after the date the
41 license expires, paying the applicable annual license fee, and
42 paying a late license renewal fee equal to 10 percent of the
43 annual license fee for each 14-day period occurring after the
44 date the license expires and before the date the renewal
45 application is filed with the commission.

46 (b) A person who files a renewal application with the
47 commission under Subsection (a) may continue to perform the

1 bingo activities authorized under the license as if the license
2 has not expired until the license is renewed or renewal of the
3 license is denied.

4 (c) To renew a license after the 60th day after the date
5 the license expires, the person must file an application for an
6 original license and cease all bingo activities for which the
7 license is required as of the 61st day after the date the
8 license expires until a new license is issued.

9 Sec. 2001.316. DELIVERY OF COMMISSION NOTICE. If notice
10 under this chapter is required to be given to an authorized
11 organization, the commission shall send the notice to the bingo
12 chairperson of the authorized organization and to the
13 appropriate commercial lessor, if applicable.

14 SECTION 23. Section 2001.356(c), Occupations Code, is
15 amended to read as follows:

16 (c) If a notice of temporary suspension is served on a
17 license holder, the director of bingo operations shall
18 simultaneously serve notice of a hearing, to be held not later
19 than the 14th [~~10th~~] day after the date the notice is served, at
20 which the license holder must show cause why the license should
21 not be temporarily suspended on the 14th [~~10th~~] day after the
22 date the notice is served. If the license holder does not show
23 cause, the license is suspended.

24 SECTION 24. Section 2001.404, Occupations Code, is amended
25 to read as follows:

26 Sec. 2001.404. PRINCIPAL LOCATION. A licensed authorized
27 organization may conduct bingo only in:

28 (1) the county where the organization has its primary
29 business office or another county contiguous to that county; or

30 (2) if the organization does not have a [~~has no~~]
31 business office, in the county of the principal residence of its
32 chief executive officer, or a contiguous county of this state.

33 SECTION 25. Section 2001.406(b), Occupations Code, is
34 amended to read as follows:

35 (b) Rent for premises used for the conduct of bingo must
36 be paid in a lump sum. Except as otherwise provided by this
37 section, the [~~The~~] lump sum must include all expenses authorized
38 by Section 2001.458 that are paid by the licensed authorized
39 organization to the lessor in connection with the use of the
40 premises. A licensed authorized organization or unit may pay as
41 a separate expense, based on the percentage of the total area of
42 the lessor's facility that the organization or unit uses as the
43 bingo premises for the conduct of bingo, the organization's or
44 unit's pro rata share of:

45 (1) property taxes on the facility that are paid by
46 the lessor, excluding any penalties and interest on the taxes;

47 (2) water, electric, and gas utility expenses for the

1 facility that are paid by the lessor, excluding any late fees or
2 other penalties; and

3 (3) property and casualty insurance premiums for the
4 facility that are paid by the lessor, excluding any late fees or
5 other penalties.

6 SECTION 26. Section 2001.407(a), Occupations Code, is
7 amended to read as follows:

8 (a) A licensed manufacturer may furnish, by sale or
9 otherwise, bingo equipment or supplies to a licensed
10 distributor. ~~A [Except as provided by Section 2001.257(b), a]~~
11 licensed manufacturer may not furnish, by sale or otherwise,
12 bingo equipment or supplies to a person other than a licensed
13 distributor.

14 SECTION 27. Section 2001.411, Occupations Code, is amended
15 by adding Subsection (c-1) to read as follows:

16 (c-1) An organization may designate as members of the
17 organization one or more individuals who elect to become
18 members, including all of the organization's directors, and the
19 designated members are bona fide members of the organization for
20 purposes of this section and other law.

21 SECTION 28. Section 2001.419, Occupations Code, is amended
22 to read as follows:

23 Sec. 2001.419. BINGO OCCASIONS. (a) ~~[A bingo occasion~~
24 ~~begins when the premises are opened to the public.~~

25 ~~[(b)] A licensed authorized organization may not conduct~~
26 ~~more than three [a] bingo occasions [occasion more often than~~
27 ~~three days] during a calendar week under an annual license [and~~
28 ~~not to exceed more than four hours during a 24-hour period].~~

29 (b) A bingo occasion may not exceed four hours.

30 ~~(c) [A licensed authorized organization may conduct two~~
31 ~~bingo occasions during a 24-hour period.] No more than two~~
32 bingo occasions may be conducted at the same premises during one
33 day except that a third bingo occasion may be conducted under a
34 temporary license held by a licensed authorized organization at
35 that premises.

36 ~~(d) [No more than two licensed authorized organizations~~
37 ~~may conduct bingo at the same premises during a 24-hour period.]~~
38 If more than one bingo occasion is conducted [two organizations
39 conduct bingo] at the same premises on the same day:

40 (1) [during a 24-hour period,] the bingo occasions
41 must be announced separately;

42 (2) the licensed times may not overlap; and

43 (3) bingo cards may be sold during a bingo occasion
44 for play during a subsequent bingo occasion that is scheduled to
45 begin at the same premises in not more than eight hours after
46 the sale of cards for the subsequent occasion begins [, and an
47 intermission of at least 10 minutes must occur between the bingo

1 occasions].

2 (e) Bingo paper for a bingo occasion may be sold at the
3 licensed premises before the bingo occasion begins. [~~If two~~
4 ~~licensed authorized organizations are authorized to conduct~~
5 ~~bingo at the same premises on the same day, the bingo occasion~~
6 ~~of one organization may overlap with the bingo occasion of the~~
7 ~~other organization, but their games must be separated by the~~
8 ~~intermission required under Subsection (d). In that event, the~~
9 ~~intermission is considered part of each organization's bingo~~
10 ~~occasion.~~]

11 SECTION 29. Subchapter I-1, Chapter 2001, Occupations
12 Code, is amended by adding Section 2001.4335 to read as follows:

13 Sec. 2001.4335. EXEMPTION FROM FRANCHISE TAX. A unit
14 formed under this subchapter is exempt from the tax imposed
15 under Chapter 171, Tax Code.

16 SECTION 30. Section 2001.435(b), Occupations Code, is
17 amended to read as follows:

18 (b) Each member of a unit shall deposit into the unit's
19 bingo account all funds derived from the conduct of bingo, less
20 the amount awarded as cash prizes under Sections 2001.420(a) and
21 (b). The deposit shall be made not later than the second [~~next~~]
22 business day after the day of the bingo occasion on which the
23 receipts were obtained.

24 SECTION 31. Section 2001.451, Occupations Code, is amended
25 by amending Subsections (a), (b), (c), (d), and (e) and adding
26 Subsections (g), (h), (i), (j), and (k) to read as follows:

27 (a) A licensed authorized organization shall establish and
28 maintain one regular checking account designated as the
29 organization's "bingo account." The organization may [~~also~~]
30 maintain a separate [~~an~~] interest-bearing savings account
31 designated as the "bingo savings account."

32 (b) A licensed authorized organization shall deposit in
33 the bingo account all funds derived from the conduct of bingo,
34 less the amount awarded as cash prizes under Sections
35 2001.420(a) and (b). Except as provided by Subsection (b-1), a
36 deposit must be made not later than the second [~~next~~] business
37 day after the day of the bingo occasion on which the receipts
38 were obtained.

39 (c) A licensed authorized organization may transfer [~~lend~~]
40 money from its general fund or other account to the
41 organization's [~~its~~] bingo account or to the bingo account of a
42 unit of which the organization is a member under Subchapter I-1,
43 if applicable, if:

44 (1) the balance in the bingo account to which the
45 funds are transferred is less than the maximum amount permitted
46 by this section; and

47 (2) the organization notifies [~~requests and receives~~]

1 ~~the prior approval of] the commission of the transfer not later~~
2 ~~than the 14th day after the date of the transfer. [Except as~~
3 ~~provided by this section, no other funds may be deposited in the~~
4 ~~bingo account.]~~

5 (d) Except as permitted by Subsection (c), a [A] licensed
6 authorized organization may not commingle gross receipts derived
7 from the conduct of bingo with other funds of the organization.

8 (e) Except as permitted by Subsection (c) of this section
9 and by Section 2001.453(2), a [Sections 2001.453(a)(2) and (3),
10 the] licensed authorized organization may not transfer gross
11 receipts derived from the conduct of bingo to another account
12 maintained by the organization.

13 (g) The bingo operations of a licensed authorized
14 organization must:

15 (1) result in net proceeds over the organization's
16 license period; or

17 (2) if the organization has a two-year license,
18 result in net proceeds over each 12-month period that ends on an
19 anniversary of the date the two-year license was issued.

20 (h) Except as provided by Subsection (j), a licensed
21 authorized organization or a unit of licensed authorized
22 organizations may retain operating capital in the organization's
23 or unit's bingo account in an amount that:

24 (1) is equal to the organization's or unit's actual
25 average bingo expenses per quarter based on the preceding
26 license period, excluding prizes paid; and

27 (2) does not exceed a total of \$50,000 for a single
28 organization or \$50,000 for each member of a unit unless:

29 (A) the commission by rule establishes a higher
30 amount for all organizations or units or one or more classes of
31 organizations or units; or

32 (B) the bingo operations director, on request,
33 raises the operating capital limit for one organization or unit
34 as necessary to facilitate the operation of the organization or
35 unit.

36 (i) Prize fees held in escrow for remittance to the
37 commission are not included in the calculation of operating
38 capital under Subsection (h).

39 (j) The commission shall adopt rules allowing a licensed
40 authorized organization to retain a maximum amount of operating
41 capital in the bingo account in excess of the amount provided by
42 Subsection (h) if the organization:

43 (1) has conducted bingo for less than one year;

44 (2) experiences circumstances beyond the control of
45 the organization, including force majeure, that necessitate an
46 increase in operating capital; or

47 (3) provides to the commission a credible business

1 plan for the conduct of bingo or for the organization's existing
2 or planned charitable purposes that an increase in operating
3 capital will reasonably further.

4 (k) A licensed authorized organization may apply to the
5 commission for a waiver of the requirements of this section and
6 Section 2001.457. The commission may grant the waiver on a
7 showing of good cause by the organization that compliance with
8 this section and Section 2001.457 is detrimental to the
9 organization's existing or planned charitable purposes. An
10 organization applying for a waiver establishes good cause by
11 providing to the commission:

12 (1) credible evidence of circumstances beyond the
13 control of the organization, including force majeure; or

14 (2) a credible business plan for the organization's
15 conduct of bingo or the organization's existing or planned
16 charitable purposes.

17 SECTION 32. Sections 2001.452(a) and (c), Occupations
18 Code, are amended to read as follows:

19 (a) Funds from the bingo account must be withdrawn by
20 electronic funds transfer or by preprinted, consecutively
21 numbered checks or withdrawal slips, signed by an authorized
22 representative of the licensed authorized organization and made
23 payable to a person. A check or withdrawal slip may not be made
24 payable to "cash," "bearer," or a fictitious payee. The nature
25 of the payment made must also be noted on the face of the check
26 or withdrawal slip. The purpose, amount, and payee for each
27 electronic funds transfer must be recorded in accordance with
28 rules adopted by the commission.

29 (c) A licensed authorized organization shall ~~[keep and]~~
30 account for all checks and withdrawal slips, including voided
31 checks and withdrawal slips.

32 SECTION 33. Section 2001.453, Occupations Code, is amended
33 to read as follows:

34 Sec. 2001.453. AUTHORIZED USES OF BINGO ACCOUNT. ~~[(a)]~~ A
35 licensed authorized organization may withdraw funds from ~~[draw a~~
36 ~~check on]~~ its bingo account only for:

37 (1) the payment of necessary or ~~[and]~~ reasonable bona
38 fide expenses, including compensation of personnel, as permitted
39 under Section 2001.458 incurred and paid in connection with the
40 conduct of bingo; or

41 (2) the disbursement of net proceeds derived from the
42 conduct of bingo as provided by this subchapter ~~[to charitable~~
43 ~~purposes; or~~

44 ~~[(3) the transfer of net proceeds derived from the~~
45 ~~conduct of bingo to the organization's bingo savings account~~
46 ~~pending a disbursement to a charitable purpose.~~

47 ~~[(b) A licensed authorized organization must make the~~

1 ~~disbursement of net proceeds on deposit in the bingo savings~~
2 ~~account to a charitable purpose by transferring the intended~~
3 ~~disbursement back into the organization's bingo account and then~~
4 ~~withdrawing an amount by a check drawn on the bingo account].~~

5 SECTION 34. Sections 2001.457(a), (b), and (c),
6 Occupations Code, are amended to read as follows:

7 (a) Before the end of each quarter, a licensed authorized
8 organization shall disburse all [~~for charitable purposes an~~
9 ~~amount not less than 35 percent~~] of the organization's net
10 proceeds [~~adjusted gross receipts~~] from the preceding quarter,
11 other than amounts retained under Section 2001.451, as provided
12 by this subchapter [~~less the amount of authorized expenses not~~
13 ~~to exceed six percent of the gross receipts~~].

14 (b) If a licensed authorized organization fails to meet
15 the requirements of Subsection (a) [~~this section~~] for a quarter,
16 the commission in applying appropriate sanctions shall [~~may~~]
17 consider whether, taking into account the amount required to be
18 disbursed [~~distributed~~] during that quarter and the three
19 preceding quarters [~~and the charitable distributions for each of~~
20 ~~those quarters~~], the organization has disbursed [~~distributed~~] a
21 total amount sufficient to have met the disbursement [~~35~~
22 ~~percent~~] requirement for that quarter and the three preceding
23 quarters combined.

24 (c) A licensed authorized organization that has ceased to
25 conduct bingo for any reason and that has unexpended bingo funds
26 shall disburse those funds as provided by this subchapter [~~to~~
27 ~~charitable purposes~~] before the end of the next calendar quarter
28 after the calendar quarter in which the organization ceases to
29 conduct bingo.

30 SECTION 35. Section 2001.458(a), Occupations Code, is
31 amended to read as follows:

32 (a) An item of expense may not be incurred or paid in
33 connection with the conduct of bingo except an expense that is
34 reasonable or necessary to conduct bingo, including an expense
35 for:

36 (1) advertising, including the cost of printing bingo
37 gift certificates;

38 (2) security;

39 (3) repairs to premises and equipment;

40 (4) bingo supplies and equipment;

41 (5) prizes;

42 (6) stated rental or mortgage and insurance expenses;

43 (7) bookkeeping, legal, or accounting services
44 related to bingo;

45 (8) fees for callers, cashiers, ushers, janitorial
46 services, and utility supplies and services;

47 (9) license fees;

1 (10) attending a bingo seminar or convention required
2 under Section 2001.107; and

3 (11) debit card transaction fees and electronic funds
4 transfer fees.

5 SECTION 36. Section 2001.459(a), Occupations Code, is
6 amended to read as follows:

7 (a) The following items of expense incurred or paid in
8 connection with the conduct of bingo must be paid from an
9 organization's bingo account:

10 (1) advertising, including the cost of printing bingo
11 gift certificates;

12 (2) security during a bingo occasion;

13 (3) the purchase or repair of bingo supplies and
14 equipment;

15 (4) prizes, other than authorized cash prizes;

16 (5) stated rental expenses;

17 (6) bookkeeping, legal, or accounting services;

18 (7) fees for callers, cashiers, and ushers;

19 (8) janitorial services; and

20 (9) license fees[~~;~~ ~~and~~

21 [~~(10) payment for services provided by a system~~
22 ~~service provider~~].

23 SECTION 37. Section 2001.502, Occupations Code, is amended
24 to read as follows:

25 Sec. 2001.502. PRIZE FEE. A licensed authorized
26 organization shall:

27 (1) collect from a person who wins a bingo prize of
28 more than \$5 a fee in the amount of five percent of the amount
29 or value of the prize; and

30 (2) remit to the commission a fee in the amount of
31 five percent of the amount or value of all bingo prizes awarded.

32 SECTION 38. Sections 2001.505(a) and (b), Occupations
33 Code, are amended to read as follows:

34 (a) A licensed authorized organization conducting bingo
35 shall submit quarterly to the commission [~~and to the~~
36 ~~comptroller~~] a report under oath stating:

37 (1) the amount of the gross receipts derived from
38 bingo;

39 (2) each item of expense incurred or paid;

40 (3) each item of expenditure made or to be made, the
41 name and address of each person to whom each item has been paid
42 or is to be paid, and a detailed description of the merchandise
43 purchased or the services rendered;

44 (4) the net proceeds derived from bingo;

45 (5) the use to which the proceeds have been or are to
46 be applied; and

47 (6) a list of prizes offered and given, with their

1 respective values.

2 (b) A license holder shall[+
3 [~~1~~] maintain records to substantiate the contents
4 of each report[+and
5 [~~2~~] furnish a copy of each report to the appropriate
6 governing body].

7 SECTION 39. Section 2001.603(b), Occupations Code, is
8 amended to read as follows:

9 (b) Not later than the 21st [~~14th~~] day after the date on
10 which the report is issued, the director shall give written
11 notice of the report to the person alleged to have committed the
12 violation.

13 SECTION 40. Sections 2001.656(a), (b), and (d),
14 Occupations Code, are amended to read as follows:

15 (a) If a majority of the qualified voters voting on the
16 question in a legalization election vote in favor of
17 legalization, bingo is legalized throughout the political
18 subdivision beginning on the 14th [~~10th~~] day after the date the
19 result of the election is officially declared, except as
20 otherwise provided as to a part of the political subdivision for
21 which Section 2001.657 requires a contrary status.

22 (b) If a majority of the qualified voters voting on the
23 question in a prohibitory election vote in favor of prohibition,
24 bingo is prohibited throughout the political subdivision
25 beginning on the 14th [~~10th~~] day after the date the result of
26 the election is officially declared, except as otherwise
27 provided as to a part of the political subdivision for which
28 Section 2001.657 requires a contrary status.

29 (d) The governing body of a political subdivision in which
30 a bingo election has been held shall not later than the 14th
31 [~~10th~~] day after the date of the election give written
32 notification to the commission of the results of the election.
33 If as a result of the election bingo is legalized in the
34 political subdivision, the governing body shall furnish the
35 commission with a map prepared by the governing body indicating
36 the boundaries of the political subdivision in which bingo may
37 be conducted.

38 SECTION 41. Section 411.108, Government Code, is amended
39 by adding Subsection (a-1) and amending Subsection (b) to read
40 as follows:

41 (a-1) The Texas Lottery Commission is entitled to obtain
42 from the department criminal history record information
43 maintained by the department that relates to a person licensed
44 under Chapter 2001, Occupations Code, or described by Section
45 2001.3025, Occupations Code.

46 (b) Criminal history record information obtained by the
47 commission under Subsection (a) or (a-1) may not be released or

1 disclosed to any person except on court order or as provided by
2 Subsection (c).

3 SECTION 42. The following provisions of the Occupations
4 Code are repealed:

- 5 (1) Sections 2001.002(3) and (10);
- 6 (2) Section 2001.057(b);
- 7 (3) Section 2001.160(c);
- 8 (4) Section 2001.161(a);
- 9 (5) Section 2001.303;
- 10 (6) Section 2001.402(b);
- 11 (7) Section 2001.406(c);
- 12 (8) Section 2001.417;
- 13 (9) Section 2001.457(d);
- 14 (10) Section 2001.505(c);
- 15 (11) Section 2001.553(b); and
- 16 (12) Subchapter F, Chapter 2001.

17 SECTION 43. The Texas Lottery Commission shall adopt the
18 rules required by Chapter 2001, Occupations Code, as amended by
19 this Act, not later than April 1, 2010.

20 SECTION 44. (a) If on or after the effective date of this
21 Act a licensed authorized organization has a balance in its
22 bingo account of more than the maximum amount of operating
23 capital allowed by Chapter 2001, Occupations Code, as amended by
24 this Act, the organization shall distribute the funds in excess
25 of the organization's maximum operating capital allowed by
26 Chapter 2001, Occupations Code, as amended by this Act, not
27 later than:

28 (1) the first anniversary of the effective date of
29 this Act if the excess amount is less than 200 percent of the
30 maximum amount of operating capital;

31 (2) the second anniversary of the effective date of
32 this Act if the excess amount is 200 percent or more but less
33 than 300 percent of the maximum amount of operating capital; or

34 (3) the third anniversary of the effective date of
35 this Act if the excess amount is 300 percent or more of the
36 maximum amount of operating capital.

37 (b) The Texas Lottery Commission may waive the
38 requirements of Subsection (a) of this section on application
39 and a showing of good cause by a licensed authorized
40 organization.

41 (c) This section expires January 1, 2013.

42 SECTION 45. This Act takes effect October 1, 2009.

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44 H.B. No. 1492

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AN ACT

relating to achievement awards presented by the Commission on Law Enforcement Officer Standards and Education.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 1701.401(f), Occupations Code, is amended to read as follows:

(f) The commission may present awards relating to not more than a total of 20 incidents and accomplishments [~~awards~~] each year.

SECTION 2. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2009.

H.B. No. 1544

AN ACT

relating to court proceedings for a plea of guilty or nolo contendere for a misdemeanor punishable by fine only.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Article 27.14(b), Code of Criminal Procedure, is amended to read as follows:

(b) A defendant charged with a misdemeanor for which the maximum possible punishment is by fine only may, in lieu of the method provided in Subsection (a) of this article, mail or deliver in person to the court a plea of "guilty" or a plea of "nolo contendere" and a waiver of jury trial. The defendant may also request in writing that the court notify the defendant, at the address stated in the request, of the amount of an appeal bond that the court will approve. If the court receives a plea and waiver before the time the defendant is scheduled to appear in court, the court shall dispose of the case without requiring a court appearance by the defendant. If the court receives a plea and waiver after the time the defendant is scheduled to appear in court but at least five business days before a scheduled trial date, the court shall dispose of the case without requiring a court appearance by the defendant. The court shall notify the defendant either in person or by certified mail, return receipt requested, of the amount of any fine assessed in the case and, if requested by the defendant, the amount of an appeal bond that the court will approve. The defendant shall pay any fine assessed or give an appeal bond in

1 the amount stated in the notice before the 31st day after
2 receiving the notice.

3 SECTION 2. Articles 45.051(a), (a-1), (b), and (c), Code
4 of Criminal Procedure, are amended to read as follows:

5 (a) On a plea of guilty or nolo contendere by a defendant
6 or on a finding of guilt in a misdemeanor case punishable by
7 fine only and payment of all court costs, the judge may [~~at~~
8 ~~the judge's discretion,~~] defer further proceedings without
9 entering an adjudication of guilt and place the defendant on
10 probation for a period not to exceed 180 days. In issuing the
11 order of deferral, the judge may impose a special expense fee on
12 the defendant in an amount not to exceed the amount of the fine
13 that could be imposed on the defendant as punishment for the
14 offense. The special expense fee may be collected at any time
15 before the date on which the period of probation ends. The
16 judge may elect not to impose the special expense fee for good
17 cause shown by the defendant. If the judge orders the
18 collection of a special expense fee, the judge shall require
19 that the amount of the special expense fee be credited toward
20 the payment of the amount of the fine imposed by the judge. An
21 order of deferral under this subsection terminates any liability
22 under a bail bond or an appearance bond given for the charge.

23 (a-1) Notwithstanding any other provision of law, as an
24 alternative to requiring a defendant charged with one or more
25 offenses to make payment of all court costs as required by
26 Subsection (a), the judge [~~in the judge's discretion,~~] may:

27 (1) allow the defendant to enter into an agreement
28 for payment of those costs in installments during the
29 defendant's period of probation;

30 (2) require an eligible defendant to discharge all or
31 part of those costs by performing community service under
32 Article 45.049; or

33 (3) take any combination of actions authorized by
34 Subdivision (1) or (2).

35 (b) During the deferral period, the judge may [~~at the~~
36 ~~judge's discretion,~~] require the defendant to:

37 (1) post a bond in the amount of the fine assessed to
38 secure payment of the fine;

39 (2) pay restitution to the victim of the offense in
40 an amount not to exceed the fine assessed;

41 (3) submit to professional counseling;

42 (4) submit to diagnostic testing for alcohol or a
43 controlled substance or drug;

44 (5) submit to a psychosocial assessment;

45 (6) participate in an alcohol or drug abuse treatment
46 or education program;

47 (7) pay the costs of any diagnostic testing,

1 psychosocial assessment, or participation in a treatment or
2 education program either directly or through the court as court
3 costs;

4 (8) complete a driving safety course approved under
5 Chapter 1001, Education Code, or another course as directed by
6 the judge;

7 (9) present to the court satisfactory evidence that
8 the defendant has complied with each requirement imposed by the
9 judge under this article; and

10 (10) comply with any other reasonable condition.

11 (c) On determining that the defendant has complied with
12 the requirements imposed by the judge under this article, the
13 judge shall dismiss the complaint, and it shall be clearly noted
14 in the docket that the complaint is dismissed and that there is
15 not a final conviction. ~~[If the complaint is dismissed, a
16 special expense not to exceed the amount of the fine assessed
17 may be imposed.]~~

18 SECTION 3. The change in law made by this Act applies only
19 to an offense committed on or after the effective date of this
20 Act. An offense committed before the effective date of this Act
21 is governed by the law in effect at the time the offense was
22 committed, and the former law is continued in effect for that
23 purpose. For purposes of this section, an offense was committed
24 before the effective date of this Act if any element of the
25 offense occurred before that date.

26 SECTION 4. This Act takes effect September 1, 2009.

27
28 H.B. No. 1614
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33 AN ACT

34 relating to the punishment for the offense of criminal mischief.

35 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

36 SECTION 1. Section 28.03(b), Penal Code, is amended to
37 read as follows:

38 (b) Except as provided by Subsections (f) and (h), an
39 offense under this section is:

40 (1) a Class C misdemeanor if:

41 (A) the amount of pecuniary loss is less than
42 \$50; or

43 (B) except as provided in Subdivision (3)(A) or
44 (3)(B), it causes substantial inconvenience to others;

45 (2) a Class B misdemeanor if the amount of pecuniary
46 loss is \$50 or more but less than \$500;

47 (3) a Class A misdemeanor if:

1 (A) the amount of pecuniary loss is[+
2 [(+i)] \$500 or more but less than \$1,500; or
3 [(ii) less than \$1,500 and the actor causes
4 in whole or in part impairment or interruption of public
5 communications, public transportation, public gas or power
6 supply, or other public service, or causes to be diverted in
7 whole, in part, or in any manner, including installation or
8 removal of any device for any such purpose, any public
9 communications or public gas or power supply; or]

10 (B) the actor causes in whole or in part
11 impairment or interruption of any public water supply, or causes
12 to be diverted in whole, in part, or in any manner, including
13 installation or removal of any device for any such purpose, any
14 public water supply, regardless of the amount of the pecuniary
15 loss;

16 (4) a state jail felony if the amount of pecuniary
17 loss is:

18 (A) \$1,500 or more but less than \$20,000;

19 (B) less than \$1,500, if the property damaged or
20 destroyed is a habitation and if the damage or destruction is
21 caused by a firearm or explosive weapon; [or]

22 (C) less than \$1,500, if the property was a
23 fence used for the production or containment of:

24 (i) cattle, bison, horses, sheep, swine,
25 goats, exotic livestock, or exotic poultry; or

26 (ii) game animals as that term is defined
27 by Section 63.001, Parks and Wildlife Code; or

28 (D) less than \$20,000 and the actor causes
29 wholly or partly impairment or interruption of public
30 communications, public transportation, public gas or power
31 supply, or other public service, or causes to be diverted
32 wholly, partly, or in any manner, including installation or
33 removal of any device for any such purpose, any public
34 communications or public gas or power supply;

35 (5) a felony of the third degree if the amount of the
36 pecuniary loss is \$20,000 or more but less than \$100,000;

37 (6) a felony of the second degree if the amount of
38 pecuniary loss is \$100,000 or more but less than \$200,000; or

39 (7) a felony of the first degree if the amount of
40 pecuniary loss is \$200,000 or more.

41 SECTION 2. The change in law made by this Act in amending
42 Section 28.03(b), Penal Code, applies only to an offense
43 committed on or after the effective date of this Act. An
44 offense committed before the effective date of this Act is
45 covered by the law in effect when the offense was committed, and
46 the former law is continued in effect for that purpose. For
47 purposes of this section, an offense is committed before the

1 effective date of this Act if any element of the offense
2 occurred before that date.

3 SECTION 3. This Act takes effect September 1, 2009.

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5 H.B. No. 1633
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10 AN ACT

11 relating to the prosecution and punishment of the offense of
12 graffiti and to certain conditions imposed on defendants
13 convicted of that offense or on juveniles adjudicated as having
14 engaged in conduct in violation of that offense.

15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

16 SECTION 1. Article 42.037(s), Code of Criminal Procedure,
17 is amended to read as follows:

18 (s)(1) A court shall order [~~If a court orders~~] a defendant
19 convicted of an offense under Section 28.08, Penal Code, to make
20 restitution by:

21 (A) reimbursing the owner of the property for
22 the cost of restoring the property; or

23 (B) with the consent of the owner of the
24 property, [to the victim of the offense, the court may order the
25 defendant to make restitution as provided by Subsection
26 (b)(1)(B) or by] personally restoring the property by removing
27 or painting over any markings the defendant made.

28 (2) A court shall order a defendant convicted of an
29 offense under Section 28.08, Penal Code, to make restitution to
30 a political subdivision that owns public property or erects a
31 street sign or official traffic-control device on which the
32 defendant makes markings in violation of Section 28.08, Penal
33 Code, by:

34 (A) paying an [The] amount [of the restitution
35 ordered must be] equal to the lesser of [the amount of
36 restitution authorized by Subsection (b)(1)(B) or] the cost to
37 the political subdivision of replacing or restoring the public
38 property, street sign, or official traffic-control device; or

39 (B) with the consent of the political
40 subdivision, restoring the public property, street sign, or
41 official traffic-control device by removing or painting over any
42 markings made by the defendant on the property, sign, or device.

43 (3) If the court orders a defendant to make
44 restitution under this subsection [~~subdivision~~] and the
45 defendant is financially unable to make the restitution, the
46 court may order the defendant to perform a specific number of
47 hours of community service[, ~~including service restoring the~~

1 ~~property by removing or painting over any markings the defendant~~
2 ~~made,~~] to satisfy the restitution.

3 (4) Notwithstanding Subsection (g)(4), a court shall
4 direct a defendant ordered to make restitution under this
5 subsection as a condition of community supervision to deliver
6 the amount or property due as restitution to the defendant's
7 supervising officer for transfer to the owner. A parole panel
8 shall direct a defendant ordered to make restitution under this
9 subsection as a condition of parole or mandatory supervision to
10 deliver the amount or property due as restitution to the
11 defendant's supervising officer. The defendant's supervising
12 officer shall notify the court when the defendant has delivered
13 the full amount of restitution ordered.

14 (5) For purposes of this subsection [subdivision],
15 "official traffic-control device" has the meaning assigned by
16 Section 541.304, Transportation Code.

17 SECTION 2. Section 11, Article 42.12, Code of Criminal
18 Procedure, is amended by adding Subsection (k) to read as
19 follows:

20 (k) A court granting community supervision to a defendant
21 convicted of an offense under Section 28.08, Penal Code, shall
22 require as a condition of community supervision that the
23 defendant perform:

24 (1) at least 15 hours of community service if the
25 amount of pecuniary loss resulting from the commission of the
26 offense is \$50 or more but less than \$500; or

27 (2) at least 30 hours of community service if the
28 amount of pecuniary loss resulting from the commission of the
29 offense is \$500 or more.

30 SECTION 3. Section 54.046, Family Code, is amended by
31 amending Subsections (a) and (c) and adding Subsections (d) and
32 (e) to read as follows:

33 (a) If a juvenile court places on probation under Section
34 54.04(d) a child adjudicated as having engaged in conduct in
35 violation of Section 28.08, Penal Code, in addition to other
36 conditions of probation, the court:

37 (1) shall ~~may~~ order the child to:

38 (A) reimburse the owner of the property for the
39 cost of restoring the property; or

40 (B) with consent of the owner of the property,
41 restore the property by removing or painting over any markings
42 made by the child on the property; and

43 (2) if the child made markings on public property, a
44 street sign, or an official traffic-control device in violation
45 of Section 28.08, Penal Code, shall ~~may~~ order the child to:

46 (A) make to the political subdivision that owns
47 the public property or erected the street sign or official

1 traffic-control device restitution in an amount equal to the
2 lesser of the cost to the political subdivision of replacing or
3 restoring the public property, street sign, or official traffic-
4 control device; or

5 (B) with the consent of the political
6 subdivision, restore the public property, street sign, or
7 official traffic-control device by removing or painting over any
8 markings made by the child on the property, sign, or device.

9 (c) If a juvenile court orders a child to make restitution
10 under Subsection (a) and the child, child's parent, or other
11 person responsible for the child's support is financially unable
12 to make the restitution, the court may order the child to
13 perform a specific number of hours of community service, in
14 addition to the hours required under Subsection (d), to satisfy
15 the restitution.

16 (d) If a juvenile court places on probation under Section
17 54.04(d) a child adjudicated as having engaged in conduct in
18 violation of Section 28.08, Penal Code, in addition to other
19 conditions of probation, the court shall order the child to
20 perform:

21 (1) at least 15 hours of community service if the
22 amount of pecuniary loss resulting from the conduct is \$50 or
23 more but less than \$500; or

24 (2) at least 30 hours of community service if the
25 amount of pecuniary loss resulting from the conduct is \$500 or
26 more.

27 (e) The juvenile court shall direct a child ordered to
28 make restitution under this section to deliver the amount or
29 property due as restitution to a juvenile probation department
30 for transfer to the owner. The juvenile probation department
31 shall notify the juvenile court when the child has delivered the
32 full amount of restitution ordered.

33 SECTION 4. Section 28.08(a), Penal Code, is amended to
34 read as follows:

35 (a) A person commits an offense if, without the effective
36 consent of the owner, the person intentionally or knowingly
37 makes markings, including inscriptions, slogans, drawings, or
38 paintings, on the tangible property of the owner with:

39 (1) ~~aerosol~~ paint;

40 (2) an indelible marker; or

41 (3) an etching or engraving device.

42 SECTION 5. The change in law made by this Act applies only
43 to an offense that is committed or conduct that occurs on or
44 after the effective date of this Act. An offense that is
45 committed or conduct that occurs before the effective date of
46 this Act is covered by the law in effect when the offense was
47 committed or the conduct occurred, and the former law is

1 continued in effect for that purpose. For purposes of this
2 section, an offense was committed or conduct occurred before the
3 effective date of this Act if any element of the offense or
4 conduct occurred before that date.

5 SECTION 6. This Act takes effect September 1, 2009.

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7 H.B. No. 1659
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12 AN ACT

13 relating to creating an exception to the offense of unlawful
14 installation of a tracking device.

15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

16 SECTION 1. Section 16.06, Penal Code, is amended by
17 amending Subsection (d) and adding Subsection (e) to read as
18 follows:

19 (d) It is an affirmative defense to prosecution under this
20 section that the person:

21 (1) obtained the effective consent of the owner or
22 lessee of the motor vehicle before the electronic or mechanical
23 tracking device was installed;

24 (2) ~~[was a peace officer who installed the device in
25 the course of a criminal investigation or pursuant to an order
26 of a court to gather information for a law enforcement agency];~~

27 ~~[+3+]~~ assisted another whom the person reasonably
28 believed to be a peace officer authorized to install the device
29 in the course of a criminal investigation or pursuant to an
30 order of a court to gather information for a law enforcement
31 agency; or

32 (3) ~~[+4+]~~ was a private investigator licensed under
33 Chapter 1702, Occupations Code, who installed the device:

34 (A) with written consent:

35 (i) to install the device given by the
36 owner or lessee of the motor vehicle; and

37 (ii) to enter private residential property,
38 if that entry was necessary to install the device, given by the
39 owner or lessee of the property; or

40 (B) pursuant to an order of or other
41 authorization from a court to gather information.

42 (e) This section does not apply to a peace officer who
43 installed the device in the course of a criminal investigation
44 or pursuant to an order of a court to gather information for a
45 law enforcement agency.

46 SECTION 2. The change in law made by this Act applies only
47 to an offense committed on or after the effective date of this

1 Act. An offense committed before the effective date of this Act
2 is governed by the law in effect at the time the offense was
3 committed, and the former law is continued in effect for that
4 purpose. For purposes of this section, an offense was committed
5 before the effective date of this Act if any element of the
6 offense occurred before that date.

7 SECTION 3. This Act takes effect September 1, 2009.

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9 H.B. No. 1665

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14 AN ACT

15 relating to the penalty imposed on defaulting jurors.

16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

17 SECTION 1. Section 62.111, Government Code, is amended to
18 read as follows:

19 Sec. 62.111. PENALTY FOR DEFAULTING JURORS. A juror
20 lawfully notified shall be fined not less than \$100 [~~\$10~~] nor
21 more than \$500 [~~\$100~~] if the juror [~~he~~]:

22 (1) fails to attend court in obedience to the notice
23 without reasonable excuse; or

24 (2) files a false claim of exemption from jury
25 service.

26 SECTION 2. Article 19.16, Code of Criminal Procedure, is
27 amended to read as follows:

28 Art. 19.16. ABSENT JUROR FINED. A juror legally summoned,
29 failing to attend without a reasonable excuse, may, by order of
30 the court entered on the record, be fined not less than \$100
31 [~~ten dollars~~] nor more than \$500 [~~one hundred dollars~~].

32 SECTION 3. Article 35.01, Code of Criminal Procedure, is
33 amended to read as follows:

34 Art. 35.01. JURORS CALLED. When a case is called for
35 trial and the parties have announced ready for trial, the names
36 of those summoned as jurors in the case shall be called. Those
37 not present may be fined not less than \$100 nor more than \$500
38 [~~not exceeding fifty dollars~~]. An attachment may issue on
39 request of either party for any absent summoned juror, to have
40 him brought forthwith before the court. A person who is
41 summoned but not present, may upon an appearance, before the
42 jury is qualified, be tried as to his qualifications and
43 impaneled as a juror unless challenged, but no cause shall be
44 unreasonably delayed on account of his absence.

45 SECTION 4. The change in law made by this Act applies only
46 to a juror who fails to attend or provides a false claim of
47 exemption on or after the effective date of this Act. A

1 violation that occurred before the effective date of this Act is
2 governed by the law in effect when the violation occurred, and
3 the former law is continued in effect for that purpose.

4 SECTION 5. This Act takes effect September 1, 2009.

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6 H.B. No. 1711
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11 AN ACT

12 relating to requiring the Texas Department of Criminal Justice
13 to establish a comprehensive reentry and reintegration plan for
14 offenders released or discharged from a correctional facility.

15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

16 SECTION 1. Subchapter B, Chapter 495, Government Code, is
17 amended by adding Section 495.028 to read as follows:

18 Sec. 495.028. IMPLEMENTATION OF REENTRY AND REINTEGRATION
19 PLAN. (a) The department may contract and coordinate with
20 private vendors, units of local government, or other entities to
21 implement the comprehensive reentry and reintegration plan
22 developed under Section 501.092, including contracting to:

23 (1) coordinate the supervision and services provided
24 to offenders in correctional facilities with any supervision or
25 services provided to offenders who have been released or
26 discharged from the correctional facility;

27 (2) provide offenders awaiting release or discharge
28 with documents that are necessary after release or discharge,
29 including identification papers, medical prescriptions, job
30 training certificates, and referrals to services; and

31 (3) provide housing and structured programs,
32 including group homes for recovering substance abusers, through
33 which offenders are provided services immediately following
34 release or discharge.

35 (b) To ensure accountability, any contract entered into
36 under this section must contain specific performance measures
37 that the department shall use to evaluate compliance with the
38 terms of the contract.

39 SECTION 2. Subchapter C, Chapter 501, Government Code, is
40 amended by adding Sections 501.091, 501.092, 501.098, 501.099,
41 and 501.100 to read as follows:

42 Sec. 501.091. DEFINITIONS. In this subchapter:

43 (1) "Correctional facility" means a facility operated
44 by or under contract with the department.

45 (2) "Offender" means an inmate or state jail
46 defendant confined in a correctional facility.

47 Sec. 501.092. COMPREHENSIVE REENTRY AND REINTEGRATION PLAN

1 FOR OFFENDERS. (a) The department shall develop a
2 comprehensive plan to reduce recidivism and ensure the
3 successful reentry and reintegration of offenders into the
4 community following an offender's release or discharge from a
5 correctional facility.

6 (b) The reentry and reintegration plan developed under
7 this section must provide for:

8 (1) an assessment of offenders entering a
9 correctional facility to determine which skills the offender
10 needs to develop to be successful in the community following
11 release or discharge;

12 (2) programs that address the assessed needs of
13 offenders;

14 (3) a comprehensive network of transition programs to
15 address the needs of offenders released or discharged from a
16 correctional facility;

17 (4) the identification of providers of existing local
18 programs and transitional services with whom the department may
19 contract under Section 495.028 to implement the reentry and
20 reintegration plan; and

21 (5) subject to Subsection (c), the sharing of
22 information between local coordinators, persons with whom the
23 department contracts under Section 495.028, and other providers
24 of services as necessary to adequately assess and address the
25 needs of each offender.

26 (c) An offender's personal health information may be
27 disclosed under Subsection (b)(5) only if:

28 (1) the offender consents to the disclosure; and
29 (2) the disclosure does not violate the Health
30 Insurance Portability and Accountability Act of 1996 (Pub. L.
31 No. 104-191) or other state or federal law.

32 (d) The programs provided under Subsections (b)(2) and (3)
33 must:

34 (1) be implemented by highly skilled staff who are
35 experienced in working with inmate reentry and reintegration
36 programs;

37 (2) provide offenders with:

38 (A) individualized case management and a full
39 continuum of care;

40 (B) life-skills training, including information
41 about budgeting, money management, nutrition, and exercise;

42 (C) education and, if an offender has a learning
43 disability, special education;

44 (D) employment training;

45 (E) appropriate treatment programs, including
46 substance abuse and mental health treatment programs; and
47 (F) parenting and relationship building classes;

1 and

2 (3) be designed to build for former offenders post-
3 release and post-discharge support from the community into which
4 an offender is released or discharged, including support from
5 agencies and organizations within that community.

6 (e) In developing the reentry and reintegration plan under
7 this section, the department shall ensure that the reentry
8 program for long-term inmates under Section 501.096 and the
9 reintegration services provided under Section 501.097 are
10 incorporated into the plan.

11 Sec. 501.098. REENTRY TASK FORCE. (a) The department
12 shall coordinate the work of the task force with the Office of
13 Court Administration, and by rule shall enter into a memorandum
14 of understanding with the following entities to establish a
15 reentry task force:

16 (1) the Texas Youth Commission;
17 (2) the Texas Workforce Commission;
18 (3) the Department of Public Safety;
19 (4) the Texas Department of Housing and Community

20 Affairs;

21 (5) the Texas Correctional Office on Offenders with
22 Medical or Mental Impairments;

23 (6) the Health and Human Services Commission;

24 (7) the Texas Judicial Council; and

25 (8) an organization selected by the department that
26 advocates for or provides reentry or reintegration services to
27 offenders following their release or discharge from a
28 correctional facility.

29 (b) The reentry task force established under Subsection
30 (a) may:

31 (1) identify gaps in services for offenders following
32 their release or discharge to rural or urban communities in the
33 areas of employment, housing, substance abuse treatment, medical
34 care, and any other areas in which the offenders need special
35 services; and

36 (2) coordinate with providers of existing local
37 reentry and reintegration programs, including programs operated
38 by a municipality or county, to make recommendations regarding
39 the provision of comprehensive services to offenders following
40 their release or discharge to rural or urban communities.

41 Sec. 501.099. FAMILY UNITY AND PARTICIPATION. (a) The
42 department shall adopt and implement policies that encourage
43 family unity while an offender is confined and family
44 participation in an offender's post-release or post-discharge
45 transition to the community. In adopting the policies, the
46 department shall consider the impact of department telephone,
47 mail, and visitation policies on the ability of an offender's

1 child to maintain ongoing contact with the offender.

2 (b) The department, when determining in which correctional
3 facility to house an offender, shall consider the best interest
4 of the offender's family and, if possible, house the offender
5 in, or in proximity to, the county in which the offender's
6 family resides.

7 (c) The department shall conduct and coordinate research
8 that examines the impact of an offender's confinement on the
9 well-being of the offender's child.

10 Sec. 501.100. RECIDIVISM STUDY; REPORT. (a) The
11 department shall conduct and coordinate research to determine
12 whether the comprehensive reentry and reintegration plan
13 developed under Section 501.092 and the policies adopted under
14 Section 501.099 to encourage family unity and participation
15 reduce recidivism rates.

16 (b) Not later than September 1 of each even-numbered year,
17 the department shall deliver a report of the results of research
18 conducted or coordinated under Subsection (a) to the lieutenant
19 governor, the speaker of the house of representatives, and the
20 standing committees of each house of the legislature with
21 primary jurisdiction over criminal justice and corrections.

22 SECTION 3. (a) As soon as practicable after the effective
23 date of this Act, the Texas Department of Criminal Justice shall
24 enter into a memorandum of understanding as required by Section
25 501.098, Government Code, as added by this Act.

26 (b) Not later than January 1, 2010, the Texas Department
27 of Criminal Justice shall adopt and implement the policies
28 required by Section 501.099, Government Code, as added by this
29 Act.

30 (c) Not later than January 1, 2010, the Texas Department
31 of Criminal Justice shall develop and implement the
32 comprehensive reentry and reintegration plan for offenders as
33 required by Section 501.092, Government Code, as added by this
34 Act.

35 SECTION 4. This Act does not make an appropriation. This
36 Act takes effect only if a specific appropriation for the
37 implementation of the Act is provided in a general
38 appropriations act of the 81st Legislature.

39 SECTION 5. This Act takes effect immediately if it
40 receives a vote of two-thirds of all the members elected to each
41 house, as provided by Section 39, Article III, Texas
42 Constitution. If this Act does not receive the vote necessary
43 for immediate effect, this Act takes effect September 1, 2009.

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45 H.B. No. 1721
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AN ACT

relating to taking or attempting to take a weapon from an employee or official of a correctional facility.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. The heading to Section 38.14, Penal Code, is amended to read as follows:

Sec. 38.14. TAKING OR ATTEMPTING TO TAKE WEAPON FROM PEACE OFFICER, EMPLOYEE OR OFFICIAL OF CORRECTIONAL FACILITY, PAROLE OFFICER, OR COMMUNITY SUPERVISION AND CORRECTIONS DEPARTMENT OFFICER.

SECTION 2. Sections 38.14(b), (c), (d), and (e), Penal Code, are amended to read as follows:

(b) A person commits an offense if the person intentionally or knowingly and with force takes or attempts to take from a peace officer, employee or official of a correctional facility, parole officer, or community supervision and corrections department officer the officer's, employee's, or official's firearm, nightstick, stun gun, or personal protection chemical dispensing device with the intention of harming the officer, employee, or official or a third person.

(c) The actor is presumed to have known that the peace officer, employee or official of a correctional facility, parole officer, or community supervision and corrections department officer was a peace officer, employee or official of a correctional facility, parole officer, or community supervision and corrections department officer if:

(1) the officer, employee, or official was wearing a distinctive uniform or badge indicating his employment; ~~[7]~~ or

(2) ~~[if]~~ the officer, employee, or official identified himself as a peace officer, employee or official of a correctional facility, parole officer, or community supervision and corrections department officer.

(d) It is a defense to prosecution under this section that the defendant took or attempted to take the weapon from a peace officer, employee or official of a correctional facility, parole officer, or community supervision and corrections department officer who was using force against the defendant or another in excess of the amount of force permitted by law.

(e) An offense under this section is:

(1) a felony of the third degree, if the defendant took a weapon described by Subsection (b) from an officer, employee, or official described by that subsection; ~~[Subsection (b)]~~ and

(2) ~~[is]~~ a state jail felony, if the defendant attempted to take a ~~[the]~~ weapon described by Subsection (b)

1 from an [the] officer, employee, or official described by that
2 subsection.

3 SECTION 3. The change in law made by this Act applies only
4 to an offense committed on or after the effective date of this
5 Act. An offense committed before the effective date of this Act
6 is governed by the law in effect at the time the offense was
7 committed, and the former law is continued in effect for that
8 purpose. For purposes of this section, an offense was committed
9 before the effective date of this Act if any element of the
10 offense occurred before that date.

11 SECTION 4. This Act takes effect September 1, 2009.

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13 H.B. No. 1736
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18 AN ACT

19 relating to compensation of and services to persons wrongfully
20 imprisoned.

21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

22 SECTION 1. This Act shall be known as the Tim Cole Act.

23 SECTION 2. Section 103.001, Civil Practice and Remedies
24 Code, is amended by adding Subsection (c) to read as follows:

25 (c) If a deceased person would be entitled to compensation
26 under Subsection (a)(2) if living, including a person who
27 received a posthumous pardon, the person's heirs, legal
28 representatives, and estate are entitled to lump-sum
29 compensation under Section 103.052.

30 SECTION 3. Section 103.003, Civil Practice and Remedies
31 Code, is amended to read as follows:

32 Sec. 103.003. LIMITATION ON TIME TO FILE. Not later than
33 the third anniversary of the date the person on whose
34 imprisonment the claim is based received the pardon or was
35 granted relief [~~found not guilty~~] as required by Section
36 103.001, a person seeking compensation under this chapter must[+]

37 [+1] file an application with the comptroller for
38 compensation under Subchapter B[+or]

39 [(2) file suit against the state for compensation
40 under Subchapter C].

41 SECTION 4. Section 103.051(a), Civil Practice and Remedies
42 Code, as amended by Chapters 1190 (H.B. 814) and 1388 (S.B.
43 1719), Acts of the 80th Legislature, Regular Session, 2007, is
44 reenacted and amended to read as follows:

45 (a) To apply for compensation under this subchapter, the
46 claimant must file with the comptroller's judiciary section:

47 (1) an application for compensation provided for that

1 purpose by the comptroller;

2 (2) a verified copy of the pardon or court order
3 justifying the application for compensation; ~~and~~

4 (3) a statement provided by the Texas Department of
5 Criminal Justice and any county or municipality that
6 incarcerated the person on whose imprisonment the claim is based
7 in connection with the relevant sentence verifying the length of
8 incarceration;

9 (4) if applicable, a statement from the Department of
10 Public Safety verifying registration as a sex offender and
11 length of registration;

12 (5) if applicable, a statement from the Texas
13 Department of Criminal Justice verifying the length of time
14 spent on parole; and

15 (6) if the claimant is applying for compensation
16 under Section 103.052(a)(2), a certified copy of each child
17 support order under which child support payments became due
18 during the time the claimant served in prison and copies of the
19 official child support payment records described by Section
20 234.009, Family Code, for that period.

21 SECTION 5. Section 103.052, Civil Practice and Remedies
22 Code, is amended to read as follows:

23 Sec. 103.052. LUMP-SUM [~~AMOUNT AND TIMING OF~~]
24 COMPENSATION. (a) A person who meets the requirements of
25 Section 103.001 is entitled to compensation in an amount equal
26 to:

27 (1) \$80,000 [~~\$50,000~~] multiplied by the number of
28 years served in prison, expressed as a fraction to reflect
29 partial years; and

30 (2) compensation for child support payments owed by
31 the person on whose imprisonment the claim is based that became
32 due and interest on child support arrearages that accrued during
33 the time served in prison but were not paid.

34 [~~(a 1) Notwithstanding Subsection (a)(1), a person~~
35 ~~sentenced to death who meets the requirements of Section 103.001~~
36 ~~is entitled to compensation in an amount equal to \$100,000~~
37 ~~multiplied by the number of years served in prison, expressed as~~
38 ~~a fraction to reflect partial years.]~~

39 (b) A person who, after serving a sentence in a Texas
40 prison for which the person is entitled to compensation under
41 Subsection (a)(1), was released on parole or required to
42 register as a sex offender under Chapter 62, Code of Criminal
43 Procedure, is entitled to compensation in an amount equal to
44 \$25,000 multiplied by the number of years served either on
45 parole or as a registered sex offender, expressed as a fraction
46 to reflect partial years [~~A person who is owed an amount of~~
47 ~~compensation under Subsection (a)(1) or (a 1) equal to or~~

1 ~~greater than \$50,000 shall be paid that compensation in two~~
2 ~~equal annual installments].~~

3 ~~(c) [If requested by the claimant, the Texas Department of~~
4 ~~Mental Health and Mental Retardation shall provide appropriate~~
5 ~~counseling for one year to the claimant at a mutually agreed-on~~
6 ~~location at no charge to the claimant.~~

7 ~~[(d)]~~ The amount of compensation under Subsection (a)(2)
8 to which a person is entitled shall be paid on the person's
9 behalf in a lump-sum payment to the state disbursement unit, as
10 defined by Section 101.0302, Family Code, for distribution to
11 the obligee under the child support order.

12 SECTION 6. Subchapter B, Chapter 103, Civil Practice and
13 Remedies Code, is amended by adding Sections 103.053 and 103.054
14 to read as follows:

15 Sec. 103.053. ANNUITY COMPENSATION. (a) A person
16 entitled to compensation under Section 103.001(a) is entitled to
17 annuity payments, based on a present value sum equal to the
18 amount to which the person is entitled under Sections
19 103.052(a)(1) and (b).

20 (b) The annuity payments under this section are payable in
21 equal monthly installments for the life of the claimant and must
22 be based on a five percent per annum interest rate and other
23 actuarial factors within the discretion of the comptroller.

24 (c) The annuity payments may not be accelerated, deferred,
25 increased, or decreased. The applicant may not sell, mortgage
26 or otherwise encumber, or anticipate the payments, wholly or
27 partly, by assignment or otherwise.

28 Sec. 103.054. PAYMENT OF CERTAIN TUITION AND FEES. If
29 requested by the claimant before the seventh anniversary of the
30 date the claimant received the pardon or was granted relief as
31 required by Section 103.001, tuition for up to 120 credit hours,
32 including tuition charged under Section 54.0513, Education Code,
33 or any other law granting an educational institution discretion
34 to set the tuition rate, and any mandatory fees associated with
35 attendance at the institution, charged by a career center or
36 public institution of higher education shall be paid on behalf
37 of the claimant.

38 SECTION 7. Section 103.151, Civil Practice and Remedies
39 Code, is amended to read as follows:

40 Sec. 103.151. ADMINISTRATIVE PAYMENT OF COMPENSATION. (a)
41 The comptroller shall make the compensation [first installment
42 payment] due a claimant under Section 103.052 [an applicant] and
43 the lump-sum payment, if any, to be paid to the state
44 disbursement unit, as defined by Section 101.0302, Family Code,
45 under Subchapter B, to the extent that funds are available and
46 appropriated for that purpose, not later than the 30th day after
47 the date the comptroller grants the application. A claim for

1 lump-sum compensation payable under Section 103.052(a) or (b)
2 shall survive the death of the claimant in favor of the heirs,
3 legal representatives, and estate of the claimant.

4 (b) The comptroller shall begin making annuity payments to
5 a claimant under Section 103.053(a) on the first anniversary of
6 the date of payment of the compensation due under Section
7 103.052 [pay the amount of the second installment payment on the
8 first anniversary of the date of the first installment].

9 (c) If appropriated funds are insufficient to pay the
10 amount due a claimant [an applicant] and the amount to be paid
11 to the state disbursement unit, as defined by Section 101.0302,
12 Family Code, money shall be paid under the procedure described
13 by Section 103.152.

14 SECTION 8. Section 103.152(a), Civil Practice and Remedies
15 Code, is amended to read as follows:

16 (a) Not later than November 1 of each even-numbered year,
17 the comptroller shall provide a list of claimants entitled to
18 payment under Subchapter B [~~or C~~] and the amounts due for each
19 claimant to the governor, the lieutenant governor, and the chair
20 of the appropriate committee in each house of the legislature so
21 that the legislature may appropriate the amount needed to pay
22 the amount owed to each claimant and the amount to be paid to
23 the state disbursement unit, as defined by Section 101.0302,
24 Family Code, on the claimant's behalf.

25 SECTION 9. Section 103.154(b), Civil Practice and Remedies
26 Code, is amended to read as follows:

27 (b) Annuity [~~Except as provided by Subsection (c),~~
28 ~~compensation~~] payments to a person under Section 103.151(b)
29 [~~this chapter~~] terminate on the date of the person's death. Any
30 payments scheduled to be paid after that date are credited to
31 the state and may not be paid to any other person, including the
32 person's surviving spouse, heirs, devisees, or beneficiaries
33 under the person's will, or to the person's estate.

34 SECTION 10. Subchapter C, Chapter 501, Government Code, is
35 amended by adding Section 501.091 to read as follows:

36 Sec. 501.091. REENTRY AND REINTEGRATION SERVICES FOR
37 WRONGFULLY IMPRISONED PERSONS. (a) In this section,
38 "wrongfully imprisoned person" means a person who:

39 (1) has served wholly or partly a sentence in prison
40 under the laws of this state; and

41 (2) has:
42 (A) received a full pardon on the basis of
43 innocence for the crime for which the person was sentenced; or
44 (B) been granted relief on the basis of actual
45 innocence of the crime for which the person was sentenced.

46 (b) The department shall develop a comprehensive plan to
47 ensure the successful reentry and reintegration of wrongfully

1 imprisoned persons into the community following discharge from
2 the department. The reentry and reintegration plan developed
3 under this section must include:

4 (1) life-skills, job, and vocational training for a
5 wrongfully imprisoned person following discharge, for as long as
6 those services are beneficial to the person;

7 (2) a requirement that the department provide, before
8 a wrongfully imprisoned person is discharged from the
9 department, the person with any documents that are necessary
10 after discharge, including a state identification card; and

11 (3) the provision of financial assistance to aid a
12 wrongfully imprisoned person in the reentry and reintegration
13 process and in covering living expenses following discharge, in
14 an amount not to exceed \$10,000.

15 (c) The provision of financial assistance under Subsection
16 (b)(3) shall be administered by the Texas Correctional Office on
17 Offenders with Medical or Mental Impairments or the department.

18 (d) The amount of financial assistance provided to a
19 wrongfully imprisoned person under Subsection (b)(3) shall be
20 deducted from the amount of compensation provided to the person
21 under Section 103.052, Civil Practice and Remedies Code.

22 (e) The department may contract with private vendors or
23 other entities to implement the comprehensive reentry and
24 reintegration plan required by this section.

25 SECTION 11. Chapter 614, Health and Safety Code, is
26 amended by adding Section 614.021 to read as follows:

27 Sec. 614.021. SERVICES FOR WRONGFULLY IMPRISONED PERSONS.

28 (a) In this section, "wrongfully imprisoned person" has the
29 meaning assigned by Section 501.091, Government Code.

30 (b) The office shall develop a plan to use existing case
31 management functions to assist wrongfully imprisoned persons who
32 are discharged from the Texas Department of Criminal Justice in:

33 (1) accessing medical and dental services, including
34 assistance in completing documents required for application to
35 federal entitlement programs;

36 (2) obtaining mental health treatment and related
37 support services through the public mental health system for as
38 long as the wrongfully imprisoned person requires assistance;
39 and

40 (3) obtaining appropriate support services, as
41 identified by the wrongfully imprisoned person and the assigned
42 case manager, to assist the person in making the transition from
43 incarceration into the community.

44 (c) The office shall submit an annual report to the
45 legislature on the provision of services under this section to
46 wrongfully imprisoned persons.

47 SECTION 12. The following provisions of the Civil Practice

1 and Remedies Code are repealed:

- 2 (1) Section 103.002;
- 3 (2) Subchapter C, Chapter 103; and
- 4 (3) Section 103.152(c).

5 SECTION 13. (a) As soon as practicable after the
6 effective date of this Act, the Texas Department of Criminal
7 Justice shall develop a comprehensive plan for the reentry and
8 reintegration of wrongfully imprisoned persons as required by
9 Section 501.091, Government Code, as added by this Act.

10 (b) As soon as practicable after the effective date of
11 this Act, the Texas Correctional Office on Offenders with
12 Medical or Mental Impairments shall develop a plan to assist
13 wrongfully imprisoned persons as required by Section 614.021,
14 Health and Safety Code, as added by this Act, and shall submit
15 the first annual report to the legislature as required by that
16 section not later than September 1, 2010.

17 SECTION 14. (a) Chapter 103, Civil Practice and Remedies
18 Code, as amended by this Act, applies only to an application for
19 compensation for wrongful imprisonment that is filed on or after
20 the effective date of this Act. An application filed or action
21 commenced under Chapter 103, Civil Practice and Remedies Code,
22 before the effective date of this Act is governed by the law in
23 effect immediately before the effective date of this Act, and
24 that law is continued in effect for that purpose.

25 (b) Notwithstanding Section 103.003, Civil Practice and
26 Remedies Code, as amended by this Act, a person who received
27 compensation under Chapter 103, Civil Practice and Remedies
28 Code, before September 1, 2009, is entitled to annuity payments
29 under Section 103.053, Civil Practice and Remedies Code, as
30 added by this Act, based on a present value sum equal to the
31 amount the person would receive under Sections 103.052(a)(1) and
32 (b), Civil Practice and Remedies Code, as amended by this Act,
33 if the person were to receive compensation under those sections
34 on September 1, 2009. The comptroller of public accounts shall
35 begin making payments to a claimant under this section not later
36 than the 30th day after the date the comptroller determines the
37 claimant is eligible to receive compensation under this section.

38 SECTION 15. This Act takes effect September 1, 2009.

39
40 H.B. No. 1749

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44
45 AN ACT
46 relating to the issuance of marine conservation specialty
47 license plates.

1 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

2 SECTION 1. Subchapter G, Chapter 504, Transportation Code,
3 is amended by adding Section 504.660 to read as follows:

4 Sec. 504.660. MARINE CONSERVATION LICENSE PLATES. (a)
5 After deduction of the department's administrative costs in
6 accordance with Section 504.801, the remainder of the fees
7 allocated under Section 504.801(e)(2)(A) from the sale of Marine
8 Conservation plates shall be deposited to the credit of an
9 account in the state treasury to be used by the Texas Parks and
10 Wildlife Department to support the activities of Coastal
11 Conservation Association Texas in the conservation of marine
12 resources.

13 (b) The Texas Parks and Wildlife Department shall
14 establish reporting and other mechanisms necessary to ensure
15 that the money is spent for the purpose for which it is
16 dedicated.

17 SECTION 2. This Act takes effect September 1, 2009.

18
19 H.B. No. 1750
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24 AN ACT

25 relating to the creation of criminal law magistrates for
26 Brazoria County.

27 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

28 SECTION 1. Chapter 54, Government Code, is amended by
29 adding Subchapter HH to read as follows:

30 SUBCHAPTER HH. BRAZORIA COUNTY CRIMINAL MAGISTRATES

31 Sec. 54.1851. APPOINTMENT. (a) The Commissioners Court
32 of Brazoria County may select magistrates to serve the courts of
33 Brazoria County having jurisdiction in criminal matters.

34 (b) The commissioners court shall establish the minimum
35 qualifications, salary, benefits, and other compensation of each
36 magistrate position and shall determine whether the position is
37 full-time or part-time. The qualifications must require the
38 magistrate to have served as a justice of the peace or be an
39 attorney licensed in this state.

40 (c) A magistrate appointed under this section serves at
41 the pleasure of the commissioners court.

42 Sec. 54.1852. JURISDICTION. A magistrate has concurrent
43 criminal jurisdiction with the judges of the justice of the
44 peace courts of Brazoria County.

45 Sec. 54.1853. POWERS AND DUTIES. (a) The Commissioners
46 Court of Brazoria County shall establish the powers and duties
47 of a magistrate appointed under this subchapter. Except as

1 otherwise provided by the commissioners court, a magistrate has
2 the powers of a magistrate under the Code of Criminal Procedure
3 and other laws of this state and may administer an oath for any
4 purpose.

5 (b) A magistrate shall give preference to performing the
6 duties of a magistrate under Article 15.17, Code of Criminal
7 Procedure.

8 (c) The commissioners court may designate one or more
9 magistrates to hold regular hearings to:

10 (1) give admonishments;
11 (2) set and review bail and conditions of release;
12 (3) appoint legal counsel; and
13 (4) determine other routine matters relating to
14 preindictment or pending cases within those courts'
15 jurisdiction.

16 (d) In the hearings provided under Subsection (c), a
17 magistrate shall give preference to the case of an individual
18 held in county jail.

19 (e) A magistrate may inquire into a defendant's intended
20 plea to the charge and set the case for an appropriate hearing
21 before a judge or master.

22 Sec. 54.1854. JUDICIAL IMMUNITY. A magistrate has the
23 same judicial immunity as a district judge.

24 Sec. 54.1855. WITNESSES. (a) A witness who is sworn and
25 who appears before a magistrate is subject to the penalties for
26 perjury and aggravated perjury provided by law.

27 (b) A referring court may fine or imprison a witness or
28 other court participant for failure to appear after being
29 summoned, refusal to answer questions, or other acts of direct
30 contempt before a magistrate.

31 SECTION 2. Article 2.09, Code of Criminal Procedure, is
32 amended to read as follows:

33 Art. 2.09. WHO ARE MAGISTRATES. Each of the following
34 officers is a magistrate within the meaning of this Code: The
35 justices of the Supreme Court, the judges of the Court of
36 Criminal Appeals, the justices of the Courts of Appeals, the
37 judges of the District Court, the magistrates appointed by the
38 judges of the district courts of Bexar County, Dallas County, or
39 Tarrant County that give preference to criminal cases, the
40 criminal law hearing officers for Harris County appointed under
41 Subchapter L, Chapter 54, Government Code, the criminal law
42 hearing officers for Cameron County appointed under Subchapter
43 BB, Chapter 54, Government Code, the magistrates appointed by
44 the judges of the district courts of Lubbock County, Nolan
45 County, or Webb County, the magistrates appointed by the judges
46 of the criminal district courts of Dallas County or Tarrant
47 County, the masters appointed by the judges of the district

1 courts and the county courts at law that give preference to
2 criminal cases in Jefferson County, the magistrates appointed by
3 the judges of the district courts and the statutory county
4 courts of Brazos County, Nueces County, or Williamson County,
5 the magistrates appointed by the judges of the district courts
6 and statutory county courts that give preference to criminal
7 cases in Travis County, the criminal magistrates appointed by
8 the Brazoria County Commissioners Court, the county judges, the
9 judges of the county courts at law, judges of the county
10 criminal courts, the judges of statutory probate courts, the
11 associate judges appointed by the judges of the statutory
12 probate courts under Subchapter G, Chapter 54, Government Code,
13 the justices of the peace, and the mayors and recorders and the
14 judges of the municipal courts of incorporated cities or towns.

15 SECTION 3. This Act takes effect immediately if it
16 receives a vote of two-thirds of all the members elected to each
17 house, as provided by Section 39, Article III, Texas
18 Constitution. If this Act does not receive the vote necessary
19 for immediate effect, this Act takes effect September 1, 2009.

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21 H.B. No. 1793

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26 AN ACT

27 relating to judicial instruction for judges who hear complaints
28 against children alleging violations of certain misdemeanor
29 offenses.

30 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

31 SECTION 1. Subchapter B, Chapter 22, Government Code, is
32 amended by adding Section 22.1105 to read as follows:

33 Sec. 22.1105. JUDICIAL INSTRUCTION RELATED TO CERTAIN
34 ALLEGED CHILD OFFENDERS. (a) Each judge of a court with
35 jurisdiction to hear a complaint against a child alleging a
36 violation of a misdemeanor offense punishable by fine only,
37 other than a traffic offense or public intoxication or a
38 violation of a penal ordinance of a political subdivision other
39 than a traffic offense, shall complete a course of instruction
40 related to understanding relevant issues of child welfare and
41 the Individuals with Disabilities Education Act (20 U.S.C.
42 Section 1400 et seq.) every judicial academic year that ends in
43 a 0 or a 5.

44 (b) The court of criminal appeals shall adopt the rules
45 necessary to provide for the training required under Subsection
46 (a). The rules must require a judge described by Subsection (a)
47 to complete two hours of the required training every judicial

1 academic year that ends in a 0 or a 5 as part of the training
2 the judge is required to complete under rules adopted by the
3 court of criminal appeals or other law.

4 (c) In adopting the rules, the court of criminal appeals
5 may consult with the supreme court and with professional groups
6 and associations in this state that have expertise in the
7 subject matter to obtain the recommendations of those groups or
8 associations for instructional content.

9 SECTION 2. (a) Not later than March 10, 2010, the Texas
10 Court of Criminal Appeals shall adopt the rules necessary to
11 provide the training required under Section 22.1105, Government
12 Code, as added by this Act.

13 (b) Notwithstanding Section 22.1105, Government Code, as
14 added by this Act, a judge who is in office on the effective
15 date of this Act is not required to complete the judicial
16 training required by Section 22.1105 before September 1, 2010.

17 SECTION 3. This Act takes effect September 1, 2009.

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19 H.B. No. 1805
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24 AN ACT

25 relating to the use of laser sighting devices by hunters who
26 have certain documented disabilities.

27 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

28 SECTION 1. Section 62.005, Parks and Wildlife Code, is
29 amended to read as follows:

30 Sec. 62.005. HUNTING WITH LIGHT. Except as provided by
31 Section 62.0055 or 62.0056, no person may hunt a game animal or
32 bird protected by this code with the aid of an artificial light
33 that casts or reflects a beam of light onto or otherwise
34 illuminates the game animal or bird, including the headlights of
35 a motor vehicle.

36 SECTION 2. Subchapter A, Chapter 62, Parks and Wildlife
37 Code, is amended by adding Section 62.0056 to read as follows:

38 Sec. 62.0056. HUNTING WITH LASER SIGHTING DEVICE BY
39 HUNTERS WITH CERTAIN DISABILITIES. (a) In this section,
40 "person with a physical disability" means a person with a
41 documented permanent physical disability that renders the person
42 incapable of using a traditional firearm sighting device. A
43 physician's or optometrist's statement certifying the extent of
44 the disability is sufficient documentation.

45 (b) A hunter who is a person with a physical disability
46 may use a laser sighting device during lawful hunting hours in
47 open seasons when assisted by a person who:

1 (1) is not a person with a physical disability;

2 (2) has a hunting license; and

3 (3) is at least 13 years of age.

4 (c) The hunter who is a person with a physical disability
5 must carry proof of the disability.

6 (d) Section 62.014 applies to a hunter under this section.

7 SECTION 3. (a) Not later than September 1, 2009, the
8 Parks and Wildlife Commission shall adopt rules that prescribe
9 what is acceptable as proof of a physical disability under
10 Section 62.0056, Parks and Wildlife Code, as added by this Act.

11 (b) The Parks and Wildlife Department may not enforce
12 Section 62.0056(c), Parks and Wildlife Code, as added by this
13 Act, until the rules adopted under Subsection (a) of this
14 section take effect.

15 SECTION 4. This Act takes effect immediately if it
16 receives a vote of two-thirds of all the members elected to each
17 house, as provided by Section 39, Article III, Texas
18 Constitution. If this Act does not receive the vote necessary
19 for immediate effect, this Act takes effect September 1, 2009.

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21 H.B. No. 1813
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26 AN ACT

27 relating to the punishment for tampering with certain
28 governmental records concerning forensic analyses.

29 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

30 SECTION 1. Section 37.10(c)(2), Penal Code, is amended to
31 read as follows:

32 (2) An offense under this section is a felony of the
33 third degree if it is shown on the trial of the offense that the
34 governmental record was:

35 (A) a public school record, report, or
36 assessment instrument required under Chapter 39, Education Code,
37 or was a license, certificate, permit, seal, title, letter of
38 patent, or similar document issued by government, by another
39 state, or by the United States, unless the actor's intent is to
40 defraud or harm another, in which event the offense is a felony
41 of the second degree;

42 (B) a written report of a medical, chemical,
43 toxicological, ballistic, or other expert examination or test
44 performed on physical evidence for the purpose of determining
45 the connection or relevance of the evidence to a criminal
46 action; or

47 (C) a written report of the certification,

1 inspection, or maintenance record of an instrument, apparatus,
2 implement, machine, or other similar device used in the course
3 of an examination or test performed on physical evidence for the
4 purpose of determining the connection or relevance of the
5 evidence to a criminal action.

6 SECTION 2. The change in law made by this Act applies only
7 to an offense committed on or after the effective date of this
8 Act. An offense committed before the effective date of this Act
9 is governed by the law in effect when the offense was committed,
10 and the former law is continued in effect for that purpose. For
11 purposes of this section, an offense was committed before the
12 effective date of this Act if any element of the offense
13 occurred before that date.

14 SECTION 3. This Act takes effect September 1, 2009.

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16 H.B. No. 1830
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21 AN ACT

22 relating to information technology security practices of state
23 agencies.

24 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

25 SECTION 1. Section 411.081(i), Government Code, is amended
26 to read as follows:

27 (i) A criminal justice agency may disclose criminal
28 history record information that is the subject of an order of
29 nondisclosure to the following noncriminal justice agencies or
30 entities only:

- 31 (1) the State Board for Educator Certification;
- 32 (2) a school district, charter school, private
33 school, regional education service center, commercial
34 transportation company, or education shared service arrangement;
- 35 (3) the Texas Medical Board;
- 36 (4) the Texas School for the Blind and Visually
37 Impaired;
- 38 (5) the Board of Law Examiners;
- 39 (6) the State Bar of Texas;
- 40 (7) a district court regarding a petition for name
41 change under Subchapter B, Chapter 45, Family Code;
- 42 (8) the Texas School for the Deaf;
- 43 (9) the Department of Family and Protective Services;
- 44 (10) the Texas Youth Commission;
- 45 (11) the Department of Assistive and Rehabilitative
46 Services;
- 47 (12) the Department of State Health Services, a local

1 mental health service, a local mental retardation authority, or
2 a community center providing services to persons with mental
3 illness or retardation;

4 (13) the Texas Private Security Board;

5 (14) a municipal or volunteer fire department;

6 (15) the Texas Board of Nursing;

7 (16) a safe house providing shelter to children in
8 harmful situations;

9 (17) a public or nonprofit hospital or hospital
10 district;

11 (18) the Texas Juvenile Probation Commission;

12 (19) the securities commissioner, the banking
13 commissioner, the savings and mortgage lending commissioner, or
14 the credit union commissioner;

15 (20) the Texas State Board of Public Accountancy;

16 (21) the Texas Department of Licensing and
17 Regulation;

18 (22) the Health and Human Services Commission;

19 (23) the Department of Aging and Disability Services;

20 [~~and~~]

21 (24) the Texas Education Agency; and

22 (25) the Department of Information Resources but only
23 regarding an employee, applicant for employment, contractor,
24 subcontractor, intern, or volunteer who provides network
25 security services under Chapter 2059 to:

26 (A) the Department of Information Resources; or

27 (B) a contractor or subcontractor of the
28 Department of Information Resources.

29 SECTION 2. Subchapter F, Chapter 411, Government Code, is
30 amended by adding Section 411.1404 to read as follows:

31 Sec. 411.1404. ACCESS TO CRIMINAL HISTORY RECORD
32 INFORMATION: DEPARTMENT OF INFORMATION RESOURCES. (a) The
33 Department of Information Resources is entitled to obtain from
34 the department or the identification division of the Federal
35 Bureau of Investigation the criminal history record information
36 maintained by the department or division that relates to a
37 person who is an employee, applicant for employment, contractor,
38 subcontractor, intern, or other volunteer with the Department of
39 Information Resources or with a contractor or subcontractor for
40 the Department of Information Resources.

41 (b) Criminal history record information obtained by the
42 Department of Information Resources under this section may not
43 be released or disclosed except:

44 (1) by court order; or

45 (2) with the consent of the person who is the subject
46 of the information.

47 (c) The Department of Information Resources shall destroy

1 criminal history record information obtained under this section
2 that relates to a person after the information is used to make
3 an employment decision or to take a personnel action relating to
4 the person who is the subject of the information.

5 (d) The Department of Information Resources may not obtain
6 criminal history record information under this section unless
7 the Department of Information Resources first adopts policies
8 and procedures that provide that evidence of a criminal
9 conviction or other relevant information obtained from the
10 criminal history record information does not automatically
11 disqualify an individual from employment. The policies and
12 procedures adopted under this subsection must provide that the
13 hiring official will determine, on a case-by-case basis, whether
14 the individual is qualified for employment based on factors that
15 include:

16 (1) the specific duties of the position;

17 (2) the number of offenses committed by the
18 individual;

19 (3) the nature and seriousness of each offense;

20 (4) the length of time between the offense and the
21 employment decision;

22 (5) the efforts by the individual at rehabilitation;

23 and

24 (6) the accuracy of the information on the
25 individual's employment application.

26 SECTION 3. Subchapter D, Chapter 551, Government Code, is
27 amended by adding Section 551.089 to read as follows:

28 Sec. 551.089. DEPARTMENT OF INFORMATION RESOURCES. This
29 chapter does not require the governing board of the Department
30 of Information Resources to conduct an open meeting to
31 deliberate:

32 (1) security assessments or deployments relating to
33 information resources technology;

34 (2) network security information as described by
35 Section 2059.055(b); or

36 (3) the deployment, or specific occasions for
37 implementation, of security personnel, critical infrastructure,
38 or security devices.

39 SECTION 4. Section 552.139, Government Code, is amended to
40 read as follows:

41 Sec. 552.139. EXCEPTION: GOVERNMENT INFORMATION RELATED
42 TO SECURITY OR INFRASTRUCTURE ISSUES FOR COMPUTERS. (a)
43 Information is excepted from the requirements of Section 552.021
44 if it is information that relates to computer network security,
45 to restricted information under Section 2059.055, or to the
46 design, operation, or defense of a computer network.

47 (b) The following information is confidential:

1 (1) a computer network vulnerability report; and
2 (2) any other assessment of the extent to which data
3 processing operations, a computer, [~~or~~] a computer program,
4 network, system, or system interface, or software of a
5 governmental body or of a contractor of a governmental body is
6 vulnerable to unauthorized access or harm, including an
7 assessment of the extent to which the governmental body's or
8 contractor's electronically stored information containing
9 sensitive or critical information is vulnerable to alteration,
10 damage, [~~or~~] erasure, or inappropriate use.

11 (c) Notwithstanding the confidential nature of the
12 information described in this section, the information may be
13 disclosed to a bidder if the governmental body determines that
14 providing the information is necessary for the bidder to provide
15 an accurate bid. A disclosure under this subsection is not a
16 voluntary disclosure for purposes of Section 552.007.

17 SECTION 5. Sections 2054.077(b), (d), and (e), Government
18 Code, are amended to read as follows:

19 (b) The information resources manager of a state agency
20 may prepare or have prepared a report, including an executive
21 summary of the findings of the report, assessing the extent to
22 which a computer, a computer program, a computer network, a
23 computer system, an interface to a computer system, computer
24 software, or data processing of the agency or of a contractor of
25 the agency is vulnerable to unauthorized access or harm,
26 including the extent to which the agency's or contractor's
27 electronically stored information is vulnerable to alteration,
28 damage, [~~or~~] erasure, or inappropriate use.

29 (d) The [~~On request, the~~] information resources manager
30 shall provide an electronic [a] copy of the vulnerability report
31 on its completion to:

32 (1) the department;
33 (2) the state auditor; [~~and~~]
34 (3) the agency's executive director; and
35 (4) any other information technology security
36 oversight group specifically authorized by the legislature to
37 receive the report.

38 (e) Separate from the executive summary described by
39 Subsection (b), a [A] state agency whose information resources
40 manager has prepared or has had prepared a vulnerability report
41 shall prepare a summary of the report that does not contain any
42 information the release of which might compromise the security
43 of the state agency's or state agency contractor's computers,
44 computer programs, computer networks, computer systems, computer
45 software, data processing, or electronically stored information.
46 The summary is available to the public on request.

47 SECTION 6. Section 2054.100(b), Government Code, is

1 amended to read as follows:

2 (b) The plan must describe the agency's current and
3 proposed projects for the biennium, including how the projects
4 will:

5 (1) benefit individuals in this state and benefit the
6 state as a whole;

7 (2) use, to the fullest extent, technology owned or
8 adapted by other state agencies;

9 (3) employ, to the fullest extent, the department's
10 information technology standards, including Internet-based
11 technology standards;

12 (4) expand, to the fullest extent, to serve residents
13 of this state or to serve other state agencies;

14 (5) develop on time and on budget;

15 (6) produce quantifiable returns on investment; and

16 (7) meet any other criteria developed by the
17 department or the quality assurance team.

18 SECTION 7. Subchapter B, Chapter 2059, Government Code, is
19 amended by adding Section 2059.060 to read as follows:

20 Sec. 2059.060. VULNERABILITY TESTING OF NETWORK HARDWARE
21 AND SOFTWARE. (a) The department shall adopt rules requiring,
22 in state agency contracts for network hardware and software, a
23 statement by the vendor certifying that the network hardware or
24 software, as applicable, has undergone independent certification
25 testing for known and relevant vulnerabilities.

26 (b) Rules adopted under Subsection (a) may:

27 (1) provide for vendor exemptions; and

28 (2) establish certification standards for testing
29 network hardware and software for known and relevant
30 vulnerabilities.

31 (c) Unless otherwise provided by rule, the required
32 certification testing must be conducted under maximum load
33 conditions in accordance with published performance claims of a
34 hardware or software manufacturer, as applicable.

35 SECTION 8. (a) The Department of Information Resources
36 shall adopt the rules required by Section 2059.060, Government
37 Code, as added by this Act, not later than September 1, 2010.

38 (b) The change in law made by Section 2059.060, Government
39 Code, as added by this Act, applies only to a contract entered
40 into on or after December 1, 2010.

41 SECTION 9. This Act takes effect September 1, 2009.

42
43 H.B. No. 1831

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47

AN ACT

1 relating to disaster preparedness and emergency management and
2 to certain vehicles used in emergencies; providing a penalty.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

4 ARTICLE 1. GENERAL PROVISIONS

5 SECTION 1.01. Section 418.004(1), Government Code, is
6 amended to read as follows:

7 (1) "Disaster" means the occurrence or imminent
8 threat of widespread or severe damage, injury, or loss of life
9 or property resulting from any natural or man-made cause,
10 including fire, flood, earthquake, wind, storm, wave action, oil
11 spill or other water contamination, volcanic activity, epidemic,
12 air contamination, blight, drought, infestation, explosion,
13 riot, hostile military or paramilitary action, extreme heat,
14 other public calamity requiring emergency action, or energy
15 emergency.

16 SECTION 1.02. Sections 418.005(a) and (b), Government
17 Code, are amended to read as follows:

18 (a) This section applies only to an elected law
19 enforcement officer or county judge, or an appointed public
20 officer of the state or of a political subdivision, who has
21 management or supervisory responsibilities and:

22 (1) whose position description, job duties, or
23 assignment includes emergency management responsibilities; or

24 (2) who plays a role in emergency preparedness,
25 response, or recovery.

26 (b) Each person described by Subsection (a) shall complete
27 a course of training provided or approved by the division of not
28 less than three hours regarding the responsibilities of state
29 and local governments under this chapter not later than the
30 180th day after the date the person:

31 (1) takes the oath of office, if the person is
32 required to take an oath of office to assume the person's duties
33 as a [an appointed] public officer; or

34 (2) otherwise assumes responsibilities as a a [an
35 appointed] public officer, if the person is not required to take
36 an oath of office to assume the person's duties.

37 SECTION 1.03. Section 418.013, Government Code, is amended
38 by amending Subsection (b) and adding Subsection (d) to read as
39 follows:

40 (b) The emergency management council is composed of
41 representatives [the heads] of state agencies, boards, [and]
42 commissions, and [representatives of] organized volunteer groups
43 designated by the head of each entity.

44 (d) The emergency management council shall assist the
45 division in identifying, mobilizing, and deploying state
46 resources to respond to major emergencies and disasters
47 throughout the state.

1 SECTION 1.03a. Section 418.016, Government Code, is
2 amended to read as follows:

3 Sec. 418.016. SUSPENSION OF PROCEDURAL LAWS AND RULES.

4 (a) The governor may suspend the provisions of any regulatory
5 statute prescribing the procedures for conduct of state business
6 or the orders or rules of a state agency if strict compliance
7 with the provisions, orders, or rules would in any way prevent,
8 hinder, or delay necessary action in coping with a disaster.

9 (b) Upon declaration of a state of disaster, enforcement
10 of the regulation of on-premise outdoor signs under Subchapter
11 A, Chapter 216, Local Government Code, by a municipality that is
12 located in a county within, or that is located in a county
13 adjacent to a county within, the disaster area specified by the
14 declaration is suspended to allow licensed or admitted insurance
15 carriers or licensed agents acting on behalf of insurance
16 carriers to erect temporary claims service signage for not more
17 than 30 days or until the end of the declaration of disaster,
18 whichever is earlier.

19 (c) A temporary claims service sign shall not:

20 (1) be larger than forty square feet in size; and

21 (2) be more than five feet in height; and

22 (3) be placed in the right of way.

23 (4) At the end of the 30 days or the end of the
24 declaration of disaster, whichever is earlier, the insurance
25 carrier or its licensed agents must remove the temporary claims
26 service signage that was erected.

27 SECTION 1.04. Section 418.042(a), Government Code, is
28 amended to read as follows:

29 (a) The division shall prepare and keep current a
30 comprehensive state emergency management plan. The plan may
31 include:

32 (1) provisions for prevention and minimization of
33 injury and damage caused by disaster;

34 (2) provisions for prompt and effective response to
35 disaster;

36 (3) provisions for emergency relief;

37 (4) provisions for energy emergencies;

38 (5) identification of areas particularly vulnerable
39 to disasters;

40 (6) recommendations for zoning, building
41 restrictions, and other land-use controls, safety measures for
42 securing mobile homes or other nonpermanent or semipermanent
43 structures, and other preventive and preparedness measures
44 designed to eliminate or reduce disasters or their impact;

45 (7) provisions for assistance to local officials in
46 designing local emergency management plans;

47 (8) authorization and procedures for the erection or

1 other construction of temporary works designed to protect
2 against or mitigate danger, damage, or loss from flood, fire, or
3 other disaster;

4 (9) preparation and distribution to the appropriate
5 state and local officials of state catalogs of federal, state,
6 and private assistance programs;

7 (10) organization of manpower and channels of
8 assistance;

9 (11) coordination of federal, state, and local
10 emergency management activities;

11 (12) coordination of the state emergency management
12 plan with the emergency management plans of the federal
13 government;

14 (13) coordination of federal and state energy
15 emergency plans;

16 (14) provisions for providing information to
17 ~~[education and training of]~~ local officials on activation of the
18 Emergency Alert System established under 47 C.F.R. Part 11;
19 ~~[and]~~

20 (15) a database of public facilities that may be used
21 under Section 418.017 to shelter individuals during a disaster,
22 including air-conditioned facilities for shelter during an
23 extreme heat disaster and fortified structures for shelter
24 during a wind disaster; and

25 (16) other necessary matters relating to disasters.

26 SECTION 1.05. Subchapter C, Chapter 418, Government Code,
27 is amended by adding Section 418.0425 to read as follows:

28 Sec. 418.0425. STATE EMERGENCY MANAGEMENT PLAN ANNEX. (a)
29 In this section, "critical water or wastewater facility" means a
30 facility with:

31 (1) water supply, treatment, or distribution
32 equipment that is essential to maintain the minimum water
33 pressure requirements established by the governing body of a
34 municipality or the Texas Commission on Environmental Quality;
35 or

36 (2) wastewater collection or treatment equipment that
37 is essential to prevent the discharge of untreated wastewater to
38 water in the state.

39 (b) The division, in cooperation with the emergency
40 management council, local governments, regional entities, health
41 and medical facilities, volunteer groups, private sector
42 partners, the Federal Emergency Management Agency, and other
43 federal agencies, shall develop an annex to the state emergency
44 management plan that addresses initial response planning for
45 providing essential population support supplies, equipment, and
46 services during the first five days immediately following a
47 disaster. The annex must include:

1 (1) plans to make fuel available to, maintain
2 continuing operations of, and assess the backup power available
3 for, all:
4 (A) hospitals;
5 (B) prisons;
6 (C) assisted living facilities licensed under
7 Chapter 247, Health and Safety Code;
8 (D) institutions licensed under Chapter 242,
9 Health and Safety Code; and
10 (E) other critical facilities determined by the
11 division;
12 (2) provisions for interagency coordination of
13 disaster response efforts;
14 (3) provisions for the rapid gross assessment of
15 population support needs;
16 (4) plans for the clearance of debris from major
17 roadways to facilitate emergency response operations and
18 delivery of essential population support supplies and equipment;
19 (5) methods to obtain food, water, and ice for
20 disaster victims through prearranged contracts or suppliers,
21 stockpiled supplies, or plans to request assistance from federal
22 agencies, as appropriate;
23 (6) guidelines for arranging temporary points of
24 distribution for disaster relief supplies and standardized
25 procedures for operating those distribution points;
26 (7) methods for providing basic medical support for
27 disaster victims, including medical supplies and
28 pharmaceuticals;
29 (8) provisions, developed in coordination with fuel
30 suppliers and retailers, for the continued operation of service
31 stations to provide fuel to disaster victims and emergency
32 responders; and
33 (9) provisions for the dissemination of emergency
34 information through the media to aid disaster victims.
35 (c) The division, in coordination with the Texas
36 Commission on Environmental Quality and electric, gas, water,
37 and wastewater utility providers, shall develop for inclusion in
38 the annex to the state emergency management plan provisions to
39 provide emergency or backup power to restore or continue the
40 operation of critical water or wastewater facilities following a
41 disaster. The provisions must:
42 (1) establish an online resource database of
43 available emergency generators configured for transport that are
44 capable of providing backup power for critical water or
45 wastewater facilities following a disaster;
46 (2) include procedures for the maintenance,
47 activation, transportation, and redeployment of available

1 emergency generators;
2 (3) develop a standardized form for use by a water or
3 wastewater utility provider in developing and maintaining data
4 on the number and type of emergency generators required for the
5 operation of the provider's critical water or wastewater
6 facilities following a disaster; and
7 (4) include procedures for water or wastewater
8 utility providers to maintain a current list of generators
9 available in surrounding areas through mutual aid agreements,
10 recognized and coordinated statewide mutual aid programs, and
11 through commercial firms offering generators for rent or lease.
12 SECTION 1.06. Section 418.043, Government Code, is amended
13 to read as follows:
14 Sec. 418.043. OTHER POWERS AND DUTIES. The division
15 shall:
16 (1) determine requirements of the state and its
17 political subdivisions for food, clothing, and other necessities
18 in event of a disaster;
19 (2) procure and position supplies, medicines,
20 materials, and equipment;
21 (3) adopt standards and requirements for local and
22 interjurisdictional emergency management plans;
23 (4) periodically review local and interjurisdictional
24 emergency management plans;
25 (5) coordinate deployment of mobile support units;
26 (6) establish and operate training programs and
27 programs of public information or assist political subdivisions
28 and emergency management agencies to establish and operate the
29 programs;
30 (7) make surveys of public and private industries,
31 resources, and facilities in the state that are necessary to
32 carry out the purposes of this chapter;
33 (8) plan and make arrangements for the availability
34 and use of any private facilities, services, and property and
35 provide for payment for use under terms and conditions agreed on
36 if the facilities are used and payment is necessary;
37 (9) establish a register of persons with types of
38 training and skills important in disaster mitigation,
39 preparedness, response, and recovery;
40 (10) establish a register of mobile and construction
41 equipment and temporary housing available for use in a disaster;
42 (11) assist political subdivisions in developing
43 plans for the humane evacuation, transport, and temporary
44 sheltering of service animals and household pets in a disaster;
45 (12) prepare, for issuance by the governor, executive
46 orders and regulations necessary or appropriate in coping with
47 disasters;

1 (13) cooperate with the federal government and any
2 public or private agency or entity in achieving any purpose of
3 this chapter and in implementing programs for disaster
4 mitigation, preparation, response, and recovery; ~~and~~

5 (14) develop a plan to raise public awareness and
6 expand the capability of the information and referral network
7 under Section 531.0312;

8 (15) improve the integration of volunteer groups,
9 including faith-based organizations, into emergency management
10 plans;

11 (16) cooperate with the Federal Emergency Management
12 Agency to create uniform guidelines for acceptable home repairs
13 following disasters and promote public awareness of the
14 guidelines;

15 (17) cooperate with state agencies to:

16 (A) encourage the public to participate in
17 volunteer emergency response teams and organizations that
18 respond to disasters; and

19 (B) provide information on those programs in
20 state disaster preparedness and educational materials and on
21 Internet websites;

22 (18) establish a liability awareness program for
23 volunteers, including medical professionals; and

24 (19) do other things necessary, incidental, or
25 appropriate for the implementation of this chapter.

26 SECTION 1.07. Section 418.045, Government Code, is amended
27 to read as follows:

28 Sec. 418.045. TEMPORARY PERSONNEL. (a) The division may
29 employ or contract with temporary personnel from funds
30 appropriated to the division, from federal funds, or from the
31 disaster contingency fund. The merit system does not apply to
32 the temporary or contract positions.

33 (b) The division may enroll, organize, train, and equip a
34 cadre of disaster reservists with specialized skills in disaster
35 recovery, hazard mitigation, community outreach, and public
36 information to temporarily augment its permanent staff. The
37 division may activate enrolled disaster reservists to support
38 recovery operations in the aftermath of a disaster or major
39 emergency and pay them at a daily rate commensurate with their
40 qualifications and experience. Chapter 654, Chapter 2254, and
41 Subtitle D, Title 10, do not apply in relation to a disaster
42 reservist under this subsection.

43 SECTION 1.08. Section 418.048, Government Code, is amended
44 to read as follows:

45 Sec. 418.048. MONITORING WEATHER[; ~~SUSPENSION OF WEATHER~~
46 ~~MODIFICATION~~]. [(a)] The division shall keep continuously
47 apprised of weather conditions that present danger of climatic

1 activity, such as precipitation, severe enough to constitute a
2 disaster.

3 ~~[(b) If the division determines that precipitation that
4 may result from weather modification operations, either by
5 itself or in conjunction with other precipitation or climatic
6 conditions or activity, would create or contribute to the
7 severity of a disaster, it shall request in the name of the
8 governor that the officer or agency empowered to issue permits
9 for weather modification operations suspend the issuance of
10 permits. On the governor's request, no permits may be issued
11 until the division informs the officer or agency that the danger
12 has passed.]~~

13 SECTION 1.09. Subchapter C, Chapter 418, Government Code,
14 is amended by adding Section 418.050 to read as follows:

15 Sec. 418.050. PHASED REENTRY PLAN. (a) The division
16 shall develop a phased reentry plan to govern the order in which
17 particular groups of people are allowed to reenter areas
18 previously evacuated because of a disaster or threat of
19 disaster. The plan may provide different reentry procedures for
20 different types of disasters.

21 (b) The phased reentry plan shall:

22 (1) recognize the role of local emergency management
23 directors in making decisions regarding the timing and
24 implementation of reentry plans for a disaster; and

25 (2) provide local emergency management directors with
26 sufficient flexibility to adjust the plan as necessary to
27 accommodate the circumstances of a particular emergency.

28 (c) The division, in consultation with representatives of
29 affected parties and local emergency management directors, shall
30 develop a reentry credentialing process. The division shall
31 include the credentialing process in the phased reentry plan.
32 The Department of Public Safety of the State of Texas shall
33 provide support for the credentialing process.

34 SECTION 1.10. Subchapter C, Chapter 418, Government Code,
35 is amended by adding Section 418.051 to read as follows:

36 Sec. 418.051. COMMUNICATIONS COORDINATION GROUP. (a) The
37 communications coordination group shall facilitate interagency
38 coordination and collaboration to provide efficient and
39 effective planning and execution of communications support to
40 joint, interagency, and intergovernmental task forces.

41 (b) At the direction of the division, the communications
42 coordination group shall assist with coordination and
43 collaboration during an emergency.

44 (c) The communications coordination group consists of
45 members selected by the division, including representatives of:

46 (1) the Texas military forces;

47 (2) the Department of Public Safety of the State of

- 1 Texas;
2 (3) the Federal Emergency Management Agency;
3 (4) federal agencies that comprise Emergency Support
4 Function No. 2;
5 (5) the telecommunications industry, including cable
6 service providers, as defined by Section 66.002, Utilities Code;
7 (6) electric utilities, as defined by Section 31.002,
8 Utilities Code;
9 (7) gas utilities, as defined by Sections 101.003 and
10 121.001, Utilities Code;
11 (8) the National Guard's Joint Continental United
12 States Communications Support Environment;
13 (9) the National Guard Bureau;
14 (10) amateur radio operator groups;
15 (11) the Texas Forest Service;
16 (12) the Texas Department of Transportation;
17 (13) the General Land Office;
18 (14) the Texas Engineering Extension Service of The
19 Texas A&M University System;
20 (15) the Public Utility Commission of Texas;
21 (16) the Railroad Commission of Texas;
22 (17) the Department of State Health Services;
23 (18) the judicial branch of state government;
24 (19) the Texas Association of Regional Councils;
25 (20) the United States Air Force Auxiliary Civil Air
26 Patrol, Texas Wing;
27 (21) each trauma service area regional advisory
28 council;
29 (22) state agencies, counties, and municipalities
30 affected by the emergency, including 9-1-1 agencies; and
31 (23) other agencies as determined by the division.

32 SECTION 1.11. Section 418.1015, Government Code, is
33 amended by adding Subsection (d) to read as follows:

34 (d) A person, other than an emergency management director
35 exercising under Subsection (b) a power granted to the governor,
36 may not seize state or federal resources without prior
37 authorization from the division or the state or federal agency
38 having responsibility for those resources.

39 SECTION 1.12. Section 418.107(b), Government Code, is
40 amended to read as follows:

41 (b) Political subdivisions may make agreements for the
42 purpose of organizing emergency management service divisions and
43 provide for a mutual method of financing the organization of
44 units on a basis satisfactory to the subdivisions. [~~The~~
45 ~~functioning of the units shall be coordinated by the emergency~~
46 ~~management council.~~]

47 SECTION 1.13. Section 418.108(d), Government Code, is

1 amended to read as follows:

2 (d) A declaration of local disaster activates the
3 appropriate recovery and rehabilitation aspects of all
4 applicable local or interjurisdictional emergency management
5 plans and authorizes the furnishing of aid and assistance under
6 the declaration. The appropriate preparedness and response
7 aspects of the plans are activated as provided in the plans and
8 take effect immediately after the local state of disaster is
9 declared.

10 SECTION 1.14. Section 418.117, Government Code, is amended
11 to read as follows:

12 Sec. 418.117. LICENSE PORTABILITY. If the assistance of a
13 person who holds a license, certificate, permit, or other
14 document evidencing qualification in a professional, mechanical,
15 or other skill is requested by a state agency or local
16 government entity under the system, the person is considered
17 licensed, certified, permitted, or otherwise documented in the
18 political subdivision in which the service is provided as long
19 as the service is required, subject to any limitations imposed
20 by the chief executive officer or the governing body of the
21 requesting state agency or local government entity.

22 SECTION 1.15. Section 418.172(b), Government Code, is
23 amended to read as follows:

24 (b) If sufficient funds are not available for the required
25 insurance, an agency may request funding from [~~petition~~] the
26 disaster contingency fund [~~emergency funding board~~] to purchase
27 the insurance [~~on the agency's behalf. The board may spend~~
28 ~~money from that fund for that purpose~~].

29 SECTION 1.16. Subchapter H, Chapter 418, Government Code,
30 is amended by adding Sections 418.185, 418.186, 418.188,
31 418.1881, 418.1882, 418.190, and 418.191 to read as follows:

32 Sec. 418.185. MANDATORY EVACUATION. (a) This section
33 does not apply to a person who is authorized to be in an
34 evacuated area, including a person who returns to the area under
35 a phased reentry plan or credentialing process under Section
36 418.050.

37 (b) A county judge or mayor of a municipality who orders
38 the evacuation of an area stricken or threatened by a disaster
39 by order may compel persons who remain in the evacuated area to
40 leave and authorize the use of reasonable force to remove
41 persons from the area.

42 (c) The governor and a county judge or mayor of a
43 municipality who orders the evacuation of an area stricken or
44 threatened by a disaster by a concurrent order may compel
45 persons who remain in the evacuated area to leave.

46 (d) A person is civilly liable to a governmental entity,
47 or a nonprofit agency cooperating with a governmental entity,

1 that conducts a rescue on the person's behalf for the cost of
2 the rescue effort if:

3 (1) the person knowingly ignored a mandatory
4 evacuation order under this section and:

5 (A) engaged in an activity or course of action
6 that a reasonable person would not have engaged in; or

7 (B) failed to take a course of action a
8 reasonable person would have taken;

9 (2) the person's actions under Subdivision (1) placed
10 the person or another person in danger; and

11 (3) a governmental rescue effort was undertaken on
12 the person's behalf.

13 (e) An officer or employee of the state or a political
14 subdivision who issues or is working to carry out a mandatory
15 evacuation order under this section is immune from civil
16 liability for any act or omission within the course and scope of
17 the person's authority under the order.

18 Sec. 418.186. DISASTER AND EMERGENCY EDUCATION. (a) The
19 Department of State Health Services shall establish a program
20 designed to educate the citizens of this state on disaster and
21 emergency preparedness, response, and recovery. Before
22 establishing the program, the department must collaborate with
23 local authorities to prevent state efforts that are duplicative
24 of local efforts. The program must address:

25 (1) types of disasters or other emergencies;

26 (2) the appropriate response to each type of disaster
27 or emergency, including options for evacuation and shelter;

28 (3) how to prepare for each type of disaster or
29 emergency;

30 (4) the impact of each type of disaster or emergency
31 on citizens requiring medical assistance or other care;

32 (5) ways to respond in a disaster or emergency or to
33 assist the victims of a disaster or emergency; and

34 (6) resources and supplies for disaster or emergency
35 recovery.

36 (b) The executive commissioner of the Health and Human
37 Services Commission, in cooperation with the governor, shall
38 adopt rules to create and administer a disaster and emergency
39 education program established under this section.

40 Sec. 418.188. POSTDISASTER EVALUATION. Not later than the
41 90th day after the date a request is received from the division,
42 a state agency, political subdivision, or interjurisdictional
43 agency shall conduct an evaluation of the entity's response to a
44 disaster, identify areas for improvement, and issue a report of
45 the evaluation to the division.

46 Sec. 418.1881. SHELTER OPERATIONS. The Department of
47 State Health Services shall develop, with the direction,

1 oversight, and approval of the division, an annex to the state
2 emergency management plan that includes provisions for:

3 (1) developing medical special needs categories;
4 (2) categorizing the requirements of individuals with
5 medical special needs; and

6 (3) establishing minimum health-related standards for
7 short-term and long-term shelter operations for shelters
8 operated with state funds or receiving state assistance.

9 Sec. 418.1882. PERSONNEL SURGE CAPACITY PLANNING.

10 (a) With the direction, oversight, and approval of the division
11 and the assistance of the Department of State Health Services,
12 health care facilities, county officials, trauma service area
13 regional advisory councils, and other appropriate entities, each
14 council of government, regional planning commission, or similar
15 regional planning agency created under Chapter 391, Local
16 Government Code, shall develop a regional plan for personnel
17 surge capacity during disasters, including plans for providing
18 lodging and meals for disaster relief workers and volunteers.

19 (b) Entities developing regional plans for personnel surge
20 capacity with regard to lodging shall consult with
21 representatives of emergency responders, infrastructure and
22 utility repair personnel, and other representatives of agencies,
23 entities, or businesses determined by the division to be
24 essential to the planning process.

25 Sec. 418.190. AGRICULTURE EMERGENCY RESPONSE PLAN.

26 (a) In coordination with the division, the Department of
27 Agriculture and the Texas Animal Health Commission shall prepare
28 and keep current an agriculture emergency response plan as an
29 annex to the state emergency management plan. The plan must
30 include provisions for:

31 (1) identifying and assessing necessary training,
32 resource, and support requirements;

33 (2) providing information on recovery, relief, and
34 assistance requirements following all types of disasters,
35 including information on biological and radiological response;
36 and

37 (3) all other information the Department of
38 Agriculture and the Texas Animal Health Commission determine to
39 be relevant to prepare for an all-hazards approach to
40 agricultural disaster management.

41 (b) The Department of Agriculture and the Texas Animal
42 Health Commission shall include the plan developed under
43 Subsection (a) in an annual report to the legislature and the
44 office of the governor.

45 Sec. 418.191. MEDICAL SPECIAL NEEDS VOLUNTEERS. (a) An
46 entity responsible for the care of individuals with medical
47 special needs shall develop and distribute information on

1 volunteering in connection with a disaster.

2 (b) The division shall provide information to interested
3 parties and the public regarding how volunteers can be
4 identified and trained to help all groups of people, including
5 those with medical special needs and those who are residents of
6 assisted living facilities.

7 SECTION 1.17. Subchapter B, Chapter 242, Health and Safety
8 Code, is amended by adding Section 242.0395 to read as follows:

9 Sec. 242.0395. REGISTRATION WITH TEXAS INFORMATION AND
10 REFERRAL NETWORK. (a) An institution licensed under this
11 chapter shall register with the Texas Information and Referral
12 Network under Section 531.0312, Government Code, to assist the
13 state in identifying persons needing assistance if an area is
14 evacuated because of a disaster or other emergency.

15 (b) The institution is not required to identify individual
16 residents who may require assistance in an evacuation or to
17 register individual residents with the Texas Information and
18 Referral Network for evacuation assistance.

19 (c) The institution shall notify each resident and the
20 resident's next of kin or guardian regarding how to register for
21 evacuation assistance with the Texas Information and Referral
22 Network.

23 SECTION 1.18. Subchapter B, Chapter 247, Health and Safety
24 Code, is amended by adding Section 247.0275 to read as follows:

25 Sec. 247.0275. REGISTRATION WITH TEXAS INFORMATION AND
26 REFERRAL NETWORK. (a) An assisted living facility licensed
27 under this chapter shall register with the Texas Information and
28 Referral Network under Section 531.0312, Government Code, to
29 assist the state in identifying persons needing assistance if an
30 area is evacuated because of a disaster or other emergency.

31 (b) The assisted living facility is not required to
32 identify individual residents who may require assistance in an
33 evacuation or to register individual residents with the Texas
34 Information and Referral Network for evacuation assistance.

35 (c) The assisted living facility shall notify each
36 resident and the resident's next of kin or guardian regarding
37 how to register for evacuation assistance with the Texas
38 Information and Referral Network.

39 SECTION 1.19. Subchapter B, Chapter 207, Labor Code, is
40 amended by adding Section 207.0212 to read as follows:

41 Sec. 207.0212. ELIGIBILITY OF CERTAIN PERSONS UNEMPLOYED
42 BECAUSE OF DISASTER. (a) In this section, "disaster
43 unemployment assistance benefits" means benefits authorized
44 under Section 410, Robert T. Stafford Disaster Relief and
45 Emergency Assistance Act (42 U.S.C. Section 5177), and rules
46 adopted under that section.

47 (b) Notwithstanding Section 207.021, the governor, by

1 executive order, may suspend the waiting period requirement
2 imposed under Section 207.021(a)(7) to authorize an individual
3 to receive benefits for that waiting period if the individual:

4 (1) is unemployed as a direct result of a natural
5 disaster that results in a disaster declaration by the president
6 of the United States under the Robert T. Stafford Disaster
7 Relief and Emergency Assistance Act (42 U.S.C. Section 5121 et
8 seq.);

9 (2) is otherwise eligible for unemployment
10 compensation benefits under this subtitle; and

11 (3) is not receiving disaster unemployment assistance
12 benefits for the period included in that waiting period.

13 SECTION 1.20. Sections 541.201(1) and (13-a),
14 Transportation Code, are amended to read as follows:

15 (1) "Authorized emergency vehicle" means:

16 (A) a fire department or police vehicle;

17 (B) a public or private ambulance operated by a
18 person who has been issued a license by the Texas Department of
19 Health;

20 (C) a municipal department or public service
21 corporation emergency vehicle that has been designated or
22 authorized by the governing body of a municipality;

23 (D) a private vehicle of a volunteer firefighter
24 or a certified emergency medical services employee or volunteer
25 when responding to a fire alarm or medical emergency;

26 (E) an industrial emergency response vehicle,
27 including an industrial ambulance, when responding to an
28 emergency, but only if the vehicle is operated in compliance
29 with criteria in effect September 1, 1989, and established by
30 the predecessor of the Texas Industrial Emergency Services Board
31 of the State Firemen's and Fire Marshals' Association of Texas;
32 [~~or~~]

33 (F) a vehicle of a blood bank or tissue bank,
34 accredited or approved under the laws of this state or the
35 United States, when making emergency deliveries of blood, drugs,
36 medicines, or organs; or

37 (G) a vehicle used for law enforcement purposes
38 that is owned or leased by a federal governmental entity.

39 (13-a) "Police vehicle" means a vehicle [~~of a~~
40 ~~governmental entity primarily~~] used by a peace officer, as
41 defined by Article 2.12, Code of Criminal Procedure, for law
42 enforcement purposes that:

43 (A) is owned or leased by a governmental entity;

44 (B) is owned or leased by the police department
45 of a private institution of higher education that commissions
46 peace officers under Section 51.212, Education Code; or

47 (C) is:

1 (i) a private vehicle owned or leased by
2 the peace officer; and

3 (ii) approved for use for law enforcement
4 purposes by the head of the law enforcement agency that employs
5 the peace officer, or by that person's designee, provided that
6 use of the private vehicle must, if applicable, comply with any
7 rule adopted by the commissioners court of a county under
8 Section 170.001, Local Government Code, and that the private
9 vehicle may not be considered an authorized emergency vehicle
10 for exemption purposes under Section 228.054, 284.070, 366.178,
11 or 370.177, Transportation Code, unless the vehicle is marked.

12 SECTION 1.21. Section 545.421(b), Transportation Code, is
13 amended to read as follows:

14 (b) A signal under this section that is given by a police
15 officer pursuing a vehicle may be by hand, voice, emergency
16 light, or siren. The officer giving the signal must be in
17 uniform and prominently display the officer's badge of office.
18 The officer's vehicle must bear the insignia of a law
19 enforcement agency, regardless of whether the vehicle displays
20 an emergency light [~~be appropriately marked as an official~~
21 ~~police vehicle~~].

22 SECTION 1.22. Section 418.072, Government Code, is
23 repealed.

24 SECTION 1.23. On the effective date of this Act, the
25 disaster emergency funding board is abolished.

26 SECTION 1.24. The changes in law made by this Act by the
27 amendment of Section 418.005, Government Code, apply only to a
28 law enforcement officer or county judge elected or public
29 officer appointed on or after the effective date of this Act. A
30 law enforcement officer or county judge elected or public
31 officer appointed before the effective date of this Act is
32 governed by the law in effect immediately before that date, and
33 the former law is continued in effect for that purpose.

34 SECTION 1.25. The change in law made by Section 207.0212,
35 Labor Code, as added by this Act, applies only to a claim for
36 unemployment compensation benefits that is filed with the Texas
37 Workforce Commission on or after the effective date of this Act.
38 A claim filed before that date is governed by the law in effect
39 on the date the claim was filed, and the former law is continued
40 in effect for that purpose.

41 SECTION 1.26. (a) Not later than the 30th day after the
42 effective date of this section, the division of emergency
43 management shall issue a report to the legislature regarding the
44 implementation of medical special needs plans in connection with
45 Hurricane Ike, including identification, evacuation,
46 transportation, shelter, care, and reentry during the period
47 ending on the 30th day after the conclusion of the disaster.

1 The Department of State Health Services shall cooperate in the
2 preparation of the report.

3 (b) Subsection (a) of this section takes effect
4 immediately if this Act receives a vote of two-thirds of all the
5 members elected to each house, as provided by Section 39,
6 Article III, Texas Constitution. If this Act does not receive
7 the vote necessary for immediate effect, Subsection (a) of this
8 section takes effect September 1, 2009.

9 ARTICLE 2. EMERGENCY ELECTRICAL POWER

10 SECTION 2.01. Subtitle G, Title 10, Government Code, is
11 amended by adding Chapter 2311 to read as follows:

12 CHAPTER 2311. ENERGY SECURITY TECHNOLOGIES FOR CRITICAL
13 GOVERNMENTAL FACILITIES

14 Sec. 2311.001. DEFINITIONS. In this chapter:

15 (1) "Combined heating and power system" means a
16 system that:

17 (A) is located on the site of a facility;

18 (B) is the primary source of both electricity
19 and thermal energy for the facility;

20 (C) can provide all of the electricity needed to
21 power the facility's critical emergency operations for at least
22 14 days; and

23 (D) has an overall efficiency of energy use that
24 exceeds 60 percent.

25 (2) "Critical governmental facility" means a building
26 owned by the state or a political subdivision of the state that
27 is expected to:

28 (A) be continuously occupied;

29 (B) maintain operations for at least 6,000 hours
30 each year;

31 (C) have a peak electricity demand exceeding 500
32 kilowatts; and

33 (D) serve a critical public health or public
34 safety function during a natural disaster or other emergency
35 situation that may result in a widespread power outage,
36 including a:

37 (i) command and control center;

38 (ii) shelter;

39 (iii) prison or jail;

40 (iv) police or fire station;

41 (v) communications or data center;

42 (vi) water or wastewater facility;

43 (vii) hazardous waste storage facility;

44 (viii) biological research facility;

45 (ix) hospital; or

46 (x) food preparation or food storage
47 facility.

1 Sec. 2311.002. COMBINED HEATING AND POWER SYSTEMS. When
2 constructing or extensively renovating a critical governmental
3 facility or replacing major heating, ventilation, and air-
4 conditioning equipment for a critical governmental facility, the
5 entity with charge and control of the facility shall evaluate
6 whether equipping the facility with a combined heating and power
7 system would result in expected energy savings that would exceed
8 the expected costs of purchasing, operating, and maintaining the
9 system over a 20-year period. Notwithstanding Chapter 2302, the
10 entity may equip the facility with a combined heating and power
11 system if the expected energy savings exceed the expected costs.

12 SECTION 2.02. Subchapter D, Chapter 38, Utilities Code, is
13 amended by adding Section 38.073 to read as follows:

14 Sec. 38.073. AUTHORITY OF COMMISSION DURING AN EMERGENCY.
15 (a) On a declaration of a natural disaster or other emergency
16 by the governor, the commission may require an electric utility,
17 municipally owned utility, electric cooperative, qualifying
18 facility, power generation company, exempt wholesale generator,
19 or power marketer to sell electricity to an electric utility,
20 municipally owned utility, or electric cooperative that is
21 unable to supply power to meet customer demand due to the
22 natural disaster or other emergency. Any plant, property,
23 equipment, or other items used to receive or deliver electricity
24 under this subsection are used and useful in delivering service
25 to the public, and the commission shall allow timely recovery
26 for the costs of those items. The commission may order an
27 electric utility, municipally owned utility, or electric
28 cooperative to provide interconnection service to another
29 electric utility, municipally owned utility, or electric
30 cooperative to facilitate a sale of electricity under this
31 section. If the commission does not order the sale of
32 electricity during a declared emergency as described by this
33 subsection, the commission shall promptly submit to the
34 legislature a report describing the reasons why the commission
35 did not make that order.

36 (b) If an entity receives electricity under Subsection
37 (a), the receiving entity shall reimburse the supplying entity
38 for the actual cost of providing the electricity. The entity
39 receiving the electricity is responsible for any transmission
40 and distribution service charges specifically incurred in
41 relation to providing the electricity.

42 (c) An entity that pays for electricity received under
43 Subsection (b) and that is regulated by the commission may fully
44 recover the cost of the electricity in a timely manner by:

45 (1) including the cost in the entity's fuel cost
46 under Section 36.203; or

47 (2) notwithstanding Section 36.201, imposing a

1 different surcharge.

2 SECTION 2.03. Chapter 38, Utilities Code, is amended by
3 adding Subchapter E to read as follows:

4 SUBCHAPTER E. INFRASTRUCTURE IMPROVEMENT AND MAINTENANCE REPORT

5 Sec. 38.101. REPORT ON INFRASTRUCTURE IMPROVEMENT AND
6 MAINTENANCE. (a) Not later than May 1 of each year, each
7 electric utility shall submit to the commission a report
8 describing the utility's activities related to:

9 (1) identifying areas that are susceptible to damage
10 during severe weather and hardening transmission and
11 distribution facilities in those areas;

12 (2) vegetation management; and

13 (3) inspecting distribution poles.

14 (b) Each electric utility shall include in a report
15 required under Subsection (a) a summary of the utility's
16 activities related to preparing for emergency operations.

17 SECTION 2.04. (a) Not later than June 1, 2010, the Public
18 Utility Commission of Texas shall conduct and complete a study
19 to evaluate:

20 (1) the locations in this state that are most likely
21 to experience a natural disaster or other emergency;

22 (2) the ability of each entity described by
23 Subsection (a), Section 38.073, Utilities Code, as added by this
24 Act, to comply with that section in the event of a natural
25 disaster or other emergency;

26 (3) any steps an entity described by Subsection (a),
27 Section 38.073, Utilities Code, as added by this Act, should
28 take to prepare to comply with that section; and

29 (4) the potential for distributed generation,
30 including renewable power with battery backup and combined heat
31 and power systems, to strengthen reliability of electric service
32 during a natural disaster or other emergency.

33 (b) An entity described by Subsection (a), Section 38.073,
34 Utilities Code, as added by this Act, shall comply with any
35 order issued by the Public Utility Commission of Texas under
36 that subsection while the study required by Subsection (a) of
37 this section is conducted.

38 (c) The Public Utility Commission of Texas shall prepare a
39 report based on the study conducted under Subsection (a) of this
40 section. The report must include any recommendations the
41 commission considers advisable in relation to the implementation
42 of and compliance with Section 38.073, Utilities Code, as added
43 by this Act. The commission may include the report in the
44 report required by Section 31.003, Utilities Code.

45 SECTION 2.05. The Public Utility Commission of Texas shall
46 adopt rules consistent with Subchapter E, Chapter 38, Utilities
47 Code, as added by this Act, not later than January 1, 2010.

ARTICLE 3. HEALTH AND SAFETY PROVISIONS

SECTION 3.01. Subtitle F, Title 2, Health and Safety Code, is amended by adding Chapter 123 to read as follows:

CHAPTER 123. PUBLIC HEALTH EXTENSION SERVICE PILOT PROGRAM

Sec. 123.001. DEFINITIONS. In this chapter:

(1) "Department" means the Department of State Health Services; and

(2) "Program" means the public health extension service pilot program established under this chapter.

Sec. 123.002. PROGRAM ESTABLISHED; PURPOSES. (a) The department shall establish a public health extension service pilot program in Health Service Region 11, a region of the state that may be particularly vulnerable to biosecurity threats, disaster, and other emergencies.

(b) The purpose of the program is to support local public health and medical infrastructure, promote disease control and medical preparedness, and enhance biosecurity, including detection of dangerous biologic agents, availability of pathology services, and management of hazardous materials.

Sec. 123.003. RULES. The executive commissioner of the Health and Human Services Commission may adopt rules for the implementation and administration of the program.

Sec. 123.004. PROGRAM ADMINISTRATION. The department may contract with The Texas A&M University System or The University of Texas System or both to implement or administer the program.

Sec. 123.005. PROGRAM OBJECTIVES. Through the program, the department may implement projects and systems to accomplish the purposes of the program described by Section 123.002, and may:

(1) provide support for regional disaster medical assistance teams and tactical medical operations incident management teams;

(2) establish a disaster training and exercise program;

(3) establish and equip caches of necessary medical supplies and equipment for use in disasters and other emergencies;

(4) establish a regionally based system of emergency medical logistics management to support state and federal emergency management authorities, including local patient triage sites and local emergency medical operations; and

(5) establish a regionally based system to provide technical assistance for disaster mitigation and recovery.

Sec. 123.006. REPORT. Not later than December 1, 2010, the department shall report to the governor, lieutenant governor, and speaker of the house of representatives on the program, including recommendations for continuing and expanding

1 the program to other regions of the state.

2 Sec. 123.007. EXPIRATION. This chapter expires and the
3 program is abolished September 2, 2011.

4 SECTION 3.02. Section 251.012, Health and Safety Code, is
5 amended to read as follows:

6 Sec. 251.012. EXEMPTIONS FROM LICENSING REQUIREMENT. The
7 following facilities are not required to be licensed under this
8 chapter:

9 (1) a home and community support services agency
10 licensed under Chapter 142 with a home dialysis designation;

11 (2) a hospital licensed under Chapter 241 that
12 provides dialysis only to:

13 (A) individuals receiving inpatient services
14 from the hospital; or

15 (B) individuals receiving outpatient services
16 due to a disaster declared by the governor or a federal disaster
17 declared by the president of the United States occurring in this
18 state or another state during the term of the disaster
19 declaration; or

20 (3) the office of a physician unless the office is
21 used primarily as an end stage renal disease facility.

22 SECTION 3.03. Subtitle B, Title 8, Health and Safety Code,
23 is amended by adding Chapter 695 to read as follows:

24 CHAPTER 695. IN-CASKET IDENTIFICATION

25 Sec. 695.001. DEFINITIONS. In this chapter:

26 (1) "Casket" means a container used to hold the
27 remains of a deceased person.

28 (2) "Commission" means the Texas Funeral Service
29 Commission.

30 Sec. 695.002. IDENTIFICATION OF DECEASED PERSON. The
31 commission shall ensure a casket contains identification of the
32 deceased person, including the person's name, date of birth, and
33 date of death.

34 Sec. 695.003. RULES. The commission may adopt rules to
35 enforce this chapter.

36 SECTION 3.03a. Subchapter D, Chapter 771, Health and
37 Safety Code, is amended by adding Section 771.0712 to read as
38 follows:

39 Sec. 771.0712. PREPAID 9-1-1 EMERGENCY SERVICE FEE. (a)
40 To ensure that all 9-1-1 agencies under Section 418.051,
41 Government Code, are adequately funded, beginning on June 1,
42 2010, a prepaid wireless 9-1-1 emergency services fee of two
43 percent of the purchase price of each prepaid wireless
44 telecommunications service purchased by any method, shall be
45 collected by the seller from the consumer at the time of each
46 retail transaction of prepaid wireless telecommunications
47 service occurring in this state and remitted to the comptroller

1 consistent with Chapter 151, Tax Code, and distributed
2 consistent with the procedures in place for the emergency
3 services fee in Section 771.0711, Health and Safety Code. A
4 seller may deduct and retain two percent of prepaid wireless 9-
5 1-1 emergency services fees that it collects under this section
6 to offset its costs in administering this fee.

7 (b) The comptroller shall adopt rules to implement this
8 section by June 1, 2010.

9 SECTION 3.04. The change in law made by this Act by the
10 amendment of Section 251.012, Health and Safety Code, applies
11 only to dialysis services provided on or after the effective
12 date of this Act. Dialysis services provided before the
13 effective date of this Act are covered by the law in effect
14 immediately before that date, and the former law is continued in
15 effect for that purpose.

16 ARTICLE 4. PROVISIONS RELATED TO CERTAIN PUBLIC EMPLOYEES

17 SECTION 4.01. Subchapter B, Chapter 659, Government Code,
18 is amended by adding Section 659.025 to read as follows:

19 Sec. 659.025. USE OF COMPENSATORY TIME BY CERTAIN
20 EMERGENCY SERVICES PERSONNEL; OPTIONAL OVERTIME PAYMENT.

21 (a) In this section, "emergency services personnel" includes
22 firefighters, police officers and other peace officers,
23 emergency medical technicians, emergency management personnel,
24 and other individuals who are required, in the course and scope
25 of their employment, to provide services for the benefit of the
26 general public during emergency situations.

27 (b) This section applies only to a state employee who is
28 emergency services personnel, who is not subject to the overtime
29 provisions of the federal Fair Labor Standards Act of 1938 (29
30 U.S.C. Section 201 et seq.), and who is not an employee of the
31 legislature, including an employee of the lieutenant governor or
32 of a legislative agency.

33 (c) Notwithstanding Section 659.016 or any other law, an
34 employee to whom this section applies may be allowed to take
35 compensatory time off during the 18-month period following the
36 end of the workweek in which the compensatory time was accrued.

37 (d) Notwithstanding Section 659.016 or any other law, the
38 administrative head of a state agency that employs an employee
39 to whom this section applies may pay the employee overtime at
40 the employee's regular hourly salary rate for all or part of the
41 hours of compensatory time off accrued by the employee during a
42 declared disaster in the preceding 18-month period. The
43 administrative head shall reduce the employee's compensatory
44 time balance by one hour for each hour the employee is paid
45 overtime under this section.

46 SECTION 4.02. Subchapter H, Chapter 660, Government Code,
47 is amended by adding Section 660.209 to read as follows:

1 Sec. 660.209. STATE EMERGENCY SERVICES PERSONNEL. (a) In
2 this section, "emergency services personnel" includes
3 firefighters, police officers and other peace officers,
4 emergency medical technicians, emergency management personnel,
5 and other individuals who are required, in the course and scope
6 of their employment, to provide services for the benefit of the
7 general public during emergency situations.

8 (b) Notwithstanding any other provision of this chapter or
9 the General Appropriations Act, a state employee who is
10 emergency services personnel and who is deployed to a temporary
11 duty station to conduct emergency or disaster response
12 activities is entitled to reimbursement for the actual expense
13 of lodging when there is no room available at the state rate
14 within reasonable proximity to the employee's temporary duty
15 station.

16 SECTION 4.03. Section 161.0001(1-a), Health and Safety
17 Code, is amended to read as follows:

18 (1-a) "First responder" means:

19 (A) any federal, state, local, or private
20 personnel who may respond to a disaster, including:

21 (i) public health and public safety
22 personnel;

23 (ii) commissioned law enforcement
24 personnel;

25 (iii) fire protection personnel, including
26 volunteer firefighters;

27 (iv) emergency medical services personnel,
28 including hospital emergency facility staff;

29 (v) a member of the National Guard;

30 (vi) a member of the Texas State Guard; or

31 (vii) any other worker who responds to a
32 disaster in the worker's scope of employment; or

33 (B) any related personnel that provide support
34 services during the prevention, response, and recovery phases of
35 a disaster [~~has the meaning assigned by Section 421.095,~~
36 ~~Government Code~~].

37 ARTICLE 5. JUDICIAL PREPAREDNESS

38 SECTION 5.01. Subchapter A, Chapter 22, Government Code,
39 is amended by adding Section 22.0035 to read as follows:

40 Sec. 22.0035. MODIFICATION OR SUSPENSION OF CERTAIN
41 PROVISIONS RELATING TO COURT PROCEEDINGS AFFECTED BY DISASTER.

42 (a) In this section, "disaster" has the meaning assigned by
43 Section 418.004.

44 (b) Notwithstanding any other statute, the supreme court
45 may modify or suspend procedures for the conduct of any court
46 proceeding affected by a disaster during the pendency of a
47 disaster declared by the governor. An order under this section

1 may not extend for more than 30 days from the date the order was
2 signed unless renewed by the supreme court.

3 (c) If a disaster prevents the supreme court from acting
4 under Subsection (b), the chief justice of the supreme court may
5 act on behalf of the supreme court under that subsection.

6 (d) If a disaster prevents the chief justice from acting
7 under Subsection (c), the court of criminal appeals may act on
8 behalf of the supreme court under Subsection (b).

9 (e) If a disaster prevents the court of criminal appeals
10 from acting under Subsection (d), the presiding judge of the
11 court of criminal appeals may act on behalf of the supreme court
12 under Subsection (b).

13 SECTION 5.02. Section 74.093(c), Government Code, is
14 amended to read as follows:

15 (c) The rules may provide for:

16 (1) the selection and authority of a presiding judge
17 of the courts giving preference to a specified class of cases,
18 such as civil, criminal, juvenile, or family law cases; [~~and~~]

19 (2) a coordinated response for the transaction of
20 essential judicial functions in the event of a disaster; and

21 (3) any other matter necessary to carry out this
22 chapter or to improve the administration and management of the
23 court system and its auxiliary services.

24 SECTION 5.03. Section 418.002, Government Code, is amended
25 to read as follows:

26 Sec. 418.002. PURPOSES. The purposes of this chapter are
27 to:

28 (1) reduce vulnerability of people and communities of
29 this state to damage, injury, and loss of life and property
30 resulting from natural or man-made catastrophes, riots, or
31 hostile military or paramilitary action;

32 (2) prepare for prompt and efficient rescue, care,
33 and treatment of persons victimized or threatened by disaster;

34 (3) provide a setting conducive to the rapid and
35 orderly restoration and rehabilitation of persons and property
36 affected by disasters;

37 (4) clarify and strengthen the roles of the governor,
38 state agencies, the judicial branch of state government, and
39 local governments in prevention of, preparation for, response
40 to, and recovery from disasters;

41 (5) authorize and provide for cooperation in disaster
42 mitigation, preparedness, response, and recovery;

43 (6) authorize and provide for coordination of
44 activities relating to disaster mitigation, preparedness,
45 response, and recovery by agencies and officers of this state,
46 and similar state-local, interstate, federal-state, and foreign
47 activities in which the state and its political subdivisions may

1 participate;

2 (7) provide an emergency management system embodying
3 all aspects of predisaster preparedness and postdisaster
4 response;

5 (8) assist in mitigation of disasters caused or
6 aggravated by inadequate planning for and regulation of public
7 and private facilities and land use; and

8 (9) provide the authority and mechanism to respond to
9 an energy emergency.

10 SECTION 5.04. This article takes effect immediately if
11 this Act receives a vote of two-thirds of all the members
12 elected to each house, as provided by Section 39, Article III,
13 Texas Constitution. If this Act does not receive the vote
14 necessary for immediate effect, this article takes effect
15 September 1, 2009.

16 ARTICLE 6. EDUCATION PROVISIONS

17 SECTION 6.01. The heading to Section 37.108, Education
18 Code, is amended to read as follows:

19 Sec. 37.108. MULTHAZARD EMERGENCY OPERATIONS PLAN; SAFETY
20 AND SECURITY AUDIT.

21 SECTION 6.02. Section 37.108, Education Code, is amended
22 by amending Subsections (a), (b), and (c) and adding Subsections
23 (c-1) and (c-2) to read as follows:

24 (a) Each school district or public junior college district
25 shall adopt and implement a multihazard emergency operations
26 plan for use in the district's facilities [~~district schools~~].
27 The plan must address mitigation, preparedness, response, and
28 recovery as defined by the commissioner of education or
29 commissioner of higher education in conjunction with the
30 governor's office of homeland security. The plan must provide
31 for:

32 (1) district employee training in responding to an
33 emergency;

34 (2) if the plan applies to a school district,
35 mandatory school drills and exercises to prepare district
36 students and employees for responding to an emergency;

37 (3) measures to ensure coordination with the
38 Department of State Health Services and local emergency
39 management agencies, law enforcement, health departments, and
40 fire departments in the event of an emergency; and

41 (4) the implementation of a safety and security audit
42 as required by Subsection (b).

43 (b) At least once every three years, each [a] school
44 district or public junior college district shall conduct a
45 safety and security audit of the district's facilities. To the
46 extent possible, a district shall follow safety and security
47 audit procedures developed by the Texas School Safety Center or

1 a comparable public or private entity.

2 (c) A school district or public junior college district
3 shall report the results of the safety and security audit
4 conducted under Subsection (b) to the district's board of
5 trustees and, in the manner required by the Texas School Safety
6 Center, to the Texas School Safety Center.

7 (c-1) Except as provided by Subsection (c-2), any document
8 or information collected, developed, or produced during a safety
9 and security audit conducted under Subsection (b) is not subject
10 to disclosure under Chapter 552, Government Code.

11 (c-2) A document relating to a school district's or public
12 junior college district's multihazard emergency operations plan
13 is subject to disclosure if the document enables a person to:

14 (1) verify that the district has established a plan
15 and determine the agencies involved in the development of the
16 plan and the agencies coordinating with the district to respond
17 to an emergency, including the Department of State Health
18 Services, local emergency services agencies, law enforcement
19 agencies, health departments, and fire departments;

20 (2) verify that the district's plan was reviewed
21 within the last 12 months and determine the specific review
22 dates;

23 (3) verify that the plan addresses the four phases of
24 emergency management under Subsection (a);

25 (4) verify that district employees have been trained
26 to respond to an emergency and determine the types of training,
27 the number of employees trained, and the person conducting the
28 training;

29 (5) verify that each campus in the district has
30 conducted mandatory emergency drills and exercises in accordance
31 with the plan and determine the frequency of the drills;

32 (6) if the district is a school district, verify that
33 the district has established a plan for responding to a train
34 derailment if required under Subsection (d);

35 (7) verify that the district has completed a safety
36 and security audit under Subsection (b) and determine the date
37 the audit was conducted, the person conducting the audit, and
38 the date the district presented the results of the audit to the
39 district's board of trustees;

40 (8) verify that the district has addressed any
41 recommendations by the district's board of trustees for
42 improvement of the plan and determine the district's progress
43 within the last 12 months; and

44 (9) if the district is a school district, verify that
45 the district has established a visitor policy and identify the
46 provisions governing access to a district building or other
47 district property.

1 SECTION 6.03. Subchapter D, Chapter 37, Education Code, is
2 amended by adding Section 37.109 to read as follows:

3 Sec. 37.109. SCHOOL SAFETY AND SECURITY COMMITTEE.

4 (a) In accordance with guidelines established by the Texas
5 School Safety Center, each school district shall establish a
6 school safety and security committee.

7 (b) The committee shall:

8 (1) participate on behalf of the district in
9 developing and implementing emergency plans consistent with the
10 district multihazard emergency operations plan required by
11 Section 37.108(a) to ensure that the plans reflect specific
12 campus, facility, or support services needs;

13 (2) provide the district with any campus, facility,
14 or support services information required in connection with a
15 safety and security audit required by Section 37.108(b), a
16 safety and security audit report required by Section 37.108(c),
17 or another report required to be submitted by the district to
18 the Texas School Safety Center; and

19 (3) review each report required to be submitted by
20 the district to the Texas School Safety Center to ensure that
21 the report contains accurate and complete information regarding
22 each campus, facility, or support service in accordance with
23 criteria established by the center.

24 SECTION 6.04. Section 37.202, Education Code, is amended
25 to read as follows:

26 Sec. 37.202. PURPOSE. The purpose of the center is to
27 serve as:

28 (1) a central location for school safety and security
29 information, including research, training, and technical
30 assistance related to successful school safety and security
31 programs; ~~and~~

32 (2) a central registry of persons providing school
33 safety and security consulting services in the state; and

34 (3) a resource for the prevention of youth violence
35 and the promotion of safety in the state.

36 SECTION 6.05. Section 37.203(a), Education Code, as
37 amended by Chapters 258 (S.B. 11) and 263 (S.B. 103), Acts of
38 the 80th Legislature, Regular Session, 2007, is reenacted to
39 read as follows:

40 (a) The center is advised by a board of directors composed
41 of:

42 (1) the attorney general, or the attorney general's
43 designee;

44 (2) the commissioner, or the commissioner's designee;

45 (3) the executive director of the Texas Juvenile
46 Probation Commission, or the executive director's designee;

47 (4) the executive commissioner of the Texas Youth

1 Commission, or the executive commissioner's designee;
2 (5) the commissioner of the Department of State
3 Health Services, or the commissioner's designee;
4 (6) the commissioner of higher education, or the
5 commissioner's designee; and
6 (7) the following members appointed by the governor
7 with the advice and consent of the senate:
8 (A) a juvenile court judge;
9 (B) a member of a school district's board of
10 trustees;
11 (C) an administrator of a public primary school;
12 (D) an administrator of a public secondary
13 school;
14 (E) a member of the state parent-teacher
15 association;
16 (F) a teacher from a public primary or secondary
17 school;
18 (G) a public school superintendent who is a
19 member of the Texas Association of School Administrators;
20 (H) a school district police officer or a peace
21 officer whose primary duty consists of working in a public
22 school; and
23 (I) two members of the public.

24 SECTION 6.06. Section 37.203(b), Education Code, is
25 amended to read as follows:

26 (b) Members of the board appointed under Subsection (a)(7)
27 [~~(a)(6)~~] serve staggered two-year terms, with the terms of the
28 members described by Subsections (a)(7)(A)-(E) [~~(a)(6)(A)-(E)~~]
29 expiring on February 1 of each odd-numbered year and the terms
30 of the members described by Subsections (a)(7)(F)-(I)
31 [~~(a)(6)(F)-(I)~~] expiring on February 1 of each even-numbered
32 year. A member may serve more than one term.

33 SECTION 6.07. Section 37.207(a), Education Code, is
34 amended to read as follows:

35 (a) The center shall develop a model safety and security
36 audit procedure for use by school districts and public junior
37 college districts that includes:

38 (1) providing each district with guidelines [~~and a~~
39 ~~training video~~] showing proper audit procedures;

40 (2) reviewing elements of each district audit [~~,~~
41 ~~providing the results of the review to the district,~~] and making
42 recommendations for improvements in the state based on that
43 review [~~the audit~~]; and

44 (3) incorporating the findings of district audits in
45 a statewide report on school safety and security made available
46 by the center to the public.

47 SECTION 6.08. Section 37.209, Education Code, is amended

1 to read as follows:

2 Sec. 37.209. CENTER WEBSITE. The center shall develop and
3 maintain an interactive Internet website that includes:

4 (1) quarterly news updates related to school safety
5 and security and violence prevention;

6 (2) school crime data;

7 (3) a schedule of training and special events; and

8 (4) a list of persons who ~~[approved by the board to]~~
9 provide school safety or security consulting services in this
10 state and are registered in accordance with Section 37.2091
11 [presentations].

12 SECTION 6.09. Subchapter G, Chapter 37, Education Code, is
13 amended by adding Sections 37.2091 and 37.2121 to read as
14 follows:

15 Sec. 37.2091. REGISTRY OF PERSONS PROVIDING SCHOOL SAFETY
16 OR SECURITY CONSULTING SERVICES. (a) In this section, "school
17 safety or security consulting services" includes any service
18 provided to a school district, institution of higher education,
19 district facility, or campus by a person consisting of advice,
20 information, recommendations, data collection, or safety and
21 security audit services relevant to school safety and security,
22 regardless of whether the person is paid for those services.

23 (b) The center shall establish a registry of persons
24 providing school safety or security consulting services in this
25 state.

26 (c) Each person providing school safety or security
27 consulting services in this state shall register with the center
28 in accordance with requirements established by the center. The
29 requirements must include provisions requiring a person
30 registering with the center to provide information regarding:

31 (1) the person's background, education, and
32 experience that are relevant to the person's ability to provide
33 knowledgeable and effective school safety or security consulting
34 services; and

35 (2) any complaints or pending litigation relating to
36 the person's provision of school safety or security consulting
37 services.

38 (d) The registry is intended to serve only as an
39 informational resource for school districts and institutions of
40 higher education. The inclusion of a person in the registry is
41 not an indication of the person's qualifications or ability to
42 provide school safety or security consulting services or that
43 the center endorses the person's school safety or security
44 consulting services.

45 (e) The center shall include information regarding the
46 registry, including the number of persons registered and the
47 general degree of school safety or security experience possessed

1 by those persons, in the biennial report required by Section
2 37.216.

3 Sec. 37.2121. MEMORANDA OF UNDERSTANDING AND MUTUAL AID
4 AGREEMENTS. (a) The center shall identify and inform school
5 districts of the types of entities, including local and regional
6 authorities, other school districts, and emergency first
7 responders, with whom school districts should customarily make
8 efforts to enter into memoranda of understanding or mutual aid
9 agreements addressing issues that affect school safety and
10 security.

11 (b) The center shall develop guidelines regarding
12 memoranda of understanding and mutual aid agreements between
13 school districts and the entities identified in accordance with
14 Subsection (a). The guidelines:

15 (1) must include descriptions of the provisions that
16 should customarily be included in each memorandum or agreement
17 with a particular type of entity;

18 (2) may include sample language for those provisions;
19 and

20 (3) must be consistent with the Texas Statewide
21 Mutual Aid System established under Subchapter E-1, Chapter 418,
22 Government Code.

23 (c) The center shall encourage school districts to enter
24 into memoranda of understanding and mutual aid agreements with
25 entities identified in accordance with Subsection (a) that
26 comply with the guidelines developed under Subsection (b).

27 (d) Each school district that enters into a memorandum of
28 understanding or mutual aid agreement addressing issues that
29 affect school safety and security shall, at the center's
30 request, provide the following information to the center:

31 (1) the name of each entity with which the school
32 district has entered into a memorandum of understanding or
33 mutual aid agreement;

34 (2) the effective date of each memorandum or
35 agreement; and

36 (3) a summary of each memorandum or agreement.

37 (e) The center shall include information regarding the
38 center's efforts under this section in the report required by
39 Section 37.216.

40 SECTION 6.10. Section 37.213, Education Code, is amended
41 to read as follows:

42 Sec. 37.213. PUBLIC JUNIOR COLLEGES [~~INSTITUTIONS OF~~
43 HIGHER EDUCATION]. (a) In this section, "public junior
44 college" [~~"institution of higher education"~~] has the meaning
45 assigned by Section 61.003.

46 (b) The center shall research best practices regarding
47 emergency preparedness of public junior colleges and serve as a

1 clearinghouse for that information.

2 (c) The center shall provide public junior colleges with
3 training, technical assistance, and published guidelines or
4 templates, as appropriate, in the following areas:

5 (1) multihazard emergency operations plan
6 development;

7 (2) drill and exercise development and
8 implementation;

9 (3) mutual aid agreements;

10 (4) identification of equipment and funds that may be
11 used by public junior colleges in an emergency; and

12 (5) reporting in accordance with 20 U.S.C. Section
13 1092(f) [An institution of higher education may use any
14 appropriate model plan developed by the center under Section
15 37.205(4)].

16 ~~[(c) The center may provide an institution of higher~~
17 ~~education with on-site technical assistance and safety training.~~

18 ~~[(d) The center may charge a fee to an institution of~~
19 ~~higher education for assistance and training provided under~~
20 ~~Subsection (c)].~~

21 SECTION 6.11. Section 37.216, Education Code, is amended
22 to read as follows:

23 Sec. 37.216. BIENNIAL [~~ANNUAL~~] REPORT. (a) Not later
24 than January [~~September~~] 1 of each odd-numbered year, the board
25 shall provide a report to the governor, the legislature, the
26 State Board of Education, and the agency.

27 (b) The biennial [~~annual~~] report must include any findings
28 made by the center regarding school safety and security and the
29 center's functions, budget information, and strategic planning
30 initiatives of the center.

31 SECTION 6.12. Subchapter G, Chapter 37, Education Code, is
32 amended by adding Section 37.2161 to read as follows:

33 Sec. 37.2161. SCHOOL SAFETY AND SECURITY PROGRESS REPORT.

34 (a) The center shall periodically provide a school safety and
35 security progress report to the governor, the legislature, the
36 State Board of Education, and the agency that contains current
37 information regarding school safety and security in the school
38 districts and public junior college districts of this state
39 based on:

40 (1) elements of each district's multihazard emergency
41 operations plan required by Section 37.108(a);

42 (2) elements of each district's safety and security
43 audit required by Section 37.108(b); and

44 (3) any other report required to be submitted to the
45 center.

46 (b) The center shall establish guidelines regarding the
47 specific information to be included in the report required by

1 this section.

2 (c) The center may provide the report required by this
3 section in conjunction with the report required by Section
4 37.216.

5 SECTION 6.13. Subchapter E, Chapter 51, Education Code, is
6 amended by adding Section 51.217 to read as follows:

7 Sec. 51.217. MULTHAZARD EMERGENCY OPERATIONS PLAN; SAFETY
8 AND SECURITY AUDIT. (a) In this section, "institution" means
9 a general academic teaching institution, a medical and dental
10 unit, or other agency of higher education, as those terms are
11 defined by Section 61.003.

12 (b) An institution shall adopt and implement a multihazard
13 emergency operations plan for use at the institution. The plan
14 must address mitigation, preparedness, response, and recovery.
15 The plan must provide for:

16 (1) employee training in responding to an emergency;
17 (2) mandatory drills to prepare students, faculty,
18 and employees for responding to an emergency;

19 (3) measures to ensure coordination with the
20 Department of State Health Services, local emergency management
21 agencies, law enforcement, health departments, and fire
22 departments in the event of an emergency; and

23 (4) the implementation of a safety and security audit
24 as required by Subsection (c).

25 (c) At least once every three years, an institution shall
26 conduct a safety and security audit of the institution's
27 facilities. To the extent possible, an institution shall follow
28 safety and security audit procedures developed in consultation
29 with the division of emergency management of the office of the
30 governor.

31 (d) An institution shall report the results of the safety
32 and security audit conducted under Subsection (c) to the
33 institution's board of regents and the division of emergency
34 management of the office of the governor.

35 (e) Except as provided by Subsection (f), any document or
36 information collected, developed, or produced during a safety
37 and security audit conducted under Subsection (c) is not subject
38 to disclosure under Chapter 552, Government Code.

39 (f) A document relating to an institution's multihazard
40 emergency operations plan is subject to disclosure if the
41 document enables a person to:

42 (1) verify that the institution has established a
43 plan and determine the agencies involved in the development of
44 the plan and the agencies coordinating with the institution to
45 respond to an emergency, including the Department of State
46 Health Services, local emergency services agencies, law
47 enforcement agencies, health departments, and fire departments;

1 (2) verify that the institution's plan was reviewed
2 within the last 12 months and determine the specific review
3 dates;

4 (3) verify that the plan addresses the four phases of
5 emergency management under Subsection (b);

6 (4) verify that institution employees have been
7 trained to respond to an emergency and determine the types of
8 training, the number of employees trained, and the person
9 conducting the training;

10 (5) verify that each campus has conducted mandatory
11 emergency drills and exercises in accordance with the plan and
12 determine the frequency of the drills;

13 (6) verify that the institution has completed a
14 safety and security audit under Subsection (c) and determine the
15 date the audit was conducted, the person conducting the audit,
16 and the date the institution presented the results of the audit
17 to the board of regents; and

18 (7) verify that the institution has addressed any
19 recommendations by the board of regents for improvement of the
20 plan and determine the institution's progress within the last 12
21 months.

22 SECTION 6.13a. Chapter 111, Education Code, is amended by
23 adding Subchapter I to read as follows:

24 SUBCHAPTER I. UNIVERSITY OF HOUSTON HURRICANE CENTER FOR
25 INNOVATIVE TECHNOLOGY

26 Sec. 111.121. DEFINITIONS. In this subchapter:

27 (1) "Board" means the board of regents of the
28 University of Houston System.

29 (2) "Center" means the University of Houston
30 Hurricane Center for Innovative Technology (UHC-IT) established
31 under this subchapter.

32 Sec. 111.122. ESTABLISHMENT. (a) The University of
33 Houston Hurricane Center for Innovative Technology is
34 established at the University of Houston.

35 (b) The organization, control, and management of the
36 center are vested in the board.

37 (c) The center shall be hosted by the university's College
38 of Engineering. Participation in the center's activities shall
39 be open to any faculty member of the university who is an active
40 researcher in the field of materials, nanotechnology, structural
41 engineering, designing of structures, or sensor technology, or
42 in another relevant field as determined by the university.

43 Sec. 111.123. PURPOSE. The center is created to:

44 (1) promote interdisciplinary research, education,
45 and training for the development of state-of-the-art products,
46 materials, systems, and technologies designed to mitigate the
47 wind, and asserted structural damages in the built environment

1 and offshore structures caused by hurricanes in the Gulf Coast
2 region; and

3 (2) develop protocols for the fast and efficient
4 recovery of the public and private sectors, including utilities,
5 hospitals, petrochemical industries, offshore platforms, and
6 municipalities and other local communities following a
7 hurricane.

8 Sec. 111.124. POWERS AND DUTIES. The center shall:

9 (1) collaborate with appropriate federal, state, and
10 local agencies and private business or nonprofit entities as
11 necessary to coordinate efforts after a hurricane in the Gulf
12 Coast region;

13 (2) develop smart materials and devices for use in
14 hurricane protection and mitigation systems for structural
15 monitoring;

16 (3) develop anchor systems for window and door
17 screens, dwellings and other buildings, pipelines, and other
18 onshore and offshore structures to withstand hurricane wind
19 damage;

20 (4) develop test facilities for evaluating the
21 performance of new products, materials, or techniques designed
22 to protect against hurricane wind damage;

23 (5) develop specifications and standards for products
24 used for protecting against hurricane wind damage;

25 (6) design buildings, houses, and other structures to
26 withstand hurricane wind damage; and

27 (9) provide hurricane-related educational programs,
28 seminars, conferences, and workshops to the community designed
29 to ensure safety, minimize loss of life, and mitigate the
30 destruction of property associated with hurricane wind damage.

31 Sec. 111.125. COLLABORATION WITH OTHER ENTITIES. The
32 University of Houston shall encourage public and private
33 entities to participate in or support the operation of the
34 center and may enter into an agreement with any public or
35 private entity for that purpose. An agreement may allow the
36 center to provide information, services, or other assistance to
37 an entity in exchange for the entity's participation or support.

38 Sec. 111.126. GIFTS AND GRANTS. The board may solicit,
39 accept, and administer gifts and grants from any public or
40 private source and use existing resources for the purposes of
41 the center. State funding is not available unless the
42 legislature makes specific appropriation for this purpose.

43 Sec. 111.127. PERSONNEL. The board may employ personnel
44 for the center as necessary.

45 SECTION 6.14. Section 418.004(10), Government Code, is
46 amended to read as follows:

47 (10) "Local government entity" means a county,

1 incorporated city, independent school district, public junior
2 college district, emergency services district, other special
3 district, joint board, or other entity defined as a political
4 subdivision under the laws of this state that maintains the
5 capability to provide mutual aid.

6 SECTION 6.15. Section 37.210, Education Code, is repealed.

7 SECTION 6.16. Sections 37.108(c-1) and (c-2), and Sections
8 51.217(d) and (e), Education Code, as added by this article,
9 apply only to a request for documents or information that is
10 received on or after the effective date of this article. A
11 request for documents or information that was received before
12 the effective date of this article is governed by the law in
13 effect on the date the request was received, and the former law
14 is continued in effect for that purpose.

15 SECTION 6.17. A person providing school safety or security
16 consulting services in this state shall comply with Section
17 37.2091, Education Code, as added by this article, not later
18 than January 1, 2010.

19 SECTION 6.18. This article does not make an appropriation.
20 A provision in this article that creates a new governmental
21 program, creates a new entitlement, or imposes a new duty on a
22 governmental entity is not mandatory during a fiscal period for
23 which the legislature has not made a specific appropriation to
24 implement the provision.

25 SECTION 6.19. This article takes effect September 1, 2009.

26 ARTICLE 7. EFFECTIVE DATE

27 SECTION 7.01. Except as otherwise provided by this Act,
28 this Act takes effect September 1, 2009.

29
30 H.B. No. 1843
31
32
33
34

35 AN ACT

36 relating to the disposition of cash in possession of a deceased
37 pauper.

38 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

39 SECTION 1. Section 694.002, Health and Safety Code, is
40 amended by adding Subsections (c), (d), and (e) to read as
41 follows:

42 (c) If a county discovers cash in the possession of a
43 deceased pauper, a county may use the cash to pay the actual
44 costs incurred by the county in disposing of the pauper's body.

45 (d) If any cash remains after the county has paid the
46 costs of disposing of the body under Subsection (c), the county
47 shall place the cash in trust. A person having a claim to the

1 money in trust must exercise the right to collect the money not
2 later than the first anniversary of the date of disposition of
3 the pauper's body.

4 (e) A county may create a fund to be used by the county to
5 pay the costs incurred in disposing of the bodies of deceased
6 paupers and administering the county's body disposition
7 activities. If money placed in a trust under Subsection (d) is
8 not claimed by the first anniversary of the date of disposition
9 of the pauper's body, the county may transfer the money to the
10 fund created under this subsection.

11 SECTION 2. This Act takes effect immediately if it
12 receives a vote of two-thirds of all the members elected to each
13 house, as provided by Section 39, Article III, Texas
14 Constitution. If this Act does not receive the vote necessary
15 for immediate effect, this Act takes effect September 1, 2009.

16
17 H.B. No. 1871
18
19
20
21

22 AN ACT

23 relating to the use of Texas Department of Transportation
24 facilities or property to serve a project aiding security in a
25 ship channel security district.

26 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

27 SECTION 1. Subchapter B, Chapter 68, Water Code, is
28 amended by adding Section 68.053 to read as follows:

29 Sec. 68.053. USE OF CERTAIN DEPARTMENT OF TRANSPORTATION
30 PROPERTY FOR SHIP CHANNEL SECURITY. (a) In this section,
31 "department" means the Texas Department of Transportation.

32 (b) Use of the department's facilities or property to
33 serve a project aiding security in a ship channel security
34 district created under this chapter serves a transportation
35 purpose. A ship channel security district or a county whose
36 commissioners court has created a ship channel security district
37 may enter into an agreement with the department to provide for
38 use of the department's facilities or property to aid security
39 in the district.

40 (c) A county that has entered into an agreement with the
41 department for use of the department's fiber optic network for
42 transportation purposes may use the fiber optic network to serve
43 a project aiding security in a ship channel security district
44 created under this chapter in the same manner as other
45 transportation purposes unless the agreement precludes the use
46 of the fiber optic network for that purpose.

47 SECTION 2. This Act takes effect immediately if it

1 receives a vote of two-thirds of all the members elected to each
2 house, as provided by Section 39, Article III, Texas
3 Constitution. If this Act does not receive the vote necessary
4 for immediate effect, this Act takes effect September 1, 2009.
5 H.B. No. 1914

6
7
8
9
10 AN ACT

11 relating to abolishing the Private Sector Prison Industries
12 Oversight Authority and to the certification and operation of
13 private sector prison industries programs.

14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

15 SECTION 1. Chapter 492, Government Code, is amended by
16 adding Section 492.0011 to read as follows:

17 Sec. 492.0011. PRIVATE SECTOR PRISON INDUSTRIES PROGRAM
18 MANAGEMENT. (a) The board shall approve, certify, and
19 supervise private sector prison industries programs operated by
20 the department, the Texas Youth Commission, and county
21 correctional facilities in accordance with Subchapter C, Chapter
22 497.

23 (b) This section does not authorize the board to direct
24 the general operations of or to govern the Texas Youth
25 Commission or county correctional facilities in any manner not
26 specifically described by Subsection (a).

27 SECTION 2. Sections 492.003(a) and (c), Government Code,
28 are amended to read as follows:

29 (a) Each member of the board must be representative of the
30 general public. A person is not eligible for appointment as a
31 member if the person or the person's spouse:

32 (1) is a person, other than a judge participating in
33 the management of a community supervision and corrections
34 department, who is employed by or participates in the management
35 of a business entity or other organization regulated by the
36 department or receiving funds from the department;

37 (2) owns, or controls directly or indirectly, more
38 than a 10 percent interest in a business entity or other
39 organization regulated by the department or receiving funds from
40 the department, including an entity or organization with which
41 the department contracts under Subchapter C, Chapter 497; ~~[or]~~

42 (3) uses or receives a substantial amount of tangible
43 goods, services, or funds from the department, other than
44 compensation or reimbursement authorized by law for board
45 membership, attendance, or expenses; or

46 (4) owns, controls directly or indirectly, or is
47 employed by a business entity or other organization with which

1 the department contracts concerning a private sector prison
2 industries program approved and certified by the board under
3 Subchapter C, Chapter 497.

4 (c) A person may not be a member of the board and may not
5 be a department employee employed in a "bona fide executive,
6 administrative, or professional capacity," as that phrase is
7 used for purposes of establishing an exemption to the overtime
8 provisions of the federal Fair Labor Standards Act of 1938 (29
9 U.S.C. Section 201 et seq.) and its subsequent amendments, if:

10 (1) the person is an officer, employee, or paid
11 consultant of a Texas trade association in the field of criminal
12 justice or private sector prison industries; or

13 (2) the person's spouse is an officer, manager, or
14 paid consultant of a Texas trade association in the field of
15 criminal justice or private sector prison industries.

16 SECTION 3. Section 492.0031, Government Code, is amended
17 by adding Subsections (b-1) and (d) to read as follows:

18 (b-1) In addition to the information described by
19 Subsection (b), the training program must provide the person
20 with information regarding:

21 (1) the legislative history of Subchapter C, Chapter
22 497;

23 (2) the history and operation of programs under that
24 subchapter; and

25 (3) any applicable federal law concerning the
26 operation or certification of a program under that subchapter.

27 (d) A person who is a member of the board on September 1,
28 2009, shall complete the training described by Subsection (b-1)
29 not later than January 1, 2010. This subsection expires
30 September 1, 2011.

31 SECTION 4. Section 497.004(a), Government Code, is amended
32 to read as follows:

33 (a) The board may develop by rule and the department may
34 administer an incentive pay scale for work program participants
35 consistent with rules adopted by the board [~~Private Sector~~
36 ~~Prison Industries Oversight Authority~~] under Subchapter C.
37 Prison industries may be financed through contributions donated
38 for this purpose by private businesses contracting with the
39 department. The department shall apportion pay earned by a work
40 program participant in the same manner as is required by rules
41 adopted by the board [~~Private Sector Prison Industries Oversight~~
42 ~~Authority~~] under Section 497.0581.

43 SECTION 5. Section 497.006(c), Government Code, is amended
44 to read as follows:

45 (c) A contract for the provision of services under this
46 section must:

47 (1) be certified by the board [~~Private Sector Prison~~

1 ~~Industries Oversight Authority]~~ as complying with all
2 requirements of the Private Sector/Prison Industry Enhancement
3 Certification Program operated by the Bureau of Justice
4 Assistance and authorized by 18 U.S.C. Section 1761, other than
5 a requirement relating to the payment of prevailing wages, so
6 long as the contract requires payment of not less than the
7 federal minimum wage;

8 (2) be certified by the board ~~[authority]~~, under
9 rules adopted under Section 497.059, that the contract would not
10 cause the loss of existing jobs of a specific type provided by
11 any employer ~~[the contracting party]~~ in this state; and

12 (3) be approved by the board.

13 SECTION 6. The heading to Subchapter C, Chapter 497,
14 Government Code, is amended to read as follows:

15 SUBCHAPTER C. PRIVATE SECTOR PRISON INDUSTRIES PROGRAMS
16 ~~[OVERSIGHT AUTHORITY]~~

17 SECTION 7. Section 497.051, Government Code, is amended to
18 read as follows:

19 Sec. 497.051. PURPOSE; DEFINITIONS ~~[DEFINITION]~~. (a) The
20 board shall ~~[Private Sector Prison Industries Oversight~~
21 ~~Authority is created to]~~ approve, certify, and supervise
22 ~~[oversee]~~ the operation of private sector prison industries
23 programs in the department, the Texas Youth Commission, and in
24 county correctional facilities in compliance with the federal
25 prison enhancement certification program established under 18
26 U.S.C. Section 1761. The board may use board and department
27 employees to ~~[executive director shall]~~ provide the ~~[authority~~
28 ~~with]~~ clerical and technical support ~~[as]~~ necessary for the
29 board ~~[authority]~~ to perform the board's duties under ~~[imposed~~
30 ~~on the authority by]~~ this subchapter and shall ensure that the
31 department implements the policies adopted by the board
32 ~~[authority]~~ that relate to the operation of private sector
33 prison industries programs.

34 (a-1) The board shall ensure that private sector prison
35 industries programs are operated under this subchapter in a
36 manner that is designed to avoid the loss of existing jobs for
37 employees in this state who are not incarcerated or imprisoned.

38 (b) In this subchapter:

39 (1) "Governmental entity" means the department, the
40 Texas Youth Commission, and any county that operates a private
41 sector prison industries program under this subchapter.
42 ~~["Authority" means the Private Sector Prison Industries~~
43 ~~Oversight Authority.]~~

44 (2) "Participant" means a participant in a private
45 sector prison industries program.

46 (c) This subchapter does not authorize the board to direct
47 the general operations of or to govern the Texas Youth

1 Commission or county correctional facilities in any manner not
2 specifically described by Subsection (a).

3 SECTION 8. Section 497.0527, Government Code, is amended
4 to read as follows:

5 Sec. 497.0527. COMPLAINTS. (a) The board [authority]
6 shall maintain a file on each written complaint filed with the
7 board in relation to a private sector prison industries program
8 [authority]. The file must include:

9 (1) the name of the person who filed the complaint;

10 (2) the date the complaint is received by the board
11 [authority];

12 (3) the subject matter of the complaint;

13 (4) the name of each person contacted in relation to
14 the complaint;

15 (5) a summary of the results of the review or
16 investigation of the complaint; and

17 (6) an explanation of the reason the file was closed,
18 if the board [authority] closed the file without taking action
19 other than to investigate the complaint.

20 (b) The board [authority] shall provide to the person
21 filing the complaint and to each person who is a subject of the
22 complaint a copy of the board's [authority's] policies and
23 procedures relating to complaint investigation and resolution.

24 (c) The board [authority], at least quarterly until final
25 disposition of the complaint, shall notify the person filing the
26 complaint and each person who is a subject of the complaint of
27 the status of the investigation, unless the notice would
28 jeopardize an undercover investigation.

29 SECTION 9. The heading to Section 497.056, Government
30 Code, is amended to read as follows:

31 Sec. 497.056. PRIVATE SECTOR PRISON INDUSTRIES [~~EXPANSION~~]
32 ACCOUNT.

33 SECTION 10. Sections 497.056(b) and (c), Government Code,
34 are amended to read as follows:

35 (b) ~~The [To construct more facilities and increase the~~
36 ~~number of participants, the]~~ private sector prison industry
37 ~~[expansion]~~ account is created as an account in the general
38 revenue fund. Money in the account may be appropriated only to:

39 (1) ~~[construct work facilities,]~~ recruit corporations
40 to participate as private sector industries programs;

41 (2) ~~[, and]~~ pay costs of the board [authority] and
42 department in implementing this subchapter, including the cost
43 to the department in reimbursing board [authority] members ~~[and~~
44 ~~the employer liaison]~~ for expenses; and

45 (3) pay costs associated with the storage of
46 evidence:

47 (A) containing biological material and used in

1 the prosecution and conviction of an offense; or

2 (B) of a sexual assault or other sex offense.

3 (c) On each certification by the department that an amount
4 has been deposited to the credit of the general revenue fund
5 from deductions from participants' wages under Section 497.0581,
6 the comptroller shall transfer an equivalent amount from the
7 general revenue fund to the private sector prison industry
8 ~~[expansion]~~ account, until the balance in the account is \$1 ~~[\$2]~~
9 million. The balance of the account may not exceed \$1 million
10 ~~[On a certification occurring when the balance in the account is~~
11 ~~more than \$2 million, the comptroller shall transfer to the~~
12 ~~account an amount equal to one-half of the amount deposited to~~
13 ~~the credit of the general revenue fund from deductions from~~
14 ~~participants' wages].~~

15 SECTION 11. Section 497.057, Government Code, is amended
16 to read as follows:

17 Sec. 497.057. RULES. The board ~~[authority]~~ shall adopt
18 rules as necessary to ensure that the private sector prison
19 industries program authorized by this subchapter is in
20 compliance with the federal prison enhancement certification
21 program established under 18 U.S.C. Section 1761.

22 SECTION 12. Section 497.058(a), Government Code, is
23 amended to read as follows:

24 (a) The board ~~[authority]~~ by rule shall require that
25 participants at each private sector prison industries program be
26 paid not less than the prison industry enhancement certification
27 program (PIECP) wage as computed by the Texas Workforce
28 Commission, except that:

29 (1) the board ~~[authority]~~ may permit employers to pay
30 a participant the federal minimum wage for the two-month period
31 beginning on the date participation begins; and

32 (2) the minimum wage for participants committed to
33 ~~[under the supervision of]~~ the Texas Youth Commission, because
34 of the age of the participants and the extensive training
35 component of their employment, is the federal minimum wage.

36 SECTION 13. Section 497.0581, Government Code, is amended
37 to read as follows:

38 Sec. 497.0581. PARTICIPANT CONTRIBUTIONS; ASSISTANCE
39 ACCOUNT. (a) The board ~~[authority]~~ by rule shall determine the
40 amount of deductions to be taken from wages received by the
41 participant under this subchapter and the disbursement of those
42 deductions. The board ~~[authority]~~ may establish deductions for
43 participants committed to ~~[under the supervision of]~~ the Texas
44 Youth Commission that are different than deductions established
45 for other participants in the program. In determining the
46 amount of deductions under this section, the board ~~[authority]~~
47 shall ensure that the deductions do not place the private sector

1 prison industries programs in the department in noncompliance
2 with the federal prison enhancement certification program
3 established under 18 U.S.C. Section 1761.

4 (b) The private sector prison industry crime victims
5 assistance account is created as an account in the general
6 revenue fund. Money in the account may be appropriated only to
7 the board [authority] for the purpose of aiding victims of
8 crime, under rules adopted by the board [authority].

9 SECTION 14. The heading to Section 497.059, Government
10 Code, is amended to read as follows:

11 Sec. 497.059. LIMITING IMPACT OF CERTIFICATION ON NON-
12 PRISON INDUSTRY.

13 SECTION 15. Sections 497.059(a) and (b), Government Code,
14 are amended to read as follows:

15 (a) The board [authority] may not grant initial
16 certification to a private sector prison industries program if
17 the board [authority] determines that the operation of the
18 program would result in the loss of existing jobs provided by
19 any [the] employer in this state.

20 (b) The board [authority] shall adopt rules to determine
21 whether a program would cause the loss of existing jobs of a
22 specific type provided by an [the] employer in this state.

23 SECTION 16. Subchapter C, Chapter 497, Government Code, is
24 amended by adding Sections 497.0595 and 497.0596 to read as
25 follows:

26 Sec. 497.0595. LIMITATION ON CONTRACTS. (a) A
27 governmental entity may not enter into a contract or renew a
28 contract with an employer for a private sector prison industries
29 program under this subchapter if the board determines that the
30 contract has negatively affected or would negatively affect any
31 employer in this state, including through the loss of existing
32 jobs provided by the employer to employees in this state who are
33 not incarcerated or imprisoned.

34 (b) The board shall adopt rules that establish a procedure
35 to be used in making the determination described by Subsection
36 (a). The procedure must allow an aggrieved employer in this
37 state to submit a sworn statement to the board alleging that the
38 employer has been or would be negatively affected by the
39 contract to be entered into or renewed.

40 (c) For the purposes of this section, a contract does not
41 negatively affect an employer if the only negative effect
42 alleged in a sworn statement by the employer is the loss of
43 existing jobs that, at the time the sworn statement is submitted
44 to the board, are performed by workers in a foreign country.

45 Sec. 497.0596. NOTICE CONCERNING CERTAIN CONTRACTS. (a)
46 Not later than the 60th day before the date a governmental
47 entity intends to enter into a contract with an employer for a

1 private sector prison industries program under this subchapter,
2 the governmental entity shall notify:

3 (1) the state senator and state representative in
4 whose district the program covered by the contract is or will be
5 located;

6 (2) the executive heads of the Texas AFL-CIO, the
7 Texas Association of Manufacturers, the National Federation of
8 Independent Business/Texas, the Texas Association of Business,
9 and the Texas Association of Workforce Boards;

10 (3) the chamber of commerce in any municipality or
11 county in which the program covered by the contract is or will
12 be located; and

13 (4) any employer that employs persons in this state
14 who are not incarcerated or imprisoned and who, as determined
15 under rules adopted by the Texas Workforce Commission to
16 implement this subdivision:

17 (A) perform work in the same job descriptions as
18 participants in the program covered by the contract will
19 perform; or

20 (B) are otherwise engaged in the manufacture of
21 the same or a substantially similar product as will be
22 manufactured under the contract.

23 (b) The notice required by Subsection (a) must include a
24 specific description, in plain language and in an easily
25 readable and understandable format, of any product that will be
26 manufactured under the contract.

27 (c) A governmental entity that provides notice under
28 Subsection (a) may charge the employer with whom the
29 governmental entity intends to enter into the contract for the
30 cost of providing that notice.

31 SECTION 17. Sections 497.060, 497.061, and 497.062,
32 Government Code, are amended to read as follows:

33 Sec. 497.060. WORKERS' COMPENSATION. The board
34 [authority] by rule shall require private sector prison
35 industries program employers to meet or exceed all federal
36 requirements for providing compensation to participants injured
37 while working.

38 Sec. 497.061. RECIDIVISM STUDIES. The board [authority,
39 with the cooperation of the Criminal Justice Policy Council,
40 shall gather data to determine whether participation in a
41 private sector prison industries program is a factor that
42 reduces recidivism among participants.

43 Sec. 497.062. LIMITATION ON NUMBER OF PARTICIPANTS AND
44 COST ACCOUNTING CENTERS[; GOALS]. (a) The board [authority]
45 may certify [any number of] private sector prison industries
46 programs that meet or exceed the requirements of federal law and
47 the rules of the board. Except as provided by Subsection (b),

1 the board may not allow [authority, but in no event may the
2 authority permit] more than 750 [5,000] participants in the
3 program at any one time or authorize the operation of more than
4 11 cost accounting centers at any one time.

5 (b) The board may allow more than 750 participants in the
6 program at one time on a temporary basis if:

7 (1) an employer that operates a private sector prison
8 industries program requests in writing that the board
9 temporarily allow more than 750 participants in the program; and

10 (2) the board determines that there is good cause to
11 temporarily allow more than 750 participants in the program
12 [authority shall establish as a goal that the program have at
13 least 1,800 participants by January 1, 2006].

14 SECTION 18. Subchapter C, Chapter 497, Government Code, is
15 amended by adding Sections 497.063 and 497.064 to read as
16 follows:

17 Sec. 497.063. CONTRACT REQUIREMENTS. (a) The board shall
18 adopt rules requiring a contract entered into by a governmental
19 entity concerning a private sector prison industries program
20 operated under this subchapter to:

21 (1) include specific job descriptions for any work
22 that will be performed by participants under the contract;

23 (2) include a specific description, in plain language
24 and in an easily readable and understandable format, of any
25 product that will be manufactured under the contract; and

26 (3) charge a private sector prison industries
27 employer or other participating entity the fair market value for
28 the lease of any property owned by the governmental entity and
29 leased to the employer or entity under the contract.

30 (b) For the purposes of Subsection (a), "fair market
31 value" means an amount or rate that is equal to or greater than
32 the average amount or rate paid by the state for the lease of
33 substantially similar property.

34 Sec. 497.064. AVAILABILITY OF CERTAIN INFORMATION ON
35 INTERNET. The board shall make the following information
36 available on any publicly accessible Internet website that is
37 maintained by the board and contains any information concerning
38 the private sector prison industries programs operated under
39 this subchapter:

40 (1) a copy of each current contract entered into by a
41 governmental entity;

42 (2) a list of hourly wages paid to participants under
43 each contract described by Subdivision (1); and

44 (3) minutes of any meeting of the board in which the
45 board discusses or takes action concerning:

46 (A) the board's powers and duties under this
47 subchapter; or

1 (B) one or more private sector prison industries
2 programs operated under this subchapter.

3 SECTION 19. Subchapter A, Chapter 302, Labor Code, is
4 amended by adding Section 302.016 to read as follows:

5 Sec. 302.016. RULES REGARDING PRIVATE SECTOR PRISON
6 INDUSTRIES PROGRAMS. The commission shall adopt rules necessary
7 to implement Section 497.0596(a)(4), Government Code.

8 SECTION 20. Sections 497.009, 497.052, 497.0521, 497.0522,
9 497.0523, 497.0524, 497.0525, 497.0526, 497.053, 497.054, and
10 497.055, Government Code, are repealed.

11 SECTION 21. (a) On the date on which the Texas Board of
12 Criminal Justice is designated as the certificate holder for
13 this state by the Bureau of Justice Assistance, the Private
14 Sector Prison Industries Oversight Authority is abolished and
15 all powers, duties, obligations, rights, contracts,
16 appropriations, records, real or personal property, and
17 personnel of the Private Sector Prison Industries Oversight
18 Authority are transferred to the Texas Board of Criminal Justice
19 in accordance with Subchapter C, Chapter 497, Government Code,
20 as amended by this Act. Notwithstanding any other provision of
21 this Act, before the date on which the Texas Board of Criminal
22 Justice is designated as the certificate holder for this state
23 by the Bureau of Justice Assistance, the Private Sector Prison
24 Industries Oversight Authority shall continue to fulfill all
25 duties and exercise all powers given to the authority under
26 Subchapter C, Chapter 497, Government Code, as that law existed
27 immediately before the effective date of this Act, and the
28 former law is continued in effect for that purpose.

29 (b) A rule, policy, procedure, or decision of the Private
30 Sector Prison Industries Oversight Authority continues in effect
31 as a rule, policy, procedure, or decision of the Texas Board of
32 Criminal Justice until repealed or otherwise superseded by an
33 act of the board.

34 (c) On or after the date on which the Texas Board of
35 Criminal Justice is designated as the certificate holder for
36 this state by the Bureau of Justice Assistance, a reference in
37 law to the Private Sector Prison Industries Oversight Authority
38 means the Texas Board of Criminal Justice.

39 SECTION 22. (a) Except as provided by Section
40 492.0031(d), Government Code, as added by this Act, Sections
41 492.003(c) and 492.0031(b-1), Government Code, as amended by
42 this Act, apply only to a member of the Texas Board of Criminal
43 Justice who is appointed on or after the effective date of this
44 Act. Except as provided by Section 492.0031(d), Government
45 Code, as added by this Act, a member who is appointed to the
46 board before the effective date of this Act is governed by the
47 law in effect when the member was appointed, and the former law

1 is continued in effect for that purpose.

2 (b) As soon as practicable after the effective date of
3 this Act and not later than January 1, 2010, the Texas Workforce
4 Commission shall adopt rules as required by Section 302.016,
5 Labor Code, as added by this Act.

6 (c) Section 497.051(a-1), Government Code, as added by
7 this Act, applies only to the operation of a private sector
8 prison industries program that is certified on or after the
9 effective date of this Act or to a private sector prison
10 industries program that was certified before the effective date
11 of this Act but is not in operation on the effective date of
12 this Act. Section 497.051(a-1), Government Code, as added by
13 this Act, does not apply to the operation of a private sector
14 prison industries program that was certified before the
15 effective date of this Act and is in operation on the effective
16 date of this Act. The operation of that program is governed by
17 the law in effect when the program was certified, and the former
18 law is continued in effect for that purpose.

19 (d) Section 497.059, Government Code, as amended by this
20 Act, applies only to the certification of a private sector
21 prison industries program that occurs on or after the effective
22 date of this Act. The certification of a private sector prison
23 industries program that occurs before the effective date of this
24 Act is governed by the law in effect when the program was
25 certified, and the former law is continued in effect for that
26 purpose.

27 (e) Sections 497.0595 and 497.0596, Government Code, as
28 added by this Act, apply only to a contract that is entered into
29 or renewed in connection with a private sector prison industries
30 program that is certified on or after the effective date of this
31 Act or a private sector prison industries program that was
32 certified before the effective date of this Act but is not in
33 operation on the effective date of this Act. A contract that is
34 entered into or renewed in connection with a private sector
35 prison industries program that was certified before the
36 effective date of this Act and is in operation on the effective
37 date of this Act is governed by the law in effect when the
38 program was certified, and the former law is continued in effect
39 for that purpose.

40 (f) A rule adopted by the Texas Board of Criminal Justice
41 under Section 497.063, Government Code, as added by this Act,
42 applies only to a contract in connection with a private sector
43 prison industries program that is certified on or after the
44 effective date of this Act or to a contract in connection with a
45 private sector prison industries program that was certified
46 before the effective date of this Act but is not in operation on
47 the effective date of this Act.

1 SECTION 23. This Act does not make an appropriation. A
2 provision in this Act that creates a new governmental program,
3 creates a new entitlement, or imposes a new duty on a
4 governmental entity is not mandatory unless a specific
5 appropriation has been made to implement the provision or it is
6 determined by the agency that the provisions imposed by this Act
7 may be absorbed within agency resources during the fiscal period
8 without additional state funding.

9 SECTION 24. This Act takes effect immediately if it
10 receives a vote of two-thirds of all the members elected to each
11 house, as provided by Section 39, Article III, Texas
12 Constitution. If this Act does not receive the vote necessary
13 for immediate effect, this Act takes effect September 1, 2009.

14
15 H.B. No. 1960
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20 AN ACT

21 relating to the payment for an appearance as a witness for
22 certain peace officers and firefighters.

23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

24 SECTION 1. The heading to Section 142.009, Local
25 Government Code, is amended to read as follows:

26 Sec. 142.009. PAYMENT FOR [COURT] APPEARANCES OF FIRE
27 FIGHTERS AND POLICE OFFICERS IN COURT OR ADMINISTRATIVE
28 PROCEEDINGS.

29 SECTION 2. Section 142.009(a), Local Government Code, is
30 amended to read as follows:

31 (a) A municipality shall pay a fire fighter or police
32 officer for an appearance as a witness in a criminal suit, ~~[or]~~
33 a civil suit, or an administrative proceeding in which the
34 municipality or other political subdivision or government agency
35 is a party in interest if the appearance:

36 (1) is required;

37 (2) is made on time off; and

38 (3) is made by the fire fighter or police officer in
39 the capacity of a fire fighter or police officer.

40 SECTION 3. Subchapter Z, Chapter 157, Local Government
41 Code, is amended by adding Section 157.906 to read as follows:

42 Sec. 157.906. PAYMENT FOR APPEARANCES OF PEACE OFFICERS
43 EMPLOYED BY COUNTY IN COURT OR ADMINISTRATIVE PROCEEDINGS. (a)
44 A county shall pay a peace officer employed by the county for an
45 appearance as a witness in a criminal suit, a civil suit, or an
46 administrative proceeding in which the county or other political
47 subdivision or government agency is a party in interest if the

1 appearance:

2 (1) is required;

3 (2) is made on time off; and

4 (3) is made by the peace officer in the capacity of a
5 peace officer.

6 (b) Payment under this section is at the peace officer's
7 regular rate of pay.

8 (c) Payment under this section may be taxed as court costs
9 in civil suits.

10 (d) This section does not reduce or prohibit compensation
11 paid in excess of the regular rate of pay.

12 SECTION 4. This Act takes effect immediately if it
13 receives a vote of two-thirds of all the members elected to each
14 house, as provided by Section 39, Article III, Texas
15 Constitution. If this Act does not receive the vote necessary
16 for immediate effect, this Act takes effect September 1, 2009.

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18 H.B. No. 1985
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23 AN ACT

24 relating to the requirement that certain defendants in a
25 criminal case undergo testing for HIV infection and other
26 diseases.

27 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

28 SECTION 1. Article 21.31, Code of Criminal Procedure, is
29 amended by amending Subsections (a), (b), and (c) and adding
30 Subsections (a-1) and (b-1) to read as follows:

31 (a) A person who is indicted for or who waives indictment
32 for an offense under Section 21.02, 21.11(a)(1), 22.011, or
33 22.021, Penal Code, shall, at the direction of the court on the
34 court's own motion or on the request of the victim of the
35 alleged offense, undergo a standard diagnostic test approved by
36 the United States Food and Drug Administration for human
37 immunodeficiency virus (HIV) infection and other sexually
38 transmitted diseases [medical procedure or test designed to show
39 or help show whether the person has a sexually transmitted
40 disease or has acquired immune deficiency syndrome (AIDS) or
41 human immunodeficiency virus (HIV) infection, antibodies to HIV,
42 or infection with any other probable causative agent of AIDS.
43 The court may direct the person to undergo the procedure or test
44 on its own motion or on the request of the victim of the alleged
45 offense]. If the person refuses to submit voluntarily to the
46 [procedure or] test, the court shall require the person to
47 submit to the [procedure or] test. On request of the victim of

1 the alleged offense, the court shall order the defendant to
2 undergo the test not later than 48 hours after an indictment for
3 the offense is presented against the defendant or the defendant
4 waives indictment. Except as provided by Subsection (b-1), the
5 [The] court may require a defendant previously required under
6 this article to undergo a diagnostic [~~medical procedure or~~] test
7 on indictment for an offense to undergo a subsequent [~~medical~~
8 ~~procedure or~~] test only after [~~following~~] conviction of the
9 offense. A [The] person performing a [~~the procedure or~~] test
10 under this subsection shall make the test results available to
11 the local health authority, and the local health authority shall
12 be required to make the notification of the test results
13 [~~result~~] to the victim of the alleged offense and to the
14 defendant.

15 (a-1) If the victim requests the testing of the defendant
16 and a law enforcement agency is unable to locate the defendant
17 during the 48-hour period allowed for that testing under
18 Subsection (a), the running of the 48-hour period is tolled
19 until the law enforcement agency locates the defendant and the
20 defendant is present in the jurisdiction.

21 (b) The court shall order a person who is charged with an
22 offense under Section 22.11, Penal Code, to undergo in the
23 manner provided by Subsection (a) a diagnostic [~~medical~~
24 ~~procedure or~~] test designed to show or help show whether the
25 person has HIV, hepatitis A, hepatitis B, tuberculosis, or any
26 other disease designated as a reportable disease under Section
27 81.048, Health and Safety Code. The person charged with the
28 offense shall pay the costs of testing under this subsection.

29 (b-1) If the results of a diagnostic test conducted under
30 Subsection (a) or (b) are positive for HIV, the court shall
31 order the defendant to undergo any necessary additional testing
32 within a reasonable time after the test results are released.

33 (c) The state may not use the fact that a [~~medical~~
34 ~~procedure or~~] test was performed on a person under Subsection
35 (a) or use the results of a [~~procedure or~~] test conducted under
36 Subsection (a) in any criminal proceeding arising out of the
37 alleged offense.

38 SECTION 2. The change in law made by this Act applies only
39 to an offense committed on or after the effective date of this
40 Act. An offense committed before the effective date of this Act
41 is covered by the law in effect when the offense was committed,
42 and the former law is continued in effect for that purpose. For
43 purposes of this section, an offense was committed before the
44 effective date of this Act if any element of the offense
45 occurred before that date.

46 SECTION 3. This Act takes effect September 1, 2009.

47

6 AN ACT

7 relating to temporary housing and emergency shelters provided by
8 a political subdivision for disaster victims.

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

10 SECTION 1. Section 418.004, Government Code, is amended by
11 adding Subdivision (6-a) to read as follows:

12 (6-a) "Public facility" has the meaning assigned by
13 Section 102, Robert T. Stafford Disaster Relief and Emergency
14 Assistance Act (42 U.S.C. Section 5122).

15 SECTION 2. Section 418.020, Government Code, is amended to
16 read as follows:

17 Sec. 418.020. TEMPORARY HOUSING AND EMERGENCY SHELTER.

18 (a) The governor may enter into purchase, lease, or other
19 arrangements with an agency of the United States for temporary
20 housing units to be occupied by disaster victims and may make
21 units available to any political subdivision.

22 (b) The governor may assist a political subdivision that
23 is the locus of temporary housing or emergency shelters for
24 disaster victims to acquire sites necessary for temporary
25 housing or emergency shelters and to do all things required to
26 prepare the sites to receive and use temporary housing units or
27 emergency shelters by:

28 (1) advancing or lending funds available to the
29 governor from any appropriation made by the legislature or from
30 any other source;

31 (2) allocating funds made available by a public or
32 private agency; or

33 (3) becoming a copartner with the political
34 subdivision for the execution and performance of any temporary
35 housing or emergency shelter project for disaster victims.

36 (c) Under regulations prescribed by the governor, the
37 governor may temporarily suspend or modify for a period of not
38 more than 60 days any public health, safety, zoning, intrastate
39 transportation, or other law or regulation if by proclamation
40 the governor considers the suspension or modification essential
41 to provide temporary housing or emergency shelter for disaster
42 victims.

43 (d) Any political subdivision may temporarily or
44 permanently acquire by lease, purchase, or other means sites
45 required for installation of temporary housing units or
46 emergency shelters for disaster victims and may enter into
47 arrangements necessary to prepare or equip the sites to use the

1 housing units or shelters, including arrangements for the
2 purchase of temporary housing units or shelters and the payment
3 of transportation charges.

4 (e) A political subdivision that is the locus of temporary
5 housing or emergency shelters for persons moved or evacuated by
6 recommendation or order of the governor may be assisted by any
7 resource available to the state, including the disaster
8 contingency fund, to ensure the political subdivision receives
9 an advance or reimbursement:

10 (1) of all expenses, including lost revenue, incurred
11 by the political subdivision associated with the use of public
12 facilities for temporary housing or emergency shelters; and

13 (2) of the amounts paid for salaries and benefits of
14 permanently employed, straight-time and regular-time personnel
15 of the political subdivision who perform duties associated with
16 the movement or evacuation of persons into, out of, or through
17 the political subdivision.

18 SECTION 3. This Act takes effect September 1, 2009.

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20 H.B. No. 2002
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25 AN ACT

26 relating to a right of a close relative to seek expunction of
27 arrest records and files on behalf of a deceased person.

28 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

29 SECTION 1. Chapter 55, Code of Criminal Procedure, is
30 amended by adding Article 55.011 to read as follows:

31 Art. 55.011. RIGHT OF CLOSE RELATIVE TO SEEK EXPUNCTION ON
32 BEHALF OF DECEASED PERSON. (a) In this article, "close
33 relative of a deceased person" means the grandparent, parent,
34 spouse, or adult brother, sister, or child of a deceased person.

35 (b) A close relative of a deceased person who, if not
36 deceased, would be entitled to expunction of records and files
37 under Article 55.01 may file on behalf of the deceased person an
38 ex parte petition for expunction under Section 2 or 2a, Article
39 55.02. If the court finds that the deceased person would be
40 entitled to expunction of any record or file that is the subject
41 of the petition, the court shall enter an order directing
42 expunction.

43 SECTION 2. This Act takes effect immediately if it
44 receives a vote of two-thirds of all the members elected to each
45 house, as provided by Section 39, Article III, Texas
46 Constitution. If this Act does not receive the vote necessary
47 for immediate effect, this Act takes effect September 1, 2009.

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6 AN ACT

7 relating to the creation of the offense of online harassment.

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

9 SECTION 1. Chapter 33, Penal Code, is amended by adding
10 Section 33.07 to read as follows:

11 Sec. 33.07. ONLINE HARASSMENT. (a) A person commits an
12 offense if the person uses the name or persona of another person
13 to create a web page on or to post one or more messages on a
14 commercial social networking site:

15 (1) without obtaining the other person's consent; and

16 (2) with the intent to harm, defraud, intimidate, or
17 threaten any person.

18 (b) A person commits an offense if the person sends an
19 electronic mail, instant message, text message, or similar
20 communication that references a name, domain address, phone
21 number, or other item of identifying information belonging to
22 any person:

23 (1) without obtaining the other person's consent;

24 (2) with the intent to cause a recipient of the
25 communication to reasonably believe that the other person
26 authorized or transmitted the communication; and

27 (3) with the intent to harm or defraud any person.

28 (c) An offense under Subsection (a) is a felony of the
29 third degree. An offense under Subsection (b) is a Class A
30 misdemeanor, except that the offense is a felony of the third
31 degree if the actor commits the offense with the intent to
32 solicit a response by emergency personnel.

33 (d) If conduct that constitutes an offense under this
34 section also constitutes an offense under any other law, the
35 actor may be prosecuted under this section, the other law, or
36 both.

37 (e) It is a defense to prosecution under this section that
38 the actor is any of the following entities or that the actor's
39 conduct consisted solely of action taken as an employee of any
40 of the following entities:

41 (1) a commercial social networking site;

42 (2) an Internet service provider;

43 (3) an interactive computer service, as defined by 47
44 U.S.C. Section 230;

45 (4) a telecommunications provider, as defined by
46 Section 51.002, Utilities Code; or

47 (5) a video service provider or cable service

1 provider, as defined by Section 66.002, Utilities Code.

2 (f) In this section:

3 (1) "Commercial social networking site" means any
4 business, organization, or other similar entity operating a
5 website that permits persons to become registered users for the
6 purpose of establishing personal relationships with other users
7 through direct or real-time communication with other users or
8 the creation of web pages or profiles available to the public or
9 to other users. The term does not include an electronic mail
10 program or a message board program.

11 (2) "Identifying information" has the meaning
12 assigned by Section 32.51.

13 SECTION 2. This Act takes effect September 1, 2009.

14
15 H.B. No. 2004
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20 AN ACT

21 relating to a breach of computer security involving sensitive
22 personal information and to the protection of sensitive personal
23 information and certain protected health information.

24 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

25 SECTION 1. Section 521.002(a)(2), Business & Commerce
26 Code, as effective April 1, 2009, is amended to read as follows:

27 (2) "Sensitive personal information" means, subject
28 to Subsection (b):

29 (A) [~~7~~] an individual's first name or first
30 initial and last name in combination with any one or more of the
31 following items, if the name and the items are not encrypted:

32 (i) [~~A~~] social security number;
33 (ii) [~~B~~] driver's license number or
34 government-issued identification number; or
35 (iii) [~~C~~] account number or credit or
36 debit card number in combination with any required security
37 code, access code, or password that would permit access to an
38 individual's financial account; or

39 (B) information that identifies an individual
40 and relates to:

41 (i) the physical or mental health or
42 condition of the individual;

43 (ii) the provision of health care to the
44 individual; or

45 (iii) payment for the provision of health
46 care to the individual.

47 SECTION 2. Section 521.052, Business & Commerce Code, is

1 amended by adding Subsection (d) to read as follows:

2 (d) As used in this section, "business" includes a
3 nonprofit athletic or sports association.

4 SECTION 3. Section 521.053(a), Business & Commerce Code,
5 as effective April 1, 2009, is amended to read as follows:

6 (a) In this section, "breach of system security" means
7 unauthorized acquisition of computerized data that compromises
8 the security, confidentiality, or integrity of sensitive
9 personal information maintained by a person, including data that
10 is encrypted if the person accessing the data has the key
11 required to decrypt the data. Good faith acquisition of
12 sensitive personal information by an employee or agent of the
13 person for the purposes of the person is not a breach of system
14 security unless the person uses or discloses the sensitive
15 personal information in an unauthorized manner.

16 SECTION 4. Subchapter F, Chapter 2054, Government Code, is
17 amended by adding Section 2054.1125 to read as follows:

18 Sec. 2054.1125. SECURITY BREACH NOTIFICATION BY STATE
19 AGENCY. (a) In this section:

20 (1) "Breach of system security" has the meaning
21 assigned by Section 521.053, Business & Commerce Code.

22 (2) "Sensitive personal information" has the meaning
23 assigned by Section 521.002, Business & Commerce Code.

24 (b) A state agency that owns, licenses, or maintains
25 computerized data that includes sensitive personal information
26 shall comply, in the event of a breach of system security, with
27 the notification requirements of Section 521.053, Business &
28 Commerce Code, to the same extent as a person who conducts
29 business in this state.

30 SECTION 5. Subchapter A, Chapter 181, Health and Safety
31 Code, is amended by adding Section 181.006 to read as follows:

32 Sec. 181.006. PROTECTED HEALTH INFORMATION NOT PUBLIC. For
33 a covered entity that is a governmental unit, an individual's
34 protected health information:

35 (1) includes any information that reflects that an
36 individual received health care from the covered entity; and

37 (2) is not public information and is not subject to
38 disclosure under Chapter 552, Government Code.

39 SECTION 6. Chapter 205, Local Government Code, is amended
40 by adding Section 205.010 to read as follows:

41 Sec. 205.010. SECURITY BREACH NOTIFICATION BY LOCAL
42 GOVERNMENT. (a) In this section:

43 (1) "Breach of system security" has the meaning
44 assigned by Section 521.053, Business & Commerce Code.

45 (2) "Sensitive personal information" has the meaning
46 assigned by Section 521.002, Business & Commerce Code.

47 (b) A local government that owns, licenses, or maintains

1 computerized data that includes sensitive personal information
2 shall comply, in the event of a breach of system security, with
3 the notification requirements of Section 521.053, Business &
4 Commerce Code, to the same extent as a person who conducts
5 business in this state.

6 SECTION 7. The changes in law made by this Act apply only
7 to a breach of system security that occurs on or after the
8 effective date of this Act. A breach of system security that
9 occurs before the effective date of this Act is governed by the
10 law in effect on the date the breach occurred, and the former
11 law is continued in effect for that purpose.

12 SECTION 8. This Act takes effect September 1, 2009.

13
14 H.B. No. 2012
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16
17
18

19 AN ACT

20 relating to the criminal consequences of operating without a
21 valid driver's license a motor vehicle for which financial
22 responsibility is not established.

23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

24 SECTION 1. This Act shall be known as Eric's Law.

25 SECTION 2. Section 521.457, Transportation Code, is
26 amended by amending Subsections (e) and (f) and adding
27 Subsection (f-2) to read as follows:

28 (e) Except as provided by Subsections (f), ~~and~~ (f-1),
29 and (f-2), an offense under this section is a Class C
30 misdemeanor.

31 (f) An offense under this section is a Class B misdemeanor
32 if ~~if~~ it is shown on the trial of the ~~an~~ offense ~~under this~~
33 section] that the person:

34 (1) has previously been convicted of an offense under
35 this section or an offense under Section 601.371(a), as that law
36 existed before September 1, 2003; or

37 (2) at the time of the offense, was operating the
38 motor vehicle in violation of Section 601.191 ~~[, the offense is~~
39 a Class B misdemeanor].

40 (f-2) An offense under this section is a Class A
41 misdemeanor if it is shown on the trial of the offense that at
42 the time of the offense the person was operating the motor
43 vehicle in violation of Section 601.191 and caused or was at
44 fault in a motor vehicle accident that resulted in serious
45 bodily injury to or the death of another person.

46 SECTION 3. The change in law made by this Act applies only
47 to an offense committed on or after the effective date of this

1 Act. An offense committed before the effective date of this Act
2 is governed by the law in effect when the offense was committed,
3 and the former law is continued in effect for that purpose. For
4 the purposes of this section, an offense was committed before
5 the effective date of this Act if any element of the offense was
6 committed before that date.

7 SECTION 4. This Act takes effect September 1, 2009.

8
9 H.B. No. 2020

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14 AN ACT

15 relating to parking privileges for veterans with disabilities.

16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

17 SECTION 1. Sections 681.008(a) and (b), Transportation
18 Code, are amended to read as follows:

19 (a) A vehicle may be parked for an unlimited period in a
20 parking space or area that is designated specifically for
21 persons with physical disabilities if[+]

22 [~~+~~] the vehicle:

23 (1) is being operated by or for the transportation
24 of:

25 (A) the person who registered the vehicle under
26 Section 504.202(a)[+] or

27 [~~B~~] a person described by Section 504.202(b)
28 if the vehicle is registered under that subsection; and

29 (B) displays [~~2~~ there are displayed on the
30 vehicle] special license plates issued under Section 504.202; or

31 (2) displays license plates issued by another state
32 of the United States that indicate on the face of the license
33 plates that the owner or operator of the vehicle is a disabled
34 veteran of the United States armed forces.

35 (b) A vehicle on which license plates described by
36 Subsection (a)(2) or issued under Section 504.202 or Section
37 504.315(c), (d), (e), or (g) are displayed is exempt from the
38 payment of a parking fee collected through a parking meter
39 charged by a governmental authority other than a branch of the
40 federal government, when being operated by or for the
41 transportation of:

42 (1) the person who registered the vehicle under
43 Section 504.202(a) or Section 504.315(c), (d), (e), or (g); [~~or~~]

44 (2) a person described in Section 504.202(b) if the
45 vehicle is registered under that subsection; or

46 (3) the owner or operator of a vehicle displaying
47 license plates described by Subsection (a)(2).

1 SECTION 2. The change in law made by this Act applies only
2 to the standing of a vehicle in a parking space or area
3 designated specifically for persons with physical disabilities
4 on or after the effective date of this Act. The standing of a
5 vehicle in a parking space or area designated specifically for
6 persons with physical disabilities before the effective date of
7 this Act is governed by the law in effect on that date, and the
8 former law is continued in effect for that purpose.

9 SECTION 3. This Act takes effect September 1, 2009.

10
11 H.B. No. 2027
12
13
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15

16 AN ACT

17 relating to adoption of the Revised Uniform Anatomical Gift Act;
18 providing criminal penalties.

19 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

20 SECTION 1. Subtitle B, Title 8, Health and Safety Code, is
21 amended by adding Chapter 692A to read as follows:

22 CHAPTER 692A. REVISED UNIFORM ANATOMICAL GIFT ACT

23 Sec. 692A.001. SHORT TITLE. This chapter may be cited as
24 the Revised Uniform Anatomical Gift Act.

25 Sec. 692A.002. DEFINITIONS. In this chapter:

26 (1) "Adult" means an individual who is at least 18
27 years of age.

28 (2) "Agent" means an individual:

29 (A) authorized to make health care decisions on
30 the principal's behalf by a medical power of attorney; or

31 (B) expressly authorized to make an anatomical
32 gift on the principal's behalf by any other record signed by the
33 principal.

34 (3) "Anatomical gift" means a donation of all or part
35 of a human body to take effect after the donor's death for the
36 purpose of transplantation, therapy, research, or education.

37 (4) "Commissioner" means the commissioner of state
38 health services.

39 (5) "Decedent" means a deceased individual whose body
40 or part is or may be the source of an anatomical gift. The term
41 includes a stillborn infant and, subject to restrictions imposed
42 by law other than this chapter, a fetus.

43 (6) "Department" means the Department of State Health
44 Services.

45 (7) "Disinterested witness" means a witness other
46 than the spouse, child, parent, sibling, grandchild,
47 grandparent, or guardian of the individual who makes, amends,

1 revokes, or refuses to make an anatomical gift, or another adult
2 who exhibited special care and concern for the individual. The
3 term does not include a person to which an anatomical gift could
4 pass under Section 692A.011.

5 (8) "Document of gift" means a donor card or other
6 record used to make an anatomical gift. The term includes a
7 statement or symbol on a driver's license, identification card,
8 or donor registry.

9 (9) "Donor" means an individual whose body or part is
10 the subject of an anatomical gift.

11 (10) "Donor registry" means a database that contains
12 records of anatomical gifts and amendments to or revocations of
13 anatomical gifts.

14 (11) "Driver's license" means a license or permit
15 issued by the Department of Public Safety to operate a vehicle,
16 whether or not conditions are attached to the license or permit.

17 (12) "Eye bank" means a person that is licensed,
18 accredited, or regulated under federal or state law to engage in
19 the recovery, screening, testing, processing, storage, or
20 distribution of human eyes or portions of human eyes.

21 (13) "Guardian" means a person appointed by a court
22 to make decisions regarding the support, care, education,
23 health, or welfare of an individual. The term does not include a
24 guardian ad litem.

25 (14) "Hospital" means a facility licensed as a
26 hospital under the law of any state or a facility operated as a
27 hospital by the United States, a state, or a subdivision of a
28 state.

29 (15) "Identification card" means an identification
30 card issued by the Department of Public Safety.

31 (16) "Imminent death" means a patient who requires
32 mechanical ventilation, has a severe neurologic injury, and
33 meets certain clinical criteria indicating that neurologic death
34 is near or a patient for whom withdrawal of ventilatory support
35 is being considered.

36 (17) "Know" means to have actual knowledge.

37 (18) "Minor" means an individual who is under 18
38 years of age.

39 (19) "Organ procurement organization" means a person
40 designated by the secretary of the United States Department of
41 Health and Human Services as an organ procurement organization.

42 (20) "Parent" means a parent whose parental rights
43 have not been terminated.

44 (21) "Part" means an organ, an eye, or tissue of a
45 human being. The term does not include the whole body.

46 (22) "Person" means an individual, corporation,
47 business trust, estate, trust, partnership, limited liability

1 company, association, joint venture, public corporation,
2 government or governmental subdivision, agency, or
3 instrumentality, or any other legal or commercial entity.

4 (23) "Physician" means an individual authorized to
5 practice medicine or osteopathy under the law of any state.

6 (24) "Procurement organization" means an eye bank,
7 organ procurement organization, or tissue bank.

8 (25) "Prospective donor" means an individual who is
9 dead or near death and has been determined by a procurement
10 organization to have a part that could be medically suitable for
11 transplantation, therapy, research, or education. The term does
12 not include an individual who has made a refusal.

13 (26) "Reasonably available" means able to be
14 contacted by a procurement organization without undue effort and
15 willing and able to act in a timely manner consistent with
16 existing medical criteria necessary for the making of an
17 anatomical gift.

18 (27) "Recipient" means an individual into whose body
19 a decedent's part has been or is intended to be transplanted.

20 (28) "Record" means information that is inscribed on
21 a tangible medium or that is stored in an electronic or other
22 medium and is retrievable in perceivable form.

23 (29) "Refusal" means a record created under Section
24 692A.007 that expressly states an intent to bar other persons
25 from making an anatomical gift of an individual's body or part.

26 (30) "Sign" means, with the present intent to
27 authenticate or adopt a record:

28 (A) to execute or adopt a tangible symbol; or

29 (B) to attach to or logically associate with the
30 record an electronic symbol, sound, or process.

31 (31) "State" means a state of the United States, the
32 District of Columbia, Puerto Rico, the United States Virgin
33 Islands, or any territory or insular possession subject to the
34 jurisdiction of the United States.

35 (32) "Technician" means an individual determined to
36 be qualified to remove or process parts by an appropriate
37 organization that is licensed, accredited, or regulated under
38 federal or state law. The term includes an enucleator.

39 (33) "Timely notification" means notification of an
40 imminent death to the organ procurement organization within one
41 hour of the patient's meeting the criteria for imminent death
42 and before the withdrawal of any life sustaining therapies.
43 With respect to cardiac death, timely notification means
44 notification to the organ procurement organization within one
45 hour of the cardiac death.

46 (34) "Tissue" means a portion of the human body other
47 than an organ or an eye. The term does not include blood unless

1 the blood is donated for the purpose of research or education.

2 (35) "Tissue bank" means a person licensed,
3 accredited, or regulated under federal or state law to engage in
4 the recovery, screening, testing, processing, storage, or
5 distribution of tissue.

6 (36) "Transplant hospital" means a hospital that
7 furnishes organ transplants and other medical and surgical
8 specialty services required for the care of transplant patients.

9 (37) "Visceral organ" means the heart, kidney, or
10 liver or another organ or tissue that requires a patient support
11 system to maintain the viability of the organ or tissue.

12 Sec. 692A.003. APPLICABILITY. This chapter applies to an
13 anatomical gift or amendment to, revocation of, or refusal to
14 make an anatomical gift, whenever made.

15 Sec. 692A.004. PERSONS AUTHORIZED TO MAKE ANATOMICAL GIFT
16 BEFORE DONOR'S DEATH. Subject to Section 692A.008, an
17 anatomical gift of a donor's body or part may be made during the
18 life of the donor for the purpose of transplantation, therapy,
19 research, or education in the manner provided in Section
20 692A.005 by:

21 (1) the donor, if the donor is an adult or if the
22 donor is a minor and is:

23 (A) emancipated; or

24 (B) authorized under state law to apply for a
25 driver's license because the donor is at least 16 years of age
26 and:

27 (i) circumstances allow the donation to be
28 actualized prior to 18 years of age; and

29 (ii) an organ procurement organization
30 obtains signed written consent from the minor's parent,
31 guardian, or custodian as in Subdivision (3);

32 (2) an agent of the donor, unless the medical power
33 of attorney or other record prohibits the agent from making an
34 anatomical gift;

35 (3) a parent of the donor, if the donor is an
36 unemancipated minor; or

37 (4) the donor's guardian.

38 Sec. 692A.005. MANNER OF MAKING ANATOMICAL GIFT BEFORE
39 DONOR'S DEATH. (a) A donor may make an anatomical gift:

40 (1) by authorizing a statement or symbol indicating
41 that the donor has made an anatomical gift to be imprinted on
42 the donor's driver's license or identification card;

43 (2) in a will;

44 (3) during a terminal illness or injury of the donor,
45 by any form of communication addressed to at least two adults,
46 at least one of whom is a disinterested witness; or

47 (4) as provided in Subsection (b).

1 (b) A donor or other person authorized to make an
2 anatomical gift under Section 692A.004 may make a gift by a
3 donor card or other record signed by the donor or other person
4 making the gift or by authorizing that a statement or symbol
5 indicating the donor has made an anatomical gift be included on
6 a donor registry. If the donor or other person is physically
7 unable to sign a record, the record may be signed by another
8 individual at the direction of the donor or other person and
9 must:

10 (1) be witnessed by at least two adults, at least one
11 of whom is a disinterested witness, who have signed at the
12 request of the donor or the other person; and

13 (2) state that the record has been signed and
14 witnessed as provided in Subdivision (1).

15 (c) Revocation, suspension, expiration, or cancellation of
16 a driver's license or identification card on which an anatomical
17 gift is indicated does not invalidate the gift.

18 (d) An anatomical gift made by will takes effect on the
19 donor's death whether or not the will is probated. Invalidation
20 of the will after the donor's death does not invalidate the
21 gift.

22 Sec. 692A.006. AMENDING OR REVOKING ANATOMICAL GIFT BEFORE
23 DONOR'S DEATH. (a) Subject to Section 692A.008, a donor or
24 other person authorized to make an anatomical gift under Section
25 692A.004 may amend or revoke an anatomical gift by:

26 (1) a record signed by:

27 (A) the donor;

28 (B) the other person; or

29 (C) subject to Subsection (b), another
30 individual acting at the direction of the donor or the other
31 person if the donor or other person is physically unable to
32 sign; or

33 (2) a later-executed document of gift that amends or
34 revokes a previous anatomical gift or portion of an anatomical
35 gift, either expressly or by inconsistency.

36 (b) A record signed pursuant to Subsection (a)(1)(C) must:

37 (1) be witnessed by at least two adults, at least one
38 of whom is a disinterested witness, who have signed at the
39 request of the donor or the other person; and

40 (2) state that the record has been signed and
41 witnessed as provided in Subdivision (1).

42 (c) Subject to Section 692A.008, a donor or other person
43 authorized to make an anatomical gift under Section 692A.004 may
44 revoke an anatomical gift by the destruction or cancellation of
45 the document of gift, or the portion of the document of gift
46 used to make the gift, with the intent to revoke the gift.

47 (d) A donor may amend or revoke an anatomical gift that

1 was not made in a will by any form of communication during a
2 terminal illness or injury addressed to at least two adults, at
3 least one of whom is a disinterested witness.

4 (e) A donor who makes an anatomical gift in a will may
5 amend or revoke the gift in the manner provided for amendment or
6 revocation of wills or as provided in Subsection (a).

7 Sec. 692A.007. REFUSAL TO MAKE ANATOMICAL GIFT; EFFECT OF
8 REFUSAL. (a) An individual may refuse to make an anatomical
9 gift of the individual's body or part by:

10 (1) a record signed by:

11 (A) the individual; or

12 (B) subject to Subsection (b), another
13 individual acting at the direction of the individual if the
14 individual is physically unable to sign;

15 (2) the individual's will, whether or not the will is
16 admitted to probate or invalidated after the individual's death;
17 or

18 (3) any form of communication made by the individual
19 during the individual's terminal illness or injury addressed to
20 at least two adults, at least one of whom is a disinterested
21 witness.

22 (b) A record signed pursuant to Subsection (a)(1)(B) must:

23 (1) be witnessed by at least two adults, at least one
24 of whom is a disinterested witness, who have signed at the
25 request of the individual; and

26 (2) state that the record has been signed and
27 witnessed as provided in Subdivision (1).

28 (c) An individual who has made a refusal may amend or
29 revoke the refusal:

30 (1) in the manner provided in Subsection (a) for
31 making a refusal;

32 (2) by subsequently making an anatomical gift
33 pursuant to Section 692A.005 that is inconsistent with the
34 refusal; or

35 (3) by destroying or canceling the record evidencing
36 the refusal, or the portion of the record used to make the
37 refusal, with the intent to revoke the refusal.

38 (d) Except as otherwise provided in Section 692A.008(h),
39 in the absence of an express, contrary indication by the
40 individual set forth in the refusal, an individual's unrevoked
41 refusal to make an anatomical gift of the individual's body or
42 part bars all other persons from making an anatomical gift of
43 the individual's body or part.

44 Sec. 692A.008. PRECLUSIVE EFFECT OF ANATOMICAL GIFT,
45 AMENDMENT, OR REVOCATION. (a) Except as otherwise provided in
46 Subsection (g) and subject to Subsection (f), in the absence of
47 an express, contrary indication by the donor, a person other

1 than the donor is barred from making, amending, or revoking an
2 anatomical gift of a donor's body or part if the donor made an
3 anatomical gift of the donor's body or part under Section
4 692A.005 or an amendment to an anatomical gift of the donor's
5 body or part under Section 692A.006.

6 (b) A donor's revocation of an anatomical gift of the
7 donor's body or part under Section 692A.006 is not a refusal and
8 does not bar another person specified in Section 692A.004 or
9 Section 692A.009 from making an anatomical gift of the donor's
10 body or part under Section 692A.005 or Section 692A.010.

11 (c) If a person other than the donor makes an unrevoked
12 anatomical gift of the donor's body or part under Section
13 692A.005 or an amendment to an anatomical gift of the donor's
14 body or part under Section 692A.006, another person may not
15 make, amend, or revoke the gift of the donor's body or part
16 under Section 692A.010.

17 (d) A revocation of an anatomical gift of a donor's body
18 or part under Section 692A.006 by a person other than the donor
19 does not bar another person from making an anatomical gift of
20 the body or part under Section 692A.005 or Section 692A.010.

21 (e) In the absence of an express, contrary indication by
22 the donor or other person authorized to make an anatomical gift
23 under Section 692A.004, an anatomical gift of a part is neither
24 a refusal to give another part nor a limitation on the making of
25 an anatomical gift of another part at a later time by the donor
26 or another person.

27 (f) In the absence of an express, contrary indication by
28 the donor or other person authorized to make an anatomical gift
29 under Section 692A.004, an anatomical gift of a part for one or
30 more of the purposes set forth in Section 692A.004 is not a
31 limitation on the making of an anatomical gift of the part for
32 any of the other purposes by the donor or any other person under
33 Section 692A.005 or Section 692A.010.

34 (g) If a donor who is an unemancipated minor dies, a
35 parent of the donor who is reasonably available may revoke or
36 amend an anatomical gift of the donor's body or part.

37 (h) If an unemancipated minor who signed a refusal dies, a
38 parent of the minor who is reasonably available may revoke the
39 minor's refusal.

40 Sec. 692A.009. WHO MAY MAKE ANATOMICAL GIFT OF DECEDENT'S
41 BODY OR PART. (a) Subject to Subsections (b) and (c) and unless
42 barred by Section 692A.007 or Section 692A.008, an anatomical
43 gift of a decedent's body or part for the purpose of
44 transplantation, therapy, research, or education may be made by
45 any member of the following classes of persons who is reasonably
46 available, in the order of priority listed:

47 (1) an agent of the decedent at the time of death who

1 could have made an anatomical gift under Section 692A.004(2)
2 immediately before the decedent's death;
3 (2) the spouse of the decedent;
4 (3) adult children of the decedent;
5 (4) parents of the decedent;
6 (5) adult siblings of the decedent;
7 (6) adult grandchildren of the decedent;
8 (7) grandparents of the decedent;
9 (8) an adult who exhibited special care and concern
10 for the decedent;
11 (9) the persons who were acting as the guardians of
12 the person of the decedent at the time of death;
13 (10) the hospital administrator; and
14 (11) any other person having the authority to dispose
15 of the decedent's body.
16 (b) If there is more than one member of a class listed in
17 Subsection (a)(1), (3), (4), (5), (6), (7), or (9) entitled to
18 make an anatomical gift, an anatomical gift may be made by a
19 member of the class unless that member or a person to which the
20 gift may pass under Section 692A.011 knows of an objection by
21 another member of the class. If an objection is known, the gift
22 may be made only by a majority of the members of the class who
23 are reasonably available.
24 (c) A person may not make an anatomical gift if, at the
25 time of the decedent's death, a person in a prior class under
26 Subsection (a) is reasonably available to make or to object to
27 the making of an anatomical gift.
28 Sec. 692A.010. MANNER OF MAKING, AMENDING, OR REVOKING
29 ANATOMICAL GIFT OF DECEDENT'S BODY OR PART. (a) A person
30 authorized to make an anatomical gift under Section 692A.009 may
31 make an anatomical gift by a document of gift signed by the
32 person making the gift or by that person's oral communication
33 that is electronically recorded or is contemporaneously reduced
34 to a record and signed by the individual receiving the oral
35 communication.
36 (b) Subject to Subsection (c), an anatomical gift by a
37 person authorized under Section 692A.009 may be amended or
38 revoked orally or in a record by any member of a prior class who
39 is reasonably available. If more than one member of the prior
40 class is reasonably available, the gift made by a person
41 authorized under Section 692A.009 may be:
42 (1) amended only if a majority of the reasonably
43 available members agree to the amending of the gift; or
44 (2) revoked only if a majority of the reasonably
45 available members agree to the revoking of the gift or if they
46 are equally divided as to whether to revoke the gift.
47 (c) A revocation under Subsection (b) is effective only

1 if, before an incision has been made to remove a part from the
2 donor's body or before the initiation of invasive procedures to
3 prepare the recipient, the procurement organization, transplant
4 hospital, or physician or technician knows of the revocation.

5 Sec. 692A.011. PERSONS THAT MAY RECEIVE ANATOMICAL GIFT;
6 PURPOSE OF ANATOMICAL GIFT. (a) An anatomical gift may be made
7 to the following persons named in the document of gift:

8 (1) an organ procurement organization to be used for
9 transplantation, therapy, research, or education;

10 (2) a hospital to be used for research;

11 (3) subject to Subsection (d), an individual
12 designated by the person making the anatomical gift if the
13 individual is the recipient of the part;

14 (4) an eye bank or tissue bank, except that use of a
15 gift of a whole body must be coordinated through the Anatomical
16 Board of the State of Texas;

17 (5) a forensic science program at:

18 (A) a general academic teaching institution as
19 defined by Section 61.003, Education Code; or

20 (B) a private or independent institution of
21 higher education as defined by Section 61.003, Education Code;
22 or

23 (6) the Anatomical Board of the State of Texas.

24 (b) Except for donations described by Subsections (a)(1)
25 through (5), the Anatomical Board of the State of Texas shall be
26 the donee of gifts of bodies or parts of bodies made for the
27 purpose of education or research that are subject to
28 distribution by the board under Chapter 691.

29 (c) A forensic science program that receives a donation
30 under Subsection (a)(5) must submit a report to the Anatomical
31 Board of the State of Texas on a quarterly basis that lists:

32 (1) the number of bodies or parts of bodies that the
33 program received; and

34 (2) the method in which the program used the bodies
35 or parts of bodies for education or research.

36 (d) If an anatomical gift to an individual under
37 Subsection (a)(3) cannot be transplanted into the individual,
38 the part passes in accordance with Subsection (i) in the absence
39 of an express, contrary indication by the person making the
40 anatomical gift.

41 (e) If an anatomical gift of one or more specific parts or
42 of all parts is made in a document of gift that does not name a
43 person described in Subsection (a) but identifies the purpose
44 for which an anatomical gift may be used, the following rules
45 apply:

46 (1) if the part is an eye and the gift is for the
47 purpose of transplantation or therapy, the gift passes to the

1 appropriate eye bank;
2 (2) if the part is tissue and the gift is for the
3 purpose of transplantation or therapy, the gift passes to the
4 appropriate tissue bank;
5 (3) if the part is an organ and the gift is for the
6 purpose of transplantation or therapy, the gift passes to the
7 appropriate organ procurement organization as custodian of the
8 organ; and
9 (4) if the part is an organ, an eye, or tissue and
10 the gift is for the purpose of research or education, the gift
11 passes to the appropriate procurement organization.
12 (f) For the purpose of Subsection (e), if there is more
13 than one purpose of an anatomical gift set forth in the document
14 of gift but the purposes are not set forth in any priority, the
15 gift must be used for transplantation or therapy, if suitable.
16 If the gift cannot be used for transplantation or therapy, the
17 gift may be used for research or education.
18 (g) If an anatomical gift of one or more specific parts is
19 made in a document of gift that does not name a person described
20 in Subsection (a) and does not identify the purpose of the gift,
21 the gift may be used only for transplantation or therapy, and
22 the gift passes in accordance with Subsection (i).
23 (h) If a document of gift specifies only a general intent
24 to make an anatomical gift by words such as "donor," "organ
25 donor," or "body donor," or by a symbol or statement of similar
26 import, the gift may be used only for transplantation or
27 therapy, and the gift passes in accordance with Subsection (i).
28 (i) For purposes of Subsections (d), (g), and (h), the
29 following rules apply:
30 (1) if the part is an eye, the gift passes to the
31 appropriate eye bank;
32 (2) if the part is tissue, the gift passes to the
33 appropriate tissue bank; and
34 (3) if the part is an organ, the gift passes to the
35 appropriate organ procurement organization as custodian of the
36 organ.
37 (j) An anatomical gift of an organ for transplantation or
38 therapy, other than an anatomical gift under Subsection (a)(3),
39 passes to the organ procurement organization as custodian of the
40 organ.
41 (k) If an anatomical gift does not pass pursuant to
42 Subsections (a) through (j) or the decedent's body or part is
43 not used for transplantation, therapy, research, or education,
44 custody of the body or part passes to the person under
45 obligation to dispose of the body or part.
46 (l) A person may not accept an anatomical gift if the
47 person knows that the gift was not effectively made under

1 Section 692A.005 or Section 692A.010 or if the person knows that
2 the decedent made a refusal under Section 692A.007 that was not
3 revoked. For purposes of this subsection, if a person knows
4 that an anatomical gift was made on a document of gift, the
5 person is deemed to know of any amendment or revocation of the
6 gift or any refusal to make an anatomical gift on the same
7 document of gift.

8 (m) Except as otherwise provided in Subsection (a)(3),
9 nothing in this chapter affects the allocation of organs for
10 transplantation or therapy.

11 (n) A donee may accept or reject a gift.

12 Sec. 692A.012. SEARCH AND NOTIFICATION. The donor card of
13 a person who is involved in an accident or other trauma shall
14 accompany the person to the hospital or other health care
15 facility. The driver's license or personal identification
16 certificate indicating an affirmative statement of gift of a
17 person who is involved in an accident or other trauma shall
18 accompany the person to the hospital or health care facility if
19 the person does not have a donor card.

20 Sec. 692A.013. DELIVERY OF DOCUMENT OF GIFT NOT REQUIRED;
21 RIGHT TO EXAMINE. (a) A document of gift need not be delivered
22 during the donor's lifetime to be effective.

23 (b) On or after an individual's death, a person in
24 possession of a document of gift or a refusal to make an
25 anatomical gift with respect to the individual shall allow
26 examination and copying of the document of gift or refusal by a
27 person authorized to make or object to the making of an
28 anatomical gift with respect to the individual or by a person to
29 which the gift could pass under Section 692A.011.

30 Sec. 692A.014. RIGHTS AND DUTIES OF PROCUREMENT
31 ORGANIZATION AND OTHERS. (a) When a hospital refers an
32 individual at or near death to a procurement organization, the
33 organization shall make a reasonable search of the records of
34 the Department of Public Safety and any donor registry that it
35 knows exists for the geographical area in which the individual
36 resides to ascertain whether the individual has made an
37 anatomical gift.

38 (b) A procurement organization must be allowed reasonable
39 access to information in the records of the Department of Public
40 Safety to ascertain whether an individual at or near death is a
41 donor.

42 (c) When a hospital refers an individual at or near death
43 to a procurement organization, the organization may conduct any
44 reasonable examination necessary to ensure the medical
45 suitability of a part that is or could be the subject of an
46 anatomical gift for transplantation, therapy, research, or
47 education from a donor or a prospective donor. During the

1 examination period, measures necessary to ensure the medical
2 suitability of the part may not be withdrawn unless the hospital
3 or procurement organization knows that the individual expressed
4 a contrary intent.

5 (d) Unless prohibited by law other than this chapter, at
6 any time after a donor's death, the person to which a part
7 passes under Section 692A.011 may conduct any reasonable
8 examination necessary to ensure the medical suitability of the
9 body or part for its intended purpose.

10 (e) Unless prohibited by law other than this chapter, an
11 examination under Subsection (c) or (d) may include an
12 examination of all medical and dental records of the donor or
13 prospective donor.

14 (f) On the death of a minor who was a donor or had signed
15 a refusal, unless a procurement organization knows the minor is
16 emancipated, the procurement organization shall conduct a
17 reasonable search for the parents of the minor and provide the
18 parents with an opportunity to revoke or amend the anatomical
19 gift or revoke the refusal.

20 (g) On referral by a hospital under Subsection (a), a
21 procurement organization shall make a reasonable search for any
22 person listed in Section 692A.009 having priority to make an
23 anatomical gift on behalf of a prospective donor. If a
24 procurement organization receives information that an anatomical
25 gift to any other person was made, amended, or revoked, it shall
26 promptly advise the other person of all relevant information.

27 (h) Subject to Sections 692A.011(k) and 693.002, the
28 rights of the person to which a part passes under Section
29 692A.011 are superior to the rights of all others with respect
30 to the part. The person may accept or reject an anatomical gift
31 wholly or partly. Subject to the terms of the document of gift
32 and this chapter, a person that accepts an anatomical gift of an
33 entire body may allow embalming, burial, or cremation, and use
34 of remains in a funeral service. If the gift is of a part, the
35 person to which the part passes under Section 692A.011, on the
36 death of the donor and before embalming, burial, or cremation,
37 shall cause the part to be removed without unnecessary
38 mutilation.

39 (i) The physician who attends the decedent at death or the
40 physician who determines the time of the decedent's death may
41 not participate in the procedures for removing or transplanting
42 a part from the decedent.

43 (j) A physician or technician may remove a donated part
44 from the body of a donor that the physician or technician is
45 qualified to remove.

46 Sec. 692A.015. COORDINATION OF PROCUREMENT AND USE;
47 HOSPITAL PROCEDURES. Each hospital in this state shall enter

1 into agreements or affiliations with procurement organizations
2 for coordination of procurement and use of anatomical gifts.
3 Each hospital must have a protocol that ensures its maintenance
4 of an effective donation system in order to maximize organ,
5 tissue, and eye donation. The protocol must:
6 (1) be available to the public during the hospital's
7 normal business hours;
8 (2) establish a procedure for the timely notification
9 to an organ procurement organization of individuals whose death
10 is imminent or who have died in the hospital;
11 (3) establish procedures to ensure potential donors
12 are declared dead by an appropriate practitioner in an
13 acceptable time frame;
14 (4) establish procedures to ensure that hospital
15 staff and organ procurement organization staff maintain
16 appropriate medical treatment of potential donors while
17 necessary testing and placement of potential donated organs,
18 tissues, and eyes take place;
19 (5) ensure that all families are provided the
20 opportunity to donate organs, tissues, and eyes, including
21 vascular organs procured from asystolic donors;
22 (6) provide that the hospital use appropriately
23 trained persons from an organ procurement organization, tissue
24 bank, or eye bank to make inquiries relating to donations;
25 (7) provide for documentation of the inquiry and of
26 its disposition in the decedent's medical records;
27 (8) require an organ procurement organization, tissue
28 bank, or eye bank that makes inquiries relating to donations to
29 develop a protocol for making those inquiries;
30 (9) encourage sensitivity to families' beliefs and
31 circumstances in all discussions relating to the donations;
32 (10) provide that the organ procurement organization
33 determines medical suitability for organ donation and, in the
34 absence of alternative arrangements by the hospital, the organ
35 procurement organization determines medical suitability for
36 tissue and eye donation, using the definition of potential
37 tissue and eye donor and the notification protocol developed in
38 consultation with the tissue and eye banks identified by the
39 hospital for this purpose;
40 (11) ensure that the hospital works cooperatively
41 with the designated organ procurement organization, tissue bank,
42 and eye bank in educating staff on donation issues;
43 (12) ensure that the hospital works with the
44 designated organ procurement organization, tissue bank, and eye
45 bank in reviewing death records; and
46 (13) provide for monitoring of donation system
47 effectiveness, including rates of donation, protocols, and

1 policies, as part of the hospital's quality improvement program.

2 Sec. 692A.016. SALE OR PURCHASE OF PARTS PROHIBITED. (a)
3 Except as otherwise provided in Subsection (b), a person commits
4 an offense if the person for valuable consideration knowingly
5 purchases or sells a part for transplantation or therapy if
6 removal of a part from an individual is intended to occur after
7 the individual's death. An offense under this subsection is a
8 Class A misdemeanor.

9 (b) A person may charge a reasonable amount for the
10 removal, processing, preservation, quality control, storage,
11 transportation, implantation, or disposal of a part.

12 (c) If conduct that constitutes an offense under this
13 section also constitutes an offense under other law, the actor
14 may be prosecuted under this section, the other law, or both
15 this section and the other law.

16 Sec. 692A.017. OTHER PROHIBITED ACTS. (a) A person
17 commits an offense if the person, in order to obtain a financial
18 gain, intentionally falsifies, forges, conceals, defaces, or
19 obliterates a document of gift, an amendment or revocation of a
20 document of gift, or a refusal. An offense under this section
21 is a Class A misdemeanor.

22 (b) If conduct that constitutes an offense under this
23 section also constitutes an offense under other law, the actor
24 may be prosecuted under this section, the other law, or both
25 this section and the other law.

26 Sec. 692A.018. IMMUNITY. (a) A person who acts in good
27 faith in accordance with this chapter is not liable for civil
28 damages or subject to criminal prosecution for the person's
29 action if the prerequisites for an anatomical gift are met under
30 the laws applicable at the time and place the gift is made.

31 (b) A person that acts in accordance with this chapter or
32 with the applicable anatomical gift law of another state, or
33 attempts in good faith to do so, is not liable for the act in a
34 civil action, criminal prosecution, or administrative
35 proceeding.

36 (c) A person who acts in good faith in accordance with
37 this chapter is not liable as a result of the action except in
38 the case of an act or omission of the person that is
39 intentional, wilfully or wantonly negligent, or done with
40 conscious indifference or reckless disregard. For purposes of
41 this subsection, "good faith" in determining the appropriate
42 person authorized to make a donation under Section 692A.009
43 means making a reasonable effort to locate and contact the
44 member or members of the highest priority class who are
45 reasonably available at or near the time of death.

46 (d) Neither a person making an anatomical gift nor the
47 donor's estate is liable for any injury or damage that results

1 from the making or use of the gift.

2 (e) In determining whether an anatomical gift has been
3 made, amended, or revoked under this chapter, a person may rely
4 on representations of an individual listed in Section
5 692A.009(a)(2), (3), (4), (5), (6), (7), or (8) relating to the
6 individual's relationship to the donor or prospective donor
7 unless the person knows that the representation is untrue.

8 Sec. 692A.019. LAW GOVERNING VALIDITY; CHOICE OF LAW AS TO
9 EXECUTION OF DOCUMENT OF GIFT; PRESUMPTION OF VALIDITY. (a) A
10 document of gift is valid if executed in accordance with:

11 (1) this chapter;

12 (2) the laws of the state or country where it was
13 executed; or

14 (3) the laws of the state or country where the person
15 making the anatomical gift was domiciled, had a place of
16 residence, or was a national at the time the document of gift
17 was executed.

18 (b) If a document of gift is valid under this section, the
19 law of this state governs the interpretation of the document of
20 gift.

21 (c) A person may presume that a document of gift or
22 amendment of an anatomical gift is valid unless that person
23 knows that it was not validly executed or was revoked.

24 Sec. 692A.020. GLENDA DAWSON DONATE LIFE-TEXAS REGISTRY;
25 EDUCATION PROGRAM. (a) In this section, "registry program"
26 means the donor education, awareness, and registry program
27 established under this section and known as the Glenda Dawson
28 Donate Life-Texas Registry.

29 (b) Any program or component of a program that the
30 department develops under this chapter shall be known as the
31 Glenda Dawson Donate Life-Texas Registry.

32 (c) The department shall affiliate with an entity, such as
33 a national or state association concerned with organ donation,
34 to promote the registry program in accordance with this section.

35 (d) In consultation with the Department of Public Safety
36 and organ procurement organizations, the department shall
37 establish the Glenda Dawson Donate Life-Texas Registry.

38 (e) The department shall enter into an agreement with an
39 organization selected by the commissioner under a competitive
40 proposal process for the establishment and maintenance of a
41 statewide Internet-based registry of organ, tissue, and eye
42 donors. Contingent on the continued availability of
43 appropriations under Subsection (k), the term of the initial
44 agreement is two years and may be renewed for two-year terms
45 thereafter unless terminated in a written notice to the other
46 party by the department or organization not later than the 180th
47 day before the last day of a term.

1 (f) The Department of Public Safety at least monthly shall
2 electronically transfer to the organization selected by the
3 commissioner as provided by Subsection (e) the name, date of
4 birth, driver's license number, most recent address, and any
5 other relevant information in the possession of the Department
6 of Public Safety for any person who indicates on the person's
7 driver's license application under Section 521.401,
8 Transportation Code, that the person would like to make an
9 anatomical gift and consents in writing to the release of the
10 information by the Department of Public Safety to the
11 organization for inclusion in the Internet-based registry.

12 (g) The contract between the department and the
13 organization selected by the commissioner as provided by
14 Subsection (e) must require the organization to:

15 (1) make information obtained from the Department of
16 Public Safety under Subsection (f) available to procurement
17 organizations;

18 (2) allow potential donors to submit information in
19 writing directly to the organization for inclusion in the
20 Internet-based registry;

21 (3) maintain the Internet-based registry in a manner
22 that allows procurement organizations to immediately access
23 organ, tissue, and eye donation information 24 hours a day,
24 seven days a week through electronic and telephonic methods; and

25 (4) protect the confidentiality and privacy of the
26 individuals providing information to the Internet-based
27 registry, regardless of the manner in which the information is
28 provided.

29 (h) Except as otherwise provided by Subsection (g)(3) or
30 this subsection, the Department of Public Safety, the
31 organization selected by the commissioner under Subsection (e),
32 or a procurement organization may not sell, rent, or otherwise
33 share any information provided to the Internet-based registry.
34 A procurement organization may share any information provided to
35 the registry with an organ procurement organization or a health
36 care provider or facility providing medical care to a potential
37 donor as necessary to properly identify an individual at the
38 time of donation.

39 (i) The Department of Public Safety, the organization
40 selected by the commissioner under Subsection (e), or the
41 procurement organizations may not use any demographic or
42 specific data provided to the Internet-based registry for any
43 fund-raising activities. Data may only be transmitted from the
44 selected organization to procurement organizations through
45 electronic and telephonic methods using secure, encrypted
46 technology to preserve the integrity of the data and the privacy
47 of the individuals providing information.

1 (j) In each office authorized to issue driver's licenses
2 or personal identification certificates, the Department of
3 Public Safety shall make available educational materials
4 developed by the Texas Organ, Tissue, and Eye Donor Council
5 established under Chapter 113, as added by Chapter 1186, Acts of
6 the 79th Legislature, Regular Session, 2005.

7 (k) The Department of Public Safety shall remit to the
8 comptroller the money collected under Sections 521.421(g) and
9 521.422(c), Transportation Code, as provided by those
10 subsections. A county assessor-collector shall remit to the
11 comptroller any money collected under Section 502.1745,
12 Transportation Code, as provided by that section. Money
13 remitted to the comptroller in accordance with those sections
14 that is appropriated to the department must be spent in
15 accordance with the priorities established by the department in
16 consultation with the Texas Organ, Tissue, and Eye Donor Council
17 to pay the costs of:

18 (1) maintaining, operating, and updating the
19 Internet-based registry and establishing procedures for an
20 individual to be added to the registry; and

21 (2) designing and distributing educational materials
22 for prospective donors as required under this section.

23 (1) Any additional money over the amount necessary to
24 accomplish the purposes of Subsections (k)(1) and (2) may be
25 used by the department to provide education under this chapter
26 or may be awarded using a competitive grant process to
27 organizations to conduct organ, eye, and tissue donation
28 education activities in this state. A member of the Texas
29 Organ, Tissue, and Eye Donor Council may not receive a grant
30 under this subsection.

31 (m) The department shall require the organization selected
32 under Subsection (e) to submit an annual written report to the
33 department that includes:

34 (1) the number of donors listed on the Internet-based
35 registry;

36 (2) changes in the number of donors listed on the
37 registry; and

38 (3) the demographic characteristics of listed donors,
39 to the extent the characteristics may be determined from
40 information provided on donor registry forms submitted by donors
41 to the organization.

42 (n) To the extent funds are available and as part of the
43 donor registry program, the department shall educate residents
44 about anatomical gifts. The program shall include information
45 about:

46 (1) the laws governing anatomical gifts, including
47 Subchapter Q, Chapter 521, Transportation Code, Chapter 693, and

1 this chapter;

2 (2) the procedures for becoming an organ, eye, or
3 tissue donor or donee; and

4 (3) the benefits of organ, eye, or tissue donation.

5 (o) In developing the registry program, the department in
6 consultation with the Texas Organ, Tissue, and Eye Donor Council
7 shall solicit broad-based input reflecting recommendations of
8 all interested groups, including representatives of patients,
9 providers, ethnic groups, and geographic regions.

10 (p) In consultation with the Texas Organ, Tissue, and Eye
11 Donor Council, the department may implement a training program
12 for all appropriate Department of Public Safety and Texas
13 Department of Transportation employees on the benefits of organ,
14 tissue, and eye donation and the procedures for individuals to
15 be added to the Internet-based registry. The department shall
16 implement the training program before the date that the registry
17 is operational and shall conduct the training on an ongoing
18 basis for new employees.

19 (q) The department shall develop a program to educate
20 health care providers and attorneys in this state about
21 anatomical gifts.

22 (r) The department through the program shall encourage
23 attorneys to provide organ donation information to clients
24 seeking advice for end-of-life decisions.

25 (s) The department shall encourage medical and nursing
26 schools in this state to include mandatory organ donation
27 education in the schools' curricula.

28 (t) The department shall encourage medical schools in this
29 state to require a physician in a neurology or neurosurgery
30 residency program to complete an advanced course in organ
31 donation education.

32 Sec. 692A.021. EFFECT OF ANATOMICAL GIFT ON ADVANCE
33 DIRECTIVE. (a) In this section:

34 (1) "Advance directive" means a medical power of
35 attorney or a record signed or authorized by a prospective donor
36 containing the prospective donor's direction concerning a
37 health-care decision for the prospective donor.

38 (2) "Declaration" means a record signed by a
39 prospective donor specifying the circumstances under which a
40 life support system may be withheld or withdrawn from the
41 prospective donor.

42 (3) "Health-care decision" means any decision made
43 regarding the health care of the prospective donor.

44 (b) If a prospective donor has a declaration or advance
45 directive and the terms of the declaration or directive and the
46 express or implied terms of a potential anatomical gift are in
47 conflict with regard to the administration of measures necessary

1 to ensure the medical suitability of a part for transplantation
2 or therapy, the prospective donor's attending physician and
3 prospective donor shall confer to resolve the conflict. If the
4 prospective donor is incapable of resolving the conflict, an
5 agent acting under the prospective donor's declaration or
6 directive, or, if the agent is not reasonably available, another
7 person authorized by law other than this chapter to make health-
8 care decisions on behalf of the prospective donor, shall act on
9 the prospective donor's behalf to resolve the conflict. The
10 conflict must be resolved as expeditiously as possible.
11 Information relevant to the resolution of the conflict may be
12 obtained from the appropriate procurement organization and any
13 other person authorized to make an anatomical gift for the
14 prospective donor under Section 692A.009. Before resolution of
15 the conflict, measures necessary to ensure the medical
16 suitability of the part may not be withheld or withdrawn from
17 the prospective donor.

18 (c) If the conflict cannot be resolved, an expedited
19 review of the matter must be initiated by an ethics or medical
20 committee of the appropriate health care facility.

21 Sec. 692A.022. UNIFORMITY OF APPLICATION AND CONSTRUCTION.
22 In applying and construing this chapter, consideration must be
23 given to the need to promote uniformity of the law with respect
24 to the subject matter of this chapter among states that enact a
25 law substantially similar to this chapter.

26 Sec. 692A.023. RELATION TO ELECTRONIC SIGNATURES IN GLOBAL
27 AND NATIONAL COMMERCE ACT. This chapter modifies, limits, and
28 supersedes the provisions of the Electronic Signatures in Global
29 and National Commerce Act (15 U.S.C. Section 7001 et seq.), but
30 does not modify, limit, or supersede Section 101(a) of that Act
31 (15 U.S.C. Section 7001(a)), or authorize electronic delivery of
32 any of the notices described in Section 103 of that Act (15
33 U.S.C. Section 7003(b)).

34 SECTION 2. Section 241.153, Health and Safety Code, is
35 amended to read as follows:

36 Sec. 241.153. DISCLOSURE WITHOUT WRITTEN AUTHORIZATION. A
37 patient's health care information may be disclosed without the
38 patient's authorization if the disclosure is:

39 (1) directory information, unless the patient has
40 instructed the hospital not to make the disclosure or the
41 directory information is otherwise protected by state or federal
42 law;

43 (2) to a health care provider who is rendering health
44 care to the patient when the request for the disclosure is made;

45 (3) to a transporting emergency medical services
46 provider for the purpose of:

47 (A) treatment or payment, as those terms are

1 defined by the regulations adopted under the Health Insurance
2 Portability and Accountability Act of 1996 (Pub. L. No. 104-
3 191); or
4 (B) the following health care operations
5 described by the regulations adopted under the Health Insurance
6 Portability and Accountability Act of 1996 (Pub. L. No. 104-
7 191):
8 (i) quality assessment and improvement
9 activities;
10 (ii) specified insurance functions;
11 (iii) conducting or arranging for medical
12 reviews; or
13 (iv) competency assurance activities;
14 (4) to a member of the clergy specifically designated
15 by the patient;
16 (5) to a [~~qualified organ or tissue~~] procurement
17 organization as defined in Section 692A.002 [~~692.002~~] for the
18 purpose of making inquiries relating to donations according to
19 the protocol referred to in Section 692A.015 [~~692.013(d)~~];
20 (6) to a prospective health care provider for the
21 purpose of securing the services of that health care provider as
22 part of the patient's continuum of care, as determined by the
23 patient's attending physician;
24 (7) to a person authorized to consent to medical
25 treatment under Chapter 313 or to a person in a circumstance
26 exempted from Chapter 313 to facilitate the adequate provision
27 of treatment;
28 (8) to an employee or agent of the hospital who
29 requires health care information for health care education,
30 quality assurance, or peer review or for assisting the hospital
31 in the delivery of health care or in complying with statutory,
32 licensing, accreditation, or certification requirements and if
33 the hospital takes appropriate action to ensure that the
34 employee or agent:
35 (A) will not use or disclose the health care
36 information for any other purpose; and
37 (B) will take appropriate steps to protect the
38 health care information;
39 (9) to a federal, state, or local government agency
40 or authority to the extent authorized or required by law;
41 (10) to a hospital that is the successor in interest
42 to the hospital maintaining the health care information;
43 (11) to the American Red Cross for the specific
44 purpose of fulfilling the duties specified under its charter
45 granted as an instrumentality of the United States government;
46 (12) to a regional poison control center, as the term
47 is used in Chapter 777, to the extent necessary to enable the

1 center to provide information and education to health
2 professionals involved in the management of poison and overdose
3 victims, including information regarding appropriate therapeutic
4 use of medications, their compatibility and stability, and
5 adverse drug reactions and interactions;

6 (13) to a health care utilization review agent who
7 requires the health care information for utilization review of
8 health care under Chapter 4201 [~~Article 21.58A~~], Insurance Code;

9 (14) for use in a research project authorized by an
10 institutional review board under federal law;

11 (15) to health care personnel of a penal or other
12 custodial institution in which the patient is detained if the
13 disclosure is for the sole purpose of providing health care to
14 the patient;

15 (16) to facilitate reimbursement to a hospital, other
16 health care provider, or the patient for medical services or
17 supplies;

18 (17) to a health maintenance organization for
19 purposes of maintaining a statistical reporting system as
20 required by a rule adopted by a state agency or regulations
21 adopted under the federal Health Maintenance Organization Act of
22 1973, as amended (42 U.S.C. Section 300e et seq.);

23 (18) to satisfy a request for medical records of a
24 deceased or incompetent person pursuant to Section 74.051(e),
25 Civil Practice and Remedies Code;

26 (19) to comply with a court order except as provided
27 by Subdivision (20); or

28 (20) related to a judicial proceeding in which the
29 patient is a party and the disclosure is requested under a
30 subpoena issued under:

31 (A) the Texas Rules of Civil Procedure or Code
32 of Criminal Procedure; or

33 (B) Chapter 121, Civil Practice and Remedies
34 Code.

35 SECTION 3. Section 691.030(d), Health and Safety Code, is
36 amended to read as follows:

37 (d) The board may transport a body or anatomical specimen
38 to an authorized recipient in another state if the board
39 determines that the supply of bodies or anatomical specimens in
40 this state exceeds the need for bodies or anatomical specimens
41 in this state and if:

42 (1) the deceased donated his body in compliance with
43 Section 691.028 and at the time of the donation authorized the
44 board to transport the body outside this state; or

45 (2) the body was donated in compliance with Chapter
46 692A [~~692 (Texas Anatomical Gift Act)~~] and the person authorized
47 to make the donation under Section 692A.009 [~~692.004~~] authorized

1 the board to transport the body outside this state.

2 SECTION 4. Sections 693.002(a)(1), (2), and (4), Health
3 and Safety Code, are amended to read as follows:

4 (1) On a request from an [~~a—qualified~~] organ
5 procurement organization, as defined by [~~in~~] Section 692A.002
6 [~~692.002~~], the medical examiner, justice of the peace, county
7 judge, or physician designated by the justice of the peace or
8 county judge may permit the removal of organs from a decedent
9 who died under circumstances requiring an inquest by the medical
10 examiner, justice of the peace, or county judge if consent is
11 obtained pursuant to Sections 692A.005 through 692A.010 or
12 Section 693.003.

13 (2) If no autopsy is required, the organs to be
14 transplanted shall be released in a timely manner to the
15 [~~qualified~~] organ procurement organization, as defined by [~~in~~]
16 Section 692A.002 [~~692.002~~], for removal and transplantation.

17 (4) If the medical examiner is considering
18 withholding one or more organs of a potential donor for any
19 reason, the medical examiner shall be present during the removal
20 of the organs. In such case, the medical examiner may request a
21 biopsy of those organs or deny removal of the anatomical gift.
22 If the medical examiner denies removal of the anatomical gift,
23 the medical examiner shall explain in writing the reasons for
24 the denial. The medical examiner shall provide the explanation
25 to:

26 (A) the [~~qualified~~] organ procurement
27 organization; and

28 (B) any person listed in Section 692A.009
29 [~~693.004~~] who consented to the removal.

30 SECTION 5. Section 693.002(b), Health and Safety Code, is
31 amended to read as follows:

32 (b) On a request from a [~~qualified~~] tissue bank
33 [~~procurement organization~~], as defined by [~~in~~] Section 692A.002
34 [~~692.002~~], the medical examiner may permit the removal of tissue
35 believed to be clinically usable for transplants or other
36 therapy or treatment from a decedent who died under
37 circumstances requiring an inquest if consent is obtained
38 pursuant to Sections 692A.005 through 692A.010 or Section
39 693.003 or, if consent is not required by those sections [~~that~~
40 ~~section~~], no objection by a person listed in Section 692A.009
41 [~~693.004~~] is known by the medical examiner. If the medical
42 examiner denies removal of the tissue, the medical examiner
43 shall explain in writing the reasons for the denial. The
44 medical examiner shall provide the explanation to:

45 (1) the [~~qualified~~] tissue bank [~~procurement~~
46 ~~organization~~]; and

47 (2) the person listed in Section 692A.009 [~~693.004~~]

1 who consented to the removal.

2 SECTION 6. Section 693.003, Health and Safety Code, is
3 amended to read as follows:

4 Sec. 693.003. CONSENT NOT REQUIRED IN CERTAIN
5 CIRCUMSTANCES. [~~(a)~~ A medical examiner or a person acting on
6 the authority of a medical examiner may not remove a visceral
7 organ unless the medical examiner or person obtains the consent
8 of a person listed in Section 693.004.

9 [~~(b)~~ If a person listed in Section 693.004 is known and
10 available within four hours after death is pronounced, a medical
11 examiner or a person acting on the authority of a medical
12 examiner may not remove a nonvisceral organ or tissue unless the
13 medical examiner or person obtains that person's consent.

14 [~~(c)~~] If a person listed in Section 692A.009 [~~693.004~~]
15 cannot be identified and contacted within four hours after death
16 is pronounced and the county court [~~medical examiner~~] determines
17 that no reasonable likelihood exists that a person can be
18 identified and contacted during the four-hour period, the county
19 court [~~medical examiner~~] may permit the removal of a nonvisceral
20 organ or tissue.

21 SECTION 7. Section 693.005, Health and Safety Code, is
22 amended to read as follows:

23 Sec. 693.005. IMMUNITY FROM DAMAGES IN CIVIL ACTION. In a
24 civil action brought by a person listed in Section 692A.009
25 [~~693.004~~] who did not object before the removal of tissue or a
26 body part specified by Section 693.002, a medical examiner,
27 justice of the peace, county judge, medical facility, physician
28 acting on permission of a medical examiner, justice of the
29 peace, or county judge, or person assisting a physician is not
30 liable for damages on a theory of civil recovery based on a
31 contention that the plaintiff's consent was required before the
32 body part or tissue could be removed.

33 SECTION 8. Section 693.006, Health and Safety Code, is
34 amended to read as follows:

35 Sec. 693.006. REMOVAL OF CORNEAL TISSUE. On a request
36 from an eye bank, as defined in Section 692A.002 [~~692.002~~], the
37 medical examiner, justice of the peace, county judge, or
38 physician designated by the justice of the peace or county judge
39 may permit the removal of corneal tissue subject to the same
40 provisions that apply to removal of a visceral organ on the
41 request of a [an] [~~an organ~~] procurement organization under this
42 subchapter. The provisions of Chapter 692A [~~this subchapter~~]
43 relating to immunity and consent apply to the removal of the
44 corneal tissue.

45 SECTION 9. Sections 521.401(b) and (c), Transportation
46 Code, are amended to read as follows:

47 (b) The statement of gift may be shown on a donor's

1 driver's license or personal identification certificate or by a
2 card designed to be carried by the donor to evidence the donor's
3 intentions with respect to organ, tissue, and eye donation. A
4 donor card signed by the donor shall be given effect as if
5 executed pursuant to Section 692A.005 [~~692.003(d)~~], Health and
6 Safety Code.

7 (c) Donor cards shall be provided to the department by
8 [~~qualified~~] organ [~~or tissue~~] procurement organizations, tissue
9 banks, or eye banks, as those terms are defined in Section
10 692A.002 [~~692.002~~], Health and Safety Code, or by the Glenda
11 Dawson Donate Life-Texas [~~Donor Education, Awareness, and~~]
12 Registry [~~Program of Texas~~] established under Chapter 692A [~~49~~],
13 Health and Safety Code. The department shall:

14 (1) provide to each applicant for the issuance of an
15 original, renewal, corrected, or duplicate driver's license or
16 personal identification certificate who applies in person, by
17 mail, over the Internet, or by other electronic means:

18 (A) the opportunity to indicate on the person's
19 driver's license or personal identification certificate that the
20 person is willing to make an anatomical gift, in the event of
21 death, in accordance with Section 692A.005 [~~692.003~~], Health and
22 Safety Code; and

23 (B) an opportunity for the person to consent in
24 writing to the department's provision of the person's name, date
25 of birth, driver's license number, most recent address, and
26 other information needed for identification purposes at the time
27 of donation to the organization selected by the commissioner of
28 state health services under Section 692A.020 [~~Chapter 49~~],
29 Health and Safety Code, for inclusion in the statewide Internet-
30 based registry of organ, tissue, and eye donors and for release
31 to procurement [~~qualified organ, tissue, and eye bank~~]
32 organizations; and

33 (2) provide a means to distribute donor cards to
34 interested individuals in each office authorized to issue
35 driver's licenses or personal identification certificates.

36 SECTION 10. Section 651.407(f), Occupations Code, is
37 amended to read as follows:

38 (f) This section does not apply to a dead human body
39 obtained by a school or college of mortuary science under
40 Chapter 691 or 692A [~~692~~], Health and Safety Code.

41 SECTION 11. The following provisions are repealed:

42 (1) Chapter 49, Health and Safety Code;

43 (2) Chapter 692, Health and Safety Code;

44 (3) Section 693.004, Health and Safety Code;

45 (4) Section 521.403, Transportation Code; and

46 (5) Section 521.404, Transportation Code.

47 SECTION 12. Notwithstanding the repeal of Chapter 49,

1 Health and Safety Code, by this Act, the Glenda Dawson Donate
2 Life-Texas Registry described by that chapter is continued in
3 effect in accordance with Chapter 692A, Health and Safety Code,
4 as added by this Act.

5 SECTION 13. This Act takes effect September 1, 2009.

6
7 H.B. No. 2031
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12 AN ACT

13 relating to the definition of sight order for purposes of
14 prosecuting certain criminal offenses.

15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

16 SECTION 1. Section 1.07(a), Penal Code, is amended by
17 adding Subdivision (46-a) to read as follows:

18 (46-a) "Sight order" means a written or electronic
19 instruction to pay money that is authorized by the person giving
20 the instruction and that is payable on demand or at a definite
21 time by the person being instructed to pay. The term includes
22 a check, an electronic debit, or an automatic bank draft.

23 SECTION 2. This Act takes effect September 1, 2009.

24
25 H.B. No. 2058
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30 AN ACT

31 relating to the standards for attorneys representing indigent
32 defendants in capital cases.

33 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

34 SECTION 1. Article 26.052(d), Code of Criminal Procedure,
35 as amended by Chapters 787 (S.B. 60) and 965 (H.B. 1701), Acts
36 of the 79th Legislature, Regular Session, 2005, is reenacted and
37 amended to read as follows:

38 (d)(1) The committee shall adopt standards for the
39 qualification of attorneys to be appointed to represent indigent
40 defendants in capital cases in which the death penalty is
41 sought.

42 (2) The standards must require that a trial attorney
43 appointed as lead counsel to a capital case [~~or an attorney~~
44 ~~appointed as lead appellate counsel in the direct appeal of a~~
45 ~~capital case~~]:

46 (A) be a member of the State Bar of Texas;

47 (B) exhibit proficiency and commitment to

1 providing quality representation to defendants in death penalty
2 cases;

3 (C) have not been found by a federal or state
4 court to have rendered ineffective assistance of counsel during
5 the trial or appeal of any capital case;

6 (D) have at least five years of criminal law
7 experience [in criminal litigation];

8 (E) have tried to a verdict as lead defense
9 counsel a significant number of felony cases, including homicide
10 trials and other trials for offenses punishable as second or
11 first degree felonies or capital felonies;

12 (F) have trial experience in:

13 (i) the use of and challenges to mental
14 health or forensic expert witnesses; and

15 (ii) investigating and presenting
16 mitigating evidence at the penalty phase of a death penalty
17 trial; and

18 (G) have participated in continuing legal
19 education courses or other training relating to criminal defense
20 in death penalty cases.

21 (3) The standards must require that an attorney
22 appointed as lead appellate counsel in the direct appeal of a
23 capital case:

24 (A) be a member of the State Bar of Texas;

25 (B) exhibit proficiency and commitment to
26 providing quality representation to defendants in death penalty
27 cases;

28 (C) have not been found by a federal or state
29 court to have rendered ineffective assistance of counsel during
30 the trial or appeal of any capital case;

31 (D) have at least five years of criminal law
32 experience;

33 (E) have authored a significant number of
34 appellate briefs, including appellate briefs for homicide cases
35 and other cases involving an offense punishable as a capital
36 felony or a felony of the first degree or an offense described
37 by Section 3g(a)(1), Article 42.12;

38 (F) have trial or appellate experience in:

39 (i) the use of and challenges to mental
40 health or forensic expert witnesses; and

41 (ii) the use of mitigating evidence at the
42 penalty phase of a death penalty trial; and

43 (G) have participated in continuing legal
44 education courses or other training relating to criminal defense
45 in appealing death penalty cases.

46 (4) The committee shall prominently post the
47 standards in each district clerk's office in the region with a

1 list of attorneys qualified for appointment.

2 (5) [~~4~~] Not later than the second anniversary of
3 the date an attorney is placed on the list of attorneys
4 qualified for appointment in death penalty cases and each year
5 following the second anniversary, the attorney must present
6 proof to the committee that the attorney has successfully
7 completed the minimum continuing legal education requirements of
8 the State Bar of Texas, including a course or other form of
9 training relating to criminal [~~the~~] defense in [~~of~~] death
10 penalty cases or in appealing death penalty cases, as
11 applicable. The committee shall remove the attorney's name from
12 the list of qualified attorneys if the attorney fails to provide
13 the committee with proof of completion of the continuing legal
14 education requirements.

15 SECTION 2. A local selection committee shall amend its
16 standards as necessary to conform with the requirements of
17 Article 26.052(d), Code of Criminal Procedure, as amended by
18 this Act, not later than the 75th day after the effective date
19 of this Act. An attorney appointed to a death penalty case on
20 or after the 75th day after the effective date of this Act must
21 meet the standards adopted in conformity with amended Article
22 26.052(d), Code of Criminal Procedure. An attorney appointed to
23 a death penalty case before the 75th day after the effective
24 date of this Act is covered by the law in effect when the
25 attorney was appointed, and the former law is continued in
26 effect for that purpose.

27 SECTION 3. This Act takes effect September 1, 2009.

28
29 H.B. No. 2062

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34 AN ACT

35 relating to the distribution of proceeds from the sale of
36 forfeited property in a criminal case.

37 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

38 SECTION 1. Article 59.06, Code of Criminal Procedure, is
39 amended by adding Subsection (c-1) to read as follows:

40 (c-1) Notwithstanding Subsection (a), the attorney
41 representing the state and special rangers of the Texas and
42 Southwestern Cattle Raisers Association who meet the
43 requirements of Article 2.125 may enter into a local agreement
44 that allows the attorney representing the state to transfer
45 proceeds from the sale of forfeited property described by
46 Subsection (c), after the deduction of court costs as described
47 by that subsection, to a special fund established for the

1 special rangers. Proceeds transferred under this subsection
2 must be used by the special rangers solely for law enforcement
3 purposes, such as training, essential equipment, and operating
4 expenses. Any expenditures of the proceeds are subject to the
5 audit provisions established under this article.

6 SECTION 2. This Act takes effect immediately if it
7 receives a vote of two-thirds of all the members elected to each
8 house, as provided by Section 39, Article III, Texas
9 Constitution. If this Act does not receive the vote necessary
10 for immediate effect, this Act takes effect September 1, 2009.

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12 H.B. No. 2066
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17 AN ACT

18 relating to enhancing penalties for assaulting a family member
19 by strangulation or suffocation.

20 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

21 SECTION 1. Section 22.01, Penal Code, is amended by
22 amending Subsections (b) and (f) and adding Subsections (b-1)
23 and (g) to read as follows:

24 (b) An offense under Subsection (a)(1) is a Class A
25 misdemeanor, except that the offense is a felony of the third
26 degree if the offense is committed against:

27 (1) a person the actor knows is a public servant
28 while the public servant is lawfully discharging an official
29 duty, or in retaliation or on account of an exercise of official
30 power or performance of an official duty as a public servant;

31 (2) a person whose relationship to or association
32 with the defendant is described by Section 71.0021(b), 71.003,
33 or 71.005, Family Code, if:

34 (A) it is shown on the trial of the offense that
35 the defendant has been previously convicted of an offense under
36 this chapter, Chapter 19, or Section 20.03, 20.04, or 21.11
37 against a person whose relationship to or association with the
38 defendant is described by Section 71.0021(b), 71.003, or 71.005,
39 Family Code; or

40 (B) the offense is committed by intentionally,
41 knowingly, or recklessly impeding the normal breathing or
42 circulation of the blood of the person by applying pressure to
43 the person's throat or neck or by blocking the person's nose or
44 mouth;

45 (3) a person who contracts with government to perform
46 a service in a facility as defined by Section 1.07(a)(14), Penal
47 Code, or Section 51.02(13) or (14), Family Code, or an employee

1 of that person:

2 (A) while the person or employee is engaged in
3 performing a service within the scope of the contract, if the
4 actor knows the person or employee is authorized by government
5 to provide the service; or

6 (B) in retaliation for or on account of the
7 person's or employee's performance of a service within the scope
8 of the contract;

9 (4) a person the actor knows is a security officer
10 while the officer is performing a duty as a security officer; or

11 (5) a person the actor knows is emergency services
12 personnel while the person is providing emergency services.

13 (b-1) Notwithstanding Subsection (b)(2), an offense under
14 Subsection (a)(1) is a felony of the second degree if:

15 (1) the offense is committed against a person whose
16 relationship to or association with the defendant is described
17 by Section 71.0021(b), 71.003, or 71.005, Family Code;

18 (2) it is shown on the trial of the offense that the
19 defendant has been previously convicted of an offense under this
20 chapter, Chapter 19, or Section 20.03, 20.04, or 21.11 against a
21 person whose relationship to or association with the defendant
22 is described by Section 71.0021(b), 71.003, or 71.005, Family
23 Code; and

24 (3) the offense is committed by intentionally,
25 knowingly, or recklessly impeding the normal breathing or
26 circulation of the blood of the person by applying pressure to
27 the person's throat or neck or by blocking the person's nose or
28 mouth.

29 (f) For the purposes of Subsections (b)(2)(A) and (b-1)(2)
30 [Subsection (b)(2)]:

31 (1) a defendant has been previously convicted of an
32 offense listed in those subsections [~~Subsection (b)(2)~~]
33 committed against a person whose relationship to or association
34 with the defendant is described by Section 71.0021(b), 71.003,
35 or 71.005, Family Code, if the defendant was adjudged guilty of
36 the offense or entered a plea of guilty or nolo contendere in
37 return for a grant of deferred adjudication, regardless of
38 whether the sentence for the offense was ever imposed or whether
39 the sentence was probated and the defendant was subsequently
40 discharged from community supervision; and

41 (2) a conviction under the laws of another state for
42 an offense containing elements that are substantially similar to
43 the elements of an offense listed in those subsections
44 [~~Subsection (b)(2)~~] is a conviction of the [~~an~~] offense listed
45 [~~in Subsection (b)(2)~~].

46 (g) If conduct constituting an offense under this section
47 also constitutes an offense under another section of this code,

1 the actor may be prosecuted under either section or both
2 sections.

3 SECTION 2. The change in law made by this Act applies only
4 to an offense committed on or after the effective date of this
5 Act. An offense committed before the effective date of this Act
6 is covered by the law in effect when the offense was committed,
7 and the former law is continued in effect for that purpose. For
8 purposes of this section, an offense was committed before the
9 effective date of this Act if any element of the offense
10 occurred before that date.

11 SECTION 3. This Act takes effect September 1, 2009.

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13 H.B. No. 2068
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18 AN ACT

19 relating to an identification card for certain retired peace
20 officers.

21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

22 SECTION 1. Section 1701.357(i), Occupations Code, is
23 amended to read as follows:

24 (i) On request of an honorably [a] retired officer who
25 holds a certificate of proficiency under this section, the head
26 of the [a] state or local law enforcement agency from which the
27 officer retired shall [~~may~~] issue to the retired officer
28 identification that indicates that the officer honorably retired
29 from the agency. An identification under this subsection must
30 include a photograph of the retired officer.

31 SECTION 2. This Act takes effect immediately if it
32 receives a vote of two-thirds of all the members elected to each
33 house, as provided by Section 39, Article III, Texas
34 Constitution. If this Act does not receive the vote necessary
35 for immediate effect, this Act takes effect September 1, 2009.

36
37 H.B. No. 2086
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42 AN ACT

43 relating to the prevention, investigation, prosecution, and
44 punishment for certain gang-related and other criminal offenses,
45 including engaging in organized criminal activity, and to the
46 consequences and costs of engaging in certain activities of a
47 criminal street gang or certain other criminal activity;

1 providing penalties.

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

3 SECTION 1. Section 71.02(a), Penal Code, is amended to
4 read as follows:

5 (a) A person commits an offense if, with the intent to
6 establish, maintain, or participate in a combination or in the
7 profits of a combination or as a member of a criminal street
8 gang, he commits or conspires to commit one or more of the
9 following:

10 (1) murder, capital murder, arson, aggravated
11 robbery, robbery, burglary, theft, aggravated kidnapping,
12 kidnapping, aggravated assault, aggravated sexual assault,
13 sexual assault, forgery, deadly conduct, assault punishable as a
14 Class A misdemeanor, burglary of a motor vehicle, or
15 unauthorized use of a motor vehicle;

16 (2) any gambling offense punishable as a Class A
17 misdemeanor;

18 (3) promotion of prostitution, aggravated promotion
19 of prostitution, or compelling prostitution;

20 (4) unlawful manufacture, transportation, repair, or
21 sale of firearms or prohibited weapons;

22 (5) unlawful manufacture, delivery, dispensation, or
23 distribution of a controlled substance or dangerous drug, or
24 unlawful possession of a controlled substance or dangerous drug
25 through forgery, fraud, misrepresentation, or deception;

26 (6) any unlawful wholesale promotion or possession of
27 any obscene material or obscene device with the intent to
28 wholesale promote the same;

29 (7) any offense under Subchapter B, Chapter 43,
30 depicting or involving conduct by or directed toward a child
31 younger than 18 years of age;

32 (8) any felony offense under Chapter 32;

33 (9) any offense under Chapter 36;

34 (10) any offense under Chapter 34 or 35;

35 (11) any offense under Section 37.11(a);

36 (12) any offense under Chapter 20A; ~~[or]~~

37 (13) any offense under Section 37.10; or

38 (14) any offense under Section 38.06, 38.07, 38.09,
39 or 38.11.

40 SECTION 2. Section 15.031(e), Penal Code, is amended to
41 read as follows:

42 (e) An offense under this section is one category lower
43 than the solicited offense, except that an offense under this
44 section is the same category as the solicited offense if it is
45 shown on the trial of the offense that the actor:

46 (1) was at the time of the offense 17 years of age or
47 older and a member of a criminal street gang, as defined by

1 Section 71.01; and

2 (2) committed the offense with the intent to:

3 (A) further the criminal activities of the
4 criminal street gang; or

5 (B) avoid detection as a member of a criminal
6 street gang.

7 SECTION 3. Chapter 71, Penal Code, is amended by adding
8 Sections 71.023, 71.028, and 71.029 to read as follows:

9 Sec. 71.023. DIRECTING ACTIVITIES OF CERTAIN CRIMINAL
10 STREET GANGS. (a) A person commits an offense if the person
11 knowingly initiates, organizes, plans, finances, directs,
12 manages, or supervises a criminal street gang or members of a
13 criminal street gang with the intent to benefit, promote, or
14 further the interests of the criminal street gang or to increase
15 the person's standing, position, or status in the criminal
16 street gang.

17 (b) An offense under this section is a felony of the first
18 degree.

19 (c) Notwithstanding Section 71.01, in this section,
20 "criminal street gang" means:

21 (1) an organization that:

22 (A) has more than 10 members whose names are
23 included in an intelligence database under Chapter 61, Code of
24 Criminal Procedure;

25 (B) has a hierarchical structure that has been
26 documented in an intelligence database under Chapter 61, Code of
27 Criminal Procedure;

28 (C) engages in profit-sharing among two or more
29 members of the organization; and

30 (D) in one or more regions of this state served
31 by different regional councils of government, continuously or
32 regularly engages in conduct:

33 (i) that constitutes an offense listed in
34 Section 3g(a)(1), Article 42.12, Code of Criminal Procedure;

35 (ii) in which it is alleged that a deadly
36 weapon is used or exhibited during the commission of or
37 immediate flight from the commission of any felony offense; or

38 (iii) that is punishable as a felony of the
39 first or second degree under Chapter 481, Health and Safety
40 Code; or

41 (2) an organization that, in collaboration with an
42 organization described by Subdivision (1), engages in conduct or
43 commits an offense or conspires to engage in conduct or commit
44 an offense described by Subdivision (1)(D).

45 Sec. 71.028. GANG-FREE ZONES. (a) In this section:

46 (1) "Institution of higher education," "playground,"
47 "premises," "school," "video arcade facility," and "youth

1 center" have the meanings assigned by Section 481.134, Health
2 and Safety Code.

3 (2) "Shopping mall" means an enclosed public walkway
4 or hall area that connects retail, service, or professional
5 establishments.

6 (b) This section applies to an offense listed in Section
7 71.02(a)(1), (4), or (7), other than burglary, theft, burglary
8 of a motor vehicle, or unauthorized use of a motor vehicle.

9 (c) Except as provided by Subsection (d), the punishment
10 prescribed for an offense described by Subsection (b) is
11 increased to the punishment prescribed for the next highest
12 category of offense if the actor is 17 years of age or older and
13 it is shown beyond a reasonable doubt on the trial of the
14 offense that the actor committed the offense at a location that
15 was:

16 (1) in, on, or within 1,000 feet of any:

17 (A) real property that is owned, rented, or
18 leased by a school or school board;

19 (B) premises owned, rented, or leased by an
20 institution of higher education;

21 (C) premises of a public or private youth
22 center; or

23 (D) playground;

24 (2) in, on, or within 300 feet of any:

25 (A) shopping mall;

26 (B) movie theater;

27 (C) premises of a public swimming pool; or

28 (D) premises of a video arcade facility; or

29 (3) on a school bus.

30 (d) The punishment for an offense described by Subsection
31 (b) may not be increased under this section if the offense is
32 punishable under Section 71.02 as a felony of the first degree.

33 Sec. 71.029. MAPS AS EVIDENCE OF LOCATION OR AREA. (a)
34 In a prosecution of an offense for which punishment is increased
35 under Section 71.028, a map produced or reproduced by a
36 municipal or county engineer for the purpose of showing the
37 location and boundaries of gang-free zones is admissible in
38 evidence and is prima facie evidence of the location or
39 boundaries of those zones if the governing body of the
40 municipality or county adopts a resolution or ordinance
41 approving the map as an official finding and record of the
42 location or boundaries of those zones.

43 (b) A municipal or county engineer may, on request of the
44 governing body of the municipality or county, revise a map that
45 has been approved by the governing body of the municipality or
46 county as provided by Subsection (a).

47 (c) A municipal or county engineer shall file the original

1 or a copy of every approved or revised map approved as provided
2 by Subsection (a) with the county clerk of each county in which
3 the zone is located.

4 (d) This section does not prevent the prosecution from:

5 (1) introducing or relying on any other evidence or
6 testimony to establish any element of an offense for which
7 punishment is increased under Section 71.028; or

8 (2) using or introducing any other map or diagram
9 otherwise admissible under the Texas Rules of Evidence.

10 SECTION 4. Subchapter D, Chapter 37, Education Code, is
11 amended by adding Section 37.110 to read as follows:

12 Sec. 37.110. INFORMATION REGARDING GANG-FREE ZONES. The
13 superintendent of each public school district and the
14 administrator of each private elementary or secondary school
15 located in the public school district shall ensure that the
16 student handbook for each campus in the public school district
17 includes information on gang-free zones and the consequences of
18 engaging in organized criminal activity within those zones.

19 SECTION 5. Subchapter Z, Chapter 51, Education Code, is
20 amended by adding Section 51.973 to read as follows:

21 Sec. 51.973. INFORMATION REGARDING GANG-FREE ZONES. The
22 governing board of each institution of higher education shall
23 ensure that any student handbook or similar publication for the
24 institution includes information on gang-free zones and the
25 consequences of engaging in organized criminal activity within
26 those zones.

27 SECTION 6. Subchapter C, Chapter 42, Human Resources Code,
28 is amended by adding Section 42.064 to read as follows:

29 Sec. 42.064. INFORMATION REGARDING GANG-FREE ZONES. Each
30 day-care center shall, in accordance with rules adopted by the
31 executive commissioner, distribute to parents and guardians of
32 children who attend the center information on gang-free zones
33 and the consequences of engaging in organized criminal activity
34 within those zones.

35 SECTION 7. Section 37.110, Education Code, as added by
36 this Act, applies beginning with the public school district's
37 2009-2010 school year.

38 SECTION 8. Section 51.973, Education Code, as added by
39 this Act, applies beginning with the 2009 fall semester.

40 SECTION 9. Section 15.031(e) and Section 71.02(a), Penal
41 Code, as amended by this Act, and Section 71.028, Penal Code, as
42 added by this Act, apply only to an offense committed on or
43 after the effective date of this Act. An offense committed
44 before the effective date of this Act is covered by the law in
45 effect when the offense was committed, and the former law is
46 continued in effect for that purpose. For purposes of this
47 section, an offense was committed before the effective date of

1 this Act if any element of the offense occurred before that
2 date.

3 SECTION 10. Subchapter D, Chapter 125, Civil Practice and
4 Remedies Code, is amended by adding Section 125.070 to read as
5 follows:

6 Sec. 125.070. CIVIL ACTION FOR VIOLATION OF INJUNCTION.

7 (a) In this section, "governmental entity" means a political
8 subdivision of this state, including any city, county, school
9 district, junior college district, levee improvement district,
10 drainage district, irrigation district, water improvement
11 district, water control and improvement district, water control
12 and preservation district, freshwater supply district,
13 navigation district, conservation and reclamation district, soil
14 conservation district, communication district, public health
15 district, and river authority.

16 (b) A criminal street gang or a member of a criminal
17 street gang is liable to the state or a governmental entity
18 injured by the violation of a temporary or permanent injunctive
19 order under this subchapter.

20 (c) In an action brought against a member of a criminal
21 street gang, the plaintiff must show that the member violated
22 the temporary or permanent injunctive order.

23 (d) A district, county, or city attorney or the attorney
24 general may sue for money damages on behalf of the state or a
25 governmental entity. If the state or a governmental entity
26 prevails in a suit under this section, the state or governmental
27 entity may recover:

28 (1) actual damages;

29 (2) a civil penalty in an amount not to exceed
30 \$20,000 for each violation; and

31 (3) court costs and attorney's fees.

32 (e) The property of the criminal street gang or a member
33 of the criminal street gang may be seized in execution on a
34 judgment under this section. Property may not be seized under
35 this subsection if the owner or interest holder of the property
36 proves by a preponderance of the evidence that the owner or
37 interest holder was not a member of the criminal street gang and
38 did not violate the temporary or permanent injunctive order.
39 The owner or interest holder of property that is in the
40 possession of a criminal street gang or a member of the criminal
41 street gang and that is subject to execution under this
42 subsection must show that the property:

43 (1) was stolen from the owner or interest holder; or

44 (2) was used or intended to be used without the
45 effective consent of the owner or interest holder by the
46 criminal street gang or a member of the criminal street gang.

47 (f) The attorney general shall deposit money received

1 under this section for damages or as a civil penalty in the
2 neighborhood and community recovery fund held by the attorney
3 general outside the state treasury. Money in the fund is held
4 by the attorney general in trust for the benefit of the
5 community or neighborhood harmed by the violation of a temporary
6 or permanent injunctive order. Money in the fund may be used
7 only for the benefit of the community or neighborhood harmed by
8 the violation of the injunctive order. Interest earned on money
9 in the fund shall be credited to the fund. The attorney general
10 shall account for money in the fund so that money held for the
11 benefit of a community or neighborhood, and interest earned on
12 that money, are not commingled with money in the fund held for
13 the benefit of a different community or neighborhood.

14 (g) A district, county, or city attorney who brings suit
15 on behalf of a governmental entity shall deposit money received
16 for damages or as a civil penalty in an account to be held in
17 trust for the benefit of the community or neighborhood harmed by
18 the violation of a temporary or permanent injunctive order.
19 Money in the account may be used only for the benefit of the
20 community or neighborhood harmed by the violation of the
21 injunctive order. Interest earned on money in the account shall
22 be credited to the account. The district, county, or city
23 attorney shall account for money in the account so that money
24 held for the benefit of a community or neighborhood, and
25 interest earned on that money, are not commingled with money in
26 the account held for the benefit of a different community or
27 neighborhood.

28 (h) An action under this section brought by the state or a
29 governmental entity does not waive sovereign or governmental
30 immunity for any purpose.

31 SECTION 11. Article 59.01(2), Code of Criminal Procedure,
32 as amended by Chapters 127 (S.B. 1694), 822 (H.B. 73), and 885
33 (H.B. 2278), Acts of the 80th Legislature, Regular Session,
34 2007, is reenacted and amended to read as follows:

35 (2) "Contraband" means property of any nature,
36 including real, personal, tangible, or intangible, that is:

37 (A) used in the commission of:

38 (i) any first or second degree felony under
39 the Penal Code;

40 (ii) any felony under Section 15.031(b),
41 20.05, 21.11, 38.04, Subchapter B of Chapter 43, or Chapter 29,
42 30, 31, 32, 33, 33A, or 35, Penal Code;

43 (iii) any felony under The Securities Act
44 (Article 581-1 et seq., Vernon's Texas Civil Statutes); or

45 (iv) any offense under Chapter 49, Penal
46 Code, that is punishable as a felony of the third degree or
47 state jail felony, if the defendant has been previously

1 convicted three times of an offense under that chapter;
2 (B) used or intended to be used in the
3 commission of:
4 (i) any felony under Chapter 481, Health
5 and Safety Code (Texas Controlled Substances Act);
6 (ii) any felony under Chapter 483, Health
7 and Safety Code;
8 (iii) a felony under Chapter 153, Finance
9 Code;
10 (iv) any felony under Chapter 34, Penal
11 Code;
12 (v) a Class A misdemeanor under Subchapter
13 B, Chapter 365, Health and Safety Code, if the defendant has
14 been previously convicted twice of an offense under that
15 subchapter;
16 (vi) any felony under Chapter 152, Finance
17 Code;
18 (vii) any felony under Chapter 32, Human
19 Resources Code, or Chapter 31, 32, 35A, or 37, Penal Code, that
20 involves the state Medicaid program;
21 (viii) a Class B misdemeanor under Chapter
22 522, Business & Commerce Code; ~~[or]~~
23 (ix) a Class A misdemeanor under Section
24 35.153, Business & Commerce Code; or
25 (x) any offense under Chapter 71, Penal
26 Code;
27 (C) the proceeds gained from the commission of a
28 felony listed in Paragraph (A) or (B) of this subdivision, a
29 misdemeanor listed in Paragraph (B)(viii) or (x) of this
30 subdivision, or a crime of violence;
31 (D) acquired with proceeds gained from the
32 commission of a felony listed in Paragraph (A) or (B) of this
33 subdivision, a misdemeanor listed in Paragraph (B)(viii) or (x)
34 of this subdivision, or a crime of violence; or
35 (E) used to facilitate or intended to be used to
36 facilitate the commission of a felony under Section 15.031 or
37 43.25, Penal Code.
38 SECTION 12. Chapter 59, Code of Criminal Procedure, is
39 amended by adding Article 59.011 to read as follows:
40 Art. 59.011. ELECTION OF FORFEITURE PROCEEDING. If
41 property described by Article 59.01(2)(B)(x) is subject to
42 forfeiture under this chapter and Article 18.18, the attorney
43 representing the state may proceed under either this chapter or
44 that article.
45 SECTION 13. Section 125.070, Civil Practice and Remedies
46 Code, as added by this Act, applies only to a cause of action
47 that accrues on or after the effective date of this Act. A

1 cause of action that accrued before the effective date of this
2 Act is governed by the law in effect immediately before the
3 effective date of this Act, and that law is continued in effect
4 for that purpose.

5 SECTION 14. Article 59.01(2), Code of Criminal Procedure,
6 as amended by this Act, and Article 59.011, Code of Criminal
7 Procedure, as added by this Act, apply only to the forfeiture of
8 property used in the commission of an offense committed on or
9 after the effective date of this Act. Forfeiture of property
10 used in the commission of an offense committed before the
11 effective date of this Act is governed by the law in effect when
12 the offense was committed, and the former law is continued in
13 effect for that purpose. For purposes of this section, an
14 offense was committed before the effective date of this Act if
15 any element of the offense occurred before that date.

16 SECTION 15. Article 42.01, Code of Criminal Procedure, is
17 amended by adding Section 9 to read as follows:

18 Sec. 9. In addition to the information described by
19 Section 1, the judgment should reflect affirmative findings
20 entered pursuant to Article 42.0197.

21 SECTION 16. Chapter 42, Code of Criminal Procedure, is
22 amended by adding Article 42.0197 to read as follows:

23 Art. 42.0197. FINDING REGARDING GANG-RELATED CONDUCT. In
24 the trial of an offense, on the motion of the attorney
25 representing the state the judge shall make an affirmative
26 finding of fact and enter the affirmative finding in the
27 judgment in the case if the judge determines that the applicable
28 conduct was engaged in as part of the activities of a criminal
29 street gang as defined by Section 71.01, Penal Code.

30 SECTION 17. Section 11(a), Article 42.12, Code of Criminal
31 Procedure, is amended to read as follows:

32 (a) The judge of the court having jurisdiction of the case
33 shall determine the conditions of community supervision and may,
34 at any time[7] during the period of community supervision, alter
35 or modify the conditions. The judge may impose any reasonable
36 condition that is designed to protect or restore the community,
37 protect or restore the victim, or punish, rehabilitate, or
38 reform the defendant. Conditions of community supervision may
39 include, but shall not be limited to, the conditions that the
40 defendant shall:

41 (1) Commit no offense against the laws of this State
42 or of any other State or of the United States;

43 (2) Avoid injurious or vicious habits;

44 (3) Avoid persons or places of disreputable or
45 harmful character, including any person, other than a family
46 member of the defendant, who is an active member of a criminal
47 street gang;

- 1 (4) Report to the supervision officer as directed by
2 the judge or supervision officer and obey all rules and
3 regulations of the community supervision and corrections
4 department;
- 5 (5) Permit the supervision officer to visit the
6 defendant at the defendant's home or elsewhere;
- 7 (6) Work faithfully at suitable employment as far as
8 possible;
- 9 (7) Remain within a specified place;
- 10 (8) Pay the defendant's fine, if one is [be]
11 assessed, and all court costs whether a fine is [be] assessed or
12 not, in one or several sums;
- 13 (9) Support the defendant's dependents;
- 14 (10) Participate, for a time specified by the judge,
15 in any community-based program, including a community-service
16 work program under Section 16 of this article;
- 17 (11) Reimburse the county in which the prosecution
18 was instituted for compensation paid to appointed counsel for
19 defending the defendant in the case, if counsel was appointed,
20 or if the defendant was represented by a county-paid public
21 defender, in an amount that would have been paid to an appointed
22 attorney had the county not had a public defender;
- 23 (12) Remain under custodial supervision in a
24 community corrections facility, obey all rules and regulations
25 of the [such] facility, and pay a percentage of the defendant's
26 income to the facility for room and board;
- 27 (13) Pay a percentage of the defendant's income to
28 the defendant's dependents for their support while under
29 custodial supervision in a community corrections facility;
- 30 (14) Submit to testing for alcohol or controlled
31 substances;
- 32 (15) Attend counseling sessions for substance abusers
33 or participate in substance abuse treatment services in a
34 program or facility approved or licensed by the Texas Commission
35 on Alcohol and Drug Abuse;
- 36 (16) With the consent of the victim of a misdemeanor
37 offense or of any offense under Title 7, Penal Code, participate
38 in victim-defendant mediation;
- 39 (17) Submit to electronic monitoring;
- 40 (18) Reimburse the compensation to victims of crime
41 fund for any amounts paid from that fund to or on behalf of a
42 victim, as defined by Article 56.32, of the defendant's offense
43 or if no reimbursement is required, make one payment to the
44 compensation to victims of crime fund in an amount not to exceed
45 \$50 if the offense is a misdemeanor or not to exceed \$100 if the
46 offense is a felony;
- 47 (19) Reimburse a law enforcement agency for the

1 analysis, storage, or disposal of raw materials, controlled
2 substances, chemical precursors, drug paraphernalia, or other
3 materials seized in connection with the offense;

4 (20) Pay all or part of the reasonable and necessary
5 costs incurred by the victim for psychological counseling made
6 necessary by the offense or for counseling and education
7 relating to acquired immune deficiency syndrome or human
8 immunodeficiency virus made necessary by the offense;

9 (21) Make one payment in an amount not to exceed \$50
10 to a crime stoppers organization as defined by Section 414.001,
11 Government Code, and as certified by the Crime Stoppers Advisory
12 Council;

13 (22) Submit a DNA sample to the Department of Public
14 Safety under Subchapter G, Chapter 411, Government Code, for the
15 purpose of creating a DNA record of the defendant;

16 (23) In any manner required by the judge, provide
17 public notice of the offense for which the defendant was placed
18 on community supervision in the county in which the offense was
19 committed; and

20 (24) Reimburse the county in which the prosecution
21 was instituted for compensation paid to any interpreter in the
22 case.

23 SECTION 18. Article 42.12, Code of Criminal Procedure, is
24 amended by adding Sections 13E and 13F to read as follows:

25 Sec. 13E. ELECTRONIC MONITORING OF CERTAIN MEMBERS OF
26 CRIMINAL STREET GANG WHO ARE PLACED ON COMMUNITY SUPERVISION.

27 (a) This section applies only to a defendant who:

28 (1) is identified as a member of a criminal street
29 gang in an intelligence database established under Chapter 61;
30 and

31 (2) has two or more times been previously convicted
32 of, or received a grant of deferred adjudication community
33 supervision or another functionally equivalent form of community
34 supervision or probation for, a felony offense under the laws of
35 this state, another state, or the United States.

36 (b) A court granting community supervision to a defendant
37 described by Subsection (a) may, on the defendant's conviction
38 of a felony offense, require as a condition of community
39 supervision that the defendant submit to tracking under an
40 electronic monitoring service or other appropriate technological
41 service designed to track a person's location.

42 Sec. 13F. RESTRICTIONS ON OPERATION OF MOTOR VEHICLE FOR
43 DEFENDANTS CONVICTED OF CERTAIN ORGANIZED CRIME OFFENSES. A
44 court granting community supervision to a defendant convicted of
45 an offense under Chapter 71, Penal Code, may impose as a
46 condition of community supervision restrictions on the
47 defendant's operation of a motor vehicle, including specifying:

1 (1) hours during which the defendant may not operate
2 a motor vehicle; and

3 (2) locations at or in which the defendant may not
4 operate a motor vehicle.

5 SECTION 19. Chapter 54, Family Code, is amended by adding
6 Section 54.0491 to read as follows:

7 Sec. 54.0491. GANG-RELATED CONDUCT. (a) In this section:

8 (1) "Criminal street gang" has the meaning assigned
9 by Section 71.01, Penal Code.

10 (2) "Gang-related conduct" means conduct that
11 violates a penal law of the grade of Class B misdemeanor or
12 higher and in which a child engages with the intent to:

13 (A) further the criminal activities of a
14 criminal street gang of which the child is a member;

15 (B) gain membership in a criminal street gang;
16 or

17 (C) avoid detection as a member of a criminal
18 street gang.

19 (b) A juvenile court, in a disposition hearing under
20 Section 54.04 regarding a child who has been adjudicated to have
21 engaged in delinquent conduct that is also gang-related conduct,
22 shall order the child to participate in a criminal street gang
23 intervention program that is appropriate for the child based on
24 the child's level of involvement in the criminal activities of a
25 criminal street gang. The intervention program:

26 (1) must include at least 12 hours of instruction;
27 and

28 (2) may include voluntary tattoo removal.

29 (c) If a child required to attend a criminal street gang
30 intervention program is committed to the Texas Youth Commission
31 as a result of the gang-related conduct, the child must complete
32 the intervention program before being discharged from the
33 custody of or released under supervision by the commission.

34 SECTION 20. Subchapter G, Chapter 508, Government Code, is
35 amended by adding Section 508.227 to read as follows:

36 Sec. 508.227. ELECTRONIC MONITORING OF CERTAIN MEMBERS OF
37 CRIMINAL STREET GANG. (a) This section applies only to a
38 releasee who:

39 (1) is identified as a member of a criminal street
40 gang in an intelligence database established under Chapter 61,
41 Code of Criminal Procedure; and

42 (2) has three or more times been convicted of, or
43 received a grant of deferred adjudication community supervision
44 or another functionally equivalent form of community supervision
45 or probation for, a felony offense under the laws of this state,
46 another state, or the United States.

47 (b) A parole panel may require as a condition of release

1 on parole or to mandatory supervision that a releasee described
2 by Subsection (a) submit to tracking under an electronic
3 monitoring service or other appropriate technological service
4 designed to track a person's location.

5 SECTION 21. Section 3.03, Penal Code, is amended by
6 amending Subsection (b) and adding Subsection (b-1) to read as
7 follows:

8 (b) If the accused is found guilty of more than one
9 offense arising out of the same criminal episode, the sentences
10 may run concurrently or consecutively if each sentence is for a
11 conviction of:

12 (1) an offense:

13 (A) under Section 49.07 or 49.08, regardless of
14 whether the accused is convicted of violations of the same
15 section more than once or is convicted of violations of both
16 sections; or

17 (B) for which a plea agreement was reached in a
18 case in which the accused was charged with more than one offense
19 listed in Paragraph (A), regardless of whether the accused is
20 charged with violations of the same section more than once or is
21 charged with violations of both sections;

22 (2) an offense:

23 (A) under Section 33.021 or an offense under
24 Section 21.02, 21.11, 22.011, 22.021, 25.02, or 43.25 committed
25 against a victim younger than 17 years of age at the time of the
26 commission of the offense regardless of whether the accused is
27 convicted of violations of the same section more than once or is
28 convicted of violations of more than one section; or

29 (B) for which a plea agreement was reached in a
30 case in which the accused was charged with more than one offense
31 listed in Paragraph (A) committed against a victim younger than
32 17 years of age at the time of the commission of the offense
33 regardless of whether the accused is charged with violations of
34 the same section more than once or is charged with violations of
35 more than one section; [~~or~~]

36 (3) an offense:

37 (A) under Section 21.15 or 43.26, regardless of
38 whether the accused is convicted of violations of the same
39 section more than once or is convicted of violations of both
40 sections; or

41 (B) for which a plea agreement was reached in a
42 case in which the accused was charged with more than one offense
43 listed in Paragraph (A), regardless of whether the accused is
44 charged with violations of the same section more than once or is
45 charged with violations of both sections; or

46 (4) an offense for which the judgment in the case
47 contains an affirmative finding under Article 42.0197, Code of

1 Criminal Procedure.

2 (b-1) Subsection (b)(4) does not apply to a defendant
3 whose case was transferred to the court under Section 54.02,
4 Family Code.

5 SECTION 22. Section 9, Article 42.01, Code of Criminal
6 Procedure, and Article 42.0197, Code of Criminal Procedure, as
7 added by this Act, apply only to a judgment of conviction
8 entered on or after the effective date of this Act.

9 SECTION 23. Section 11(a), Article 42.12, Code of Criminal
10 Procedure, as amended by this Act, and Sections 13E and 13F,
11 Article 42.12, Code of Criminal Procedure, as added by this Act,
12 apply only to a person who is placed on community supervision
13 for an offense committed on or after the effective date of this
14 Act. A person who is placed on community supervision for an
15 offense committed before the effective date of this Act is
16 governed by the law in effect on the date the offense was
17 committed, and the former law is continued in effect for that
18 purpose. For purposes of this section, an offense was committed
19 before the effective date of this Act if any element of the
20 offense occurred before that date.

21 SECTION 24. Section 54.0491, Family Code, as added by this
22 Act, applies only to conduct that violates a penal law of this
23 state and that occurs on or after the effective date of this
24 Act. Conduct that violates a penal law of this state and that
25 occurs before the effective date of this Act is covered by the
26 law in effect at the time the conduct occurred, and the former
27 law is continued in effect for that purpose. For purposes of
28 this section, conduct occurs before the effective date of this
29 Act if each element of the violation occurred before that date.

30 SECTION 25. Section 508.227, Government Code, as added by
31 this Act, applies only to a person released on parole or to
32 mandatory supervision for an offense committed on or after the
33 effective date of this Act. A person released on parole or to
34 mandatory supervision for an offense committed before the
35 effective date of this Act is governed by the law in effect on
36 the date the offense was committed, and the former law is
37 continued in effect for that purpose. For purposes of this
38 section, an offense was committed before the effective date of
39 this Act if any element of the offense occurred before that
40 date.

41 SECTION 26. Section 3.03(b), Penal Code, as amended by
42 this Act, applies only to an offense committed on or after the
43 effective date of this Act. An offense committed before the
44 effective date of this Act is covered by the law in effect when
45 the offense was committed, and the former law is continued in
46 effect for that purpose. For purposes of this section, an
47 offense was committed before the effective date of this Act if

1 any element of the offense occurred before that date.

2 SECTION 27. Subchapter C, Chapter 101, Civil Practice and
3 Remedies Code, is amended by adding Section 101.067 to read as
4 follows:

5 Sec. 101.067. GRAFFITI REMOVAL. This chapter does not
6 apply to a claim for property damage caused by the removal of
7 graffiti under Section 250.006, Local Government Code.

8 SECTION 28. Section 485.018(a), Health and Safety Code, is
9 amended to read as follows:

10 (a) A political subdivision or an agency of this state may
11 not enact an ordinance or rule that requires a business
12 establishment to display an abusable volatile chemical, other
13 than aerosol paint, in a manner that makes the chemical
14 accessible to patrons of the business only with the assistance
15 of personnel of the business.

16 SECTION 29. Chapter 250, Local Government Code, is amended
17 by adding Section 250.006 to read as follows:

18 Sec. 250.006. GRAFFITI REMOVAL. (a) Except as provided
19 by Subsection (h), a county by order or a municipality by
20 ordinance may require the owner of property within the
21 jurisdiction of the county or municipality to remove graffiti
22 from the owner's property on receipt of notice from the county
23 or municipality.

24 (b) The order or ordinance must provide that a county or
25 municipality may not give notice to a property owner under
26 Subsection (a) unless:

27 (1) the county or municipality has offered to remove
28 the graffiti from the owner's property free of charge; and

29 (2) the property owner has refused the offer.

30 (c) The order or ordinance must require a property owner
31 to remove the graffiti on or before the 15th day after the date
32 the property owner receives notice under Subsection (a). If the
33 property owner fails to remove the graffiti on or before the
34 15th day after the date of receipt of the notice, the county or
35 municipality may remove the graffiti and charge the expenses of
36 removal to the property owner in accordance with a fee schedule
37 adopted by the county or municipality.

38 (d) The notice required by Subsection (a) must be given:

39 (1) personally to the owner in writing;

40 (2) by letter sent by certified mail, addressed to
41 the property owner at the property owner's address as contained
42 in the records of the appraisal district in which the property
43 is located; or

44 (3) if service cannot be obtained under Subdivision
45 (1) or (2):

46 (A) by publication at least once in a newspaper
47 of general circulation in the county or municipality;

1 (B) by posting the notice on or near the front
2 door of each building on the property to which the notice
3 relates; or

4 (C) by posting the notice on a placard attached
5 to a stake driven into the ground on the property to which the
6 notice relates.

7 (e) The county or municipality may assess expenses
8 incurred under Subsection (c) against the property on which the
9 work is performed to remove the graffiti.

10 (f) To obtain a lien against the property for expenses
11 incurred under Subsection (c), the governing body of the county
12 or municipality must file a statement of expenses with the
13 county clerk. The statement of expenses must contain:

14 (1) the name of the property owner, if known;

15 (2) the legal description of the property; and

16 (3) the amount of expenses incurred under Subsection

17 (c).

18 (g) A lien described by Subsection (f) attaches to the
19 property on the date on which the statement of expenses is filed
20 in the real property records of the county in which the property
21 is located and is subordinate to:

22 (1) any previously recorded lien; and

23 (2) the rights of a purchaser or lender for value who
24 acquires an interest in the property subject to the lien before
25 the statement of expenses is filed as described by Subsection
26 (f).

27 (h) An order or ordinance described by this section must
28 include an exception from the requirement that an owner of
29 property remove graffiti from the owner's property if:

30 (1) the graffiti is located on transportation
31 infrastructure; and

32 (2) the removal of the graffiti would create a hazard
33 for the person performing the removal.

34 SECTION 30. Section 101.067, Civil Practice and Remedies
35 Code, as added by this Act, applies only to a cause of action
36 that accrues on or after the effective date of this Act. A
37 cause of action that accrued before the effective date of this
38 Act is governed by the law in effect immediately before the
39 effective date of this Act, and that law is continued in effect
40 for that purpose.

41 SECTION 31. Section 37.10, Penal Code, is amended by
42 adding Subsection (j) to read as follows:

43 (j) It is not a defense to prosecution under Subsection
44 (a)(2) that the record, document, or thing made, presented, or
45 used displays or contains the statement "NOT A GOVERNMENT
46 DOCUMENT" or another substantially similar statement intended to
47 alert a person to the falsity of the record, document, or thing,

1 unless the record, document, or thing displays the statement
2 diagonally printed clearly and indelibly on both the front and
3 back of the record, document, or thing in solid red capital
4 letters at least one-fourth inch in height.

5 SECTION 32. Section 521.454, Transportation Code, is
6 amended by adding Subsection (d) to read as follows:

7 (d) If conduct constituting an offense under this section
8 also constitutes an offense under another law, the actor may be
9 prosecuted under this section, the other law, or both.

10 SECTION 33. Section 521.455, Transportation Code, is
11 amended by adding Subsection (c) to read as follows:

12 (c) If conduct constituting an offense under this section
13 also constitutes an offense under another law, the actor may be
14 prosecuted under this section, the other law, or both.

15 SECTION 34. Section 521.456, Transportation Code, is
16 amended by adding Subsection (e) to read as follows:

17 (e) If conduct constituting an offense under this section
18 also constitutes an offense under another law, the actor may be
19 prosecuted under this section, the other law, or both.

20 SECTION 35. Section 37.10(j), Penal Code, and Sections
21 521.454(d), 521.455(c), and 521.456(e), Transportation Code, as
22 added by this Act, apply only to an offense committed on or
23 after the effective date of this Act. An offense committed
24 before the effective date of this Act is covered by the law in
25 effect when the offense was committed, and the former law is
26 continued in effect for that purpose. For purposes of this
27 section, an offense was committed before the effective date of
28 this Act if any element of the offense occurred before that
29 date.

30 SECTION 36. Article 61.02, Code of Criminal Procedure, is
31 amended by amending Subsection (c) and adding Subsections (d)
32 and (e) to read as follows:

33 (c) Criminal information collected under this chapter
34 relating to a criminal street gang must:

35 (1) be relevant to the identification of an
36 organization that is reasonably suspected of involvement in
37 criminal activity; and

38 (2) consist of:

39 (A) a judgment under any law that includes, as a
40 finding or as an element of a criminal offense, participation in
41 a criminal street gang;

42 (B) a self-admission by the individual of
43 criminal street gang membership that is made during a judicial
44 proceeding; or

45 (C) except as provided by Subsection (d), any
46 two of the following:

47 (i) a self-admission by the individual of

1 criminal street gang membership that is not made during a
2 judicial proceeding, including the use of the Internet or other
3 electronic format or medium to post photographs or other
4 documentation identifying the individual as a member of a
5 criminal street gang;

6 (ii) an identification of the individual as
7 a criminal street gang member by a reliable informant or other
8 individual;

9 (iii) a corroborated identification of the
10 individual as a criminal street gang member by an informant or
11 other individual of unknown reliability;

12 (iv) evidence that the individual frequents
13 a documented area of a criminal street gang and associates with
14 known criminal street gang members;

15 (v) evidence that the individual uses, in
16 more than an incidental manner, criminal street gang dress, hand
17 signals, tattoos, or symbols, including expressions of letters,
18 numbers, words, or marks, regardless of how or the means by [~~the~~
19 ~~format or medium in~~] which the symbols are displayed, that are
20 associated with a criminal street gang that operates in an area
21 frequented by the individual and described by Subparagraph (iv);
22 [~~or~~]

23 (vi) evidence that the individual has been
24 arrested or taken into custody with known criminal street gang
25 members for an offense or conduct consistent with criminal
26 street gang activity;

27 (vii) evidence that the individual has
28 visited a known criminal street gang member, other than a family
29 member of the individual, while the gang member is confined in
30 or committed to a penal institution; or

31 (viii) evidence of the individual's use of
32 technology, including the Internet, to recruit new criminal
33 street gang members.

34 (d) Evidence described by Subsections (c)(2)(C)(iv) and
35 (vii) is not sufficient to create the eligibility of a person's
36 information to be included in an intelligence database described
37 by this chapter unless the evidence is combined with information
38 described by another subparagraph of Subsection (c)(2)(C).

39 (e) In this article:

40 (1) "Family member" means a person related to another
41 person within the third degree by consanguinity or affinity, as
42 described by Subchapter B, Chapter 573, Government Code, except
43 that the term does not include a person who is considered to be
44 related to another person by affinity only as described by
45 Section 573.024(b), Government Code.

46 (2) "Penal institution" means a confinement facility
47 operated by or under a contract with any division of the Texas

1 Department of Criminal Justice, a confinement facility operated
2 by or under contract with the Texas Youth Commission, or a
3 juvenile secure pre-adjudication or post-adjudication facility
4 operated by or under a local juvenile probation department, or a
5 county jail.

6 SECTION 37. Article 61.06(b), Code of Criminal Procedure,
7 is amended to read as follows:

8 (b) Subject to Subsection (c), information collected under
9 this chapter relating to a criminal street gang must be removed
10 from an intelligence database established under Article 61.02
11 and the intelligence database maintained by the department under
12 Article 61.03 after five [~~three~~] years if:

13 (1) the information relates to the investigation or
14 prosecution of criminal activity engaged in by an individual
15 other than a child; and

16 (2) the individual who is the subject of the
17 information has not been arrested for criminal activity reported
18 to the department under Chapter 60.

19 SECTION 38. Article 61.06(c), Code of Criminal Procedure,
20 as amended by Chapters 258 (S.B. 11), 263 (S.B. 103), and 1308
21 (S.B. 909), Acts of the 80th Legislature, Regular Session, 2007,
22 is reenacted and amended to read as follows:

23 (c) In determining whether information is required to be
24 removed from an intelligence database under Subsection (b), the
25 five-year [~~three-year~~] period does not include any period during
26 which the individual who is the subject of the information is:

27 (1) confined in a correctional facility operated by
28 or under contract with the Texas Department of Criminal Justice;

29 (2) committed to a secure correctional facility
30 operated by or under contract with the Texas Youth Commission,
31 as defined by Section 51.02, Family Code; or

32 (3) confined in a county jail or confined in or
33 committed to a facility operated by a juvenile board in lieu of
34 being confined in a correctional facility operated by or under
35 contract with the Texas Department of Criminal Justice or being
36 committed to a secure correctional facility operated by or under
37 contract with the Texas Youth Commission.

38 SECTION 39. Article 61.06, Code of Criminal Procedure, as
39 amended by this Act, applies to any applicable information
40 maintained in an intelligence database under Chapter 61 of that
41 code on or after the effective date of this Act.

42 SECTION 40. Article 18.20, Code of Criminal Procedure, is
43 amended by adding Section 9A to read as follows:

44 Sec. 9A. INTERCEPTION ORDER FOR COMMUNICATION BY SPECIFIED
45 PERSON. (a) The requirements of Sections 8(a)(2)(B) and
46 9(b)(2) relating to the specification of the facilities from
47 which or the place where a communication is to be intercepted do

1 not apply if:

2 (1) in the case of an application for an order
3 authorizing the interception of an oral communication:

4 (A) the application contains a full and complete
5 statement as to why the specification is not practical and
6 identifies the person committing or believed to be committing
7 the offense and whose communications are to be intercepted; and

8 (B) a judge of competent jurisdiction finds that
9 the specification is not practical; and

10 (2) in the case of an application for an order
11 authorizing the interception of a wire or electronic
12 communication:

13 (A) the application identifies the person
14 committing or believed to be committing the offense and whose
15 communications are to be intercepted;

16 (B) a judge of competent jurisdiction finds that
17 the applicant has made an adequate showing of probable cause to
18 believe that the actions of the person identified in the
19 application could have the effect of thwarting interception from
20 a specified facility; and

21 (C) the authority to intercept a wire or
22 electronic communication under the order is limited to a period
23 in which it is reasonable to presume that the person identified
24 in the application will be reasonably proximate to the
25 interception device.

26 (b) A person implementing an order authorizing the
27 interception of an oral communication that, in accordance with
28 this section, does not specify the facility from which or the
29 place where a communication is to be intercepted may begin
30 interception only after the person ascertains the place where
31 the communication is to be intercepted.

32 (c) A provider of wire or electronic communications that
33 receives an order authorizing the interception of a wire or
34 electronic communication that, in accordance with this section,
35 does not specify the facility from which or the place where a
36 communication is to be intercepted may move the court to modify
37 or quash the order on the ground that the provider's assistance
38 with respect to the interception cannot be performed in a timely
39 or reasonable fashion. On notice to the state, the court shall
40 decide the motion expeditiously.

41 SECTION 41. Subchapter A, Chapter 411, Government Code, is
42 amended by adding Section 411.0207 to read as follows:

43 Sec. 411.0207. PUBLIC CORRUPTION UNIT. (a) In this
44 section, "organized criminal activity" means conduct that
45 constitutes an offense under Section 71.02, Penal Code.

46 (b) A public corruption unit is created within the
47 department to investigate and assist in the management of

1 allegations of participation in organized criminal activity by:

2 (1) an individual elected, appointed, or employed to
3 serve as a peace officer for a governmental entity of this state
4 under Article 2.12, Code of Criminal Procedure; or

5 (2) a federal law enforcement officer while
6 performing duties in this state.

7 (c) The unit shall:

8 (1) assist district attorneys and county attorneys in
9 the investigation and prosecution of allegations described by
10 Subsection (b);

11 (2) if requested by the agency, assist a state or
12 local law enforcement agency with the investigation of such
13 allegations against law enforcement officers in the agency;

14 (3) assist the United States Department of Justice or
15 any other appropriate federal department or agency in the
16 investigation and prosecution of allegations described by
17 Subsection (b);

18 (4) if requested by the agency, assist a federal law
19 enforcement agency with the investigation of such allegations
20 against law enforcement officers in the agency;

21 (5) serve as a clearinghouse for information relating
22 to the investigation and prosecution of allegations described by
23 Subsection (b); and

24 (6) report to the highest-ranking officer of the
25 Texas Rangers division of the department.

26 (d) On written approval of the director or of the chair of
27 the commission, the highest-ranking officer of the Texas Rangers
28 division of the department may initiate an investigation of an
29 allegation of participation in organized criminal activity by a
30 law enforcement officer described by Subsection (b)(1). Written
31 approval under this subsection must be based on cause.

32 (e) To the extent allowed by law, a state or local law
33 enforcement agency shall cooperate with the public corruption
34 unit by providing information requested by the unit as necessary
35 to carry out the purposes of this section. Information
36 described by this subsection is excepted from required
37 disclosure under Chapter 552 in the manner provided by Section
38 552.108.

39 SECTION 42. Chapter 772, Government Code, is amended by
40 adding Section 772.007 to read as follows:

41 Sec. 772.007. TEXAS ANTI-GANG GRANT PROGRAM. (a) The
42 criminal justice division established under Section 772.006
43 shall administer a competitive grant program to support
44 regional, multidisciplinary approaches to combat gang violence
45 through the coordination of gang prevention, intervention, and
46 suppression activities.

47 (b) The grant program administered under this section must

1 be directed toward regions of this state that have demonstrably
2 high levels of gang violence.

3 (c) The criminal justice division shall award grants to
4 qualified applicants, as determined by the division, that
5 demonstrate a comprehensive approach that balances gang
6 prevention, intervention, and suppression activities to reduce
7 gang violence.

8 (d) The criminal justice division shall include in the
9 biennial report required by Section 772.006(a)(9) detailed
10 reporting of the results and performance of the grant program
11 administered under this section.

12 (e) The criminal justice division may use any revenue
13 available for purposes of this section.

14 SECTION 43. Section 9A, Article 18.20, Code of Criminal
15 Procedure, as added by this Act, applies only to an application
16 for an order authorizing the interception of a wire, oral, or
17 electronic communication that is submitted on or after the
18 effective date of this Act. An application that was submitted
19 before the effective date of this Act is covered by the law in
20 effect on the date the application was submitted, and the former
21 law is continued in effect for that purpose.

22 SECTION 44. Not later than December 1, 2010, the
23 Department of Public Safety shall establish the public
24 corruption unit under Section 411.0207, Government Code, as
25 added by this Act.

26 SECTION 45. To the extent of any conflict, this Act
27 prevails over another Act of the 81st Legislature, Regular
28 Session, 2009, relating to nonsubstantive additions to and
29 corrections in enacted codes.

30 SECTION 46. (a) The Legislative Budget Board shall
31 prepare an annual criminal justice policy impact statement for
32 this Act.

33 (b) The impact statement must include information
34 concerning:

35 (1) the number of arrests and resulting criminal
36 dispositions under this Act;

37 (2) the fiscal impact of arrests, trials,
38 convictions, and imprisoning or imposing other sanctions on
39 persons in accordance with this Act;

40 (3) the race and ethnicity of persons arrested,
41 prosecuted, convicted, and incarcerated under this Act;

42 (4) the impact of this Act on existing correctional
43 facilities, as defined by Section 1.07, Penal Code;

44 (5) the likelihood that this Act may create a need
45 for additional prison capacity;

46 (6) civil action damages assessed and collected, and
47 assets seized and forfeited under this Act; and

1 (7) any other matter the Legislative Budget Board
2 determines relevant.

3 (c) The Legislative Budget Board shall complete the impact
4 statement not later than December 1 each year, beginning
5 December 1, 2010, and make it available to the public on its
6 website.

7 SECTION 47. (a) Except as provided by Subsection (b),
8 this Act takes effect September 1, 2009.

9 (b) Sections 37.110 and 51.973, Education Code, and
10 Section 42.064, Human Resources Code, as added by this Act, take
11 effect immediately if this Act receives a vote of two-thirds of
12 all the members elected to each house, as provided by Section
13 39, Article III, Texas Constitution. If this Act does not
14 receive the vote necessary for immediate effect, those sections
15 of the Education Code and Human Resources Code take effect
16 September 1, 2009.

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18 H.B. No. 2093
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23 AN ACT

24 relating to persons certified as peace officers.

25 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

26 SECTION 1. Section 1701.404, Occupations Code, is amended
27 to read as follows:

28 Sec. 1701.404. CERTIFICATION OF OFFICERS FOR MENTAL HEALTH
29 ASSIGNMENTS. (a) The commission by rule may establish minimum
30 requirements for the training, testing, and certification of
31 special officers for offenders with mental impairments.

32 (b) The commission may certify a sheriff, sheriff's
33 deputy, constable, ~~[o]r~~ other peace officer, county jailer, or
34 ~~[a]~~ justice of the peace~~[r]~~ as a special officer for offenders
35 with mental impairments if the person ~~[officer]~~:

36 (1) completes a training course in emergency first
37 aid and lifesaving techniques approved by the commission;

38 (2) completes a training course administered by the
39 commission on mental health issues and offenders with mental
40 impairments; and

41 (3) passes an examination administered by the
42 commission that is designed to test the person's ~~[officer's]~~:

43 (A) knowledge and recognition of the
44 characteristics and symptoms of mental illness, mental
45 retardation, and mental disabilities; and

46 (B) knowledge of mental health crisis
47 intervention strategies for people with mental impairments.

1 (c) The commission may issue a professional achievement or
2 proficiency certificate to an officer, county jailer, or justice
3 of the peace who meets the requirements of Subsection (b).

4 SECTION 2. (a) The Commission on Law Enforcement Officer
5 Standards and Education may certify a county jailer as a special
6 officer for offenders with mental impairments and may issue a
7 certificate to the county jailer if the county jailer meets the
8 requirements of Section 1701.404(b), Occupations Code, as
9 amended by this Act, regardless of whether the county jailer
10 completed the required training and passed the examination
11 before, on, or after the effective date of this Act.

12 (b) The Commission on Law Enforcement Officer Standards
13 and Education may issue a certificate under Section 1701.404(c),
14 Occupations Code, as amended by this Act, to a justice of the
15 peace who is certified as a special officer for offenders with
16 mental impairments regardless of whether the justice of the
17 peace was certified before, on, or after the effective date of
18 this Act.

19 SECTION 3. This Act takes effect September 1, 2009.

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21 H.B. No. 2113
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26 AN ACT

27 relating to the holidays for members of fire and police
28 departments in certain municipalities.

29 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

30 SECTION 1. Section 142.0013(c), Local Government Code, is
31 amended to read as follows:

32 (c) A fire fighter [~~and a police officer~~] shall be granted
33 the same number of vacation days and holidays, or days in lieu
34 of vacation days or holidays, granted to other municipal
35 employees, at least one of which shall be designated as
36 September 11th.

37 SECTION 2. Section 142.0013, Local Government Code, is
38 amended by adding Subsection (d) to read as follows:

39 (d) A police officer shall be granted the same number of
40 vacation days and holidays, or days in lieu of vacation days or
41 holidays, granted to other municipal employees.

42 SECTION 3. This Act takes effect September 1, 2009.

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44 H.B. No. 2130
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AN ACT

relating to the assistance of the Texas Rangers in the investigation of certain sex offenses.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 2, Code of Criminal Procedure, is amended by adding Article 2.022 to read as follows:

Art. 2.022. ASSISTANCE OF TEXAS RANGERS. (a) The attorney representing the state may request the Texas Rangers division of the Department of Public Safety to provide assistance to a local law enforcement agency investigating an offense that:

(1) is alleged to have been committed by an elected officer of the political subdivision served by the local law enforcement agency; and

(2) on conviction or adjudication, would subject the elected officer to registration as a sex offender under Chapter 62.

(b) For purposes of this article, "assistance" includes investigative, technical, and administrative assistance.

SECTION 2. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2009.

H.B. No. 2153

AN ACT

relating to certain registration requirements imposed on sex offenders.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Article 13.31, Code of Criminal Procedure, is amended to read as follows:

Art. 13.31. FAILURE TO COMPLY WITH SEX OFFENDER REGISTRATION STATUTE. An offense under Chapter 62 may be prosecuted in:

(1) any county in which an element of the offense occurs;

(2) the county in which the person subject to Chapter 62 last registered, verified registration, or otherwise complied with a requirement of Chapter 62;

(3) the county in which the person required to register under Chapter 62 has indicated that the person intends to reside, regardless of whether the person establishes or

1 attempts to establish residency in that county; [~~or~~]

2 (4) any county in which the person required to
3 register under Chapter 62 is placed under custodial arrest for
4 an offense subsequent to the person's most recent reportable
5 conviction or adjudication under Chapter 62; or

6 (5) the county in which the person required to
7 register under Chapter 62 resides or is found by a peace
8 officer, regardless of how long the person has been in the
9 county or intends to stay in the county.

10 SECTION 2. Article 62.051, Code of Criminal Procedure, is
11 amended by amending Subsections (c) and (f) and adding
12 Subsections (j) and (k) to read as follows:

13 (c) The registration form shall require:

14 (1) the person's full name, including each alias, the
15 person's date of birth, sex, race, height, weight, eye color,
16 hair color, social security number, driver's license number, and
17 shoe size, and the [~~home~~] address at which the person resides or
18 intends to reside or, if the person does not reside or intend to
19 reside at a physical address, a detailed description of each
20 geographical location at which the person resides or intends to
21 reside;

22 (2) a recent color photograph or, if possible, an
23 electronic digital image of the person and a complete set of the
24 person's fingerprints;

25 (3) the type of offense the person was convicted of,
26 the age of the victim, the date of conviction, and the
27 punishment received;

28 (4) an indication as to whether the person is
29 discharged, paroled, or released on juvenile probation,
30 community supervision, or mandatory supervision;

31 (5) an indication of each license, as defined by
32 Article 62.005(g), that is held or sought by the person;

33 (6) an indication as to whether the person is or will
34 be employed, carrying on a vocation, or a student at a
35 particular public or private institution of higher education in
36 this state or another state, and the name and address of that
37 institution; and

38 (7) any other information required by the department.

39 (f) Not later than the seventh day after the date on which
40 the person is released, a [A] person for whom registration is
41 completed under this chapter shall report to the applicable
42 local law enforcement authority to verify the information in the
43 registration form received by the authority under this chapter.
44 The authority shall require the person to produce proof of the
45 person's identity and residence before the authority gives the
46 registration form to the person for verification. If the
47 information in the registration form is complete and accurate,

1 the person shall verify registration by signing the form. If
2 the information is not complete or not accurate, the person
3 shall make any necessary additions or corrections before signing
4 the form.

5 (j) If a person subject to registration under this chapter
6 is released from a penal institution without being released to
7 parole or placed on any other form of supervision and the person
8 does not move to the address indicated on the registration form
9 as the person's intended residence or does not indicate an
10 address on the registration form, the person shall, not later
11 than the seventh day after the date on which the person is
12 released:

13 (1) report in person to the local law enforcement
14 authority for the municipality or county, as applicable, in
15 which the person is residing and provide that authority with
16 the address at which the person is residing or, if the person's
17 residence does not have a physical address, a detailed
18 description of the geographical location of the person's
19 residence; and

20 (2) until the person indicates the person's current
21 address as the person's intended residence on the registration
22 form or otherwise complies with the requirements of Article
23 62.055, as appropriate, continue to report, in the manner
24 required by Subdivision (1), to that authority not less than
25 once in each succeeding 30-day period and provide that authority
26 with the address at which the person is residing or, if
27 applicable, a detailed description of the geographical location
28 of the person's residence.

29 (k) A person required to register under this chapter may
30 not refuse or otherwise fail to provide any information required
31 for the accurate completion of the registration form.

32 SECTION 3. Article 62.053(a), Code of Criminal Procedure,
33 is amended to read as follows:

34 (a) Before a person who will be subject to registration
35 under this chapter is due to be released from a penal
36 institution, the Texas Department of Criminal Justice or the
37 Texas Youth Commission shall determine the person's level of
38 risk to the community using the sex offender screening tool
39 developed or selected under Article 62.007 and assign to the
40 person a numeric risk level of one, two, or three. Before
41 releasing the person, an official of the penal institution
42 shall:

43 (1) inform the person that:

44 (A) not later than the later of the seventh day
45 after the date on which the person is released or after the date
46 on which the person moves from a previous residence to a new
47 residence in this state or not later than [~~the later of~~] the

1 first date the applicable local law enforcement authority by
2 policy allows the person to register or verify registration, the
3 person must register or verify registration with the local law
4 enforcement authority in the municipality or county in which the
5 person intends to reside;

6 (B) not later than the seventh day after the
7 date on which the person is released or the date on which the
8 person moves from a previous residence to a new residence in
9 this state, the person must, if the person has not moved to an
10 intended residence, report to the applicable entity or entities
11 as required by Article 62.051(h) or (j) or 62.055(e) [~~juvenile~~
12 ~~probation officer, community supervision and corrections~~
13 ~~department officer, or parole officer supervising the person~~];

14 (C) not later than the seventh day before the
15 date on which the person moves to a new residence in this state
16 or another state, the person must report in person to the local
17 law enforcement authority designated as the person's primary
18 registration authority by the department and to the juvenile
19 probation officer, community supervision and corrections
20 department officer, or parole officer supervising the person;

21 (D) not later than the 10th day after the date
22 on which the person arrives in another state in which the person
23 intends to reside, the person must register with the law
24 enforcement agency that is identified by the department as the
25 agency designated by that state to receive registration
26 information, if the other state has a registration requirement
27 for sex offenders;

28 (E) not later than the 30th day after the date
29 on which the person is released, the person must apply to the
30 department in person for the issuance of an original or renewal
31 driver's license or personal identification certificate and a
32 failure to apply to the department as required by this paragraph
33 results in the automatic revocation of any driver's license or
34 personal identification certificate issued by the department to
35 the person; and

36 (F) the person must notify appropriate entities
37 of any change in status as described by Article 62.057;

38 (2) require the person to sign a written statement
39 that the person was informed of the person's duties as described
40 by Subdivision (1) or Subsection (g) or, if the person refuses
41 to sign the statement, certify that the person was so informed;

42 (3) obtain the address or, if applicable, a detailed
43 description of each geographical location where the person
44 expects to reside on the person's release and other registration
45 information, including a photograph and complete set of
46 fingerprints; and

47 (4) complete the registration form for the person.

1 SECTION 4. The heading to Article 62.055, Code of Criminal
2 Procedure, is amended to read as follows:

3 Art. 62.055. CHANGE OF ADDRESS; LACK OF ADDRESS.

4 SECTION 5. Article 62.055, Code of Criminal Procedure, is
5 amended by adding Subsection (i) to read as follows:

6 (i) If a person required to register under this chapter
7 resides for more than seven days at a location or locations to
8 which a physical address has not been assigned by a governmental
9 entity, the person, not less than once in each 30-day period,
10 shall confirm the person's location or locations by:

11 (1) reporting to the local law enforcement authority
12 in the municipality where the person resides or, if the person
13 does not reside in a municipality, the local law enforcement
14 authority in the county in which the person resides; and

15 (2) providing a detailed description of the
16 applicable location or locations.

17 SECTION 6. Article 13.31, Code of Criminal Procedure, as
18 amended by this Act, applies only to an offense committed on or
19 after the effective date of this Act. An offense committed
20 before the effective date of this Act is covered by the law in
21 effect when the offense was committed, and the former law is
22 continued in effect for that purpose. For purposes of this
23 section, an offense was committed before the effective date of
24 this Act if any element of the offense occurred before that
25 date.

26 SECTION 7. The changes in law made by this Act in amending
27 Chapter 62, Code of Criminal Procedure, apply to any person who,
28 on or after the effective date of this Act, is required to
29 register under that chapter, regardless of whether the offense
30 or conduct for which the person is required to register occurs
31 before, on, or after the effective date of this Act.

32 SECTION 8. This Act takes effect September 1, 2009.

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34 H.B. No. 2161
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40 AN ACT

41 relating to a personal identification certificate or driver's
42 license issued to present or former inmates of the Texas
43 Department of Criminal Justice.

44 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

45 SECTION 1. Section 501.015(a), Government Code, is amended
46 to read as follows:

47 (a) When an inmate is discharged or is released on parole,
mandatory supervision, or conditional pardon, the department

1 [~~institutional division~~] shall provide the inmate with:
2 (1) suitable civilian clothing;
3 (2) money held in the inmate's trust account by the
4 director; [~~and~~]
5 (3) cash, in an amount and in the manner described by
6 Subsection (b); and
7 (4) a personal identification certificate obtained
8 under Section 501.0165, if available.

9 SECTION 2. Subchapter A, Chapter 501, Government Code, is
10 amended by adding Section 501.0165 to read as follows:

11 Sec. 501.0165. STATE-ISSUED IDENTIFICATION; NECESSARY
12 DOCUMENTATION. (a) Before discharging an inmate or releasing
13 an inmate on parole, mandatory supervision, or conditional
14 pardon, the department shall:

15 (1) determine whether the inmate has:
16 (A) a valid license issued under Chapter 521 or
17 522, Transportation Code; or

18 (B) a valid personal identification certificate
19 issued under Chapter 521, Transportation Code; and

20 (2) if the inmate does not have a valid license or
21 certificate described by Subdivision (1), submit to the
22 Department of Public Safety on behalf of the inmate a request
23 for the issuance of a personal identification certificate under
24 Chapter 521, Transportation Code.

25 (b) The department shall submit a request under Subsection
26 (a)(2) as soon as is practicable to enable the department to
27 provide the inmate with the personal identification certificate
28 when the department discharges or releases the inmate.

29 (c) The department, the Department of Public Safety, and
30 the bureau of vital statistics of the Department of State Health
31 Services shall by rule adopt a memorandum of understanding that
32 establishes their respective responsibilities with respect to
33 the issuance of a personal identification certificate to an
34 inmate, including responsibilities related to verification of
35 the inmate's identity. The memorandum of understanding must
36 require the Department of State Health Services to
37 electronically verify the birth record of an inmate whose name
38 and any other personal information is provided by the department
39 and to electronically report the recorded filing information to
40 the Department of Public Safety to validate the identity of an
41 inmate under this section.

42 (d) The department shall reimburse the Department of
43 Public Safety or the Department of State Health Services for the
44 actual costs incurred by those agencies in performing
45 responsibilities established under this section. The department
46 may charge an inmate for the actual costs incurred under this
47 section or the fees required by Section 521.421, Transportation

1 Code.

2 (e) This section does not apply to an inmate who:

3 (1) is not legally present in the United States; or

4 (2) was not a resident of this state before the
5 person was placed in the custody of the department.

6 SECTION 3. Section 521.001(a), Transportation Code, is
7 amended by amending Subdivision (1) and adding Subdivisions (1-
8 a) and (7-a) to read as follows:

9 (1) "Correctional facility" means:

10 (A) a place described by Section 1.07(a)(14),
11 Penal Code; or

12 (B) a secure correctional facility or secure
13 detention facility, as defined by Section 51.02, Family Code.

14 (1-a) "Department" means the Department of Public
15 Safety.

16 (7-a) "Parole facility" means a place described by
17 Section 508.118 or 508.119, Government Code.

18 SECTION 4. Section 521.101, Transportation Code, is
19 amended by adding Subsection (f-1) to read as follows:

20 (f-1) A personal identification certificate issued to a
21 person whose residence or domicile is a correctional facility or
22 a parole facility expires on the first birthday of the license
23 holder occurring after the first anniversary of the date of
24 issuance.

25 SECTION 5. Section 521.271, Transportation Code, is
26 amended to read as follows:

27 Sec. 521.271. LICENSE EXPIRATION. (a) Each original
28 driver's license and provisional license expires as follows:

29 (1) except as provided by Section 521.2711, a
30 driver's license expires on the first birthday of the license
31 holder occurring after the sixth anniversary of the date of the
32 application;

33 (2) a provisional license expires on the earlier of:

34 (A) the 18th birthday of the license holder; or

35 (B) the first birthday of the license holder
36 occurring after the date of the application;

37 (3) an instruction permit expires on the second
38 birthday of the license holder occurring after the date of the
39 application; ~~and~~

40 (4) an occupational license expires on the first
41 anniversary of the court order granting the license; and

42 (5) unless an earlier date is otherwise provided, a
43 driver's license issued to a person whose residence or domicile
44 is a correctional facility or a parole facility expires on the
45 first birthday of the license holder occurring after the first
46 anniversary of the date of issuance.

47 (b) Except as provided by Section 521.2711, a driver's

1 license that is renewed expires on the earlier of:

2 (1) the sixth anniversary of the expiration date
3 before renewal; or

4 (2) for a renewal driver's license issued to a person
5 whose residence or domicile is a correctional facility or a
6 parole facility, the first birthday of the license holder
7 occurring after the first anniversary of the date of issuance
8 unless an earlier date is otherwise provided.

9 SECTION 6. Section 521.421, Transportation Code, is
10 amended by adding Subsections (a-1) and (a-2) to read as
11 follows:

12 (a-1) The fee for a personal identification certificate
13 issued under Section 501.0165, Government Code, is \$5.

14 (a-2) Except as provided by Subsection (a-1), the
15 department by rule shall establish the fee for a personal
16 identification certificate or driver's license issued to a
17 person whose residence or domicile is a correctional facility or
18 a parole facility.

19 SECTION 7. Section 522.051, Transportation Code, is
20 amended by adding Subsection (g) to read as follows:

21 (g) A commercial driver's license issued to a person whose
22 residence or domicile is a correctional facility or a parole
23 facility expires on the first birthday of the license holder
24 occurring after the first anniversary of the date of issuance.
25 The department by rule shall establish the fee for a commercial
26 driver's license issued to a person whose residence or domicile
27 is a correctional facility or a parole facility.

28 SECTION 8. Section 522.052, Transportation Code, is
29 amended by adding Subsection (h) to read as follows:

30 (h) A renewal commercial driver's license issued to a
31 person whose residence or domicile is a correctional facility or
32 a parole facility expires on the first birthday of the license
33 holder occurring after the first anniversary of the date of
34 issuance.

35 SECTION 9. This Act does not make an appropriation. A
36 provision in this Act that creates a new governmental program,
37 creates a new entitlement, or imposes a new duty on a
38 governmental entity is not mandatory during a fiscal period for
39 which the legislature has not made a specific appropriation to
40 implement the provision.

41 SECTION 10. This Act takes effect September 1, 2009.

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43 H.B. No. 2168
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1 AN ACT

2 relating to the powers of a sheriff's department civil service
3 commission in certain counties regarding an appeal of a
4 disciplinary action.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Section 158.035, Local Government Code, is
7 amended by adding Subsection (d) to read as follows:

8 (d) In rendering a final decision regarding a disciplinary
9 action by the department, the commission may only sustain,
10 overturn, or reduce the disciplinary action. The commission may
11 not enhance a disciplinary action by the department.

12 SECTION 2. The change in law made by this Act applies only
13 to a decision made by a sheriff's department civil service
14 commission on or after the effective date of this Act. A
15 decision made by a sheriff's department civil service commission
16 before the effective date of this Act is governed by the law in
17 effect when the decision was made, and the former law is
18 continued in effect for that purpose.

19 SECTION 3. This Act takes effect September 1, 2009.

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21 H.B. No. 2187
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26 AN ACT

27 relating to the prosecution and punishment of offenses involving
28 coercing, inducing, or soliciting membership in a criminal
29 street gang.

30 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

31 SECTION 1. The heading to Section 71.022, Penal Code, is
32 amended to read as follows:

33 Sec. 71.022. COERCING, INDUCING, OR SOLICITING MEMBERSHIP
34 IN A CRIMINAL STREET GANG.

35 SECTION 2. Section 71.022, Penal Code, is amended by
36 adding Subsections (a-1) and (d) to read as follows:

37 (a-1) A person commits an offense if, with intent to
38 coerce, induce, or solicit a child to actively participate in
39 the activities of a criminal street gang, the person:

40 (1) threatens the child or a member of the child's
41 family with imminent bodily injury; or

42 (2) causes bodily injury to the child or a member of
43 the child's family.

44 (d) In this section:

45 (1) "Child" means an individual younger than 17 years
46 of age.

47 (2) "Family" has the meaning assigned by Section

1 71.003, Family Code.

2 SECTION 3. Section 22.015, Penal Code, is repealed.

3 SECTION 4. (a) The change in law made by this Act in
4 amending Section 71.022, Penal Code, applies only to an offense
5 committed on or after the effective date of this Act. An
6 offense committed before the effective date of this Act is
7 covered by the law in effect when the offense was committed, and
8 the former law is continued in effect for that purpose. For
9 purposes of this section, an offense was committed before the
10 effective date of this Act if any element of the offense
11 occurred before that date.

12 (b) The repeal by this Act of Section 22.015, Penal Code,
13 does not apply to an offense committed under that section before
14 the effective date of the repeal. An offense committed before
15 the effective date of the repeal is covered by that section as
16 it existed on the date on which the offense was committed, and
17 the former law is continued in effect for that purpose. For
18 purposes of this subsection, an offense is committed before the
19 effective date of the repeal if any element of the offense
20 occurs before that date.

21 SECTION 5. This Act takes effect September 1, 2009.

22
23 H.B. No. 2236
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28 AN ACT

29 relating to the right of certain crime victims to be considered
30 with respect to a defendant's motion for continuance.

31 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

32 SECTION 1. Article 56.02(a), Code of Criminal Procedure,
33 is amended to read as follows:

34 (a) A victim, guardian of a victim, or close relative of a
35 deceased victim is entitled to the following rights within the
36 criminal justice system:

37 (1) the right to receive from law enforcement
38 agencies adequate protection from harm and threats of harm
39 arising from cooperation with prosecution efforts;

40 (2) the right to have the magistrate take the safety
41 of the victim or his family into consideration as an element in
42 fixing the amount of bail for the accused;

43 (3) the right, if requested, to be informed:

44 (A) by the attorney representing the state of
45 relevant court proceedings, including appellate proceedings, and
46 to be informed if those proceedings have been canceled or
47 rescheduled prior to the event; and

1 (B) by an appellate court of decisions of the
2 court, after the decisions are entered but before the decisions
3 are made public;

4 (4) the right to be informed, when requested, by a
5 peace officer concerning the defendant's right to bail and the
6 procedures in criminal investigations and by the district
7 attorney's office concerning the general procedures in the
8 criminal justice system, including general procedures in guilty
9 plea negotiations and arrangements, restitution, and the appeals
10 and parole process;

11 (5) the right to provide pertinent information to a
12 probation department conducting a presentencing investigation
13 concerning the impact of the offense on the victim and his
14 family by testimony, written statement, or any other manner
15 prior to any sentencing of the offender;

16 (6) the right to receive information regarding
17 compensation to victims of crime as provided by Subchapter B,
18 including information related to the costs that may be
19 compensated under that subchapter and the amount of
20 compensation, eligibility for compensation, and procedures for
21 application for compensation under that subchapter, the payment
22 for a medical examination under Article 56.06 for a victim of a
23 sexual assault, and when requested, to referral to available
24 social service agencies that may offer additional assistance;

25 (7) the right to be informed, upon request, of parole
26 procedures, to participate in the parole process, to be
27 notified, if requested, of parole proceedings concerning a
28 defendant in the victim's case, to provide to the Board of
29 Pardons and Paroles for inclusion in the defendant's file
30 information to be considered by the board prior to the parole of
31 any defendant convicted of any crime subject to this subchapter,
32 and to be notified, if requested, of the defendant's release;

33 (8) the right to be provided with a waiting area,
34 separate or secure from other witnesses, including the offender
35 and relatives of the offender, before testifying in any
36 proceeding concerning the offender; if a separate waiting area
37 is not available, other safeguards should be taken to minimize
38 the victim's contact with the offender and the offender's
39 relatives and witnesses, before and during court proceedings;

40 (9) the right to prompt return of any property of the
41 victim that is held by a law enforcement agency or the attorney
42 for the state as evidence when the property is no longer
43 required for that purpose;

44 (10) the right to have the attorney for the state
45 notify the employer of the victim, if requested, of the
46 necessity of the victim's cooperation and testimony in a
47 proceeding that may necessitate the absence of the victim from

1 work for good cause;

2 (11) the right to counseling, on request, regarding
3 acquired immune deficiency syndrome (AIDS) and human
4 immunodeficiency virus (HIV) infection and testing for acquired
5 immune deficiency syndrome (AIDS), human immunodeficiency virus
6 (HIV) infection, antibodies to HIV, or infection with any other
7 probable causative agent of AIDS, if the offense is an offense
8 under Section 21.02, 21.11(a)(1), 22.011, or 22.021, Penal Code;

9 (12) the right to request victim-offender mediation
10 coordinated by the victim services division of the Texas
11 Department of Criminal Justice;

12 (13) the right to be informed of the uses of a victim
13 impact statement and the statement's purpose in the criminal
14 justice system, to complete the victim impact statement, and to
15 have the victim impact statement considered:

16 (A) by the attorney representing the state and
17 the judge before sentencing or before a plea bargain agreement
18 is accepted; and

19 (B) by the Board of Pardons and Paroles before
20 an inmate is released on parole; ~~and~~

21 (14) except as provided by Article 56.06(a), for a
22 victim of a sexual assault, the right to a forensic medical
23 examination if the sexual assault is reported to a law
24 enforcement agency within 96 hours of the assault; and

25 (15) for a victim of an assault or sexual assault who
26 is younger than 17 years of age or whose case involves family
27 violence, as defined by Section 71.004, Family Code, the right
28 to have the court consider the impact on the victim of a
29 continuance requested by the defendant; if requested by the
30 attorney representing the state or by counsel for the defendant,
31 the court shall state on the record the reason for granting or
32 denying the continuance.

33 SECTION 2. Chapter 29, Code of Criminal Procedure, is
34 amended by adding Article 29.14 to read as follows:

35 Art. 29.14. CONSIDERATION OF IMPACT ON CERTAIN VICTIMS.

36 (a) In this article, "victim" means the victim of an assault or
37 sexual assault who is younger than 17 years of age or whose case
38 involves family violence as defined by Section 71.004, Family
39 Code.

40 (b) On request by the attorney representing the state, a
41 court that considers a motion for continuance on the part of the
42 defendant shall also consider the impact of the continuance on
43 the victim. On request by the attorney representing the state
44 or by counsel for the defendant, the court shall state on the
45 record the reason for granting or denying the continuance.

46 SECTION 3. The change in law made by this Act applies only
47 to a criminal proceeding that commences on or after the

1 effective date of this Act. A criminal proceeding that
2 commenced before the effective date of this Act is governed by
3 the law in effect on the date the proceeding commenced, and the
4 former law is continued in effect for that purpose.

5 SECTION 4. This Act takes effect September 1, 2009.

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7 H.B. No. 2237
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12 AN ACT

13 relating to possession by certain alcoholic beverage permit
14 holders of certain alcoholic beverages for cooking purposes.

15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

16 SECTION 1. Section 25.09, Alcoholic Beverage Code, is
17 amended to read as follows:

18 Sec. 25.09. POSSESSION OF CERTAIN BEVERAGES PROHIBITED.

19 (a) Except as provided by this section, a [No] wine and beer
20 retailer's permittee or an[~~er~~] officer of the permittee[~~r~~]
21 may not possess distilled spirits or liquor containing alcohol
22 in excess of 17 percent by volume on the licensed premises.

23 (b) The commission by rule may allow a wine and beer
24 retailer's permittee or the permittee's officer to possess and
25 use alcoholic beverages in excess of 17 percent by volume on the
26 licensed premises for cooking purposes.

27 SECTION 2. Section 28.06, Alcoholic Beverage Code, is
28 amended by adding Subsection (e) to read as follows:

29 (e) The commission by rule may allow the holder of a mixed
30 beverage permit or an officer, agent, or employee of the permit
31 holder to possess and use alcoholic beverages that are not
32 covered by an invoice on the permitted premises for cooking
33 purposes.

34 SECTION 3. This Act takes effect September 1, 2009.

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36 H.B. No. 2240
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41 AN ACT

42 relating to creating the offense of continuous violence against
43 the family.

44 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

45 SECTION 1. Chapter 25, Penal Code, is amended by adding
46 Section 25.11 to read as follows:

47 Sec. 25.11. CONTINUOUS VIOLENCE AGAINST THE FAMILY. (a)

1 A person commits an offense if, during a period that is 12
2 months or less in duration, the person two or more times engages
3 in conduct that constitutes an offense under Section 22.01(a)(1)
4 against another person or persons whose relationship to or
5 association with the defendant is described by Section
6 71.0021(b), 71.003, or 71.005, Family Code.

7 (b) If the jury is the trier of fact, members of the jury
8 are not required to agree unanimously on the specific conduct in
9 which the defendant engaged that constituted an offense under
10 Section 22.01(a)(1) against the person or persons described by
11 Subsection (a) or the exact date when that conduct occurred.
12 The jury must agree unanimously that the defendant, during a
13 period that is 12 months or less in duration, two or more times
14 engaged in conduct that constituted an offense under Section
15 22.01(a)(1) against the person or persons described by
16 Subsection (a).

17 (c) A defendant may not be convicted in the same criminal
18 action of another offense the victim of which is an alleged
19 victim of the offense under Subsection (a) and an element of
20 which is any conduct that is alleged as an element of the
21 offense under Subsection (a) unless the other offense:

22 (1) is charged in the alternative;

23 (2) occurred outside the period in which the offense
24 alleged under Subsection (a) was committed; or

25 (3) is considered by the trier of fact to be a lesser
26 included offense of the offense alleged under Subsection (a).

27 (d) A defendant may not be charged with more than one
28 count under Subsection (a) if all of the specific conduct that
29 is alleged to have been engaged in is alleged to have been
30 committed against a single victim or members of the same
31 household, as defined by Section 71.005, Family Code.

32 (e) An offense under this section is a felony of the third
33 degree.

34 SECTION 2. Section 22.01(b), Penal Code, is amended to
35 read as follows:

36 (b) An offense under Subsection (a)(1) is a Class A
37 misdemeanor, except that the offense is a felony of the third
38 degree if the offense is committed against:

39 (1) a person the actor knows is a public servant
40 while the public servant is lawfully discharging an official
41 duty, or in retaliation or on account of an exercise of official
42 power or performance of an official duty as a public servant;

43 (2) a person whose relationship to or association
44 with the defendant is described by Section 71.0021(b), 71.003,
45 or 71.005, Family Code, if it is shown on the trial of the
46 offense that the defendant has been previously convicted of an
47 offense under this chapter, Chapter 19, or Section 20.03, 20.04,

1 [~~or~~] 21.11, or 25.11 against a person whose relationship to or
2 association with the defendant is described by Section
3 71.0021(b), 71.003, or 71.005, Family Code;

4 (3) a person who contracts with government to perform
5 a service in a facility as defined by Section 1.07(a)(14), Penal
6 Code, or Section 51.02(13) or (14), Family Code, or an employee
7 of that person:

8 (A) while the person or employee is engaged in
9 performing a service within the scope of the contract, if the
10 actor knows the person or employee is authorized by government
11 to provide the service; or

12 (B) in retaliation for or on account of the
13 person's or employee's performance of a service within the scope
14 of the contract;

15 (4) a person the actor knows is a security officer
16 while the officer is performing a duty as a security officer; or

17 (5) a person the actor knows is emergency services
18 personnel while the person is providing emergency services.

19 SECTION 3. The change in law made by this Act applies only
20 to an offense committed on or after the effective date of this
21 Act. An offense committed before the effective date of this Act
22 is covered by the law in effect when the offense was committed,
23 and the former law is continued in effect for that purpose. For
24 purposes of this section, an offense was committed before the
25 effective date of this Act if any element of the offense
26 occurred before that date.

27 SECTION 4. This Act takes effect September 1, 2009.
28 H.B. No. 2283
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33 AN ACT

34 relating to increasing state employee participation in the
35 TexaSaver program.

36 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

37 SECTION 1. Section 609.006(a), Government Code, is amended
38 to read as follows:

39 (a) A deferred compensation plan must conform to federal
40 law to provide that deferred amounts and investment income are
41 not includable, for federal income tax purposes, in the gross
42 income of a participating employee until distributed to the
43 employee, subject to the employee's option to designate all or a
44 portion of deferred amounts as Roth contributions under Section
45 609.5021, the federal income tax treatment of which is governed
46 by Section 402A, Internal Revenue Code of 1986.

47 SECTION 2. Subchapter C, Chapter 609, Government Code, is

1 amended by adding Section 609.5021 to read as follows:

2 Sec. 609.5021. ROTH CONTRIBUTION PROGRAMS. The board of
3 trustees may:

4 (1) establish a qualified Roth contribution program
5 in accordance with Section 402A, Internal Revenue Code of 1986,
6 under which an employee may designate all or a portion of the
7 employee's contribution under a 401(k) plan as a Roth
8 contribution at the time the contribution is made; and

9 (2) if authorized by federal law, establish a program
10 in accordance with the applicable federal law under which an
11 employee may designate all or a portion of the employee's
12 contribution under a 457 plan as a Roth contribution at the time
13 the contribution is made.

14 SECTION 3. Section 609.5025(d), Government Code, is
15 amended to read as follows:

16 (d) At any time, an employee participating in a 401(k)
17 plan under this section may, in accordance with rules adopted by
18 the board of trustees, elect to end participation in the 401(k)
19 plan, to contribute to a different investment product, [~~or~~] to
20 contribute a different amount to the plan, or to designate all
21 or a portion of the employee's contribution as a Roth
22 contribution subject to the availability of a Roth contribution
23 program under Section 609.5021.

24 SECTION 4. Subchapter C, Chapter 609, Government Code, is
25 amended by adding Section 609.5026 to read as follows:

26 Sec. 609.5026. STATE MATCHING CONTRIBUTIONS. Subject to a
27 separate legislative appropriation for that purpose, the
28 Employees Retirement System of Texas may make matching
29 contributions to a 401(k) plan on behalf of employees
30 participating in the plan solely from, and in an amount
31 specified by, the appropriation.

32 SECTION 5. This Act takes effect September 1, 2009.

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34 H.B. No. 2289
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40 AN ACT

41 relating to discharging or releasing inmates from the Texas
42 Department of Criminal Justice at or near certain department
43 facilities.

44 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

45 SECTION 1. Chapter 493, Government Code, is amended by
46 adding Section 493.029 to read as follows:

47 Sec. 493.029. LOCAL AND REGIONAL RELEASE AND DISCHARGE
PROCEDURE. (a) The department shall establish a procedure

1 through which an inmate being discharged from the department or
2 being released on parole or to mandatory supervision is
3 discharged or released, as applicable, from:

4 (1) the facility in which the inmate is serving the
5 inmate's sentence; or

6 (2) the facility designated as a regional release
7 facility under Subsection (b) that is nearest to the facility in
8 which the inmate is serving the inmate's sentence.

9 (b) The department shall designate six or more facilities
10 operated by the department as regional release facilities from
11 which an inmate being discharged from the department or being
12 released on parole or to mandatory supervision may be discharged
13 or released, as applicable, rather than being released under
14 Subsection (a)(1). If the department determines that
15 discharging or releasing an inmate under Subsection (a) is not
16 in the best interest of the inmate or would threaten the safety
17 of the public, the department may release the inmate from a
18 regional release facility designated under this subsection other
19 than the facility described by Subsection (a)(2).

20 SECTION 2. The Texas Department of Criminal Justice shall
21 establish and implement the local and regional discharge and
22 release procedure required by Section 493.029, Government Code,
23 as added by this Act, as soon as possible after September 1,
24 2009, and in no event later than September 1, 2010.

25 SECTION 3. This Act takes effect September 1, 2009.

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27 H.B. No. 2307
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32 AN ACT

33 relating to coverage under a meet and confer agreement for
34 certain municipal firefighters and police officers.

35 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

36 SECTION 1. Section 147.002, Local Government Code, is
37 amended to read as follows:

38 Sec. 147.002. DEFINITIONS. In this chapter:

39 (1) "Firefighter" means a firefighter employed by the
40 municipality who is covered by the municipality's fire pension
41 plan and is classified by the municipality as nonexempt
42 [~~exempt~~]. The term does not include a firefighter with a rank
43 that is above that of battalion chief or section chief.

44 (2) "Firefighter employee group" means an
45 organization:

46 (A) in which, on or before September 1, 2007,
47 firefighters of the municipality have participated and paid dues

1 via automatic payroll deduction [~~for at least one year~~]; and

2 (B) that exists for the purpose, in whole or in
3 part, of dealing with the municipality concerning grievances,
4 labor disputes, wages, rates of pay, hours of employment, or
5 conditions of employment affecting firefighters.

6 (3) "Police officer" means a sworn police officer
7 employed by the municipality who is covered by the
8 municipality's police pension plan and is classified by the
9 municipality as nonexempt [~~exempt~~]. The term does not include a
10 police officer with a rank above that of captain, a civilian, or
11 a municipal marshal.

12 (4) "Police officer employee group" means an
13 organization:

14 (A) in which, on or before September 1, 2007, at
15 least three percent of the police officers of the municipality
16 have participated and paid dues via automatic payroll deduction
17 [~~for at least one year~~]; and

18 (B) that exists for the purpose, in whole or in
19 part, of dealing with the municipality concerning grievances,
20 labor disputes, wages, rates of pay, hours of employment, or
21 conditions of employment affecting police officers.

22 SECTION 2. This Act takes effect September 1, 2009.

23
24 H.B. No. 2328
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29 AN ACT

30 relating to the punishment for certain fraud offenses committed
31 against elderly individuals.

32 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

33 SECTION 1. Section 32.21, Penal Code, is amended by
34 amending Subsection (c) and adding Subsection (e-1) to read as
35 follows:

36 (c) Except as provided by [~~in~~] Subsections (d), [~~and~~] (e),
37 and (e-1), an offense under this section is a Class A
38 misdemeanor.

39 (e-1) An offense under this section is increased to the
40 next higher category of offense if it is shown on the trial of
41 the offense that the offense was committed against an elderly
42 individual as defined by Section 22.04.

43 SECTION 2. Section 32.31(d), Penal Code, is amended to
44 read as follows:

45 (d) An offense under this section is a state jail felony,
46 except that the offense is a felony of the third degree if it is
47 shown on the trial of the offense that the offense was committed

1 against an elderly individual as defined by Section 22.04.

2 SECTION 3. Section 32.51, Penal Code, is amended by adding
3 Subsection (c-1) to read as follows:

4 (c-1) An offense described for purposes of punishment by
5 Subsections (c)(1)-(3) is increased to the next higher category
6 of offense if it is shown on the trial of the offense that the
7 offense was committed against an elderly individual as defined
8 by Section 22.04.

9 SECTION 4. The change in law made by this Act applies only
10 to an offense committed on or after the effective date of this
11 Act. An offense committed before the effective date of this Act
12 is governed by the law in effect when the offense was committed,
13 and the former law is continued in effect for that purpose. For
14 the purposes of this section, an offense was committed before
15 the effective date of this Act if any element of the offense
16 occurred before that date.

17 SECTION 5. This Act takes effect September 1, 2009.

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19 H.B. No. 2346
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24 AN ACT

25 relating to the removal of illegally parked vehicles from
26 residential parking permit areas in certain municipalities.

27 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

28 SECTION 1. Section 2308.354, Occupations Code, is amended
29 by adding Subsections (c) and (d) to read as follows:

30 (c) In addition to the authority granted under Subsection
31 (a) and to aid in the enforcement of an ordinance regulating the
32 parking of vehicles, a municipality with a population of 1.9
33 million or more may authorize a designated employee to request
34 the removal of a vehicle parked illegally in an area designated
35 as a tow-away zone in a residential area where on-street parking
36 is regulated by the ordinance.

37 (d) Subsections (a) and (c) do not apply to a vehicle
38 owned by an electric, gas, water, or telecommunications utility
39 while the vehicle is parked for the purpose of conducting work
40 on a facility of the utility that is located below, above, or
41 adjacent to the street.

42 SECTION 2. This Act takes effect September 1, 2009.

43
44 H.B. No. 2347
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1
2 AN ACT

3 relating to tuition and fee exemptions at public institutions of
4 higher education for certain peace officers enrolled in criminal
5 justice or law enforcement course work and for certain
6 educational aides.

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

8 SECTION 1. Section 54.208, Education Code, is amended to
9 read as follows:

10 Sec. 54.208. FIREFIGHTERS AND PEACE OFFICERS [FIREMEN]
11 ENROLLED IN CERTAIN [FIRE-SCIENCE] COURSES. (a) The governing
12 board of an institution of higher education [boards of the state
13 institutions of collegiate rank supported in whole or in part by
14 public funds] shall exempt from the payment of tuition and
15 laboratory fees a student [any person] who is employed as a
16 firefighter [fireman] by a [any] political subdivision of this
17 [the] state and who enrolls in a course or courses offered as
18 part of a fire science curriculum.

19 (b) The governing board of an institution of higher
20 education shall exempt from the payment of tuition and
21 laboratory fees charged by the institution for a criminal
22 justice or law enforcement course or courses an undergraduate
23 student who:

24 (1) is employed as a peace officer by this state or
25 by a political subdivision of this state;

26 (2) is enrolled in a criminal justice or law
27 enforcement-related degree program at the institution;

28 (3) is making satisfactory academic progress toward
29 the student's degree as determined by the institution; and

30 (4) applies for the exemption at least one week
31 before the last date of the institution's regular registration
32 period for the applicable semester or other term.

33 (c) Notwithstanding Subsection (b), a student may not
34 receive an exemption under that subsection for any course if the
35 student has previously attempted a number of semester credit
36 hours for courses taken at any institution of higher education
37 while classified as a resident student for tuition purposes in
38 excess of the maximum number of those hours specified by Section
39 61.0595(a) as eligible for funding under the formulas
40 established under Section 61.059.

41 (d) Notwithstanding Subsection (b), the governing board of
42 an institution of higher education may not provide exemptions
43 under that subsection to students enrolled in a specific class
44 in a number that exceeds 20 percent of the maximum student
45 enrollment designated by the institution for that class.

46 (e) An [The] exemption provided under this section does
47 not apply to deposits that [which] may be required in the nature

1 of security for the return or proper care of property loaned for
2 the use of students.

3 (f) The Texas Higher Education Coordinating Board shall
4 adopt:

5 (1) rules governing the granting or denial of an
6 exemption under this section, including rules relating to the
7 determination of a student's eligibility for an exemption; and

8 (2) a uniform listing of degree programs covered by
9 the exemption under this section.

10 (g) If the legislature does not specifically appropriate
11 funds to an institution of higher education in an amount
12 sufficient to pay the institution's costs in complying with this
13 section for a semester, the governing board of the institution
14 of higher education shall report to the Senate Finance Committee
15 and the House Appropriations Committee the cost to the
16 institution of complying with this section for that semester.

17 SECTION 2. Section 54.214(d), Education Code, is amended
18 to read as follows:

19 (d) The institution of higher education at which a person
20 seeking an exemption under this section is enrolled
21 [~~coordinating board~~] must certify the [a] person's eligibility
22 to receive the [an] exemption [~~under this section~~]. As soon as
23 practicable after receiving an application for certification,
24 the institution [~~coordinating board~~] shall make the
25 determination of eligibility and give notice of its
26 determination to the applicant[, ~~the institution of higher~~
27 education at which the applicant is enrolled,] and to the school
28 district employing the applicant [~~person~~] as an educational
29 aide.

30 SECTION 3. The changes in law made by this Act to Section
31 54.208, Education Code, apply beginning with tuition and
32 laboratory fees charged for the 2011 fall semester. Tuition and
33 laboratory fees charged for an academic period before the 2011
34 fall semester are covered by the law in effect immediately
35 before the effective date of this Act, and the former law is
36 continued in effect for that purpose.

37 SECTION 4. The change in law made by this Act to Section
38 54.214, Education Code, applies to an exemption from tuition and
39 fees granted under that section beginning with the 2009 fall
40 semester.

41 SECTION 5. (a) Except as provided by Subsection (b) of
42 this section, this Act takes effect immediately if this Act
43 receives a vote of two-thirds of all the members elected to each
44 house, as provided by Section 39, Article III, Texas
45 Constitution. If this Act does not receive the vote necessary
46 for immediate effect, except as provided by Subsection (b) of
47 this section, this Act takes effect September 1, 2009.

1 (b) Sections 1 and 3 of this Act take effect January 1,
2 2011.

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4 H.B. No. 2385
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AN ACT

10 relating to the punishment for the offense of prohibited sexual
11 conduct.

12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

13 SECTION 1. Section 25.02(c), Penal Code, is amended to
14 read as follows:

15 (c) An offense under this section is a felony of the third
16 degree, unless the offense is committed under Subsection (a)(1)
17 [~~(a)(6)~~], in which event the offense is a felony of the second
18 degree.

19 SECTION 2. The change in law made by this Act applies only
20 to an offense committed on or after the effective date of this
21 Act. An offense committed before the effective date of this Act
22 is covered by the law in effect when the offense was committed,
23 and the former law is continued in effect for that purpose. For
24 purposes of this section, an offense was committed before the
25 effective date of this Act if any element of the offense was
26 committed before that date.

27 SECTION 3. This Act takes effect September 1, 2009.
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29 H.B. No. 2386
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AN ACT

34 relating to the sealing of juvenile records.

35 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

36 SECTION 1. Section 58.003, Family Code, is amended by
37 adding Subsections (c-1) and (c-2) and amending Subsections (d)
38 and (e) to read as follows:
39

40 (c-1) Notwithstanding Subsections (a) and (c) and subject
41 to Subsection (b), a juvenile court may order the sealing of
42 records concerning a child adjudicated as having engaged in
43 delinquent conduct or conduct indicating a need for supervision
44 that violated a penal law of the grade of misdemeanor or felony
45 if the child successfully completed a drug court program under
46 Chapter 469, Health and Safety Code. The court may:

47 (1) order the sealing of the records immediately and

1 without a hearing; or

2 (2) hold a hearing to determine whether to seal the
3 records.

4 (c-2) If the court orders the sealing of a child's records
5 under Subsection (c-1), a prosecuting attorney or juvenile
6 probation department may maintain until the child's 17th
7 birthday a separate record of the child's name and date of birth
8 and the date the child successfully completed the drug court
9 program. The prosecuting attorney or juvenile probation
10 department, as applicable, shall send the record to the court as
11 soon as practicable after the child's 17th birthday to be added
12 to the child's other sealed records.

13 (d) The court may grant the relief authorized in
14 Subsection (a) or (c-1) at any time after final discharge of the
15 person or after the last official action in the case if there
16 was no adjudication, subject to Subsection (e). If the child is
17 referred to the juvenile court for conduct constituting any
18 offense and at the adjudication hearing the child is found to be
19 not guilty of each offense alleged, the court shall immediately
20 and without any additional hearing order the sealing of all
21 files and records relating to the case.

22 (e) The court shall hold a hearing before sealing a
23 person's records under Subsection (a) or (c) unless the
24 applicant waives the right to a hearing in writing and the court
25 and the prosecuting attorney for the juvenile court consent.
26 Reasonable notice of the hearing shall be given to:

27 (1) the person who made the application or who is the
28 subject of the records named in the motion;

29 (2) the prosecuting attorney for the juvenile court;

30 (3) the authority granting the discharge if the final
31 discharge was from an institution or from parole;

32 (4) the public or private agency or institution
33 having custody of records named in the application or motion;
34 and

35 (5) the law enforcement agency having custody of
36 files or records named in the application or motion.

37 SECTION 2. The change in law made by this Act applies to
38 the sealing of records in the adjudication of a juvenile case on
39 or after the effective date of this Act, regardless of whether
40 the adjudication occurred before, on, or after the effective
41 date of this Act.

42 SECTION 3. This Act takes effect September 1, 2009.

43
44 H.B. No. 2465
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46
47

1 AN ACT

2 relating to taking a deposition of an elderly or disabled victim
3 of or witness to an offense.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Chapter 39, Code of Criminal Procedure, is
6 amended by adding Article 39.025 to read as follows:

7 Art. 39.025. DEPOSITIONS OF ELDERLY OR DISABLED PERSONS.

8 (a) In this article:

9 (1) "Disabled person" means a person with a
10 disability as defined by Section 3, Americans with Disabilities
11 Act (42 U.S.C. 12102).

12 (2) "Elderly person" means a person 65 years of age
13 or older.

14 (b) The court shall order the attorney representing the
15 state to take the deposition of an elderly or disabled person
16 who is the alleged victim of or witness to an offense not later
17 than the 60th day after the date on which the state files an
18 application to take the deposition under Article 39.02.

19 (c) The attorney representing the state and the defendant
20 or the defendant's attorney may, by written agreement filed with
21 the court, extend the deadline for the taking of the deposition.

22 (d) The court shall grant any request by the attorney
23 representing the state to extend the deadline for the taking of
24 the deposition if a reason for the request is the
25 unavailability, health, or well-being of the victim or witness.

26 (e) The Texas Rules of Civil Procedure govern the taking
27 of the deposition, except to the extent of any conflict with
28 this code or applicable court rules adopted for criminal
29 proceedings, in which event this code and the rules for criminal
30 proceedings govern. The attorney representing the state and the
31 defendant or defendant's attorney may agree to modify the rules
32 applicable to the deposition by written agreement filed with the
33 court before the taking of the deposition.

34 (f) If a defendant is unavailable to attend a deposition
35 because the defendant is confined in a correctional facility,
36 the court shall issue any orders or warrants necessary to secure
37 the defendant's presence at the deposition. The sheriff of the
38 county in which a deposition under this subsection is to be
39 taken shall provide a secure location for the taking of the
40 deposition and sufficient law enforcement personnel to ensure
41 the deposition is taken safely. The state's application to take
42 a deposition or notice of deposition is not required to include
43 the identity of any law enforcement agents the sheriff assigns
44 to the deposition and may not serve as a basis for the defendant
45 to object to the taking of the deposition.

46 (g) If a defendant is unavailable to attend a deposition
47 for any reason other than confinement in a correctional

1 facility, the defendant or defendant's attorney shall request a
2 continuance from the court. The court may grant the continuance
3 if the defendant or defendant's attorney demonstrates good cause
4 for the continuance and that the request is not brought for the
5 purpose of delay or avoidance. A defendant's failure to attend
6 a deposition or request a continuance in accordance with this
7 subsection constitutes a waiver of the defendant's right to be
8 present at the deposition.

9 SECTION 2. The change in law made by this Act applies only
10 to an application to take a deposition that is filed on or after
11 the effective date of this Act. An application to take a
12 deposition that is filed before the effective date of this Act
13 is covered by the law in effect when the application was filed,
14 and the former law is continued in effect for that purpose.

15 SECTION 3. This Act takes effect September 1, 2009.

16
17 H.B. No. 2467
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22 AN ACT

23 relating to the definition of playgrounds and to including those
24 playgrounds in the designation of certain places as drug-free
25 zones for purposes of criminal penalties.

26 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

27 SECTION 1. Section 481.134(a)(3), Health and Safety Code,
28 is amended to read as follows:

29 (3) "Playground" means any outdoor facility that is
30 not on the premises of a school and that:

31 (A) is intended for recreation;

32 (B) is open to the public; and

33 (C) contains three or more play stations
34 [~~separate apparatus~~] intended for the recreation of children,
35 such as slides, swing sets, and teeterboards.

36 SECTION 2. Subsections (c), (d), (e), and (f), Section
37 481.134, Health and Safety Code, are amended to read as follows:

38 (c) The minimum term of confinement or imprisonment for an
39 offense otherwise punishable under Section 481.112(c), (d), (e),
40 or (f), 481.113(c), (d), or (e), 481.114(c), (d), or (e),
41 481.115(c)-(f), 481.116(c), (d), or (e), 481.117(c), (d), or
42 (e), 481.118(c), (d), or (e), 481.120(b)(4), (5), or (6), or
43 481.121(b)(4), (5), or (6) is increased by five years and the
44 maximum fine for the offense is doubled if it is shown on the
45 trial of the offense that the offense was committed:

46 (1) in, on, or within 1,000 feet of the premises of a
47 school, the premises of [~~or~~] a public or private youth center,

1 or a playground; or

2 (2) on a school bus.

3 (d) An offense otherwise punishable under Section
4 481.112(b), 481.113(b), 481.114(b), 481.115(b), 481.116(b),
5 481.120(b)(3), or 481.121(b)(3) is a felony of the third degree
6 if it is shown on the trial of the offense that the offense was
7 committed:

8 (1) in, on, or within 1,000 feet of any real property
9 that is owned, rented, or leased to a school or school board,
10 [~~or~~] the premises of a public or private youth center, or a
11 playground; or

12 (2) on a school bus.

13 (e) An offense otherwise punishable under Section
14 481.117(b), 481.119(a), 481.120(b)(2), or 481.121(b)(2) is a
15 state jail felony if it is shown on the trial of the offense
16 that the offense was committed:

17 (1) in, on, or within 1,000 feet of any real property
18 that is owned, rented, or leased to a school or school board,
19 [~~or~~] the premises of a public or private youth center, or a
20 playground; or

21 (2) on a school bus.

22 (f) An offense otherwise punishable under Section
23 481.118(b), 481.119(b), 481.120(b)(1), or 481.121(b)(1) is a
24 Class A misdemeanor if it is shown on the trial of the offense
25 that the offense was committed:

26 (1) in, on, or within 1,000 feet of any real property
27 that is owned, rented, or leased to a school or school board,
28 [~~or~~] the premises of a public or private youth center, or a
29 playground; or

30 (2) on a school bus.

31 SECTION 3. The change in law made by this Act applies only
32 to an offense committed on or after the effective date of this
33 Act. An offense committed before the effective date of this Act
34 is covered by the law in effect when the offense was committed,
35 and the former law is continued in effect for that purpose. For
36 purposes of this section, an offense was committed before the
37 effective date of this Act if any element of the offense was
38 committed before that date.

39 SECTION 4. This Act takes effect September 1, 2009.

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41 H.B. No. 2553
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46 AN ACT

47 relating to the registration and operation of certain motor

1 vehicles.

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

3 SECTION 1. Section 29.001, Parks and Wildlife Code, is
4 amended to read as follows:

5 Sec. 29.001. DEFINITION. In this chapter, "off-highway
6 vehicle" means:

7 (1) an all-terrain vehicle, as defined by Section
8 663.001, Transportation Code;

9 (2) an off-highway motorcycle; [~~and~~]

10 (3) a recreational off-highway vehicle, as defined by
11 Section 502.001, Transportation Code; and

12 (4) any other motorized vehicle used for off-highway
13 recreation on:

14 (A) public land over which the department has
15 authority or on land purchased or leased by the department; or

16 (B) land acquired or developed under a grant
17 made under Section 29.008 or any other grant program operated or
18 administered by the department.

19 SECTION 2. The heading to Section 29.011, Parks and
20 Wildlife Code, is amended to read as follows:

21 Sec. 29.011. SAFETY APPAREL REQUIRED; SEAT BELTS.

22 SECTION 3. Section 29.011, Parks and Wildlife Code, is
23 amended by amending Subsection (a) and adding Subsection (c) to
24 read as follows:

25 (a) A person may not operate, ride, or be carried on an
26 off-highway vehicle on public property unless the person wears:

27 (1) a safety helmet that complies with United States
28 Department of Transportation standards; [~~and~~]

29 (2) eye protection; and

30 (3) seat belts, if the vehicle is equipped with seat
31 belts.

32 (c) This section does not apply to a motor vehicle that:

33 (1) has at least four wheels and is registered by the
34 Texas Department of Transportation for use on a public highway,
35 unless the vehicle is an all-terrain vehicle as defined by
36 Section 502.001, Transportation Code;

37 (2) has four wheels and is equipped with bench or
38 bucket seats and seat belts and includes a roll bar or roll cage
39 construction to reduce the risk of injury to an occupant of the
40 vehicle in case of the vehicle's rollover; or

41 (3) is in the process of being loaded into or
42 unloaded from a trailer or another vehicle used to transport the
43 motor vehicle.

44 SECTION 4. Section 501.002(14), Transportation Code, is
45 amended to read as follows:

46 (14) "Motor vehicle" means:

47 (A) any motor driven or propelled vehicle

1 required to be registered under the laws of this state;

2 (B) a trailer or semitrailer, other than
3 manufactured housing, that has a gross vehicle weight that
4 exceeds 4,000 pounds;

5 (C) a house trailer;

6 (D) an all-terrain vehicle or a recreational
7 off-highway vehicle, as those terms are defined by Section
8 502.001, designed by the manufacturer for off-highway use that
9 is not required to be registered under the laws of this state;
10 or

11 (E) a motorcycle, motor-driven cycle, or moped
12 that is not required to be registered under the laws of this
13 state, other than a motorcycle, motor-driven cycle, or moped
14 designed for and used exclusively on a golf course.

15 SECTION 5. Section 502.001, Transportation Code, is
16 amended by amending Subdivision (1) and adding Subdivision (19-
17 a) to read as follows:

18 (1) "All-terrain vehicle" means a motor vehicle that
19 is:

20 (A) equipped with a saddle[, ~~bench, or bucket~~
21 ~~seats~~] for the use of:

22 (i) the rider; and
23 (ii) a passenger, if the motor vehicle is
24 designed by the manufacturer to transport a passenger;

25 (B) designed to propel itself with three or more
26 tires in contact with the ground;

27 (C) designed by the manufacturer for off-highway
28 use; and

29 (D) not designed by the manufacturer primarily
30 for farming or lawn care.

31 (19-a) "Recreational off-highway vehicle" means a
32 motor vehicle that is:

33 (A) equipped with a non-straddle seat for the
34 use of:

35 (i) the rider; and
36 (ii) a passenger, if the vehicle is
37 designed by the manufacturer to transport a passenger;

38 (B) designed to propel itself with four or more
39 tires in contact with the ground;

40 (C) designed by the manufacturer for off-highway
41 use by the operator only; and

42 (D) not designed by the manufacturer primarily
43 for farming or lawn care.

44 SECTION 6. Section 502.006, Transportation Code, is
45 amended to read as follows:

46 Sec. 502.006. CERTAIN OFF-HIGHWAY [~~ALL-TERRAIN~~] VEHICLES.
47 (a) Except as provided by Subsection (b), a person may not

1 register an all-terrain vehicle or a recreational off-highway
2 vehicle, with or without design alterations, for operation on a
3 public highway.

4 (b) The state, a county, or a municipality may register an
5 all-terrain vehicle or a recreational off-highway vehicle for
6 operation on a public beach or highway to maintain public safety
7 and welfare.

8 (c) A recreational off-highway vehicle registered as
9 provided by Subsection (b) may be operated on a public or
10 private beach in the same manner as a golf cart may be operated
11 on a public or private beach under Section 502.0071. The
12 operator must hold and have in the operator's possession a
13 driver's license issued under Chapter 521 or a commercial
14 driver's license issued under Chapter 522.

15 (d) ~~(e)~~ Section 502.172 does not apply to an all-terrain
16 vehicle or a recreational off-highway vehicle.

17 SECTION 7. Section 547.001, Transportation Code, is
18 amended by adding Subsection (2-a) to read as follows:

19 (2-a) "Golf cart" has the meaning assigned by Section
20 502.001.

21 SECTION 8. Section 547.002, Transportation Code, is
22 amended to read as follows:

23 Sec. 547.002. APPLICABILITY. Unless a provision is
24 specifically made applicable, this chapter and the rules of the
25 department adopted under this chapter do not apply to:

- 26 (1) an implement of husbandry;
- 27 (2) road machinery;
- 28 (3) a road roller;
- 29 (4) a farm tractor;
- 30 (5) a bicycle, a bicyclist, or bicycle equipment;
- 31 (6) an electric bicycle, an electric bicyclist, or
32 electric bicycle equipment; or
- 33 (7) a golf cart that is operated only as authorized
34 by [not required to be registered under] Section 551.403
35 [502.284].

36 SECTION 9. Subsection (d), Section 547.703, Transportation
37 Code, is amended to read as follows:

38 (d) A golf cart that is operated at a speed of not more
39 than 25 miles per hour [as defined by Section 502.001] is
40 required to display a slow-moving-vehicle emblem [only] when it
41 is operated on a public highway, as defined by Section 502.001,
42 under Section 551.403 or 551.404 [an arterial street].

43 SECTION 10. Chapter 551, Transportation Code, is amended
44 by adding Subchapter F to read as follows:

45 SUBCHAPTER F. GOLF CARTS

46 Sec. 551.401. DEFINITIONS. In this subchapter, "golf
47 cart" and "public highway" have the meanings assigned by Section

1 502.001.

2 Sec. 551.402. REGISTRATION NOT AUTHORIZED. (a) The Texas
3 Department of Transportation may not register a golf cart for
4 operation on a public highway regardless of whether any
5 alteration has been made to the golf cart.

6 (b) The department may issue license plates for a golf
7 cart only as authorized by Section 504.510.

8 Sec. 551.403. LIMITED OPERATION. (a) An operator may
9 operate a golf cart:

10 (1) in a master planned community:

11 (A) that has in place a uniform set of
12 restrictive covenants; and

13 (B) for which a county or municipality has
14 approved a plat;

15 (2) on a public or private beach; or

16 (3) on a public highway for which the posted speed
17 limit is not more than 35 miles per hour, if the golf cart is
18 operated:

19 (A) during the daytime; and

20 (B) not more than two miles from the location
21 where the golf cart is usually parked and for transportation to
22 or from a golf course.

23 (b) The Texas Department of Transportation or a county or
24 municipality may prohibit the operation of a golf cart on a
25 public highway if the department or the governing body of the
26 county or municipality determines that the prohibition is
27 necessary in the interest of safety.

28 Sec. 551.404. OPERATION IN MUNICIPALITIES. (a) In
29 addition to the operation authorized by Section 551.403, the
30 governing body of a municipality may allow an operator to
31 operate a golf cart on all or part of a public highway that:

32 (1) is in the corporate boundaries of the
33 municipality; and

34 (2) has a posted speed limit of not more than 35
35 miles per hour.

36 (b) A golf cart operated under Subsection (a) must have
37 the following equipment:

38 (1) headlamps;

39 (2) taillamps;

40 (3) reflectors;

41 (4) parking brake; and

42 (5) mirrors.

43 Sec. 551.405. CROSSING CERTAIN ROADWAYS. A golf cart may
44 cross intersections, including a road or street that has a
45 posted speed limit of more than 35 miles per hour.

46 SECTION 11. Subsection (a), Section 601.052,
47 Transportation Code, is amended to read as follows:

1 (a) Section 601.051 does not apply to:
2 (1) the operation of a motor vehicle that:
3 (A) is a former military vehicle or is at least
4 25 years old;
5 (B) is used only for exhibitions, club
6 activities, parades, and other functions of public interest and
7 not for regular transportation; and
8 (C) for which the owner files with the
9 department an affidavit, signed by the owner, stating that the
10 vehicle is a collector's item and used only as described by
11 Paragraph (B);
12 (2) the operation of a golf cart that is operated
13 only as authorized by [not required to be registered under]
14 Section 551.403 [502.284]; or
15 (3) a volunteer fire department for the operation of
16 a motor vehicle the title of which is held in the name of a
17 volunteer fire department.
18 SECTION 12. The following sections of the Transportation
19 Code are repealed:
20 (1) Section 502.0071; and
21 (2) Subsection (e), Section 547.703.
22 SECTION 13. The heading to Subtitle G, Title 7,
23 Transportation Code, is amended to read as follows:
24 SUBTITLE G. MOTORCYCLES AND OFF-HIGHWAY [~~ALL-TERRAIN~~] VEHICLES
25 SECTION 14. The heading to Chapter 663, Transportation
26 Code, is amended to read as follows:
27 CHAPTER 663. CERTAIN OFF-HIGHWAY [~~ALL-TERRAIN~~] VEHICLES
28 SECTION 15. Section 663.001, Transportation Code, is
29 amended by adding Subdivision (3) to read as follows:
30 (3) "Recreational off-highway vehicle" has the
31 meaning assigned by Section 502.001.
32 SECTION 16. Subchapter A, Chapter 663, Transportation
33 Code, is amended by adding Section 663.003 to read as follows:
34 Sec. 663.003. RECREATIONAL OFF-HIGHWAY VEHICLES. This
35 chapter applies to the operator and operation of a recreational
36 off-highway vehicle in the same manner as if the recreational
37 off-highway vehicle were an all-terrain vehicle.
38 SECTION 17. Section 502.160, Transportation Code, is
39 amended to read as follows:
40 Sec. 502.160. FEE: MOTORCYCLE OR MOPED. The fee for a
41 registration year for registration of a motorcycle or moped is
42 \$30.
43 SECTION 18. The heading to Section 502.161, Transportation
44 Code, is amended to read as follows:
45 Sec. 502.161. FEE: VEHICLES THAT WEIGH 6,000 POUNDS OR
46 LESS [PASSENGER CAR, MUNICIPAL BUS, PRIVATE BUS].
47 SECTION 19. Subsection (a), Section 502.161,

1 Transportation Code, is amended to read as follows:

2 (a) The fee for a registration year for registration of a
3 vehicle with a gross weight of ~~[passenger car, a municipal bus,~~
4 ~~or a private bus that weighs]~~ 6,000 pounds or less is \$50.75,
5 unless otherwise provided in this chapter[-

6 ~~[(1) \$40.50 for a vehicle the model year of which is~~
7 ~~more than six years before the year in which the registration~~
8 ~~year begins;~~

9 ~~[(2) \$50.50 for a vehicle the model year of which is~~
10 ~~more than three years but is six years or less before the year~~
11 ~~in which the registration year begins; or~~

12 ~~[(3) \$58.50 for a vehicle the model year of which is~~
13 ~~three years or less before the year in which the registration~~
14 ~~year begins].~~

15 SECTION 20. The heading to Section 502.162, Transportation
16 Code, is amended to read as follows:

17 Sec. 502.162. FEE: VEHICLES THAT WEIGH MORE THAN 6,000
18 POUNDS [COMMERCIAL MOTOR VEHICLE OR TRUCK TRACTOR].

19 SECTION 21. Subsection (a), Section 502.162,
20 Transportation Code, is amended to read as follows:

21 (a) The fee for a registration year for registration of a
22 vehicle with a gross weight of more than 6,000 pounds is
23 ~~[commercial motor vehicle or truck tractor is \$25 plus an amount~~
24 ~~determined according to the vehicle's gross weight and tire~~
25 ~~equipment,]~~ as follows unless otherwise provided in this
26 chapter:

Weight Classification Fee Schedule

in pounds

<u>6,001-10,000</u>	<u>\$54.00</u>
<u>10,001-18,000</u>	<u>\$110.00</u>
<u>18,001-25,999</u>	<u>\$205.00</u>
<u>26,000-40,000</u>	<u>\$340.00</u>
<u>40,001-54,999</u>	<u>\$535.00</u>
<u>55,000-70,000</u>	<u>\$740.00</u>
<u>70,001-80,000</u>	<u>\$840.00</u>

27

[Gross weight	Fee for each 100 pounds or	
[in pounds	fraction of 100 pounds	
	[Equipped with	Equipped with
	[pneumatic tires	solid tires
[1-6,000	\$0.44	\$0.55
[6,001-8,000	0.495	0.66
[8,001-10,000	0.605	0.77
[10,001-17,000	0.715	0.88
[17,001-24,000	0.77	0.99
[24,001-31,000	0.88	1.10
[31,001 and over	0.99	1.32]

1 SECTION 22. Section 502.165, Transportation Code, is
2 amended to read as follows:

3 Sec. 502.165. FEE: ROAD TRACTOR. The fee for a
4 registration year for registration of a road tractor is the fee
5 prescribed by [~~\$25 plus an amount determined according to the~~
6 ~~vehiele's~~] weight as certified by a public weigher or a license
7 and weight inspector of the Department of Public Safety under
8 Section 502.161 or 502.162, as applicable. [~~as follows:~~

	[Fee for each 100 pounds
[Gross weight in or	
[pounds	fraction of 100 pounds
[1-4,000	\$0.275
[4,001-6,000	0.55
[6,001-8,000	0.66
[8,001-10,000	0.825
[10,001 and over	1.10]

9 SECTION 23. The heading to Section 502.166, Transportation
10 Code, is amended to read as follows:

11 Sec. 502.166. FEE: TRAILER, TRAVEL TRAILER, OR
12 SEMITRAILER.

13 SECTION 24. Section 502.166, Transportation Code, is
14 amended by amending Subsection (a) and adding Subsection (a-1)
15 to read as follows:

16 (a) The fee for a registration year for registration of a
17 trailer, travel trailer, or semitrailer with a [~~is \$25 plus an~~
18 ~~amount determined according to the vehiele's~~] gross weight of
19 6,000 pounds or less is \$45.00.

20 (a-1) The fee for a registration year for registration of
21 a trailer, travel trailer, or semitrailer with a gross weight of
22 more than 6,000 pounds is calculated by gross weight according
23 to Section 502.162. [~~and tire equipment, as follows:~~

[Gross weight	Fee for each 100 pounds or	
[in pounds	fraction of 100 pounds	
	[Equipped with	Equipped with
	[pneumatic tires	solid tires
[1-6,000	\$0.33	\$0.44

[6,001-8,000	0.44	0.55
[8,001-10,000	0.55	0.66
[10,001-17,000	0.66	0.88
[17,001 and over	0.715	0.99]

1 SECTION 25. Subsections (a), (b), and (c), Section
2 502.167, Transportation Code, are amended to read as follows:

3 (a) This section applies only to a truck-tractor or
4 commercial motor vehicle with a gross weight [~~manufacturer's~~
5 ~~rated carrying capacity~~] of more than 10,000 pounds [~~one ton~~]
6 that is used or is to be used in combination with a semitrailer
7 that has a gross weight of more than 6,000 pounds.

8 (b) The [~~Notwithstanding Section 502.162, the~~] fee for a
9 registration year for registration of a truck-tractor or
10 commercial motor vehicle is calculated by gross weight according
11 to Section 502.162. [~~\$40 plus an amount determined according to~~
12 ~~the combined gross weight of the vehicles, as follows:~~

[Combined gross weight	or	[Fee for each 100 pounds
[in pounds	fraction of 100 pounds	
[18,000-36,000	\$0.60	
[36,001-42,000	0.75	
[42,001-62,000	0.90	
[62,001 and over	1.00]	

13 (c) The [~~Notwithstanding Section 502.166, the~~] fee for a
14 registration year for registration of a semitrailer used in the
15 manner described by Subsection (a), regardless of the date the
16 semitrailer is registered, is:

17 (1) \$30, for a semitrailer being propelled by a power
18 unit for which a permit under Section 623.011 has been issued;
19 or

20 (2) \$15, for a semitrailer being propelled by a power
21 unit for which a permit under Section 623.011 has not been
22 issued.

23 SECTION 26. Section 502.168, Transportation Code, is
24 amended to read as follows:

25 Sec. 502.168. FEE: MOTOR BUS. The fee for a registration
26 year for registration of a motor bus is the fee prescribed by
27 Section 502.161 or 502.162, as applicable. [~~\$25 plus an amount~~
28 ~~determined according to the vehicle's gross weight, as follows:~~

[Gross weight	or	[Fee for each 100 pounds
[in pounds	fraction of 100 pounds	
[1-6,000	\$0.44	
[6,001-8,000	0.495	
[8,001-10,000	0.605	
[10,001-17,000	0.715	
[17,001-24,000	0.77	

~~[24,001-31,000 0.88
[31,001 and over 0.99]~~

1 SECTION 27. Subsection (b), Section 502.1705,
2 Transportation Code, is amended to read as follows:

3 (b) The department may use money collected under this
4 section to provide for or enhance ~~[perform one or more of the~~
5 ~~following]:~~

6 (1) ~~[enhancing the department's automated~~
7 ~~registration and title system;~~

8 ~~[(2) providing for the automated on site production~~
9 ~~of registration insignia; or~~

10 ~~[(3) providing for] automated on-premises and off-~~
11 ~~premises [self-service] registration; and~~

12 (2) services related to the titling of vehicles.

13 SECTION 28. The heading to Section 502.184, Transportation
14 Code, is amended to read as follows:

15 Sec. 502.184. ~~REPLACEMENT OF [LOST, STOLEN, OR MUTILATED~~
16 ~~LICENSE PLATE OR] REGISTRATION INSIGNIA.~~

17 SECTION 29. Subsections (a), (b), (e), and (f), Section
18 502.184, Transportation Code, are amended to read as follows:

19 (a) The owner of a registered motor vehicle may obtain
20 ~~[from the department through the county assessor collector~~
21 ~~replacement license plates or] a replacement registration~~
22 ~~insignia by:~~

23 (1) certifying ~~[filing with the assessor collector a~~
24 ~~statement:~~

25 ~~[(A) showing that one or both of the license~~
26 ~~plates or the registration insignia to be replaced has been~~
27 ~~lost, stolen, or mutilated; and~~

28 ~~[(B) stating] that the replacement [no license~~
29 ~~plate or] registration insignia [to be replaced] will not be~~
30 ~~used on any other vehicle owned or operated by the person making~~
31 ~~the statement;~~

32 (2) paying a fee of \$6 ~~[\$5] plus the fees required by~~
33 Section ~~[Sections 502.170(a) and] 502.1705(a) for [each set of~~
34 ~~replacement license plates or] each replacement registration~~
35 ~~insignia, except as provided by other law [Subsection (b), (e),~~
36 ~~or (i)]; and~~

37 (3) returning ~~[to the assessor collector] each~~
38 ~~replaced [plate or] registration insignia in the owner's~~
39 ~~possession.~~

40 (b) No fee is required under this section if the
41 replacement fee for a license plate has been paid under Section
42 502.1841 ~~[for the replacement of lost, stolen, or mutilated~~
43 ~~specialized license plates issued under Sections 504.308 and~~
44 ~~504.315(e) and (f)]. [The fee for replacement of certain~~
45 ~~specialized license plates is:~~

~~[License plates issued under: Fee:
[Section 504.411 \$2
[Section 504.409 \$9]~~

1 (e) A county assessor-collector may not issue ~~[replacement~~
2 ~~license plates or]~~ a replacement registration insignia without
3 complying with this section.

4 (f) A county assessor-collector shall retain \$2.50 of each
5 fee collected under this section and shall report and send the
6 remainder to the department ~~[as provided by Sections 502.102 and~~
7 ~~502.105]~~.

8 SECTION 30. Subchapter D, Chapter 502, Transportation
9 Code, is amended by adding Section 502.1841 to read as follows:

10 Sec. 502.1841. REPLACEMENT LICENSE PLATES. (a) The owner
11 of a registered motor vehicle may obtain replacement license
12 plates for the vehicle by:

13 (1) certifying that the replacement plates will not
14 be used on any other vehicle owned or operated by the person
15 making the statement;

16 (2) paying a fee of \$6 plus the fee required by
17 Section 502.1705(a) for each set of replacement license plates,
18 unless otherwise specified by law; and

19 (3) returning to the department each license plate in
20 the owner's possession for which a replacement license plate is
21 obtained.

22 (b) Replacement license plates may not be issued except as
23 provided by this section.

24 (c) A county assessor-collector shall retain \$2.50 of each
25 fee collected under this section and forward the remainder of
26 the fee to the department.

27 (d) The fee required by this section applies to the
28 issuance of license plates for a transferred used vehicle for
29 which the registration and license plates were not transferred
30 under Subchapter I.

31 SECTION 31. Subsection (d), Section 504.101,
32 Transportation Code, is amended to read as follows:

33 (d) The department may not issue a replacement set of
34 personalized license plates to the same person before the sixth
35 anniversary of the date of issuance unless the applicant for
36 issuance of replacement plates pays the ~~[an additional]~~ fee
37 required by Section 502.1841 ~~[of \$30]~~.

38 SECTION 32. Section 504.501, Transportation Code, is
39 amended to read as follows:

40 Sec. 504.501. CLASSIC MOTOR VEHICLES AND TRAVEL TRAILERS.

41 (a) The department shall issue specialty license plates for a
42 motor vehicle that is at least 25 years old. The license plates
43 must include the word "Classic" ~~[words "Classic Auto," "Classic~~
44 ~~Motorcycle," or "Classic Truck"]~~ or a similar designation, as

1 appropriate.

2 (b) A person eligible for the license plates may instead
3 use license plates that were issued by this state in the same
4 year as the model year of the vehicle and are approved by the
5 department if the plates are approved for the vehicle before
6 January 1, 2011. The department may require the attachment of a
7 registration insignia to the license plate in a manner that does
8 not affect the display of information originally on the license
9 plate.

10 (c) There is no [~~The~~] fee for issuance or approval of
11 license plates under this section [~~is \$15~~].

12 SECTION 33. Subsection (c), Section 504.505,
13 Transportation Code, is amended to read as follows:

14 (c) There is no [~~The initial~~] fee for issuance of the
15 license plates [~~is \$8~~]. The license plates may be renewed
16 without payment of a fee.

17 SECTION 34. Subsection (b), Section 504.507,
18 Transportation Code, is amended to read as follows:

19 (b) There is no [~~The~~] fee for issuance of the license
20 plates [~~is \$8~~]. The department shall:

21 (1) [~~also~~] collect any [~~additional~~] fee that a county
22 imposes under this chapter for registration of a forestry
23 vehicle; and

24 (2) send the fee to the appropriate county for
25 disposition.

26 SECTION 35. Subsection (b), Section 504.508,
27 Transportation Code, is amended to read as follows:

28 (b) There is no [~~The~~] fee for issuance of the license
29 plates [~~is \$15~~].

30 SECTION 36. Section 504.509, Transportation Code, is
31 amended to read as follows:

32 Sec. 504.509. VEHICLES CARRYING MOBILE AMATEUR RADIO
33 EQUIPMENT. [~~(a)~~] The department shall issue specialty license
34 plates for a person who holds an amateur radio station license
35 issued by the Federal Communications Commission and who operates
36 receiving and transmitting mobile amateur radio equipment. The
37 license plates shall include the person's amateur call letters
38 as assigned by the Federal Communications Commission. A person
39 may register more than one vehicle equipped with mobile amateur
40 radio equipment under this section, and the department shall
41 issue license plates that include the same amateur call letters
42 for each vehicle.

43 [~~(b) The fee for issuance of the license plates is \$2 for~~
44 ~~the first year and \$1 for each subsequent year.~~]

45 SECTION 37. Subsection (b), Section 504.510,
46 Transportation Code, is amended to read as follows:

47 (b) The fee for issuance of the license plates is \$6

1 [~~§10~~].

2 SECTION 38. Subsection (a), Section 504.801,
3 Transportation Code, is amended to read as follows:

4 (a) The department may create new specialty license plates
5 on its own initiative or on receipt of an application from a
6 potential sponsor. A new specialty license plate created under
7 this section must comply with each requirement of Section
8 504.702 unless the license is created by the department on its
9 own initiative. The department may permit a specialty license
10 plate created under this section to be personalized. The
11 redesign of an existing specialty license plate at the request
12 of a sponsor shall be treated like the issuance of a new
13 specialty license plate, except that the department may require
14 a nonrefundable design fee [~~lower deposit amount to reflect the~~
15 ~~actual costs of redesigning the license plate~~].

16 SECTION 39. The following provisions of the Transportation
17 Code are repealed:

- 18 (1) Section 502.007;
- 19 (2) Subsection (b), Section 502.161;
- 20 (3) Section 502.170;
- 21 (4) Subsection (c), Section 502.1705;
- 22 (5) Section 502.187;
- 23 (6) Subsection (c), Section 502.201;
- 24 (7) Section 502.453;
- 25 (8) Subsection (b), Section 504.409; and
- 26 (9) Section 504.5011.

27 SECTION 40. Sections 1 through 16 of this Act take effect
28 September 1, 2009. Sections 17 through 39 of this Act take
29 effect September 1, 2011.

30

31 H.B. No. 2571

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33

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35

36

AN ACT

37 relating to the licensing and regulation of towing companies and
38 vehicle storage facilities; providing penalties.

39 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

40 SECTION 1. Section 2308.002, Occupations Code, is amended
41 by amending Subdivisions (3), (6), and (8) and adding
42 Subdivisions (5-a), (7-a), and (8-a) to read as follows:

43 (3) "Consent tow" means any tow of a motor vehicle in
44 which the tow truck is summoned [~~initiated~~] by the owner or
45 operator of the vehicle or by a person who has possession,
46 custody, or control of the vehicle. The term does not include
47 an incident management tow or a private property [~~a~~] tow [~~of a~~

1 ~~motor vehicle initiated by a peace officer investigating a~~
2 ~~traffic accident or a traffic incident that involves the~~
3 ~~vehiele].~~

4 (5-a) "Incident management tow" means any tow of a
5 vehicle in which the tow truck is summoned because of a traffic
6 accident or to an incident.

7 (6) "Nonconsent tow" means any tow of a motor vehicle
8 that is not a consent tow, including:

9 (A) an incident management tow; and

10 (B) a private property tow.

11 (7-a) "Parking facility authorized agent" means an
12 employee or agent of a parking facility owner with the authority
13 to:

14 (A) authorize the removal of a vehicle from the
15 parking facility on behalf of the parking facility owner; and

16 (B) accept service on behalf of the parking
17 facility owner of a notice of hearing requested under this
18 chapter.

19 (8) "Parking facility owner" means:

20 (A) an individual, corporation, partnership,
21 limited partnership, limited liability company, association,
22 trust, or other legal entity owning or operating [owner or
23 operator of] a parking facility[, including a lessee, employee,
24 or agent of an owner or operator];

25 (B) a property owners' association having
26 control under a dedicatory instrument, as that term is defined
27 in Section 202.001, Property Code, over assigned or unassigned
28 parking areas; or

29 (C) a property owner having an exclusive right
30 under a dedicatory instrument, as that term is defined in
31 Section 202.001, Property Code, to use a parking space.

32 (8-a) "Private property tow" means any tow of a
33 vehicle authorized by a parking facility owner without the
34 consent of the owner or operator of the vehicle.

35 SECTION 2. Section 2308.057(a), Occupations Code, is
36 amended to read as follows:

37 (a) The commission shall adopt rules for permitting tow
38 trucks and licensing towing operators and towing companies,
39 including rules for denial of applications and permits if the
40 applicant, a partner, principal, officer, or general manager of
41 the applicant, or other license or permit holder has:

42 (1) a criminal conviction, or has pleaded guilty or
43 nolo contendere to an offense, before the date of the
44 application, for:

45 (A) a felony; or

46 (B) a misdemeanor punishable by confinement in
47 jail or by a fine in an amount that exceeds \$500;

1 (2) violated an order of the commission or executive
2 director, including an order for sanctions or administrative
3 penalties;

4 (3) failed to submit a license or permit bond in an
5 amount established by the commission;

6 (4) knowingly submitted false or incomplete
7 information on the application; or

8 (5) filed an application to permit a tow truck
9 previously permitted by a license or permit holder.

10 SECTION 3. Subchapter B, Chapter 2308, Occupations Code,
11 is amended by adding Section 2308.0575 to read as follows:

12 Sec. 2308.0575. RULES ON FEES; CONTRACT FOR STUDY;
13 CONFIDENTIAL INFORMATION. (a) To protect the public health and
14 safety, the commission by rule shall establish:

15 (1) the fees that may be charged in connection with a
16 private property tow;

17 (2) the maximum amount that may be charged for fees,
18 other than tow fees, that may be assessed by a towing company in
19 connection with a private property tow; and

20 (3) a maximum amount that may be charged for the
21 following private property tows:

22 (A) standard light-duty tows of motor vehicles
23 with a gross weight rating of 10,000 pounds or less;

24 (B) medium-duty tows of motor vehicles with a
25 gross weight rating of more than 10,000 pounds, but less than
26 25,000 pounds; and

27 (C) heavy-duty tows of motor vehicles with a
28 gross weight rating that exceeds 25,000 pounds.

29 (b) In adopting rules under Subsection (a), the commission
30 shall contract for a study that:

31 (1) examines towing fee studies conducted by
32 municipalities in this state; and

33 (2) analyzes the cost of towing services by company,
34 the consumer price index, the geographic area, and individual
35 cost components.

36 (c) The commission may structure the maximum amounts that
37 may be charged for private property tows based on hourly or flat
38 fees or by geographic location.

39 (d) The commission shall maintain the confidentiality of
40 information contained in a study conducted under this section
41 that is claimed to be confidential for competitive purposes and
42 may not release information that identifies a person or company.
43 The confidential information is exempt from disclosure under
44 Chapter 552, Government Code.

45 (e) To protect the confidentiality of the information, the
46 commission shall aggregate the information to the maximum extent
47 possible considering the purpose of the study.

1 (f) The department shall contract to conduct a study on
2 private property towing fees under this section at least once
3 every two years.

4 SECTION 4. Section 2308.060, Occupations Code, is amended
5 to read as follows:

6 Sec. 2308.060. POWERS AND DUTIES OF ADVISORY BOARD. The
7 advisory board shall provide advice and recommendations to the
8 department on technical matters relevant to the administration
9 and enforcement of this chapter, including examination content,
10 licensing standards, ~~[and]~~ continuing education requirements,
11 and maximum amounts that may be charged for fees related to
12 private property tows.

13 SECTION 5. Section 2308.202, Occupations Code, is amended
14 to read as follows:

15 Sec. 2308.202. REGULATION BY POLITICAL SUBDIVISIONS OF
16 FEES FOR NONCONSENT TOWS. The governing body of a political
17 subdivision may regulate the fees that may be charged or
18 collected in connection with a nonconsent tow originating in the
19 territory of the political subdivision if the private property
20 tow fees:

21 (1) are authorized by commission rule; and

22 (2) do not exceed the maximum amount authorized by
23 commission rule.

24 SECTION 6. Section 2308.204, Occupations Code, is amended
25 to read as follows:

26 Sec. 2308.204. FEES FOR PRIVATE PROPERTY ~~[NONCONSENT]~~ TOWS
27 IN OTHER AREAS. ~~[(a)]~~ In an area in which no political
28 subdivision regulates the fees that may be charged or collected
29 in connection with ~~[for]~~ a private property ~~[nonconsent]~~ tow
30 from private property, a towing company may charge and collect
31 fees ~~[a fee]~~ for the tow of a motor vehicle ~~[from private~~
32 ~~property]~~ in an amount not to exceed the maximum amount
33 authorized by commission rule ~~[an amount equal to 150 percent of~~
34 ~~the fee that the towing company would have been authorized to~~
35 ~~charge for a nonconsent tow made at the request of a peace~~
36 ~~officer of the political subdivision in which the private~~
37 ~~property is located].~~

38 ~~[(b) A towing company may charge and collect a fee for the~~
39 ~~tow of a vehicle, with a gross vehicle weight rating in excess~~
40 ~~of 26,000 pounds, from private property in an amount not to~~
41 ~~exceed an amount equal to 125 percent of the fee that the towing~~
42 ~~company would have been authorized to charge for a nonconsent~~
43 ~~tow made at the request of a peace officer of the political~~
44 ~~subdivision in which the private property is located.]~~

45 SECTION 7. Section 2308.206, Occupations Code, is amended
46 by adding Subsections (f) and (g) to read as follows:

47 (f) A license or permit holder may not charge a fee

1 related to a nonconsent tow that is not listed in the schedule
2 most recently submitted to the department under this section.

3 (g) The department may require a license or permit holder
4 that has violated Subsection (e) or (f) to reimburse the vehicle
5 owner or operator for the charges.

6 SECTION 8. Section 2308.208, Occupations Code, is amended
7 to read as follows:

8 Sec. 2308.208. MUNICIPAL OR COUNTY ORDINANCE REGULATING
9 UNAUTHORIZED VEHICLES AND TOWING OF MOTOR VEHICLES. The
10 governing body of a [A] municipality or the commissioners court
11 of a county may adopt an ordinance that is identical to this
12 chapter or that imposes additional requirements that exceed the
13 minimum standards of this chapter but may not adopt an ordinance
14 conflicting with this chapter.

15 SECTION 9. Section 2308.252(a), Occupations Code, is
16 amended to read as follows:

17 (a) A parking facility owner may, without the consent of
18 the owner or operator of an unauthorized vehicle, cause the
19 vehicle and any property on or in the vehicle to be removed and
20 stored at a vehicle storage facility at the vehicle owner's or
21 operator's expense if:

22 (1) signs that comply with Subchapter G prohibiting
23 unauthorized vehicles are located on the parking facility at the
24 time of towing and for the preceding 24 hours and remain
25 installed at the time of towing;

26 (2) the owner or operator of the vehicle has received
27 actual notice from the parking facility owner that the vehicle
28 will be towed at the vehicle owner's or operator's expense if it
29 is in or not removed from an unauthorized space;

30 (3) the parking facility owner gives notice to the
31 owner or operator of the vehicle under Subsection (b); or

32 (4) on request the parking facility owner provides to
33 the owner or operator of the vehicle information on the name of
34 the towing company and vehicle storage facility that will be
35 used to remove and store the vehicle and the vehicle is:

36 (A) left in violation of Section 2308.251 or
37 2308.253; or

38 (B) in or obstructing a portion of a paved
39 driveway or abutting public roadway used for entering or exiting
40 the facility.

41 SECTION 10. Section 2308.255(a), Occupations Code, is
42 amended to read as follows:

43 (a) A towing company that is insured as provided by
44 Subsection (c) may, without the consent of an owner or operator
45 of an unauthorized vehicle, remove and store the vehicle at a
46 vehicle storage facility at the expense of the owner or operator
47 of the vehicle if:

1 (1) the towing company has received written
2 verification from the parking facility owner that:

3 (A) the parking facility owner has installed the
4 signs required by Section 2308.252(a)(1); or

5 (B) the owner or operator received notice under
6 Section 2308.252(a)(2) or the parking facility owner gave notice
7 complying with Section 2308.252(a)(3); or

8 (2) on request the parking facility owner provides to
9 the owner or operator of the vehicle information on the name of
10 the towing company and vehicle storage facility that will be
11 used to remove and store the vehicle and the vehicle is:

12 (A) left in violation of Section 2308.251; or

13 (B) in or obstructing a portion of a paved
14 driveway or abutting public roadway used for entering or exiting
15 the facility and the removal is approved by a peace officer.

16 SECTION 11. Section 2308.256(a), Occupations Code, is
17 amended to read as follows:

18 (a) A vehicle storage facility accepting a vehicle that is
19 towed under this chapter shall within two hours after receiving
20 the vehicle report to the police department of the municipality
21 from [in] which the vehicle was towed [parking facility is
22 located], or, if the vehicle was towed from a location that
23 [parking facility] is not [located] in a municipality with
24 [having] a police department, to the sheriff of the county from
25 [in] which the vehicle was towed [parking facility is located]:

26 (1) a general description of the vehicle;

27 (2) the state and number of the vehicle's license
28 plate, if any;

29 (3) the vehicle identification number of the vehicle,
30 if it can be ascertained;

31 (4) the location from which the vehicle was towed;
32 and

33 (5) the name and location of the vehicle storage
34 facility where the vehicle is being stored.

35 SECTION 12. Section 2308.404(c), Occupations Code, is
36 amended to read as follows:

37 (c) A towing company or parking facility owner who
38 intentionally, knowingly, or recklessly violates this chapter is
39 liable to the owner or operator of the vehicle that is the
40 subject of the violation for \$1,000 [~~\$300~~] plus three times the
41 amount of fees assessed in the vehicle's removal, towing, or
42 storage.

43 SECTION 13. Section 2308.405, Occupations Code, is amended
44 to read as follows:

45 Sec. 2308.405. CRIMINAL PENALTY [VIOLATION OF CHAPTER;
46 FINE]. A person commits an offense if the person violates
47 [violation of] this chapter. An offense under this section is a

1 misdemeanor punishable by a fine of not less than \$500 or more
2 than \$1,500 unless it is shown on trial of the offense that the
3 person knowingly or intentionally violated this chapter, in
4 which event the offense is a Class B misdemeanor.

5 SECTION 14. Section 2308.451, Occupations Code, is amended
6 by amending Subsection (b) and adding Subsection (c) to read as
7 follows:

8 (b) If in a hearing held under this chapter the court does
9 not find that a person or law enforcement agency authorized,
10 with probable cause, the removal and storage in a vehicle
11 storage facility of a vehicle, the towing company, vehicle
12 storage facility, or parking facility owner [~~person~~] or law
13 enforcement agency that authorized the removal shall:

14 (1) pay the costs of the removal and storage; or

15 (2) reimburse the owner or operator for the cost of
16 the removal and storage paid by the owner or operator.

17 (c) If, in a hearing held under this chapter, regardless
18 of whether the court finds that there was probable cause for the
19 removal and storage of a vehicle, the court finds that the
20 towing charge collected exceeded fees regulated by a political
21 subdivision or authorized by this chapter or Chapter 2303, the
22 towing company shall reimburse the owner or operator of the
23 vehicle an amount equal to the overcharge.

24 SECTION 15. Section 2308.453, Occupations Code, is amended
25 to read as follows:

26 Sec. 2308.453. JURISDICTION. A hearing under this chapter
27 shall be in the justice court having jurisdiction in the
28 precinct from [~~in~~] which the motor vehicle was towed [~~storage~~
29 ~~facility is located~~].

30 SECTION 16. Section 2308.454, Occupations Code, is amended
31 by adding Subsection (c) to read as follows:

32 (c) If the towing company or vehicle storage facility that
33 received the payment fails to furnish to the owner or operator
34 of the vehicle the name, address, and telephone number of the
35 parking facility owner or law enforcement agency that authorized
36 the removal of the vehicle, the towing company or vehicle
37 storage facility that received the payment is liable if the
38 court, after a hearing, does not find probable cause for the
39 removal and storage of the vehicle.

40 SECTION 17. Section 2308.455, Occupations Code, is amended
41 to read as follows:

42 Sec. 2308.455. CONTENTS OF NOTICE. The notice under
43 Section 2308.454 must include:

44 (1) a statement of:

45 (A) the person's right to submit a request
46 within 14 days for a court hearing to determine whether probable
47 cause existed to remove the vehicle;

1 (B) the information that a request for a hearing
2 must contain; and

3 (C) any filing fee for the hearing;

4 (2) the name, address, and telephone number of the
5 towing company that removed the vehicle;

6 (3) the name, address, and telephone number of the
7 vehicle storage facility in which the vehicle was placed;

8 (4) the name, street address including city, state,
9 and zip code, and telephone number of the person, parking
10 facility [~~property~~] owner, or law enforcement agency that
11 authorized the removal of the vehicle; and

12 (5) the name, address, and telephone number of the
13 justice court having jurisdiction in the precinct in which the
14 parking [~~vehicle storage~~] facility is located.

15 SECTION 18. Section 2308.456, Occupations Code, is amended
16 by amending Subsection (a) and adding Subsection (c-1) to read
17 as follows:

18 (a) Except as provided by Subsections [~~Subsection~~] (c) and
19 (c-1), a person entitled to a hearing under this chapter must
20 deliver a written request for the hearing to the court before
21 the 14th day after the date the vehicle was removed and placed
22 in the vehicle storage facility, excluding Saturdays, Sundays,
23 and legal holidays.

24 (c-1) The 14-day period for requesting a hearing under
25 Subsection (a) does not begin until the date on which the towing
26 company or vehicle storage facility provides to the vehicle
27 owner or operator the information necessary for the vehicle
28 owner or operator to complete the material for the request for
29 hearing required under Subsections (b)(2) through (6).

30 SECTION 19. Sections 2308.458(a) and (b), Occupations
31 Code, are amended to read as follows:

32 (a) A hearing under this chapter shall be held before the
33 21st calendar [~~14th working~~] day after the date the court
34 receives the request for the hearing.

35 (b) The court shall notify the person who requested the
36 hearing, the parking facility owner [~~person~~] or law enforcement
37 agency that authorized the removal of the vehicle, the towing
38 company, and the vehicle storage facility in which the vehicle
39 was placed of the date, time, and place of the hearing in a
40 manner provided by Rule 21a, Texas Rules of Civil Procedure.
41 The notice of the hearing to the towing company and the parking
42 facility owner [~~person~~] or law enforcement agency that
43 authorized the removal of the vehicle shall include a copy of
44 the request for hearing.

45 SECTION 20. Section 2308.460, Occupations Code, is amended
46 to read as follows:

47 Sec. 2308.460. ENFORCEMENT OF AWARD. (a) An award under

1 this chapter may be enforced by any means available for the
2 enforcement of a judgment for a debt.

3 (b) The department shall suspend a license holder's
4 license on the license holder's failure to pay a final judgment
5 awarded to an owner or operator of a vehicle before the 60th day
6 after the date of the final judgment. The department must
7 provide notice of the suspension to the license holder at least
8 30 days before the date the license is to be suspended.

9 (c) The owner or operator of the vehicle shall submit a
10 certified copy of the final judgment to the department.

11 (d) On receipt of the certified copy of the unpaid final
12 judgment, the department shall disqualify a person from renewing
13 a license or permit or deny the person the opportunity of taking
14 a licensing examination on the grounds that the person, towing
15 company, or vehicle storage facility has not paid a final
16 judgment awarded to an owner or operator of a vehicle.

17 (e) The department shall reinstate the license on
18 submission of evidence satisfactory to the department of payment
19 of the final judgment by the person, towing company, or vehicle
20 storage facility.

21 SECTION 21. Section 2303.159(a), Occupations Code, is
22 amended to read as follows:

23 (a) The operator of a vehicle storage facility shall
24 accept payment by an electronic check, debit card, or credit
25 card for any charge associated with delivery or storage of a
26 vehicle. The facility shall conspicuously post a sign that
27 states: "This vehicle storage facility must accept payment by
28 an electronic check, credit card, or debit card for any fee or
29 charge associated with delivery or storage of a vehicle." The
30 operator of a vehicle storage facility may not refuse to release
31 a vehicle based on the inability of the facility to accept
32 payment by electronic check, debit card, or credit card of a fee
33 or charge associated with delivery or storage of the vehicle
34 unless the operator, through no fault of the operator, is unable
35 to accept the electronic check, debit card, or credit card
36 because of a power outage or a machine malfunction.

37 SECTION 22. Not later than September 1, 2010, the Texas
38 Commission of Licensing and Regulation shall adopt the rules
39 necessary to implement the changes in law made by this Act,
40 including rules on the maximum amount of fees that may be
41 charged for private property tows.

42 SECTION 23. (a) The change in law made by this Act to
43 Section 2308.405, Occupations Code, applies only to an offense
44 committed on or after the effective date of this Act. For
45 purposes of this section, an offense is committed before the
46 effective date of this Act if any element of the offense occurs
47 before that date.

1 (b) An offense committed before the effective date of this
2 Act is covered by the law in effect when the offense was
3 committed, and the former law is continued in effect for that
4 purpose.

5 SECTION 24. (a) Except as provided by Subsection (b) of
6 this section, this Act takes effect September 1, 2009.

7 (b) Section 2308.0575, Occupations Code, as added by this
8 Act, and Sections 2308.202 and 2308.204, Occupations Code, as
9 amended by this Act, take effect September 1, 2010.

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11 H.B. No. 2580
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16 AN ACT

17 relating to the establishment of a peace officer employment
18 opportunity Internet website by the Texas Workforce Commission.

19 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

20 SECTION 1. Subchapter A, Chapter 302, Labor Code, is
21 amended by adding Section 302.016 to read as follows:

22 Sec. 302.016. PEACE OFFICER EMPLOYMENT OPPORTUNITY
23 INTERNET WEBSITE. (a) In this section, "peace officer" has the
24 meaning assigned by Section 1701.001, Occupations Code.

25 (b) The commission shall develop, maintain, and promote a
26 statewide employment opportunity Internet website to facilitate:

27 (1) public awareness of peace officer employment
28 opportunities with state and local law enforcement agencies; and

29 (2) an exchange of information between individuals
30 seeking employment as peace officers in this state and state and
31 local law enforcement agencies seeking applicants for employment
32 as peace officers.

33 (c) The Internet website must:

34 (1) be accessible to members of the public; and
35 (2) provide to individuals seeking employment as
36 peace officers and state and local law enforcement agencies that
37 have posted employment opportunities on the website an organized
38 means of exchanging information.

39 (d) The commission shall contract with the Commission on
40 Law Enforcement Officer Standards and Education to develop a
41 license verification interface to verify whether an applicant
42 for employment as a peace officer:

43 (1) holds a current license issued by the Commission
44 on Law Enforcement Officer Standards and Education under Chapter
45 1701, Occupations Code, and, if so, the level of that license;
46 and

47 (2) has had the applicant's license revoked or

1 suspended by the Commission on Law Enforcement Officer Standards
2 and Education.

3 (e) The Commission on Law Enforcement Officer Standards
4 and Education shall provide the commission with technical
5 assistance in the development and testing of the license
6 verification interface under Subsection (d).

7 (f) If the development and operation of the Internet
8 website and the associated license verification interface is not
9 possible due to a lack of available funding, the commission
10 shall:

11 (1) enter into a memorandum of understanding with the
12 Commission on Law Enforcement Officer Standards and Education to
13 integrate a peace officer job matching database for individuals
14 seeking employment as peace officers in this state and state and
15 local law enforcement agencies seeking applicants for employment
16 as peace officers into the commission's existing Labor Exchange
17 System; and

18 (2) ensure that:

19 (A) the commission registers an Internet domain
20 name that is unique and that identifies on its face the purpose
21 of the peace officer job matching database; and

22 (B) the registered domain name and associated
23 link directs users of the Internet to a web page that instructs
24 users on how to use the Labor Exchange System and includes a
25 link to enter that system.

26 SECTION 2. This Act does not make an appropriation. A
27 provision in this Act that creates a new governmental program,
28 creates a new entitlement, or imposes a new duty on a
29 governmental entity is not mandatory during a fiscal period for
30 which the legislature has not made a specific appropriation to
31 implement the provision.

32 SECTION 3. This Act takes effect immediately if it
33 receives a vote of two-thirds of all the members elected to each
34 house, as provided by Section 39, Article III, Texas
35 Constitution. If this Act does not receive the vote necessary
36 for immediate effect, this Act takes effect September 1, 2009.

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38 H.B. No. 2609
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43 AN ACT

44 relating to the prosecution and punishment of the offense of
45 criminal trespass.

46 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

47 SECTION 1. Subsection (a), Section 30.05, Penal Code, is

1 amended to read as follows:

2 (a) A person commits an offense if the person [he] enters
3 or remains on or in property of another, including residential
4 land, agricultural land, a recreational vehicle park, a
5 building, or an aircraft or other vehicle, [of another] without
6 effective consent [or he enters or remains in a building of
7 another without effective consent] and the person [he]:

8 (1) had notice that the entry was forbidden; or

9 (2) received notice to depart but failed to do so.

10 SECTION 2. Subsection (b), Section 30.05, Penal Code, is
11 amended by adding Subdivisions (8), (9), (10), and (11) to read
12 as follows:

13 (8) "Protected freshwater area" has the meaning
14 assigned by Section 90.001, Parks and Wildlife Code.

15 (9) "Recognized state" means another state with which
16 the attorney general of this state, with the approval of the
17 governor of this state, negotiated an agreement after
18 determining that the other state:

19 (A) has firearm proficiency requirements for
20 peace officers; and

21 (B) fully recognizes the right of peace officers
22 commissioned in this state to carry weapons in the other state.

23 (10) "Recreational vehicle park" means a tract of
24 land that has rental spaces for two or more recreational
25 vehicles, as defined by Section 522.004, Transportation Code.

26 (11) "Residential land" means real property improved
27 by a dwelling and zoned for or otherwise authorized for single-
28 family or multifamily use.

29 SECTION 3. Subsections (d) and (e), Section 30.05, Penal
30 Code, are amended to read as follows:

31 (d) An offense under this section [Subsection (e) is a
32 Class C misdemeanor unless it is committed in a habitation or
33 unless the actor carries a deadly weapon on or about the actor's
34 person during the commission of the offense, in which event it
35 is a Class A misdemeanor. An offense under Subsection (a)] is:

36 (1) a Class B misdemeanor, except as provided by
37 Subdivisions (2) and (3);

38 (2) a Class C misdemeanor, except as provided by
39 Subdivision (3), if the offense is committed:

40 (A) on agricultural land and within 100 feet of
41 the boundary of the land; or

42 (B) on residential land and within 100 feet of a
43 protected freshwater area; and

44 (3) [that the offense is] a Class A misdemeanor if:

45 (A) [+1] the offense is committed:

46 (i) [+A] in a habitation or a shelter
47 center;

1 (ii) [~~B~~] on a Superfund site; or
2 (iii) [~~C~~] on or in a critical
3 infrastructure facility; or

4 (B) [~~2~~] the person [~~actor~~] carries a deadly
5 weapon [~~on or about his person~~] during the commission of the
6 offense.

7 (e) It is a defense to prosecution under this section that
8 the actor at the time of the offense was [~~A person commits an~~
9 ~~offense if without express consent or if without authorization~~
10 ~~provided by any law, whether in writing or other form, the~~
11 ~~person~~]:

12 (1) a firefighter or emergency medical services
13 personnel, as defined by Section 773.003, Health and Safety
14 Code, acting in the lawful discharge of an official duty under
15 exigent circumstances [~~enters or remains on agricultural land of~~
16 ~~another~~];

17 (2) a person who was:

18 (A) an employee or agent of:

19 (i) an electric utility, as defined by
20 Section 31.002, Utilities Code;

21 (ii) a telecommunications provider, as
22 defined by Section 51.002, Utilities Code;

23 (iii) a video service provider or cable
24 service provider, as defined by Section 66.002, Utilities Code;

25 (iv) a gas utility, as defined by Section
26 101.003 or 121.001, Utilities Code; or

27 (v) a pipeline used for the transportation
28 or sale of oil, gas, or related products; and

29 (B) performing a duty within the scope of that
30 employment or agency; or

31 (3) a person who was:

32 (A) employed by or acting as agent for an entity
33 that had, or that the person reasonably believed had, effective
34 consent or authorization provided by law to enter the property;
35 and

36 (B) performing a duty within the scope of that
37 employment or agency [~~is on the agricultural land and within 100~~
38 ~~feet of the boundary of the land when apprehended; and~~

39 [~~3~~] had notice that the entry was forbidden or
40 received notice to depart but failed to do so].

41 SECTION 4. Subsections (c) and (j), Section 30.05, Penal
42 Code, are repealed.

43 SECTION 5. The change in law made by this Act applies only
44 to an offense committed on or after the effective date of this
45 Act. An offense committed before the effective date of this Act
46 is covered by the law in effect when the offense was committed,
47 and the former law is continued in effect for that purpose. For

1 purposes of this section, an offense was committed before the
2 effective date of this Act if any element of the offense was
3 committed before that date.

4 SECTION 6. This Act takes effect September 1, 2009.

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6 H.B. No. 2626
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11 AN ACT

12 relating to the forensic medical examination of a sexual assault
13 victim who has not reported the assault to a law enforcement
14 agency.

15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

16 SECTION 1. Article 56.02(a), Code of Criminal Procedure,
17 is amended to read as follows:

18 (a) A victim, guardian of a victim, or close relative of a
19 deceased victim is entitled to the following rights within the
20 criminal justice system:

21 (1) the right to receive from law enforcement
22 agencies adequate protection from harm and threats of harm
23 arising from cooperation with prosecution efforts;

24 (2) the right to have the magistrate take the safety
25 of the victim or his family into consideration as an element in
26 fixing the amount of bail for the accused;

27 (3) the right, if requested, to be informed:

28 (A) by the attorney representing the state of
29 relevant court proceedings, including appellate proceedings, and
30 to be informed if those proceedings have been canceled or
31 rescheduled prior to the event; and

32 (B) by an appellate court of decisions of the
33 court, after the decisions are entered but before the decisions
34 are made public;

35 (4) the right to be informed, when requested, by a
36 peace officer concerning the defendant's right to bail and the
37 procedures in criminal investigations and by the district
38 attorney's office concerning the general procedures in the
39 criminal justice system, including general procedures in guilty
40 plea negotiations and arrangements, restitution, and the appeals
41 and parole process;

42 (5) the right to provide pertinent information to a
43 probation department conducting a presentencing investigation
44 concerning the impact of the offense on the victim and his
45 family by testimony, written statement, or any other manner
46 prior to any sentencing of the offender;

47 (6) the right to receive information regarding

1 compensation to victims of crime as provided by Subchapter B,
2 including information related to the costs that may be
3 compensated under that subchapter and the amount of
4 compensation, eligibility for compensation, and procedures for
5 application for compensation under that subchapter, the payment
6 for a medical examination under Article 56.06 for a victim of a
7 sexual assault, and when requested, to referral to available
8 social service agencies that may offer additional assistance;

9 (7) the right to be informed, upon request, of parole
10 procedures, to participate in the parole process, to be
11 notified, if requested, of parole proceedings concerning a
12 defendant in the victim's case, to provide to the Board of
13 Pardons and Paroles for inclusion in the defendant's file
14 information to be considered by the board prior to the parole of
15 any defendant convicted of any crime subject to this subchapter,
16 and to be notified, if requested, of the defendant's release;

17 (8) the right to be provided with a waiting area,
18 separate or secure from other witnesses, including the offender
19 and relatives of the offender, before testifying in any
20 proceeding concerning the offender; if a separate waiting area
21 is not available, other safeguards should be taken to minimize
22 the victim's contact with the offender and the offender's
23 relatives and witnesses, before and during court proceedings;

24 (9) the right to prompt return of any property of the
25 victim that is held by a law enforcement agency or the attorney
26 for the state as evidence when the property is no longer
27 required for that purpose;

28 (10) the right to have the attorney for the state
29 notify the employer of the victim, if requested, of the
30 necessity of the victim's cooperation and testimony in a
31 proceeding that may necessitate the absence of the victim from
32 work for good cause;

33 (11) the right to counseling, on request, regarding
34 acquired immune deficiency syndrome (AIDS) and human
35 immunodeficiency virus (HIV) infection and testing for acquired
36 immune deficiency syndrome (AIDS), human immunodeficiency virus
37 (HIV) infection, antibodies to HIV, or infection with any other
38 probable causative agent of AIDS, if the offense is an offense
39 under Section 21.02, 21.11(a)(1), 22.011, or 22.021, Penal Code;

40 (12) the right to request victim-offender mediation
41 coordinated by the victim services division of the Texas
42 Department of Criminal Justice;

43 (13) the right to be informed of the uses of a victim
44 impact statement and the statement's purpose in the criminal
45 justice system, to complete the victim impact statement, and to
46 have the victim impact statement considered:

47 (A) by the attorney representing the state and

1 the judge before sentencing or before a plea bargain agreement
2 is accepted; and

3 (B) by the Board of Pardons and Paroles before
4 an inmate is released on parole; and

5 (14) to the extent [except as] provided by Articles
6 56.06 and 56.065 [Article 56.06(a)], for a victim of a sexual
7 assault, the right to a forensic medical examination if, within
8 96 hours of the sexual assault, the [sexual] assault is reported
9 to a law enforcement agency or a forensic medical examination is
10 otherwise conducted at a health care facility [within 96 hours
11 of the assault].

12 SECTION 2. The heading to Article 56.06, Code of Criminal
13 Procedure, is amended to read as follows:

14 Art. 56.06. MEDICAL EXAMINATION FOR SEXUAL ASSAULT VICTIM
15 WHO HAS REPORTED ASSAULT; COSTS.

16 SECTION 3. Subchapter A, Chapter 56, Code of Criminal
17 Procedure, is amended by adding Article 56.065 to read as
18 follows:

19 Art. 56.065. MEDICAL EXAMINATION FOR SEXUAL ASSAULT VICTIM
20 WHO HAS NOT REPORTED ASSAULT; COSTS. (a) In this article:

21 (1) "Crime laboratory" has the meaning assigned by
22 Article 38.35.

23 (2) "Department" means the Department of Public
24 Safety.

25 (3) "Sexual assault examiner" and "sexual assault
26 nurse examiner" have the meanings assigned by Section 420.003,
27 Government Code.

28 (b) This article applies to the following health care
29 facilities that provide diagnosis or treatment services to
30 victims of sexual assault:

31 (1) a general or special hospital licensed under
32 Chapter 241, Health and Safety Code;

33 (2) a general or special hospital owned by this
34 state;

35 (3) an outpatient clinic; and

36 (4) a private physician's office.

37 (c) In accordance with Subchapter B, Chapter 420,
38 Government Code, and except as provided by Subsection (e), a
39 health care facility shall conduct a forensic medical
40 examination of the victim of an alleged sexual assault if:

41 (1) the victim arrives at the facility within 96
42 hours after the assault occurred;

43 (2) the victim consents to the examination; and

44 (3) at the time of the examination the victim has not
45 reported the assault to a law enforcement agency.

46 (d) The department shall pay the appropriate fees, as set
47 by attorney general rule, for the forensic portion of the

1 medical examination and for the evidence collection kit if a
2 physician, sexual assault examiner, or sexual assault nurse
3 examiner conducts the forensic portion of the examination within
4 96 hours after the alleged sexual assault occurred. The
5 attorney general shall reimburse the department for fees paid
6 under this subsection.

7 (e) If a health care facility does not provide diagnosis
8 or treatment services to victims of sexual assault, the facility
9 shall refer a victim seeking a forensic medical examination
10 under Subsection (c) to a health care facility that provides
11 services to those victims.

12 (f) The department may develop procedures regarding the
13 submission or collection of additional evidence of the alleged
14 sexual assault other than through an examination as described by
15 this article.

16 (g) The department shall develop procedures for the
17 transfer and preservation of evidence collected under this
18 article to a crime laboratory or other suitable location
19 designated by the public safety director of the department. The
20 receiving entity shall preserve the evidence until the earlier
21 of:

22 (1) the second anniversary of the date the evidence
23 was collected; or

24 (2) the date the victim or a legal representative of
25 the victim signs a written consent to release the evidence.

26 (h) The victim may not be required to:

27 (1) participate in the investigation or prosecution
28 of an offense as a condition of receiving a forensic medical
29 examination under this article; or

30 (2) pay for the forensic portion of the medical
31 examination or for the evidence collection kit.

32 (i) The attorney general and the department each shall
33 adopt rules as necessary to implement this article.

34 SECTION 4. Section 323.004(b), Health and Safety Code, is
35 amended to read as follows:

36 (b) A health care facility providing care to a sexual
37 assault survivor shall provide the survivor with:

38 (1) a forensic medical examination in accordance with
39 Subchapter B, Chapter 420, Government Code, if the examination
40 has been requested [~~approved~~] by a law enforcement agency under
41 Article 56.06, Code of Criminal Procedure, or is conducted under
42 Article 56.065, Code of Criminal Procedure;

43 (2) a private area, if available, to wait or speak
44 with the appropriate medical, legal, or sexual assault crisis
45 center staff or volunteer until a physician, nurse, or physician
46 assistant is able to treat the survivor;

47 (3) access to a sexual assault program advocate, if

1 available, as provided by Article 56.045, Code of Criminal
2 Procedure;

3 (4) the information form required by Section 323.005;

4 (5) a private treatment room, if available;

5 (6) if indicated by the history of contact, access to
6 appropriate prophylaxis for exposure to sexually transmitted
7 infections; and

8 (7) the name and telephone number of the nearest
9 sexual assault crisis center.

10 SECTION 5. Section 323.005(a), Health and Safety Code, is
11 amended to read as follows:

12 (a) The department shall develop a standard information
13 form for sexual assault survivors that must include:

14 (1) a detailed explanation of the forensic medical
15 examination required to be provided by law, including a
16 statement that photographs may be taken of the genitalia;

17 (2) information regarding treatment of sexually
18 transmitted infections and pregnancy, including:

19 (A) generally accepted medical procedures;

20 (B) appropriate medications; and

21 (C) any contraindications of the medications
22 prescribed for treating sexually transmitted infections and
23 preventing pregnancy;

24 (3) information regarding drug-facilitated sexual
25 assault, including the necessity for an immediate urine test for
26 sexual assault survivors who may have been involuntarily
27 drugged;

28 (4) information regarding crime victims compensation,
29 including:

30 (A) a statement that:

31 (i) a law enforcement agency will pay for
32 the forensic portion of an [the] examination requested by the
33 agency under Article 56.06, Code of Criminal Procedure, and for
34 the evidence collection kit; or

35 (ii) the Department of Public Safety will
36 pay the appropriate fees for the forensic portion of an
37 examination conducted under Article 56.065, Code of Criminal
38 Procedure, and for the evidence collection kit; and

39 (B) reimbursement information for the medical
40 portion of the examination;

41 (5) an explanation that consent for the forensic
42 medical examination may be withdrawn at any time during the
43 examination;

44 (6) the name and telephone number of sexual assault
45 crisis centers statewide; and

46 (7) information regarding postexposure prophylaxis
47 for HIV infection.

1 SECTION 6. (a) As soon as practicable after the effective
2 date of this Act, the attorney general shall adopt the rules
3 required by Article 56.065(i), Code of Criminal Procedure, as
4 added by this Act.

5 (b) As soon as practicable after the effective date of
6 this Act, the Department of Public Safety of the State of Texas
7 shall adopt the rules required by Article 56.065(i), Code of
8 Criminal Procedure, as added by this Act.

9 (c) The change in law made by this Act applies to a
10 forensic medical examination of an alleged sexual assault victim
11 that is conducted on or after the effective date of this Act.
12 An examination that is conducted before the effective date of
13 this Act is covered by the law in effect when the examination
14 was conducted, and the former law is continued in effect for
15 that purpose.

16 SECTION 7. This Act takes effect immediately if it
17 receives a vote of two-thirds of all the members elected to each
18 house, as provided by Section 39, Article III, Texas
19 Constitution. If this Act does not receive the vote necessary
20 for immediate effect, this Act takes effect September 1, 2009.

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22 H.B. No. 2664
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27 AN ACT

28 relating to creating a defense to prosecution for the offense of
29 unlawful carrying of a handgun by a license holder on the
30 premises of certain businesses.

31 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

32 SECTION 1. Section 46.035, Penal Code, is amended by
33 adding Subsection (k) to read as follows:

34 (k) It is a defense to prosecution under Subsection (b)(1)
35 that the actor was not given effective notice under Section
36 411.204, Government Code.

37 SECTION 2. The change in law made by this Act applies only
38 to an offense committed on or after the effective date of this
39 Act. An offense committed before the effective date of this Act
40 is governed by the law in effect at the time the offense was
41 committed, and the former law is continued in effect for that
42 purpose. For purposes of this section, an offense was committed
43 before the effective date of this Act if any element of the
44 offense occurred before that date.

45 SECTION 3. This Act takes effect September 1, 2009.

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47 H.B. No. 2730

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AN ACT

relating to the continuation and functions of the Department of Public Safety of the State of Texas and the Texas Private Security Board; providing a penalty.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

ARTICLE 1. CHANGES TO VEHICLE INSPECTION PROGRAM

SECTION 1.01. Section 548.006(i), Transportation Code, is amended to read as follows:

(i) The committee shall hold a meeting at least once [at least two meetings] each quarter [year].

SECTION 1.02. Subchapter A, Chapter 548, Transportation Code, is amended by adding Section 548.008 to read as follows:

Sec. 548.008. VEHICLE INSPECTION PROGRAM DIRECTOR. (a) The vehicle inspection program is managed by a program director. The program director may not be a commissioned officer.

(b) The office of the vehicle inspection program director must be located in Austin, Texas.

(c) The duties of the program director include:

(1) responsibility for the quality of the vehicle inspection program;

(2) coordination of the regional offices;

(3) compilation of regional and statewide performance data;

(4) the establishment of best practices and distribution of those practices to the regional offices;

(5) setting goals for the entire program, in consultation with the public safety director or the public safety director's designee, and setting goals for each regional office in consultation with the regional managers;

(6) monitoring the progress toward the goals set in Subdivision (5) and evaluating the program based on that progress; and

(7) coordination with the Texas Highway Patrol to enforce provisions related to vehicle inspection.

(d) The regional offices shall make reports as requested by the program director.

ARTICLE 2. DIVISION OF EMERGENCY MANAGEMENT

PART A. ORGANIZATION OF DIVISION

SECTION 2A.01. Section 418.004, Government Code, is amended by amending Subdivision (2) and adding Subdivision (9) to read as follows:

(2) "Division" means the Texas Division of Emergency Management [division of emergency management in the office of

1 ~~the governor~~].

2 (9) "Department" means the Department of Public
3 Safety of the State of Texas.

4 SECTION 2A.02. Sections 418.041(a), (b), and (c),
5 Government Code, are amended to read as follows:

6 (a) The Texas Division of Emergency Management [~~division~~
7 ~~of emergency management~~] is a division of the department [~~office~~
8 ~~of the governor~~].

9 (b) The division is managed by a chief [~~director~~]
10 appointed by the public safety director of the department, with
11 the approval of the governor. The chief [~~director~~] serves at
12 the pleasure of the public safety director [~~governor~~]. The chief
13 must possess professional training and knowledge consisting of
14 not less than five years of managerial or strategic planning
15 experience in matters relating to public safety, security,
16 emergency services, and emergency response.

17 (c) At least once every two months, the following shall
18 meet to coordinate efforts, prevent overlap of activities, and
19 ensure that the state's approach to emergency management and
20 homeland security is unified:

21 (1) a representative of the department;

22 (2) a representative of the division;

23 (3) a representative of the governor's office of
24 homeland security;

25 (4) the presiding officer of the Homeland Security
26 Council; and

27 (5) a state agency representative from the emergency
28 management council, selected by the chair of the emergency
29 management council. [~~The director shall appoint a state~~
30 ~~coordinator.~~]

31 SECTION 2A.03. Section 418.072, Government Code, is
32 amended to read as follows:

33 Sec. 418.072. DISASTER EMERGENCY FUNDING BOARD. The
34 disaster emergency funding board is composed of:

35 (1) the governor;

36 (2) the lieutenant governor;

37 (3) the commissioner of insurance;

38 (4) the executive commissioner of the Health and
39 [~~Department of~~] Human Services Commission; and

40 (5) the chief [~~director~~] of the division.

41 SECTION 2A.04. Section 418.074(b), Government Code, is
42 amended to read as follows:

43 (b) If a gift, grant, or loan is accepted by the state,
44 the governor, or the emergency management council or chief of
45 the division [~~state coordinator~~] if designated by the governor,
46 may dispense the gift, grant, or loan directly to accomplish the
47 purpose for which it was made or may allocate and transfer to a

1 political subdivision services, equipment, supplies, materials,
2 or funds in the amount the governor or the governor's designee
3 may determine.

4 PART B. OTHER AMENDMENTS, INCLUDING CONFORMING AMENDMENTS
5 REFLECTING DIVISION'S NAME CHANGE

6 SECTION 2B.01. Section 12.0012, Agriculture Code, is
7 amended to read as follows:

8 Sec. 12.0012. NOTIFICATION. The department shall, upon
9 submission for publication, notify the Texas Division of
10 Emergency Management [~~division of emergency management in the~~
11 ~~office of the governor~~] of each quarantine it adopts. The
12 department shall thereafter cooperate with the Texas Division of
13 Emergency Management [~~division of emergency management~~] in
14 implementing any necessary safeguards to protect the state's
15 agricultural resources from potential economic, health, or
16 ecological disaster that may result from the quarantined pest or
17 disease.

18 SECTION 2B.02. Sections 88.303(a) and (d), Education Code,
19 are amended to read as follows:

20 (a) Notwithstanding any other law, during any period in
21 which Texas Task Force 1 is activated by the Texas Division of
22 Emergency Management [~~governor's division of emergency~~
23 ~~management~~], or during any training session sponsored or
24 sanctioned by Texas Task Force 1, a participating nongovernment
25 member or local government employee member is included in the
26 coverage provided under Chapter 501, Labor Code, in the same
27 manner as an employee, as defined by Section 501.001, Labor
28 Code.

29 (d) Notwithstanding Section 412.0123, Labor Code, as added
30 by Chapter 1098, Acts of the 75th Legislature, Regular Session,
31 1997, the Texas Division of Emergency Management [~~governor's~~
32 ~~division of emergency management~~] shall reimburse the State
33 Office of Risk Management for the actual medical and indemnity
34 benefits paid on behalf of a covered member of Texas Task Force
35 1 at the beginning of the next state fiscal year occurring after
36 the date the benefits are paid.

37 SECTION 2B.03. Section 418.014(e), Government Code, is
38 amended to read as follows:

39 (e) An executive order or proclamation shall be
40 disseminated promptly by means intended to bring its contents to
41 the attention of the general public. An order or proclamation
42 shall be filed promptly with the division [~~of emergency~~
43 ~~management~~], the secretary of state, and the county clerk or
44 city secretary in each area to which it applies unless the
45 circumstances attendant on the disaster prevent or impede the
46 filing.

47 SECTION 2B.04. The heading to Subchapter C, Chapter 418,

1 Government Code, is amended to read as follows:

2 SUBCHAPTER C. TEXAS DIVISION OF EMERGENCY MANAGEMENT

3 SECTION 2B.05. Section 418.073(d), Government Code, is
4 amended to read as follows:

5 (d) The ~~[governor's]~~ division ~~[of emergency management]~~
6 shall administer the disaster contingency fund and shall develop
7 and implement rules and procedures for providing emergency
8 assistance from the fund. The division shall annually report to
9 the speaker of the house of representatives and the lieutenant
10 governor expenditures from the fund, the overall status of the
11 fund, and any changes to rules and procedures regarding the
12 fund.

13 SECTION 2B.051. Subchapter C, Chapter 418, Government
14 Code, is amended by adding Section 418.050 to read as follows:

15 Sec. 418.050. REENTRY CREDENTIALING PILOT PROGRAM. (a)
16 The division shall consider implementing a pilot program for a
17 reentry credentialing process for reentry into areas previously
18 evacuated because of a disaster or threat of disaster.

19 SECTION 2B.06. Section 421.021(a), Government Code, is
20 amended to read as follows:

21 (a) The Homeland Security Council is composed of the
22 governor or the governor's designee, the speaker of the house of
23 representatives or the speaker's designee, the lieutenant
24 governor or the lieutenant governor's designee, and one
25 representative of each of the following entities, appointed by
26 the single statewide elected or appointed governing officer,
27 administrative head, or chair, as appropriate, of the entity:

- 28 (1) Department of Agriculture;
- 29 (2) office of the attorney general;
- 30 (3) General Land Office;
- 31 (4) Public Utility Commission of Texas;
- 32 (5) Department of State Health Services;
- 33 (6) Department of Information Resources;
- 34 (7) Department of Public Safety of the State of
35 Texas;
- 36 (8) Texas Division of Emergency Management ~~[division~~
37 ~~of emergency management of the office of the governor];~~
- 38 (9) adjutant general's department;
- 39 (10) Texas Commission on Environmental Quality;
- 40 (11) Railroad Commission of Texas;
- 41 (12) Texas Strategic Military Planning Commission;
- 42 (13) Texas Department of Transportation;
- 43 (14) Commission on State Emergency Communications;
- 44 (15) Office of State-Federal Relations;
- 45 (16) secretary of state;
- 46 (17) Senate Committee on Transportation and Homeland
47 Security;

1 (18) House Committee on Defense and Veterans' Affairs
2 [~~and State Federal Relations~~];

3 (19) Texas Animal Health Commission;

4 (20) Texas Association of Regional Councils;

5 (21) Texas Commission on Law Enforcement Officer
6 Standards and Education;

7 (22) state fire marshal's office;

8 (23) Texas Education Agency;

9 (24) Texas Commission on Fire Protection;

10 (25) Parks and Wildlife Department;

11 (26) Texas Forest Service; and

12 (27) Texas Water Development Board.

13 SECTION 2B.07. Section 661.907(b), Government Code, is
14 amended to read as follows:

15 (b) The number of certified disaster service volunteers
16 who are eligible for leave under this section may not exceed 350
17 state employees at any one time during a fiscal year. The Texas
18 Division of Emergency Management [~~division of emergency~~
19 ~~management in the governor's office~~] shall coordinate the
20 establishment and maintenance of the list of eligible employees.

21 SECTION 2B.08. Section 661.919(b), Government Code, is
22 amended to read as follows:

23 (b) The number of amateur radio operators who are eligible
24 for leave under this section may not exceed 350 state employees
25 at any one time during a state fiscal year. The Texas Division
26 of Emergency Management [~~division of emergency management in the~~
27 ~~governor's office~~] shall coordinate the establishment and
28 maintenance of the list of eligible employees.

29 SECTION 2B.09. Section 501.001(5), Labor Code, is amended
30 to read as follows:

31 (5) "Employee" means a person who is:

32 (A) in the service of the state pursuant to an
33 election, appointment, or express oral or written contract of
34 hire;

35 (B) paid from state funds but whose duties
36 require that the person work and frequently receive supervision
37 in a political subdivision of the state;

38 (C) a peace officer employed by a political
39 subdivision, while the peace officer is exercising authority
40 granted under:

41 (i) Article 2.12, Code of Criminal
42 Procedure; or

43 (ii) Articles 14.03(d) and (g), Code of
44 Criminal Procedure;

45 (D) a member of the state military forces, as
46 defined by Section 431.001, Government Code, who is engaged in
47 authorized training or duty; or

1 (E) a Texas Task Force 1 member, as defined by
2 Section 88.301, Education Code, who is activated by the Texas
3 Division of Emergency Management [~~governor's division of~~
4 ~~emergency management~~] or is injured during [any] training
5 [~~session~~] sponsored or sanctioned by Texas Task Force 1.

6 SECTION 2B.10. Sections 16.055(a) and (b), Water Code, are
7 amended to read as follows:

8 (a) The chief [~~coordinator~~] of the Texas Division of
9 Emergency Management [~~division of emergency management of the~~
10 ~~office of the governor~~] is the state drought manager. The state
11 drought manager is responsible for managing and coordinating the
12 drought response component of the state water plan.

13 (b) The drought preparedness council is created and shall
14 meet as necessary to carry out the provisions of this section.
15 The council is composed of one representative from each of the
16 following entities, appointed by the administrative head of that
17 entity:

18 (1) the Texas Division of Emergency Management
19 [~~division of emergency management of the office of the~~
20 ~~governor~~];

21 (2) the board;

22 (3) the commission;

23 (4) the Parks and Wildlife Department;

24 (5) the Department of Agriculture;

25 (6) the Texas AgriLife [~~Agricultural~~] Extension
26 Service;

27 (7) the State Soil and Water Conservation Board;

28 (8) the Texas Department of Housing and Community
29 Affairs;

30 (9) the Texas Forest Service;

31 (10) the Texas Department of Transportation;

32 (11) the Texas Department of Economic Development;

33 and

34 (12) a representative of groundwater management
35 interests who is appointed by the governor.

36 SECTION 2B.11. Section 1(3), Chapter 350 (S.B. 1101), Acts
37 of the 71st Legislature, Regular Session, 1989 (Article 6419c,
38 Vernon's Texas Civil Statutes), is amended to read as follows:

39 (3) "Division of emergency management" means the
40 Texas Division of Emergency Management [~~division of emergency~~
41 ~~management of the office of the governor~~].

42 SECTION 2B.12. A reference in law or a rule to the
43 "governor's division of emergency management" or the "division
44 of emergency management in the office of the governor" means the
45 Texas Division of Emergency Management in the Department of
46 Public Safety of the State of Texas.

47 ARTICLE 3. ADMINISTRATIVE SUSPENSION OF DRIVER'S LICENSE

FOR INTOXICATION OFFENSES

SECTION 3.01. Section 524.039, Transportation Code, is amended to read as follows:

Sec. 524.039. APPEARANCE OF TECHNICIANS AT HEARING. (a) Not ~~[Notwithstanding Section 524.038, if not]~~ later than the fifth day before the date of a scheduled hearing, ~~[the department receives from]~~ the person who requested a hearing may apply to the State Office of Administrative Hearings to issue a subpoena for the attendance ~~[written notice, including a facsimile transmission, requesting the presence at the hearing]~~ of the breath test operator who took the specimen of the person's breath to determine alcohol concentration or the certified breath test technical supervisor responsible for maintaining and directing the operation of the breath test instrument used to analyze the specimen of the person's breath, or both~~[, each requested person must appear at the hearing]~~. The State Office of Administrative Hearings shall issue the subpoena only on a showing of good cause.

(b) The department may reschedule a hearing once not less than 48 hours before the hearing if a ~~[the]~~ person subpoenaed ~~[requested to attend]~~ under Subsection (a) is unavailable. The department may also reschedule the hearing on showing good cause that a ~~[the]~~ person subpoenaed ~~[requested]~~ under Subsection (a) is not available at the time of the hearing.

SECTION 3.02. The changes in law made by this article by the amendment of Section 524.039, Transportation Code, apply only to a hearing conducted on or after September 1, 2009. A hearing conducted before September 1, 2009, is covered by the law in effect immediately before that date, and the former law is continued in effect for that purpose.

SECTION 3.03. This article takes effect September 1, 2009.

ARTICLE 4. CHANGES TO PRIVATE SECURITY ACT

SECTION 4.01. Section 1702.002, Occupations Code, is amended by amending Subdivisions (2), (3), (5), (11), (12), (13), (17), (19), (20), and (21) and adding Subdivision (6-b) to read as follows:

(2) "Branch office" means an office that is:

(A) identified to the public as a place from which business is conducted, solicited, or advertised; and

(B) at a place other than the principal place of business as shown in board ~~[commission]~~ records.

(3) "Branch office license" means a permit issued by the board ~~[commission]~~ that entitles a person to operate at a branch office as a security services contractor or investigations company.

(5) "Commissioned security officer" means a security officer to whom a security officer commission has been issued by

1 the board [~~commission~~].

2 (6-b) "Endorsement" means a permit entitling an
3 individual holding a registration to perform a service regulated
4 by this chapter for an appropriately licensed company.

5 (11) "Letter of authority" means a permit issued by
6 the board [~~commission~~] that entitles the security department of
7 a private business or a political subdivision to employ a
8 commissioned security officer.

9 (12) "License" means a permit issued by the board
10 [~~commission~~] that entitles a person to operate as a security
11 services contractor or investigations company.

12 (13) "License holder" means a person to whom the
13 board [~~commission~~] issues a license.

14 (17) "Personal protection officer endorsement
15 [~~authorization~~]" means a permit issued by the board [~~commission~~]
16 that entitles an individual to act as a personal protection
17 officer.

18 (19) "Registrant" means an individual who has
19 registered with the board [~~commission~~] under Section 1702.221.

20 (20) "Registration" means a permit issued by the
21 board [~~commission~~] to an individual described by Section
22 1702.221.

23 (21) "Security officer commission" means an
24 authorization issued by the board [~~commission~~] that entitles a
25 security officer to carry a firearm.

26 SECTION 4.02. Section 1702.004, Occupations Code, is
27 amended to read as follows:

28 Sec. 1702.004. GENERAL SCOPE OF REGULATION. (a) The
29 board, in addition to performing duties required by other law or
30 exercising powers granted by other law:

31 (1) licenses investigations companies and security
32 services contractors;

33 (2) issues commissions to certain security officers;

34 (3) issues endorsements [~~authorizations~~] to certain
35 security officers engaged in the personal protection of
36 individuals;

37 (4) registers and endorses:

38 (A) certain individuals connected with a license
39 holder; and

40 (B) certain individuals employed in a field
41 connected to private investigation or private security; and

42 (5) regulates license holders, security officers,
43 [~~and~~] registrants, and endorsement holders under this chapter.

44 (b) The board shall adopt rules necessary to comply with
45 Chapter 53 [does not apply to this chapter or to any licensing,
46 regulatory, or disciplinary determinations made under this
47 chapter]. In its rules under this section, the board shall list

1 the specific offenses for each category of regulated persons for
2 which a conviction would constitute grounds for the board to
3 take action under Section 53.021.

4 SECTION 4.03. The heading to Subchapter B, Chapter 1702,
5 Occupations Code, is amended to read as follows:

6 SUBCHAPTER B. TEXAS [~~COMMISSION ON~~] PRIVATE SECURITY BOARD

7 SECTION 4.04. Section 1702.021, Occupations Code, is
8 amended to read as follows:

9 Sec. 1702.021. BOARD [~~COMMISSION~~] MEMBERSHIP. (a) The
10 Texas Private Security Board consists of seven members appointed
11 by the governor with the advice and consent of the senate as
12 follows:

13 (1) four public members, each of whom is a citizen of
14 the United States;

15 (2) one member who is licensed under this chapter as
16 a private investigator;

17 (3) one member who is licensed under this chapter as
18 an alarm systems company; and

19 (4) one member who is licensed under this chapter as
20 the owner or operator of a guard company.

21 (b) Appointments to the board [~~commission~~] shall be made
22 without regard to the race, color, disability, sex, religion,
23 age, or national origin of the appointee.

24 [~~(c) On presentation by a commission member of the~~
25 ~~constitutional oath taken by the member, together with the~~
26 ~~certificate of appointment, the secretary of state shall issue a~~
27 ~~commission to the member as evidence of the member's authority~~
28 ~~to act as a commission member.]~~

29 SECTION 4.05. Section 1702.023, Occupations Code, is
30 amended to read as follows:

31 Sec. 1702.023. ELIGIBILITY OF PUBLIC MEMBERS. The board's
32 [~~commission's~~] public members must be representatives of the
33 general public. A person may not be a public member of the
34 board [~~commission~~] if the person or the person's spouse:

35 (1) is registered, commissioned, certified, or
36 licensed by a regulatory agency in the field of private
37 investigations or private security;

38 (2) is employed by or participates in the management
39 of a business entity or other organization regulated by or
40 receiving money from the board [~~commission~~];

41 (3) owns or controls, directly or indirectly, more
42 than a 10 percent interest in a business entity or other
43 organization regulated by or receiving money from the board
44 [~~commission~~]; or

45 (4) uses or receives a substantial amount of tangible
46 goods, services, or money from the board [~~commission~~] other than
47 compensation or reimbursement authorized by law for board

1 [~~commission~~] membership, attendance, or expenses.

2 SECTION 4.06. Sections 1702.024(b) and (c), Occupations
3 Code, are amended to read as follows:

4 (b) A person may not be a board [~~commission~~] member, and
5 may not be a department [~~commission~~] employee whose primary
6 duties include private security regulation and who is employed
7 in a "bona fide executive, administrative, or professional
8 capacity," as that phrase is used for purposes of establishing
9 an exemption to the overtime provisions of the federal Fair
10 Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.), and
11 its subsequent amendments, if:

12 (1) the person is an officer, employee, or paid
13 consultant of a Texas trade association in the field of private
14 investigation or private security; or

15 (2) the person's spouse is an officer, manager, or
16 paid consultant of a Texas trade association in the field of
17 private investigation or private security.

18 (c) A person may not be a board [~~commission~~] member or act
19 as general counsel to the board [~~commission~~] or agency if the
20 person is required to register as a lobbyist under Chapter 305,
21 Government Code, because of the person's activities for
22 compensation on behalf of a profession related to the operation
23 of the agency.

24 SECTION 4.07. Section 1702.027, Occupations Code, is
25 amended to read as follows:

26 Sec. 1702.027. GROUNDS FOR REMOVAL. (a) It is a ground
27 for removal from the board [~~commission~~] that a member:

28 (1) does not have the qualifications required by
29 Section 1702.021 at the time of taking office;

30 (2) does not maintain the qualifications required by
31 Section 1702.021 during service on the board [~~commission~~];

32 (3) is ineligible for membership under Section
33 1702.023 or 1702.024;

34 (4) cannot, because of illness or disability,
35 discharge the member's duties for a substantial part of the
36 member's term; or

37 (5) is absent from more than half of the regularly
38 scheduled board [~~commission~~] meetings that the member is
39 eligible to attend during a calendar year without an excuse
40 approved by a majority vote of the board [~~commission~~].

41 (b) The validity of an action of the board [~~commission~~] is
42 not affected by the fact that it is taken when a ground for
43 removal of a board [~~commission~~] member exists.

44 (c) If the chief administrator [~~director~~] has knowledge
45 that a potential ground for removal exists, the chief
46 administrator [~~director~~] shall notify the presiding officer of
47 the board [~~commission~~] of the potential ground. The presiding

1 officer shall then notify the governor and the attorney general
2 that a potential ground for removal exists. If the potential
3 ground for removal involves the presiding officer, the chief
4 administrator [~~director~~] shall notify the next highest ranking
5 officer of the board [~~commission~~], who shall then notify the
6 governor and the attorney general that a potential ground for
7 removal exists.

8 SECTION 4.08. Section 1702.028, Occupations Code, is
9 amended to read as follows:

10 Sec. 1702.028. PER DIEM; REIMBURSEMENT. (a) A board
11 [~~commission~~] member is entitled to a per diem as set by
12 legislative appropriation for each day the member engages in the
13 business of the board [~~commission~~].

14 (b) A member is entitled to reimbursement for travel
15 [~~transportation~~] expenses incurred while conducting board
16 business, including expenses for transportation, meals, and
17 lodging, as prescribed by the General Appropriations Act. [A
18 member may not receive compensation for travel expenses,
19 including expenses for meals and lodging, other than
20 transportation expenses.]

21 SECTION 4.09. Section 1702.029, Occupations Code, is
22 amended to read as follows:

23 Sec. 1702.029. MEETINGS. The board [~~commission~~] shall
24 meet at regular intervals to be decided by the board
25 [~~commission~~].

26 SECTION 4.10. Section 1702.030, Occupations Code, is
27 amended to read as follows:

28 Sec. 1702.030. TRAINING. (a) A person who is appointed
29 to and qualifies for office as a board [~~commission~~] member may
30 not vote, deliberate, or be counted as a member in attendance at
31 a board [~~commission~~] meeting until the person completes a
32 training program that complies with this section.

33 (b) The training program must provide the person with
34 information regarding:

- 35 (1) this chapter;
- 36 (2) the programs operated by the board [~~commission~~];
- 37 (3) the role and functions of the board [~~commission~~];
- 38 (4) the rules of the board [~~commission~~], with an
39 emphasis on the rules that relate to disciplinary and
40 investigatory authority;
- 41 (5) the current budget for the board [~~commission~~];
- 42 (6) the results of the most recent formal audit of
43 the board [~~commission~~];
- 44 (7) the requirements of:
 - 45 (A) the open meetings law, Chapter 551,
46 Government Code;
 - 47 (B) the public information law, Chapter 552,

1 Government Code;

2 (C) the administrative procedure law, Chapter
3 2001, Government Code; and

4 (D) other laws relating to public officials,
5 including conflict of interest laws; and

6 (8) any applicable ethics policies adopted by the
7 board [~~commission~~] or the Texas Ethics Commission.

8 (c) A person appointed to the board [~~commission~~] is
9 entitled to reimbursement, as provided by the General
10 Appropriations Act, for the travel expenses incurred in
11 attending the training program regardless of whether the
12 attendance at the program occurs before or after the person
13 qualifies for office.

14 SECTION 4.11. The heading to Subchapter C, Chapter 1702,
15 Occupations Code, is amended to read as follows:

16 SUBCHAPTER C. CHIEF ADMINISTRATOR [~~DIRECTOR~~] AND PERSONNEL

17 SECTION 4.12. Section 1702.041, Occupations Code, is
18 amended to read as follows:

19 Sec. 1702.041. CHIEF ADMINISTRATOR [~~DIRECTOR~~]. (a) The
20 [~~director is the~~] chief administrator is responsible for the
21 administration of this chapter under the direction of the board
22 [~~commission~~]. The chief administrator [~~director~~] shall perform
23 duties as prescribed by the board and the department
24 [~~commission~~].

25 (b) The chief administrator [~~director~~] is a full-time
26 employee of the department [~~commission~~]. A board [~~commission~~]
27 member may not serve as chief administrator [~~director~~].

28 SECTION 4.13. Section 1702.042, Occupations Code, is
29 amended to read as follows:

30 Sec. 1702.042. PERSONNEL; CONFLICT OF INTEREST. An
31 employee of the department whose primary duties include private
32 security regulation [~~commission~~] may not:

33 (1) have a financial or business interest, contingent
34 or otherwise, in a security services contractor or
35 investigations company; or

36 (2) be licensed under this chapter.

37 SECTION 4.14. Section 1702.043, Occupations Code, is
38 amended to read as follows:

39 Sec. 1702.043. DIVISION OF RESPONSIBILITIES. The board
40 [~~commission~~] shall develop and implement policies that clearly
41 separate the policy-making responsibilities of the board
42 [~~commission~~] and the management responsibilities of the chief
43 administrator [~~director~~] and staff of the department
44 [~~commission~~].

45 SECTION 4.15. Section 1702.044, Occupations Code, is
46 amended to read as follows:

47 Sec. 1702.044. QUALIFICATIONS AND STANDARDS OF CONDUCT

1 INFORMATION. The chief administrator [~~director~~] or the chief
2 administrator's [~~director's~~] designee shall provide to board
3 [~~commission~~] members and to agency employees, as often as
4 necessary, information regarding the requirements for office or
5 employment under this chapter, including information regarding a
6 person's responsibilities under applicable laws relating to
7 standards of conduct for state officers or employees.

8 SECTION 4.16. The heading to Subchapter D, Chapter 1702,
9 Occupations Code, is amended to read as follows:

10 SUBCHAPTER D. POWERS AND DUTIES OF BOARD [~~COMMISSION~~]

11 SECTION 4.17. Section 1702.061, Occupations Code, is
12 amended to read as follows:

13 Sec. 1702.061. GENERAL POWERS AND DUTIES OF BOARD
14 [~~COMMISSION~~]. (a) The board [~~Texas Commission on Private~~
15 ~~Security~~] shall perform the functions and duties provided by
16 this chapter.

17 (b) The board [~~commission~~] shall adopt rules and general
18 policies to guide the agency in the administration of this
19 chapter.

20 (c) The rules and policies adopted by the board
21 [~~commission~~] under Subsection (b) must be consistent with this
22 chapter and other board [~~commission~~] rules adopted under this
23 chapter and with any other applicable law, state rule, or
24 federal regulation.

25 (d) The board [~~commission~~] has the powers and duties to:

26 (1) determine the qualifications of license holders,
27 registrants, endorsement holders, and commissioned security
28 officers;

29 (2) investigate alleged violations of this chapter
30 and of board [~~commission~~] rules;

31 (3) adopt rules necessary to implement this chapter;
32 and

33 (4) establish and enforce standards governing the
34 safety and conduct of each person licensed, registered, or
35 commissioned under this chapter.

36 (e) The board [~~commission~~] shall have a seal in the form
37 prescribed by the board [~~commission~~].

38 [~~(f) The commission may commission investigators who are~~
39 ~~employed full time by the commission as peace officers for the~~
40 ~~limited purpose of assisting the commission in investigating~~
41 ~~alleged violations of this chapter and of commission rules.]~~

42 SECTION 4.18. Subchapter D, Chapter 1702, Occupations
43 Code, is amended by adding Section 1702.0612 to read as follows:

44 Sec. 1702.0612. NEGOTIATED RULEMAKING AND ALTERNATIVE
45 DISPUTE RESOLUTION. (a) The board shall develop and implement
46 a policy to encourage the use of:

47 (1) negotiated rulemaking procedures under Chapter

1 2008, Government Code, for the adoption of board rules; and
2 (2) appropriate alternative dispute resolution
3 procedures under Chapter 2009, Government Code, to assist in the
4 resolution of internal and external disputes under the board's
5 jurisdiction.

6 (b) The board's procedures relating to alternative dispute
7 resolution must conform, to the extent possible, to any model
8 guidelines issued by the State Office of Administrative Hearings
9 for the use of alternative dispute resolution by state agencies.

10 (c) The board shall designate a trained person to:

11 (1) coordinate the implementation of the policy
12 adopted under Subsection (a);

13 (2) serve as a resource for any training needed to
14 implement the procedures for negotiated rulemaking or
15 alternative dispute resolution; and

16 (3) collect data concerning the effectiveness of
17 those procedures, as implemented by the board.

18 SECTION 4.19. Section 1702.062, Occupations Code, is
19 amended to read as follows:

20 Sec. 1702.062. FEES. (a) The board [~~commission~~] by rule
21 shall establish reasonable and necessary fees that produce
22 sufficient revenue to administer this chapter. The fees may not
23 produce unnecessary fund balances. [~~and may not exceed the~~
24 ~~following amounts:~~

25	[Class A license	\$350 (original and renewal)
26	[Class B license	\$400 (original and renewal)
27	[Class C license	\$540 (original and renewal)
28	[Class D license	\$400 (original and renewal)
29	[Reinstate suspended license	\$150
30	[Assignment of license	\$150
31	[Change name of license	\$ 75
32	[Delinquency fee	_____
33	[Branch office certificate and renewal	\$300
34	[Registration fee for private investigator, manager, branch	
35	office manager, locksmith, electronic access control device	
36	installer, and alarm systems installer	\$ 30 (original and
37	renewal)	
38	[Registration fee for noncommissioned security officer	\$ 30
39	(original and renewal)	
40	[Registration fee for security salesperson	\$ 30
41	[Registration fee for alarm systems monitor	\$ 30
42	[Registration fee for dog trainer	\$ 30
43	[Registration fee for owner, officer, partner, or	
44	shareholder of a license holder	\$ 50
45	[Registration fee for security consultant	\$300
46	[Registration fee for employee of license holder	\$ 30
47	[Security officer commission fee	\$ 50

1	(original and renewal)	
2	[School instructor fee	_____ \$100
3	(original and renewal)	
4	[School approval fee	_____ \$350
5	(original and renewal)	
6	[Letter of authority fee for private business and political	
7	subdivision	_____ \$400
8	[Letter of authority renewal fee for private business and	
9	political subdivision	_____ \$225
10	[Letter of authority fee for commissioned officer,	
11	noncommissioned officer, or personal protection officer for	
12	political subdivision	_____ \$ 10
13	[FBI fingerprint check	_____ \$ 25
14	[Duplicate pocket card	_____ \$ 10
15	[Employee information update fee	_____ \$ 15
16	[Burglar alarm sellers renewal fee	_____ \$ 30
17	[Personal protection officer authorization	_____ \$ 50]

18 (b) The board ~~[In addition to other fees established under~~
19 ~~this chapter, the commission]~~ may charge a fee each time the
20 board ~~[commission]~~ requires a person regulated under this
21 chapter to resubmit a set of fingerprints for processing by the
22 board ~~[commission]~~ during the application process for a license,
23 registration, endorsement, or commission. The board
24 ~~[commission]~~ shall set the fee in an amount that is reasonable
25 and necessary to cover the ~~[commission's]~~ administrative
26 expenses related to processing the fingerprints.

27 (c) A person whose pocket card has not expired is not
28 eligible to receive from the board ~~[commission]~~ another pocket
29 card in the same classification in which the pocket card is
30 held.

31 SECTION 4.20. The heading to Section 1702.063, Occupations
32 Code, is amended to read as follows:

33 Sec. 1702.063. BOARD ~~[COMMISSION]~~ USE OF FINES.

34 SECTION 4.21. Section 1702.0635, Occupations Code, is
35 amended to read as follows:

36 Sec. 1702.0635. RESTRICTIONS ON CERTAIN RULES. The board
37 ~~[commission]~~ may not adopt rules or establish unduly restrictive
38 experience or education requirements that limit a person's
39 ability to be licensed as an electronic access control device
40 company or be registered as an electronic access control device
41 installer.

42 SECTION 4.22. Section 1702.064, Occupations Code, is
43 amended to read as follows:

44 Sec. 1702.064. RULES RESTRICTING ADVERTISING OR
45 COMPETITIVE BIDDING. (a) The board ~~[commission]~~ may not adopt
46 rules restricting advertising or competitive bidding by a person
47 regulated by the board ~~[commission]~~ except to prohibit false,

1 misleading, or deceptive practices by the person.
2 (b) The board [~~commission~~] may not include in its rules to
3 prohibit false, misleading, or deceptive practices by a person
4 regulated by the board [~~commission~~] a rule that:
5 (1) restricts the person's use of any medium for
6 advertising;
7 (2) restricts the person's personal appearance or use
8 of the person's personal voice in an advertisement;
9 (3) relates to the size or duration of an
10 advertisement by the person; or
11 (4) restricts the person's advertisement under a
12 trade name.
13 SECTION 4.23. Section 1702.0645, Occupations Code, is
14 amended to read as follows:
15 Sec. 1702.0645. PAYMENT OF FEES AND FINES. (a) The board
16 [~~commission~~] may adopt rules regarding the method of payment of
17 a fee or a fine assessed under this chapter.
18 (b) Rules adopted under this section may:
19 (1) authorize the use of electronic funds transfer or
20 a valid credit card issued by a financial institution chartered
21 by a state or the federal government or by a nationally
22 recognized credit organization approved by the board
23 [~~commission~~]; and
24 (2) require the payment of a discount or a reasonable
25 service charge for a credit card payment in addition to the fee
26 or the fine.
27 SECTION 4.24. Section 1702.066, Occupations Code, is
28 amended to read as follows:
29 Sec. 1702.066. SERVICE OF PROCESS; SERVICE OF DOCUMENTS ON
30 BOARD [~~COMMISSION~~]. Legal process and documents required by law
31 to be served on or filed with the board [~~commission~~] must be
32 served on or filed with the chief administrator [~~director~~] at
33 the designated office of the board [~~commission~~].
34 SECTION 4.25. Section 1702.067, Occupations Code, is
35 amended to read as follows:
36 Sec. 1702.067. BOARD [~~COMMISSION~~] RECORDS; EVIDENCE. An
37 official record of the board [~~commission~~] or an affidavit by the
38 chief administrator [~~director~~] as to the content of the record
39 is prima facie evidence of a matter required to be kept by the
40 board [~~commission~~].
41 SECTION 4.26. Section 1702.068, Occupations Code, is
42 amended to read as follows:
43 Sec. 1702.068. APPEAL BOND NOT REQUIRED. The board
44 [~~commission~~] is not required to give an appeal bond in any cause
45 arising under this chapter.
46 SECTION 4.27. Section 1702.081, Occupations Code, is
47 amended to read as follows:

1 Sec. 1702.081. PUBLIC INTEREST INFORMATION. (a) The
2 board [~~commission~~] shall prepare information of interest to
3 consumers or recipients of services regulated under this chapter
4 describing the board's [~~commission's~~] regulatory functions and
5 the procedures by which complaints are filed with and resolved
6 by the board [~~commission~~].

7 (b) The board [~~commission~~] shall make the information
8 available to the public and appropriate state agencies.

9 SECTION 4.28. Sections 1702.082(a), (b), (c), and (d),
10 Occupations Code, are amended to read as follows:

11 (a) The board [~~commission by rule shall establish methods~~
12 ~~by which consumers and service recipients are notified of the~~
13 ~~name, mailing address, and telephone number of the commission~~
14 ~~for the purpose of directing complaints to the commission. The~~
15 ~~commission may provide for that notice:~~

16 [~~(1) on each registration form, application, or~~
17 ~~written contract for services of a person regulated under this~~
18 ~~chapter;~~

19 [~~(2) on a sign prominently displayed in the place of~~
20 ~~business of each person regulated under this chapter; or~~

21 [~~(3) in a bill for services provided by a person~~
22 ~~regulated under this chapter.~~

23 [~~(b) The commission~~] shall maintain a system to promptly
24 and efficiently act on complaints [~~file on each written~~
25 ~~complaint~~] filed with the board [~~commission~~]. The board shall
26 maintain information about parties to the complaint, [~~file must~~
27 ~~include:~~

28 [~~(1) the name of the person who filed the complaint;~~

29 [~~(2) the date the complaint is received by the~~
30 ~~commission;~~

31 [~~(3)~~] the subject matter of the complaint, [~~;~~

32 [~~(4) the name of each person contacted in relation to~~
33 ~~the complaint;~~

34 [~~(5)~~] a summary of the results of the review or
35 investigation of the complaint, [~~;~~] and its disposition

36 [~~(6) an explanation of the reason the file was~~
37 ~~closed, if the agency closed the file without taking action~~
38 ~~other than to investigate the complaint].~~

39 (b) [~~(c)~~] The board [~~commission~~] shall make information
40 available describing its [~~provide to the person filing the~~
41 ~~complaint a copy of the commission's policies and~~] procedures
42 for [~~relating to~~] complaint investigation and resolution.

43 (c) The board shall periodically notify the complaint
44 parties of the status of the complaint until final disposition.

45 [~~(d) Unless it would jeopardize an undercover investigation,~~
46 ~~the commission shall provide to each person who is a subject of~~
47 ~~the complaint a copy of the commission's policies and procedures~~

1 ~~relating to complaint investigation and resolution.]~~

2 SECTION 4.29. Section 1702.083, Occupations Code, is
3 amended to read as follows:

4 Sec. 1702.083. PUBLIC PARTICIPATION. The board
5 [~~commission~~] shall develop and implement policies that provide
6 the public with a reasonable opportunity to appear before the
7 board [~~commission~~] and to speak on any issue under the board's
8 [~~commission's~~] jurisdiction.

9 SECTION 4.30. Section 1702.084, Occupations Code, is
10 amended to read as follows:

11 Sec. 1702.084. PUBLIC ACCESS TO CERTAIN RECORDS OF
12 DISCIPLINARY ACTIONS. (a) The board [~~commission~~] shall make
13 available to the public through a toll-free telephone number,
14 Internet website, or other easily accessible medium determined
15 by the board [~~commission~~] the following information relating to
16 a disciplinary action taken during the preceding three years
17 regarding a person regulated by the board [~~commission~~]:

18 (1) the identity of the person;

19 (2) the nature of the complaint that was the basis of
20 the disciplinary action taken against the person; and

21 (3) the disciplinary action taken by the board
22 [~~commission~~].

23 (b) In providing the information, the board [~~commission~~]
24 shall present the information in an impartial manner, use
25 language that is commonly understood, and, if possible, avoid
26 jargon specific to the security industry.

27 (c) The board [~~commission~~] shall update the information on
28 a monthly basis.

29 (d) The board [~~commission~~] shall maintain the
30 confidentiality of information regarding the identification of a
31 complainant.

32 SECTION 4.31. Section 1702.103, Occupations Code, is
33 amended to read as follows:

34 Sec. 1702.103. CLASSIFICATION AND LIMITATION OF LICENSES.
35 (a) The license classifications are:

36 (1) Class A: investigations company license, covering
37 operations of an investigations company;

38 (2) Class B: security services contractor license,
39 covering operations of a security services contractor;

40 (3) Class C: covering the operations included within
41 Class A and Class B; ~~and~~

42 (4) Class F: level III training school license;

43 (5) Class O: alarm level I training school license;

44 (6) Class P: private business letter of authority
45 license;

46 (7) Class X: government letter of authority license;

47 and

1 (8) Class T: telematics license [~~Class D: electronic~~
2 ~~access control device license, covering operations of an~~
3 ~~electronic access control device company~~].

4 (b) A [~~Class A, B, C, or D~~] license described by this
5 chapter does not authorize the license holder to perform a
6 service for which the license holder has not qualified. A
7 person may not engage in an operation outside the scope of that
8 person's license. The board [~~commission~~] shall indicate on the
9 license the services the license holder is authorized to
10 perform. The license holder may not perform a service unless it
11 is indicated on the license.

12 (c) A license is not assignable unless the assignment is
13 approved in advance by the board [~~commission~~].

14 (d) The board [~~commission~~] shall prescribe by rule the
15 procedure under which a license may be terminated.

16 (e) The board by rule may establish other license
17 classifications for activities expressly regulated by this
18 chapter and may establish qualifications and practice
19 requirements consistent with this chapter for those license
20 classifications.

21 SECTION 4.32. Section 1702.104, Occupations Code, is
22 amended to read as follows:

23 Sec. 1702.104. INVESTIGATIONS COMPANY. (a) A person acts
24 as an investigations company for the purposes of this chapter if
25 the person:

26 (1) engages in the business of obtaining or
27 furnishing, or accepts employment to obtain or furnish,
28 information related to:

29 (A) crime or wrongs done or threatened against a
30 person, state, or the United States;

31 (B) the identity, habits, business, occupation,
32 knowledge, efficiency, loyalty, movement, location,
33 affiliations, associations, transactions, acts, reputation, or
34 character of a person;

35 (C) the location, disposition, or recovery of
36 lost or stolen property; or

37 (D) the cause or responsibility for a fire,
38 libel, loss, accident, damage, or injury to a person or to
39 property;

40 (2) engages in the business of securing, or accepts
41 employment to secure, evidence for use before a court, board,
42 officer, or investigating committee;

43 (3) engages in the business of securing, or accepts
44 employment to secure, the electronic tracking of the location of
45 an individual or motor vehicle other than for criminal justice
46 purposes by or on behalf of a governmental entity; or

47 (4) engages in the business of protecting, or accepts

1 employment to protect, an individual from bodily harm through
2 the use of a personal protection officer.

3 (b) For purposes of Subsection (a)(1), obtaining or
4 furnishing information includes information obtained or
5 furnished through the review and analysis of, and the
6 investigation into the content of, computer-based data not
7 available to the public. The repair or maintenance of a
8 computer does not constitute an investigation for purposes of
9 this section and does not require licensing under this chapter
10 if:

11 (1) the review or analysis of computer-based data is
12 performed only to diagnose a computer or software problem;

13 (2) there is no intent to obtain or furnish
14 information described by Subsection (a)(1); and

15 (3) the discovery of any information described by
16 Subsection (a)(1) is inadvertent.

17 SECTION 4.33. Section 1702.111, Occupations Code, is
18 amended to read as follows:

19 Sec. 1702.111. ISSUANCE OF BRANCH OFFICE LICENSE. (a) A
20 license holder, in accordance with Section 1702.129, shall
21 notify the board [~~commission~~] in writing of the establishment of
22 a branch office and file in writing with the board [~~commission~~]
23 the address of the branch office.

24 (b) On application by a license holder, the board
25 [~~commission~~] shall issue a branch office license.

26 SECTION 4.34. Sections 1702.113(a) and (c), Occupations
27 Code, are amended to read as follows:

28 (a) An applicant for a license, certificate of
29 registration, endorsement, or security officer commission or the
30 applicant's manager must be at least 18 years of age and must
31 not:

32 (1) [~~have been convicted in any jurisdiction of two~~
33 ~~or more felony offenses, unless full pardons have been granted~~
34 ~~for all convictions for reasons relating to wrongful~~
35 ~~convictions;~~

36 [~~(2) have been convicted in any jurisdiction of any~~
37 ~~of the following:~~

38 [~~(A) a single felony or equivalent offense for~~
39 ~~which the 20th anniversary of the date of conviction has not~~
40 ~~occurred before the date of application, unless a full pardon~~
41 ~~has been granted for reasons relating to a wrongful conviction;~~
42 ~~or~~

43 [~~(B) a Class A misdemeanor or equivalent offense~~
44 ~~for which the 10th anniversary of the date of conviction has not~~
45 ~~occurred before the date of application, unless a full pardon~~
46 ~~has been granted for reasons relating to a wrongful conviction;~~

47 [~~(3)] at the time of application be charged with the~~

1 commission of a Class A misdemeanor or felony offense, under an
2 information or indictment;

3 ~~[(4) in the 10 years preceding the date of~~
4 ~~application, have been adjudicated as having engaged in~~
5 ~~delinquent conduct violating a penal law of the grade of~~
6 ~~felony;]~~

7 (2) ~~[(5)]~~ have been found by a court to be
8 incompetent by reason of a mental defect or disease and not have
9 been restored to competency;

10 (3) ~~[(6)]~~ have been dishonorably discharged from the
11 United States armed services, discharged from the United States
12 armed services under other conditions determined by the board to
13 be prohibitive, or dismissed from the United States armed
14 services if a commissioned officer in the United States armed
15 services; or

16 (4) ~~[(7)]~~ be required to register in this or any
17 other state as a sex offender, unless the applicant is approved
18 by the board under Section 1702.3615.

19 (c) For purposes of this section, an offense under the
20 laws of this state, another state, or the United States is
21 considered[+]

22 ~~[(1) a felony if the offense:~~

23 ~~[(A) at the time of conviction was designated by~~
24 ~~a law of this state as a felony, including a state jail felony;~~

25 ~~[(B) contains all the elements of an offense~~
26 ~~designated by a law of this state as a felony, including a state~~
27 ~~jail felony; or~~

28 ~~[(C) is punishable by confinement for one year~~
29 ~~or more in a penitentiary;~~

30 ~~[(2) a Class A misdemeanor if the offense is not a~~
31 ~~felony and the offense:~~

32 ~~[(A) at the time of conviction was designated by~~
33 ~~a law of this state as a Class A misdemeanor;~~

34 ~~[(B) contains all the elements of an offense~~
35 ~~designated by a law of this state as a Class A misdemeanor; or~~

36 ~~[(C) provides as a possible punishment~~
37 ~~confinement in a jail other than a state jail felony facility;~~
38 ~~or~~

39 ~~[(3)]~~ a Class B misdemeanor if the offense is not a
40 felony or Class A misdemeanor and the offense:

41 (1) ~~[(A)]~~ at the time of conviction was designated by
42 a law of this state as a Class B misdemeanor;

43 (2) ~~[(B)]~~ contains all the elements of an offense
44 designated by a law of this state as a Class B misdemeanor; or

45 (3) ~~[(C)]~~ provides as a possible punishment
46 confinement in a jail other than a state jail felony facility.

47 SECTION 4.35. Section 1702.114, Occupations Code, is

1 amended to read as follows:

2 Sec. 1702.114. ADDITIONAL QUALIFICATIONS FOR
3 INVESTIGATIONS COMPANY LICENSE. (a) An applicant for a license
4 to engage in the business of an investigations company or the
5 applicant's manager must have, before the date of the
6 application, three consecutive years' experience in the
7 investigative field as an employee, manager, or owner of an
8 investigations company or satisfy other requirements set by the
9 board [~~commission~~].

10 (b) The applicant's experience must be:

11 (1) reviewed by the board [~~commission~~] or the chief
12 administrator [~~director~~]; and

13 (2) determined to be adequate to qualify the
14 applicant to engage in the business of an investigations
15 company.

16 SECTION 4.36. Section 1702.115, Occupations Code, is
17 amended to read as follows:

18 Sec. 1702.115. ADDITIONAL QUALIFICATIONS FOR SECURITY
19 SERVICES CONTRACTOR LICENSE. (a) An applicant for a license to
20 engage in the business of a security services contractor or the
21 applicant's manager must have, before the date of the
22 application, two consecutive years' experience in each security
23 services field for which the person applies as an employee,
24 manager, or owner of a security services contractor or satisfy
25 other requirements set by the board [~~commission~~].

26 (b) The applicant's experience must have been obtained
27 legally and must be:

28 (1) reviewed by the board [~~commission~~] or the chief
29 administrator [~~director~~]; and

30 (2) determined to be adequate to qualify the
31 applicant to engage in the business of a security services
32 contractor.

33 SECTION 4.37. Section 1702.116, Occupations Code, is
34 amended to read as follows:

35 Sec. 1702.116. QUALIFICATIONS FOR GUARD DOG COMPANY
36 LICENSE; INSPECTIONS. (a) An applicant for a license to engage
37 in the business of a guard dog company must:

38 (1) meet the requirements of Sections 1702.113 and
39 1702.115; and

40 (2) present evidence satisfactory to the board
41 [~~commission~~] that the applicant will comply with the rules
42 adopted under this section.

43 (b) After consulting the [~~Texas~~] Department of State
44 Health Services, the board [~~commission~~] shall adopt rules to
45 ensure that the areas in which a guard dog company houses,
46 exercises, or trains its animals are securely enclosed by a six-
47 foot chain-link fence or made equally secure.

1 (c) The board [~~commission~~] shall conduct regular
2 inspections to ensure compliance with the rules adopted under
3 this section.

4 SECTION 4.38. Sections 1702.117(a), (c), and (d),
5 Occupations Code, are amended to read as follows:

6 (a) The board [~~commission~~] shall require an applicant for
7 a license under this chapter or the applicant's manager to
8 demonstrate qualifications in the person's license
9 classification, including knowledge of applicable state laws and
10 board [~~commission~~] rules, by taking an examination to be
11 determined by the board [~~commission~~].

12 (c) The board [~~commission~~] shall set the reexamination fee
13 in an amount not to exceed the amount of the renewal fee for the
14 license classification for which application was made.

15 (d) The board [~~commission~~] shall develop and provide to a
16 person who applies to take the examination under Subsection (a)
17 material containing all applicable state laws and board
18 [~~commission~~] rules.

19 SECTION 4.39. Section 1702.118, Occupations Code, is
20 amended to read as follows:

21 Sec. 1702.118. EXAMINATION RESULTS. (a) Not later than
22 the 30th day after the date a person takes a licensing
23 examination under this chapter, the board [~~commission~~] shall
24 notify the person of the examination results.

25 (b) If an examination is graded or reviewed by a testing
26 service:

27 (1) the board [~~commission~~] shall notify the person of
28 the examination results not later than the 14th day after the
29 date the board [~~commission~~] receives the results from the
30 testing service; and

31 (2) if notice of the examination results will be
32 delayed for longer than 90 days after the examination date, the
33 board [~~commission~~] shall notify the person of the reason for the
34 delay before the 90th day.

35 (c) The board [~~commission~~] may require a testing service
36 to notify a person of the results of the person's examination.

37 (d) If requested in writing by a person who fails a
38 licensing examination administered under this chapter, the board
39 [~~commission~~] shall furnish the person with an analysis of the
40 person's performance on the examination.

41 SECTION 4.40. Section 1702.1183, Occupations Code, is
42 amended to read as follows:

43 Sec. 1702.1183. RECIPROCAL LICENSE FOR CERTAIN FOREIGN
44 APPLICANTS. (a) The board [~~commission~~] may waive any
45 prerequisite to obtaining a license for an applicant who holds a
46 license issued by another jurisdiction with which this state has
47 a reciprocity agreement.

1 (b) The board [~~commission~~] may make an agreement, subject
2 to the approval of the governor, with another state to allow for
3 licensing by reciprocity.

4 SECTION 4.41. Section 1702.1186, Occupations Code, is
5 amended to read as follows:

6 Sec. 1702.1186. PROVISIONAL LICENSE. (a) The board
7 [~~commission~~] may issue a provisional license to an applicant
8 currently licensed in another jurisdiction who seeks an
9 equivalent license in this state and who:

10 (1) has been licensed in good standing as an
11 investigations company or security services contractor for at
12 least two years in another jurisdiction, including a foreign
13 country, that has licensing requirements substantially
14 equivalent to the requirements of this chapter;

15 (2) has passed a national or other examination
16 recognized by the board [~~commission~~] relating to the practice of
17 private investigations or security services contracting; and

18 (3) is sponsored by a person licensed by the board
19 [~~commission~~] under this chapter with whom the provisional
20 license holder will practice during the time the person holds a
21 provisional license.

22 (b) A provisional license is valid until the date the
23 board [~~commission~~] approves or denies the provisional license
24 holder's application for a license. The board [~~commission~~]
25 shall issue a license under this chapter to the provisional
26 license holder if:

27 (1) the provisional license holder is eligible to be
28 licensed under Section 1702.1183; or

29 (2) the provisional license holder:

30 (A) passes the part of the examination under
31 Section 1702.117(a) that relates to the applicant's knowledge
32 and understanding of the laws and rules relating to the practice
33 of an investigations company or security services contractor in
34 this state;

35 (B) is verified by the board [~~commission~~] as
36 meeting the academic and experience requirements for a license
37 under this chapter; and

38 (C) satisfies any other licensing requirements
39 under this chapter.

40 (c) The board [~~commission~~] must approve or deny a
41 provisional license holder's application for a license not later
42 than the 180th day after the date the provisional license is
43 issued. The board [~~commission~~] may extend the 180-day period if
44 the results of an examination have not been received by the
45 board [~~commission~~] before the end of that period.

46 (d) The board [~~commission~~] may establish a fee for
47 provisional licenses in an amount reasonable and necessary to

1 cover the cost of issuing the license.

2 SECTION 4.42. Section 1702.120(b), Occupations Code, is
3 amended to read as follows:

4 (b) An individual may not apply to the board [~~commission~~]
5 to serve as manager of an investigations company, guard company,
6 alarm systems company, armored car company, courier company, or
7 guard dog company without the intent to maintain that
8 supervisory position on a daily basis for that company.

9 SECTION 4.43. Section 1702.122, Occupations Code, is
10 amended to read as follows:

11 Sec. 1702.122. TEMPORARY CONTINUATION OF LICENSE HOLDER'S
12 BUSINESS. Under the terms provided by board [~~commission~~] rule,
13 a license holder's business may continue for a temporary period
14 if the individual on the basis of whose qualifications a license
15 under this chapter has been obtained ceases to be connected with
16 the license holder.

17 SECTION 4.44. Section 1702.123, Occupations Code, is
18 amended to read as follows:

19 Sec. 1702.123. INSURANCE; BOND. (a) A license holder
20 shall maintain on file with the board [~~commission~~] at all times
21 the surety bond and certificate of insurance required by this
22 chapter.

23 (b) The board [~~commission~~] shall immediately suspend the
24 license of a license holder who violates Subsection (a).

25 (c) The board [~~commission~~] may rescind the license
26 suspension if the license holder provides proof to the board
27 [~~commission~~] that the bond or the insurance coverage is still in
28 effect. The license holder must provide the proof in a form
29 satisfactory to the board [~~commission~~] not later than the 10th
30 day after the date the license is suspended.

31 (d) After suspension of the license, the board
32 [~~commission~~] may not reinstate the license until an application,
33 in the form prescribed by the board [~~commission~~], is filed
34 accompanied by a proper bond, insurance certificate, or both.
35 The board [~~commission~~] may deny the application notwithstanding
36 the applicant's compliance with this section:

37 (1) for a reason that would justify suspending,
38 revoking, or denying a license; or

39 (2) if, during the suspension, the applicant performs
40 a practice for which a license is required.

41 SECTION 4.45. Section 1702.125, Occupations Code, is
42 amended to read as follows:

43 Sec. 1702.125. BOND REQUIREMENT. A bond executed and
44 filed with the board [~~commission~~] under this chapter remains in
45 effect until the surety terminates future liability by providing
46 to the board [~~commission~~] at least 30 days' notice of the intent
47 to terminate liability.

1 SECTION 4.46. Section 1702.129, Occupations Code, is
2 amended to read as follows:

3 Sec. 1702.129. NOTICE OF CERTAIN CHANGES; BRANCH OFFICES.
4 (a) A license holder shall notify the board [~~commission~~] not
5 later than the 14th day after the date of:

6 (1) a change of address for the license holder's
7 principal place of business;

8 (2) a change of a name under which the license holder
9 does business; or

10 (3) a change in the license holder's officers or
11 partners.

12 (b) A license holder shall notify the board [~~commission~~]
13 in writing not later than the 14th day after the date a branch
14 office:

15 (1) is established;

16 (2) is closed; or

17 (3) changes address or location.

18 SECTION 4.47. Section 1702.131, Occupations Code, is
19 amended to read as follows:

20 Sec. 1702.131. ADVERTISING. An advertisement by a license
21 holder soliciting or advertising business must contain the
22 license holder's company name and address as stated in board
23 [~~commission~~] records.

24 SECTION 4.48. Section 1702.161(b), Occupations Code, is
25 amended to read as follows:

26 (b) An individual employed as a security officer may not
27 knowingly carry a firearm during the course of performing duties
28 as a security officer unless the board [~~commission~~] has issued a
29 security officer commission to the individual.

30 SECTION 4.49. Section 1702.162, Occupations Code, is
31 amended to read as follows:

32 Sec. 1702.162. EMPLOYER'S APPLICATION FOR SECURITY OFFICER
33 COMMISSION. The employer of a security officer who applies for
34 a security officer commission for the officer must submit an
35 application to the board [~~commission~~] on a form provided by the
36 board [~~commission~~].

37 SECTION 4.50. Section 1702.165, Occupations Code, is
38 amended to read as follows:

39 Sec. 1702.165. ISSUANCE OF SECURITY OFFICER COMMISSION;
40 POCKET CARD. (a) The board [~~commission~~], with the concurrence
41 of the department [~~Texas Department of Public Safety~~]:

42 (1) may issue a security officer commission to an
43 individual employed as a uniformed security officer; and

44 (2) shall issue a security officer commission to a
45 qualified employee of an armored car company that is a carrier
46 conducting the armored car business under a federal or state
47 permit or certificate.

1 (b) A security officer commission issued under this
2 section must be in the form of a pocket card designed by the
3 board [~~commission~~] that identifies the security officer.

4 SECTION 4.51. Section 1702.167, Occupations Code, is
5 amended to read as follows:

6 Sec. 1702.167. TERMINATION OF EMPLOYMENT AS COMMISSIONED
7 SECURITY OFFICER; TRANSFER OF COMMISSION. The holder of a
8 security officer commission who terminates employment with one
9 employer may transfer the individual's commission to a new
10 employer if, not later than the 14th day after the date the
11 individual begins the new employment, the new employer notifies
12 the board [~~commission~~] of the transfer of employment on a form
13 prescribed by the board [~~commission~~], accompanied by payment of
14 the employee information update fee.

15 SECTION 4.52. Sections 1702.1675(a), (b), (c), (d), (e),
16 (f), and (i), Occupations Code, are amended to read as follows:

17 (a) The board [~~commission~~] shall establish a basic
18 training course for commissioned security officers. The course
19 must include, at a minimum:

- 20 (1) general security officer training issues;
- 21 (2) classroom instruction on handgun proficiency; and
- 22 (3) range instruction on handgun proficiency.

23 (b) The course must be offered and taught by schools and
24 instructors approved by the board [~~commission~~]. To receive
25 board [~~commission~~] approval, a school or an instructor must
26 submit an application to the board [~~commission~~] on a form
27 provided by the board [~~commission~~].

28 (c) The basic training course approved by the board
29 [~~commission~~] must consist of a minimum of 30 hours.

30 (d) The general security officer training portion of the
31 course must include instruction on:

- 32 (1) board [~~commission~~] rules and applicable state
33 laws;
- 34 (2) field note taking and report writing; and
- 35 (3) any other topics of security officer training
36 curriculum the board [~~commission~~] considers necessary.

37 (e) The board [~~commission~~] shall develop a commissioned
38 security officer training manual that contains applicable state
39 laws and board [~~commission~~] rules to be used in the instruction
40 and training of commissioned security officers.

41 (f) The board [~~commission~~] shall adopt rules necessary to
42 administer the provisions of this section concerning the
43 training requirements of this chapter.

44 (i) The board [~~commission~~] by rule shall establish minimum
45 standards for handgun proficiency that are at least as stringent
46 as the standards for handgun proficiency developed by the public
47 safety director under Section 411.188, Government Code.

1 SECTION 4.53. Section 1702.168, Occupations Code, is
2 amended to read as follows:

3 Sec. 1702.168. FIREARM REQUIREMENTS. (a) In addition to
4 the requirements of Section 1702.163(a), the board [~~commission~~]
5 by rule shall establish other qualifications for individuals who
6 are employed in positions requiring the carrying of firearms.
7 The qualifications may include:

- 8 (1) physical and mental standards;
9 (2) standards of good moral character; and
10 (3) other requirements that relate to the competency
11 and reliability of individuals to carry firearms.

12 (b) The board [~~commission~~] shall prescribe appropriate
13 forms and adopt rules by which evidence is presented that the
14 requirements are fulfilled.

15 SECTION 4.54. Sections 1702.1685(b) and (d), Occupations
16 Code, are amended to read as follows:

17 (b) Only a board-approved [~~commission-approved~~] instructor
18 may administer the handgun proficiency examination.

19 (d) The school shall maintain the records of the required
20 proficiency and make the records available for inspection by the
21 board [~~commission~~].

22 SECTION 4.55. Section 1702.171, Occupations Code, is
23 amended to read as follows:

24 Sec. 1702.171. SECURITY OFFICER COMMISSION RECORDS. The
25 board [~~commission~~] shall adopt rules for the maintenance of
26 records relating to an individual to whom the board [~~commission~~]
27 has issued a security officer commission.

28 SECTION 4.56. Section 1702.183, Occupations Code, is
29 amended to read as follows:

30 Sec. 1702.183. APPLICATION FOR LETTER OF AUTHORITY. A
31 security department of a private business or of a political
32 subdivision that applies for a security officer commission for
33 an individual employed by the security department must submit an
34 application to the board [~~commission~~] for a letter of authority
35 on a form provided by the board [~~commission~~].

36 SECTION 4.57. The heading to Subchapter I, Chapter 1702,
37 Occupations Code, is amended to read as follows:

38 SUBCHAPTER I. PERSONAL PROTECTION OFFICER ENDORSEMENT
39 [~~AUTHORIZATION~~] REQUIREMENTS

40 SECTION 4.58. Section 1702.203, Occupations Code, is
41 amended to read as follows:

42 Sec. 1702.203. APPLICATION FOR PERSONAL PROTECTION OFFICER
43 ENDORSEMENT [~~AUTHORIZATION~~]. An applicant for a personal
44 protection officer endorsement [~~authorization~~] must submit a
45 written application on a form prescribed by the board
46 [~~commission~~].

47 SECTION 4.59. Section 1702.204, Occupations Code, is

1 amended to read as follows:

2 Sec. 1702.204. PERSONAL PROTECTION OFFICER ENDORSEMENT
3 [~~AUTHORIZATION~~]; QUALIFICATIONS. (a) An applicant for a
4 personal protection officer endorsement [~~authorization~~] must be
5 at least 21 years of age and must provide:

6 (1) a certificate of completion of the basic security
7 officer training course;

8 (2) proof that the applicant:

9 (A) has been issued a security officer
10 commission;

11 (B) is employed at the time of application by an
12 investigations company or guard company licensed by the board
13 [~~commission~~]; and

14 (C) has completed the required training in
15 nonlethal self-defense or defense of a third person; and

16 (3) proof of completion and the results of the
17 Minnesota Multiphasic Personality Inventory psychological
18 testing.

19 (b) The board [~~commission~~] by rule shall require an
20 applicant for a personal protection officer endorsement
21 [~~authorization~~] to complete the Minnesota Multiphasic
22 Personality Inventory test. The board [~~commission~~] may use the
23 results of the test to evaluate the applicant's psychological
24 fitness.

25 SECTION 4.60. Section 1702.205(a), Occupations Code, is
26 amended to read as follows:

27 (a) The board [~~commission~~] shall establish a 15-hour
28 course for a personal protection officer consisting of training
29 in nonlethal self-defense or defense of a third person.

30 SECTION 4.61. Section 1702.221, Occupations Code, is
31 amended to read as follows:

32 Sec. 1702.221. REGISTRATION AND ENDORSEMENT REQUIRED. (a)
33 To perform any activity regulated by this chapter, the
34 individual must:

35 (1) register in accordance with the requirements of
36 this chapter and related administrative rules;

37 (2) obtain the proper endorsement under Subsection
38 (b); and

39 (3) be employed by a company licensed under this
40 chapter.

41 (b) An individual must obtain the appropriate endorsement
42 [~~register~~] in accordance with the requirements of this chapter
43 and related administrative rules if the individual:

44 (1) is employed as:

45 (A) an alarm instructor;

46 (B) an alarm systems installer;

47 (C) an [~~r~~] alarm systems monitor;

1 (D) an [τ] electronic access control device
2 installer;
3 (E) a level 3 classroom or firearm instructor;
4 (F) a [τ] locksmith;
5 (G) a [τ] dog trainer;
6 (H) a [τ] manager or branch office manager;
7 (I) a [τ] noncommissioned security officer;
8 (J) a level 4 personal protection instructor;
9 (K) a [τ] private investigator;
10 (L) a [τ] private security consultant;
11 (M) a [~~τ~~, ~~or~~] security salesperson; or
12 (N) an individual whose duties include
13 performing another activity for which an endorsement is required
14 under Subsection (e); or

15 (2) is an owner who oversees the security-related
16 aspects of the business, officer, partner, or shareholder of a
17 license holder.

18 (c) [~~(b)~~] Registration and endorsement under this chapter
19 does not preclude an individual from performing additional
20 duties or services authorized by the individual's employer that
21 are not regulated by this chapter. An individual who performs
22 more than one of the services that require an endorsement under
23 this section must obtain an endorsement for each service.

24 (d) In addition to the services listed in Subsection (b),
25 a person holding a security officer commission must also obtain
26 an endorsement for personal protection if the individual
27 performs the services described by Section 1702.202.

28 (e) The board by rule may require a person to hold an
29 endorsement for performing other activity expressly regulated by
30 this chapter.

31 SECTION 4.62. Section 1702.2226(b), Occupations Code, is
32 amended to read as follows:

33 (b) A person registered as an electronic access control
34 device installer may not install alarm systems unless the person
35 holds an endorsement [~~is registered~~] under this chapter as an
36 alarm systems installer.

37 SECTION 4.63. The heading to Subchapter J, Chapter 1702,
38 Occupations Code, is amended to read as follows:

39 SUBCHAPTER J. REGISTRATION AND ENDORSEMENT REQUIREMENTS;
40 [REGISTRANT] DUTIES OF REGISTRANT AND ENDORSEMENT HOLDER

41 SECTION 4.64. Section 1702.228, Occupations Code, is
42 amended to read as follows:

43 Sec. 1702.228. EMPLOYEE OF LICENSE HOLDER; REGISTRATION
44 PERMITTED. An employee of a license holder who is employed in a
45 capacity that is not subject to mandatory registration under
46 this subchapter may register with the board [~~commission~~].

47 SECTION 4.65. The heading to Section 1702.230, Occupations

1 Code, is amended to read as follows:

2 Sec. 1702.230. APPLICATION FOR REGISTRATION OR
3 ENDORSEMENT.

4 SECTION 4.66. Section 1702.230(a), Occupations Code, is
5 amended to read as follows:

6 (a) An application for registration or endorsement must be
7 verified and include:

8 (1) the applicant's full name, residence address,
9 residence telephone number, date and place of birth, and social
10 security number;

11 (2) a statement that:

12 (A) lists each name used by the applicant, other
13 than the name by which the applicant is known at the time of
14 application, and an explanation stating each place where each
15 name was used, the date of each use, and a full explanation of
16 the reasons the name was used; or

17 (B) states that the applicant has never used a
18 name other than the name by which the applicant is known at the
19 time of application;

20 (3) the name and address of the applicant's employer
21 and, if applicable, the applicant's consulting firm;

22 (4) the date the employment commenced;

23 (5) a letter from the license holder requesting that
24 the applicant be registered or endorsed;

25 (6) the title of the position occupied by the
26 applicant and a description of the applicant's duties; and

27 (7) any other information, evidence, statement, or
28 document required by the board [~~commission~~].

29 SECTION 4.67. Section 1702.2305, Occupations Code, is
30 amended to read as follows:

31 Sec. 1702.2305. PROVISIONAL REGISTRATION. (a) The board
32 [~~commission~~] may issue a provisional registration to an
33 applicant currently registered in another jurisdiction who seeks
34 an equivalent registration in this state and who:

35 (1) has been registered in good standing in the field
36 in which the registration is sought for at least two years in
37 another jurisdiction, including a foreign country, that has
38 registration requirements substantially equivalent to the
39 requirements of this chapter;

40 (2) has passed a national or other examination
41 recognized by the board [~~commission~~] relating to practice in the
42 field in which the registration is sought; and

43 (3) is employed by a person licensed by the board
44 [~~commission~~] under this chapter with whom the provisional
45 registration holder will practice during the time the person
46 holds a provisional registration.

47 (b) A provisional registration is valid until the date the

1 board [~~commission~~] approves or denies the provisional
2 registration holder's application for a registration. The board
3 [~~commission~~] shall issue a registration under this chapter to
4 the provisional registration holder if the provisional
5 registration holder is eligible to be registered under this
6 chapter.

7 (c) The board [~~commission~~] must approve or deny a
8 provisional registration holder's application for a registration
9 not later than the 180th day after the date the provisional
10 registration is issued. The board [~~commission~~] may extend the
11 180-day period if the results of an examination have not been
12 received by the board [~~commission~~] before the end of that
13 period.

14 (d) The board [~~commission~~] may establish a fee for
15 provisional registration in an amount reasonable and necessary
16 to cover the cost of issuing the registration.

17 SECTION 4.68. Section 1702.232, Occupations Code, is
18 amended to read as follows:

19 Sec. 1702.232. POCKET CARDS. (a) The board [~~commission~~]
20 shall issue a pocket card for each registrant under this
21 chapter. A pocket card for an owner, officer, partner, or
22 shareholder of a license holder shall be issued to the license
23 holder.

24 (b) The board [~~commission~~] shall determine the size,
25 design, and content of the pocket card.

26 (c) The pocket card must:

27 (1) state the name of the registrant;

28 (2) contain a color photograph, affixed to the pocket
29 card by the board at the time the card is issued, and the
30 signature of the registrant; [and]

31 (3) state the date the card was issued and the card's
32 expiration date; and

33 (4) state each endorsement held by the registrant and
34 the date the endorsement expires.

35 SECTION 4.69. Section 1702.234, Occupations Code, is
36 amended to read as follows:

37 Sec. 1702.234. REGISTRATION AND ENDORSEMENT TRANSFER. A
38 registrant may transfer the registrant's registration and
39 endorsements from one employer to another employer if, not later
40 than the 14th day after the date the registrant begins the new
41 employment, the new employer notifies the board [~~commission~~] of
42 the transfer of employment on a form prescribed by the board
43 [~~commission~~] accompanied by payment of the employee information
44 update fee.

45 SECTION 4.70. Section 1702.235, Occupations Code, is
46 amended to read as follows:

47 Sec. 1702.235. PREEMPLOYMENT CHECK FOR NONCOMMISSIONED

1 SECURITY OFFICERS. A person may not hire a noncommissioned
2 security officer unless the person conducts a preemployment
3 check as required by board [~~commission~~] rule.

4 SECTION 4.71. Section 1702.236, Occupations Code, is
5 amended to read as follows:

6 Sec. 1702.236. EXAMINATION AND TRAINING REQUIREMENTS FOR
7 ELECTRONIC ACCESS CONTROL DEVICE INSTALLERS. (a) The board
8 [~~commission~~] shall require an individual who applies for an
9 endorsement [~~registration~~] as an electronic access control
10 device installer to pass an examination given by the board
11 [~~commission~~] or a person approved by the board [~~commission~~].
12 The examination must cover material related to access control.

13 (b) [~~(c)~~] On and after September 1, 2005, the board
14 [~~commission~~] by rule may allow an electronic access control
15 device installer to obtain or renew an endorsement [~~a~~
16 ~~certificate of registration~~] by fulfilling the requirements of a
17 board-approved [~~commission-approved~~], industry-based educational
18 training program.

19 SECTION 4.72. Sections 1702.239(a), (b), and (d),
20 Occupations Code, are amended to read as follows:

21 (a) The board [~~commission~~] may require that an individual
22 employed as an alarm systems installer or security salesperson
23 hold a certification by a board-approved [~~commission-approved~~]
24 training program to renew an endorsement [~~an initial~~
25 ~~registration~~]. The board [~~commission~~] may approve only
26 nationally recognized training programs that consist of at least
27 16 hours of classroom study in the areas of work allowed by the
28 endorsement [~~registration~~]. To be approved, a training program
29 must offer at least two certification programs each year,
30 sufficient to complete the requirements of this subsection,
31 within 100 miles of each county in the state that has a
32 population of more than 500,000.

33 (b) The board [~~commission~~] may require an individual who
34 has completed a training program under Subsection (a) to pass an
35 examination given by the board [~~commission~~] or by a person
36 approved by the board [~~commission~~]. The board [~~commission~~] may
37 approve examinations in conjunction with training programs
38 approved under Subsection (a). The individual's performance on
39 the examination must demonstrate the individual's qualifications
40 to perform the duties allowed by the individual's endorsement
41 [~~registration~~].

42 (d) If the board [~~commission~~] requires certification or
43 examination under this section, the board [~~commission~~] shall
44 implement rules to require that to renew an endorsement [~~a~~
45 ~~registration~~], an individual who is employed as an alarm systems
46 installer or a security salesperson and who has already once
47 renewed the endorsement [~~registration~~] must obtain continuing

1 education credits related to the line of work for which the
2 individual is licensed. If the board [~~commission~~] requires the
3 continuing education, the chief administrator [~~director~~] must
4 approve classes offered by nationally recognized organizations,
5 and participants in the classes must qualify according to board
6 [~~commission~~] rules.

7 SECTION 4.73. Section 1702.240(b), Occupations Code, is
8 amended to read as follows:

9 (b) An employee of a license holder who is employed
10 exclusively as an undercover agent is not required to register
11 with the board [~~commission~~].

12 SECTION 4.74. Subchapter J, Chapter 1702, Occupations
13 Code, is amended by adding Section 1702.241 to read as follows:

14 Sec. 1702.241. JURISPRUDENCE EXAMINATION. (a) The board
15 may develop and administer at least twice each calendar year a
16 jurisprudence examination to determine the knowledge that an
17 applicant for an endorsement has of this chapter, board rules,
18 and any other applicable laws of this state affecting the
19 applicant's activities regulated under this chapter.

20 (b) Before the board may administer a jurisprudence
21 examination under this section, the board shall adopt rules to
22 implement this section, including rules related to the
23 development and administration of the examination, examination
24 fees, guidelines for reexamination, grading the examination, and
25 providing notice of examination results. The board may design
26 different examinations for different types of endorsements.

27 SECTION 4.75. Sections 1702.282(c) and (e), Occupations
28 Code, are amended to read as follows:

29 (c) A license, registration, security officer commission,
30 letter of approval, permit, endorsement, or certification issued
31 by the board is conditional on the board's receipt of criminal
32 history record information.

33 (e) On receipt of notice that a check of the applicant's
34 criminal record has uncovered an unresolved and potentially
35 disqualifying arrest that occurred before the 10th anniversary
36 of the date the application is filed, the applicant must provide
37 a letter of reference from the county sheriff, prosecuting
38 attorney, or judge of the county in which the applicant was
39 arrested stating that a record of a disposition related to the
40 arrest does not exist, and to the best of the county sheriff's,
41 prosecuting attorney's, or judge's knowledge the applicant is
42 free of any disqualifying convictions. If the applicant fails
43 to provide either the letter of reference or documentary proof
44 of the final disposition of the arrest, the application is
45 considered incomplete and the applicant may not be issued a
46 license, commission, endorsement, or certificate of registration
47 under this chapter.

1 SECTION 4.76. Section 1702.283, Occupations Code, is
2 amended to read as follows:

3 Sec. 1702.283. CRUELTY TO ANIMALS. A person who has been
4 convicted of cruelty to animals under Section 42.09 or 42.092,
5 Penal Code:

6 (1) is ineligible for a license as a guard dog
7 company or for endorsement [~~registration~~] as a dog trainer; and

8 (2) may not be employed to work with dogs as a
9 security officer by a security services contractor or security
10 department of a private business that uses dogs to protect
11 individuals or property or to conduct investigations.

12 SECTION 4.77. Section 1702.285, Occupations Code, is
13 amended to read as follows:

14 Sec. 1702.285. FALSE REPRESENTATION. A person may not
15 represent falsely that the person:

16 (1) is employed by a license holder; or

17 (2) is licensed, registered, endorsed, or
18 commissioned under this chapter.

19 SECTION 4.78. Sections 1702.301(c), (d), (e), (f), (g),
20 and (h), Occupations Code, are amended to read as follows:

21 (c) A personal protection officer endorsement
22 [~~authorization~~] expires on the expiration date of the security
23 officer commission under which the individual's endorsement
24 [~~authorization~~] is issued.

25 (d) Endorsement [~~Registration~~] as a private investigator,
26 manager, branch office manager, alarm systems installer,
27 security consultant, security salesperson, alarm systems
28 monitor, or dog trainer expires on the second anniversary of the
29 date of endorsement [~~registration~~].

30 (e) Endorsement [~~Registration~~] as an owner, officer,
31 partner, or shareholder of a license holder expires on the
32 second anniversary of the date of endorsement [~~registration~~].

33 (f) Endorsement [~~Registration~~] as a noncommissioned
34 security officer expires on the second anniversary of the date
35 of endorsement [~~registration~~].

36 (g) A letter of authority, or a school approval or school
37 instructor approval letter issued by the board [~~commission~~],
38 expires on the first anniversary of the date of issuance.

39 (h) A license, [~~or~~] registration, or endorsement issued
40 under this chapter, other than one specified in this section,
41 expires on the date specified by this chapter or by board
42 [~~commission~~] rule.

43 SECTION 4.79. Section 1702.302, Occupations Code, is
44 amended to read as follows:

45 Sec. 1702.302. LICENSE RENEWAL. (a) A person who is
46 otherwise eligible to renew a license may renew an unexpired
47 license by paying the required renewal fee to the board

1 [~~commission~~] before the expiration date of the license. A
2 person whose license has expired may not engage in activities
3 that require a license until the license has been renewed.

4 (b) A person whose license has been expired for 90 days or
5 less may renew the license by paying to the board [~~commission~~] a
6 renewal fee that is equal to 1-1/2 times the normally required
7 renewal fee.

8 (c) A person whose license has been expired for longer
9 than 90 days but less than one year may renew the license by
10 paying to the board [~~commission~~] a renewal fee that is equal to
11 two times the normally required renewal fee.

12 (d) A person whose license has been expired for one year
13 or more may not renew the license. The person may obtain a new
14 license by complying with the requirements and procedures,
15 including the examination requirements, for obtaining an
16 original license.

17 (e) Not later than the 30th day before the date a person's
18 license is scheduled to expire, the board [~~commission~~] shall
19 send written notice of the impending expiration to the person at
20 the person's last known address according to the board's
21 [~~commission's~~] records.

22 SECTION 4.80. Section 1702.303, Occupations Code, is
23 amended to read as follows:

24 Sec. 1702.303. RENEWAL OF EXPIRED LICENSE BY OUT-OF-STATE
25 PRACTITIONER. A person who was licensed in this state, moved to
26 another state, and is currently licensed and has been in
27 practice in the other state for the two years preceding the date
28 the person applies for renewal may obtain a new license without
29 reexamination. The person must pay to the board [~~commission~~] a
30 fee that is equal to two times the normally required renewal fee
31 for the license.

32 SECTION 4.81. Section 1702.304, Occupations Code, is
33 amended to read as follows:

34 Sec. 1702.304. STAGGERED RENEWAL; PRORATION OF LICENSE
35 FEE. The board [~~commission~~] by rule may adopt a system under
36 which licenses expire on various dates during the year. For the
37 year in which the expiration date of a license is changed, the
38 board [~~commission~~] shall prorate license fees on a monthly basis
39 so that each license holder pays only that portion of the
40 license fee that is allocable to the number of months during
41 which the license is valid. On renewal of the license on the
42 new expiration date, the total license renewal fee is payable.

43 SECTION 4.82. Section 1702.307, Occupations Code, is
44 amended to read as follows:

45 Sec. 1702.307. REGISTRATION RENEWAL. (a) An individual
46 who is otherwise eligible to renew a registration may renew an
47 unexpired registration by paying the required renewal fee to the

1 board [~~commission~~] before the expiration date of the
2 registration. An individual whose registration has expired may
3 not engage in activities that require a registration until the
4 registration has been renewed.

5 (b) An individual whose registration has been expired for
6 90 days or less may renew the registration by paying to the
7 board [~~commission~~] a renewal fee that is equal to 1-1/2 times
8 the normally required renewal fee.

9 (c) An individual whose registration has been expired for
10 more than 90 days but less than one year may renew the
11 registration by paying to the board [~~commission~~] a renewal fee
12 that is equal to two times the normally required renewal fee.

13 (d) An individual whose registration has been expired for
14 one year or more may not renew the registration. The individual
15 may obtain a new registration by complying with the requirements
16 and procedures, including any examination required by the board
17 [~~commission~~], for obtaining an original registration.

18 (e) An individual who was registered in this state, moved
19 to another state, and is currently registered and has been in
20 practice in the other state for the two years preceding the date
21 of application may obtain a new registration without
22 reexamination. The individual must pay to the board
23 [~~commission~~] a fee that is equal to two times the normally
24 required renewal fee for the registration.

25 (f) Not later than the 30th day before the expiration date
26 of an individual's registration, the board [~~commission~~] shall
27 send written notice of the impending expiration to the
28 individual at the individual's last known address according to
29 board [~~commission~~] records.

30 SECTION 4.83. Sections 1702.308(b) and (c), Occupations
31 Code, are amended to read as follows:

32 (b) The board [~~commission~~] shall recognize, prepare, or
33 administer continuing education programs for license holders,
34 commissioned security officers, and endorsement holders
35 [~~registrants~~]. The board [~~commission~~] shall set the minimum
36 number of hours that must be completed and the types of programs
37 that may be offered.

38 (c) A license holder, commissioned security officer, or
39 endorsement holder [~~registrant~~] must participate in the programs
40 to the extent required by the board [~~commission~~] to keep the
41 person's license, commission, or endorsement [~~registration~~]. A
42 license holder, commissioned security officer, or endorsement
43 holder [~~registrant~~] shall submit evidence of compliance with the
44 board's [~~commission's~~] continuing education requirements in a
45 manner prescribed by the board [~~commission~~].

46 SECTION 4.84. Section 1702.309(a), Occupations Code, is
47 amended to read as follows:

1 (a) The board [~~commission~~] by rule shall develop a
2 continuing education course required for renewal of a security
3 officer commission. Only a board-approved [~~commission-approved~~]
4 instructor may administer the continuing education course. The
5 course must include at least six hours of instruction determined
6 by the chief administrator [~~director~~] of the board [~~commission~~].

7 SECTION 4.85. Sections 1702.321(b), (c), and (e),
8 Occupations Code, are amended to read as follows:

9 (b) The provisions of this chapter relating to security
10 officer commissions apply to a person employed by a political
11 subdivision whose duties include serving as a security guard,
12 security watchman, or security patrolman on property owned or
13 operated by the political subdivision if the governing body of
14 the political subdivision files a written request with the board
15 [~~commission~~] for the board [~~commission~~] to issue a commission to
16 the political subdivision's employees with those duties.

17 (c) The board [~~commission~~] may not charge a fee for
18 issuing a commission to an officer under Subsection (b). The
19 board [~~commission~~] shall issue to the officer a pocket card
20 designating the political subdivision that employs the officer.

21 (e) The board [~~commission~~] may approve a security officer
22 training program conducted by the political subdivision in
23 accordance with Sections 1702.1675 and 1702.168.

24 SECTION 4.86. Section 1702.324(b), Occupations Code, is
25 amended to read as follows:

26 (b) This chapter does not apply to:

27 (1) a manufacturer or a manufacturer's authorized
28 distributor while selling equipment intended for resale;

29 (2) a person engaged exclusively in the business of
30 obtaining and providing information to:

31 (A) determine creditworthiness;

32 (B) collect debts; or

33 (C) ascertain the reliability of information
34 provided by an applicant for property, life, or disability
35 insurance or an indemnity or surety bond;

36 (3) a person engaged exclusively in the business of
37 repossessing property that is secured by a mortgage or other
38 security interest;

39 (4) a person who is engaged in the business of
40 psychological testing or other testing and interviewing
41 services, including services to determine attitudes, honesty,
42 intelligence, personality, and skills, for preemployment
43 purposes;

44 (5) a person who:

45 (A) is engaged in obtaining information that is
46 a public record under Chapter 552, Government Code, regardless
47 of whether the person receives compensation;

1 (B) is not a full-time employee, as defined by
2 Section 61.001, Labor Code, of a person licensed under this
3 chapter; and
4 (C) does not perform any other act that requires
5 a license under this chapter;
6 (6) a licensed engineer practicing engineering or
7 directly supervising engineering practice under Chapter 1001,
8 including forensic analysis, burglar alarm system engineering,
9 and necessary data collection;
10 (7) an employee of a cattle association who inspects
11 livestock brands under the authority granted to the cattle
12 association by the Grain Inspection, Packers and Stockyards
13 Administration of the United States Department of Agriculture;
14 (8) a landman performing activities in the course and
15 scope of the landman's business;
16 (9) an attorney while engaged in the practice of law;
17 (10) a person who obtains a document for use in
18 litigation under an authorization or subpoena issued for a
19 written or oral deposition;
20 (11) an admitted insurer, insurance adjuster, agent,
21 or insurance broker licensed by the state, performing duties in
22 connection with insurance transacted by that person;
23 (12) a person who on the person's own property or on
24 property owned or managed by the person's employer:
25 (A) installs, changes, or repairs a mechanical
26 security device;
27 (B) repairs an electronic security device; or
28 (C) cuts or makes a key for a security device;
29 (13) security personnel, including security contract
30 personnel, working at a commercial nuclear power plant licensed
31 by the United States Nuclear Regulatory Commission;
32 (14) a person or firm licensed as an accountant or
33 accounting firm under Chapter 901, an owner of an accounting
34 firm, or an employee of an accountant or accounting firm while
35 performing services regulated under Chapter 901; ~~[or]~~
36 (15) a retailer, wholesaler, or other person who
37 sells mechanical security devices, including locks and
38 deadbolts, but who does not:
39 (A) service mechanical security devices for the
40 public outside of the person's premises; or
41 (B) claim to act as a locksmith; or
42 (16) an employee while performing investigative
43 services that would otherwise be subject to this chapter for an
44 entity regulated by the:
45 (A) Texas Department of Insurance;
46 (B) Office of Thrift Supervision;
47 (C) Securities and Exchange Commission;

1 (D) Federal Deposit Insurance Corporation;
2 (E) National Association of Securities Dealers;

3 or

4 (F) Financial Industry Regulatory Authority.

5 SECTION 4.87. Section 1702.361(b), Occupations Code, is
6 amended to read as follows:

7 (b) The department shall take disciplinary action
8 described by Subsection (a) on proof:

9 (1) that the applicant, license holder, registrant,
10 endorsement holder, or commissioned security officer has:

11 (A) violated this chapter or a rule adopted
12 under this chapter;

13 (B) become ineligible for licensure, [ex]
14 registration, or endorsement under Section 1702.113, or a
15 commission under Section 1702.163, if applicable, other than an
16 action for which the department has taken summary action under
17 Section 1702.364;

18 (C) engaged in fraud, deceit, or
19 misrepresentation;

20 (D) made a material misstatement in an
21 application for or renewal of a license, registration,
22 endorsement,
23 or commission; [ex]

24 (E) failed to pay in full an administrative
25 penalty assessed under Subchapter Q, for which the board has
26 issued a final order; or

27 (F) performed any service for which an
28 endorsement is required under this chapter and either:

29 (i) was not employed with a company
30 licensed under this chapter at the time the service was
31 performed; or

32 (ii) performed the service for a company
33 licensed under this chapter that was not listed on the
34 individual's registration without informing the board of the
35 individual's employment with the company within a reasonable
36 period; or

37 (2) that the license holder of a registrant or
38 commissioned security officer has submitted to the department
39 sufficient evidence that the registrant or commissioned security
40 officer:

41 (A) engaged in fraud or deceit while employed by
42 the license holder; or

43 (B) committed theft while performing work as a
44 registrant or commissioned security officer.

45 SECTION 4.88. Section 1702.362, Occupations Code, is
46 amended to read as follows:

47 Sec. 1702.362. FAILURE TO FILE REQUIRED NOTICE. The board

1 [~~commission~~] may suspend or revoke a license if the license
2 holder fails to notify the board [~~commission~~] as required by
3 Section 1702.121 that a manager has ceased to be the manager of
4 the license holder.

5 SECTION 4.89. Section 1702.363, Occupations Code, is
6 amended to read as follows:

7 Sec. 1702.363. APPLICATION OF ADMINISTRATIVE PROCEDURE
8 ACT. Except as provided by Sections 1702.3615(b) and 1702.364,
9 a person regulated under this chapter against whom the board
10 [~~commission~~] has taken action is entitled to a hearing before
11 the State Office of Administrative Hearings. A proceeding under
12 this section is a contested case that is governed by Chapter
13 2001, Government Code.

14 SECTION 4.90. Sections 1702.364(a), (d), (f), and (h),
15 Occupations Code, are amended to read as follows:

16 (a) On receiving written notice from a law enforcement
17 agency that a person has been charged with or convicted of an
18 offense that would make the person ineligible for a license,
19 certificate of registration, endorsement, or security officer
20 commission under Section 1702.113 or 1702.163, the department
21 shall:

22 (1) summarily deny the person's application for a
23 license, registration, endorsement, or security officer
24 commission;

25 (2) in the event of pending charges, summarily
26 suspend the person's license, certificate of registration,
27 endorsement, or security officer commission; or

28 (3) in the event of a conviction, summarily revoke
29 the person's license, certificate of registration, endorsement,
30 or security officer commission.

31 (d) At a preliminary hearing, the person must show cause
32 why:

33 (1) the application should not have been denied;

34 (2) the registration, license, endorsement, or
35 security officer commission should not have been suspended; or

36 (3) the registration, license, endorsement, or
37 commission should not have been revoked.

38 (f) The dismissal of a complaint, information, or
39 indictment or an acquittal releases the person from automatic
40 grounds for a summary denial of an application or summary
41 suspension of a registration, endorsement, or security officer
42 commission under this section. A conviction for the offense
43 giving rise to a summary suspension is automatic grounds for
44 immediate, summary revocation.

45 (h) The administrative law judge shall make findings of
46 fact and conclusions of law regarding the person's eligibility
47 for a license, registration, or endorsement under this section

1 and promptly issue to the board a proposal for a decision.

2 SECTION 4.91. Section 1702.365, Occupations Code, is
3 amended to read as follows:

4 Sec. 1702.365. ABDUCTION OF CHILD. The board [~~commission~~]
5 shall revoke a person's license, registration, endorsement, or
6 security officer commission or deny a person's application for,
7 or renewal of, a license, registration, endorsement, or security
8 officer commission on proof that the person or an agent of the
9 person has, after the date of application for a license,
10 registration, endorsement, or security officer commission,
11 abducted or attempted to abduct by force or the threat of force
12 or by misrepresentation, stealth, or unlawful entry a child who
13 at the time of the abduction or attempt is under the care and
14 control of a person who:

15 (1) has custody or physical possession of the child
16 under a court order; or

17 (2) is exercising the care and control with the
18 consent of a person who has custody or physical possession of
19 the child under a court order.

20 SECTION 4.92. Sections 1702.367(c), (d), and (e),
21 Occupations Code, are amended to read as follows:

22 (c) A person required to testify or to produce a record or
23 document on any matter properly under inquiry by the board
24 [~~commission~~] who refuses to testify or to produce the record or
25 document on the ground that the testimony or the production of
26 the record or document would incriminate or tend to incriminate
27 the person is nonetheless required to testify or to produce the
28 record or document. A person who is required to testify or to
29 produce a record or document under this subsection is not
30 subject to indictment or prosecution for a transaction, matter,
31 or thing concerning which the person truthfully testifies or
32 produces evidence.

33 (d) If a witness refuses to obey a subpoena or to give
34 evidence relevant to proper inquiry by the board [~~commission~~],
35 the board [~~commission~~] may petition a district court of the
36 county in which the hearing is held to compel the witness to
37 obey the subpoena or to give the evidence. The court shall
38 immediately issue process to the witness and shall hold a
39 hearing on the petition as soon as possible.

40 (e) An investigator employed by the board [~~commission~~] may
41 take statements under oath in an investigation of a matter
42 covered by this chapter.

43 SECTION 4.93. Section 1702.368, Occupations Code, is
44 amended to read as follows:

45 Sec. 1702.368. NOTIFICATION OF CONVICTION FOR CERTAIN
46 OFFENSES. The department [~~Texas Department of Public Safety~~]
47 shall notify the board [~~commission~~] and the police department of

1 the municipality and the sheriff's department of the county in
2 which a person licensed, registered, or commissioned under this
3 chapter resides of the conviction of the person for a Class B
4 misdemeanor or equivalent offense or a greater offense.

5 SECTION 4.94. Subchapter O, Chapter 1702, Occupations
6 Code, is amended by adding Section 1702.372 to read as follows:

7 Sec. 1702.372. RECUSAL OF BOARD MEMBER. (a) A board
8 member who participated in the investigation of a complaint or
9 in informal settlement negotiations regarding the complaint:

10 (1) may not vote on the matter at a board meeting
11 related to the complaint; and

12 (2) shall state at the meeting the reason for which
13 the member is prohibited from voting on the matter.

14 (b) A statement under Subsection (a)(2) shall be entered
15 into the minutes of the meeting.

16 SECTION 4.95. Section 1702.381(b), Occupations Code, is
17 amended to read as follows:

18 (b) A person who contracts with or employs a person who is
19 required to hold a license, [~~certificate of~~] registration,
20 endorsement, or security officer commission under this chapter
21 knowing that the person does not hold the required license,
22 registration, endorsement [~~certificate~~], or commission or who
23 otherwise, at the time of contract or employment, is in
24 violation of this chapter may be assessed a civil penalty to be
25 paid to the state in an amount not to exceed \$10,000 for each
26 violation.

27 SECTION 4.96. Section 1702.386(a), Occupations Code, is
28 amended to read as follows:

29 (a) A person commits an offense if the person contracts
30 with or employs a person who is required to hold a license,
31 registration, endorsement [~~certificate~~], or commission under
32 this chapter knowing that the person does not hold the required
33 license, registration, endorsement [~~certificate~~], or commission
34 or who otherwise, at the time of contract or employment, is in
35 violation of this chapter.

36 SECTION 4.97. Section 1702.3863(a), Occupations Code, is
37 amended to read as follows:

38 (a) A person commits an offense if the person contracts
39 with or is employed by a bail bond surety as defined by Chapter
40 1704 to secure the appearance of a person who has violated
41 Section 38.10, Penal Code, unless the person is:

42 (1) a peace officer;

43 (2) an individual endorsed or licensed as a private
44 investigator or the manager of a licensed investigations
45 company; or

46 (3) a commissioned security officer employed by a
47 licensed guard company.

1 SECTION 4.98. Section 1702.387(a), Occupations Code, is
2 amended to read as follows:

3 (a) A person commits an offense if the person fails to
4 surrender or immediately return to the board [~~commission~~] the
5 person's registration, commission, pocket card, or other
6 identification issued to the person by the board [~~commission~~] on
7 notification of a summary suspension or summary denial under
8 Section 1702.364.

9 SECTION 4.99. Section 1702.388(b), Occupations Code, is
10 amended to read as follows:

11 (b) An offense under this section is a Class A
12 misdemeanor, except that the offense is a felony of the third
13 degree if the person has previously been convicted under this
14 chapter of failing to hold a license, registration, endorsement,
15 certificate, or commission that the person is required to hold
16 under this chapter.

17 SECTION 4.100. Section 1702.402, Occupations Code, is
18 amended by amending Subsection (a) and adding Subsection (c) to
19 read as follows:

20 (a) Each day a violation continues or occurs is a separate
21 violation for purposes of imposing a penalty. The amount of
22 each separate violation may not exceed \$5,000 [~~\$500~~].

23 (c) The board by rule shall develop a standardized penalty
24 schedule based on the criteria listed in Subsection (b).

25 SECTION 4.101. Section 1702.406(b), Occupations Code, is
26 amended to read as follows:

27 (b) The notice of the board's order given to the person
28 must include a statement of the right of the person to judicial
29 review of the order. Judicial review is under the substantial
30 evidence rule as provided by Subchapter G, Chapter 2001,
31 Government Code.

32 SECTION 4.102. The following provisions of the Occupations
33 Code are repealed:

- 34 (1) Section 1702.002(4);
- 35 (2) Section 1702.003;
- 36 (3) Section 1702.045;
- 37 (4) Section 1702.046;
- 38 (5) Section 1702.065;
- 39 (6) Section 1702.069;
- 40 (7) Section 1702.113(e);
- 41 (8) Section 1702.364(j); and
- 42 (9) Subchapter K.

43 SECTION 4.103. (a) Not later than January 1, 2010, the
44 Texas Private Security Board and the Department of Public Safety
45 shall adopt the rules required by or under Section 1702.062,
46 Occupations Code, as amended by this article. The fee schedule
47 in effect under Section 1702.062, Occupations Code, before the

1 effective date of this article is continued in effect until new
2 fees are adopted under Section 1702.062, Occupations Code, as
3 amended by this article.

4 (b) The requirement to pass a jurisprudence examination
5 under Section 1702.241, Occupations Code, as added by this
6 article, applies only to an individual who applies for a
7 registration or endorsement under Chapter 1702, Occupations
8 Code, on or after the date specified by the Texas Private
9 Security Board in the event the board begins requiring
10 applicants to pass a jurisprudence examination, but not earlier
11 than September 1, 2010.

12 (c) The changes in law made by this article related to the
13 filing, investigation, or resolution of a complaint under
14 Chapter 1702, Occupations Code, as amended by this article,
15 apply only to a complaint filed with the Texas Private Security
16 Board on or after the effective date of this article. A
17 complaint filed before the effective date of this article is
18 governed by the law as it existed immediately before that date,
19 and the former law is continued in effect for that purpose.

20 (d) The changes in law made by this article governing the
21 authority of the Texas Private Security Board and the Department
22 of Public Safety to issue, renew, or revoke a license,
23 registration, endorsement, or commission under Chapter 1702,
24 Occupations Code, apply only to an application for an original
25 or renewal license, registration, endorsement, or commission
26 filed with the Texas Private Security Board under Chapter 1702,
27 Occupations Code, as amended by this article, on or after the
28 effective date of this article. An application filed before the
29 effective date of this article is governed by the law in effect
30 at the time the application was filed, and the former law is
31 continued in effect for that purpose.

32 (e) The change in law made by this article with respect to
33 conduct that is grounds for imposition of a disciplinary
34 sanction applies only to conduct that occurs on or after the
35 effective date of this article. Conduct that occurs before the
36 effective date of this article is governed by the law in effect
37 on the date the conduct occurred, and the former law is
38 continued in effect for that purpose.

39 (f) Section 1702.372, Occupations Code, as added by this
40 article, applies only to a hearing conducted on or after the
41 effective date of this article, regardless of the date on which
42 the complaint was filed. A complaint on which a hearing is
43 conducted before the effective date of this article is governed
44 by the law in effect on the date the hearing was conducted, and
45 the former law is continued in effect for that purpose.

46 (g) The holder of a Class D license under Chapter 1702,
47 Occupations Code, as amended by this article, shall be

1 considered to hold a Class B license on the effective date of
2 this article. On the expiration of the Class D license, the
3 license holder may renew the license as a Class B license.

4 SECTION 4.104. This article takes effect September 1,
5 2009.

6 ARTICLE 4A [Blank]

7 ARTICLE 4B. REGULATION OF THE BUSINESS OF PRIVATE SECURITY

8 SECTION 4B.01. Section 1702.002, Occupations Code, is
9 amended by amending Subdivision (1-a) and adding Subdivisions
10 (16-a) and (20-a) to read as follows:

11 (1-a) For purposes of Subdivision (1), the term
12 "alarm system" does not include a telephone entry system, an
13 operator for opening or closing a residential or commercial gate
14 or door, or an accessory used only to activate a gate or door,
15 if the system, operator, or accessory is not connected to a
16 computer or data processor that records or archives the voice,
17 visual image, or identifying information of the user [~~an alarm~~
18 ~~system~~].

19 (16-a) "Personal protection officer" means a person
20 who performs the activities described by Section 1702.202.

21 (20-a) "Security officer" means a person who performs
22 the activities described by Section 1702.222.

23 SECTION 4B.02. Section 1702.047, Occupations Code, is
24 amended to read as follows:

25 Sec. 1702.047. ADMINISTRATIVE STAFF. The department shall
26 designate a department employee who shall report directly to the
27 board. The employee designated under this section shall provide
28 administrative assistance to [~~assist~~] the board in the
29 performance [~~administration~~] of the board's duties. [~~The salary~~
30 ~~for an employee designated under this section may not exceed the~~
31 ~~salary specified in the General Appropriations Act for an~~
32 ~~employee subject to salary group A10.~~]

33 SECTION 4B.03. Subsection (e), Section 1702.082,
34 Occupations Code, is amended to read as follows:

35 (e) On written request, the department [~~The commission, at~~
36 ~~least quarterly until final disposition of the complaint,~~] shall
37 inform [~~notify~~] the person filing the complaint and each person
38 who is a subject of the complaint of the status of the
39 investigation unless the information [~~notice~~] would jeopardize
40 an ongoing [~~undercover~~] investigation.

41 SECTION 4B.04. Subchapter A, Chapter 1702, Occupations
42 Code, is amended by adding Section 1702.006 to read as follows:

43 Sec. 1702.006. FOREIGN ENTITY REGISTRATION. Licensure
44 under this chapter does not exempt a foreign entity from the
45 registration requirements of Chapter 9, Business Organizations
46 Code.

47 SECTION 4B.05. Subsection (a), Section 1702.1056,

1 Occupations Code, is amended to read as follows:

2 (a) A person acts as a locksmith company for the purposes
3 of this chapter if the person:

4 (1) sells, installs, services, or maintains, or
5 offers to sell, install, service, or maintain, mechanical
6 security devices, including deadbolts and locks;

7 (2) advertises services offered by the company using
8 the term "locksmith"; or

9 (3) includes the term "locksmith" in the company's
10 name.

11 SECTION 4B.06. Section 1702.110, Occupations Code, is
12 amended to read as follows:

13 Sec. 1702.110. APPLICATION FOR LICENSE. (a) An
14 application for a license under this chapter must be in the form
15 prescribed by the board [~~commission~~] and include:

16 (1) the full name and business address of the
17 applicant;

18 (2) the name under which the applicant intends to do
19 business;

20 (3) a statement as to the general nature of the
21 business in which the applicant intends to engage;

22 (4) a statement as to the classification for which
23 the applicant requests qualification;

24 (5) if the applicant is an entity other than an
25 individual, the full name and residence address of each partner,
26 officer who oversees the security-related aspects of the
27 business, and director of the applicant, and of the applicant's
28 manager;

29 (6) if the applicant is an individual, two
30 classifiable sets of fingerprints of the applicant or, if the
31 applicant is an entity other than an individual, of each officer
32 who oversees the security-related aspects of the business and of
33 each partner or shareholder who owns at least a 25 percent
34 interest in the applicant;

35 (7) a verified statement of the applicant's
36 experience qualifications in the particular classification in
37 which the applicant is applying;

38 (8) a report from the department [~~Texas Department of~~
39 ~~Public Safety~~] stating the applicant's record of any convictions
40 for a Class B misdemeanor or equivalent offense or a greater
41 offense;

42 (9) the social security number of the individual
43 making the application; and

44 (10) other information, evidence, statements, or
45 documents required by the board [~~commission~~].

46 (b) An applicant for a license as a security services
47 contractor shall maintain a physical address within this state

1 and provide that address to the board. The board shall adopt
2 rules to enable an out-of-state license holder to comply with
3 this subsection.

4 SECTION 4B.07. Section 1702.112, Occupations Code, is
5 amended to read as follows:

6 Sec. 1702.112. FORM OF LICENSE. The board [~~commission~~]
7 shall prescribe the form of a license, including a branch office
8 license. The license must include:

9 (1) the name of the license holder;

10 (2) the name under which the license holder is to
11 operate; [~~and~~]

12 (3) the license number and the date the license was
13 issued; and

14 (4) a photograph of the license holder, affixed to
15 the license at the time the license is issued by the board.

16 SECTION 4B.08. Section 1702.121, Occupations Code, is
17 amended to read as follows:

18 Sec. 1702.121. TERMINATION OF MANAGER. (a) A license
19 holder shall notify the board [~~commission~~] in writing not later
20 than the 14th day after the date a manager ceases to be manager
21 of the license holder's business. The license remains in effect
22 for a reasonable period after notice is given as provided by
23 board [~~commission~~] rule pending the board's [~~commission's~~]
24 determination of the qualification of another manager under this
25 subchapter.

26 (b) A manager shall be immediately terminated on the
27 effective date of any summary action taken against the manager.
28 Any period of temporary operation authorized under this section
29 or Section 1702.122 starts on the date of termination.

30 SECTION 4B.09. Section 1702.127, Occupations Code, is
31 amended by amending Subsections (b) and (c) and adding
32 Subsection (d) to read as follows:

33 (b) A license holder shall maintain a record containing
34 information related to the license holder's employees as
35 required by the board [~~commission~~].

36 (c) A license holder shall maintain for [~~commission~~]
37 inspection by the department at the license holder's principal
38 place of business or branch office two recent color photographs,
39 of a type required by the board [~~commission~~], of each applicant,
40 registrant, commissioned security officer, and employee of the
41 license holder.

42 (d) A license holder shall maintain records required under
43 this chapter at a physical address within this state and provide
44 that address to the board.

45 SECTION 4B.10. Section 1702.163, Occupations Code, is
46 amended by adding Subsection (d-1) to read as follows:

47 (d-1) For the purposes of determining eligibility under

1 Subsection (b)(2), the department may require the applicant to
2 authorize the release to the department of any relevant medical
3 records.

4 SECTION 4B.11. Section 1702.201, Occupations Code, is
5 amended to read as follows:

6 Sec. 1702.201. PERSONAL PROTECTION OFFICER ENDORSEMENT
7 [AUTHORIZATION] REQUIRED. An individual [~~A commissioned~~
8 ~~security officer~~] may not act as a personal protection officer
9 unless the individual [~~officer~~] holds a personal protection
10 officer endorsement [~~authorization~~].

11 SECTION 4B.12. Section 1702.202, Occupations Code, is
12 amended to read as follows:

13 Sec. 1702.202. PERSONAL PROTECTION OFFICER. An individual
14 acts as a personal protection officer if the individual, while
15 carrying a firearm, [+

16 [~~(1) has been issued a security officer commission to~~
17 ~~carry a concealed firearm; and~~

18 [+2+] provides to another [~~an~~] individual personal
19 protection from bodily harm.

20 SECTION 4B.13. Section 1702.206, Occupations Code, is
21 amended to read as follows:

22 Sec. 1702.206. LIMITED AUTHORITY TO CARRY [~~CONCEALED~~]
23 FIREARMS. (a) An individual acting as a personal protection
24 officer may not carry a [~~concealed~~] firearm unless the officer:

25 (1) is either:

26 (A) engaged in the exclusive performance of the
27 officer's duties as a personal protection officer for the
28 employer under whom the officer's personal protection officer
29 endorsement [~~authorization~~] is issued; or

30 (B) traveling to or from the officer's place of
31 assignment; and

32 (2) carries the officer's security officer commission
33 and personal protection officer endorsement [~~authorization~~] on
34 the officer's person while performing the officer's duties or
35 traveling as described by Subdivision (1) and presents the
36 commission and endorsement [~~authorization~~] on request.

37 (b) An individual who is acting as a personal protection
38 officer and is wearing the uniform of a security officer,
39 including any uniform or apparel described by Section
40 1702.323(d), may not conceal any firearm the individual is
41 carrying and shall carry the firearm in plain view. An
42 individual who is acting as a personal protection officer and is
43 not wearing the uniform of a security officer shall conceal the
44 firearm.

45 SECTION 4B.14. Section 1702.230, Occupations Code, is
46 amended by amending Subsection (b) and adding Subsection (c) to
47 read as follows:

1 (b) The employer of the applicant shall make a reasonable
2 attempt to verify the information required under Subsection
3 (a)(1) before the earlier of:

4 (1) the date the application is submitted; or
5 (2) the date the applicant begins to perform the
6 duties of employment that require registration.

7 (c) An applicant must submit an application that
8 substantially meets the requirements of this section before
9 employment in a capacity for which registration is required.

10 SECTION 4B.15. Subsection (a), Section 1702.282,
11 Occupations Code, is amended to read as follows:

12 (a) The board shall conduct a criminal history check,
13 including a check of any criminal history record information
14 maintained by the Federal Bureau of Investigation, in the manner
15 provided by Subchapter F, Chapter 411, Government Code, on each
16 applicant for a license, registration, security officer
17 commission, letter of approval, permit, endorsement, or
18 certification. As part of its criminal history check, the board
19 may request that the applicant provide certified copies of
20 relevant court documents or other records. The failure to
21 provide the requested records within a reasonable time as
22 determined by the board may result in the application being
23 considered incomplete. An applicant is not eligible for a
24 license, registration, commission, letter of approval, permit,
25 endorsement, or certification if the check reveals that the
26 applicant has committed an act that constitutes grounds for the
27 denial of the license, registration, commission, letter of
28 approval, permit, endorsement, or certification. Except as
29 provided by Subsection (d), each applicant shall include in the
30 application two complete sets of fingerprints on forms
31 prescribed by the board accompanied by the fee set by the board.

32 SECTION 4B.16. Section 1702.286, Occupations Code, as
33 added by Chapter 1102 (H.B. 2243), Acts of the 79th Legislature,
34 Regular Session, 2005, is renumbered as Section 1702.2865,
35 Occupations Code, to read as follows:

36 Sec. 1702.2865 [~~1702.286~~]. CUSTOMER AUTHORIZATION REQUIRED
37 FOR CERTAIN LOCKSMITH SERVICES. (a) A locksmith company or
38 locksmith may not perform services for a customer who seeks
39 entry to a structure, motor vehicle, or other property unless
40 the customer, in the course of the transaction:

41 (1) shows the locksmith company or locksmith a
42 government-issued identification; and

43 (2) provides a signed authorization stating that the
44 customer owns or is otherwise entitled to legal access to the
45 structure, motor vehicle, or other property.

46 (b) A locksmith company or locksmith is exempt from
47 Subsection (a) if the locksmith is requested to perform services

1 in a case of imminent threat to a person or property.

2 SECTION 4B.17. Section 1702.322, Occupations Code, is
3 amended to read as follows:

4 Sec. 1702.322. LAW ENFORCEMENT PERSONNEL. This chapter
5 does not apply to:

6 (1) a person who has full-time employment as a peace
7 officer and who receives compensation for private employment on
8 an individual or an independent contractor basis as a patrolman,
9 guard, extra job coordinator, or watchman if the officer:

10 (A) is employed in an employee-employer
11 relationship or employed on an individual contractual basis
12 directly by the recipient of the services;

13 (B) is not in the employ of another peace
14 officer;

15 (C) is not a reserve peace officer; and

16 (D) works as a peace officer on the average of
17 at least 32 hours a week, is compensated by the state or a
18 political subdivision of the state at least at the minimum wage,
19 and is entitled to all employee benefits offered to a peace
20 officer by the state or political subdivision;

21 (2) a reserve peace officer while the reserve officer
22 is performing guard, patrolman, or watchman duties for a county
23 and is being compensated solely by that county;

24 (3) a peace officer acting in an official capacity in
25 responding to a burglar alarm or detection device; or

26 (4) a person engaged in the business of electronic
27 monitoring of an individual as a condition of that individual's
28 community supervision, parole, mandatory supervision, or release
29 on bail, if the person does not perform any other service that
30 requires a license under this chapter.

31 SECTION 4B.18. Subsection (a), Section 1702.361,
32 Occupations Code, is amended to read as follows:

33 (a) ~~The [Subject to the board's final order under the~~
34 ~~hearing provisions of this subchapter, the]~~ department, for
35 conduct described by Subsection (b), may:

36 (1) deny an application or revoke, suspend, or refuse
37 to renew a license, registration, endorsement, or security
38 officer commission;

39 (2) reprimand a license holder, registrant, or
40 commissioned security officer; or

41 (3) place on probation a person whose license,
42 registration, endorsement, or security officer commission has
43 been suspended.

44 SECTION 4B.19. Section 1702.367, Occupations Code, is
45 amended by amending Subsection (a) and adding Subsections (f)
46 and (g) to read as follows:

47 (a) For an investigation conducted under this chapter, if

1 necessary to enforce this chapter or the board's rules, the
2 department [~~commission~~] may issue an administrative [a] subpoena
3 to any person in this state compelling:

4 (1) the production of information or documents; or
5 (2) the attendance and testimony of a witness [~~compel~~
6 the attendance of a witness or the production of a pertinent
7 record or document. The hearings officer may administer oaths
8 and require testimony or evidence to be given under oath].

9 (f) A person licensed or otherwise regulated under this
10 chapter who fails without good cause to comply with a subpoena
11 issued under this section may be subject to suspension of a
12 license under Section 1702.361.

13 (g) If a subpoena issued under this section relates to an
14 ongoing criminal investigation by the department and the
15 department determines that disclosure could significantly impede
16 the investigation, the subpoena may provide that the person to
17 whom the subpoena is directed may not:

18 (1) disclose that the subpoena has been issued;
19 (2) identify or describe any records requested by the
20 subpoena; or
21 (3) disclose whether records have been furnished in
22 response to the subpoena.

23 SECTION 4B.20. Subchapter P, Chapter 1702, Occupations
24 Code, is amended by adding Section 1702.3835 to read as follows:

25 Sec. 1702.3835. DECEPTIVE TRADE PRACTICE. (a) A person
26 who performs or offers to perform an activity regulated under
27 this chapter, but who is not licensed or otherwise authorized
28 under this chapter to perform the activity, commits a false,
29 misleading, or deceptive act or practice within the meaning of
30 Section 17.46, Business & Commerce Code.

31 (b) A public or private right or remedy under Chapter 17,
32 Business & Commerce Code, may be used to enforce this chapter.

33 SECTION 4B.21. Subsection (d), Section 46.03, Penal Code,
34 is amended to read as follows:

35 (d) It is a defense to prosecution under Subsection (a)(5)
36 that the actor possessed a firearm or club while traveling to or
37 from the actor's place of assignment or in the actual discharge
38 of duties as:

39 (1) a member of the armed forces or national guard;
40 (2) a guard employed by a penal institution; or
41 (3) a security officer commissioned by the Texas
42 [~~Board of Private Investigators and~~] Private Security Board
43 [~~Agencies~~] if:

44 (A) the actor is wearing a distinctive uniform;
45 and
46 (B) the firearm or club is in plain view; or
47 (4) [~~+5~~] a security officer who holds a personal

1 protection authorization under Chapter 1702, Occupations Code,
2 provided that the officer is either:

3 (A) wearing the uniform of a security officer,
4 including any uniform or apparel described by Section
5 1702.323(d), Occupations Code, and carrying the officer's
6 firearm in plain view; or

7 (B) not wearing the uniform of a security
8 officer and carrying the officer's firearm in a concealed manner
9 [the Private Investigators and Private Security Agencies Act
10 (Article 4413(29bb), Vernon's Texas Civil Statutes)].

11 SECTION 4B.22. Subsection (b), Section 46.15, Penal Code,
12 as amended by Chapters 647 (H.B. 964), 693 (H.B. 1815), and 1048
13 (H.B. 2101), Acts of the 80th Legislature, Regular Session,
14 2007, is reenacted and amended to read as follows:

15 (b) Section 46.02 does not apply to a person who:

16 (1) is in the actual discharge of official duties as
17 a member of the armed forces or state military forces as defined
18 by Section 431.001, Government Code, or as a guard employed by a
19 penal institution;

20 (2) is traveling;

21 (3) is engaging in lawful hunting, fishing, or other
22 sporting activity on the immediate premises where the activity
23 is conducted, or is en route between the premises and the
24 actor's residence or motor vehicle, if the weapon is a type
25 commonly used in the activity;

26 (4) holds a security officer commission issued by the
27 Texas Private Security Board, if the person[+]

28 [~~A~~] is engaged in the performance of the
29 person's duties as an officer commissioned under Chapter 1702,
30 Occupations Code, or is traveling to or from the person's place
31 of assignment[+] and

32 [~~B~~] is [~~either~~:-

33 [~~i~~] wearing the officer's uniform and
34 carrying the officer's weapon in plain view; [~~e~~]

35 (5) acts [~~ii~~ acting] as a personal protection
36 officer and carries [~~carrying~~] the person's security officer
37 commission and personal protection officer authorization, if the
38 person:

39 (A) is engaged in the performance of the
40 person's duties as a personal protection officer under Chapter
41 1702, Occupations Code, or is traveling to or from the person's
42 place of assignment; and

43 (B) is either:

44 (i) wearing the uniform of a security
45 officer, including any uniform or apparel described by Section
46 1702.323(d), Occupations Code, and carrying the officer's weapon
47 in plain view; or

1 (ii) not wearing the uniform of a security
2 officer and carrying the officer's weapon in a concealed manner;

3 (6) [~~+5~~] is carrying a concealed handgun and a valid
4 license issued under Subchapter H, Chapter 411, Government Code,
5 to carry a concealed handgun of the same category as the handgun
6 the person is carrying;

7 (7) [~~+6~~] holds an alcoholic beverage permit or
8 license or is an employee of a holder of an alcoholic beverage
9 permit or license if the person is supervising the operation of
10 the permitted or licensed premises; or

11 (8) [~~+7~~] is a student in a law enforcement class
12 engaging in an activity required as part of the class, if the
13 weapon is a type commonly used in the activity and the person
14 is:

15 (A) on the immediate premises where the activity
16 is conducted; or

17 (B) en route between those premises and the
18 person's residence and is carrying the weapon unloaded.

19 SECTION 4B.23. The changes in law made by this article to
20 Section 1702.110 and Subsection (a), Section 1702.282,
21 Occupations Code, and the change in law made by Article 4 of
22 this Act to Subsection (a), Section 1702.221, Occupations Code,
23 apply to an application under Chapter 1702, Occupations Code,
24 submitted on or after the effective date of this article. An
25 application submitted before the effective date of this article
26 is governed by the law in effect on the date the application was
27 submitted, and the former law is continued in effect for that
28 purpose.

29 SECTION 4B.24. To the extent of any conflict, this article
30 prevails over another Act of the 81st Legislature, Regular
31 Session, 2009, relating to nonsubstantive additions to and
32 corrections in enacted codes.

33 SECTION 4B.25. This article takes effect September 1,
34 2009.

35 ARTICLE 5. GENERAL PROVISIONS

36 SECTION 5.01. Section 411.002, Government Code, is amended
37 by amending Subsection (c) and adding Subsections (d) and (e) to
38 read as follows:

39 (c) The Department of Public Safety of the State of Texas
40 is subject to Chapter 325 (Texas Sunset Act). Unless continued
41 in existence as provided by that chapter, the department is
42 abolished and Subsections (a) and (b) expire September 1, 2015
43 [~~2009~~].

44 (d) Not later than December 1, 2010, the Sunset Advisory
45 Commission shall review and prepare a written report for
46 submission to the legislature on the department's implementation
47 of:

1 (1) the recommendations in the 2008 audit of the
2 department's information technology system; and

3 (2) a civilian business model for the operation of
4 the driver's license division that focuses on improving customer
5 service by:

6 (A) using best practices in call center
7 technology and monitoring customer service calls;

8 (B) expanding operating hours at driver's
9 license offices; and

10 (C) decreasing the time the department takes to
11 send a replacement driver's license.

12 (e) The Sunset Advisory Commission shall submit the report
13 required by Subsection (d) not later than February 15, 2011.
14 This subsection and Subsection (d) expire August 31, 2011.

15 SECTION 5.02. Section 411.0035, Government Code, is
16 amended to read as follows:

17 Sec. 411.0035. MEMBER AND GENERAL COUNSEL RESTRICTION.

18 (a) In this section, "Texas trade association" means a
19 cooperative and voluntarily joined statewide association of
20 business or professional competitors in this state designed to
21 assist its members and its industry or profession in dealing
22 with mutual business or professional problems and in promoting
23 their common interest.

24 (b) A person may not be [~~serve as~~] a member of the
25 commission and may not be a department employee employed in a
26 "bona fide executive, administrative, or professional capacity,"
27 as that phrase is used for purposes of establishing an exemption
28 to the overtime provisions of the federal Fair Labor Standards
29 Act of 1938 (29 U.S.C. Section 201 et seq.), if:

30 (1) the person is an officer, employee, or paid
31 consultant of a Texas trade association in the field of law
32 enforcement or private security; or

33 (2) the person's spouse is an officer, manager, or
34 paid consultant of a Texas trade association in the field of law
35 enforcement or private security.

36 (c) A person may not be a member of the commission or act
37 as the general counsel to the commission if the person is
38 required to register as a lobbyist under Chapter 305 because of
39 the person's activities for compensation on behalf of a
40 profession related to the operation of the commission.

41 SECTION 5.03. Subchapter A, Chapter 411, Government Code,
42 is amended by adding Section 411.0042 to read as follows:

43 Sec. 411.0042. DIVISION OF RESPONSIBILITIES. The
44 commission shall develop and implement policies that clearly
45 separate the policymaking responsibilities of the commission and
46 the management responsibilities of the director and the staff of
47 the department.

1 SECTION 5.04. Subchapter A, Chapter 411, Government Code,
2 is amended by adding Section 411.0043 to read as follows:

3 Sec. 411.0043. TECHNOLOGY POLICY. The commission shall
4 implement a policy requiring the department to use appropriate
5 technological solutions to improve the department's ability to
6 perform its functions. The policy must ensure that the public
7 is able to interact with the department on the Internet.

8 SECTION 5.05. Subchapter A, Chapter 411, Government Code,
9 is amended by adding Section 411.0044 to read as follows:

10 Sec. 411.0044. NEGOTIATED RULEMAKING AND ALTERNATIVE
11 DISPUTE RESOLUTION. (a) The commission shall develop and
12 implement a policy to encourage the use of:

13 (1) negotiated rulemaking procedures under Chapter
14 2008 for the adoption of department rules; and

15 (2) appropriate alternative dispute resolution
16 procedures under Chapter 2009 to assist in the resolution of
17 internal and external disputes under the department's
18 jurisdiction.

19 (b) The department's procedures relating to alternative
20 dispute resolution must conform, to the extent possible, to any
21 model guidelines issued by the State Office of Administrative
22 Hearings for the use of alternative dispute resolution by state
23 agencies.

24 (c) The commission shall designate a trained person to:

25 (1) coordinate the implementation of the policy
26 adopted under Subsection (a);

27 (2) serve as a resource for any training needed to
28 implement the procedures for negotiated rulemaking or
29 alternative dispute resolution; and

30 (3) collect data concerning the effectiveness of
31 those procedures, as implemented by the department.

32 SECTION 5.06. The heading to Section 411.005, Government
33 Code, is amended to read as follows:

34 Sec. 411.005. DIRECTOR, DEPUTY DIRECTORS, AND ASSISTANT
35 DIRECTORS [~~DIRECTOR~~].

36 SECTION 5.07. Section 411.005, Government Code, is amended
37 by amending Subsections (a), (b), and (c) to read as follows:

38 (a) The commission shall appoint a citizen of the United
39 States [~~this state~~] as public safety director. The director
40 serves until removed by the commission.

41 (b) The director may appoint, with the advice and consent
42 of the commission, deputy directors and assistant directors who
43 shall perform the duties that the director designates. Deputy
44 directors and [~~An~~] assistant directors serve [~~director serves~~]
45 until removed by the director.

46 (c) The commission shall select the director, and the
47 director shall select deputy directors and assistant directors

1 ~~[an assistant director]~~, on the basis of the person's training,
2 experience, and qualifications for the position. ~~[The director~~
3 ~~and an assistant director must have five years' experience,~~
4 ~~preferably in police or public administration.]~~ The director,
5 ~~[and an assistant director]~~ deputy directors, and assistant
6 directors are entitled to annual salaries as provided by the
7 legislature.

8 SECTION 5.08. Section 411.015(b), Government Code, is
9 amended to read as follows:

10 (b) ~~[The number of divisions may not exceed the number of~~
11 ~~divisions existing on August 22, 1957.]~~ The division relating
12 to the Texas Rangers may not be abolished.

13 SECTION 5.09. Sections 411.0195(a), (b), and (c),
14 Government Code, are amended to read as follows:

15 (a) The department shall maintain a system to promptly and
16 efficiently act on ~~[prepare information of public interest~~
17 ~~describing the functions of the department and the department's~~
18 ~~procedures by which]~~ complaints ~~[are]~~ filed with ~~[and resolved~~
19 ~~by]~~ the department. The department shall maintain ~~[make the]~~
20 information about parties to the complaint, the subject matter
21 of the complaint, a summary of the results of the review or
22 investigation of the complaint, and its disposition ~~[available~~
23 ~~to the public and appropriate state agencies].~~

24 (b) The department shall make information available
25 describing its procedures for complaint investigation and
26 resolution ~~[director by rule shall establish methods by which~~
27 ~~consumers and service recipients are notified of the name,~~
28 ~~mailing address, and telephone number of the department for the~~
29 ~~purpose of directing complaints to the department].~~

30 (c) The department shall periodically notify the complaint
31 parties of the status of the complaint until final disposition
32 [maintain a file on each written complaint filed with the
33 department. The file must include:

34 ~~[(1) the name of the person who filed the complaint;~~
35 ~~[(2) the date the complaint is received by the~~
36 ~~department;~~

37 ~~[(3) the subject matter of the complaint;~~

38 ~~[(4) the name of each person contacted in relation to~~
39 ~~the complaint;~~

40 ~~[(5) a summary of the results of the review or~~
41 ~~investigation of the complaint; and~~

42 ~~[(6) an explanation of the reason the file was~~
43 ~~closed, if the agency closed the file without taking action~~
44 ~~other than to investigate the complaint].~~

45 SECTION 5.10. Section 411.188, Government Code, is amended
46 by adding Subsection (j) to read as follows:

47 (j) The department may offer online, or allow a qualified

1 handgun instructor to offer online, the continuing education
2 instruction course and written section of the proficiency
3 examination required to renew a license.

4 SECTION 5.11. Section 411.190, Government Code, is amended
5 by adding Subsection (d-1) to read as follows:

6 (d-1) The department shall ensure that an applicant may
7 renew certification under Subsection (d) from any county in this
8 state by using an online format to complete the required
9 retraining courses if:

10 (1) the applicant is renewing certification for the
11 first time; or

12 (2) the applicant completed the required retraining
13 courses in person the previous time the applicant renewed the
14 certificate.

15 SECTION 5.12. The heading to Section 411.244, Government
16 Code, is amended to read as follows:

17 Sec. 411.244. OFFICE OF INSPECTOR GENERAL [~~INTERNAL~~
18 ~~AFFAIRS~~].

19 SECTION 5.13. Section 411.244, Government Code is amended
20 by amending Subsections (a), (b), (d), (e), and (f), and by
21 adding Subsection (g) to read as follows:

22 (a) The commission [director] shall establish the office
23 of inspector general, which is responsible for:

24 (1) acting to prevent and detect serious breaches of
25 departmental policy, fraud, and abuse of office, including any
26 acts of criminal conduct within the department; and

27 (2) independently and objectively reviewing,
28 investigating, delegating an investigation, and overseeing the
29 investigation of administrative and all other allegations of
30 conduct referred to in (a)(1) above and the following:

31 (A) criminal activity occurring in all divisions
32 of the department;

33 (B) allegations of wrongdoing by department
34 employees;

35 (C) crimes committed on department property; and

36 (D) serious breaches of department policy
37 [internal affairs].

38 (b) The office of inspector general [~~internal affairs~~] has
39 [~~original~~] departmental jurisdiction for oversight and
40 coordination over all investigations occurring on department
41 property or involving department employees. The office shall
42 coordinate and provide oversight, but need not conduct, all
43 investigations under this section. The inspector general shall
44 delegate criminal allegations arising under this section to the
45 Texas Ranger division or the Criminal Law Enforcement division
46 of the department for investigation or referral back to the
47 inspector general for further action. However the inspector

1 general shall continually monitor referred matters and report to
2 the commission along with any other division investigating a
3 matter on its status while pending.

4 (d) The commission has direct oversight over the office of
5 inspector general, including decisions regarding budget and
6 staffing. The commission [director] shall appoint the inspector
7 general [head of the office of internal affairs]. The inspector
8 general [head of the office of internal affairs] serves until
9 removed by the commission [director]. The commission shall
10 establish policies to ensure that the commission continues to
11 oversee the office of inspector general as required by this
12 subsection and to ensure that the office of inspector general
13 retains and exercises its original jurisdiction under Subsection
14 (b).

15 (e) The inspector general [head of the office of internal
16 affairs] shall report directly to the commission [director]
17 regarding performance of and activities related to
18 investigations, report to the director for administrative
19 purposes, and provide the director with information regarding
20 investigations as appropriate.

21 (f) The inspector general [head of the office of internal
22 affairs] shall present at each regularly scheduled commission
23 meeting and at other appropriate times:

24 (1) reports of investigations; and

25 (2) a summary of information relating to
26 investigations conducted under this section that includes
27 analysis of the number, type, and outcome of investigations,
28 trends in the investigations, and recommendations to avoid
29 future complaints.

30 (g) This chapter or other law related to the operation of
31 the department's office of inspector general does not preempt
32 the authority of the state auditor to conduct an audit or
33 investigation under Chapter 321 or other law.

34 SECTION 5.14. Section 662.005(b), Government Code, is
35 amended to read as follows:

36 (b) Except as provided by Section 662.010, and
37 notwithstanding Section 659.015 or another law, a state employee
38 who is a peace officer commissioned by a state officer or state
39 agency listed under Article 2.12, Code of Criminal Procedure, or
40 who is employed by the Department of Public Safety either to
41 perform communications or dispatch services related to traffic
42 law enforcement or as a public security officer, as that term is
43 defined by Section 1701.001, Occupations Code, and who is
44 required to work on a national or state holiday that falls on a
45 Saturday or Sunday is entitled to compensatory time off at the
46 rate of one hour for each hour worked on the holiday.

47 SECTION 5.15. Sections 411.0195(d) and (e), Government

1 Code, are repealed.

2 SECTION 5.16. The changes in law made by this article by
3 the amendment of Section 411.0035, Government Code, apply only
4 to a person first appointed to the Public Safety Commission or
5 employed by the Department of Public Safety of the State of
6 Texas on or after the effective date of this Act. A person
7 first appointed or employed before the effective date of this
8 Act is governed by the law in effect immediately before that
9 date, and the former law is continued in effect for that
10 purpose.

11 SECTION 5.17. The changes in law made by this article by
12 the amendment of Section 411.0195, Government Code, apply only
13 to a complaint filed on or after the effective date of this Act.
14 A complaint filed before the effective date of this Act is
15 governed by the law in effect when the complaint was filed, and
16 the former law is continued in effect for that purpose.

17 SECTION 5.18. The Department of Public Safety of the State
18 of Texas shall take action as necessary to ensure that an
19 applicant may renew a qualified handgun instructor certification
20 from any county in this state, as required by Section 411.190(d-
21 1), Government Code, as added by this Act, not later than March
22 1, 2010.

23 SECTION 5.19. The Department of Public Safety shall
24 develop customer service training requirements that at a minimum
25 must be completed by the staff of the driver license division
26 that interact with the public. Each new employee of the
27 division that is required to complete this training, as a
28 condition of employment, must do so by the end of the third
29 month of employment. Thereafter, each employee that the
30 training applies to shall participate annually in this training.

31 SECTION 5.20. The Department of Public Safety shall
32 develop cultural diversity training requirements to be completed
33 by all staff of the drivers license division. Each new employee
34 of the division, as a condition of employment, must complete the
35 training by the end of the third month of employment.
36 Thereafter, each employee in the division shall participate
37 annually in the diversity training.

38 SECTION 5.21. The Department of Public Safety shall
39 develop training requirements regarding proof of citizenship
40 documents. At a minimum, this training must be completed by all
41 staff in the drivers license division. Each new employee of
42 this division, as a condition of employment, must complete the
43 training by the end of the third month of employment.
44 Thereafter, each employee of the division shall participate
45 annually in this training.

46 ARTICLE 6. ADDITIONAL PROVISIONS

47 SECTION 6.01. Section 411.00755(b), Government Code, is

1 amended to read as follows:

2 (b) The [~~Notwithstanding Chapter 552, the~~] personnel
3 records of a commissioned officer of the department may not be
4 disclosed or otherwise made available to the public, except the
5 department shall release in accordance with Chapter 552:

6 (1) any letter, memorandum, or document relating to:

7 (A) a commendation, congratulation, or honor
8 bestowed on the officer for an action, duty, or activity that
9 relates to the officer's official duties; and

10 (B) misconduct by the officer, if the letter,
11 memorandum, or document resulted in disciplinary action;

12 (2) the state application for employment submitted by
13 the officer, but not including any attachments to the
14 application;

15 (3) any reference letter submitted by the officer;

16 (4) any letter of recommendation for the officer;

17 (5) any employment contract with the officer;

18 (6) any periodic evaluation of the officer by a
19 supervisor;

20 (7) any document recording a promotion or demotion of
21 the officer;

22 (8) any request for leave by the officer;

23 (9) any request by the officer for transfers of shift
24 or duty assignments;

25 (10) any documents presented to the commission in
26 connection with a public hearing under Section 411.007(f);

27 (11) the officer's:

28 (A) name;

29 (B) age;

30 (C) dates of employment;

31 (D) positions held; and

32 (E) gross salary; and

33 (12) information about the location of the officer's
34 department duty assignments.

35 SECTION 6.02. Subchapter A, Chapter 411, Government Code,
36 is amended by adding Section 411.0161 to read as follows:

37 Sec. 411.0161. DONATION OF ACCRUED COMPENSATORY TIME OR
38 ACCRUED ANNUAL LEAVE FOR LEGISLATIVE PURPOSES. (a) The
39 director shall allow a department employee to voluntarily
40 transfer to a legislative leave pool up to eight hours of
41 compensatory time or annual leave per year earned by the
42 employee.

43 (b) The director or designee shall administer the
44 legislative leave pool.

45 (c) The Public Safety Commission shall adopt rules and
46 prescribe procedures relating to the operation of the
47 legislative leave pool.

1 (d) The director or designee shall credit the legislative
2 leave pool with the amount of time contributed by an employee
3 and deduct a corresponding amount of time from the employee's
4 earned compensatory time or annual leave as if the employee had
5 used the time for personal purposes.

6 (e) An employee is entitled to use time contributed to the
7 legislative leave pool if the employee uses the time for
8 legislative leave on behalf of a law enforcement association of
9 at least 1,000 active or retired members governed by a board of
10 directors.

11 (f) The director of the pool administrator shall transfer
12 time from the pool to the employee and credit the time to the
13 employee.

14 (g) An employee may only withdraw time from the
15 legislative leave pool in coordination and with the consent of
16 the president or designee of the law enforcement association
17 described in Subsection (e), and may not draw more than 80 hours
18 of time from the pool in a 160-hours work cycle with the maximum
19 time taken not to exceed 480 hours per fiscal year.

20 (h) In addition to Subsection (g), the use of any time
21 from the legislative leave pool must also be in accordance with
22 rules adopted by the Public Safety Commission.

23 SECTION 6.03. Section 411.192, Government Code, is amended
24 by amending Subsections (a) and (d) and adding Subsection (e) to
25 read as follows:

26 (a) The department shall disclose to a criminal justice
27 agency information contained in its files and records regarding
28 whether a named individual or any individual named in a
29 specified list is licensed under this subchapter. Information
30 on an individual subject to disclosure under this section
31 includes the individual's name, date of birth, gender, race,
32 ~~and~~ zip code, telephone number, e-mail address, and Internet
33 website address. Except as otherwise provided by this section
34 and by Section 411.193, all other records maintained under this
35 subchapter are confidential and are not subject to mandatory
36 disclosure under the open records law, Chapter 552.

37 (d) ~~The [This section does not prohibit the]~~ department
38 shall make ~~[from making]~~ public and ~~distribute [distributing]~~ to
39 the public at no cost lists of individuals who are certified as
40 qualified handgun instructors by the department and who request
41 to be included as provided by Subsection (e). The department
42 shall include on the lists each individual's name, telephone
43 number, e-mail address, and Internet website address. The
44 department shall make the list available on the department's
45 Internet website.

46 (e) An individual who is certified as a qualified handgun
47 instructor may request in writing that the department disclose

1 all or part of the information described by Subsection (d)
2 regarding the individual. The department shall include all or
3 part of the individual's information on the list as requested.

4 SECTION 6.04. Section 614.151(2), Government Code, as
5 added by Chapter 1159 (H.B. 12), Acts of the 80th Legislature,
6 Regular Session, 2007, is amended to read as follows:

7 (2) "Law enforcement officer" means a person who[+
8 [~~(A)~~] is a commissioned peace officer[+
9 [~~(B)~~ is] employed by a law enforcement agency[+]

10 and

11 [~~(C)~~ is compensated according to+

12 [~~(i)~~ Schedule C of the position
13 classification salary schedule prescribed by the General
14 Appropriations Act if the person is employed by a law
15 enforcement agency other than the Parks and Wildlife Department;
16 or

17 [~~(ii)~~ Schedule B or C of the position
18 classification salary schedule prescribed by the General
19 Appropriations Act if the person is employed by the Parks and
20 Wildlife Department].

21 SECTION 6.05. Section 614.152, Government Code, as added
22 by Chapter 1159 (H.B. 12), Acts of the 80th Legislature, Regular
23 Session, 2007, is amended by amending the section heading and
24 Subsections (a) and (c) and by adding Subsections (a-1) and (a-
25 2) to read as follows:

26 Sec. 614.152. PHYSICAL FITNESS PROGRAMS AND STANDARDS.

27 (a) Each [Out of appropriated funds, each] law enforcement
28 agency shall adopt physical fitness programs that a law
29 enforcement officer must participate in and physical fitness
30 standards that a law enforcement officer must meet [to continue
31 employment with the agency as a law enforcement officer]. The
32 standards as applied to an officer must directly relate to the
33 officer's job duties and shall include individual fitness goals
34 specific to the officer's age and gender. A law enforcement
35 agency shall use the services of a consultant to aid the agency
36 in developing the standards.

37 (a-1) Each law enforcement agency shall adopt a reward
38 policy that provides for reward incentives to officers who
39 participate in the program and meet the standards adopted under
40 Subsection (a). The reward incentives under the policy must be
41 an amount of administrative leave of not more than four days per
42 year.

43 (a-2) An agency may adopt physical readiness standards
44 independent of other law enforcement agencies.

45 (c) A law enforcement agency may exempt a law enforcement
46 officer from participating in a program or meeting a standard
47 under Subsection (a) based on the facts and circumstances of the

1 individual case, including whether an officer was injured in the
2 line of duty.

3 SECTION 6.06. Section 411.171(4), Government Code, is
4 amended to read as follows:

5 (4) "Convicted" means an adjudication of guilt or,
6 except as provided in Section 411.1711, an order of deferred
7 adjudication entered against a person by a court of competent
8 jurisdiction whether or not the imposition of the sentence is
9 subsequently probated and the person is discharged from
10 community supervision. The term does not include an
11 adjudication of guilt or an order of deferred adjudication that
12 has been subsequently:

13 (A) expunged; [~~or~~]

14 (B) pardoned under the authority of a state or
15 federal official; or

16 (C) otherwise vacated, set aside, annulled,
17 invalidated, voided, or sealed under any state or federal law.

18 SECTION 6.07. Subchapter C, Chapter 521, Transportation
19 Code, is amended by adding Section 521.060 to read as follows:

20 Sec. 521.060. DRIVER RECORD MONITORING PILOT PROGRAM.

21 (a) The department by rule may establish a driver record
22 monitoring pilot program. The term of the pilot program may not
23 exceed one year.

24 (b) Under the pilot program, the department may enter into
25 a contract with a person to provide driver record monitoring
26 services, as described by Subsection (c), and certain
27 information from the department's driver's license records to
28 the person, if the person:

29 (1) is an employer, an insurer, an insurance support
30 organization, an employer support organization, or an entity
31 that self-insures its motor vehicles; and

32 (2) is eligible to receive the information under
33 Chapter 730.

34 (c) A contract entered into by the department must
35 require:

36 (1) the department, during the term of the contract,
37 to:

38 (A) monitor the driver record of each holder of
39 a driver's license issued by the department that is requested by
40 the person with whom the department has contracted;

41 (B) identify any change in the status of a
42 driver's license or any conviction for a traffic offense
43 reported to the department during the monitoring period; and

44 (C) periodically, as specified in the contract,
45 provide reports of those individuals identified as having a
46 change in status or convictions to the person with whom the
47 department has contracted; and

1 (2) the person with whom the department has
2 contracted:

3 (A) to purchase under Section 521.046 a copy of
4 the driver record of each individual identified in a report
5 provided under Subdivision (1)(C);

6 (B) to warrant that:

7 (i) the person will not directly or
8 indirectly disclose information received from the department
9 under the contract to a third party without the express written
10 consent of the department, except as required by law or legal
11 process; and

12 (ii) if a disclosure is required by law or
13 legal process, the person will immediately notify the department
14 so that the department may seek to oppose, limit, or restrict
15 the required disclosure; and

16 (C) if the person is an insurance support
17 organization, to warrant that the person will not seek to obtain
18 information about a holder of a driver's license under the
19 contract unless the license holder is insured by a client of the
20 organization, and that the person will provide the department
21 with the name of each client to whom the insurance support
22 organization provides information received from the department
23 under the contract.

24 (d) The attorney general may file a suit against a person
25 with whom the department has contracted under this section for:

26 (1) injunctive relief to prevent or restrain the
27 person from violating a term of the contract or from directly or
28 indirectly disclosing information received from the department
29 under the contract in a manner that violates the terms of the
30 contract; or

31 (2) a civil penalty in an amount not to exceed \$2,000
32 for each disclosure in violation of those terms.

33 (e) If the attorney general brings an action against a
34 person under Subsection (d) and an injunction is granted against
35 the person or the person is found liable for a civil penalty,
36 the attorney general may recover reasonable expenses, court
37 costs, investigative costs, and attorney's fees. Each day a
38 violation continues or occurs is a separate violation for
39 purposes of imposing a penalty under Subsection (d).

40 (f) A violation of the terms of a contract entered into
41 with the department by the person with whom the department has
42 contracted is a false, misleading, or deceptive act or practice
43 under Subchapter E, Chapter 17, Business & Commerce Code.

44 (g) A civil action brought under this section shall be
45 filed in a district court:

46 (1) in Travis County; or

47 (2) in any county in which the violation occurred.

1 (h) A person with whom the department has contracted under
2 this section commits an offense if the person directly or
3 indirectly discloses information received from the department
4 under the contract in a manner that violates the terms of the
5 contract. An offense under this subsection is a Class B
6 misdemeanor. If conduct constituting an offense under this
7 subsection also constitutes an offense under another law, the
8 actor may be prosecuted under this subsection, the other law, or
9 both.

10 (i) The department shall impose a fee on each person with
11 whom the department contracts under this section for the
12 services provided by the department under the contract. The fee
13 must be reasonable and be not less than the amount necessary to
14 allow the department to recover all reasonable costs to the
15 department associated with entering into the contract and
16 providing services to the person under the contract, including
17 direct, indirect, and administrative costs and costs related to
18 the development and deployment of the pilot program.

19 (j) The department may establish a reasonable deadline by
20 which a person must apply to enter into a contract with the
21 department under this section and may not enter into a contract
22 with a person who fails to apply before that deadline.

23 (k) To the fullest extent practicable, the services of the
24 department under a contract entered into under this section
25 shall be provided by, through, or in conjunction with the
26 interactive system established under Section 521.055.

27 (l) At the conclusion of the term of the pilot program,
28 and on the recommendation of the department, the commission may
29 authorize the department to implement the pilot program as a
30 permanent program.

31 (m) Before the department recommends that the pilot
32 program be implemented as a permanent program, the department
33 shall submit to the lieutenant governor, the speaker of the
34 house of representatives, and each member of the legislature a
35 report that contains an analysis of the scope, effectiveness,
36 and cost benefits of the pilot program. The report must
37 include:

38 (1) a list of each insurance support organization
39 with which the department has contracted under this section; and

40 (2) a list of each client to whom the insurance
41 support organization has provided information received from the
42 department under this section.

43 SECTION 6.08. Subchapter S, Chapter 521, Transportation
44 Code, is amended by adding Section 521.4565 to read as follows:

45 Sec. 521.4565. CONSPIRING TO MANUFACTURE COUNTERFEIT
46 LICENSE OR CERTIFICATE. (a) In this section:

47 (1) "Combination," "conspires to commit," "profits,"

1 and "criminal street gang" have the meanings assigned by Section
2 71.01, Penal Code.

3 (2) "Conspires to manufacture or produce" means that:

4 (A) a person agrees with one or more other
5 persons to engage in the manufacture or production of a forged
6 or counterfeit instrument; and

7 (B) the person and one or more of the other
8 persons perform an overt act in pursuance of the agreement.

9 (3) "Instrument" means a driver's license, commercial
10 driver's license, or personal identification certificate.

11 (4) "Public servant" has the meaning assigned by
12 Section 1.07, Penal Code.

13 (b) A person commits an offense if the person establishes,
14 maintains, or participates in or conspires to establish,
15 maintain, or participate in a combination or criminal street
16 gang, or participates in the profits of a combination or
17 criminal street gang, with the intent to manufacture or produce
18 a forged or counterfeit instrument for the purpose of selling,
19 distributing, or delivering the instrument. An agreement that
20 constitutes conspiring to manufacture or produce may be inferred
21 from the acts of the parties.

22 (c) An offense under this section is a state jail felony,
23 except that an offense committed by a public servant is a felony
24 of the third degree.

25 SECTION 6.09. Section 548.005, Transportation Code, is
26 amended to read as follows:

27 Sec. 548.005. INSPECTION ONLY BY STATE-CERTIFIED AND
28 SUPERVISED INSPECTION STATION. A compulsory inspection under
29 this chapter may be made only by an inspection station, except
30 that the department may:

31 (1) permit inspection to be made by an inspector
32 under terms and conditions the department prescribes; ~~and~~

33 (2) authorize the acceptance in this state of a
34 certificate of inspection and approval issued in another state
35 having a similar inspection law; and

36 (3) authorize the acceptance in this state of a
37 certificate of inspection and approval issued in compliance with
38 49 C.F.R. Part 396 to a motor bus, as defined by Section
39 502.001, that is registered in this state but is not domiciled
40 in this state.

41 SECTION 6.10. Section 708.157(c), Transportation Code, is
42 amended to read as follows:

43 (c) The department by rule shall ~~may~~ establish an
44 indigency program for holders of a driver's license on which a
45 surcharge has been assessed for certain offenses, as determined
46 by the department.

47 SECTION 6.11. Section 22.0834, Education Code, is amended

1 by adding Subsections (k), (l), (m), (n), (o), and (p) to read
2 as follows:

3 (k) The requirements of this section apply to an entity
4 that contracts directly with a school district, open-enrollment
5 charter school, or shared services arrangement and any
6 subcontractor of the entity.

7 (l) A contracting entity shall require that a
8 subcontracting entity obtain all criminal history record
9 information that relates to an employee to whom Subsection (a)
10 applies. If a contracting or subcontracting entity determines
11 that Subsection (a) does not apply to an employee, the
12 contracting or subcontracting entity shall make a reasonable
13 effort to ensure that the conditions or precautions that
14 resulted in the determination that Subsection (a) did not apply
15 to the employee continue to exist throughout the time that the
16 contracted services are provided.

17 (m) A contracting entity complies with the requirements of
18 this section if the contracting entity obtains a written
19 statement from each subcontracting entity certifying that the
20 subcontracting entity has obtained the required criminal history
21 record information for employees of the subcontracting entity
22 and the subcontracting entity has obtained certification from
23 each of the subcontracting entity's subcontractors.

24 (n) A subcontracting entity must certify to the school
25 district, open-enrollment charter school, or shared services
26 arrangement and the contracting entity that the subcontracting
27 entity has obtained all criminal history record information that
28 relates to an employee to whom Subsection (a) applies and has
29 obtained similar written certifications from the subcontracting
30 entity's subcontractors.

31 (o) A contracting or subcontracting entity may not permit
32 an employee to whom Subsection (a) applies to provide services
33 at a school if the employee has been convicted of a felony or
34 misdemeanor offense that would prevent a person from obtaining
35 certification as an educator under Section 21.060.

36 (p) In this section:

37 (1) "Contracting entity" means an entity that
38 contracts directly with a school district, open-enrollment
39 charter school, or shared services arrangement to provide
40 services to the school district, open-enrollment charter school,
41 or shared services arrangement.

42 (2) "Subcontracting entity" means an entity that
43 contracts with another entity that is not a school district,
44 open-enrollment charter school, or shared services arrangement
45 to provide services to a school district, open-enrollment
46 charter school, or shared services arrangement.

47 ARTICLE 7. TEXAS RANGERS' UNSOLVED CRIMES INVESTIGATION TEAM

1 SECTION 7.01. The heading to Subchapter J, Chapter 411,
2 Government Code, is amended to read as follows:

3 SUBCHAPTER J. UNSOLVED CRIMES INVESTIGATION PROGRAM [TEAM]

4 SECTION 7.02. Section 411.262, Government Code, is amended
5 to read as follows:

6 Sec. 411.262. UNSOLVED CRIMES INVESTIGATION PROGRAM
7 [TEAM]. (a) The unsolved crimes investigation program [team]
8 is an investigative program [~~investigatory unit~~] within the
9 department.

10 (b) The program is a function [~~team will be located at the~~
11 ~~headquarters~~] of the Texas Rangers [~~in Austin, Texas,~~] and will
12 be commanded by the chief of the Texas Rangers.

13 (c) The director may employ commissioned peace officers
14 and noncommissioned employees to perform duties required of the
15 program [team].

16 (d) To be eligible for employment under this section, a
17 peace officer must be a sergeant or higher-ranked officer of the
18 Texas Rangers and must have [~~not less than four years of~~
19 ~~experience as a peace officer and:~~

20 [~~(1) a degree from an accredited institution of~~
21 ~~higher education in law, accounting, or computer science; or~~
22 [~~(2)~~] two or more years of experience in the
23 investigation of homicides or other major felonies.

24 (e) To be eligible for employment under this section, a
25 noncommissioned employee must meet the experience, training, and
26 educational qualifications set by the director as requirements
27 for investigating or assisting in the investigation of an
28 unsolved crime.

29 SECTION 7.03. Section 411.263, Government Code, is amended
30 to read as follows:

31 Sec. 411.263. ASSISTANCE ON REQUEST. On the request of an
32 attorney representing the state and with the approval of the
33 director, employees of the unsolved crimes investigation program
34 [team] of the department may assist local law enforcement in the
35 investigation of crime.

36 SECTION 7.04. This article takes effect immediately if
37 this Act receives a vote of two-thirds of all the members
38 elected to each house, as provided by Section 39, Article III,
39 Texas Constitution. If this Act does not receive the vote
40 necessary for immediate effect, this article takes effect
41 September 1, 2009.

42 ARTICLE 8. DISSEMINATION OF EMERGENCY PUBLIC SERVICE MESSAGES

43 SECTION 8.01. Section 418.047, Government Code, is amended
44 by adding Subsection (a-1) to read as follows:

45 (a-1) The division shall coordinate with the Texas
46 Department of Transportation to establish additional methods for
47 disseminating emergency public service messages to motorists,

1 including:

- 2 (1) severe weather advisories;
- 3 (2) AMBER alerts under Subchapter L, Chapter 411; and
- 4 (3) silver alerts under Subchapter M, Chapter 411.

5 ARTICLE 9. AUTHORITY OF DEPARTMENT TO OBTAIN AND USE CRIMINAL
6 HISTORY RECORD INFORMATION FOR CERTAIN DEPARTMENTAL
7 AUTHORIZATIONS

8 SECTION 9.01. Subchapter F, Chapter 411, Government Code,
9 is amended by adding Section 411.0891 to read as follows:

10 Sec. 411.0891. DEPARTMENT ACCESS TO CRIMINAL HISTORY
11 RECORD INFORMATION: CERTAIN DEPARTMENTAL AUTHORIZATIONS. (a)
12 Subject to Section 411.087, the department is authorized to
13 obtain and use criminal history record information maintained by
14 the Federal Bureau of Investigation or the department that
15 relates to a person who:

16 (1) is an applicant for or holds a registration
17 issued by the director under Subchapter C, Chapter 481, Health
18 and Safety Code, that authorizes the person to manufacture,
19 distribute, analyze, or conduct research with a controlled
20 substance;

21 (2) is an applicant for or holds a chemical precursor
22 transfer permit issued by the director under Section 481.078,
23 Health and Safety Code;

24 (3) is an applicant for or holds a chemical
25 laboratory apparatus transfer permit issued by the director
26 under Section 481.081, Health and Safety Code;

27 (4) is an applicant for certification by the
28 department as an inspection station or an inspector under
29 Subchapter G, Chapter 548, Transportation Code, holds an
30 inspection station or inspector certificate issued under that
31 subchapter, or is the owner of an inspection station operating
32 under that chapter; or

33 (5) is an applicant for approval or has been approved
34 as a program sponsor by the department under Chapter 662,
35 Transportation Code, is an applicant for certification by the
36 department as an instructor under that chapter, or holds an
37 instructor certificate issued under that chapter.

38 (b) The department may release or disclose criminal
39 history record information obtained or used by the department
40 for a purpose described by Subsection (a) to another person or
41 agency only:

42 (1) in a criminal proceeding;

43 (2) in a hearing conducted by the department;

44 (3) under an order from a court; or

45 (4) with the consent of the person who is the subject
46 of the criminal history record information.

47 (c) This section may not be construed to limit the

1 authority of the department to disseminate criminal history
2 record information as provided by Section 411.083.

3 SECTION 9.02. This article takes effect immediately if
4 this Act receives a vote of two-thirds of all the members
5 elected to each house, as provided by Section 39, Article III,
6 Texas Constitution. If this Act does not receive the vote
7 necessary for immediate effect, this article takes effect
8 September 1, 2009.

9 ARTICLE 9A. DISCLOSURE OF CRIMINAL HISTORY RECORD INFORMATION
10 REGARDING PUBLIC SCHOOL EMPLOYEES

11 SECTION 9A.01. Section 411.084, Government Code, is
12 amended by amending Subsection (a) and adding Subsections (a-1)
13 and (c) to read as follows:

14 (a) Criminal history record information obtained from the
15 department under this subchapter, including any identification
16 information that could reveal the identity of a person about
17 whom criminal history record information is requested and
18 information that directly or indirectly indicates or implies
19 involvement of a person in the criminal justice system:

20 (1) is for the exclusive use of the authorized
21 recipient of the information; and

22 (2) may be disclosed or used by the recipient only
23 if, and only to the extent that, disclosure or use is authorized
24 or directed by:

25 (A) this subchapter;

26 (B) another statute;

27 (C) a rule adopted under a statute; or

28 (D) an order of a court of competent
29 jurisdiction.

30 (a-1) The term "criminal history record" information under
31 Subsection (a) does not refer to any specific document produced
32 to comply with this subchapter but to the information contained,
33 wholly or partly, in a document's original form or any
34 subsequent form or use.

35 (c) An agency or individual may not confirm the existence
36 or nonexistence of criminal history record information to any
37 person that is not eligible to receive the information.

38 SECTION 9A.02. Sections 411.090(b) and (c), Government
39 Code, are amended to read as follows:

40 (b) Criminal history record information obtained by the
41 board in the original form or any subsequent form [~~under~~
42 ~~Subsection (a)~~]:

43 (1) may be used only for a [~~any~~] purpose related to
44 the issuance, denial, suspension, or cancellation of a
45 certificate issued by the board;

46 (2) may not be released to any person except:

47 (A) the person who is the subject of the

1 information;
2 (B) the Texas Education Agency;
3 (C) a local or regional educational entity as
4 provided by Section 411.097; or
5 (D) by ~~[en]~~ court order ~~[or with the consent of~~
6 ~~the applicant for a certificate]; [and]~~
7 (3) is not subject to disclosure as provided by
8 Chapter 552; and
9 (4) shall be destroyed by the board after the
10 information is used for the authorized purposes.
11 (c) The department shall notify the State Board for
12 Educator Certification of the arrest of any educator, as defined
13 by Section 5.001, Education Code, who has fingerprints on file
14 with the department. Any record of the notification and any
15 information contained in the notification is not subject to
16 disclosure as provided by Chapter 552.
17 SECTION 9A.03. Section 411.0901, Government Code, is
18 amended to read as follows:
19 Sec. 411.0901. ACCESS TO CRIMINAL HISTORY RECORD
20 INFORMATION: TEXAS EDUCATION AGENCY. (a) The Texas Education
21 Agency is entitled to obtain criminal history record information
22 maintained by the department about a person who:
23 (1) is employed or is an applicant for employment by
24 a school district or open-enrollment charter school;
25 (2) is employed or is an applicant for employment by
26 a shared services arrangement, if the employee's or applicant's
27 duties are or will be performed on school property or at another
28 location where students are regularly present; or
29 (3) is employed or is an applicant for employment by
30 an entity that contracts with a school district, open-enrollment
31 charter school, or shared services arrangement if:
32 (A) the employee or applicant has or will have
33 continuing duties relating to the contracted services; and
34 (B) the employee or applicant has or will have
35 direct contact with students.
36 (b) Criminal history record information obtained by the
37 agency in the original form or any subsequent form:
38 (1) may be used only for a purpose authorized by the
39 Education Code;
40 (2) may not be released to any person except:
41 (A) the person who is the subject of the
42 information;
43 (B) the State Board for Educator Certification;
44 (C) a local or regional educational entity as
45 provided by Section 411.097; or
46 (D) by court order;
47 (3) is not subject to disclosure as provided by

1 Chapter 552; and

2 (4) shall be destroyed by the agency after the
3 information is used for the authorized purposes.

4 SECTION 9A.04. Section 411.097, Government Code, is
5 amended by amending Subsection (d) and adding Subsection (f) to
6 read as follows:

7 (d) Criminal history record information obtained by a
8 school district, charter school, private school, service center,
9 commercial transportation company, or shared services
10 arrangement in the original form or any subsequent form:

11 (1) [~~under Subsection (a), (b), or (c)~~] may not be
12 released [~~or disclosed~~] to any person except:

13 (A) [~~other than~~] the individual who is the
14 subject of the information;

15 (B) [~~]~~ the Texas Education Agency;

16 (C) [~~]~~ the State Board for Educator
17 Certification;

18 (D) [~~or~~] the chief personnel officer of the
19 transportation company, if the information is obtained under
20 Subsection (a)(2); or

21 (E) by court order;

22 (2) is not subject to disclosure as provided by
23 Chapter 552; and

24 (3) shall be destroyed by the school district,
25 charter school, private school, service center, commercial
26 transportation company, or shared services arrangement on the
27 earlier of:

28 (A) the first anniversary of the date the
29 information was originally obtained; or

30 (B) the date the information is used for the
31 authorized purpose.

32 (f) An employee of a school district, charter school,
33 private school, regional education service center, commercial
34 transportation company, or education shared services arrangement
35 or an entity that contracts to provide services to a school
36 district, charter school, or shared services arrangement may
37 request from the employer a copy of any criminal history record
38 information relating to that employee that the employer has
39 obtained as provided by Subchapter C, Chapter 22, Education
40 Code. The employer may charge a fee to an employee requesting a
41 copy of the information in an amount not to exceed the actual
42 cost of copying the requested criminal history record
43 information.

44 SECTION 9A.05. Subchapter C, Chapter 22, Education Code,
45 is amended by adding Section 22.08391 to read as follows:

46 Sec. 22.08391. CONFIDENTIALITY OF INFORMATION. (a)
47 Information collected about a person to comply with this

1 subchapter, including the person's name, address, phone number,
2 social security number, driver's license number, other
3 identification number, and fingerprint records:

4 (1) may not be released except:

5 (A) to comply with this subchapter;

6 (B) by court order; or

7 (C) with the consent of the person who is the
8 subject of the information;

9 (2) is not subject to disclosure as provided by
10 Chapter 552, Government Code; and

11 (3) shall be destroyed by the requestor or any
12 subsequent holder of the information not later than the first
13 anniversary of the date the information is received.

14 (b) Any criminal history record information received by
15 the State Board for Educator Certification as provided by this
16 subchapter is subject to Section 411.090(b), Government Code.

17 (c) Any criminal history record information received by
18 the agency as provided by this subchapter is subject to Section
19 411.0901(b), Government Code.

20 (d) Any criminal history record information received by a
21 school district, charter school, private school, regional
22 education service center, commercial transportation company, or
23 education shared services arrangement or an entity that
24 contracts to provide services to a school district, charter
25 school, or shared services arrangement as provided by this
26 subchapter is subject to Section 411.097(d), Government Code.

27 SECTION 9A.06. The change in law made by this article
28 applies to information collected, assembled, or maintained
29 before, on, or after the effective date of this article.

30 ARTICLE 10. COLLECTION, MAINTENANCE, AND TRANSFER AND OTHER
31 DISSEMINATION OF CRIMINAL HISTORY RECORD INFORMATION AND
32 JUVENILE JUSTICE INFORMATION

33 SECTION 10.01. Section 411.042(b), Government Code, as
34 amended by Chapters 70 (H.B. 76), 1306 (S.B. 839), and 1372
35 (S.B. 9), Acts of the 80th Legislature, Regular Session, 2007,
36 is reenacted and amended to read as follows:

37 (b) The bureau of identification and records shall:

38 (1) procure and file for record photographs,
39 pictures, descriptions, fingerprints, measurements, and other
40 pertinent information of all persons arrested for or charged
41 with a criminal offense or convicted of a criminal offense,
42 regardless of whether the conviction is probated;

43 (2) collect information concerning the number and
44 nature of offenses reported or known to have been committed in
45 the state and the legal steps taken in connection with the
46 offenses, and other information useful in the study of crime and
47 the administration of justice, including information that

1 enables the bureau to create a statistical breakdown of offenses
2 in which family violence was involved and a statistical
3 breakdown of offenses under Sections 22.011 and 22.021, Penal
4 Code;

5 (3) make ballistic tests of bullets and firearms and
6 chemical analyses of bloodstains, cloth, materials, and other
7 substances for law enforcement officers of the state;

8 (4) cooperate with identification and crime records
9 bureaus in other states and the United States Department of
10 Justice;

11 (5) maintain a list of all previous background checks
12 for applicants for any position regulated under Chapter 1702,
13 Occupations Code, who have undergone a criminal history
14 background check under Section 411.119, if the check indicates a
15 Class B misdemeanor or equivalent offense or a greater offense;

16 (6) collect information concerning the number and
17 nature of protective orders and all other pertinent information
18 about all persons on active protective orders. Information in
19 the law enforcement information system relating to an active
20 protective order shall include:

21 (A) the name, sex, race, date of birth, personal
22 descriptors, address, and county of residence of the person to
23 whom the order is directed;

24 (B) any known identifying number of the person
25 to whom the order is directed, including the person's social
26 security number or driver's license number;

27 (C) the name and county of residence of the
28 person protected by the order;

29 (D) the residence address and place of
30 employment or business of the person protected by the order,
31 unless that information is excluded from the order under Section
32 85.007, Family Code;

33 (E) the child-care facility or school where a
34 child protected by the order normally resides or which the child
35 normally attends, unless that information is excluded from the
36 order under Section 85.007, Family Code;

37 (F) the relationship or former relationship
38 between the person who is protected by the order and the person
39 to whom the order is directed; and

40 (G) the date the order expires; ~~and~~

41 (7) grant access to criminal history record
42 information in the manner authorized under Subchapter F;

43 (8) [+7] collect and disseminate information
44 regarding offenders with mental impairments in compliance with
45 Chapter 614, Health and Safety Code; and

46 (9) record data and maintain a state database for a
47 computerized criminal history record system and computerized

1 juvenile justice information system that serves:

2 (A) as the record creation point for criminal
3 history record information and juvenile justice information
4 maintained by the state; and

5 (B) as the control terminal for the entry of
6 records, in accordance with federal law and regulations, federal
7 executive orders, and federal policy, into the federal database
8 maintained by the Federal Bureau of Investigation.

9 SECTION 10.02. Section 411.083(b), Government Code, is
10 amended to read as follows:

11 (b) The department shall grant access to criminal history
12 record information to:

13 (1) criminal justice agencies;

14 (2) noncriminal justice agencies authorized by
15 federal statute or executive order or by state statute to
16 receive criminal history record information;

17 (3) the person who is the subject of the criminal
18 history record information;

19 (4) a person working on a research or statistical
20 project that:

21 (A) is funded in whole or in part by state
22 funds; or

23 (B) meets the requirements of Part 22, Title 28,
24 Code of Federal Regulations, and is approved by the department;

25 (5) an individual or an agency that has a specific
26 agreement with a criminal justice agency to provide services
27 required for the administration of criminal justice under that
28 agreement, if the agreement:

29 (A) specifically authorizes access to
30 information;

31 (B) limits the use of information to the
32 purposes for which it is given;

33 (C) ensures the security and confidentiality of
34 the information; ~~and~~

35 (D) provides for sanctions if a requirement
36 imposed under Paragraph (A), (B), or (C) is violated; and

37 (E) requires the individual or agency to perform
38 the applicable services in a manner prescribed by the
39 department;

40 (6) an individual or an agency that has a specific
41 agreement with a noncriminal justice agency to provide services
42 related to the use of criminal history record information
43 disseminated under this subchapter, if the agreement:

44 (A) specifically authorizes access to
45 information;

46 (B) limits the use of information to the
47 purposes for which it is given;

1 (C) ensures the security and confidentiality of
2 the information; ~~and~~

3 (D) provides for sanctions if a requirement
4 imposed under Paragraph (A), (B), or (C) is violated; and

5 (E) requires the individual or agency to perform
6 the applicable services in a manner prescribed by the
7 department;

8 (7) a county or district clerk's office; and

9 (8) the Office of Court Administration of the Texas
10 Judicial System.

11 SECTION 10.03. Section 411.084(b), Government Code, is
12 amended to read as follows:

13 (b) Notwithstanding Subsection (a) or any other provision
14 in this subchapter, criminal history record information obtained
15 from the Federal Bureau of Investigation may be released or
16 disclosed only to a governmental entity or as authorized by
17 federal law and regulations [~~statute, federal rule~~], [~~or~~]
18 federal executive orders, and federal policy [~~order~~].

19 SECTION 10.04. Sections 411.0845(e), (i), and (k),
20 Government Code, are amended to read as follows:

21 (e) A person entitled to receive criminal history record
22 information under this section must provide the department with
23 the following information regarding the person who is the
24 subject of the criminal history record information requested:

25 (1) the person's full name, date of birth, sex,
26 [~~Texas driver's license number or personal identification~~
27 ~~certificate number,~~] and social security number, and the number
28 assigned to any form of unexpired identification card issued by
29 this state or another state, the District of Columbia, or a
30 territory of the United States that includes the person's
31 photograph;

32 (2) a recent electronic digital image photograph of
33 the person and a complete set of the person's fingerprints as
34 required by the department; and

35 (3) any other information required by the department.

36 (i) The release under this section of any criminal history
37 record information maintained by the Federal Bureau of
38 Investigation, including the computerized information submitted
39 to the federal database maintained by the Federal Bureau of
40 Investigation as described by Section 411.042(b)(9)(B), is
41 subject to federal law and regulations, federal executive
42 orders, and federal policy.

43 (k) A governmental agency may coordinate with the
44 department regarding the use of the fingerprinting fee
45 collection process to collect [~~collection of~~] a fee for the
46 criminal history record information and any other fees
47 associated with obtaining a person's fingerprints as required by

1 the department [~~through the fingerprinting fee collection~~
2 ~~process~~].

3 SECTION 10.05. Section 411.085(a), Government Code, is
4 amended to read as follows:

5 (a) A person commits an offense if the person knowingly or
6 intentionally:

7 (1) obtains criminal history record information in an
8 unauthorized manner, uses the information for an unauthorized
9 purpose, or discloses the information to a person who is not
10 entitled to the information;

11 [~~(2) provides a person with a copy of the person's~~
12 ~~criminal history record information obtained from the~~
13 ~~department;~~] or

14 (2) [~~(3)~~] violates a rule of the department adopted
15 under this subchapter.

16 SECTION 10.06. Section 411.094(d), Government Code, is
17 amended to read as follows:

18 (d) Criminal history record information received by an
19 institution of higher education under Subsection (b) may not be
20 released or disclosed to any person except on court order or
21 with the consent of the person who is the subject of the
22 criminal history record information.

23 SECTION 10.07. Section 411.0985(c), Government Code, is
24 amended to read as follows:

25 (c) The Texas Commission for the Blind may not release or
26 disclose information obtained under Subsection (a) except on
27 court order or with the consent of the person who is the subject
28 of the criminal history record information.

29 SECTION 10.08. Section 411.1005(b), Government Code, is
30 amended to read as follows:

31 (b) Information received by the state bar is confidential
32 and may be disseminated only:

33 (1) in a disciplinary action or proceeding conducted
34 by the state bar, the Board of Disciplinary Appeals, or any
35 court; or

36 (2) with the consent of the person who is the subject
37 of the criminal history record information.

38 SECTION 10.09. Section 411.1131(c), Government Code, is
39 amended to read as follows:

40 (c) The Texas Commission for the Deaf and Hard of Hearing
41 may not release or disclose information obtained under
42 Subsection (a), except on court order or with the consent of the
43 person who is the subject of the criminal history record
44 information, and shall destroy all criminal history record
45 information obtained under Subsection (a) after the information
46 is used for its authorized purpose.

47 SECTION 10.10. Section 411.1182(c), Government Code, is

1 amended to read as follows:

2 (c) Criminal history information obtained from the
3 department may not be released or disclosed except:

4 (1) as needed in protecting the security of a
5 commercial nuclear power plant;

6 (2) [ø] as authorized by the United States Nuclear
7 Regulatory Commission, a court order, or a federal or state law
8 or order; or

9 (3) with the consent of the person who is the subject
10 of the criminal history record information.

11 SECTION 10.11. Section 411.120(b), Government Code, is
12 amended to read as follows:

13 (b) Criminal history record information obtained by a
14 county judge under Subsection (a) may not be released or
15 disclosed to any person except in a hearing held under Chapter
16 25 or 69, Alcoholic Beverage Code, or with the consent of the
17 person who is the subject of the criminal history record
18 information.

19 SECTION 10.12. Section 411.1236(b), Government Code, is
20 amended to read as follows:

21 (b) Criminal history record information obtained by the
22 Texas Commission on Fire Protection under Subsection (a) may not
23 be released to any person or agency except on court order or
24 with the consent of the person who is the subject of the
25 criminal history record information, or if [unless] the
26 information is entered into evidence by the board in an
27 administrative, civil, or criminal hearing under Chapter 419.

28 SECTION 10.13. Section 411.136(e), Government Code, is
29 amended to read as follows:

30 (e) All criminal history record information received by a
31 public or nonprofit hospital or hospital district under this
32 section is privileged, confidential, and intended for the
33 exclusive use of the entity that obtained the information. The
34 hospital or district may not release or disclose criminal
35 history record information to any person or agency except in a
36 criminal proceeding, in a hearing conducted by the hospital or
37 district, to another governmental entity as required by law,
38 [ø] as required by court order, or with the consent of the
39 person who is the subject of the criminal history record
40 information.

41 SECTION 10.14. Section 411.139(b), Government Code, is
42 amended to read as follows:

43 (b) Criminal history record information obtained by the
44 securities commissioner under this section may not be released
45 by any person or agency except on court order or with the
46 consent of the person who is the subject of the criminal history
47 record information, unless the information is entered into

1 evidence by the State Securities Board or a court at an
2 administrative proceeding or a civil or criminal action under
3 The Securities Act (Article 581-1 et seq., Vernon's Texas Civil
4 Statutes).

5 SECTION 10.15. Section 411.140(b), Government Code, is
6 amended to read as follows:

7 (b) Information received by the State Commission on
8 Judicial Conduct is confidential and may be disseminated only in
9 an investigation or proceeding conducted by the commission or
10 with the consent of the person who is the subject of the
11 criminal history record information.

12 SECTION 10.16. Section 411.1402(c), Government Code, is
13 amended to read as follows:

14 (c) The Employees Retirement System of Texas may not
15 release or disclose information obtained under Subsection (a)
16 except on court order or with the consent of the person who is
17 the subject of the criminal history record information.

18 SECTION 10.17. Section 411.1406(d), Government Code, as
19 added by Chapter 406 (S.B. 885), Acts of the 80th Legislature,
20 Regular Session, 2007, is amended to read as follows:

21 (d) The court may not release or disclose information
22 obtained under Subsection (b) except on order of a district
23 court or with the consent of the person who is the subject of
24 the criminal history record information.

25 SECTION 10.18. To the extent of any conflict, this article
26 prevails over another Act of the 81st Legislature, Regular
27 Session, 2009, relating to nonsubstantive additions to and
28 corrections in enacted codes.

29 SECTION 10.19. This article takes effect immediately if
30 this Act receives a vote of two-thirds of all the members
31 elected to each house, as provided by Section 39, Article III,
32 Texas Constitution. If this Act does not receive the vote
33 necessary for immediate effect, this article takes effect
34 September 1, 2009.

35 ARTICLE 11. ADMINISTRATION OF CERTAIN PROVISIONS AFFECTING THE
36 LICENSING OF PERSONS TO CARRY A CONCEALED HANDGUN

37 SECTION 11.01. Section 411.1711, Government Code, is
38 amended to read as follows:

39 Sec. 411.1711. CERTAIN EXEMPTIONS FROM CONVICTIONS. A
40 person is not convicted, as that term is defined by Section
41 411.171, if an order of deferred adjudication was entered
42 against the person on a date not less than 10 years preceding
43 the date of the person's application for a license under this
44 subchapter unless the order of deferred adjudication was entered
45 against the person for:

46 (1) a felony [an] offense under:

47 (A) Title 5, Penal Code;

1 (B) [~~or~~] Chapter 29, Penal Code;
2 (C) Section 25.07, Penal Code; or
3 (D) Section 30.02, Penal Code, if the offense is
4 punishable under Subsection (c)(2) or (d) of that section; or
5 (2) an offense under the laws of another state if the
6 offense contains elements that are substantially similar to the
7 elements of an offense listed in Subdivision (1).

8 SECTION 11.02. Section 411.171(4), Government Code, is
9 amended to read as follows:

10 (4) "Convicted" means an adjudication of guilt or,
11 except as provided in Section 411.1711, an order of deferred
12 adjudication entered against a person by a court of competent
13 jurisdiction whether or not the imposition of the sentence is
14 subsequently probated and the person is discharged from
15 community supervision. The term does not include an
16 adjudication of guilt or an order of deferred adjudication that
17 has been subsequently:

- 18 (A) expunged; [~~or~~]
19 (B) pardoned under the authority of a state or
20 federal official; or
21 (C) otherwise vacated, set aside, annulled,
22 invalidated, voided, or sealed under any state or federal law.

23 SECTION 11.03. Section 411.172, Government Code, is
24 amended by amending Subsections (a), (b), (d), and (e) and
25 adding Subsection (b-1) to read as follows:

26 (a) A person is eligible for a license to carry a
27 concealed handgun if the person:

28 (1) is a legal resident of this state for the six-
29 month period preceding the date of application under this
30 subchapter or is otherwise eligible for a license under Section
31 411.173(a);

32 (2) is at least 21 years of age;

33 (3) has not been convicted of a felony;

34 (4) is not charged with the commission of a Class A
35 or Class B misdemeanor or equivalent offense, or of an offense
36 under Section 42.01, Penal Code, or equivalent offense, or of a
37 felony under an information or indictment;

38 (5) is not a fugitive from justice for a felony or a
39 Class A or Class B misdemeanor or equivalent offense;

40 (6) is not a chemically dependent person;

41 (7) is not incapable of exercising sound judgment
42 with respect to the proper use and storage of a handgun;

43 (8) has not, in the five years preceding the date of
44 application, been convicted of a Class A or Class B misdemeanor
45 or equivalent offense or of an offense under Section 42.01,
46 Penal Code, or equivalent offense;

47 (9) is fully qualified under applicable federal and

1 state law to purchase a handgun;
2 (10) has not been finally determined to be delinquent
3 in making a child support payment administered or collected by
4 the attorney general;
5 (11) has not been finally determined to be delinquent
6 in the payment of a tax or other money collected by the
7 comptroller, the tax collector of a political subdivision of the
8 state, or any agency or subdivision of the state;
9 (12) ~~[has not been finally determined to be in~~
10 ~~default on a loan made under Chapter 57, Education Code;~~
11 ~~[+13+]~~ is not currently restricted under a court
12 protective order or subject to a restraining order affecting the
13 spousal relationship, other than a restraining order solely
14 affecting property interests;
15 (13) ~~[+14+]~~ has not, in the 10 years preceding the
16 date of application, been adjudicated as having engaged in
17 delinquent conduct violating a penal law of the grade of felony;
18 and
19 (14) ~~[+15+]~~ has not made any material
20 misrepresentation, or failed to disclose any material fact, in
21 an application submitted pursuant to Section 411.174 ~~[or in a~~
22 ~~request for application submitted pursuant to Section 411.175]~~.
23 (b) For the purposes of this section, an offense under the
24 laws of this state, another state, or the United States is:
25 (1) except as provided by Subsection (b-1), a felony
26 if the offense, at the time the offense is committed ~~[of a~~
27 ~~person's application for a license to carry a concealed~~
28 ~~handgun]~~:
29 (A) is designated by a law of this state as a
30 felony;
31 (B) contains all the elements of an offense
32 designated by a law of this state as a felony; or
33 (C) is punishable by confinement for one year or
34 more in a penitentiary; and
35 (2) a Class A misdemeanor if the offense is not a
36 felony and confinement in a jail other than a state jail felony
37 facility is affixed as a possible punishment.
38 (b-1) An offense is not considered a felony for purposes
39 of Subsection (b) if, at the time of a person's application for
40 a license to carry a concealed handgun, the offense:
41 (1) is not designated by a law of this state as a
42 felony; and
43 (2) does not contain all the elements of any offense
44 designated by a law of this state as a felony.
45 (d) For purposes of Subsection (a)(7), a person is
46 incapable of exercising sound judgment with respect to the
47 proper use and storage of a handgun if the person:

1 (1) has been diagnosed by a licensed physician as
2 suffering from a psychiatric disorder or condition that causes
3 or is likely to cause substantial impairment in judgment, mood,
4 perception, impulse control, or intellectual ability;

5 (2) suffers from a psychiatric disorder or condition
6 described by Subdivision (1) that:

7 (A) is in remission but is reasonably likely to
8 redevelop at a future time; or

9 (B) requires continuous medical treatment to
10 avoid redevelopment;

11 (3) has been diagnosed by a licensed physician,
12 determined by a review board or similar authority, or declared
13 by a court to be incompetent to manage the person's own affairs;
14 or

15 (4) has entered in a criminal proceeding a plea of
16 not guilty by reason of insanity.

17 (e) The following constitutes evidence that a person has a
18 psychiatric disorder or condition described by Subsection
19 (d)(1):

20 (1) involuntary psychiatric hospitalization [~~in the~~
21 ~~preceding five year period~~];

22 (2) psychiatric hospitalization [~~in the preceding~~
23 ~~two year period~~];

24 (3) inpatient or residential substance abuse
25 treatment in the preceding five-year period;

26 (4) diagnosis in the preceding five-year period by a
27 licensed physician that the person is dependent on alcohol, a
28 controlled substance, or a similar substance; or

29 (5) diagnosis at any time by a licensed physician
30 that the person suffers or has suffered from a psychiatric
31 disorder or condition consisting of or relating to:

32 (A) schizophrenia or delusional disorder;

33 (B) bipolar disorder;

34 (C) chronic dementia, whether caused by illness,
35 brain defect, or brain injury;

36 (D) dissociative identity disorder;

37 (E) intermittent explosive disorder; or

38 (F) antisocial personality disorder.

39 SECTION 11.04. Sections 411.174(a) and (b), Government
40 Code, are amended to read as follows:

41 (a) An applicant for a license to carry a concealed
42 handgun must submit to the director's designee described by
43 Section 411.176:

44 (1) a completed application on a form provided by the
45 department that requires only the information listed in
46 Subsection (b);

47 (2) one or more [~~two recent color passport~~]

1 photographs of the applicant that meet the requirements of the
2 department [~~except that an applicant who is younger than 21~~
3 ~~years of age must submit two recent color passport photographs~~
4 ~~in profile of the applicant~~];

5 (3) a certified copy of the applicant's birth
6 certificate or certified proof of age;

7 (4) proof of residency in this state;

8 (5) two complete sets of legible and classifiable
9 fingerprints of the applicant taken by a person appropriately
10 trained in recording fingerprints who is employed by a law
11 enforcement agency or by a private entity designated by a law
12 enforcement agency as an entity qualified to take fingerprints
13 of an applicant for a license under this subchapter;

14 (6) a nonrefundable application and license fee of
15 \$140 paid to the department;

16 (7) evidence of [a] handgun proficiency, in the form
17 and manner required by the department [~~certificate described by~~
18 ~~Section 411.189~~];

19 (8) an affidavit signed by the applicant stating that
20 the applicant:

21 (A) has read and understands each provision of
22 this subchapter that creates an offense under the laws of this
23 state and each provision of the laws of this state related to
24 use of deadly force; and

25 (B) fulfills all the eligibility requirements
26 listed under Section 411.172; and

27 (9) a form executed by the applicant that authorizes
28 the director to make an inquiry into any noncriminal history
29 records that are necessary to determine the applicant's
30 eligibility for a license under Section 411.172(a).

31 (b) An applicant must provide on the application a
32 statement of the applicant's:

33 (1) full name and place and date of birth;

34 (2) race and sex;

35 (3) residence and business addresses for the
36 preceding five years;

37 (4) hair and eye color;

38 (5) height and weight;

39 (6) driver's license number or identification
40 certificate number issued by the department;

41 (7) criminal history record information of the type
42 maintained by the department under this chapter, including a
43 list of offenses for which the applicant was arrested, charged,
44 or under an information or indictment and the disposition of the
45 offenses; and

46 (8) history [~~during the preceding five years~~], if
47 any, of treatment received by, commitment to, or residence in:

1 (A) a drug or alcohol treatment center licensed
2 to provide drug or alcohol treatment under the laws of this
3 state or another state, but only if the treatment, commitment,
4 or residence occurred during the preceding five years; or

5 (B) a psychiatric hospital.

6 SECTION 11.05. Section 411.176, Government Code, is
7 amended to read as follows:

8 Sec. 411.176. REVIEW OF APPLICATION MATERIALS. (a) On
9 receipt of [~~the~~] application materials by the department at its
10 Austin headquarters, the department shall conduct the
11 appropriate criminal history record check of the applicant
12 through its computerized criminal history system. Not later
13 than the 30th day after the date the department receives the
14 application materials, the department shall forward the
15 materials to the director's designee in the geographical area of
16 the applicant's residence so that the designee may conduct the
17 investigation described by Subsection (b). For purposes of this
18 section, the director's designee may be a noncommissioned
19 employee of the department.

20 (b) The director's designee as needed shall conduct an
21 additional criminal history record check of the applicant and an
22 investigation of the applicant's local official records to
23 verify the accuracy of the application materials. The
24 director's designee may access any records necessary for
25 purposes of this subsection. The scope of the record check and
26 the investigation are at the sole discretion of the department,
27 except that the director's designee shall complete the record
28 check and investigation not later than the 60th day after the
29 date the department receives the application materials. The
30 department shall send a fingerprint card to the Federal Bureau
31 of Investigation for a national criminal history check of the
32 applicant. On completion of the investigation, the director's
33 designee shall return all materials and the result of the
34 investigation to the appropriate division of the department at
35 its Austin headquarters.

36 (c) The director's designee may submit to the appropriate
37 division of the department, at the department's Austin
38 headquarters, along with the application materials a written
39 recommendation for disapproval of the application, accompanied
40 by an affidavit stating personal knowledge or naming persons
41 with personal knowledge of a ground for denial under Section
42 411.172. The director's designee [~~in the appropriate~~
43 ~~geographical area~~] may also submit the application and the
44 recommendation that the license be issued.

45 (d) On receipt at the department's Austin headquarters of
46 the application materials and the result of the investigation by
47 the director's designee, the department shall conduct any

1 further record check or investigation the department determines
2 is necessary if a question exists with respect to the accuracy
3 of the application materials or the eligibility of the
4 applicant, except that the department shall complete the record
5 check and investigation not later than the 180th day after the
6 date the department receives the application materials from the
7 applicant.

8 SECTION 11.06. Sections 411.177(a) and (b), Government
9 Code, are amended to read as follows:

10 (a) The department shall issue a license to carry a
11 concealed handgun to an applicant if the applicant meets all the
12 eligibility requirements and submits all the application
13 materials. The department may issue a license to carry handguns
14 only of the categories for which the applicant has demonstrated
15 proficiency in the form and manner required by the department
16 [indicated on the applicant's certificate of proficiency issued
17 under Section 411.189]. The department shall administer the
18 licensing procedures in good faith so that any applicant who
19 meets all the eligibility requirements and submits all the
20 application materials shall receive a license. The department
21 may not deny an application on the basis of a capricious or
22 arbitrary decision by the department.

23 (b) The department shall, not later than the 60th day
24 after the date of the receipt by the director's designee of the
25 completed application materials:

26 (1) issue the license;

27 (2) notify the applicant in writing that the
28 application was denied:

29 (A) on the grounds that the applicant failed to
30 qualify under the criteria listed in Section 411.172;

31 (B) based on the affidavit of the director's
32 designee submitted to the department under Section 411.176(c)
33 [~~411.176(b)~~]; or

34 (C) based on the affidavit of the qualified
35 handgun instructor submitted to the department under Section
36 411.188(k) [~~411.189(e)~~]; or

37 (3) notify the applicant in writing that the
38 department is unable to make a determination regarding the
39 issuance or denial of a license to the applicant within the 60-
40 day period prescribed by this subsection and include in that
41 notification an explanation of the reason for the inability and
42 an estimation of the amount of time the department will need to
43 make the determination.

44 SECTION 11.07. Section 411.179(c), Government Code, as
45 added by Chapter 1222 (H.B. 2300), Acts of the 80th Legislature,
46 Regular Session, 2007, is amended to read as follows:

47 (c) In adopting the form of the license under Subsection

1 (a), the department shall establish a procedure for the license
2 of a qualified handgun instructor or of a judge, justice,
3 prosecuting attorney, or assistant prosecuting attorney, as
4 described by Section 46.15(a)(4) or (6), Penal Code, to indicate
5 on the license the license holder's status as a qualified
6 handgun instructor or as a judge, justice, district attorney,
7 criminal district attorney, or county attorney. In establishing
8 the procedure, the department shall require sufficient
9 documentary evidence to establish the license holder's status
10 under this subsection.

11 SECTION 11.08. Sections 411.181(a) and (b), Government
12 Code, as amended by Chapters 594 (H.B. 41) and 1222 (H.B. 2300),
13 Acts of the 80th Legislature, Regular Session, 2007, are
14 reenacted and amended to read as follows:

15 (a) If a person who is a current license holder moves from
16 any residence [~~the~~] address stated on the license [~~to a new~~
17 ~~residence address~~], if the name of the person is changed by
18 marriage or otherwise, or if the person's status [~~as a judge,~~
19 ~~justice, district attorney, prosecuting attorney, or assistant~~
20 ~~prosecuting attorney, as a federal judge, a state judge, or the~~
21 ~~spouse of a federal judge or state judge,~~] becomes inapplicable
22 for purposes of the information required to be displayed on the
23 license under Section 411.179 [~~411.179(e)~~], the person shall,
24 not later than the 30th day after the date of the address, name,
25 or status change, notify the department and provide the
26 department with the number of the person's license and, as
27 applicable, the person's:

- 28 (1) former and new addresses; [~~or~~]
- 29 (2) former and new names; or
- 30 (3) former and new status.

31 (b) If the name of the license holder is changed by
32 marriage or otherwise, or if the person's status [~~as a federal~~
33 ~~judge or state judge, or the spouse of a federal judge or state~~
34 ~~judge~~] becomes inapplicable as described by Subsection (a), the
35 person shall apply for a duplicate license. The duplicate
36 license must reflect [~~include~~] the person's current name,
37 residence address, and status.

38 SECTION 11.09. Section 411.184(a), Government Code, is
39 amended to read as follows:

40 (a) To modify a license to allow a license holder to carry
41 a handgun of a different category than the license indicates,
42 the license holder must:

- 43 (1) complete a proficiency examination as provided by
44 Section 411.188(e);
- 45 [~~(2) obtain a handgun proficiency certificate under~~
46 ~~Section 411.189 not more than six months before the date of~~
47 ~~application for a modified license;~~] and

1 (2) [~~(3)~~] submit to the department:

2 (A) an application for a modified license on a
3 form provided by the department;

4 (B) evidence of [a copy of the] handgun
5 proficiency, in the form and manner required by the department
6 [certificate];

7 (C) payment of a modified license fee of \$25;
8 and

9 (D) one or more [two recent color passport]
10 photographs of the license holder that meet the requirements of
11 the department [, except that an applicant who is younger than
12 21 years of age must submit two recent color passport
13 photographs in profile of the applicant].

14 SECTION 11.10. Section 411.185(a), Government Code, is
15 amended to read as follows:

16 (a) To renew a license, a license holder must:

17 (1) complete a continuing education course in handgun
18 proficiency under Section 411.188(c) within the six-month period
19 preceding:

20 (A) the date of application for renewal, for a
21 first or second renewal; and

22 (B) the date of application for renewal or the
23 date of application for the preceding renewal, for a third or
24 subsequent renewal, to ensure that the license holder is not
25 required to complete the course more than once in any 10-year
26 period;

27 ~~[(2) obtain a handgun proficiency certificate under~~
28 ~~Section 411.189 within the six-month period preceding:~~

29 ~~[(A) the date of application for renewal, for a~~
30 ~~first or second renewal; and~~

31 ~~[(B) the date of application for renewal or the~~
32 ~~date of application for the preceding renewal, for a third or~~
33 ~~subsequent renewal, to ensure that the license holder is not~~
34 ~~required to obtain the certificate more than once in any 10-year~~
35 ~~period;] and~~

36 (2) [~~(3)~~] submit to the department:

37 (A) an application for renewal on a form
38 provided by the department;

39 (B) evidence of [a copy of the] handgun
40 proficiency, in the form and manner required by the department
41 [certificate];

42 (C) payment of a nonrefundable renewal fee as
43 set by the department; and

44 (D) one or more [two recent color passport]
45 photographs of the applicant that meet the requirements of the
46 department.

47 SECTION 11.11. Section 411.186(a), Government Code, is

1 amended to read as follows:

2 (a) The department shall revoke a [A] license [may be
3 ~~revoked]~~ under this section if the license holder:

4 (1) was not entitled to the license at the time it
5 was issued;

6 (2) made a material misrepresentation or failed to
7 disclose a material fact in an application submitted under this
8 subchapter [gave false information on the application];

9 (3) subsequently becomes ineligible for a license
10 under Section 411.172, unless the sole basis for the
11 ineligibility is that the license holder is charged with the
12 commission of a Class A or Class B misdemeanor or equivalent
13 offense, or of an offense under Section 42.01, Penal Code, or
14 equivalent offense, or of a felony under an information or
15 indictment;

16 (4) is convicted of an offense under Section 46.035,
17 Penal Code;

18 (5) is determined by the department to have engaged
19 in conduct constituting a reason to suspend a license listed in
20 Section 411.187(a) after the person's license has been
21 previously suspended twice for the same reason; or

22 (6) submits an application fee that is dishonored or
23 reversed if the applicant fails to submit a cashier's check or
24 money order made payable to the "Department of Public Safety of
25 the State of Texas" in the amount of the dishonored or reversed
26 fee, plus \$25, within 30 days of being notified by the
27 department that the fee was dishonored or reversed.

28 SECTION 11.12. Sections 411.187(a) and (c), Government
29 Code, are amended to read as follows:

30 (a) The department shall suspend a [A] license [may be
31 ~~suspended]~~ under this section if the license holder:

32 (1) is charged with the commission of a Class A or
33 Class B misdemeanor or equivalent offense, or of an offense
34 under Section 42.01, Penal Code, or equivalent offense, or of a
35 felony under an information or indictment;

36 (2) fails to display a license as required by Section
37 411.205;

38 (3) fails to notify the department of a change of
39 address, ~~or~~ name, or status as required by Section 411.181;

40 (4) carries a concealed handgun under the authority
41 of this subchapter of a different category than the license
42 holder is licensed to carry;

43 (5) fails to return a previously issued license after
44 a license is modified as required by Section 411.184(d);

45 (6) commits an act of family violence and is the
46 subject of an active protective order rendered under Title 4,
47 Family Code; or

1 (7) is arrested for an offense involving family
2 violence or an offense under Section 42.072, Penal Code, and is
3 the subject of an order for emergency protection issued under
4 Article 17.292, Code of Criminal Procedure.

5 (c) The department shall suspend a [A] license [~~may be~~
6 ~~suspended~~] under this section:

7 (1) for 30 days, if the person's license is subject
8 to suspension for a reason listed in Subsection (a)(3), (4), or
9 (5), except as provided by Subdivision (3);

10 (2) for 90 days, if the person's license is subject
11 to suspension for a reason listed in Subsection (a)(2), except
12 as provided by Subdivision (3);

13 (3) for not less than one year and not more than
14 three years, if the person's license:

15 (A) is subject to suspension for a reason listed
16 in Subsection (a), other than the reason listed in Subsection
17 (a)(1); [~~7~~] and

18 (B) [~~the person's license~~] has been previously
19 suspended for the same reason;

20 (4) until dismissal of the charges, if the person's
21 license is subject to suspension for the reason listed in
22 Subsection (a)(1); or

23 (5) for the duration of or the period specified by:

24 (A) the protective order issued under Title 4,
25 Family Code, if the person's license is subject to suspension
26 for the reason listed in Subsection (a)(6); or

27 (B) the order for emergency protection issued
28 under Article 17.292, Code of Criminal Procedure, if the
29 person's license is subject to suspension for the reason listed
30 in Subsection (a)(7).

31 SECTION 11.13. Section 411.188, Government Code, is
32 amended by amending Subsections (a), (g), (h), and (i) and
33 adding Subsection (k) to read as follows:

34 (a) The director by rule shall establish minimum standards
35 for handgun proficiency and shall develop a course to teach
36 handgun proficiency and examinations to measure handgun
37 proficiency. The course to teach handgun proficiency must
38 contain training sessions divided into two parts. One part of
39 the course must be classroom instruction and the other part must
40 be range instruction and an actual demonstration by the
41 applicant of the applicant's ability to safely and proficiently
42 use the applicable category of handgun [~~for which the applicant~~
43 ~~seeks certification~~]. An applicant must be able to demonstrate
44 [~~may not be certified unless the applicant demonstrates~~], at a
45 minimum, the degree of proficiency that is required to
46 effectively operate a handgun of .32 caliber or above. The
47 department shall distribute the standards, course requirements,

1 and examinations on request to any qualified handgun instructor.

2 (g) A person who wishes to obtain or renew a license to
3 carry a concealed handgun must apply in person to a qualified
4 handgun instructor to take the appropriate course in handgun
5 proficiency and [~~7~~] demonstrate handgun proficiency as required
6 by the department[~~, and obtain a handgun proficiency certificate~~
7 ~~as described by Section 411.189~~].

8 (h) A license holder who wishes to modify a license to
9 allow the license holder to carry a handgun of a different
10 category than the license indicates must apply in person to a
11 qualified handgun instructor to demonstrate the required
12 knowledge and proficiency [~~to obtain a handgun proficiency~~
13 ~~certificate~~] in that category [~~as described by Section 411.189~~].

14 (i) A certified firearms instructor of the department may
15 monitor any class or training presented by a qualified handgun
16 instructor. A qualified handgun instructor shall cooperate with
17 the department in the department's efforts to monitor the
18 presentation of training by the qualified handgun instructor. A
19 qualified handgun instructor shall make available for inspection
20 to the department any and all records maintained by a qualified
21 handgun instructor under this subchapter. The qualified handgun
22 instructor shall keep a record of all [~~certificates of handgun~~
23 ~~proficiency issued by the qualified handgun instructor and~~
24 ~~other~~] information required by department rule.

25 (k) A qualified handgun instructor may submit to the
26 department a written recommendation for disapproval of the
27 application for a license, renewal, or modification of a
28 license, accompanied by an affidavit stating personal knowledge
29 or naming persons with personal knowledge of facts that lead the
30 instructor to believe that an applicant does not possess the
31 required handgun proficiency. The department may use a written
32 recommendation submitted under this subsection as the basis for
33 denial of a license only if the department determines that the
34 recommendation is made in good faith and is supported by a
35 preponderance of the evidence. The department shall make a
36 determination under this subsection not later than the 45th day
37 after the date the department receives the written
38 recommendation. The 60-day period in which the department must
39 take action under Section 411.177(b) is extended one day for
40 each day a determination is pending under this subsection.

41 SECTION 11.14. Section 411.1882, Government Code, is
42 amended to read as follows:

43 Sec. 411.1882. EVIDENCE OF [~~EXEMPTION—FROM~~] HANDGUN
44 PROFICIENCY [~~CERTIFICATE—REQUIREMENT~~] FOR CERTAIN PERSONS.

45 (a) A person who is serving in this state as a judge or justice
46 of a federal court, as an active judicial officer, as defined by
47 Section 411.201, or as a district attorney, assistant district

1 attorney, criminal district attorney, assistant criminal
2 district attorney, county attorney, or assistant county attorney
3 may establish handgun proficiency for the purposes of this
4 subchapter by obtaining from a handgun proficiency instructor
5 approved by the Commission on Law Enforcement Officer Standards
6 and Education for purposes of Section 1702.1675, Occupations
7 Code, a sworn statement that:

8 (1) indicates that the person, during the 12-month
9 period preceding the date of the person's application to the
10 department, demonstrated to the instructor proficiency in the
11 use of handguns; and

12 (2) designates the categories of handguns with
13 respect to which the person demonstrated proficiency
14 [~~Notwithstanding any other provision of this subchapter, a~~
15 ~~person may not be required to submit to the department a handgun~~
16 ~~proficiency certificate to obtain or renew a concealed handgun~~
17 ~~license issued under this subchapter if:~~

18 [~~(1) the person is currently serving in this state~~
19 ~~as:~~

20 [~~(A) a judge or justice of a federal court;~~

21 [~~(B) an active judicial officer, as defined by~~
22 ~~Section 411.201, Government Code; or~~

23 [~~(C) a district attorney, assistant district~~
24 ~~attorney, criminal district attorney, assistant criminal~~
25 ~~district attorney, county attorney, or assistant county~~
26 ~~attorney; and~~

27 [~~(2) a handgun proficiency instructor approved by the~~
28 ~~Commission on Law Enforcement Officer Standards and Education~~
29 ~~for purposes of Section 1702.1675, Occupations Code, makes a~~
30 ~~sworn statement indicating that the person demonstrated~~
31 ~~proficiency to the instructor in the use of handguns during the~~
32 ~~12-month period preceding the date of the person's application~~
33 ~~to the department and designating the types of handguns with~~
34 ~~which the person demonstrated proficiency].~~

35 (b) The director by rule shall adopt a procedure by which
36 a person described [~~who is exempt~~] under Subsection (a) [~~from~~
37 ~~the handgun proficiency certificate requirement~~] may submit a
38 form demonstrating the person's qualification for an exemption
39 under that subsection. The form must provide sufficient
40 information to allow the department to verify whether the person
41 qualifies for the exemption.

42 (c) A license issued under this section automatically
43 expires on the six-month anniversary of the date the person's
44 status under Subsection (a) becomes inapplicable. A license
45 that expires under this subsection may be renewed under Section
46 411.185.

47 SECTION 11.15. Section 411.190, Government Code, is

1 amended by adding Subsection (d-1) to read as follows:

2 (d-1) The department shall ensure that an applicant may
3 renew certification under Subsection (d) from any county in this
4 state by using an online format to complete the required
5 retraining courses if:

6 (1) the applicant is renewing certification for the
7 first time; or

8 (2) the applicant completed the required retraining
9 courses in person the previous time the applicant renewed
10 certification.

11 SECTION 11.16. Sections 411.199(a) and (e), Government
12 Code, are amended to read as follows:

13 (a) A person who is licensed as a peace officer under
14 Chapter 1701, Occupations Code, [415] and who has been employed
15 full-time as a peace officer by a law enforcement agency may
16 apply for a license under this subchapter at any time after
17 retirement.

18 (e) A retired peace officer who obtains a license under
19 this subchapter must maintain, for the category of weapon
20 licensed, the proficiency required for a peace officer under
21 Section 1701.355, Occupations Code [415.035]. The department or
22 a local law enforcement agency shall allow a retired peace
23 officer of the department or agency an opportunity to annually
24 demonstrate the required proficiency. The proficiency shall be
25 reported to the department on application and renewal.

26 SECTION 11.17. Section 411.1991(a), Government Code, is
27 amended to read as follows:

28 (a) A person who is licensed as a peace officer under
29 Chapter 1701, Occupations Code, [415] and is employed full-time
30 as a peace officer by a law enforcement agency may apply for a
31 license under this subchapter. The person shall submit to the
32 department two complete sets of legible and classifiable
33 fingerprints and a sworn statement of the head of the law
34 enforcement agency employing the applicant. A head of a law
35 enforcement agency may not refuse to issue a statement under
36 this subsection. If the applicant alleges that the statement is
37 untrue, the department shall investigate the validity of the
38 statement. The statement must include:

39 (1) the name and rank of the applicant;

40 (2) whether the applicant has been accused of
41 misconduct at any time during the applicant's period of
42 employment with the agency and the disposition of that
43 accusation;

44 (3) a description of the physical and mental
45 condition of the applicant;

46 (4) a list of the types of weapons the applicant has
47 demonstrated proficiency with during the preceding year; and

1 (5) a recommendation from the agency head that a
2 license be issued to the person under this subchapter.

3 SECTION 11.18. Sections 411.201(c) and (d), Government
4 Code, are amended to read as follows:

5 (c) An active judicial officer is eligible for a license
6 to carry a concealed handgun under the authority of this
7 subchapter. A retired judicial officer is eligible for a
8 license to carry a concealed handgun under the authority of this
9 subchapter if the officer:

10 (1) has not been convicted of a felony;

11 (2) has not, in the five years preceding the date of
12 application, been convicted of a Class A or Class B misdemeanor
13 or equivalent offense;

14 (3) is not charged with the commission of a Class A
15 or Class B misdemeanor or equivalent offense or of a felony
16 under an information or indictment;

17 (4) is not a chemically dependent person; and

18 (5) is not a person of unsound mind.

19 (d) An applicant for a license who is an active or retired
20 judicial officer must submit to the department:

21 (1) a completed application, including all required
22 affidavits, on a form prescribed by the department;

23 (2) one or more [two—recent—color—passport]
24 photographs of the applicant that meet the requirements of the
25 department;

26 (3) two complete sets of legible and classifiable
27 fingerprints of the applicant, including one set taken by a
28 person employed by a law enforcement agency who is appropriately
29 trained in recording fingerprints;

30 (4) evidence of [a] handgun proficiency, in the form
31 and manner required by the department for an applicant under
32 this section [certificate issued to the applicant as evidence
33 that the applicant successfully completed the proficiency
34 requirements of this subchapter];

35 (5) [+4] a nonrefundable application and license fee
36 set by the department in an amount reasonably designed to cover
37 the administrative costs associated with issuance of a license
38 to carry a concealed handgun under this subchapter; and

39 (6) [+5] if the applicant is a retired judicial
40 officer, [+]

41 ~~[A] two complete sets of legible and~~
42 ~~classifiable fingerprints of the applicant taken by a person~~
43 ~~employed by a law enforcement agency who is appropriately~~
44 ~~trained in recording fingerprints; and~~

45 ~~[B]~~ a form executed by the applicant that
46 authorizes the department to make an inquiry into any
47 noncriminal history records that are necessary to determine the

1 applicant's eligibility for a license under this subchapter.

2 SECTION 11.19. Section 411.208, Government Code, is
3 amended by adding Subsection (e) to read as follows:

4 (e) The immunities granted under Subsection (a) to a
5 qualified handgun instructor do not apply to a cause of action
6 for fraud or a deceptive trade practice.

7 SECTION 11.20. Article 17.292(1), Code of Criminal
8 Procedure, is amended to read as follows:

9 (1) In the order for emergency protection, the magistrate
10 shall ~~[may]~~ suspend a license to carry a concealed handgun
11 issued under Subchapter H, Chapter 411 [~~Section 411.177~~],
12 Government Code, that is held by the defendant.

13 SECTION 11.21. Section 85.022(d), Family Code, is amended
14 to read as follows:

15 (d) In a protective order, the court shall ~~[may]~~ suspend a
16 license to carry a concealed handgun issued under Subchapter H,
17 Chapter 411 [~~Section 411.177~~], Government Code, that is held by
18 a person found to have committed family violence.

19 SECTION 11.22. Section 12.095(e), Health and Safety Code,
20 is amended to read as follows:

21 (e) The panel may require the applicant or license holder
22 to undergo a medical or other examination at the applicant's or
23 holder's expense. A person who conducts an examination under
24 this subsection may be compelled to testify before the panel and
25 in any subsequent proceedings under Subchapter H, Chapter 411,
26 Government Code, or Subchapter N, Chapter 521, Transportation
27 Code, as applicable, concerning the person's observations and
28 findings.

29 SECTION 11.23. Section 12.097(b), Health and Safety Code,
30 is amended to read as follows:

31 (b) In a subsequent proceeding under Subchapter H, Chapter
32 411, Government Code, or Subchapter N, Chapter 521,
33 Transportation Code, the medical standards division may provide
34 a copy of the report of the medical advisory board or panel and
35 a medical record or report relating to an applicant or license
36 holder to:

37 (1) the Department of Public Safety of the State of
38 Texas;

39 (2) the applicant or license holder; and

40 (3) the officer who presides at the hearing.

41 SECTION 11.24. Section 46.04, Penal Code, is amended by
42 adding Subsections (f) and (g) to read as follows:

43 (f) For the purposes of this section , an offense under
44 the laws of this state, another state, or the United States is,
45 except as provided by Subsection (g), a felony if, at the time
46 it is committed, the offense:

47 (1) is designated by a law of this state as a felony;

1 (2) contains all the elements of an offense
2 designated by a law of this state as a felony; or

3 (3) is punishable by confinement for one year or more
4 in a penitentiary.

5 (g) An offense is not considered a felony for purposes of
6 Subsection (f) if, at the time the person possesses a firearm,
7 the offense:

8 (1) is not designated by a law of this state as a
9 felony; and

10 (2) does not contain all the elements of any offense
11 designated by a law of this state as a felony.

12 SECTION 11.25. Sections 411.175 and 411.189, Government
13 Code, are repealed.

14 SECTION 11.26. The changes in law made by Sections
15 411.171, 411.1711, 411.172, and 411.201(c), Government Code, as
16 amended by this article, apply only to the eligibility of a
17 person for the issuance, modification, or renewal of a license,
18 the application for which is made on or after the effective date
19 of this article. A holder of a license that was issued,
20 modified, or renewed before the effective date of this article
21 is not disqualified from holding that license solely by reason
22 of this article.

23 SECTION 11.27. The changes in law made by Sections
24 411.174, 411.176, 411.177, 411.184, 411.185, 411.188, 411.1882,
25 and 411.201(d), Government Code, as amended by this article, and
26 by the repeal of Sections 411.175 and 411.189, Government Code,
27 apply only to an application for the issuance, modification, or
28 renewal of a license that is submitted to the Department of
29 Public Safety on or after the effective date of this article.
30 An application submitted before the effective date of this
31 article is governed by the law in effect when the application
32 was submitted, and the former law is continued in effect for
33 that purpose.

34 SECTION 11.28. The changes in law made by this article to
35 Sections 411.186 and 411.187, Government Code, Article 17.292,
36 Code of Criminal Procedure, and Section 85.022, Family Code,
37 apply only to an administrative or judicial determination
38 concerning the revocation or suspension of a license to carry a
39 concealed handgun that is made on or after the effective date of
40 this article. An administrative or judicial determination made
41 before the effective date of this article is covered by the law
42 in effect when the determination was made, and the former law is
43 continued in effect for that purpose.

44 SECTION 11.29. The change in law made by Section 411.208,
45 Government Code, as amended by this article, applies only to a
46 cause of action that accrues on or after the effective date of
47 this article. A cause of action that accrued before the

1 effective date of this article is governed by the law in effect
2 immediately before the effective date of this article, and the
3 former law is continued in effect for that purpose.

4 SECTION 11.30. The change in law made by this Act in
5 amending Section 46.04, Penal Code, applies only to an offense
6 committed on or after the effective date of this Act. An
7 offense committed before the effective date of this Act is
8 covered by the law in effect when the offense was committed, and
9 the former law is continued in effect for that purpose. For
10 purposes of this section, an offense was committed before the
11 effective date of this Act if any element of the offense
12 occurred before that date.

13 SECTION 11.31. This article takes effect September 1,
14 2009.

15 ARTICLE 12. DRIVER EDUCATION AND DRIVER'S LICENSING REQUIREMENTS
16 FOR MINORS

17 SECTION 12.01. This article shall be known as the Less
18 Tears More Years Act.

19 SECTION 12.02. Section 29.902, Education Code, is amended
20 by adding Subsection (c) to read as follows:

21 (c) A school district shall consider offering a driver
22 education and traffic safety course during each school year. If
23 the district offers the course, the district may:

24 (1) conduct the course and charge a fee for the
25 course in the amount determined by the agency to be comparable
26 to the fee charged by a driver education school that holds a
27 license under Chapter 1001; or

28 (2) contract with a driver education school that
29 holds a license under Chapter 1001 to conduct the course.

30 SECTION 12.03. Section 1001.101, Education Code, is
31 amended to read as follows:

32 Sec. 1001.101. DRIVER EDUCATION COURSE CURRICULUM AND
33 TEXTBOOKS. (a) The commissioner by rule shall establish or
34 approve the curriculum and designate the textbooks to be used in
35 a driver education course, including a driver education course
36 conducted by a school district, driver education school, or
37 parent or other individual under Section 521.205, Transportation
38 Code.

39 (b) A driver education course must require the student to
40 complete:

41 (1) 7 hours of behind-the-wheel instruction in the
42 presence of a person who holds a driver education instructor
43 license or who meets the requirements imposed under Section
44 521.205, Transportation Code;

45 (2) 7 hours of observation instruction in the
46 presence of a person who holds a driver education instructor
47 license or who meets the requirements imposed under Section

1 521.205, Transportation Code; and
2 (3) 20 hours of behind-the-wheel instruction,
3 including at least 10 hours of instruction that takes place at
4 night, in the presence of an adult who meets the requirements of
5 Section 521.222(d)(2), Transportation Code.

6 SECTION 12.04. Subchapter F, Chapter 1001, Education Code,
7 is amended by adding Section 1001.257 to read as follows:

8 Sec. 1001.257. DENIAL OF LICENSE. The commissioner may
9 not issue or renew a driver education instructor license,
10 including a temporary license, to a person who has six or more
11 points assigned to the person's driver's license under
12 Subchapter B, Chapter 708, Transportation Code.

13 SECTION 12.05. Section 521.165, Transportation Code, is
14 amended by amending Subsection (c) and adding Subsection (d) to
15 read as follows:

16 (c) Except as provided by Subsection (d), in [~~In~~] issuing
17 a driver's license for certain types of vehicles, the director
18 may waive a driving test for an applicant who has successfully
19 completed and passed the training and testing conducted by a
20 person certified under Subsection (a).

21 (d) The director may not waive the driving test required
22 by Section 521.161 for an applicant who is under 18 years of
23 age.

24 SECTION 12.06. Section 521.204(a), Transportation Code, is
25 amended to read as follows:

26 (a) The department may issue a Class C driver's license to
27 an applicant under 18 years of age only if the applicant:

28 (1) is 16 years of age or older;

29 (2) has submitted to the department a driver
30 education certificate issued under Section 9A, Texas Driver and
31 Traffic Safety Education Act (Article 4413(29c), Vernon's Texas
32 Civil Statutes), that states that the person has completed and
33 passed a driver education course approved by the department
34 under Section 521.205 or by the Texas Education Agency;

35 (3) has obtained a high school diploma or its
36 equivalent or is a student:

37 (A) enrolled in a public school, home school, or
38 private school who attended school for at least 80 days in the
39 fall or spring semester preceding the date of the driver's
40 license application; or

41 (B) who has been enrolled for at least 45 days,
42 and is enrolled as of the date of the application, in a program
43 to prepare persons to pass the high school equivalency exam;
44 [~~and~~]

45 (4) has submitted to the department written parental
46 or guardian permission for the department to access the
47 applicant's school enrollment records maintained by the Texas

1 Education Agency; and

2 (5) has passed the examination required by Section
3 521.161.

4 SECTION 12.07. Section 521.205(a), Transportation Code, is
5 amended to read as follows:

6 (a) The department by rule shall provide for approval of a
7 driver education course conducted by the parent, stepparent,
8 foster parent, legal guardian, step-grandparent, or grandparent
9 of a person who is required to complete a driver education
10 course to obtain a Class C license. The rules must provide
11 that:

12 (1) the person conducting the course possess a valid
13 license for the preceding three years that [~~and the license~~] has
14 not been suspended, revoked, or forfeited in the past three
15 years for an offense that involves the operation of a motor
16 vehicle [~~traffic related violations~~];

17 (2) the student driver spend a minimum number of
18 hours in:

19 (A) classroom instruction; and

20 (B) behind-the-wheel instruction;

21 (3) the person conducting the course not be convicted
22 of:

23 (A) criminally negligent homicide; or

24 (B) driving while intoxicated; [~~and~~]

25 (4) the person conducting the course not be disabled
26 because of mental illness; and

27 (5) the person conducting the course not have six or
28 more points assigned to the person's driver's license under
29 Subchapter B, Chapter 708, at the time the person begins
30 conducting the course.

31 SECTION 12.08. Subchapter J, Chapter 521, Transportation
32 Code, is amended by adding Section 521.206 to read as follows:

33 Sec. 521.206. COLLISION RATE STATISTICS PUBLICATION. (a)
34 The department shall collect data regarding collisions of
35 students taught by public schools, driver education schools
36 licensed under Chapter 1001, Education Code, and other entities
37 that offer driver education courses to students for which a
38 uniform certificate of course completion is issued. The
39 collision rate is computed by determining the number of an
40 entity's students who complete a driver education course during
41 a state fiscal year, dividing that number by the number of
42 collisions that involved students who completed such a course
43 and that occurred in the 12-month period following their
44 licensure, and expressing the quotient as a percentage.

45 (b) The department shall collect data regarding the
46 collision rate of students taught by course instructors approved
47 under Section 521.205. The collision rate is computed by

1 determining the number of students who completed a course
2 approved under Section 521.205 during a state fiscal year,
3 dividing that number by the number of collisions that involved
4 students who completed such a course and that occurred in the
5 12-month period following their licensure, and expressing the
6 quotient as a percentage.

7 (c) Not later than October 1 of each year, the department
8 shall issue a publication listing the collision rate for
9 students taught by each driver education entity and the
10 collision rate for students taught by a course instructor
11 approved under Section 521.205, noting the severity of
12 collisions involving students of each entity and each type of
13 course.

14 SECTION 12.09. Section 521.271, Transportation Code, is
15 amended by amending Subsection (a) and adding Subsection (a-1)
16 to read as follows:

17 (a) Each original driver's license and provisional license
18 expires as follows:

19 (1) except as provided by Section 521.2711, a
20 driver's license expires on the first birthday of the license
21 holder occurring after the sixth anniversary of the date of the
22 application;

23 (2) a provisional license expires on [~~the earlier of:~~
24 [~~A~~] the 18th birthday of the license holder[~~+~~
25 ~~or~~

26 [~~B~~] ~~the first birthday of the license holder~~
27 ~~occurring after the date of the application];~~

28 (3) an instruction permit expires on the 18th
29 birthday of the license holder [~~second birthday of the license~~
30 ~~holder occurring after the date of the application]; and~~

31 (4) an occupational license expires on the first
32 anniversary of the court order granting the license.

33 (a-1) The department and the Texas Education Agency shall
34 enter into a memorandum of understanding under which the
35 department may access the agency's electronic enrollment records
36 to verify a student's enrollment in a public school. The
37 memorandum of understanding must specify that the department may
38 only access information necessary to verify the identity and
39 enrollment status of a license renewal applicant and only if a
40 parent or guardian of the applicant has provided written
41 permission for the department to access that information.
42 Nothing in this subsection may be construed to allow the release
43 of information in violation of the Family Educational Rights and
44 Privacy Act of 1974 (20 U.S.C. Section 1232g).

45 SECTION 12.10. Section 521.421(c), Transportation Code, is
46 amended to read as follows:

47 (c) The fee for issuance [~~or renewal~~] of a provisional

1 license or instruction permit is \$15 [~~\$5~~].

2 SECTION 12.11. Section 545.424, Transportation Code, is
3 amended by amending Subsections (a), (b), and (c) and adding
4 Subsection (f) to read as follows:

5 (a) A person under 18 years of age [~~, during the six-month~~
6 ~~period following issuance of an original Class A, B, or C~~
7 ~~driver's license to the person,~~] may not operate a motor
8 vehicle:

9 (1) during the 12-month period following issuance of
10 an original Class A, B, or C driver's license to the person:

11 (A) after midnight and before 5 a.m. unless the
12 operation of the vehicle is necessary for the operator to attend
13 or participate in employment or a school-related activity or
14 because of a medical emergency; or

15 (B) [~~+2~~] with more than one passenger in the
16 vehicle under 21 years of age who is not a family member; or

17 (2) [~~+3~~] while using a wireless communications
18 device, except in case of emergency.

19 (b) A person under 17 years of age who holds a restricted
20 motorcycle license or moped license, during the 12-month [~~six-~~
21 ~~month~~] period following the issuance of an original motorcycle
22 license or moped license to the person, may not operate a
23 motorcycle or moped:

24 (1) after midnight and before 5 a.m. unless:

25 (A) the person is in sight of the person's
26 parent or guardian; or

27 (B) the operation of the vehicle is necessary
28 for the operator to attend or participate in employment or a
29 school-related activity or because of a medical emergency; or

30 (2) while using a wireless communications device,
31 except in case of emergency.

32 (c) This section does not apply to:

33 (1) the holder of a hardship license; [~~or~~]

34 (2) a person operating a motor vehicle while
35 accompanied in the manner required by Section 521.222(d)(2) for
36 the holder of an instruction permit; or

37 (3) a person licensed by the Federal Communications
38 Commission to operate a wireless communication device or a radio
39 frequency device.

40 (f) In this section, "wireless communication device" means
41 a handheld or hands-free device that uses commercial mobile
42 service, as defined by 47 U.S.C. Section 332.

43 SECTION 12.12. (a) For the purpose of compiling data for
44 the publication required by Section 521.206, Transportation
45 Code, as added by this article, the Texas Department of Public
46 Safety shall determine the number of minor students taught by
47 each driver education entity and the total number of minor

1 students taught by courses approved under Section 521.205,
2 Transportation Code, who become licensed during the state fiscal
3 year beginning September 1, 2009, and ending August 31, 2010.

4 (b) The first publication of collision rate data compiled
5 under Section 521.206, Transportation Code, as added by this
6 article, shall be issued not later than October 1, 2011.

7 SECTION 12.13. Not later than November 30, 2009, the Texas
8 Department of Public Safety shall appoint a task force to review
9 and make recommendations regarding the effectiveness of the
10 materials provided by the Texas Education Agency for use in
11 courses licensed under Chapter 1001, Education Code, or
12 authorized by Section 521.205, Transportation Code. The task
13 force shall consist of the following members:

14 (1) a representative of the Texas Department of
15 Public Safety;

16 (2) a representative of the Texas Education Agency;

17 (3) a commercial provider of driver education
18 courses;

19 (4) a member of an interested group or association,
20 as determined by the department; and

21 (5) other appropriate members, as determined by the
22 department.

23 SECTION 12.14. (a) Section 29.902(c), Education Code, as
24 added by this article, applies beginning with the 2010-2011
25 school year.

26 (b) Not later than January 1, 2010, the commissioner of
27 education shall adopt rules as required by Section 1001.101,
28 Education Code, as amended by this article.

29 (c) Each driver education and training program approved by
30 the Texas Education Agency under Chapter 1001, Education Code,
31 must comply with the curriculum requirements of Section
32 1001.101, Education Code, as amended by this article, not later
33 than May 1, 2010.

34 (d) Section 521.165, Transportation Code, as amended by
35 this article, applies only to an application for a driver's
36 license submitted on or after the effective date of this
37 article. An application for a driver's license submitted before
38 the effective date of this article is subject to the law in
39 effect on the date the application was submitted, and that law
40 is continued in effect for that purpose.

41 (e) The changes in law made by this article to Section
42 521.205, Transportation Code, apply to a course approved under
43 that section that begins on or after the effective date of this
44 article. A course beginning before the effective date of this
45 article is governed by the law in effect on the date the course
46 was commenced, and that law is continued in effect for that
47 purpose.

1 (f) The changes in law made by this article to Sections
2 521.271, 521.421, and 545.424, Transportation Code, apply only
3 to a person issued a driver's license on or after the effective
4 date of this article. A person issued a driver's license before
5 the effective date of this article is governed by the law in
6 effect on the date the license was issued, and that law is
7 continued in effect for that purpose.

8 SECTION 12.15. This article takes effect September 1,
9 2009.

10 ARTICLE 12A. DISPLAY OF LICENSE TO
11 CARRY A CONCEALED HANDGUN

12 SECTION 12A.01. Sections 411.187(a) and (c), Government
13 Code, are amended to read as follows:

14 (a) A license may be suspended under this section if the
15 license holder:

16 (1) is charged with the commission of a Class A or
17 Class B misdemeanor or an offense under Section 42.01, Penal
18 Code, or of a felony under an information or indictment;

19 (2) ~~[fails to display a license as required by~~
20 ~~Section 411.205;~~

21 ~~[+3)]~~ fails to notify the department of a change of
22 address or name as required by Section 411.181;

23 (3) ~~[+4)]~~ carries a concealed handgun under the
24 authority of this subchapter of a different category than the
25 license holder is licensed to carry;

26 (4) ~~[+5)]~~ fails to return a previously issued license
27 after a license is modified as required by Section 411.184(d);

28 (5) ~~[+6)]~~ commits an act of family violence and is
29 the subject of an active protective order rendered under Title
30 4, Family Code; or

31 (6) ~~[+7)]~~ is arrested for an offense involving family
32 violence or an offense under Section 42.072, Penal Code, and is
33 the subject of an order for emergency protection issued under
34 Article 17.292, Code of Criminal Procedure.

35 (c) A license may be suspended under this section:

36 (1) for 30 days, if the person's license is subject
37 to suspension for a reason listed in Subsection (a)(2), (3)
38 ~~[+a)(3)]~~, or (4), ~~[or (5)]~~, except as provided by Subdivision
39 (2) ~~[+3)]~~;

40 (2) ~~[for 90 days, if the person's license is subject~~
41 ~~to suspension for a reason listed in Subsection (a)(2), except~~
42 ~~as provided by Subdivision (3)]~~;

43 ~~[+3)]~~ for not less than one year and not more than
44 three years if the person's license is subject to suspension for
45 a reason listed in Subsection (a), other than the reason listed
46 in Subsection (a)(1), and the person's license has been
47 previously suspended for the same reason;

1 (3) [~~4~~] until dismissal of the charges if the
2 person's license is subject to suspension for the reason listed
3 in Subsection (a)(1); or

4 (4) [~~5~~] for the duration of or the period specified
5 by:

6 (A) the protective order issued under Title 4,
7 Family Code, if the person's license is subject to suspension
8 for the reason listed in Subsection (a)(5) [~~(a)(6)~~]; or

9 (B) the order for emergency protection issued
10 under Article 17.292, Code of Criminal Procedure, if the
11 person's license is subject to suspension for the reason listed
12 in Subsection (a)(6) [~~(a)(7)~~].

13 SECTION 12A.02. Section 411.205, Government Code, is
14 amended to read as follows:

15 Sec. 411.205. REQUIREMENT TO DISPLAY [DISPLAYING]
16 LICENSE[; ~~PENALTY~~]. [~~(a)~~] If a license holder is carrying a
17 handgun on or about the license holder's person when a
18 magistrate or a peace officer demands that the license holder
19 display identification, the license holder shall display both
20 the license holder's driver's license or identification
21 certificate issued by the department and the license holder's
22 handgun license. [~~A person who fails or refuses to display the
23 license and identification as required by this subsection is
24 subject to suspension of the person's license as provided by
25 Section 411.187.~~

26 [~~(b) A person commits an offense if the person fails or
27 refuses to display the license and identification as required by
28 Subsection (a) after previously having had the person's license
29 suspended for a violation of that subsection. An offense under
30 this subsection is a Class B misdemeanor.~~]

31 SECTION 12A.03. An offense under Section 411.205,
32 Government Code, may not be prosecuted after the effective date
33 of this article. If, on the effective date of this article, a
34 criminal action is pending for an offense under Section 411.205,
35 the action is dismissed on that date. However, a final
36 conviction for an offense under Section 411.205 that exists on
37 the effective date of this article is unaffected by this
38 article.

39 SECTION 12A.04. This article takes effect September 1,
40 2009.

41 ARTICLE 13. REGULATION OF DRIVER'S LICENSES AND PERSONAL
42 IDENTIFICATION CERTIFICATES BY DEPARTMENT

43 SECTION 13.01. Section 521.029, Transportation Code, is
44 amended to read as follows:

45 Sec. 521.029. OPERATION OF MOTOR VEHICLE BY NEW STATE
46 RESIDENTS. (a) A person who enters this state as a new
47 resident may operate a motor vehicle in this state for no more

1 than 90 [~~30~~] days after the date on which the person enters this
2 state if the person:

3 (1) is 16 years of age or older; and

4 (2) has in the person's possession a driver's license
5 issued to the person by the person's state or country of
6 previous residence.

7 (b) If a person subject to this section is prosecuted for
8 operating a motor vehicle without a driver's license, the
9 prosecution alleges that the person has resided in this state
10 for more than 90 [~~30~~] days, and the person claims to have been
11 covered by Subsection (a), the person must prove by the
12 preponderance of the evidence that the person has not resided in
13 this state for more than 90 [~~30~~] days.

14 SECTION 13.02. Subchapter C, Chapter 521, Transportation
15 Code, is amended by adding Section 521.060 to read as follows:

16 Sec. 521.060. INTERNAL VERIFICATION SYSTEM. (a) The
17 department by rule shall establish a system for identifying
18 unique addresses that are submitted in license or certificate
19 applications under this chapter or Chapter 522 in a frequency or
20 number that, in the department's determination, casts doubt on
21 whether the addresses are the actual addresses where the
22 applicants reside.

23 (b) The department may contract with a third-party
24 personal data verification service to assist the department in
25 implementing this section.

26 (c) The department shall investigate the validity of
27 addresses identified under Subsection (a).

28 (d) The department may disclose the results of an
29 investigation under Subsection (c) to a criminal justice agency
30 for the purposes of enforcing Section 521.4565 or other
31 provisions of this chapter or Chapter 522.

32 (e) In this section, "criminal justice agency" has the
33 meaning assigned by Article 60.01, Code of Criminal Procedure.

34 SECTION 13.03. Section 521.101, Transportation Code, is
35 amended by adding Subsection (j) to read as follows:

36 (j) The department may not issue a personal identification
37 certificate to a person who has not established a domicile in
38 this state.

39 SECTION 13.04. Subchapter G, Chapter 521, Transportation
40 Code, is amended by adding Sections 521.1426 and 521.1427 to
41 read as follows:

42 Sec. 521.1426. DOMICILE REQUIREMENT; VERIFICATION.
43 (a) The department may not issue a driver's license or a
44 personal identification certificate to a person who has not
45 established a domicile in this state.

46 (b) The department shall adopt rules for determining
47 whether a domicile has been established, including rules

1 prescribing the types of documentation the department may
2 require from the applicant to verify the validity of the claimed
3 domicile.

4 (c) The department may contract with a third-party
5 personal data verification service to assist the department in
6 verifying a claim of domicile, including whether the physical
7 address provided by the applicant is the applicant's actual
8 residence.

9 Sec. 521.1427. POST OFFICE BOX NOT VALID AS ADDRESS.

10 (a) In this section, "post office box address" means a United
11 States Postal Service post office box address or a private
12 mailbox address.

13 (b) Unless an exception exists under state or federal law,
14 an applicant may receive delivery of a license or a personal
15 identification certificate at a post office box address only if
16 the applicant has provided the department the physical address
17 where the applicant resides.

18 (c) The department may require the applicant to provide
19 documentation that the department determines necessary to verify
20 the validity of the physical address provided under Subsection
21 (b).

22 (d) The department may contract with a third-party
23 personal data verification service to assist the department in
24 verifying whether the physical address provided by the applicant
25 is the applicant's actual residence.

26 SECTION 13.05. Subchapter C, Chapter 522, Transportation
27 Code, is amended by adding Sections 522.0225 and 522.0226 to
28 read as follows:

29 Sec. 522.0225. VERIFICATION OF DOMICILE. (a) The
30 department shall adopt rules for determining whether a domicile
31 has been established under Section 522.022, including rules
32 prescribing the types of documentation the department may
33 require from the applicant to determine the validity of the
34 claimed domicile.

35 (b) The department may contract with a third-party
36 personal data verification service to assist the department in
37 verifying a claim of domicile, including whether the physical
38 address provided by the applicant is the applicant's actual
39 residence.

40 Sec. 522.0226. POST OFFICE BOX NOT VALID AS ADDRESS.

41 (a) In this section, "post office box address" means a United
42 States Postal Service post office box address or a private
43 mailbox address.

44 (b) Unless an exception exists under state or federal law,
45 an applicant may receive delivery of a commercial driver's
46 license at a post office box address only if the applicant has
47 provided the department the physical address where the applicant

1 resides.

2 (c) The department may require the applicant to provide
3 documentation that the department determines necessary to verify
4 the validity of the physical address provided under Subsection
5 (b).

6 (d) The department may contract with a third-party
7 personal data verification service to assist the department in
8 verifying whether the physical address provided by the applicant
9 is the applicant's actual residence.

10 SECTION 13.06. Subchapter S, Chapter 521, Transportation
11 Code, is amended by adding Section 521.4565 to read as follows:

12 Sec. 521.4565. CONSPIRING TO MANUFACTURE COUNTERFEIT
13 LICENSE OR CERTIFICATE. (a) In this section:

14 (1) "Combination," "conspires to commit," "profits,"
15 and "criminal street gang" have the meanings assigned by Section
16 71.01, Penal Code.

17 (2) "Conspires to manufacture or produce" means that:

18 (A) a person agrees with one or more other
19 persons to engage in the manufacture or production of a forged
20 or counterfeit instrument; and

21 (B) the person and one or more of the other
22 persons perform an overt act in pursuance of the agreement.

23 (3) "Instrument" means a driver's license, commercial
24 driver's license, or personal identification certificate.

25 (4) "Public servant" has the meaning assigned by
26 Section 1.07, Penal Code.

27 (b) A person commits an offense if the person establishes,
28 maintains, or participates in or conspires to establish,
29 maintain, or participate in a combination or criminal street
30 gang, or participates in the profits of a combination or
31 criminal street gang, with the intent to manufacture or produce
32 a forged or counterfeit instrument for the purpose of selling,
33 distributing, or delivering such instrument. An agreement
34 constituting conspiring to manufacture or produce may be
35 inferred from the acts of the parties.

36 (c) An offense under this section is a state jail felony,
37 except that an offense committed by a public servant is a felony
38 of the third degree.

39 SECTION 13.07. The Department of Public Safety of the
40 State of Texas shall adopt rules required by the amendments of
41 this article to Chapters 521 and 522, Transportation Code, as
42 soon as practicable after the effective date of this article.

43 SECTION 13.08. This article takes effect immediately if
44 this Act receives a vote of two-thirds of all the members
45 elected to each house, as provided by Section 39, Article III,
46 Texas Constitution. If this Act does not receive the vote
47 necessary for immediate effect, this article takes effect

1 September 1, 2009.

2 ARTICLE 13A. DRIVER'S LICENSE ISSUED TO CERTAIN FEDERAL AND
3 STATE JUDGES AND SPOUSES

4 SECTION 13A.01. Section 521.001, Transportation Code, is
5 amended by adding Subdivisions (3-a) and (8-a) to read as
6 follows:

7 (3-a) "Federal judge" means:

8 (A) a judge of a United States court of appeals;

9 (B) a judge of a United States district court;

10 (C) a judge of a United States bankruptcy court;

11 or

12 (D) a magistrate judge of a United States
13 district court.

14 (8-a) "State judge" means:

15 (A) the judge of an appellate court, a district
16 court, or a county court at law of this state; or

17 (B) an associate judge appointed under Chapter
18 201, Family Code.

19 SECTION 13A.02. Sections 521.054(a) and (b),
20 Transportation Code, are amended to read as follows:

21 (a) This section applies to a person who:

22 (1) after applying for or being issued a [the]
23 license or certificate moves to a new residence [from the]
24 address [stated in the person's application for a license or
25 certificate];

26 (2) has used the procedure under Section 521.121(d)
27 and whose status as a federal judge, a state judge, or the
28 spouse of a federal or state judge becomes inapplicable [moves
29 from the address shown on the license or certificate held by the
30 person]; or

31 (3) changes the person's name by marriage or
32 otherwise.

33 (b) A person subject to this section shall notify the
34 department of the change not later than the 30th day after the
35 date on which the change takes effect and apply for a duplicate
36 license or certificate as provided by Section 521.146. The
37 duplicate license must include the person's current residence
38 address.

39 SECTION 13A.03. Section 521.121, Transportation Code, is
40 amended by amending Subsection (a) and adding Subsection (d) to
41 read as follows:

42 (a) The driver's license must include:

43 (1) a distinguishing number assigned by the
44 department to the license holder;

45 (2) a color photograph of the entire face of the
46 holder;

47 (3) the full name and[~~7~~] date of birth[~~7~~—and

1 ~~residence address~~] of the holder; ~~and]~~

2 (4) a brief description of the holder; and

3 (5) the license holder's residence address or, for a
4 license holder using the procedure under Subsection (d), the
5 street address of the courthouse in which the license holder or
6 license holder's spouse serves as a federal judge or state
7 judge.

8 (d) The department shall establish a procedure for a
9 federal judge, a state judge, or the spouse of a federal or
10 state judge to omit the license holder's residence address on
11 the license and to include, in lieu of that address, the street
12 address of the courthouse in which the license holder or license
13 holder's spouse serves as a federal judge or state judge. In
14 establishing the procedure, the department shall require
15 sufficient documentary evidence to establish the license
16 holder's status as a federal judge, state judge, or the spouse
17 of a federal or state judge.

18 SECTION 13A.04. Section 521.142(c), Transportation Code,
19 is amended to read as follows:

20 (c) The application must state:

21 (1) the sex of the applicant;

22 (2) the residence address of the applicant, or if the
23 applicant is a federal judge, a state judge, or the spouse of a
24 federal or state judge using the procedure developed under
25 Section 521.121(d), the street address of the courthouse in
26 which the applicant or the applicant's spouse serves as a
27 federal judge or a state judge;

28 (3) whether the applicant has been licensed to drive
29 a motor vehicle before;

30 (4) if previously licensed, when and by what state or
31 country;

32 (5) whether that license has been suspended or
33 revoked or a license application denied;

34 (6) the date and reason for the suspension,
35 revocation, or denial;

36 (7) whether the applicant is a citizen of the United
37 States; and

38 (8) the county of residence of the applicant.

39 ARTICLE 14. USE OF AN OFFENDER IDENTIFICATION CARD OR SIMILAR
40 FORM

41 OF IDENTIFICATION AS PROOF OF IDENTITY FOR AN APPLICANT FOR A
42 DRIVER'S LICENSE OR COMMERCIAL DRIVER'S LICENSE

43 SECTION 14.01. Subsection (a), Section 521.142,
44 Transportation Code, is amended to read as follows:

45 (a) An application for an original license must state the
46 applicant's full name and place and date of birth. This
47 information must be verified by presentation of proof of

1 identity satisfactory to the department. The department must
2 accept as satisfactory proof of identity under this subsection
3 an offender identification card or similar form of
4 identification issued to an inmate by the Texas Department of
5 Criminal Justice if the applicant also provides supplemental
6 verifiable records or documents that aid in establishing
7 identity.

8 SECTION 14.02. Subchapter G, Chapter 521, Transportation
9 Code, is amended by adding Section 521.1421 to read as follows:

10 Sec. 521.1421. INMATE IDENTIFICATION VERIFICATION PILOT
11 PROGRAM. (a) The department shall participate in an inmate
12 identification verification pilot program for the purpose of
13 issuing driver's licenses and personal identification
14 certificates to inmates of the Texas Department of Criminal
15 Justice.

16 (b) Under the pilot program, the department may:

17 (1) enter into a contract with the Texas Department
18 of Criminal Justice and the Department of State Health Services
19 to establish an identification verification process for inmates
20 of the Texas Department of Criminal Justice; and

21 (2) issue a driver's license or a personal
22 identification certificate to an inmate whose identity has been
23 confirmed through the verification process and who otherwise
24 meets the requirements for the issuance of the driver's license
25 or personal identification certificate.

26 (c) At the conclusion of the pilot program the governing
27 bodies of the participating agencies may agree to continue the
28 pilot program on a permanent basis.

29 (d) Not later than December 1, 2010, the department and
30 the Texas Department of Criminal Justice shall jointly issue a
31 report to the standing committees of the legislature with
32 jurisdiction over issues related to criminal justice and
33 homeland security addressing:

34 (1) the status of the pilot program;

35 (2) the effectiveness of the pilot program; and

36 (3) an analysis of the feasibility of implementing a
37 statewide program based on the pilot program.

38 SECTION 14.03. Subsection (c-1), Section 522.021,
39 Transportation Code, is amended to read as follows:

40 (c-1) If the department requires proof of an applicant's
41 identity as part of an application under this section, the
42 department must accept as satisfactory proof of identity an
43 offender identification card or similar form of identification
44 issued to an inmate by the Texas Department of Criminal Justice
45 if the applicant also provides supplemental verifiable records
46 or documents that aid in establishing identity.

47 SECTION 14.04. The changes in law made by this article

1 apply only to an application for a driver's license, commercial
2 driver's license, or personal identification certificate
3 submitted on or after the effective date of this article. An
4 application for a driver's license, commercial driver's license,
5 or personal identification certificate submitted before the
6 effective date of this article is subject to the law in effect
7 on the date the application was submitted, and that law is
8 continued in effect for that purpose.

9 SECTION 14.05. This article takes effect September 1,
10 2009.

11 ARTICLE 15. DRIVER RESPONSIBILITY PROGRAM

12 SECTION 15.01. Section 708.151, Transportation Code, is
13 amended to read as follows:

14 Sec. 708.151. NOTICE OF SURCHARGE. (a) The department
15 shall send notices as required by Subsection (b) to [notify] the
16 holder of a driver's license when [of the assessment of] a
17 surcharge is assessed on that license. Each notice must:

18 (1) be sent by first class mail [sent] to the
19 person's most recent address as shown on the records of the
20 department or to the person's most recent forwarding address on
21 record with the United States Postal Service if it is different;

22 (2) [~~The notice must~~] specify the date by which
23 the surcharge must be paid;

24 (3) state the total dollar amount of the surcharge
25 that must be paid, the number of monthly payments required under
26 an installment payment plan, and the minimum monthly payment
27 required for a person to enter and maintain an installment
28 payment plan with the department; and

29 (4) state the consequences of a failure to pay the
30 surcharge.

31 (b) The department shall send a first notice not later
32 than the fifth day after the date the surcharge is assessed.

33 (c) If on or before the 45th day after the date the first
34 notice was sent the person fails to pay the amount of the
35 surcharge or fails to enter into an installment payment
36 agreement with the department, the department shall send a
37 second notice. If on or before the 60th day after the date the
38 second notice was sent the person fails to pay the amount of the
39 surcharge or fails to enter into an installment payment
40 agreement with the department, the department shall send a third
41 notice that advises the person that the person's driving
42 privileges are suspended.

43 SECTION 15.02. Section 708.152(a), Transportation Code, is
44 amended to read as follows:

45 (a) If on [before] the 60th [30th] day after the date the
46 department sends a second notice under Section 708.151 the
47 person fails to pay the amount of a surcharge on the person's

1 license or fails to enter into an installment payment agreement
2 with the department, the license of the person is automatically
3 suspended. A person's license may not be suspended under this
4 section before the 105th day after the date the surcharge was
5 assessed by the department.

6 SECTION 15.03. Section 708.153(b), Transportation Code, is
7 amended to read as follows:

8 (b) A rule under this section:

9 (1) may not require [~~permit~~] a person to:

10 (A) pay surcharges that total \$500 or more [a
11 surcharge] over a period of less [more] than 36 consecutive
12 months;

13 (B) pay surcharges that total more than \$250 but
14 not more than \$499 over a period of less than 24 consecutive
15 months; or

16 (C) pay surcharges that total \$249 or less over
17 a period of less than 12 consecutive months; and

18 (2) may provide that if the person fails to make any
19 [a] required monthly installment payment, the department may
20 reestablish the installment plan on receipt of a payment in the
21 amount equal to at least a required monthly installment payment
22 [or declare the amount of the unpaid surcharge immediately due
23 and payable].

24 SECTION 15.04. Subchapter D, Chapter 708, Transportation
25 Code, is amended by adding Section 708.158 to read as follows:

26 Sec. 708.158. INDIGENT STATUS AND REDUCTION OF SURCHARGES.

27 (a) The department shall waive all surcharges assessed under
28 this chapter for a person who is indigent. For the purposes of
29 this section, a person is considered to be indigent if the
30 person provides the evidence described by Subsection (b) to the
31 court.

32 (b) A person must provide information to the court in
33 which the person is convicted of the offense that is the basis
34 for the surcharge to establish that the person is indigent. The
35 following documentation may be used as proof:

36 (1) a copy of the person's most recent federal income
37 tax return that shows that the person's income or the person's
38 household income does not exceed 125 percent of the applicable
39 income level established by the federal poverty guidelines;

40 (2) a copy of the person's most recent statement of
41 wages that shows that the person's income or the person's
42 household income does not exceed 125 percent of the applicable
43 income level established by the federal poverty guidelines; or

44 (3) documentation from a federal agency, state
45 agency, or school district that indicates that the person or, if
46 the person is a dependent as defined by Section 152, Internal
47 Revenue Code of 1986, the taxpayer claiming the person as a

1 dependent, receives assistance from:

2 (A) the food stamp program or the financial
3 assistance program established under Chapter 31, Human Resources
4 Code;

5 (B) the federal special supplemental nutrition
6 program for women, infants, and children authorized by 42 U.S.C.
7 Section 1786;

8 (C) the medical assistance program under Chapter
9 32, Human Resources Code;

10 (D) the child health plan program under Chapter
11 62, Health and Safety Code; or

12 (E) the national free or reduced-price lunch
13 program established under 42 U.S.C. Section 1751 et seq.

14 SECTION 15.05. Section 708.157(c), Transportation Code, is
15 amended to read as follows:

16 (c) The department by rule shall [~~may~~] establish an
17 indigency program for holders of a driver's license on which a
18 surcharge has been assessed for certain offenses, as determined
19 by the department.

20 SECTION 15.06. Subchapter B, Chapter 708, Transportation
21 Code, is amended by adding Section 708.056 to read as follows:

22 Sec. 708.056. DEDUCTION OF POINTS. The department by rule
23 shall establish a procedure to provide for the deduction of one
24 point accumulated by a person under this subchapter to account
25 for each year that the person has not accumulated points under
26 this subchapter.

27 SECTION 15.07. The changes in law made by this article
28 apply only to a surcharge that is assessed under Chapter 708,
29 Transportation Code, on or after the effective date of this
30 article. A surcharge that was assessed under that chapter
31 before the effective date of this article is subject to the law
32 in effect on the date the surcharge was assessed, and that law
33 is continued in effect for that purpose.

34 SECTION 15.08. This article takes effect September 1,
35 2011.

36 ARTICLE 15A. MOTOR VEHICLE SAFETY RESPONSIBILITY

37 SECTION 15A.01. Section 601.053, Transportation Code, is
38 amended by amending Subsection (b) and adding Subsection (c) to
39 read as follows:

40 (b) Except as provided by Subsection (c), an [An] operator
41 who does not exhibit evidence of financial responsibility under
42 Subsection (a) is presumed to have operated the vehicle in
43 violation of Section 601.051.

44 (c) Subsection (b) does not apply if the peace officer
45 determines through use of the verification program established
46 under Subchapter N that financial responsibility has been
47 established for the vehicle.

1 SECTION 15A.02. Subchapter N, Chapter 601, Transportation
2 Code, as added by Chapter 1325 (H.B. 3588), Acts of the 78th
3 Legislature, Regular Session, 2003, is repealed.

4 ARTICLE 16. SUSPENSION OF A DRIVER'S LICENSE BY DEPARTMENT

5 SECTION 16.01. Section 521.341, Transportation Code, is
6 amended to read as follows:

7 Sec. 521.341. REQUIREMENTS FOR AUTOMATIC LICENSE
8 SUSPENSION. Except as provided by Sections 521.344(d)-(i), a
9 license is automatically suspended on final conviction of the
10 license holder of:

11 (1) an offense under Section 19.05, Penal Code,
12 committed as a result of the holder's criminally negligent
13 operation of a motor vehicle;

14 (2) an offense under Section 38.04, Penal Code, if
15 the holder used a motor vehicle in the commission of the
16 offense;

17 (3) an offense under Section 49.04, 49.045, or 49.08,
18 Penal Code;

19 (4) an offense under Section 49.07, Penal Code, if
20 the holder used a motor vehicle in the commission of the
21 offense;

22 (5) an offense punishable as a felony under the motor
23 vehicle laws of this state;

24 (6) an offense under Section 550.021;

25 (7) an offense under Section 521.451 or 521.453; or

26 (8) an offense under Section 19.04, Penal Code, if
27 the holder used a motor vehicle in the commission of the
28 offense.

29 SECTION 16.02. Sections 521.342(a) and (b), Transportation
30 Code, are amended to read as follows:

31 (a) Except as provided by Section 521.344, the license of
32 a person who was under 21 years of age at the time of the
33 offense, other than an offense classified as a misdemeanor
34 punishable by fine only, is automatically suspended on
35 conviction of:

36 (1) an offense under Section 49.04, 49.045, or 49.07,
37 Penal Code, committed as a result of the introduction of alcohol
38 into the body;

39 (2) an offense under the Alcoholic Beverage Code,
40 other than an offense to which Section 106.071 of that code
41 applies, involving the manufacture, delivery, possession,
42 transportation, or use of an alcoholic beverage;

43 (3) a misdemeanor offense under Chapter 481, Health
44 and Safety Code, for which Subchapter P does not require the
45 automatic suspension of the license;

46 (4) an offense under Chapter 483, Health and Safety
47 Code, involving the manufacture, delivery, possession,

1 transportation, or use of a dangerous drug; or

2 (5) an offense under Chapter 485, Health and Safety
3 Code, involving the manufacture, delivery, possession,
4 transportation, or use of an abusable volatile chemical.

5 (b) The department shall suspend for one year the license
6 of a person who is under 21 years of age and is convicted of an
7 offense under Section 49.04, 49.045, 49.07, or 49.08, Penal
8 Code, regardless of whether the person is required to attend an
9 educational program under Section 13(h), Article 42.12, Code of
10 Criminal Procedure, that is designed to rehabilitate persons who
11 have operated motor vehicles while intoxicated, unless the
12 person is placed under community supervision under that article
13 and is required as a condition of the community supervision to
14 not operate a motor vehicle unless the vehicle is equipped with
15 the device described by Section 13(i) of that article. If the
16 person is required to attend such a program and does not
17 complete the program before the end of the person's suspension,
18 the department shall suspend the person's license or continue
19 the suspension, as appropriate, until the department receives
20 proof that the person has successfully completed the program.
21 On the person's successful completion of the program, the
22 person's instructor shall give notice to the department and to
23 the community supervision and corrections department in the
24 manner provided by Section 13(h), Article 42.12, Code of
25 Criminal Procedure.

26 SECTION 16.03. Sections 521.344(a), (c), and (i),
27 Transportation Code, are amended to read as follows:

28 (a) Except as provided by Sections 521.342(b) and 521.345,
29 and by Subsections (d)-(i), if a person is convicted of an
30 offense under Section 49.04, 49.045, or 49.07, Penal Code, the
31 license suspension:

32 (1) begins on a date set by the court that is not
33 earlier than the date of the conviction or later than the 30th
34 day after the date of the conviction, as determined by the
35 court; and

36 (2) continues for a period set by the court according
37 to the following schedule:

38 (A) not less than 90 days or more than one year,
39 if the person is punished under Section 49.04, 49.045, or 49.07,
40 Penal Code, except that if the person's license is suspended for
41 a second or subsequent offense under Section 49.07 committed
42 within five years of the date on which the most recent preceding
43 offense was committed, the suspension continues for a period of
44 one year;

45 (B) not less than 180 days or more than two
46 years, if the person is punished under Section 49.09(a) or (b),
47 Penal Code; or

1 (C) not less than one year or more than two
2 years, if the person is punished under Section 49.09(a) or (b),
3 Penal Code, and is subject to Section 49.09(h) of that code.

4 (c) The court shall credit toward the period of suspension
5 a suspension imposed on the person for refusal to give a
6 specimen under Chapter 724 if the refusal followed an arrest for
7 the same offense for which the court is suspending the person's
8 license under this chapter. The court may not extend the credit
9 to a person:

10 (1) who has been previously convicted of an offense
11 under Section 49.04, 49.045, 49.07, or 49.08, Penal Code; or

12 (2) whose period of suspension is governed by Section
13 521.342(b).

14 (i) On the date that a suspension order under Section
15 521.343(c) is to expire, the period of suspension or the
16 corresponding period in which the department is prohibited from
17 issuing a license is automatically increased to two years unless
18 the department receives notice of successful completion of the
19 educational program as required by Section 13, Article 42.12,
20 Code of Criminal Procedure. At the time a person is convicted
21 of an offense under Section 49.04 or 49.045, Penal Code, the
22 court shall warn the person of the effect of this subsection.
23 On the person's successful completion of the program, the
24 person's instructor shall give notice to the department and to
25 the community supervision and corrections department in the
26 manner required by Section 13, Article 42.12, Code of Criminal
27 Procedure. If the department receives proof of completion after
28 a period has been extended under this subsection, the department
29 shall immediately end the suspension or prohibition.

30 SECTION 16.04. Sections 13(h) and (n), Article 42.12, Code
31 of Criminal Procedure, are amended to read as follows:

32 (h) If a person convicted of an offense under Sections
33 49.04-49.08, Penal Code, is placed on community supervision, the
34 judge shall require, as a condition of the community
35 supervision, that the defendant attend and successfully complete
36 before the 181st day after the day community supervision is
37 granted an educational program jointly approved by the Texas
38 Commission on Alcohol and Drug Abuse, the Department of Public
39 Safety, the Traffic Safety Section of the Texas Department of
40 Transportation, and the community justice assistance division of
41 the Texas Department of Criminal Justice designed to
42 rehabilitate persons who have driven while intoxicated. The
43 Texas Commission on Alcohol and Drug Abuse shall publish the
44 jointly approved rules and shall monitor, coordinate, and
45 provide training to persons providing the educational programs.
46 The Texas Commission on Alcohol and Drug Abuse is responsible
47 for the administration of the certification of approved

1 educational programs and may charge a nonrefundable application
2 fee for the initial certification of approval and for renewal of
3 a certificate. The judge may waive the educational program
4 requirement or may grant an extension of time to successfully
5 complete the program that expires not later than one year after
6 the beginning date of the person's community supervision,
7 however, if the defendant by a motion in writing shows good
8 cause. In determining good cause, the judge may consider but is
9 not limited to: the defendant's school and work schedule, the
10 defendant's health, the distance that the defendant must travel
11 to attend an educational program, and the fact that the
12 defendant resides out of state, has no valid driver's license,
13 or does not have access to transportation. The judge shall set
14 out the finding of good cause for waiver in the judgment. If a
15 defendant is required, as a condition of community supervision,
16 to attend an educational program or if the court waives the
17 educational program requirement, the court clerk shall
18 immediately report that fact to the Department of Public Safety,
19 on a form prescribed by the department, for inclusion in the
20 person's driving record. If the court grants an extension of
21 time in which the person may complete the program, the court
22 clerk shall immediately report that fact to the Department of
23 Public Safety on a form prescribed by the department. The
24 report must include the beginning date of the person's community
25 supervision. Upon the person's successful completion of the
26 educational program, the person's instructor shall give notice
27 to the Department of Public Safety for inclusion in the person's
28 driving record and to the community supervision and corrections
29 department. The community supervision and corrections
30 department shall then forward the notice to the court clerk for
31 filing. If the Department of Public Safety does not receive
32 notice that a defendant required to complete an educational
33 program has successfully completed the program within the period
34 required by this section, as shown on department records, the
35 department shall revoke the defendant's driver's license,
36 permit, or privilege or prohibit the person from obtaining a
37 license or permit, as provided by Sections 521.344(e) and (f),
38 Transportation Code. The Department of Public Safety may not
39 reinstate a license suspended under this subsection unless the
40 person whose license was suspended makes application to the
41 department for reinstatement of the person's license and pays to
42 the department a reinstatement fee of \$100 [~~\$50~~]. The
43 Department of Public Safety shall remit all fees collected under
44 this subsection to the comptroller for deposit in the general
45 revenue fund. This subsection does not apply to a defendant if
46 a jury recommends community supervision for the defendant and
47 also recommends that the defendant's driver's license not be

1 suspended.

2 (n) Notwithstanding any other provision of this section or
3 other law, the judge who places on community supervision a
4 defendant who was [~~is~~] younger than 21 years of age at the time
5 of the offense and was convicted for an offense under Sections
6 49.04-49.08, Penal Code, shall:

7 (1) order that the defendant's driver's license be
8 suspended for 90 days beginning on the date that the person is
9 placed on community supervision; and

10 (2) require as a condition of community supervision
11 that the defendant not operate a motor vehicle unless the
12 vehicle is equipped with the device described by Subsection (i)
13 of this section.

14 SECTION 16.05. The changes in law made by this article to
15 Sections 521.341, 521.342, and 521.344, Transportation Code, and
16 Section 13, Article 42.12, Code of Criminal Procedure, apply
17 only to an offense committed on or after the effective date of
18 this article. For purposes of this section, an offense was
19 committed before the effective date of this article if any
20 element of the offense occurred before the effective date of
21 this article.

22 SECTION 16.06. This article takes effect September 1,
23 2009.

24 ARTICLE 17. SUBMISSION OF REPORTS ON CERTAIN CONVICTIONS OR
25 ADJUDICATIONS RELATING TO THE OPERATION OF MOTOR VEHICLES TO THE
26 DEPARTMENT

27 SECTION 17.01. Subsections (a) and (b), Section 522.061,
28 Transportation Code, are amended to read as follows:

29 (a) A person who holds or is required to hold a commercial
30 driver's license under this chapter and who is convicted in
31 another state of violating a state law or local ordinance
32 relating to motor vehicle traffic control shall notify the
33 department in the manner specified by the department not later
34 than the seventh [~~30th~~] day after the date of conviction.

35 (b) A person who holds or is required to hold a commercial
36 driver's license under this chapter and who is convicted in this
37 state or another state of violating a state law or local
38 ordinance relating to motor vehicle traffic control, including a
39 law regulating the operation of vehicles on highways, shall
40 notify the person's employer in writing of the conviction not
41 later than the seventh [~~30th~~] day after the date of conviction.

42 SECTION 17.02. Section 543.203, Transportation Code, is
43 amended to read as follows:

44 Sec. 543.203. SUBMITTING RECORD TO DEPARTMENT. Not later
45 than the seventh [~~30th~~] day after the date of conviction or
46 forfeiture of bail of a person on a charge of violating a law
47 regulating the operation of a vehicle on a highway or conviction

1 of a person of negligent homicide or a felony in the commission
2 of which a vehicle was used, the magistrate, judge, or clerk of
3 the court in which the conviction was had or bail was forfeited
4 shall immediately submit to the department a written record of
5 the case containing the information required by Section 543.202.

6 SECTION 17.03. Subsection (a), Section 543.204,
7 Transportation Code, is amended to read as follows:

8 (a) A justice of the peace or municipal judge who defers
9 further proceedings, suspends all or part of the imposition of
10 the fine, and places a defendant on probation under Article
11 45.051, Code of Criminal Procedure, or a county court judge who
12 follows that procedure under Article 42.111, Code of Criminal
13 Procedure, may not submit a written record to the department,
14 except that if the justice or judge subsequently adjudicates the
15 defendant's guilt, the justice or judge shall submit the record
16 not later than the seventh [~~30th~~] day after the date on which
17 the justice or judge adjudicates guilt.

18 SECTION 17.04. The change in law made by this article
19 applies only to a conviction, forfeiture of bail, or
20 adjudication of guilt that occurs on or after the effective date
21 of this article.

22 SECTION 17.05. This article takes effect September 1,
23 2009.

24 ARTICLE 18. CIVIL CONSEQUENCES OF CERTAIN CONVICTIONS ON A
25 PERSON WHO HOLDS A COMMERCIAL DRIVER'S LICENSE AND OF CERTAIN
26 ADJUDICATIONS ON THE DRIVER'S LICENSE OR PERMIT OF A CHILD

27 SECTION 18.01. Section 522.081(d), Transportation Code, is
28 amended to read as follows:

29 (d) A person is disqualified from driving a commercial
30 motor vehicle for life:

31 (1) if the person is convicted two or more times of
32 an offense specified by Subsection (b)(2), or a combination of
33 those offenses, arising from two or more separate incidents;

34 (2) if the person uses a motor vehicle in the
35 commission of a felony involving:

36 (A) the manufacture, distribution, or dispensing
37 of a controlled substance; or

38 (B) possession with intent to manufacture,
39 distribute, or dispense a controlled substance; [~~or~~]

40 (3) for any combination of two or more of the
41 following, arising from two or more separate incidents:

42 (A) a conviction of the person for an offense
43 described by Subsection (b)(2);

44 (B) a refusal by the person described by
45 Subsection (b)(3); and

46 (C) an analysis of the person's blood, breath,
47 or urine described by Subsection (b)(4); or

1 411.063. Notwithstanding the provisions of Sections 411.065 and
2 411.066, the department may [~~in its discretion~~] issue an
3 administrative citation for a parking violation.

4 (b) Rules adopted under this section shall:

5 (1) establish a system for enforcement of
6 administrative citations, including [~~but not limited to~~]
7 assessment of a late fee not to exceed \$5 [~~\$2~~] and towing,
8 impoundment, or immobilization of vehicles; and

9 (2) provide [~~for~~] a procedure of administrative
10 review within the highway patrol district that includes the
11 Capitol Complex [~~capitol police district~~] and, on request of the
12 person assessed an administrative fine, further judicial review
13 by the department filing the appropriate citation or complaint
14 in a court [~~of competent jurisdiction~~], as provided in Section
15 411.066.

16 (d) The department shall remit to the comptroller for
17 deposit in the general revenue fund each [~~any~~] administrative
18 fine and late fee collected [~~received~~] under this section. The
19 money deposited [~~Such revenues~~] may be appropriated only to the
20 department for [~~capitol police~~] security and parking in the
21 highway patrol district that includes the Capitol Complex.

22 SECTION 20.02. This article takes effect September 1,
23 2009.

24 ARTICLE 21. CRIMINAL HISTORY REPORTING

25 SECTION 21.001. Chapter 60, Code of Criminal Procedure, is
26 amended by adding Article 60.10 to read as follows:

27 Art. 60.10. DATA REPORTING IMPROVEMENT PLAN. (a) In this
28 article, "disposition completeness percentage" has the meaning
29 assigned by Article 60.21(c).

30 (b) This article applies only to a county that has an
31 average disposition completeness percentage, including both
32 juvenile and adult dispositions, of less than 90 percent, as
33 reflected in the first report the Department of Public Safety
34 submits under Article 60.21(b)(2) on or after January 1, 2009.

35 (c) The commissioners court of a county described by
36 Subsection (b) shall establish a local data advisory board as
37 described by Article 60.09 not later than November 1, 2009. A
38 local data advisory board established under this article may
39 include any person described by Article 60.09(b) and must
40 include:

41 (1) the sheriff of the county, or the sheriff's
42 designee;

43 (2) an attorney who represents the state in the
44 district courts of the county;

45 (3) an attorney who represents the state in the
46 county courts of the county;

47 (4) the clerk for the district courts of the county,

1 or the clerk's designee;

2 (5) the clerk for the county courts of the county, or
3 the clerk's designee;

4 (6) the police chief of the municipality with the
5 greatest population located in the county, or the chief's
6 designee;

7 (7) a representative of the county's automated data
8 processing services, if the county performs those services; and

9 (8) a representative of an entity with whom the
10 county contracts for automated data processing services, if the
11 county contracts for those services.

12 (d) In addition to the duties described by Article
13 60.09(a), a local data advisory board established under this
14 article must prepare a data reporting improvement plan. The
15 data reporting improvement plan must:

16 (1) describe the manner in which the county intends
17 to improve the county's disposition completeness percentage;

18 (2) ensure that the county takes the steps necessary
19 for the county's average disposition completeness percentage to
20 be equal to or greater than 90 percent in the first report the
21 Department of Public Safety submits under Article 60.21(b)(2) on
22 or after January 1, 2013; and

23 (3) include a comprehensive strategy by which the
24 county will permanently maintain the county's disposition
25 completeness percentage at or above 90 percent.

26 (e) Not later than June 1, 2010, a local data advisory
27 board established under this article shall submit to the
28 Department of Public Safety the data reporting improvement plan
29 prepared for the county. On receipt of a data reporting
30 improvement plan under this article, the department shall post
31 the plan on the Internet website maintained by the department.

32 (f) The public safety director of the Department of Public
33 Safety may adopt rules concerning the contents and form of a
34 data reporting improvement plan prepared under this article.

35 (g) This article expires September 1, 2013.

36 SECTION 21.002. Article 60.21, Code of Criminal Procedure,
37 is amended by amending Subsection (b) and adding Subsection (c)
38 to read as follows:

39 (b) The Department of Public Safety shall:

40 (1) monitor the submission of arrest and disposition
41 information by local jurisdictions;

42 (2) annually submit to the Legislative Budget Board,
43 the governor, the lieutenant governor, the state auditor, and
44 the standing committees in the senate and house of
45 representatives that have primary jurisdiction over criminal
46 justice and the Department of Public Safety [council] a report
47 regarding the level of reporting by local jurisdictions;

1 (3) identify local jurisdictions that do not report
2 arrest or disposition information or that partially report
3 information; and

4 (4) for use in determining the status of outstanding
5 dispositions, publish monthly on the Department of Public
6 Safety's Internet website or on another electronic publication a
7 report listing each arrest by local jurisdiction for which there
8 is no corresponding final court disposition.

9 (c) The report described by Subsection (b)(2) must contain
10 a disposition completeness percentage for each county in this
11 state. For purposes of this subsection, "disposition
12 completeness percentage" means the percentage of arrest charges
13 a county reports to the Department of Public Safety to be
14 entered in the computerized criminal history system under this
15 chapter that were brought against a person in the county for
16 which a disposition has been subsequently reported and entered
17 into the computerized criminal history system.

18 ARTICLE 22. TRANSFER OF REGULATORY PROGRAMS RELATING TO
19 DISPENSING CONTROLLED SUBSTANCES BY PRESCRIPTION

20 SECTION 22.01. (a) The director of the Department of
21 Public Safety or the director's designee, the executive director
22 of the Texas State Board of Pharmacy or the executive director's
23 designee, and the executive director of the Texas Medical Board
24 or the executive director's designee shall meet as an
25 interagency council to develop a transition plan for the orderly
26 transfer from the Department of Public Safety to the Texas State
27 Board of Pharmacy of certain records and regulatory functions
28 relating to dispensing controlled substances by prescription
29 under Chapter 481, Health and Safety Code.

30 (b) In developing the transition plan, the council shall:

31 (1) consult with the Health and Human Services
32 Commission, the Department of State Health Services, and other
33 health and human services agencies that contract with a third
34 party for data collection;

35 (2) specify the records and regulatory functions to
36 be transferred;

37 (3) create a time frame within which the specified
38 records and functions will be transferred;

39 (4) ensure the Department of Public Safety's
40 continued access for law enforcement purposes to prescription
41 drug information obtained under Chapter 481, Health and Safety
42 Code;

43 (5) develop a plan for the transfer of relevant
44 database information;

45 (6) make recommendations for improvements to data
46 transmission, including examining the feasibility of
47 implementing an electronic data transmission system for use by

1 registrants and the Department of Public Safety or the Texas
2 State Board of Pharmacy;

3 (7) estimate the fiscal impact of the transfer,
4 including an estimate of the costs associated with any necessary
5 staff increase;

6 (8) minimize disruptions to the professions affected
7 by the transfer;

8 (9) identify any obstacles to the transfer and make
9 recommendations to address those obstacles; and

10 (10) address any other consideration the council
11 determines is appropriate.

12 (c) Not later than January 1, 2011, the council shall
13 submit its recommendations to the legislature on the transition
14 plan developed by the council.

15 (d) The Department of Public Safety may not enter into any
16 contract or otherwise take any action that would prevent, delay,
17 or hinder a potential transfer to the Texas State Board of
18 Pharmacy occurring on or after September 1, 2011, of certain
19 records and regulatory functions relating to dispensing
20 controlled substances by prescription.

21 (e) This section expires September 1, 2011.

22 ARTICLE 23. EFFECTIVE DATE

23 SECTION 23.01. Except as otherwise provided by this Act,
24 this Act takes effect September 1, 2009.

25
26 H.B. No. 2799
27
28
29
30

31 AN ACT

32 relating to the responsibilities of a person who qualifies for a
33 peace officer license but has not yet been appointed as a peace
34 officer.

35 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

36 SECTION 1. Subchapter G, Chapter 1701, Occupations Code,
37 is amended by adding Section 1701.3075 to read as follows:

38 Sec. 1701.3075. QUALIFIED APPLICANT AWAITING APPOINTMENT.

39 (a) A person who meets the requirements set forth in Section
40 1701.307(a) has the same reporting responsibilities toward the
41 commission under rules adopted by the commission as a license
42 holder who has already been appointed as a peace officer.

43 (b) The commission may determine that a person who meets
44 the requirements under Section 1701.307(a) is ineligible for
45 appointment as a peace officer based on events that occur after
46 the person meets the requirements in Section 1701.307(a) but
47 before the person is appointed.

1 SECTION 2. This Act takes effect September 1, 2009.

2
3 H.B. No. 2806
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5
6
7

8 AN ACT

9 relating to the reinstatement of a firefighter or police officer
10 to a previously held position based on seniority on the return
11 of another firefighter or police officer from a military leave
12 of absence.

13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

14 SECTION 1. Sections 143.072(c) and (f), Local Government
15 Code, are amended to read as follows:

16 (c) While a fire fighter or police officer who received a
17 military leave of absence serves in the military, the commission
18 shall fill the person's position in the department in accordance
19 with this chapter. [~~The fire fighter or police officer who~~
20 ~~fills the position is subject to replacement by the person who~~
21 ~~received the military leave at the time the person returns to~~
22 ~~active duty in the department.~~]

23 (f) If the reinstatement of a fire fighter or police
24 officer who received a military leave of absence causes a
25 surplus in the rank to which the fire fighter or police officer
26 was reinstated, the fire fighter or police officer who has the
27 least seniority in the position shall be returned to the [~~that person's replacement~~
28 ~~to~~] position immediately below the
29 position to which the returning fire fighter or police officer
30 was reinstated. If a fire fighter or police officer is returned
31 to a lower position in grade or compensation under this
32 subsection without charges being filed against the person for
33 violation of civil service rules, the fire fighter or police
34 officer shall be placed on a position reinstatement list in
35 order of seniority. Appointments from the reinstatement list
36 shall be made in order of seniority. A person who is not on the
37 reinstatement list may not be appointed to a position to which
38 the list applies until the list is exhausted [~~, the replaced~~
39 ~~person has a preferential right to a subsequent appointment or~~
40 ~~promotion to the same or a similar position from which the~~
41 ~~person was demoted. This preferential right has priority over~~
42 ~~an eligibility list and is subject to the replaced person~~
43 ~~remaining physically and mentally fit to discharge the duties of~~
44 ~~that position].~~

45 SECTION 2. The change in law made by this Act applies only
46 to a firefighter or police officer who is returned to a lower
47 position in grade or compensation on or after the effective date

1 of this Act. A firefighter or police officer who is returned to
2 a lower position in grade or compensation before the effective
3 date of this Act is covered by the law in effect immediately
4 before that date, and the former law is continued in effect for
5 that purpose.

6 SECTION 3. This Act takes effect September 1, 2009.

7
8 H.B. No. 2808
9

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13 AN ACT

14 relating to the power of a licensing authority to revoke,
15 suspend, or deny a license on the basis of certain criminal
16 proceedings.

17 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

18 SECTION 1. Section 53.021, Occupations Code, is amended by
19 adding Subsections (c), (d), and (e) to read as follows:

20 (c) Except as provided by Subsections (d) and (e),
21 notwithstanding any other law, a licensing authority may not
22 consider a person to have been convicted of an offense for
23 purposes of this section if, regardless of the statutory
24 authorization:

25 (1) the person entered a plea of guilty or nolo
26 contendere;

27 (2) the judge deferred further proceedings without
28 entering an adjudication of guilt and placed the person under
29 the supervision of the court or an officer under the supervision
30 of the court; and

31 (3) at the end of the period of supervision, the
32 judge dismissed the proceedings and discharged the person.

33 (d) A licensing authority may consider a person to have
34 been convicted of an offense for purposes of this section
35 regardless of whether the proceedings were dismissed and the
36 person was discharged as described by Subsection (c) if, after
37 consideration of the factors described by Sections 53.022 and
38 53.023(a), the licensing authority determines that:

39 (1) the person may pose a continued threat to public
40 safety; or

41 (2) employment of the person in the licensed
42 occupation would create a situation in which the person has an
43 opportunity to repeat the prohibited conduct.

44 (e) Subsection (c) does not apply if the person is an
45 applicant for or the holder of a license that authorizes the
46 person to provide:

47 (1) law enforcement or public health, education, or

1 safety services; or
2 (2) financial services in an industry regulated by a
3 person listed in Section 411.081(i)(19), Government Code.

4 SECTION 2. This Act takes effect immediately if it
5 receives a vote of two-thirds of all the members elected to each
6 house, as provided by Section 39, Article III, Texas
7 Constitution. If this Act does not receive the vote necessary
8 for immediate effect, this Act takes effect September 1, 2009.

9
10 H.B. No. 2846
11
12
13
14

15 AN ACT

16 relating to the admissibility of certain hearsay statements made
17 by a child abuse victim.

18 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

19 SECTION 1. Section 1, Article 38.072, Code of Criminal
20 Procedure, is amended to read as follows:

21 Sec. 1. This article applies to a proceeding in the
22 prosecution of an offense under any of the following provisions
23 of the Penal Code, if committed against a child [~~12 years of age~~
24 ~~or~~] younger than 14 years of age:

25 (1) Chapter 21 (Sexual Offenses) or 22 (Assaultive
26 Offenses);

27 (2) Section 25.02 (Prohibited Sexual Conduct); [~~or~~]

28 (3) Section 43.25 (Sexual Performance by a Child); or

29 (4) Section 15.01 (Criminal Attempt), if the offense
30 attempted is described by Subdivision (1), (2), or (3) of this
31 section.

32 SECTION 2. Section 2(a), Article 38.072, Code of Criminal
33 Procedure, is amended to read as follows:

34 (a) This article applies only to statements that:

35 (1) describe:

36 (A) the alleged offense; or

37 (B) if the statement is offered during the
38 punishment phase of the proceeding, a crime, wrong, or act other
39 than the alleged offense that is:

40 (i) described by Section 1;

41 (ii) allegedly committed by the defendant
42 against the child who is the victim of the offense or another
43 child younger than 14 years of age; and

44 (iii) otherwise admissible as evidence
45 under Article 38.37, Rule 404 or 405, Texas Rules of Evidence,
46 or another law or rule of evidence of this state;

47 (2) [~~1~~] were made by the child against whom the

1 charged offense or extraneous crime, wrong, or act was allegedly
2 committed; and

3 (3) [~~2~~] were made to the first person, 18 years of
4 age or older, other than the defendant, to whom the child made a
5 statement about the offense or extraneous crime, wrong, or act.

6 SECTION 3. The change in law made by this Act applies only
7 to a criminal proceeding that commences on or after the
8 effective date of this Act. A criminal proceeding that commences
9 before the effective date of this Act is governed by the law in
10 effect when the proceeding commenced, and the former law is
11 continued in effect for that purpose.

12 SECTION 4. This Act takes effect September 1, 2009.

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14 H.B. No. 2854
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19 AN ACT

20 relating to license plates created by the Texas Department of
21 Transportation for professional firefighters.

22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

23 SECTION 1. Subchapter E, Chapter 504, Transportation Code,
24 is amended by adding Section 504.414 to read as follows:

25 Sec. 504.414. PROFESSIONAL FIREFIGHTER PLATES. (a) The
26 professional firefighter plate may be issued to qualified
27 firefighters. The sponsor of the plate may nominate a state
28 agency for receipt of funds under Section 504.801(e)(2)(A).

29 (b) After deduction of the department's administrative
30 costs in accordance with Section 504.801, the remainder of the
31 fees from the sale of professional firefighter plates shall be
32 deposited to the credit of an account in the state treasury to
33 be used by the nominated state agency for the purpose of making
34 grants to support the activities of an organization of
35 professional firefighters located in this state that provides
36 emergency relief and college scholarship funds to the
37 professional firefighters and their dependents.

38 SECTION 2. This Act takes effect immediately if it
39 receives a vote of two-thirds of all the members elected to each
40 house, as provided by Section 39, Article III, Texas
41 Constitution. If this Act does not receive the vote necessary
42 for immediate effect, this Act takes effect September 1, 2009.

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44 H.B. No. 2876
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AN ACT

relating to the authority of an administrative law judge to order the release of certain information relating to a child abuse and neglect investigation.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 261.201, Family Code, is amended by adding Subsection (b-1) to read as follows:

(b-1) On a motion of one of the parties in a contested case before an administrative law judge relating to the license or certification of a professional, as defined by Section 261.101(b), or an educator, as defined by Section 5.001, Education Code, the administrative law judge may order the disclosure of information that is confidential under this section that relates to the matter before the administrative law judge after a hearing for which notice is provided as required by Subsection (b)(2) and making the review and determination required by Subsection (b)(3). Before the department may release information under this subsection, the department must edit the information to protect the confidentiality of the identity of any person who makes a report of abuse or neglect.

SECTION 2. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2009.

H.B. No. 2916

AN ACT

relating to allowing certain claimants to file an application under the Crime Victims' Compensation Act.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Article 56.37, Code of Criminal Procedure, is amended by adding Subsection (e) to read as follows:

(e) For a claim that is based on criminally injurious conduct in violation of Chapter 19, Penal Code, the claimant must file an application not later than three years after the date the identity of the victim is established by a law enforcement agency.

SECTION 2. Article 56.61, Code of Criminal Procedure, is amended to read as follows:

Art. 56.61. COMPENSATION FOR CERTAIN CRIMINALLY INJURIOUS CONDUCT PROHIBITED; EXCEPTION. (a) Except as provided by

1 Subsection (b), the [The] attorney general may not award
2 compensation for pecuniary [economic] loss arising from
3 criminally injurious conduct that occurred before January 1,
4 1980.

5 (b) The attorney general may award compensation for
6 pecuniary loss arising from criminally injurious conduct that
7 occurred before January 1, 1980, if:

8 (1) the conduct was in violation of Chapter 19, Penal
9 Code;

10 (2) the identity of the victim is established by a
11 law enforcement agency on or after January 1, 2009, and the
12 pecuniary loss was incurred with respect to the victim's funeral
13 or burial on or after that date; and

14 (3) the claimant files the application for
15 compensation within the limitations period provided by Article
16 56.37(e).

17 SECTION 3. The change in law made by this Act applies only
18 to criminally injurious conduct committed against a victim whose
19 identity is established by a law enforcement agency on or after
20 January 1, 2009. Criminally injurious conduct committed against
21 a victim whose identity is established by a law enforcement
22 agency before January 1, 2009, is covered by the law in effect
23 on the date the victim's identity was established, and the
24 former law is continued in effect for that purpose.

25 SECTION 4. This Act takes effect immediately if it
26 receives a vote of two-thirds of all the members elected to each
27 house, as provided by Section 39, Article III, Texas
28 Constitution. If this Act does not receive the vote necessary
29 for immediate effect, this Act takes effect September 1, 2009.

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31 H.B. No. 2917
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36 AN ACT

37 relating to authorizing the Department of State Health Services
38 to obtain criminal history record information for certain
39 applicants for employment.

40 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

41 SECTION 1. Section 411.110, Government Code, is amended by
42 amending Subsections (a), (c), and (d) and adding Subsection (f)
43 to read as follows:

44 (a) The Department of State Health Services is entitled to
45 obtain from the department criminal history record information
46 maintained by the department that relates to:

47 (1) a person who is:

1 (A) an applicant for a license or certificate
2 under the Emergency Medical Services Act (Chapter 773, Health
3 and Safety Code);

4 (B) an owner or manager of an applicant for an
5 emergency medical services provider license under that Act; or

6 (C) the holder of a license or certificate under
7 that Act;

8 (2) an applicant for a license or a license holder
9 under Subchapter N, Chapter 431, Health and Safety Code; [~~or~~]

10 (3) an applicant for a license, the owner or manager
11 of an applicant for a massage establishment license, or a
12 license holder under Chapter 455, Occupations Code;

13 (4) an applicant for employment at or current
14 employee of:

15 (A) the Texas Center for Infectious Disease; or

16 (B) the South Texas Health Care System; or

17 (5) an applicant for employment at, current employee
18 of, or person who contracts or may contract to provide goods or
19 services with:

20 (A) the vital statistics unit of the Department
21 of State Health Services; or

22 (B) the Council on Sex Offender Treatment or
23 other division or component of the Department of State Health
24 Services that monitors sexually violent predators as described
25 by Section 841.003(a), Health and Safety Code.

26 (c) After an entity is licensed or certified, the
27 Department of State Health Services shall destroy the criminal
28 history record information that relates to that entity. The
29 Department of State Health Services shall destroy the criminal
30 history record information that relates to:

31 (1) an applicant for employment after that applicant
32 is employed or, for an applicant who is not employed, after the
33 check of the criminal history record information on that
34 applicant is completed; or

35 (2) an employee or contractor after the check of the
36 criminal history record information on that employee or
37 contractor is completed.

38 (d) The Department of State Health Services shall destroy
39 criminal history record information that relates to an applicant
40 who [~~that~~] is not certified or employed, as applicable.

41 (f) The Department of State Health Services may not
42 consider offenses for which points are assessed under Section
43 708.052, Transportation Code, to determine whether to hire or
44 retain an employee or to contract with a person on whom criminal
45 history record information is obtained under this section.

46 SECTION 2. This Act takes effect immediately if it
47 receives a vote of two-thirds of all the members elected to each

1 house, as provided by Section 39, Article III, Texas
2 Constitution. If this Act does not receive the vote necessary
3 for immediate effect, this Act takes effect September 1, 2009.

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5 H.B. No. 2932
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10 AN ACT

11 relating to including in the law enforcement information system
12 information indicating that criminal defendants have committed
13 certain additional offenses.

14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

15 SECTION 1. Chapter 411, Government Code, is amended by
16 adding Subchapter D-1 to read as follows:

17 SUBCHAPTER D-1. CENTRAL INDEX OF CERTAIN ADDITIONAL OFFENSES

18 SUSPECTED TO HAVE BEEN COMMITTED BY CRIMINAL DEFENDANTS

19 Sec. 411.0601. DEFINITION. In this subchapter, "criminal
20 justice agency" has the meaning assigned by Article 60.01, Code
21 of Criminal Procedure.

22 Sec. 411.0602. ESTABLISHMENT OF CENTRAL INDEX; ENTRY OF
23 INFORMATION. (a) In the law enforcement information system
24 maintained by the department, the bureau of identification and
25 records shall establish and maintain a central index to collect
26 and disseminate information regarding additional offenses that
27 forensic DNA test results indicate may have been committed by a
28 defendant who has been arrested for or charged with any felony
29 or misdemeanor offense, other than a misdemeanor offense
30 punishable by fine only.

31 (b) Information relating to a defendant described by
32 Subsection (a) may be entered in the central index only if the
33 information is based on forensic DNA test results indicating
34 that the DNA profile of the defendant cannot be excluded as a
35 donor to the DNA profile of a person suspected to have committed
36 an offense, regardless of whether the defendant has been or will
37 be arrested for or charged with that offense. The information
38 must be:

39 (1) submitted in the form of an affidavit signed by a
40 representative of an investigating criminal justice agency and
41 approved by a district judge; and

42 (2) accompanied by a set of the defendant's
43 fingerprints.

44 Sec. 411.0603. CONFIDENTIALITY AND DISSEMINATION OF
45 INFORMATION IN CENTRAL INDEX. (a) Information maintained by
46 the department in the central index established under this
47 subchapter is confidential. The department may not disseminate

1 the information except as otherwise provided by this section.

2 (b) On proper inquiry, the department shall disseminate to
3 a criminal justice agency the information collected under
4 Section 411.0602. The criminal justice agency may disseminate
5 the information to any other criminal justice agency if the
6 dissemination of that information is for a criminal justice
7 purpose.

8 (c) A criminal justice agency or an employee of a criminal
9 justice agency is not liable for an act or omission relating to
10 the collection, use, or dissemination of information collected
11 under Section 411.0602 if that collection, use, or dissemination
12 is performed in accordance with rules adopted by the director.

13 Sec. 411.0604. RULES. The director shall adopt rules to
14 implement and enforce this subchapter.

15 Sec. 411.0605. RIGHT TO REQUEST NOTICE OF ENTRY IN CENTRAL
16 INDEX. (a) A defendant described by Section 411.0602(a) may
17 submit to the bureau of identification and records a request to
18 determine whether the bureau has entered information relating to
19 the defendant in the central index established under Section
20 411.0602. The bureau shall respond to the request not later
21 than the 10th business day after the date the bureau receives
22 the request.

23 (b) Before responding to a request under Subsection (a),
24 the bureau may require reasonable written verification of the
25 identity of the defendant submitting the request, including
26 written verification of an address, date of birth, driver's
27 license number, state identification card number, or social
28 security number.

29 Sec. 411.0606. RIGHT TO REQUEST REVIEW OF ENTRY IN CENTRAL
30 INDEX. (a) On receipt by the bureau of identification and
31 records of a written request that is submitted by a defendant
32 described by Section 411.0602(a), that is accompanied by a set
33 of the defendant's fingerprints, and that alleges that the
34 bureau may have entered inaccurate information relating to the
35 defendant in the central index established under Section
36 411.0602, the head of the bureau or that person's designee and
37 the head of the department's crime laboratory in Austin each
38 shall review the information to determine whether there is a
39 high likelihood that the information is accurate.

40 (b) If after review the head of the bureau or that
41 person's designee or the head of the department's crime
42 laboratory in Austin determines there is not a high likelihood
43 that the information relating to the defendant is accurate, the
44 bureau shall:

45 (1) promptly remove that information from the central
46 index; and

47 (2) notify other appropriate divisions of the

1 department, the investigating criminal justice agency, and the
2 defendant of the bureau's determination and the removal of the
3 information.

4 (c) If after review the head of the bureau or that
5 person's designee and the head of the department's crime
6 laboratory in Austin jointly determine there is a high
7 likelihood that the information relating to the defendant is
8 accurate, the bureau shall notify the defendant of that
9 determination.

10 SECTION 2. (a) Not later than December 1, 2009, the
11 public safety director of the Department of Public Safety of the
12 State of Texas shall adopt the rules required by Section
13 411.0604, Government Code, as added by this Act.

14 (b) The change in law made by this Act in adding
15 Subchapter D-1, Chapter 411, Government Code, applies to the
16 inclusion of forensic DNA test results in the central index
17 required to be established under that subchapter, regardless of
18 whether the test results were obtained before, on, or after the
19 effective date of this Act.

20 SECTION 3. This Act takes effect September 1, 2009.

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22 H.B. No. 2991
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27 AN ACT

28 relating to the exemption of certain honorably retired special
29 rangers and special Texas Rangers from certain required law
30 enforcement education and training programs regarding persons
31 with mental impairments.

32 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

33 SECTION 1. This Act shall be known as the Hal Wyatt Act.

34 SECTION 2. Section 1701.356, Occupations Code, is amended
35 by adding Subsection (c) to read as follows:

36 (c) An honorably retired commissioned officer of the
37 Department of Public Safety who is a special ranger under
38 Section 411.023, Government Code, or who is a special Texas
39 Ranger under Section 411.024, Government Code, may not be
40 required to undergo training under Section 1701.253(j).

41 SECTION 3. This Act takes effect immediately if it
42 receives a vote of two-thirds of all the members elected to each
43 house, as provided by Section 39, Article III, Texas
44 Constitution. If this Act does not receive the vote necessary
45 for immediate effect, this Act takes effect September 1, 2009.

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47 H.B. No. 3001

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AN ACT

relating to the consideration of longevity and cost of living in setting the salaries for certain municipal employees.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter A, Chapter 141, Local Government Code, is amended by adding Section 141.010 to read as follows:

Sec. 141.010. MUNICIPAL EMPLOYEES IN TYPE A AND B GENERAL-LAW MUNICIPALITIES. To the extent consistent with Subchapter B of this chapter and Chapters 142 and 143, the governing body of a Type A or B general-law municipality may consider longevity and cost of living in setting the salary of a municipal employee.

SECTION 2. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2009.

H.B. No. 3005

AN ACT

relating to the mandatory testing of persons suspected of exposing employees of a juvenile probation department to certain diseases.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 81.050(b), Health and Safety Code, is amended to read as follows:

(b) A person whose occupation or whose volunteer service is included in one or more of the following categories may request the department or a health authority to order testing of another person who may have exposed the person to a reportable disease, including HIV infection:

- (1) a law enforcement officer;
- (2) a fire fighter;
- (3) an emergency medical service employee or paramedic;
- (4) a correctional officer; [~~or~~]
- (5) an employee, contractor, or volunteer, other than a correctional officer, who performs a service in a correctional facility as defined by Section 1.07, Penal Code, or a secure

1 correctional facility or secure detention facility as defined by
2 Section 51.02, Family Code; or

3 (6) an employee of a juvenile probation department.

4 SECTION 2. The change in law made by this Act applies only
5 to an exposure to a disease that occurs on or after the
6 effective date of this Act. An exposure to a disease that
7 occurs before the effective date of this Act is covered by the
8 law in effect when the exposure occurred, and the former law is
9 continued in effect for that purpose.

10 SECTION 3. This Act takes effect immediately if it
11 receives a vote of two-thirds of all the members elected to each
12 house, as provided by Section 39, Article III, Texas
13 Constitution. If this Act does not receive the vote necessary
14 for immediate effect, this Act takes effect September 1, 2009.

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16 H.B. No. 3082
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21 AN ACT

22 relating to the obstruction of streets by certain
23 municipalities.

24 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

25 SECTION 1. Section 311.001, Transportation Code, is
26 amended by adding Subsection (c) to read as follows:

27 (c) Notwithstanding Subsection (a) or (b) or Section
28 311.007, before a municipality with a population of 1.9 million
29 or more may install traffic calming measures within the
30 municipality, the governing body of the municipality must:

31 (1) publish standards and criteria, which must
32 include sufficient notice to allow the governing body to receive
33 and consider public comments from residents within one-half mile
34 of the proposed traffic calming measure;

35 (2) on request of affected residents, schedule and
36 hold a public meeting before implementation of the measure; and

37 (3) if the measure involves the closure of a street
38 to motor vehicular traffic, before the closure:

39 (A) hold a public hearing on the issue of the
40 closure; and

41 (B) approve the closure by a majority vote.

42 SECTION 2. This Act takes effect immediately if it
43 receives a vote of two-thirds of all the members elected to each
44 house, as provided by Section 39, Article III, Texas
45 Constitution. If this Act does not receive the vote necessary
46 for immediate effect, this Act takes effect September 1, 2009.

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6 AN ACT

7 relating to the regulation of massage parlors by counties;
8 providing penalties.

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

10 SECTION 1. Chapter 234, Local Government Code, is amended
11 by adding Subchapter D to read as follows:

12 SUBCHAPTER D. MASSAGE PARLORS

13 Sec. 234.101. DEFINITIONS. In this subchapter:

14 (1) "Massage parlor" means a business establishment
15 that purports to provide massage services and that allows:

16 (A) a nude person to provide massage services to
17 a customer;

18 (B) a person to engage in sexual contact for
19 compensation; or

20 (C) a person to provide massage services in
21 clothing intended to arouse or gratify the sexual desire of any
22 person.

23 (2) "Nude" and "sexual contact" have the meanings
24 assigned by Section 455.202, Occupations Code.

25 Sec. 234.102. AUTHORITY TO REGULATE. To promote public
26 health, safety, and welfare, the commissioners court of a county
27 by order may prohibit or otherwise regulate massage parlors
28 located in the unincorporated area of the county.

29 Sec. 234.103. INJUNCTION. If a massage parlor has
30 previously violated a prohibition or other regulation adopted
31 under this subchapter, a district or county attorney may bring
32 suit to enjoin the operation of a massage parlor in violation or
33 threatened violation of a prohibition or other regulation
34 adopted under this subchapter.

35 Sec. 234.104. CIVIL PENALTY. (a) A person who violates a
36 prohibition or regulation adopted by the county under this
37 subchapter is liable to the county for a civil penalty of not
38 more than \$1,000 for each violation. Each day a violation
39 continues is considered a separate violation for purposes of
40 assessing the civil penalty.

41 (b) A county may bring suit in a district court to recover
42 a civil penalty authorized by Subsection (a).

43 Sec. 234.105. CRIMINAL PENALTY. (a) A person commits an
44 offense if the person intentionally or knowingly operates a
45 massage parlor in violation of a prohibition or regulation
46 adopted under this subchapter by the commissioners court.

47 (b) An offense under this section is a Class A

1 misdemeanor.

2 Sec. 234.106. CUMULATIVE EFFECT. Authority under this
3 subchapter is cumulative of other authority that a county has to
4 regulate massage parlors and does not limit that other
5 authority.

6 Sec. 234.107. EFFECT ON OTHER LAWS. (a) This subchapter
7 does not legalize anything prohibited under the Penal Code or
8 other state law.

9 (b) A person who is subject to prosecution under this
10 section and any other law may be prosecuted under either or both
11 laws.

12 SECTION 2. This Act takes effect immediately if it
13 receives a vote of two-thirds of all the members elected to each
14 house, as provided by Section 39, Article III, Texas
15 Constitution. If this Act does not receive the vote necessary
16 for immediate effect, this Act takes effect September 1, 2009.

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18 H.B. No. 3095
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23 AN ACT

24 relating to the use of a parking space or area designated
25 specifically for persons with disabilities.

26 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

27 SECTION 1. Section 681.002(b), Transportation Code, is
28 amended to read as follows:

29 (b) A disabled parking placard must be two-sided and
30 hooked and include on each side:

31 (1) the international symbol of access, which must be
32 at least three inches in height, be centered on the placard, and
33 be:

34 (A) white on a blue shield for a placard issued
35 to a person with a permanent [mobility] disability [~~described by~~
36 ~~Section 681.001(5)(B) or (C)~~]; or

37 (B) white on a red shield for a placard issued
38 to a person with a [any other permanent or] temporary
39 disability;

40 (2) an identification number;

41 (3) an expiration date at least three inches in
42 height; and

43 (4) the seal or other identification of the
44 department.

45 SECTION 2. Section 681.003(b), Transportation Code, is
46 amended to read as follows:

47 (b) An application for a disabled parking placard must be:

- 1 (1) on a form furnished by the department;
2 (2) submitted to the county assessor-collector of the
3 county in which the person with the disability resides; and
4 (3) accompanied by a fee of \$5 if the application is
5 for a temporary placard.

6 SECTION 3. Section 681.009(e), Transportation Code, is
7 amended to read as follows:

8 (e) Parking [~~A private property owner or private person~~
9 ~~who controls property used for parking and who designates one or~~
10 ~~more uncovered parking]~~ spaces or areas designated for the
11 exclusive use of vehicles transporting persons with disabilities
12 may be used by [~~shall assign at least half of those spaces for~~
13 ~~the exclusive use of]~~ vehicles displaying a white on blue shield
14 disabled parking placard, [~~or~~] license plates issued under
15 Section 504.201 or 504.202, or [~~except that if an odd number of~~
16 ~~spaces is designated, only the number of spaces that is the~~
17 ~~largest whole number less than half of the number of designated~~
18 ~~spaces must be assigned for the exclusive use of vehicles~~
19 ~~displaying a white on blue shield placard or license plates~~
20 ~~issued under Section 504.202. Van-accessible parking spaces~~
21 ~~shall be counted as assigned spaces under this~~
22 ~~subsection. These assigned spaces must be the spaces located~~
23 ~~closest to an accessible route to an entrance accessible to a~~
24 ~~person with a disability. The remaining designated parking~~
25 ~~spaces may be used by vehicles displaying a white on blue shield~~
26 ~~disabled parking placard,]~~ a white on red shield disabled
27 parking placard[, license plates issued under Section 504.201,
28 ~~or license plates issued under Section 504.202. This subsection~~
29 ~~applies only to a property used for parking that serves a~~
30 ~~building or other facility:~~

31 [~~(1) that state law requires to be accessible to~~
32 ~~person with disabilities; and~~

33 [~~(2) for which construction or an alteration of the~~
34 ~~building or other facility is completed on or after September 1,~~
35 ~~1999].~~

36 SECTION 4. Sections 681.011(b), (g), (h), (i), (j), and
37 (k), Transportation Code, are amended to read as follows:

38 (b) A person commits an offense if the person[~~-~~
39 [~~(1)~~] stands a vehicle on which license plates issued
40 under Section 504.201 or 504.202 are not displayed and a
41 disabled parking placard is not displayed in a parking space or
42 area designated specifically for individuals with disabilities
43 by:

- 44 (1) [~~(A)~~] a political subdivision; or
45 (2) [~~(B)~~] a person who owns or controls private
46 property used for parking as to which a political subdivision
47 has provided for the application of this section under [~~this~~]

1 Subsection (f) [~~or~~
2 [~~(2) stands a vehicle displaying a white on red~~
3 ~~shield disabled parking placard or license plates issued under~~
4 ~~Section 504.201 in a space designated under Section 681.009(e)~~
5 ~~for the exclusive use of vehicles displaying a white on blue~~
6 ~~shield disabled parking placard or license plates issued under~~
7 ~~Section 504.202].~~

8 (g) Except as provided by Subsections (h)-(k), an offense
9 under this section is a misdemeanor punishable by a fine of not
10 less than \$500 [~~\$250~~] or more than \$750 [~~\$500~~].

11 (h) If it is shown on the trial of an offense under this
12 section that the person has been previously convicted one time
13 of an offense under this section, the offense is punishable by:

14 (1) a fine of not less than \$550 [~~\$300~~] or more than
15 \$800; and

16 (2) 10 hours of community service [~~\$600~~].

17 (i) If it is shown on the trial of an offense under this
18 section that the person has been previously convicted two times
19 of an offense under this section, the offense is punishable by:

20 (1) a fine of not less than \$550 [~~\$300~~] or more than
21 \$800 [~~\$600~~]; and

22 (2) not less than 20 [~~10~~] or more than 30 [~~20~~] hours
23 of community service.

24 (j) If it is shown on the trial of an offense under this
25 section that the person has been previously convicted three
26 times of an offense under this section, the offense is
27 punishable by:

28 (1) a fine of not less than \$800 [~~\$500~~] or more than
29 \$1,100 [~~\$1,000~~]; and

30 (2) [~~not less than 20 or more than~~] 50 hours of
31 community service.

32 (k) If it is shown on the trial of an offense under this
33 section that the person has been previously convicted four times
34 of an offense under this section, the offense is punishable by a
35 fine of \$1,250 [~~\$1,000~~] and 50 hours of community service.

36 SECTION 5. A disabled parking placard issued before the
37 effective date of this Act is governed by the law as it existed
38 immediately before the effective date of this Act, and that law
39 is continued in effect for that purpose.

40 SECTION 6. (a) The change in law made by this Act applies
41 only to an offense committed on or after September 1, 2009.

42 (b) An offense committed before September 1, 2009, is
43 covered by the law in effect when the offense was committed, and
44 the former law is continued in effect for that purpose. For the
45 purposes of this subsection, an offense was committed before
46 September 1, 2009, if any element of the offense was committed
47 before that date.

1 SECTION 7. This Act takes effect September 1, 2009.

2
3 H.B. No. 3097
4
5
6
7

8 AN ACT

9 relating to the creation, organization, governance, duties, and
10 functions of the Texas Department of Motor Vehicles, including
11 the transfer of certain duties to the Texas Department of Motor
12 Vehicles and the Texas Department of Licensing and Regulation,
13 and to the regulation of certain franchised motor vehicle
14 dealers; providing a penalty.

15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

16 ARTICLE 1. TEXAS DEPARTMENT OF MOTOR VEHICLES

17 SECTION 1.01. Title 7, Transportation Code, is amended by
18 adding Subtitle M to read as follows:

19 SUBTITLE M. DEPARTMENT OF MOTOR VEHICLES

20 CHAPTER 1001. ORGANIZATION OF DEPARTMENT

21 SUBCHAPTER A. GENERAL PROVISIONS

22 Sec. 1001.001. DEFINITIONS. In this subtitle:

23 (1) "Board" means the board of the department.

24 (2) "Department" means the Texas Department of Motor
25 Vehicles.

26 Sec. 1001.002. CREATION OF DEPARTMENT; DUTIES. (a) The
27 department is created as an agency of this state.

28 (b) In addition to the other duties required of the Texas
29 Department of Motor Vehicles, the department shall administer
30 and enforce:

31 (1) Subtitle A;

32 (2) Chapters 642, 643, 645, 646, and 648; and

33 (3) Chapters 2301 and 2302, Occupations Code.

34 Sec. 1001.003. COMPOSITION OF DEPARTMENT. The department
35 is composed of an executive director appointed by the board and
36 other employees required to efficiently implement:

37 (1) this subtitle;

38 (2) other applicable vehicle laws of this state; and

39 (3) other laws that grant jurisdiction to or are
40 applicable to the department.

41 Sec. 1001.004. DIVISIONS. The board shall organize the
42 department into divisions to accomplish the department's
43 functions and the duties assigned to it, including divisions
44 for:

45 (1) administration;

46 (2) motor carriers;

47 (3) motor vehicle board; and

1 (4) vehicle titles and registration.

2 Sec. 1001.005. SUNSET PROVISION. The department is
3 subject to Chapter 325, Government Code (Texas Sunset Act).
4 Unless continued in existence as provided by that chapter, the
5 department is abolished September 1, 2015.

6 Sec. 1001.006. DEFENSE BY ATTORNEY GENERAL. The attorney
7 general shall defend an action brought against the board or the
8 department or an action brought against an employee of the
9 department as a result of the employee's official act or
10 omission, regardless of whether at the time of the institution
11 of the action that person has terminated service with the
12 department.

13 [Sections 1001.007-1001.020 reserved for expansion]

14 SUBCHAPTER B. BOARD OF DEPARTMENT OF MOTOR VEHICLES

15 Sec. 1001.021. BOARD. (a) The board consists of nine
16 members appointed by the governor with the advice and consent of
17 the senate.

18 (b) Three members must be persons who hold a dealer's
19 license issued under Chapter 2301, Occupations Code, of whom two
20 must be franchised dealers of different classes and one must be
21 an independent dealer; one member must be a representative of a
22 manufacturer or distributor that holds a license issued under
23 Chapter 2301, Occupations Code; one member must be a tax
24 assessor-collector; one member must be a representative of a law
25 enforcement agency of a county or municipality; and one member
26 must be a representative of the motor carrier industry. The
27 remaining members must be public members.

28 (c) Except as necessary to comply with Subsection (b), a
29 person is not eligible for appointment as a member of the board
30 if the person or the person's spouse:

31 (1) is employed by or participates in the management
32 of a business entity or other organization that is regulated by
33 or receives funds from the department;

34 (2) directly or indirectly owns or controls more than
35 10 percent interest in a business entity or other organization
36 that is regulated by or receives funds from the department;

37 (3) uses or receives a substantial amount of tangible
38 goods, services, or funds from the department, other than
39 compensation or reimbursement authorized by law for board
40 membership, attendance, or expenses; or

41 (4) is registered, certified, or licensed by the
42 department.

43 (d) A person required to register as a lobbyist under
44 Chapter 305, Government Code, because of the person's activities
45 for compensation on behalf of a profession related to the
46 operation of the department may not serve as a member of the
47 board.

1 (e) Appointments to the board shall be made without regard
2 to race, color, disability, sex, religion, age, or national
3 origin of the appointees and shall reflect the diversity of the
4 population of the state as a whole.

5 Sec. 1001.022. TERMS. Members of the board serve
6 staggered six-year terms, with the terms of either one or two
7 members expiring February 1 of each odd-numbered year.

8 Sec. 1001.023. CHAIR AND VICE CHAIR; DUTIES. (a) The
9 governor shall appoint one of the board's members chair of the
10 board. The board shall elect one of its members vice chair of
11 the board. A chair or vice chair serves at the pleasure of the
12 board.

13 (b) The chair shall:

14 (1) preside over board meetings, make rulings on
15 motions and points of order, and determine the order of
16 business;

17 (2) represent the department in dealing with the
18 governor;

19 (3) report to the governor on the state of affairs of
20 the department at least quarterly;

21 (4) report to the board the governor's suggestions
22 for department operations;

23 (5) report to the governor on efforts, including
24 legislative requirements, to maximize the efficiency of
25 department operations through the use of private enterprise;

26 (6) periodically review the department's
27 organizational structure and submit recommendations for
28 structural changes to the governor, the board, and the
29 Legislative Budget Board;

30 (7) designate one or more employees of the department
31 as a civil rights division of the department and receive regular
32 reports from the division on the department's efforts to comply
33 with civil rights legislation and administrative rules;

34 (8) create subcommittees, appoint board members to
35 subcommittees, and receive the reports of subcommittees to the
36 board as a whole;

37 (9) appoint a member of the board to act in the
38 chair's absence; and

39 (10) serve as the departmental liaison with the
40 governor and the Office of State-Federal Relations to maximize
41 federal funding for transportation.

42 Sec. 1001.024. BOARD MEETINGS. The board shall hold
43 regular meetings at least quarterly and special meetings at the
44 call of the chair. Board members shall attend the meetings of
45 the board. The chair shall oversee the preparation of an agenda
46 for each meeting and ensure that a copy is provided to each
47 board member at least seven days before the meeting.

1 Sec. 1001.025. RECOMMENDATIONS TO LEGISLATURE. (a) The
2 board shall consider ways in which the department's operations
3 may be improved and may periodically report to the legislature
4 concerning potential statutory changes that would improve the
5 operation of the department.

6 (b) On behalf of the board, the chair shall report to the
7 governor, the lieutenant governor, the speaker of the house of
8 representatives, and the presiding officers of relevant
9 legislative committees on legislative recommendations adopted by
10 the board and relating to the operation of the department.

11 Sec. 1001.026. COMPENSATION. A member of the board is
12 entitled to compensation as provided by the General
13 Appropriations Act. If compensation for board members is not
14 provided by that Act, each member is entitled to reimbursement
15 for actual and necessary expenses incurred in performing
16 functions as a member of the board.

17 Sec. 1001.027. GROUNDS FOR REMOVAL. (a) It is a ground
18 for removal from the board if a board member:

19 (1) does not have at the time of appointment or
20 maintain during service on the board the qualifications required
21 by Section 1001.021;

22 (2) violates a prohibition provided by Section
23 1001.021;

24 (3) cannot discharge the member's duties for a
25 substantial part of the term for which the member is appointed
26 because of illness or disability; or

27 (4) is absent from more than half of the regularly
28 scheduled board meetings that the board member is eligible to
29 attend during a calendar year, unless the absence is excused by
30 majority vote of the board.

31 (b) The validity of an action of the board is not affected
32 by the fact that it is taken when a ground for removal of a
33 board member exists.

34 (c) If the executive director of the department knows that
35 a potential ground for removal exists, the director shall notify
36 the chair of the board of the ground, and the chair shall notify
37 the governor and the attorney general that a potential ground
38 for removal exists. If the potential ground for removal relates
39 to the chair, the director shall notify another board member,
40 who shall notify the governor and the attorney general that a
41 potential ground for removal exists.

42 Sec. 1001.028. CONFLICT OF INTEREST. (a) A member of the
43 board shall disclose in writing to the executive director if the
44 member has an interest in a matter before the board or has a
45 substantial financial interest in an entity that has a direct
46 interest in the matter.

47 (b) The member shall recuse himself or herself from the

1 board's deliberations and actions on the matter in Subsection
2 (a) and may not participate in the board's decision on the
3 matter.

4 (c) A person has a substantial financial interest in an
5 entity if the person:

6 (1) is an employee, member, director, or officer of
7 the entity; or

8 (2) owns or controls, directly or indirectly, more
9 than a five percent interest in the entity.

10 Sec. 1001.029. INFORMATION ON QUALIFICATIONS AND CONDUCT.
11 The department shall provide to the members of the board, as
12 often as necessary, information concerning the members'
13 qualifications for office and their responsibilities under
14 applicable laws relating to standards of conduct for state
15 officers.

16 Sec. 1001.030. TRAINING ON DEPARTMENT AND CERTAIN LAWS
17 RELATING TO DEPARTMENT. (a) To be eligible to take office as a
18 member of the board, a person appointed to the board must
19 complete at least one course of a training program that complies
20 with this section.

21 (b) The training program must provide information to the
22 person regarding:

23 (1) this subchapter;

24 (2) the programs operated by the department;

25 (3) the role and functions of the department;

26 (4) the rules of the department with an emphasis on
27 the rules that relate to disciplinary and investigatory
28 authority;

29 (5) the current budget for the department;

30 (6) the results of the most recent formal audit of
31 the department;

32 (7) the requirements of the:

33 (A) open meetings law, Chapter 551, Government
34 Code;

35 (B) open records law, Chapter 552, Government
36 Code; and

37 (C) administrative procedure law, Chapter 2001,
38 Government Code;

39 (8) the requirements of the conflict of interest laws
40 and other laws relating to public officials; and

41 (9) any applicable ethics policies adopted by the
42 board or the Texas Ethics Commission.

43 (c) A person appointed to the board is entitled to
44 reimbursement for travel expenses incurred in attending the
45 training program, as provided by the General Appropriations Act
46 and as if the person were a member of the board.

47 Sec. 1001.031. ADVISORY COMMITTEES. (a) The board shall

1 establish separate advisory committees for the motor carrier,
2 motor vehicles, and vehicle titles and registration divisions to
3 make recommendations to the board or the executive director on
4 the operation of the applicable division. A committee has the
5 purposes, powers, and duties, including the manner of reporting
6 its work, prescribed by the board. A committee and each
7 committee member serves at the will of the board.

8 (b) The board shall appoint persons to each advisory
9 committee who:

10 (1) are selected from a list provided by the
11 executive director; and

12 (2) have knowledge about and interests in, and
13 represent a broad range of viewpoints about, the work of the
14 committee or applicable division.

15 (c) The advisory committee for the motor vehicles division
16 must include a member to represent motor vehicle manufacturers
17 and a member to represent the recreational vehicle industry.

18 (d) The advisory committee for the motor carrier division
19 must include a member to represent the motor transportation
20 industry.

21 (e) A member of an advisory committee may not be
22 compensated by the board or the department for committee
23 service.

24 [Sections 1001.032-1001.040 reserved for expansion]

25 SUBCHAPTER C. PERSONNEL

26 Sec. 1001.041. DEPARTMENT PERSONNEL. (a) Subject to the
27 General Appropriations Act or other law, the executive director
28 shall appoint deputies, assistants, and other personnel as
29 necessary to carry out the powers and duties of the department
30 under this code, other applicable vehicle laws of this state,
31 and other laws granting jurisdiction or applicable to the
32 department.

33 (b) A person appointed under this section must have the
34 professional and administrative experience necessary to qualify
35 the person for the position to which the person is appointed.

36 Sec. 1001.042. DIVISION OF RESPONSIBILITIES. The board
37 shall develop and implement policies that clearly define the
38 respective responsibilities of the director and the staff of the
39 department.

40 Sec. 1001.043. EQUAL EMPLOYMENT OPPORTUNITY POLICY;
41 REPORT. (a) The executive director or the director's designee
42 shall prepare and maintain a written policy statement to ensure
43 implementation of a program of equal employment opportunity
44 under which all personnel transactions are made without regard
45 to race, color, disability, sex, religion, age, or national
46 origin. The policy statement must include:

47 (1) personnel policies, including policies relating

1 to recruitment, evaluation, selection, appointment, training,
2 and promotion of personnel that are in compliance with Chapter
3 21, Labor Code;

4 (2) a comprehensive analysis of the department
5 workforce that meets federal and state guidelines;

6 (3) procedures by which a determination can be made
7 of significant underuse in the department workforce of all
8 persons for whom federal or state guidelines encourage a more
9 equitable balance; and

10 (4) reasonable methods to appropriately address those
11 areas of significant underuse.

12 (b) A policy statement prepared under this section must:

13 (1) cover an annual period;

14 (2) be updated annually;

15 (3) be reviewed by the civil rights division of the
16 Texas Workforce Commission for compliance with Subsection (a);
17 and

18 (4) be filed with the governor.

19 (c) The governor shall deliver a biennial report to the
20 legislature based on the information received under Subsection
21 (b). The report may be made separately or as a part of other
22 biennial reports made to the legislature.

23 Sec. 1001.044. QUALIFICATIONS AND STANDARDS OF CONDUCT.
24 The executive director shall provide to department employees, as
25 often as necessary, information regarding their:

26 (1) qualification for office or employment under this
27 subtitle; and

28 (2) responsibilities under applicable laws relating
29 to standards of conduct for state employees.

30 Sec. 1001.045. CAREER LADDER PROGRAM; PERFORMANCE
31 EVALUATIONS. (a) The executive director or the director's
32 designee shall develop an intra-agency career ladder program.
33 The program must require intra-agency posting of all nonentry
34 level positions concurrently with any public posting.

35 (b) The executive director or the director's designee
36 shall develop a system of annual performance evaluations. All
37 merit pay for department employees must be based on the system
38 established under this subsection.

39 CHAPTER 1002. RULES

40 Sec. 1002.001. GENERAL RULEMAKING AUTHORITY. The board
41 may adopt any rules necessary and appropriate to implement the
42 powers and duties of the department under this code and other
43 laws of this state.

44 Sec. 1002.002. RULES RESTRICTING ADVERTISING OR
45 COMPETITIVE BIDDING. The board may not adopt rules restricting
46 advertising or competitive bidding by a person regulated by the
47 department except to prohibit false, misleading, or deceptive

1 practices by the person.

2 CHAPTER 1003. DEPARTMENT PROCEDURES

3 Sec. 1003.001. APPLICABILITY OF CERTAIN LAWS. Except as
4 specifically provided by law, the department is subject to
5 Chapters 2001 and 2002, Government Code.

6 Sec. 1003.002. SUMMARY PROCEDURES FOR ROUTINE MATTERS.

7 (a) The board or the department by rule may:

8 (1) create a summary procedure for routine matters;
9 and

10 (2) designate department activities that otherwise
11 would be subject to Chapter 2001, Government Code, as routine
12 matters to be handled under the summary procedure.

13 (b) An activity may be designated as a routine matter only
14 if the activity is:

15 (1) voluminous;
16 (2) repetitive;
17 (3) believed to be noncontroversial; and
18 (4) of limited interest to anyone other than persons
19 immediately involved in or affected by the proposed department
20 action.

21 (c) The rules may establish procedures different from
22 those contained in Chapter 2001, Government Code. The
23 procedures must require, for each party directly involved,
24 notice of a proposed negative action not later than the fifth
25 day before the date the action is proposed to be taken.

26 (d) A rule adopted by the board under this section may
27 provide for the delegation of authority to take action on a
28 routine matter to a salaried employee of the department
29 designated by the board.

30 Sec. 1003.003. REVIEW OF ACTION ON ROUTINE MATTER. (a) A
31 person directly or indirectly affected by an action of the board
32 or the department on a routine matter taken under the summary
33 procedure adopted under Section 1003.002 is entitled to a review
34 of the action under Chapter 2001, Government Code.

35 (b) The person must apply to the board not later than the
36 60th day after the date of the action to be entitled to the
37 review.

38 (c) The timely filing of the application for review
39 immediately stays the action pending a hearing on the merits.

40 (d) The board may adopt rules relating to an application
41 for review under this section and consideration of the
42 application.

43 Sec. 1003.004. INFORMAL DISPOSITION OF CERTAIN CONTESTED
44 CASES. The board or the department, as applicable, may, on
45 written agreement or stipulation of each party and any
46 intervenor, informally dispose of a contested case in accordance
47 with Section 2001.056, Government Code, notwithstanding any

1 provision of this code or other law that requires a hearing
2 before the board or the department, as applicable.

3 CHAPTER 1004. PUBLIC ACCESS

4 Sec. 1004.001. ACCESS TO PROGRAMS AND FACILITIES.

5 (a) The department shall prepare and maintain a written plan
6 that describes how a person who does not speak English may be
7 provided reasonable access to the department's programs.

8 (b) The department shall comply with federal and state
9 laws for program and facility accessibility.

10 Sec. 1004.002. PUBLIC COMMENT. The board and the
11 department shall develop and implement policies that provide the
12 public with a reasonable opportunity to appear before the board
13 or the department and to speak on any issue under the
14 jurisdiction of the board or the department.

15 Sec. 1004.003. PUBLIC REPRESENTATION ON ADVISORY BODY.

16 (a) At least one-half of the membership of each advisory body
17 appointed by the board, other than an advisory body whose
18 membership is determined by this code or by other law, must
19 represent the general public.

20 (b) A public representative may not be:

21 (1) an officer, director, or employee of a business
22 entity regulated by the department;

23 (2) a person required to register with the Texas
24 Ethics Commission under Chapter 305, Government Code; or

25 (3) a person related within the second degree by
26 affinity or consanguinity to a person described by Subdivision
27 (1) or (2).

28 CHAPTER 1005. STANDARDS OF CONDUCT

29 Sec. 1005.001. APPLICATION OF LAW RELATING TO ETHICAL
30 CONDUCT. The board, the executive director, and each employee
31 or agent of the department is subject to the code of ethics and
32 the standard of conduct imposed by Chapter 572, Government Code,
33 and any other law regulating the ethical conduct of state
34 officers and employees.

35 ARTICLE 2. TRANSFER OF DUTIES AND FUNCTIONS OF THE TEXAS
36 DEPARTMENT OF TRANSPORTATION

37 PART A. GENERAL PROVISIONS AND ADMINISTRATION

38 SECTION 2A.01. Subsection (a), Section 201.202,
39 Transportation Code, is amended to read as follows:

40 (a) The commission shall organize the department into
41 divisions to accomplish the department's functions and the
42 duties assigned to it, including divisions for:

43 (1) aviation;

44 (2) highways and roads; and

45 (3) public transportation[; and

46 [~~(4) motor vehicle titles and registration~~].

47 SECTION 2A.02. Subdivision (2), Section 201.931,

1 Transportation Code, is amended to read as follows:

2 (2) "License" includes:

3 (A) a permit issued by the department that
4 authorizes the operation of a vehicle and its load or a
5 combination of vehicles and load exceeding size or weight
6 limitations; and

7 ~~(B) [a motor carrier registration issued under
8 Chapter 643;~~

9 ~~[(C) a vehicle storage facility license issued
10 under Chapter 2303, Occupations Code;~~

11 ~~[(D)] a license or permit for outdoor advertising
12 issued under Chapter 391 or 394[;~~

13 ~~[(E) a salvage vehicle dealer or agent license
14 issued under Chapter 2302, Occupations Code;~~

15 ~~[(F) specially designated or specialized license
16 plates issued under Subchapters E and F, Chapter 502; and~~

17 ~~[(G) an apportioned registration issued
18 according to the International Registration Plan under Section
19 502.054].~~

20 SECTION 2A.03. Subsection (c), Section 201.202,
21 Transportation Code, is repealed.

22 PART B. STATE HIGHWAY TOLL PROJECTS

23 SECTION 2B.01. Subsections (b) and (h), Section 228.055,
24 Transportation Code, are amended to read as follows:

25 (b) The department may impose and collect the
26 administrative fee, so as to recover the cost of collecting the
27 unpaid toll, not to exceed \$100. The department shall send a
28 written notice of nonpayment to the registered owner of the
29 vehicle at that owner's address as shown in the vehicle
30 registration records of the Texas Department of Motor Vehicles
31 ~~[department]~~ by first class mail and may require payment not
32 sooner than the 30th day after the date the notice was mailed.
33 The registered owner shall pay a separate toll and
34 administrative fee for each event of nonpayment under Section
35 228.054.

36 (h) In this section, "registered owner" means the owner of
37 a vehicle as shown on the vehicle registration records of the
38 Texas Department of Motor Vehicles ~~[department]~~ or the analogous
39 department or agency of another state or country.

40 SECTION 2B.02. Subsection (b), Section 228.056,
41 Transportation Code, is amended to read as follows:

42 (b) In the prosecution of an offense under Section
43 228.055(c), (d), or (e):

44 (1) it is presumed that the notice of nonpayment was
45 received on the fifth day after the date of mailing;

46 (2) a computer record of the Texas Department of
47 Motor Vehicles ~~[department]~~ of the registered owner of the

1 vehicle is prima facie evidence of its contents and that the
2 defendant was the registered owner of the vehicle when the
3 underlying event of nonpayment under Section 228.054 occurred;
4 and

5 (3) a copy of the rental, lease, or other contract
6 document covering the vehicle on the date of the underlying
7 event of nonpayment under Section 228.054 is prima facie
8 evidence of its contents and that the defendant was the lessee
9 of the vehicle when the underlying event of nonpayment under
10 Section 228.054 occurred.

11 PART C. CAUSEWAYS, BRIDGES, TUNNELS, TURNPIKES, FERRIES, AND
12 HIGHWAYS IN CERTAIN COUNTIES

13 SECTION 2C.01. Subsections (b), (e), and (h), Section
14 284.0701, Transportation Code, are amended to read as follows:

15 (b) The county may impose and collect the administrative
16 cost so as to recover the expense of collecting the unpaid toll,
17 not to exceed \$100. The county shall send a written notice of
18 nonpayment to the registered owner of the vehicle at that
19 owner's address as shown in the vehicle registration records of
20 the Texas Department of Motor Vehicles [~~department~~] by first-
21 class mail not later than the 30th day after the date of the
22 alleged failure to pay and may require payment not sooner than
23 the 30th day after the date the notice was mailed. The
24 registered owner shall pay a separate toll and administrative
25 cost for each event of nonpayment under Section 284.070.

26 (e) It is an exception to the application of Subsection
27 (a) or (c) if the registered owner of the vehicle transferred
28 ownership of the vehicle to another person before the event of
29 nonpayment under Section 284.070 occurred, submitted written
30 notice of the transfer to the Texas Department of Motor Vehicles
31 [~~department~~] in accordance with Section 520.023, and before the
32 30th day after the date the notice of nonpayment is mailed,
33 provides to the county the name and address of the person to
34 whom the vehicle was transferred. If the former owner of the
35 vehicle provides the required information within the period
36 prescribed, the county may send a notice of nonpayment to the
37 person to whom ownership of the vehicle was transferred at the
38 address provided by the former owner by first-class mail before
39 the 30th day after the date of receipt of the required
40 information from the former owner. The subsequent owner of the
41 vehicle for which the proper toll was not paid who is mailed a
42 written notice of nonpayment under this subsection and fails to
43 pay the proper toll and administrative cost within the time
44 specified by the notice of nonpayment commits an offense. The
45 subsequent owner shall pay a separate toll and administrative
46 cost for each event of nonpayment under Section 284.070. Each
47 failure to pay a toll or administrative cost under this

1 subsection is a separate offense.

2 (h) In this section, "registered owner" means the owner of
3 a vehicle as shown on the vehicle registration records of the
4 Texas Department of Motor Vehicles [~~department~~] or the analogous
5 department or agency of another state or country.

6 PART D. CERTIFICATE OF TITLE ACT

7 SECTION 2D.01. Subdivision (3), Section 501.002,
8 Transportation Code, is amended to read as follows:

9 (3) "Department" means the Texas Department of Motor
10 Vehicles [~~Transportation~~].

11 PART E. REGISTRATION OF VEHICLES

12 SECTION 2E.01. Section 502.001, Transportation Code, is
13 amended by adding Subdivision (1-a) and amending Subdivision (3)
14 to read as follows:

15 (1-a) "Board" means the board of the Texas Department
16 of Motor Vehicles.

17 (3) "Department" means the Texas Department of Motor
18 Vehicles [~~Transportation~~].

19 SECTION 2E.02. Section 502.051, Transportation Code, is
20 amended to read as follows:

21 Sec. 502.051. DEPOSIT OF REGISTRATION FEES IN STATE
22 HIGHWAY FUND. Except as otherwise provided by this chapter, the
23 board [~~Texas Transportation Commission~~] and the department shall
24 deposit all money received from registration fees in the state
25 treasury to the credit of the state highway fund.

26 SECTION 2E.03. Section 502.052(a), Transportation Code, is
27 amended to read as follows:

28 (a) The department shall prepare the designs and
29 specifications of license plates and devices selected by the
30 board [~~Texas Transportation Commission~~] to be used as the
31 registration insignia.

32 SECTION 2E.04. Subsections (a) and (b), Section 502.053,
33 Transportation Code, are amended to read as follows:

34 (a) The department [~~Texas Department of Transportation~~]
35 shall reimburse the Texas Department of Criminal Justice for the
36 cost of manufacturing license plates or registration insignia as
37 the license plates or insignia and the invoice for the license
38 plates or insignia are delivered to the department [~~Texas~~
39 ~~Department of Transportation~~].

40 (b) When manufacturing is started, the Texas Department of
41 Criminal Justice, the department [~~Texas Department of~~
42 ~~Transportation~~], and the comptroller, after negotiation, shall
43 set the price to be paid for each license plate or insignia.
44 The price must be determined from:

45 (1) the cost of metal, paint, and other materials
46 purchased;

47 (2) the inmate maintenance cost per day;

- 1 (3) overhead expenses;
2 (4) miscellaneous charges; and
3 (5) a previously approved amount of profit for the
4 work.

5 SECTION 2E.05. Section 502.1515, Transportation Code, is
6 amended to read as follows:

7 Sec. 502.1515. OUTSOURCING PRODUCTION OF RENEWAL NOTICES;
8 PAID ADVERTISING. The board [~~commission~~] may authorize the
9 department to enter into a contract with a private vendor to
10 produce and distribute motor vehicle registration renewal
11 notices. The contract may provide for the inclusion of paid
12 advertising in the registration renewal notice packet.

13 SECTION 2E.06. Section 502.352(c), Transportation Code, is
14 amended to read as follows:

15 (c) A person may obtain a permit under this section by:

16 (1) applying to the county assessor-collector, the
17 department, or the department's wire service agent, if the
18 department has a wire service agent;

19 (2) paying a fee of \$25 for a 72-hour permit or \$50
20 for a 144-hour permit:

21 (A) in cash;

22 (B) by postal money order;

23 (C) by certified check;

24 (D) by wire transfer through the department's
25 wire service agent, if any;

26 (E) by an escrow account; or

27 (F) where the service is provided, by a credit
28 card issued by:

29 (i) a financial institution chartered by a
30 state or the United States; or

31 (ii) a nationally recognized credit
32 organization approved by the board [~~Texas—Transportation~~
33 ~~Commission~~];

34 (3) paying a discount or service charge for a credit
35 card payment or escrow account, in addition to the fee; and

36 (4) furnishing to the county assessor-collector, the
37 department, or the department's wire service agent, evidence of
38 financial responsibility for the vehicle that complies with
39 Sections 502.153(c) and 601.168(a) and is written by an
40 insurance company or surety company authorized to write motor
41 vehicle liability insurance in this state.

42 SECTION 2E.07. Section 502.355(h), Transportation Code, is
43 amended to read as follows:

44 (h) A person operating a vehicle under a permit issued
45 under this section commits an offense if the person:

46 (1) transports farm products to a place of market,
47 storage, or processing or a railhead or seaport that is farther

1 from the place of production or point of entry, as appropriate,
2 than the distance provided for in the permit; or

3 (2) follows a route other than that prescribed by the
4 board [Texas Transportation Commission].

5 PART F. DEALER'S AND MANUFACTURER'S VEHICLE LICENSE PLATES

6 SECTION 2F.01. Subdivisions (2) and (5), Section 503.001,
7 Transportation Code, are amended to read as follows:

8 (2) "Commission" means the board of the Texas
9 Department of Motor Vehicles [Texas Transportation Commission].

10 (5) "Department" means the Texas Department of Motor
11 Vehicles [Transportation].

12 PART G. SPECIALTY LICENSE PLATES

13 SECTION 2G.01. Section 504.001(a), Transportation Code, is
14 amended to read as follows:

15 (a) In this chapter:

16 (1) "Board" means the board of the Texas Department
17 of Motor Vehicles [,"commission" and "director" have the
18 meanings assigned by Section 201.001].

19 (2) "Department" means the Texas Department of Motor
20 Vehicles.

21 SECTION 2G.02. Section 504.004, Transportation Code, is
22 amended to read as follows:

23 Sec. 504.004. RULES AND FORMS. The board [commission] may
24 adopt rules and the department may issue forms to implement and
25 administer this chapter.

26 SECTION 2G.03. Sections 504.851(b), (c), and (d),
27 Transportation Code, are amended to read as follows:

28 (b) Instead of the fees established by Section 504.101(c),
29 the board [commission] by rule shall establish fees for the
30 issuance or renewal of personalized license plates that are
31 marketed and sold by the private vendor. Fees must be
32 reasonable and not less than the greater of:

33 (1) the amounts necessary to allow the department to
34 recover all reasonable costs to the department associated with
35 the evaluation of the competitive sealed proposals received by
36 the department and with the implementation and enforcement of
37 the contract, including direct, indirect, and administrative
38 costs; or

39 (2) the amount established by Section 504.101(c).

40 (c) The board [commission] by rule shall establish the
41 fees for the issuance or renewal of souvenir license plates,
42 specialty license plates, or souvenir or specialty license
43 plates that are personalized that are marketed and sold by the
44 private vendor. Fees must be reasonable and not less than the
45 amounts necessary to allow the department to recover all
46 reasonable costs to the department associated with the
47 evaluation of the competitive sealed proposals received by the

1 department and with the implementation and enforcement of the
2 contract, including direct, indirect, and administrative costs.
3 A fee established under this subsection is in addition to:

4 (1) the registration fee and any optional
5 registration fee prescribed by this chapter for the vehicle for
6 which specialty license plates are issued;

7 (2) any additional fee prescribed by this subchapter
8 for the issuance of specialty license plates for that vehicle;
9 and

10 (3) any additional fee prescribed by this subchapter
11 for the issuance of personalized license plates for that
12 vehicle.

13 (d) At any time as necessary to comply with Subsection (b)
14 or (c), the board [~~commission~~] may increase or decrease the
15 amount of a fee established under the applicable subsection.

16 PART H. MISCELLANEOUS PROVISIONS

17 SECTION 2H.01. Section 520.001, Transportation Code, is
18 amended to read as follows:

19 Sec. 520.001. DEFINITION. In this chapter, "department"
20 means the Texas Department of Motor Vehicles [~~Transportation~~].

21 PART I. OPERATION OF BICYCLES, MOPEDS, AND PLAY VEHICLES

22 SECTION 2I.01. Section 551.302, Transportation Code, is
23 amended to read as follows:

24 Sec. 551.302. REGISTRATION. The Texas Department of Motor
25 Vehicles [~~Transportation~~] may adopt rules relating to the
26 registration and issuance of license plates to neighborhood
27 electric vehicles.

28 PART J. MOTOR VEHICLE SAFETY RESPONSIBILITY ACT

29 SECTION 2J.01. Section 601.023, Transportation Code, is
30 amended to read as follows:

31 Sec. 601.023. PAYMENT OF STATUTORY FEES. The department
32 may pay:

33 (1) a statutory fee required by the Texas Department
34 of Motor Vehicles [~~Transportation~~] for a certified abstract or
35 in connection with suspension of a vehicle registration; or

36 (2) a statutory fee payable to the comptroller for
37 issuance of a certificate of deposit required by Section
38 601.122.

39 SECTION 2J.02. Section 601.451, Transportation Code, as
40 added by Chapter 892 (S.B. 1670), Acts of the 79th Legislature,
41 Regular Session, 2005, is amended to read as follows:

42 Sec. 601.451. DEFINITION. In this subchapter,
43 "implementing agencies" means:

44 (1) the department;

45 (2) the Texas Department of Motor Vehicles
46 [~~Transportation~~];

47 (3) the Texas Department of Insurance; and

1 (4) the Department of Information Resources.
2 SECTION 2J.03. Subchapter N, Chapter 601, Transportation
3 Code, as added by Chapter 1325 (H.B. 3588), Acts of the 78th
4 Legislature, Regular Session, 2003, is repealed.

5 PART K. IDENTIFYING MARKINGS ON CERTAIN COMMERCIAL MOTOR
6 VEHICLES

7 SECTION 2K.01. Subsection (d), Section 642.002,
8 Transportation Code, is amended to read as follows:

9 (d) The Texas Department of Motor Vehicles
10 [~~Transportation~~] by rule may prescribe additional requirements
11 regarding the form of the markings required by Subsection (a)(2)
12 that are not inconsistent with that subsection.

13 PART L. MOTOR CARRIER REGISTRATION

14 SECTION 2L.01. Subdivision (1), Section 643.001,
15 Transportation Code, is amended to read as follows:

16 (1) "Department" means the Texas Department of Motor
17 Vehicles [~~Transportation~~].

18 PART M. SINGLE STATE REGISTRATION

19 SECTION 2M.01. Section 645.001, Transportation Code, is
20 amended to read as follows:

21 Sec. 645.001. FEDERAL MOTOR CARRIER REGISTRATION. The
22 Texas Department of Motor Vehicles [~~Transportation~~] may, to the
23 fullest extent practicable, participate in a federal motor
24 carrier registration program under the unified carrier
25 registration system as defined by Section 643.001 or a [~~the~~]
26 single state registration system established under federal law
27 [~~49 U.S.C. Section 14504~~].

28 PART N. MOTOR TRANSPORTATION BROKERS

29 SECTION 2N.01. Subsection (a), Section 646.003,
30 Transportation Code, is amended to read as follows:

31 (a) A person may not act as a motor transportation broker
32 unless the person provides a bond to the Texas Department of
33 Motor Vehicles [~~Transportation~~].

34 PART O. FOREIGN COMMERCIAL MOTOR TRANSPORTATION

35 SECTION 2O.01. Section 648.002, Transportation Code, is
36 amended to read as follows:

37 Sec. 648.002. RULES. In addition to rules required by
38 this chapter, the Texas Department of Motor Vehicles
39 [~~Transportation~~], the Department of Public Safety, and the Texas
40 Department of Insurance may adopt other rules to carry out this
41 chapter.

42 PART P. PRIVILEGED PARKING

43 SECTION 2P.01. Section 681.001(1), Transportation Code, is
44 amended to read as follows:

45 (1) "Department" means the Texas Department of Motor
46 Vehicles [~~Transportation~~].

47 PART Q. ADMINISTRATIVE ADJUDICATION OF VEHICLE PARKING AND

1 STOPPING OFFENSES

2 SECTION 2Q.01. Section 682.008, Transportation Code, is
3 amended to read as follows:

4 Sec. 682.008. PRESUMPTIONS. In an administrative
5 adjudication hearing under this chapter:

6 (1) it is presumed that the registered owner of the
7 motor vehicle is the person who parked or stopped the vehicle at
8 the time and place of the offense charged; and

9 (2) the Texas Department of Motor Vehicles'
10 [~~Transportation's~~] computer-generated record of the registered
11 vehicle owner is prima facie evidence of the contents of the
12 record.

13 PART R. ABANDONED MOTOR VEHICLES

14 SECTION 2R.01. Subdivision (1), Section 683.001,
15 Transportation Code, is amended to read as follows:

16 (1) "Department" means the Texas Department of Motor
17 Vehicles [~~Transportation~~].

18 PART S. CONTRACTS FOR ENFORCEMENT OF CERTAIN ARREST WARRANTS

19 SECTION 2S.01. Subdivision (1), Section 702.001,
20 Transportation Code, is amended to read as follows:

21 (1) "Department" means the Texas Department of Motor
22 Vehicles [~~Transportation~~].

23 PART T. PHOTOGRAPHIC TRAFFIC SIGNAL ENFORCEMENT SYSTEM

24 SECTION 2T.01. Subdivision (2), Section 707.001,
25 Transportation Code, is amended to read as follows:

26 (2) "Owner of a motor vehicle" means the owner of a
27 motor vehicle as shown on the motor vehicle registration records
28 of the Texas Department of Motor Vehicles [~~Transportation~~] or
29 the analogous department or agency of another state or country.

30 SECTION 2T.02. Subsection (b), Section 707.011,
31 Transportation Code, is amended to read as follows:

32 (b) Not later than the 30th day after the date the
33 violation is alleged to have occurred, the designated
34 department, agency, or office of the local authority or the
35 entity with which the local authority contracts under Section
36 707.003(a)(1) shall mail the notice of violation to the owner
37 at:

38 (1) the owner's address as shown on the registration
39 records of the Texas Department of Motor Vehicles
40 [~~Transportation~~]; or

41 (2) if the vehicle is registered in another state or
42 country, the owner's address as shown on the motor vehicle
43 registration records of the department or agency of the other
44 state or country analogous to the Texas Department of Motor
45 Vehicles [~~Transportation~~].

46 SECTION 2T.03. Section 707.017, Transportation Code, is
47 amended to read as follows:

1 Sec. 707.017. ENFORCEMENT. If the owner of a motor
2 vehicle is delinquent in the payment of a civil penalty imposed
3 under this chapter, the county assessor-collector or the Texas
4 Department of Motor Vehicles [~~Transportation~~] may refuse to
5 register a motor vehicle alleged to have been involved in the
6 violation.

7 PART U. SALE OR LEASE OF MOTOR VEHICLES

8 SECTION 2U.01. Subdivision (9), Section 2301.002,
9 Occupations Code, is amended to read as follows:

10 (9) "Department" means the Texas Department of Motor
11 Vehicles [~~Transportation~~].

12 SECTION 2U.02. Subdivision (33), Section 2301.002,
13 Occupations Code, is repealed.

14 PART V. AUTOMOBILE BURGLARY AND THEFT PREVENTION AUTHORITY

15 SECTION 2V.01. Subdivision (3), Section 1, Article
16 4413(37), Revised Statutes, is amended to read as follows:

17 (3) "Department" means the Texas Department of Motor
18 Vehicles [~~Transportation~~].

19 SECTION 2V.02. Section 2, Article 4413(37), Revised
20 Statutes, is amended to read as follows:

21 Sec. 2. The Automobile Burglary and Theft Prevention
22 Authority is established in the Texas Department of Motor
23 Vehicles [~~Transportation~~]. The authority is not an advisory
24 body to the Texas Department of Motor Vehicles [~~Transportation~~].

25 ARTICLE 3. CONFORMING AMENDMENTS PERTAINING TO TEXAS DEPARTMENT
26 OF TRANSPORTATION IN OTHER CODES

27 PART A. BUSINESS & COMMERCE CODE

28 SECTION 3A.01. Subsection (b), Section 51.003, Business &
29 Commerce Code, as effective April 1, 2009, is amended to read as
30 follows:

31 (b) In this chapter, "business opportunity" does not
32 include:

33 (1) the sale or lease of an established and ongoing
34 business or enterprise that has actively conducted business
35 before the sale or lease, whether composed of one or more than
36 one component business or enterprise, if the sale or lease
37 represents an isolated transaction or series of transactions
38 involving a bona fide change of ownership or control of the
39 business or enterprise or liquidation of the business or
40 enterprise;

41 (2) a sale by a retailer of goods or services under a
42 contract or other agreement to sell the inventory of one or more
43 ongoing leased departments to a purchaser who is granted the
44 right to sell the goods or services within or adjoining a retail
45 business establishment as a department or division of the retail
46 business establishment;

47 (3) a transaction that is:

1 (A) regulated by the Texas Department of
2 Licensing and Regulation, the Texas Department of Insurance, the
3 Texas Real Estate Commission, or the director of the Motor
4 Vehicle Division of the Texas Department of Motor Vehicles
5 [~~Transportation~~]; and

6 (B) engaged in by a person licensed by one of
7 those agencies;

8 (4) a real estate syndication;

9 (5) a sale or lease to a business enterprise that
10 also sells or leases products, equipment, or supplies or
11 performs services:

12 (A) that are not supplied by the seller; and

13 (B) that the purchaser does not use with the
14 seller's products, equipment, supplies, or services;

15 (6) the offer or sale of a franchise as described by
16 the Petroleum Marketing Practices Act (15 U.S.C. Section 2801 et
17 seq.) and its subsequent amendments;

18 (7) the offer or sale of a business opportunity if
19 the seller:

20 (A) has a net worth of \$25 million or more
21 according to the seller's audited balance sheet as of a date not
22 earlier than the 13th month before the date of the transaction;
23 or

24 (B) is at least 80 percent owned by another
25 person who:

26 (i) in writing unconditionally guarantees
27 performance by the person offering the business opportunity
28 plan; and

29 (ii) has a net worth of more than \$25
30 million according to the person's most recent audited balance
31 sheet as of a date not earlier than the 13th month before the
32 date of the transaction; or

33 (8) an arrangement defined as a franchise by 16
34 C.F.R. Section 436.2(a) and its subsequent amendments if:

35 (A) the franchisor complies in all material
36 respects in this state with 16 C.F.R. Part 436 and each order or
37 other action of the Federal Trade Commission; and

38 (B) before offering for sale or selling a
39 franchise in this state, a person files with the secretary of
40 state a notice containing:

41 (i) the name of the franchisor;

42 (ii) the name under which the franchisor
43 intends to transact business; and

44 (iii) the franchisor's principal business
45 address.

46 SECTION 3A.02. Subsection (b), Section 105.004, Business &
47 Commerce Code, as effective April 1, 2009, is amended to read as

1 follows:

2 (b) The Texas Department of Motor Vehicles
3 [~~Transportation~~] shall provide a notice that states the
4 provisions of this chapter to each person with a disability who
5 is issued:

6 (1) license plates under Section 504.201,
7 Transportation Code; or

8 (2) a disabled parking placard under Section 681.004,
9 Transportation Code.

10 PART B. CODE OF CRIMINAL PROCEDURE

11 SECTION 3B.01. Subdivision (1), Section 1, Article 42.22,
12 Code of Criminal Procedure, is amended to read as follows:

13 (1) "Department" means the Texas Department of Motor
14 Vehicles [~~Transportation~~].

15 SECTION 3B.02. Subsection (c), Article 59.04, Code of
16 Criminal Procedure, is amended to read as follows:

17 (c) If the property is a motor vehicle, and if there is
18 reasonable cause to believe that the vehicle has been registered
19 under the laws of this state, the attorney representing the
20 state shall ask the Texas Department of Motor Vehicles
21 [~~Transportation~~] to identify from its records the record owner
22 of the vehicle and any interest holder. If the addresses of the
23 owner and interest holder are not otherwise known, the attorney
24 representing the state shall request citation be served on such
25 persons at the address listed with the Texas Department of Motor
26 Vehicles [~~Transportation~~]. If the citation issued to such
27 address is returned unserved, the attorney representing the
28 state shall cause a copy of the notice of the seizure and
29 intended forfeiture to be posted at the courthouse door, to
30 remain there for a period of not less than 30 days. If the
31 owner or interest holder does not answer or appear after the
32 notice has been so posted, the court shall enter a judgment by
33 default as to the owner or interest holder, provided that the
34 attorney representing the state files a written motion supported
35 by affidavit setting forth the attempted service. An owner or
36 interest holder whose interest is forfeited in this manner shall
37 not be liable for court costs. If the person in possession of
38 the vehicle at the time of the seizure is not the owner or the
39 interest holder of the vehicle, notification shall be provided
40 to the possessor in the same manner specified for notification
41 to an owner or interest holder.

42 PART C. FAMILY CODE

43 SECTION 3C.01. Subsection (b), Section 157.316, Family
44 Code, is amended to read as follows:

45 (b) If a lien established under this subchapter attaches
46 to a motor vehicle, the lien must be perfected in the manner
47 provided by Chapter 501, Transportation Code, and the court or

1 Title IV-D agency that rendered the order of child support shall
2 include in the order a requirement that the obligor surrender to
3 the court or Title IV-D agency evidence of the legal ownership
4 of the motor vehicle against which the lien may attach. A lien
5 against a motor vehicle under this subchapter is not perfected
6 until the obligor's title to the vehicle has been surrendered to
7 the court or Title IV-D agency and the Texas Department of Motor
8 Vehicles [~~Transportation~~] has issued a subsequent title that
9 discloses on its face the fact that the vehicle is subject to a
10 child support lien under this subchapter.

11 SECTION 3C.02. Subsection (a), Section 232.0022, Family
12 Code, is amended to read as follows:

13 (a) The Texas Department of Motor Vehicles
14 [~~Transportation~~] is the appropriate licensing authority for
15 suspension or nonrenewal of a motor vehicle registration under
16 this chapter.

17 SECTION 3C.03. Subsection (b), Section 232.014, Family
18 Code, is amended to read as follows:

19 (b) A fee collected by the Texas Department of Motor
20 Vehicles [~~Transportation~~] or the Department of Public Safety
21 shall be deposited to the credit of the state highway fund.

22 SECTION 3C.04. Subsection (b), Section 264.502, Family
23 Code, is amended to read as follows:

24 (b) The members of the committee who serve under
25 Subsections (a)(1) through (3) shall select the following
26 additional committee members:

- 27 (1) a criminal prosecutor involved in prosecuting
28 crimes against children;
- 29 (2) a sheriff;
- 30 (3) a justice of the peace;
- 31 (4) a medical examiner;
- 32 (5) a police chief;
- 33 (6) a pediatrician experienced in diagnosing and
34 treating child abuse and neglect;
- 35 (7) a child educator;
- 36 (8) a child mental health provider;
- 37 (9) a public health professional;
- 38 (10) a child protective services specialist;
- 39 (11) a sudden infant death syndrome family service
40 provider;
- 41 (12) a neonatologist;
- 42 (13) a child advocate;
- 43 (14) a chief juvenile probation officer;
- 44 (15) a child abuse prevention specialist;
- 45 (16) a representative of the Department of Public
46 Safety; and
- 47 (17) a representative of the Texas Department of

1 Motor Vehicles [~~Transportation~~].

2 PART D. FINANCE CODE

3 SECTION 3D.01. Subdivision (9), Section 306.001, Finance
4 Code, is amended to read as follows:

5 (9) "Qualified commercial loan":

6 (A) means:

7 (i) a commercial loan in which one or more
8 persons as part of the same transaction lends, advances,
9 borrows, or receives, or is obligated to lend or advance or
10 entitled to borrow or receive, money or credit with an aggregate
11 value of:

12 (a) \$3 million or more if the
13 commercial loan is secured by real property; or

14 (b) \$250,000 or more if the commercial
15 loan is not secured by real property and, if the aggregate value
16 of the commercial loan is less than \$500,000, the loan documents
17 contain a written certification from the borrower that:

18 (1) the borrower has been advised
19 by the lender to seek the advice of an attorney and an
20 accountant in connection with the commercial loan; and

21 (2) the borrower has had the
22 opportunity to seek the advice of an attorney and accountant of
23 the borrower's choice in connection with the commercial loan;
24 and

25 (ii) a renewal or extension of a commercial
26 loan described by Paragraph (A), regardless of the principal
27 amount of the loan at the time of the renewal or extension; and

28 (B) does not include a commercial loan made for
29 the purpose of financing a business licensed by the Motor
30 Vehicle Board of the Texas Department of Motor Vehicles
31 [~~Transportation~~] under Section 2301.251(a), Occupations Code.

32 SECTION 3D.02. Subdivision (10-a), Section 348.001,
33 Finance Code, is amended to read as follows:

34 (10-a) "Towable recreation vehicle" means a
35 nonmotorized vehicle that:

36 (A) was originally designed and manufactured
37 primarily to provide temporary human habitation in conjunction
38 with recreational, camping, or seasonal use;

39 (B) is titled and registered with the Texas
40 Department of Motor Vehicles [~~Transportation~~] as a travel
41 trailer through a county tax assessor-collector;

42 (C) is permanently built on a single chassis;

43 (D) contains at least one life support system;
44 and

45 (E) is designed to be towable by a motor
46 vehicle.

47 SECTION 3D.03. Section 348.518, Finance Code, is amended

1 to read as follows:

2 Sec. 348.518. SHARING OF INFORMATION. To ensure
3 consistent enforcement of law and minimization of regulatory
4 burdens, the commissioner and the Texas Department of Motor
5 Vehicles [~~Transportation~~] may share information, including
6 criminal history information, relating to a person licensed
7 under this chapter. Information otherwise confidential remains
8 confidential after it is shared under this section.

9 PART E. GOVERNMENT CODE

10 SECTION 3E.01. Subsection (d), Section 411.122, Government
11 Code, is amended to read as follows:

12 (d) The following state agencies are subject to this
13 section:

14 (1) Texas Appraiser Licensing and Certification
15 Board;

16 (2) Texas Board of Architectural Examiners;

17 (3) Texas Board of Chiropractic Examiners;

18 (4) State Board of Dental Examiners;

19 (5) Texas Board of Professional Engineers;

20 (6) Texas Funeral Service Commission;

21 (7) Texas Board of Professional Geoscientists;

22 (8) Department of State Health Services, except as
23 provided by Section 411.110, and agencies attached to the
24 department, including:

25 (A) Texas State Board of Examiners of
26 Dietitians;

27 (B) Texas State Board of Examiners of Marriage
28 and Family Therapists;

29 (C) Midwifery Board;

30 (D) Texas State Perfusionist Advisory Committee
31 [~~Board of Examiners of Perfusionists~~];

32 (E) Texas State Board of Examiners of
33 Professional Counselors;

34 (F) Texas State Board of Social Worker
35 Examiners;

36 (G) State Board of Examiners for Speech-Language
37 Pathology and Audiology;

38 (H) Advisory Board of Athletic Trainers;

39 (I) State Committee of Examiners in the Fitting
40 and Dispensing of Hearing Instruments;

41 (J) Texas Board of Licensure for Professional
42 Medical Physicists; and

43 (K) Texas Board of Orthotics and Prosthetics;

44 (9) Texas Board of Professional Land Surveying;

45 (10) Texas Department of Licensing and Regulation,
46 except as provided by Section 411.093;

47 (11) Texas Commission on Environmental Quality;

- 1 (12) Texas Board of Occupational Therapy Examiners;
2 (13) Texas Optometry Board;
3 (14) Texas State Board of Pharmacy;
4 (15) Texas Board of Physical Therapy Examiners;
5 (16) Texas State Board of Plumbing Examiners;
6 (17) Texas State Board of Podiatric Medical
7 Examiners;
8 (18) Polygraph Examiners Board;
9 (19) Texas State Board of Examiners of Psychologists;
10 (20) Texas Real Estate Commission;
11 (21) Board of Tax Professional Examiners;
12 (22) Texas Department of Transportation;
13 (23) State Board of Veterinary Medical Examiners;
14 (24) Texas Department of Housing and Community
15 Affairs;
16 (25) secretary of state;
17 (26) state fire marshal;
18 (27) Texas Education Agency; ~~and~~
19 (28) Department of Agriculture; and
20 (29) Texas Department of Motor Vehicles.

21 PART F. HEALTH AND SAFETY CODE

22 SECTION 3F.01. Subsection (e), Section 382.209, Health and
23 Safety Code, is amended to read as follows:

24 (e) A vehicle is not eligible to participate in a low-
25 income vehicle repair assistance, retrofit, and accelerated
26 vehicle retirement program established under this section
27 unless:

- 28 (1) the vehicle is capable of being operated;
29 (2) the registration of the vehicle:
30 (A) is current; and
31 (B) reflects that the vehicle has been
32 registered in the county implementing the program for the 12
33 months preceding the application for participation in the
34 program;
35 (3) the commissioners court of the county
36 administering the program determines that the vehicle meets the
37 eligibility criteria adopted by the commission, the Texas
38 Department of Motor Vehicles [~~Transportation~~], and the Public
39 Safety Commission;
40 (4) if the vehicle is to be repaired, the repair is
41 done by a repair facility recognized by the Department of Public
42 Safety, which may be an independent or private entity licensed
43 by the state; and
44 (5) if the vehicle is to be retired under this
45 subsection and Section 382.213, the replacement vehicle is a
46 qualifying motor vehicle.

47 SECTION 3F.02. Subsection (f), Section 382.210, Health and

1 Safety Code, is amended to read as follows:

2 (f) In this section, "total cost" means the total amount
3 of money paid or to be paid for the purchase of a motor vehicle
4 as set forth as "sales price" in the form entitled "Application
5 for Texas Certificate of Title" promulgated by the Texas
6 Department of Motor Vehicles [~~Transportation~~]. In a transaction
7 that does not involve the use of that form, the term means an
8 amount of money that is equivalent, or substantially equivalent,
9 to the amount that would appear as "sales price" on the
10 Application for Texas Certificate of Title if that form were
11 involved.

12 SECTION 3F.03. Subsection (a), Section 461.017, Health and
13 Safety Code, is amended to read as follows:

14 (a) The Drug Demand Reduction Advisory Committee is
15 composed of the following members:

16 (1) five representatives of the public from different
17 geographic regions of the state who have knowledge and expertise
18 in issues relating to reducing drug demand and who are appointed
19 by the commissioner [~~executive director~~] of the Department of
20 State Health Services [~~Texas Commission on Alcohol and Drug~~
21 ~~Abuse~~]; and

22 (2) one representative of each of the following
23 agencies or offices who is appointed by the executive director
24 or commissioner of the agency or office and who is directly
25 involved in the agency's or office's policies, programs, or
26 funding activities relating to reducing drug demand:

27 (A) the criminal justice division of the
28 governor's office;

29 (B) the Criminal Justice Policy Council;

30 (C) the Department of Family and Protective [~~and~~
31 ~~Regulatory~~] Services;

32 (D) the Department of Public Safety of the State
33 of Texas;

34 (E) the Health and Human Services Commission;

35 (F) the Texas Alcoholic Beverage Commission;

36 (G) the Department of State Health Services
37 [~~Texas Commission on Alcohol and Drug Abuse~~];

38 (H) the Texas Council on Offenders with Mental
39 Impairments;

40 (I) the Texas Department of Criminal Justice;

41 (J) the [~~Texas Department of~~] Health and [~~+~~

42 [~~(K)~~] the Texas Department of] Human Services
43 Commission;

44 (K) [~~(L)~~] the [~~Texas~~] Department of Aging and
45 Disability Services [~~Mental Health and Mental Retardation~~];

46 (L) [~~(M)~~] the Texas Education Agency;

47 (M) [~~(N)~~] the Texas Juvenile Probation

1 Commission;
2 (N) [(+O)] the Texas Youth Commission;
3 (O) [(+P)] the Department of Assistive and
4 Rehabilitative Services [~~Texas Rehabilitation Commission~~];
5 (P) [(+Q)] the Texas Workforce Commission;
6 (Q) [(+R)] the Texas Department of Motor Vehicles
7 [~~Transportation~~];
8 (R) [(+S)] the comptroller of public accounts;
9 and
10 (S) [(+T)] the adjutant general's department.

11 PART G. HUMAN RESOURCES CODE

12 SECTION 3G.01. Section 22.041, Human Resources Code, is
13 amended to read as follows:

14 Sec. 22.041. THIRD-PARTY INFORMATION. Notwithstanding any
15 other provision of this code, the department may use information
16 obtained from a third party to verify the assets and resources
17 of a person for purposes of determining the person's eligibility
18 and need for medical assistance, financial assistance, or
19 nutritional assistance. Third-party information includes
20 information obtained from:

- 21 (1) a consumer reporting agency, as defined by
- 22 Section 20.01, Business & Commerce Code;
- 23 (2) an appraisal district; or
- 24 (3) the Texas Department of Motor Vehicles
- 25 [~~Transportation's~~] vehicle registration record database.

26 SECTION 3G.02. Subsection (g), Section 32.026, Human
27 Resources Code, is amended to read as follows:

28 (g) Notwithstanding any other provision of this code, the
29 department may use information obtained from a third party to
30 verify the assets and resources of a person for purposes of
31 determining the person's eligibility and need for medical
32 assistance. Third-party information includes information
33 obtained from:

- 34 (1) a consumer reporting agency, as defined by
- 35 Section 20.01, Business & Commerce Code;
- 36 (2) an appraisal district; or
- 37 (3) the Texas Department of Motor Vehicles
- 38 [~~Transportation's~~] vehicle registration record database.

39 PART H. LOCAL GOVERNMENT CODE

40 SECTION 3H.01. Section 130.006, Local Government Code, is
41 amended to read as follows:

42 Sec. 130.006. PROCEDURES FOR COLLECTION OF DISHONORED
43 CHECKS AND INVOICES. A county tax assessor-collector may
44 establish procedures for the collection of dishonored checks and
45 credit card invoices. The procedures may include:

- 46 (1) official notification to the maker that the check
- 47 or invoice has not been honored and that the receipt,

1 registration, certificate, or other instrument issued on the
2 receipt of the check or invoice is not valid until payment of
3 the fee or tax is made;

4 (2) notification of the sheriff or other law
5 enforcement officers that a check or credit card invoice has not
6 been honored and that the receipt, registration, certificate, or
7 other instrument held by the maker is not valid; and

8 (3) notification to the Texas Department of Motor
9 Vehicles [~~Transportation~~], the comptroller of public accounts,
10 or the Department of Public Safety that the receipt,
11 registration, certificate, or other instrument held by the maker
12 is not valid.

13 SECTION 3H.02. Section 130.007, Local Government Code, is
14 amended to read as follows:

15 Sec. 130.007. REMISSION TO STATE NOT REQUIRED; STATE
16 ASSISTANCE IN COLLECTION. (a) If a fee or tax is required to
17 be remitted to the comptroller or the Texas Department of Motor
18 Vehicles [~~Transportation~~] and if payment was made to the county
19 tax assessor-collector by a check that was not honored by the
20 drawee bank or by a credit card invoice that was not honored by
21 the credit card issuer, the amount of the fee or tax is not
22 required to be remitted, but the assessor-collector shall notify
23 the appropriate department of:

24 (1) the amount of the fee or tax;

25 (2) the type of fee or tax involved; and

26 (3) the name and address of the maker.

27 (b) The Texas Department of Motor Vehicles
28 [~~Transportation~~] and the comptroller shall assist the county tax
29 assessor-collector in collecting the fee or tax and may cancel
30 or revoke any receipt, registration, certificate, or other
31 instrument issued in the name of the state conditioned on the
32 payment of the fee or tax.

33 SECTION 3H.03. Section 130.008, Local Government Code, is
34 amended to read as follows:

35 Sec. 130.008. LIABILITY OF TAX COLLECTOR FOR VIOLATIONS OF
36 SUBCHAPTER. If the comptroller or the Texas Department of Motor
37 Vehicles [~~Transportation~~] determines that the county tax
38 assessor-collector has accepted payment for fees and taxes to be
39 remitted to that department in violation of Section 130.004 or
40 that more than two percent of the fees and taxes to be received
41 from the assessor-collector are not remitted because of the
42 acceptance of checks that are not honored by the drawee bank or
43 of credit card invoices that are not honored by the credit card
44 issuer, the department may notify the assessor-collector that
45 the assessor-collector may not accept a check or credit card
46 invoice for the payment of any fee or tax to be remitted to that
47 department. A county tax assessor-collector who accepts a check

1 or credit card invoice for the payment of a fee or tax, after
2 notice that the assessor-collector may not receive a check or
3 credit card invoice for the payment of fees or taxes to be
4 remitted to a department, is liable to the state for the amount
5 of the check or credit card invoice accepted.

6 SECTION 3H.04. Section 130.009, Local Government Code, is
7 amended to read as follows:

8 Sec. 130.009. STATE RULES. The comptroller and the Texas
9 Department of Motor Vehicles [~~Transportation~~] may make rules
10 concerning the acceptance of checks or credit card invoices by a
11 county tax assessor-collector and for the collection of
12 dishonored checks or credit card invoices.

13 PART I. OCCUPATIONS CODE

14 SECTION 3I.01. Subsection (c), Section 554.009,
15 Occupations Code, is amended to read as follows:

16 (c) The board may register a vehicle with the Texas
17 Department of Motor Vehicles [~~Transportation~~] in an alias name
18 only for investigative personnel.

19 SECTION 3I.02. Subdivision (9), Section 2301.002,
20 Occupations Code, is amended to read as follows:

21 (9) "Department" means the Texas Department of Motor
22 Vehicles [~~Transportation~~].

23 SECTION 3I.03. Subsections (a) and (b), Section 2301.005,
24 Occupations Code, are amended to read as follows:

25 (a) A reference in law, including a rule, to the Texas
26 Motor Vehicle Commission or to the board means [~~the director,~~
27 ~~except that a reference to~~] the board of the Texas Department of
28 Motor Vehicles [~~means the commission if it is related to the~~
29 ~~adoption of rules~~].

30 (b) A reference in law, including a rule, to the executive
31 director of the Texas Motor Vehicle Commission means the
32 executive director of the Texas Department of Motor Vehicles.

33 SECTION 3I.04. Subdivisions (2) and (3), Section 2302.001,
34 Occupations Code, are amended to read as follows:

35 (2) "Board" [~~"Commission"~~] means the board of the
36 Texas Department of Motor Vehicles [~~Transportation Commission~~].

37 (3) "Department" means the Texas Department of Motor
38 Vehicles [~~Transportation~~].

39 SECTION 3I.05. Subsection (b), Section 2302.0015,
40 Occupations Code, is amended to read as follows:

41 (b) For the purpose of enforcing or administering this
42 chapter or Chapter 501 or 502, Transportation Code, a member of
43 the board [~~commission~~], an employee or agent of the board
44 [~~commission~~] or department, a member of the Public Safety
45 Commission, an officer of the Department of Public Safety, or a
46 peace officer may at a reasonable time:

47 (1) enter the premises of a business regulated under

1 one of those chapters; and

2 (2) inspect or copy any document, record, vehicle,
3 part, or other item regulated under one of those chapters.

4 SECTION 3I.06. The heading to Subchapter B, Chapter 2302,
5 Occupations Code, is amended to read as follows:

6 SUBCHAPTER B. BOARD [~~COMMISSION~~] POWERS AND DUTIES

7 SECTION 3I.07. Sections 2302.051, 2302.052, and 2302.053,
8 Occupations Code, are amended to read as follows:

9 Sec. 2302.051. RULES AND ENFORCEMENT POWERS. The board
10 [~~commission~~] shall adopt rules as necessary to administer this
11 chapter and may take other action as necessary to enforce this
12 chapter.

13 Sec. 2302.052. DUTY TO SET FEES. The board [~~commission~~]
14 shall set application fees, license fees, renewal fees, and
15 other fees as required to implement this chapter. The board
16 [~~commission~~] shall set the fees in amounts reasonable and
17 necessary to implement and enforce this chapter.

18 Sec. 2302.053. RULES RESTRICTING ADVERTISING OR
19 COMPETITIVE BIDDING. (a) The board [~~commission~~] may not adopt
20 a rule under Section 2302.051 restricting advertising or
21 competitive bidding by a person who holds a license issued under
22 this chapter except to prohibit false, misleading, or deceptive
23 practices by the person.

24 (b) The board [~~commission~~] may not include in its rules to
25 prohibit false, misleading, or deceptive practices a rule that:

26 (1) restricts the use of any advertising medium;

27 (2) restricts the person's personal appearance or use
28 of the person's voice in an advertisement;

29 (3) relates to the size or duration of an
30 advertisement by the person; or

31 (4) restricts the use of a trade name in advertising
32 by the person.

33 SECTION 3I.08. Subsection (b), Section 2302.108,
34 Occupations Code, is amended to read as follows:

35 (b) The board [~~commission~~] by rule shall establish the
36 grounds for denial, suspension, revocation, or reinstatement of
37 a license issued under this chapter and the procedures for
38 disciplinary action. A rule adopted under this subsection may
39 not conflict with a rule adopted by the State Office of
40 Administrative Hearings.

41 SECTION 3I.09. Section 2302.204, Occupations Code, is
42 amended to read as follows:

43 Sec. 2302.204. CASUAL SALES. This chapter does not apply
44 to a person who purchases fewer than three nonrepairable motor
45 vehicles or salvage motor vehicles from a salvage vehicle
46 dealer, an insurance company or salvage pool operator in a
47 casual sale at auction, except that:

1 (1) the board [~~commission~~] shall adopt rules as
2 necessary to regulate casual sales by salvage vehicle dealers,
3 insurance companies, or salvage pool operators and to enforce
4 this section; and

5 (2) a salvage vehicle dealer, insurance company, or
6 salvage pool operator who sells a motor vehicle in a casual sale
7 shall comply with those rules and Subchapter E, Chapter 501,
8 Transportation Code.

9 SECTION 3I.10. Subdivision (33), Section 2301.002,
10 Occupations Code, is repealed.

11 PART J. PENAL CODE

12 SECTION 3J.01. Subsection (c), Section 31.03, Penal Code,
13 is amended to read as follows:

14 (c) For purposes of Subsection (b):

15 (1) evidence that the actor has previously
16 participated in recent transactions other than, but similar to,
17 that which the prosecution is based is admissible for the
18 purpose of showing knowledge or intent and the issues of
19 knowledge or intent are raised by the actor's plea of not
20 guilty;

21 (2) the testimony of an accomplice shall be
22 corroborated by proof that tends to connect the actor to the
23 crime, but the actor's knowledge or intent may be established by
24 the uncorroborated testimony of the accomplice;

25 (3) an actor engaged in the business of buying and
26 selling used or secondhand personal property, or lending money
27 on the security of personal property deposited with the actor,
28 is presumed to know upon receipt by the actor of stolen property
29 (other than a motor vehicle subject to Chapter 501,
30 Transportation Code) that the property has been previously
31 stolen from another if the actor pays for or loans against the
32 property \$25 or more (or consideration of equivalent value) and
33 the actor knowingly or recklessly:

34 (A) fails to record the name, address, and
35 physical description or identification number of the seller or
36 pledgor;

37 (B) fails to record a complete description of
38 the property, including the serial number, if reasonably
39 available, or other identifying characteristics; or

40 (C) fails to obtain a signed warranty from the
41 seller or pledgor that the seller or pledgor has the right to
42 possess the property. It is the express intent of this
43 provision that the presumption arises unless the actor complies
44 with each of the numbered requirements;

45 (4) for the purposes of Subdivision (3)(A),
46 "identification number" means driver's license number, military
47 identification number, identification certificate, or other

1 official number capable of identifying an individual;

2 (5) stolen property does not lose its character as
3 stolen when recovered by any law enforcement agency;

4 (6) an actor engaged in the business of obtaining
5 abandoned or wrecked motor vehicles or parts of an abandoned or
6 wrecked motor vehicle for resale, disposal, scrap, repair,
7 rebuilding, demolition, or other form of salvage is presumed to
8 know on receipt by the actor of stolen property that the
9 property has been previously stolen from another if the actor
10 knowingly or recklessly:

11 (A) fails to maintain an accurate and legible
12 inventory of each motor vehicle component part purchased by or
13 delivered to the actor, including the date of purchase or
14 delivery, the name, age, address, sex, and driver's license
15 number of the seller or person making the delivery, the license
16 plate number of the motor vehicle in which the part was
17 delivered, a complete description of the part, and the vehicle
18 identification number of the motor vehicle from which the part
19 was removed, or in lieu of maintaining an inventory, fails to
20 record the name and certificate of inventory number of the
21 person who dismantled the motor vehicle from which the part was
22 obtained;

23 (B) fails on receipt of a motor vehicle to
24 obtain a certificate of authority, sales receipt, or transfer
25 document as required by Chapter 683, Transportation Code, or a
26 certificate of title showing that the motor vehicle is not
27 subject to a lien or that all recorded liens on the motor
28 vehicle have been released; or

29 (C) fails on receipt of a motor vehicle to
30 immediately remove an unexpired license plate from the motor
31 vehicle, to keep the plate in a secure and locked place, or to
32 maintain an inventory, on forms provided by the Texas Department
33 of Motor Vehicles [~~Transportation~~], of license plates kept under
34 this paragraph, including for each plate or set of plates the
35 license plate number and the make, motor number, and vehicle
36 identification number of the motor vehicle from which the plate
37 was removed;

38 (7) an actor who purchases or receives a used or
39 secondhand motor vehicle is presumed to know on receipt by the
40 actor of the motor vehicle that the motor vehicle has been
41 previously stolen from another if the actor knowingly or
42 recklessly:

43 (A) fails to report to the Texas Department of
44 Motor Vehicles [~~Transportation~~] the failure of the person who
45 sold or delivered the motor vehicle to the actor to deliver to
46 the actor a properly executed certificate of title to the motor
47 vehicle at the time the motor vehicle was delivered; or

1 (B) fails to file with the county tax assessor-
2 collector of the county in which the actor received the motor
3 vehicle, not later than the 20th day after the date the actor
4 received the motor vehicle, the registration license receipt and
5 certificate of title or evidence of title delivered to the actor
6 in accordance with Subchapter D, Chapter 520, Transportation
7 Code, at the time the motor vehicle was delivered;

8 (8) an actor who purchases or receives from any
9 source other than a licensed retailer or distributor of
10 pesticides a restricted-use pesticide or a state-limited-use
11 pesticide or a compound, mixture, or preparation containing a
12 restricted-use or state-limited-use pesticide is presumed to
13 know on receipt by the actor of the pesticide or compound,
14 mixture, or preparation that the pesticide or compound, mixture,
15 or preparation has been previously stolen from another if the
16 actor:

17 (A) fails to record the name, address, and
18 physical description of the seller or pledgor;

19 (B) fails to record a complete description of
20 the amount and type of pesticide or compound, mixture, or
21 preparation purchased or received; and

22 (C) fails to obtain a signed warranty from the
23 seller or pledgor that the seller or pledgor has the right to
24 possess the property; and

25 (9) an actor who is subject to Section 409, Packers
26 and Stockyards Act (7 U.S.C. Section 228b), that obtains
27 livestock from a commission merchant by representing that the
28 actor will make prompt payment is presumed to have induced the
29 commission merchant's consent by deception if the actor fails to
30 make full payment in accordance with Section 409, Packers and
31 Stockyards Act (7 U.S.C. Section 228b).

32 SECTION 3J.02. Subsection (b), Section 31.11, Penal Code,
33 is amended to read as follows:

34 (b) It is an affirmative defense to prosecution under this
35 section that the person was:

36 (1) the owner or acting with the effective consent of
37 the owner of the property involved;

38 (2) a peace officer acting in the actual discharge of
39 official duties; or

40 (3) acting with respect to a number assigned to a
41 vehicle by the Texas Department of Transportation or the Texas
42 Department of Motor Vehicles, as applicable, and the person was:

43 (A) in the actual discharge of official duties
44 as an employee or agent of the department; or

45 (B) in full compliance with the rules of the
46 department as an applicant for an assigned number approved by
47 the department.

1 PART K. TAX CODE

2 SECTION 3K.01. Subsection (d), Section 21.02, Tax Code, is
3 amended to read as follows:

4 (d) A motor vehicle does not have taxable situs in a
5 taxing unit under Subsection (a)(1) if, on January 1, the
6 vehicle:

7 (1) has been located for less than 60 days at a place
8 of business of a person who holds a wholesale motor vehicle
9 auction general distinguishing number issued by the Texas
10 Department of Motor Vehicles [~~Transportation~~] under Chapter 503,
11 Transportation Code, for that place of business; and

12 (2) is offered for resale.

13 SECTION 3K.02. Subsection (d), Section 22.04, Tax Code, is
14 amended to read as follows:

15 (d) This section does not apply to a motor vehicle that on
16 January 1 is located at a place of business of a person who
17 holds a wholesale motor vehicle auction general distinguishing
18 number issued by the Texas Department of Motor Vehicles
19 [~~Transportation~~] under Chapter 503, Transportation Code, for
20 that place of business, and that:

21 (1) has not acquired taxable situs under Section
22 21.02(a)(1) in a taxing unit that participates in the appraisal
23 district because the vehicle is described by Section 21.02(d);

24 (2) is offered for sale by a dealer who holds a
25 dealer's general distinguishing number issued by the Texas
26 Department of Motor Vehicles [~~Transportation~~] under Chapter 503,
27 Transportation Code, and whose inventory of motor vehicles is
28 subject to taxation in the manner provided by Sections 23.121
29 and 23.122; or

30 (3) is collateral possessed by a lienholder and
31 offered for sale in foreclosure of a security interest.

32 SECTION 3K.03. Subdivisions (3), (11), and (14),
33 Subsection (a), Section 23.121, Tax Code, are amended to read as
34 follows:

35 (3) "Dealer" means a person who holds a dealer's
36 general distinguishing number issued by the Texas Department of
37 Motor Vehicles [~~Transportation~~] under the authority of Chapter
38 503, Transportation Code, or who is legally recognized as a
39 motor vehicle dealer pursuant to the law of another state and
40 who complies with the terms of Section 152.063(f). The term
41 does not include:

42 (A) a person who holds a manufacturer's license
43 issued under Chapter 2301, Occupations Code [~~by the Motor~~
44 ~~Vehicle Board of the Texas Department of Transportation~~];

45 (B) an entity that is owned or controlled by a
46 person who holds a manufacturer's license issued under Chapter
47 2301, Occupations Code [~~by the Motor Vehicle Board of the Texas~~

1 ~~Department of Transportation~~]; or

2 (C) a dealer whose general distinguishing number
3 issued by the Texas Department of Motor Vehicles
4 [~~Transportation~~] under the authority of Chapter 503,
5 Transportation Code, prohibits the dealer from selling a vehicle
6 to any person except a dealer.

7 (11) "Sales price" means the total amount of money
8 paid or to be paid for the purchase of a motor vehicle as set
9 forth as "sales price" in the form entitled "Application for
10 Texas Certificate of Title" promulgated by the Texas Department
11 of Motor Vehicles [~~Transportation~~]. In a transaction that does
12 not involve the use of that form, the term means an amount of
13 money that is equivalent, or substantially equivalent, to the
14 amount that would appear as "sales price" on the Application for
15 Texas Certificate of Title if that form were involved.

16 (14) "Towable recreational vehicle" means a
17 nonmotorized vehicle that is designed for temporary human
18 habitation for recreational, camping, or seasonal use and:

19 (A) is titled and registered with the Texas
20 Department of Motor Vehicles [~~Transportation~~] through the office
21 of the collector;

22 (B) is permanently built on a single chassis;

23 (C) contains one or more life support systems;
24 and

25 (D) is designed to be towable by a motor
26 vehicle.

27 SECTION 3K.04. Subsections (f), (g), and (h), Section
28 23.121, Tax Code, are amended to read as follows:

29 (f) The comptroller shall promulgate a form entitled
30 Dealer's Motor Vehicle Inventory Declaration. Except as
31 provided by Section 23.122(1) [~~of this code~~], not later than
32 February 1 of each year, or, in the case of a dealer who was not
33 in business on January 1, not later than 30 days after
34 commencement of business, each dealer shall file a declaration
35 with the chief appraiser and file a copy with the collector.
36 For purposes of this subsection, a dealer is presumed to have
37 commenced business on the date of issuance to the dealer of a
38 dealer's general distinguishing number as provided by Chapter
39 503, Transportation Code. Notwithstanding the presumption
40 created by this subsection, a chief appraiser may, at his or her
41 sole discretion, designate as the date on which a dealer
42 commenced business a date other than the date of issuance to the
43 dealer of a dealer's general distinguishing number. The
44 declaration is sufficient to comply with this subsection if it
45 sets forth the following information:

46 (1) the name and business address of each location at
47 which the dealer owner conducts business;

1 (2) each of the dealer's general distinguishing
2 numbers issued by the Texas Department of Motor Vehicles
3 [~~Transportation~~];

4 (3) a statement that the dealer owner is the owner of
5 a dealer's motor vehicle inventory; and

6 (4) the market value of the dealer's motor vehicle
7 inventory for the current tax year as computed under Section
8 23.121(b) [~~of this code~~].

9 (g) Under the terms provided by this subsection, the chief
10 appraiser may examine the books and records of the holder of a
11 general distinguishing number issued by the Texas Department of
12 Motor Vehicles [~~Transportation~~]. A request made under this
13 subsection must be made in writing, delivered personally to the
14 custodian of the records, at the location for which the general
15 distinguishing number has been issued, must provide a period not
16 less than 15 days for the person to respond to the request, and
17 must state that the person to whom it is addressed has the right
18 to seek judicial relief from compliance with the request. In a
19 request made under this section the chief appraiser may examine:

20 (1) the document issued by the Texas Department of
21 Motor Vehicles [~~Transportation~~] showing the person's general
22 distinguishing number;

23 (2) documentation appropriate to allow the chief
24 appraiser to ascertain the applicability of this section and
25 Section 23.122 [~~of this code~~] to the person;

26 (3) sales records to substantiate information set
27 forth in the dealer's declaration filed by the person.

28 (h) If a dealer fails to file a declaration as required by
29 this section, or if, on the declaration required by this
30 section, a dealer reports the sale of fewer than five motor
31 vehicles in the prior year, the chief appraiser shall report
32 that fact to the Texas Department of Motor Vehicles
33 [~~Transportation~~] and the department shall initiate termination
34 proceedings. The chief appraiser shall include with the report
35 a copy of a declaration, if any, indicating the sale by a dealer
36 of fewer than five motor vehicles in the prior year. A report
37 by a chief appraiser to the Texas Department of Motor Vehicles
38 [~~Transportation~~] as provided by this subsection is prima facie
39 grounds for the cancellation of the dealer's general
40 distinguishing number under Section 503.038(a)(9),
41 Transportation Code, or for refusal by the Texas Department of
42 Motor Vehicles [~~Transportation~~] to renew the dealer's general
43 distinguishing number.

44 SECTION 3K.05. Subsection (c), Section 23.123, Tax Code,
45 is amended to read as follows:

46 (c) Information made confidential by this section may be
47 disclosed:

1 (1) in a judicial or administrative proceeding
2 pursuant to a lawful subpoena;

3 (2) to the person who filed the declaration or
4 statement or to that person's representative authorized by the
5 person in writing to receive the information;

6 (3) to the comptroller or an employee of the
7 comptroller authorized by the comptroller to receive the
8 information;

9 (4) to a collector or chief appraiser;

10 (5) to a district attorney, criminal district
11 attorney or county attorney involved in the enforcement of a
12 penalty imposed pursuant to Section 23.121 or Section 23.122 [~~of~~
13 ~~this code~~];

14 (6) for statistical purposes if in a form that does
15 not identify specific property or a specific property owner;

16 (7) if and to the extent that the information is
17 required for inclusion in a public document or record that the
18 appraisal or collection office is required by law to prepare or
19 maintain; or

20 (8) to the Texas Department of Motor Vehicles
21 [~~Transportation~~] for use by that department in auditing
22 compliance of its licensees with appropriate provisions of
23 applicable law.

24 SECTION 3K.06. Subdivision (11), Subsection (a), Section
25 23.124, Tax Code, is amended to read as follows:

26 (11) "Sales price" means the total amount of money
27 paid or to be paid for the purchase of:

28 (A) a vessel, other than a trailer that is
29 treated as a vessel, as set forth as "sales price" in the form
30 entitled "Application for Texas Certificate of Number/Title for
31 Boat/Seller, Donor or Trader's Affidavit" promulgated by the
32 Parks and Wildlife Department;

33 (B) an outboard motor as set forth as "sales
34 price" in the form entitled "Application for Texas Certificate
35 of Title for an Outboard Motor/Seller, Donor or Trader's
36 Affidavit" promulgated by the Parks and Wildlife Department; or

37 (C) a trailer that is treated as a vessel as set
38 forth as "sales price" in the form entitled "Application for
39 Texas Certificate of Title" promulgated by the Texas Department
40 of Motor Vehicles [~~Transportation~~].

41 In a transaction involving a vessel, an outboard
42 motor, or a trailer that is treated as a vessel that does not
43 involve the use of one of these forms, the term means an amount
44 of money that is equivalent, or substantially equivalent, to the
45 amount that would appear as "sales price" on the Application for
46 Texas Certificate of Number/Title for Boat/Seller, Donor or
47 Trader's Affidavit, the Application for Texas Certificate of

1 Title for an Outboard Motor/Seller, Donor or Trader's Affidavit,
2 or the Application for Texas Certificate of Title if one of
3 these forms were involved.

4 SECTION 3K.07. Section 113.011, Tax Code, is amended to
5 read as follows:

6 Sec. 113.011. LIENS FILED WITH TEXAS DEPARTMENT OF MOTOR
7 VEHICLES [~~TRANSPORTATION~~]. The comptroller shall furnish to the
8 Texas Department of Motor Vehicles [~~Transportation~~] each release
9 of a tax lien filed by the comptroller with that department.

10 SECTION 3K.08. Subsections (a) and (f), Section 152.0412,
11 Tax Code, are amended to read as follows:

12 (a) In this section, "standard presumptive value" means
13 the private-party transaction value of a motor vehicle, as
14 determined by the Texas Department of Motor Vehicles
15 [~~Transportation~~] based on an appropriate regional guidebook of a
16 nationally recognized motor vehicle value guide service, or
17 based on another motor vehicle guide publication that the
18 department determines is appropriate if a private-party
19 transaction value for the motor vehicle is not available from a
20 regional guidebook described by this subsection.

21 (f) The Texas Department of Motor Vehicles
22 [~~Transportation~~] shall maintain information on the standard
23 presumptive values of motor vehicles as part of the department's
24 registration and title system. The department shall update the
25 information at least quarterly each calendar year and publish,
26 electronically or otherwise, the updated information.

27 SECTION 3K.09. Section 152.042, Tax Code, is amended to
28 read as follows:

29 Sec. 152.042. COLLECTION OF TAX ON METAL DEALER PLATES. A
30 person required to pay the tax imposed by Section 152.027 shall
31 pay the tax to the Texas Department of Motor Vehicles
32 [~~Transportation~~], and the department may not issue the metal
33 dealer's plates until the tax is paid.

34 SECTION 3K.10. Subsection (b), Section 152.121, Tax Code,
35 is amended to read as follows:

36 (b) Taxes on metal dealer plates collected by the Texas
37 Department of Motor Vehicles [~~Transportation~~] shall be deposited
38 by the department in the state treasury in the same manner as
39 are other taxes collected under this chapter.

40 SECTION 3K.11. Subdivision (52), Section 162.001, Tax
41 Code, is amended to read as follows:

42 (52) "Registered gross weight" means the total weight
43 of the vehicle and carrying capacity shown on the registration
44 certificate issued by the Texas Department of Motor Vehicles
45 [~~Transportation~~].

46 ARTICLE 4. USED AUTOMOTIVE PARTS RECYCLERS

47 SECTION 4.01. Subdivision (6), Section 2302.001,

1 Occupations Code, is amended to read as follows:

2 (6) "Salvage vehicle agent" means a person who
3 acquires, sells, or otherwise deals in nonrepairable or salvage
4 motor vehicles [~~or used parts~~] in this state as directed by the
5 salvage vehicle dealer under whose license the person operates.
6 The term does not include a person who:

7 (A) is a licensed salvage vehicle dealer or a
8 licensed used automotive parts recycler;

9 (B) is a partner, owner, or officer of a
10 business entity that holds a salvage vehicle dealer license or a
11 used automotive parts recycler license;

12 (C) is an employee of a licensed salvage vehicle
13 dealer or a licensed used automotive parts recycler; or

14 (D) only transports salvage motor vehicles for a
15 licensed salvage vehicle dealer or a licensed used automotive
16 parts recycler.

17 SECTION 4.02. Subsection (b), Section 2302.006,
18 Occupations Code, is amended to read as follows:

19 (b) This chapter applies to a transaction in which a motor
20 vehicle:

21 (1) is sold, transferred, released, or delivered to a
22 metal recycler for the purpose of reuse or resale as a motor
23 vehicle [~~or as a source of used parts~~]; and

24 (2) is used for that purpose.

25 SECTION 4.03. Subchapter A, Chapter 2302, Occupations
26 Code, is amended by adding Section 2302.008 to read as follows:

27 Sec. 2302.008. APPLICABILITY OF CHAPTER TO USED AUTOMOTIVE
28 PARTS RECYCLERS. This chapter does not apply to a used
29 automotive parts recycler licensed under Chapter 2309.

30 SECTION 4.04. Subsection (b), Section 2302.103,
31 Occupations Code, is amended to read as follows:

32 (b) An applicant may apply for a salvage vehicle dealer
33 license with an endorsement in one or more of the following
34 classifications:

35 (1) new automobile dealer;

36 (2) used automobile dealer;

37 (3) [~~used vehicle parts dealer;~~

38 [~~4~~] salvage pool operator;

39 (4) [~~5~~] salvage vehicle broker; or

40 (5) [~~6~~] salvage vehicle rebuilder.

41 SECTION 4.05. Subsection (d), Section 2302.107,
42 Occupations Code, is amended to read as follows:

43 (d) A salvage vehicle agent may acquire, sell, or
44 otherwise deal in, nonrepairable or salvage motor vehicles [~~or~~
45 ~~used parts~~] as directed by the authorizing dealer.

46 SECTION 4.06. Section 2302.202, Occupations Code, is
47 amended to read as follows:

1 Sec. 2302.202. RECORDS OF PURCHASES. A salvage vehicle
2 dealer shall maintain a record of each salvage motor vehicle
3 [~~and each used part~~] purchased or sold by the dealer.

4 SECTION 4.07. Subtitle A, Title 14, Occupations Code, is
5 amended by adding Chapter 2309 to read as follows:

6 CHAPTER 2309. USED AUTOMOTIVE PARTS RECYCLERS

7 SUBCHAPTER A. GENERAL PROVISIONS

8 Sec. 2309.001. SHORT TITLE. This chapter may be cited as
9 the Texas Used Automotive Parts Recycling Act.

10 Sec. 2309.002. DEFINITIONS. In this chapter:

11 (1) "Insurance company," "metal recycler," "motor
12 vehicle," "nonrepairable motor vehicle," "nonrepairable vehicle
13 title," "salvage motor vehicle," "salvage vehicle title," and
14 "salvage vehicle dealer" have the meanings assigned by Section
15 501.091, Transportation Code.

16 (2) "Commission" means the Texas Commission of
17 Licensing and Regulation.

18 (3) "Department" means the Texas Department of
19 Licensing and Regulation.

20 (4) "Executive director" means the executive director
21 of the department.

22 (5) "Used automotive part" has the meaning assigned
23 to "used part" by Section 501.091, Transportation Code.

24 (6) "Used automotive parts recycler" means a person
25 licensed under this chapter to operate a used automotive parts
26 recycling business.

27 (7) "Used automotive parts recycling" means the
28 dismantling and reuse or resale of used automotive parts and the
29 safe disposal of salvage motor vehicles or nonrepairable motor
30 vehicles, including the resale of those vehicles.

31 Sec. 2309.003. APPLICABILITY OF CHAPTER TO METAL
32 RECYCLERS. (a) Except as provided by Subsection (b), this
33 chapter does not apply to a transaction to which a metal
34 recycler is a party.

35 (b) This chapter applies to a transaction in which a motor
36 vehicle:

37 (1) is sold, transferred, released, or delivered to a
38 metal recycler as a source of used automotive parts; and

39 (2) is used as a source of used automotive parts.

40 Sec. 2309.004. APPLICABILITY OF CHAPTER TO SALVAGE VEHICLE
41 DEALERS. (a) Except as provided by Subsection (b), this
42 chapter does not apply to a transaction in which a salvage
43 vehicle dealer is a party.

44 (b) This chapter applies to a salvage vehicle dealer who
45 deals in used automotive parts as more than an incidental part
46 of the salvage vehicle dealer's primary business.

47 Sec. 2309.005. APPLICABILITY OF CHAPTER TO INSURANCE

1 COMPANIES. This chapter does not apply to an insurance company.

2 [Sections 2309.006-2309.050 reserved for expansion]

3 SUBCHAPTER B. ADVISORY BOARD

4 Sec. 2309.051. USED AUTOMOTIVE PARTS RECYCLING ADVISORY
5 BOARD. (a) The advisory board consists of five members
6 representing the used automotive parts industry in this state
7 appointed by the presiding officer of the commission with the
8 approval of the commission.

9 (b) The advisory board shall include members who represent
10 used automotive parts businesses owned by domestic entities, as
11 defined by Section 1.002, Business Organizations Code.

12 (c) The advisory board shall include one member who
13 represents a used automotive parts business owned by a foreign
14 entity, as defined by Section 1.002, Business Organizations
15 Code.

16 (d) The advisory board may not include more than one
17 member from any one used automotive parts business entity.

18 (e) Appointments to the advisory board shall be made
19 without regard to the race, color, disability, sex, religion,
20 age, or national origin of the appointee.

21 Sec. 2309.052. TERMS; VACANCIES. (a) Advisory board
22 members serve terms of six years, with the terms of one or two
23 members expiring on February 1 of each odd-numbered year.

24 (b) A member may not serve more than two full consecutive
25 terms.

26 (c) If a vacancy occurs during a term, the presiding
27 officer of the commission shall appoint a replacement who meets
28 the qualifications of the vacated position to serve for the
29 remainder of the term.

30 Sec. 2309.053. PRESIDING OFFICER. The presiding officer
31 of the commission shall appoint one of the advisory board
32 members to serve as presiding officer of the advisory board for
33 a term of one year. The presiding officer of the advisory board
34 may vote on any matter before the advisory board.

35 Sec. 2309.054. POWERS AND DUTIES OF ADVISORY BOARD. The
36 advisory board shall provide advice and recommendations to the
37 department on technical matters relevant to the administration
38 and enforcement of this chapter, including licensing standards.

39 Sec. 2309.055. COMPENSATION; REIMBURSEMENT OF EXPENSES.
40 Advisory board members may not receive compensation but are
41 entitled to reimbursement for actual and necessary expenses
42 incurred in performing the functions of the advisory board,
43 subject to the General Appropriations Act.

44 Sec. 2309.056. MEETINGS. The advisory board shall meet
45 twice annually and may meet at other times at the call of the
46 presiding officer of the commission or the executive director.

47 [Sections 2309.057-2309.100 reserved for expansion]

1 SUBCHAPTER C. POWERS AND DUTIES OF COMMISSION AND DEPARTMENT

2 Sec. 2309.101. GENERAL POWERS AND DUTIES. The executive
3 director or commission, as appropriate, may take action as
4 necessary to administer and enforce this chapter.

5 Sec. 2309.102. RULES. (a) The commission shall adopt
6 rules for licensing used automotive parts recyclers and used
7 automotive parts employees.

8 (b) The commission by rule shall adopt standards of
9 conduct for license holders under this chapter.

10 Sec. 2309.103. RULES REGARDING LICENSING AND STANDARDS OF
11 CONDUCT. (a) The commission shall adopt rules for licensing
12 applicants, including rules for denial of an application if the
13 applicant, a partner, principal, officer, or general manager of
14 the applicant, or another license or permit holder with a
15 connection to the applicant, has:

16 (1) before the application date, been convicted of,
17 pleaded guilty or nolo contendere to, or been placed on deferred
18 adjudication for:

19 (A) a felony; or

20 (B) a misdemeanor punishable by confinement in
21 jail or by a fine exceeding \$500;

22 (2) violated an order of the commission or executive
23 director, including an order for sanctions or administrative
24 penalties; or

25 (3) knowingly submitted false information on the
26 application.

27 (b) The commission by rule shall adopt standards of
28 conduct for license holders under this chapter.

29 Sec. 2309.104. FEES. The commission shall establish and
30 collect reasonable and necessary fees in amounts sufficient to
31 cover the costs of administering this chapter.

32 Sec. 2309.105. RULES RESTRICTING ADVERTISING OR
33 COMPETITIVE BIDDING. (a) The commission may not adopt a rule
34 restricting advertising or competitive bidding by a person who
35 holds a license issued under this chapter except to prohibit
36 false, misleading, or deceptive practices by the person.

37 (b) The commission may not include in its rules to
38 prohibit false, misleading, or deceptive practices a rule that:

39 (1) restricts the use of any advertising medium;

40 (2) restricts the person's personal appearance or use
41 of the person's voice in an advertisement;

42 (3) relates to the size or duration of an
43 advertisement by the person; or

44 (4) restricts the use of a trade name in advertising
45 by the person.

46 Sec. 2309.106. PERIODIC AND RISK-BASED INSPECTIONS.

47 (a) The department shall inspect each used automotive parts

1 recycling facility at least once every two years.

2 (b) The department may enter and inspect at any time
3 during business hours:

4 (1) the place of business of any person regulated
5 under this chapter; or

6 (2) any place in which the department has reasonable
7 cause to believe that a license holder is in violation of this
8 chapter or in violation of a rule or order of the commission or
9 executive director.

10 (c) The department shall conduct additional inspections
11 based on a schedule of risk-based inspections using the
12 following criteria:

13 (1) the inspection history;

14 (2) any history of complaints involving a used
15 automotive parts recycler; and

16 (3) any other factor determined by the commission by
17 rule.

18 (d) A used automotive parts recycler shall pay a fee for
19 each risk-based inspection performed under this section. The
20 commission by rule shall set the amount of the fee.

21 (e) In conducting an inspection under this section, the
22 department may inspect a facility, a used automotive part, a
23 business record, or any other place or thing reasonably required
24 to enforce this chapter or a rule or order adopted under this
25 chapter.

26 Sec. 2309.107. PERSONNEL. The department may employ
27 personnel necessary to administer and enforce this chapter.

28 [Sections 2309.108-2309.150 reserved for expansion]

29 SUBCHAPTER D. LICENSE REQUIREMENTS

30 Sec. 2309.151. USED AUTOMOTIVE PARTS RECYCLER LICENSE
31 REQUIRED. (a) Unless the person holds a used automotive parts
32 recycler license issued under this chapter, a person may not own
33 or operate a used automotive parts recycling business or sell
34 used automotive parts.

35 (b) A used automotive parts recycler license:

36 (1) is valid only with respect to the person who
37 applied for the license; and

38 (2) authorizes the license holder to operate a used
39 automotive parts recycling business only at the one facility
40 listed on the license.

41 Sec. 2309.152. GENERAL LICENSE APPLICATION REQUIREMENTS.
42 An applicant for a used automotive parts recycler license under
43 this chapter must submit to the department:

44 (1) a completed application on a form prescribed by
45 the executive director;

46 (2) the required fees; and

47 (3) any other information required by commission

1 rule.

2 Sec. 2309.153. LICENSE REQUIREMENTS. An applicant for a
3 used automotive parts recycler license under this chapter must
4 provide in a manner prescribed by the executive director:

5 (1) a federal tax identification number;

6 (2) proof of general liability insurance in an amount
7 not less than \$250,000; and

8 (3) proof of a storm water permit if the applicant is
9 required by the Texas Commission on Environmental Quality to
10 obtain a permit.

11 Sec. 2309.154. USED AUTOMOTIVE PARTS EMPLOYEE LICENSE
12 REQUIRED. (a) A person employed by a used automotive parts
13 recycler may not in the scope of the person's employment acquire
14 a vehicle or used automotive parts and may not sell used
15 automotive parts unless the person holds a used automotive parts
16 employee license issued under this chapter.

17 (b) The commission by rule shall adopt requirements for
18 the application for and issuance of a used automotive parts
19 employee license under this chapter.

20 Sec. 2309.155. NONTRANSFERABILITY OF LICENSE. A license
21 issued by the executive director is valid throughout this state
22 and is not transferable.

23 Sec. 2309.156. LICENSE RENEWAL. (a) A license issued
24 under this chapter is valid for one year. The department may
25 adopt a system under which licenses expire at different times
26 during the year.

27 (b) The department shall notify the license holder at
28 least 30 days before the date a license expires. The notice
29 must be in writing and sent to the license holder's last known
30 address according to the records of the department.

31 (c) The commission by rule shall adopt requirements to
32 renew a license issued under this chapter.

33 [Sections 2309.157-2309.200 reserved for expansion]

34 SUBCHAPTER E. LOCAL REGULATION

35 Sec. 2309.201. APPLICABILITY OF CERTAIN MUNICIPAL
36 ORDINANCES, LICENSES, AND PERMITS. (a) The requirements of
37 this chapter apply in addition to the requirements of any
38 applicable municipal ordinance relating to the regulation of a
39 person who deals in used automotive parts.

40 (b) This chapter does not prohibit the enforcement of an
41 applicable municipal license or permit requirement that is
42 related to an activity regulated under this chapter.

43 [Sections 2309.202-2309.250 reserved for expansion]

44 SUBCHAPTER F. ENFORCEMENT

45 Sec. 2309.251. ADMINISTRATIVE PENALTY. (a) The
46 commission may impose an administrative penalty on a person
47 under Subchapter F, Chapter 51, regardless of whether the person

1 holds a license under this chapter, if the person violates:

2 (1) this chapter or a rule adopted under this
3 chapter; or

4 (2) a rule or order of the executive director or
5 commission.

6 (b) An administrative penalty may not be imposed unless
7 the person charged with a violation is provided the opportunity
8 for a hearing.

9 Sec. 2309.252. CEASE AND DESIST ORDER; INJUNCTION; CIVIL
10 PENALTY. (a) The executive director may issue a cease and
11 desist order as necessary to enforce this chapter if the
12 executive director determines that the action is necessary to
13 prevent a violation of this chapter and to protect public health
14 and safety.

15 (b) The attorney general or executive director may
16 institute an action for an injunction or a civil penalty under
17 this chapter as provided by Section 51.352.

18 Sec. 2309.253. SANCTIONS. The department may impose
19 sanctions as provided by Section 51.353.

20 Sec. 2309.254. CRIMINAL PENALTY; LICENSING. (a) A person
21 commits an offense if the person:

22 (1) violates the licensing requirements of this
23 chapter;

24 (2) deals in used parts without a license required by
25 this chapter; or

26 (3) employs an individual who does not hold the
27 appropriate license required by this chapter.

28 (b) An offense under this section is a Class C
29 misdemeanor.

30 [Sections 2309.255-2309.300 reserved for expansion]

31 SUBCHAPTER G. CONDUCTING BUSINESS

32 Sec. 2309.301. DUTIES ON ACQUISITION OF SALVAGE MOTOR
33 VEHICLE. (a) A used automotive parts recycler who acquires
34 ownership of a salvage motor vehicle shall obtain a properly
35 assigned title from the previous owner of the vehicle.

36 (b) A used automotive parts recycler who acquires
37 ownership of a motor vehicle, nonrepairable motor vehicle, or
38 salvage motor vehicle for the purpose of dismantling, scrapping,
39 or destroying the motor vehicle, shall, before the 31st day
40 after the date of acquiring the motor vehicle, submit to the
41 Texas Department of Transportation a properly assigned
42 manufacturer's certificate of origin, regular certificate of
43 title, nonrepairable vehicle title, salvage vehicle title, other
44 ownership document, or comparable out-of-state ownership
45 document for the motor vehicle.

46 (c) After receiving the title or document, the Texas
47 Department of Transportation shall issue the used automotive

1 parts recycler a receipt for the manufacturer's certificate of
2 origin, regular certificate of title, nonrepairable vehicle
3 title, salvage vehicle title, other ownership document, or
4 comparable out-of-state ownership document.

5 (d) The recycler shall comply with Subchapter E, Chapter
6 501, Transportation Code.

7 Sec. 2309.302. RECORDS OF PURCHASES. A used automotive
8 parts recycler shall maintain a record of or sales receipt for
9 each motor vehicle, salvage motor vehicle, nonrepairable motor
10 vehicle, and used automotive part purchased.

11 Sec. 2309.303. REGISTRATION OF NEW BUSINESS LOCATION.
12 Before moving a place of business, a used automotive parts
13 recycler must notify the department of the new location. The
14 used automotive parts recycler shall provide a storm water
15 permit for the location if a permit is required by the Texas
16 Commission on Environmental Quality.

17 [Sections 2309.304-2309.350 reserved for expansion]

18 SUBCHAPTER H. ADDITIONAL DUTIES OF USED AUTOMOTIVE PARTS
19 RECYCLER IN CONNECTION WITH MOTOR VEHICLE COMPONENT PARTS

20 Sec. 2309.351. DEFINITIONS. In this subchapter:

21 (1) "Component part" means a major component part as
22 defined by Section 501.091, Transportation Code, or a minor
23 component part.

24 (2) "Interior component part" means a motor vehicle's
25 seat or radio.

26 (3) "Minor component part" means an interior
27 component part, a special accessory part, or a motor vehicle
28 part that displays or should display at least one of the
29 following:

30 (A) a federal safety certificate;

31 (B) a motor number;

32 (C) a serial number or a derivative; or

33 (D) a manufacturer's permanent vehicle
34 identification number or a derivative.

35 (4) "Special accessory part" means a motor vehicle's
36 tire, wheel, tailgate, or removable glass top.

37 Sec. 2309.352. REMOVAL OF LICENSE PLATES. Immediately on
38 receipt of a motor vehicle, a used automotive parts recycler
39 shall:

40 (1) remove any unexpired license plates from the
41 vehicle; and

42 (2) place the license plates in a secure place until
43 destroyed by the used automotive parts recycler.

44 Sec. 2309.353. DISMANTLEMENT OR DISPOSITION OF MOTOR
45 VEHICLE. A used automotive parts recycler may not dismantle or
46 dispose of a motor vehicle unless the recycler first obtains:

47 (1) a certificate of authority to dispose of the

1 vehicle, a sales receipt, or a transfer document for the vehicle
2 issued under Chapter 683, Transportation Code; or

3 (2) a certificate of title showing that there are no
4 liens on the vehicle or that all recorded liens have been
5 released.

6 Sec. 2309.354. RECORD OF PURCHASE; INVENTORY OF PARTS.

7 (a) A used automotive parts recycler shall keep an accurate and
8 legible record of each used component part purchased by or
9 delivered to the recycler. The record must include:

10 (1) the date of purchase or delivery;

11 (2) the driver's license number of the seller and a
12 legible photocopy of the seller's driver's license; and

13 (3) a description of the part and, if applicable, the
14 make and model of the part.

15 (b) As an alternative to the information required by
16 Subsection (a), a used automotive parts recycler may record:

17 (1) the name of the person who sold the part or the
18 motor vehicle from which the part was obtained; and

19 (2) the Texas certificate of inventory number or the
20 federal taxpayer identification number of the person.

21 (c) The department shall prescribe the form of the record
22 required by Subsection (a) and shall make the form available to
23 used automotive parts recyclers.

24 (d) This section does not apply to:

25 (1) an interior component part or special accessory
26 part from a motor vehicle more than 10 years old; or

27 (2) a part delivered to a used automotive parts
28 recycler by a commercial freight line, commercial carrier, or
29 licensed used automotive parts recycler.

30 Sec. 2309.355. RETENTION OF COMPONENT PARTS. (a) A used
31 automotive parts recycler shall retain each component part in
32 its original condition on the business premises of the recycler
33 for at least three calendar days, excluding Sundays, after the
34 date the recycler obtains the part.

35 (b) This section does not apply to the purchase by a used
36 automotive parts recycler of a nonoperational engine,
37 transmission, or rear axle assembly from another used automotive
38 parts recycler or an automotive-related business.

39 Sec. 2309.356. MAINTENANCE OF RECORDS. A used automotive
40 parts recycler shall maintain copies of each record required
41 under this subchapter until the first anniversary of the
42 purchase date of the item for which the record is maintained.

43 Sec. 2309.357. SURRENDER OF CERTAIN DOCUMENTS OR LICENSE
44 PLATES. (a) A used automotive parts recycler shall surrender
45 to the Texas Department of Transportation for cancellation a
46 certificate of title or authority, sales receipt, or transfer
47 document, as required by the department.

1 **(b)** The Texas Department of Transportation shall provide a
2 signed receipt for a surrendered certificate of title.

3 **Sec. 2309.358. INSPECTION OF RECORDS.** (a) A peace
4 officer at any reasonable time may inspect a record required to
5 be maintained under this subchapter, including an inventory
6 record.

7 **(b)** On demand by a peace officer, a used automotive parts
8 recycler shall provide to the officer a copy of a record
9 required to be maintained under this subchapter.

10 **(c)** A peace officer may inspect the inventory on the
11 premises of a used automotive parts recycler at any reasonable
12 time to verify, check, or audit the records required to be
13 maintained under this subchapter.

14 **(d)** A used automotive parts recycler or an employee of the
15 recycler shall allow and may not interfere with a peace
16 officer's inspection of the recycler's inventory, premises, or
17 required inventory records.

18 [Sections 2309.359-2309.400 reserved for expansion]

19 **SUBCHAPTER I. MOTOR VEHICLE SALVAGE YARDS IN CERTAIN COUNTIES**

20 **Sec. 2309.401. APPLICABILITY OF SUBCHAPTER.** This
21 subchapter applies only to a used automotive parts facility
22 located in a county with a population of 2.8 million or more.

23 **Sec. 2309.402. LIMITS ON OPERATION OF HEAVY MACHINERY.**
24 **(a)** A used automotive parts recycler may not operate heavy
25 machinery in a used automotive parts recycling facility between
26 the hours of 7 p.m. of one day and 7 a.m. of the following day.

27 **(b)** This section does not apply to conduct necessary to a
28 sale or purchase by the recycler.

29 **SECTION 4.08.** Section 501.091, Transportation Code, is
30 amended by amending Subdivision (17) and adding Subdivision (20)
31 to read as follows:

32 **(17)** "Salvage vehicle dealer" means a person engaged
33 in this state in the business of acquiring, selling,
34 [dismantling,] repairing, rebuilding, reconstructing, or
35 otherwise dealing in nonrepairable motor vehicles, salvage motor
36 vehicles, or, if incidental to a salvage motor vehicle dealer's
37 primary business, used automotive parts. The term does not
38 include a person who casually repairs, rebuilds, or reconstructs
39 fewer than five [three] salvage motor vehicles in the same
40 calendar year or, except as provided by Paragraph (C), a used
41 automotive parts recycler. The term includes a person engaged
42 in the business of:

43 **(A)** a salvage vehicle dealer, regardless of
44 whether the person holds a license issued by the department to
45 engage in that business;

46 **(B)** dealing in nonrepairable motor vehicles or
47 salvage motor vehicles[~~, regardless of whether the person deals~~

1 ~~in used parts]; or~~

2 (C) a used automotive parts recycler if the sale
3 of repaired, rebuilt, or reconstructed nonrepairable motor
4 vehicles or salvage motor vehicles is more than an incidental
5 part of the used automotive parts recycler's business [~~dealing~~
6 ~~in used parts regardless of whether the person deals in~~
7 ~~nonrepairable motor vehicles or salvage motor vehicles]~~.

8 (20) "Used parts dealer" and "used automotive parts
9 recycler" have the meaning assigned to "used automotive parts
10 recycler" by Section 2309.002, Occupations Code.

11 SECTION 4.09. Subsection (d), Section 501.092,
12 Transportation Code, is amended to read as follows:

13 (d) An insurance company may sell a motor vehicle to which
14 this section applies, or assign a salvage vehicle title or a
15 nonrepairable vehicle title for the motor vehicle, only to a
16 salvage vehicle dealer, an out-of-state buyer, a buyer in a
17 casual sale at auction, [~~or~~] a metal recycler, or a used
18 automotive parts recycler. If the motor vehicle is not a
19 salvage motor vehicle or a nonrepairable motor vehicle, the
20 insurance company is not required to surrender the regular
21 certificate of title for the vehicle or to be issued a salvage
22 vehicle title or a nonrepairable vehicle title for the motor
23 vehicle.

24 SECTION 4.10. Subsections (a) and (b), Section 501.095,
25 Transportation Code, are amended to read as follows:

26 (a) If the department has not issued a nonrepairable
27 vehicle title or salvage vehicle title for the motor vehicle and
28 an out-of-state ownership document for the motor vehicle has not
29 been issued by another state or jurisdiction, a business or
30 governmental entity described by Subdivisions (1)-(3) may sell,
31 transfer, or release a nonrepairable motor vehicle or salvage
32 motor vehicle only to a person who is:

33 (1) a licensed salvage vehicle dealer, a used
34 automotive parts recycler under Chapter 2309, Occupations Code,
35 or a metal recycler under Chapter 2302, Occupations Code;

36 (2) an insurance company that has paid a claim on the
37 nonrepairable or salvage motor vehicle;

38 (3) a governmental entity; or

39 (4) an out-of-state buyer.

40 (b) A person, other than a salvage vehicle dealer, a used
41 automotive parts recycler, or an insurance company licensed to
42 do business in this state, who acquired ownership of a
43 nonrepairable or salvage motor vehicle that has not been issued
44 a nonrepairable vehicle title, salvage vehicle title, or a
45 comparable ownership document issued by another state or
46 jurisdiction shall, before selling the motor vehicle, surrender
47 the properly assigned certificate of title for the motor vehicle

1 to the department and apply to the department for:

2 (1) a nonrepairable vehicle title if the vehicle is a
3 nonrepairable motor vehicle; or

4 (2) a salvage vehicle title if the vehicle is a
5 salvage motor vehicle.

6 SECTION 4.11. Section 501.105, Transportation Code, is
7 amended to read as follows:

8 Sec. 501.105. RETENTION OF RECORDS RELATING TO CERTAIN
9 CASUAL SALES. Each licensed salvage vehicle dealer, used
10 automotive parts recycler, or insurance company that sells a
11 nonrepairable motor vehicle or a salvage motor vehicle at a
12 casual sale shall keep on the business premises of the dealer or
13 the insurance company a list of all casual sales made during the
14 preceding 36-month period that contains:

15 (1) the date of the sale;

16 (2) the name of the purchaser;

17 (3) the name of the jurisdiction that issued the
18 identification document provided by the purchaser, as shown on
19 the document; and

20 (4) the vehicle identification number.

21 SECTION 4.12. Section 2302.253, Occupations Code, is
22 repealed.

23 SECTION 4.13. Not later than January 1, 2010, the Texas
24 Commission of Licensing and Regulation shall adopt rules under
25 Section 2309.102, Occupations Code, as added by this Act.

26 SECTION 4.14. If there is a conflict between a provision
27 of this Act and a provision of another Act of the 81st
28 Legislature, Regular Session, 2009, that becomes law concerning
29 the licensing or regulation of used automotive parts recyclers,
30 this Act prevails regardless of the relative dates of enactment.

31 SECTION 4.15. Sections 2309.151 and 2309.154, Occupations
32 Code, as added by this article, and Subchapter F, Chapter 2309,
33 Occupations Code, as added by this article, take effect
34 September 1, 2010.

35 ARTICLE 5. MANUFACTURER OR DISTRIBUTOR OWNERSHIP, OPERATION, OR
36 CONTROL OF DEALERSHIP

37 SECTION 5.01. Section 2301.476, Occupations Code, is
38 amended by adding Subsection (h-1) to read as follows:

39 (h-1) A person who on January 18, 2002, held both a
40 converter's license to convert buses with a gross vehicle weight
41 rating of 40,000 pounds or more and a franchised dealer's
42 license to sell buses issued under this chapter may:

43 (1) regain and hold both licenses; and

44 (2) operate as both a converter and franchised dealer
45 of bus conversions with a gross vehicle weight rating of 40,000
46 pounds or more but of no other type of vehicle.

47 ARTICLE 6. TRANSFERS OF CERTAIN POWERS, DUTIES, OBLIGATIONS,

1 AND RIGHTS OF ACTION

2 SECTION 6.01. (a) All powers, duties, obligations, and
3 rights of action of the Motor Vehicle Division and the Vehicle
4 Titles and Registration Division of the Texas Department of
5 Transportation are transferred to the Texas Department of Motor
6 Vehicles and all powers, duties, obligations, and rights of
7 action of the Texas Transportation Commission in connection or
8 associated with those divisions of the Texas Department of
9 Transportation are transferred to the board of the Texas
10 Department of Motor Vehicles on November 1, 2009.

11 (b) The powers, duties, obligations, and rights of action
12 of the portion of the Motor Carrier Division of the Texas
13 Department of Transportation that is responsible for motor
14 carrier registration and the enforcement of Subtitle F, Title 7,
15 Transportation Code, are transferred to the Texas Department of
16 Motor Vehicles and the associated powers, duties, obligations,
17 and rights of action of the Texas Transportation Commission are
18 transferred to the board of the Texas Department of Motor
19 Vehicles on November 1, 2009.

20 (c) In connection with the transfers required by
21 Subsections (a) and (b) of this section, the personnel,
22 furniture, computers, other property and equipment, files, and
23 related materials used by the Motor Vehicle Division, the
24 Vehicle Titles and Registration Division, or the portion of the
25 Motor Carrier Division of the Texas Department of Transportation
26 described in Subsection (b) of this section are transferred to
27 the Texas Department of Motor Vehicles.

28 (d) The Texas Department of Motor Vehicles shall continue
29 any proceeding involving the Motor Vehicle Division, the Vehicle
30 Titles and Registration Division, or the portion of the Motor
31 Carrier Division of the Texas Department of Transportation
32 described in Subsection (b) of this section that was brought
33 before the effective date of this Act in accordance with the law
34 in effect on the date the proceeding was brought, and the former
35 law is continued in effect for that purpose.

36 (e) A certificate, license, document, permit,
37 registration, or other authorization issued by the Motor Vehicle
38 Division or the Vehicle Titles and Registration Division of the
39 Texas Department of Transportation or a registration issued by
40 the Motor Carrier Division of the Texas Department of
41 Transportation that is in effect on the effective date of this
42 Act remains valid for the period for which it was issued unless
43 suspended or revoked by the Texas Department of Motor Vehicles.

44 (f) A rule adopted by the Texas Transportation Commission
45 or the executive director of the Texas Department of
46 Transportation in connection with or relating to the Motor
47 Vehicle Division, the Vehicle Titles and Registration Division,

1 or the portion of the Motor Carrier Division of the Texas
2 Department of Transportation described in Subsection (b) of this
3 section continues in effect until it is amended or repealed by
4 the board of the Texas Department of Motor Vehicles or the Texas
5 Department of Motor Vehicles, as applicable.

6 (g) The unobligated and unexpended balance of any
7 appropriations made to the Texas Department of Transportation in
8 connection with or relating to the Motor Vehicle Division, the
9 Vehicle Titles and Registration Division, or the portion of the
10 Motor Carrier Division of the Texas Department of Transportation
11 described in Subsection (b) of this section for the state fiscal
12 biennium ending August 31, 2009, is transferred and
13 reappropriated to the Texas Department of Motor Vehicles for the
14 purpose of implementing the powers, duties, obligations, and
15 rights of action transferred to that department under
16 Subsections (a) and (b) of this section.

17 (h) The Texas Department of Transportation shall continue,
18 as necessary, to perform the duties and functions being
19 transferred to the Texas Department of Motor Vehicles until the
20 transfer of agency duties and functions is complete.

21 SECTION 6.02. (a) In connection with the establishment by
22 this Act of the Automobile Burglary and Theft Prevention
23 Authority in the Texas Department of Motor Vehicles and with the
24 transfer by this Act of the duty to provide personnel and
25 services to the Automobile Burglary and Theft Prevention
26 Authority from the Texas Department of Transportation to the
27 Texas Department of Motor Vehicles, the personnel, furniture,
28 computers, other property and equipment, files, and related
29 materials used by the Automobile Burglary and Theft Prevention
30 Authority are transferred to the Texas Department of Motor
31 Vehicles.

32 (b) The unobligated and unexpended balance of any
33 appropriations made to the Texas Department of Transportation in
34 connection with or relating to the Automobile Burglary and Theft
35 Prevention Authority for the state fiscal biennium ending August
36 31, 2009, is transferred and reappropriated to the Texas
37 Department of Motor Vehicles for the purpose of allowing the
38 authority to continue to exercise its powers, duties, and
39 obligations under the auspices of that department.

40 SECTION 6.03. (a) In addition to the positions of the
41 Texas Department of Transportation assigned to the Vehicle
42 Titles and Registration Division, Motor Vehicle Division, Motor
43 Carrier Division, and Automobile Burglary and Theft Prevention
44 Authority Division that are transferred to the Texas Department
45 of Motor Vehicles, it is estimated that 75 other full-time
46 equivalent employee positions of the Texas Department of
47 Transportation primarily support the transferred divisions and,

1 subject to this section, those positions are also transferred to
2 the Texas Department of Motor Vehicles. The number of positions
3 transferred under this subsection may be modified by agreement
4 of the two agencies in a memorandum of understanding.

5 (b) If in another Act of the 81st Legislature, Regular
6 Session, 2009, the legislature establishes a maximum number of
7 full-time equivalent employee positions for the Texas Department
8 of Motor Vehicles, the number of positions transferred under
9 Subsection (a) of this section may not result in a number of
10 full-time equivalent employee positions of that department that
11 exceeds the maximum.

12 (c) When filling a position described by Subsection (a) of
13 this section, the Texas Department of Motor Vehicles shall give
14 first consideration to an applicant who, as of September 1,
15 2009, was a full-time employee of the Texas Department of
16 Transportation and primarily supported one or more of the
17 transferred divisions.

18 ARTICLE 7. APPOINTMENT OF BOARD

19 SECTION 7.01. Not later than October 1, 2009, the governor
20 shall appoint the members of the board of the Texas Department
21 of Motor Vehicles in accordance with Subchapter B, Chapter 1001,
22 Transportation Code, as added by this Act.

23 ARTICLE 8. MEMORANDUM OF UNDERSTANDING

24 SECTION 8.01. (a) The board of the Texas Department of
25 Motor Vehicles and the Texas Transportation Commission shall
26 enter into or revise a joint memorandum of understanding to
27 coordinate the Texas Department of Motor Vehicles' and the Texas
28 Department of Transportation's information systems to allow for
29 the sharing of information so that each department may
30 effectively and efficiently perform the functions and duties
31 assigned to it. Neither the Texas Department of Motor Vehicles
32 nor the Texas Department of Transportation may impose or collect
33 a fee or charge in connection with the sharing of information
34 under a joint memorandum of understanding entered into or
35 revised under this section.

36 (b) The Texas Department of Motor Vehicles and the Texas
37 Department of Transportation shall implement the joint
38 memorandum of understanding using existing personnel and
39 resources.

40 (c) Otherwise confidential information shared under the
41 memorandum of understanding remains subject to the same
42 confidentiality requirements and legal restrictions on access to
43 the information that are imposed by law on the department that
44 originally obtained or collected the information.

45 (d) Information may be shared under the memorandum of
46 understanding without the consent of the person who is the
47 subject of the information.

1 (e) The memorandum of understanding required by Subsection
2 (a) of this section must be entered into or revised at the first
3 official meeting of the board members of the Texas Department of
4 Motor Vehicles.

5 SECTION 8.02. (a) In addition to the memorandum of
6 understanding required by Section 8.01 of this article, the
7 board of the Texas Department of Motor Vehicles and the Texas
8 Transportation Commission may enter into or revise one or more
9 other joint memoranda of understanding necessary to effectuate
10 the transfer of the powers and duties of the Texas Department of
11 Transportation to the Texas Department of Motor Vehicles under
12 this Act. A memorandum of understanding may include an agreement
13 for the provision of office space, utilities, and other facility
14 services; the need for full-time equivalent positions of the
15 Texas Department of Transportation to provide support services
16 in addition to the positions transferred to the Texas Department
17 of Motor Vehicles under Section 6.01 of this Act; support
18 services; and the transfer of information technology as
19 necessary or appropriate to effectuate the transfer of the
20 powers and duties of the Texas Department of Transportation to
21 the Texas Department of Motor Vehicles.

22 (b) Subsections (b), (c), and (d) of Section 8.01 of this
23 article apply to a memorandum of understanding entered into or
24 revised under Subsection (a) of this section.

25 ARTICLE 9. DEPARTMENT OF MOTOR VEHICLES TRANSITION TEAM

26 SECTION 9.01. (a) The Texas Department of Transportation
27 shall establish a Department of Motor Vehicles Transition Team
28 to plan for and make recommendations regarding the transfer of
29 obligations, property, full-time equivalent positions, rights,
30 powers, and duties from the Texas Department of Transportation
31 to the Texas Department of Motor Vehicles. The transition team
32 must include the division directors from the Motor Vehicle
33 Division, the Vehicle Titles and Registration Division, and the
34 Motor Carrier Division and the Assistant Executive Director for
35 Support Operations.

36 (b) Not later than October 1, 2009, the transition team
37 shall report on and make recommendations to the board of the
38 Texas Department of Motor Vehicles, the governor, the lieutenant
39 governor, the speaker of the house of representatives, and the
40 presiding officers of the senate and house committees with
41 jurisdiction over transportation regarding the transfer of
42 obligations, property, full-time equivalent positions, rights,
43 powers, and duties from the Texas Department of Transportation
44 to the Texas Department of Motor Vehicles.

45 ARTICLE 10. FINANCIAL AUDIT

46 SECTION 10.01. (a) As soon as practicable after the
47 effective date of this Act, the office of the state auditor

1 shall conduct an initial financial audit to establish financial
2 benchmarks for the Texas Department of Motor Vehicles on its
3 overall status and condition in relation to funds on hand,
4 equipment and other assets, pending matters, and other issues
5 considered appropriate by the office of the state auditor.

6 (b) As soon as practicable after the completion of the
7 audit required by Subsection (a) of this section, the results of
8 the audit shall be reported by the office of the state auditor
9 to the board of the Texas Department of Motor Vehicles and to
10 the Texas Transportation Commission. The office of the state
11 auditor shall also provide a copy of the audit to the board and
12 the commission.

13 ARTICLE 11. EFFECTIVE DATE

14 SECTION 11.01. This Act takes effect September 1, 2009.

15
16 H.B. No. 3147
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21 AN ACT

22 relating to taking or attempting to take a weapon from a
23 commissioned security officer.

24 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

25 SECTION 1. The heading to Section 38.14, Penal Code, is
26 amended to read as follows:

27 Sec. 38.14. TAKING OR ATTEMPTING TO TAKE WEAPON FROM PEACE
28 OFFICER, PAROLE OFFICER, ~~[OR]~~ COMMUNITY SUPERVISION AND
29 CORRECTIONS DEPARTMENT OFFICER, OR COMMISSIONED SECURITY
30 OFFICER.

31 SECTION 2. Section 38.14(a), Penal Code, is amended by
32 adding Subdivision (3) to read as follows:

33 (3) "Commissioned security officer" has the meaning
34 assigned by Section 1702.002(5), Occupations Code.

35 SECTION 3. Sections 38.14(b), (c), and (d), Penal Code,
36 are amended to read as follows:

37 (b) A person commits an offense if the person
38 intentionally or knowingly and with force takes or attempts to
39 take from a peace officer, parole officer, ~~[or]~~ community
40 supervision and corrections department officer, or commissioned
41 security officer the officer's firearm, nightstick, stun gun, or
42 personal protection chemical dispensing device with the
43 intention of harming the officer or a third person.

44 (c) The actor is presumed to have known that the peace
45 officer, parole officer, ~~[or]~~ community supervision and
46 corrections department officer, or commissioned security officer
47 was a peace officer, parole officer, ~~[or]~~ community supervision

1 and corrections department officer, or commissioned security
2 officer if:

3 (1) the officer was wearing a distinctive uniform or
4 badge indicating his employment; ~~[7]~~ or

5 (2) ~~[if]~~ the officer identified himself as a peace
6 officer, parole officer, ~~[or]~~ community supervision and
7 corrections department officer, or commissioned security
8 officer.

9 (d) It is a defense to prosecution under this section that
10 the defendant took or attempted to take the weapon from a peace
11 officer, parole officer, ~~[or]~~ community supervision and
12 corrections department officer, or commissioned security officer
13 who was using force against the defendant or another in excess
14 of the amount of force permitted by law.

15 SECTION 4. The change in law made by this Act applies only
16 to an offense committed on or after the effective date of this
17 Act. An offense committed before the effective date of this Act
18 is governed by the law in effect at the time the offense was
19 committed, and the former law is continued in effect for that
20 purpose. For purposes of this section, an offense was committed
21 before the effective date of this Act if any element of the
22 offense occurred before that date.

23 SECTION 5. This Act takes effect September 1, 2009.

24
25 H.B. No. 3186

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30 AN ACT

31 relating to the collection and use of biometric identifiers.

32 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

33 SECTION 1. Section 503.001, Business & Commerce Code, is
34 amended by amending Subsection (c) and adding Subsections (c-1)
35 and (c-2) to read as follows:

36 (c) A person who possesses a biometric identifier of an
37 individual that is captured for a commercial purpose:

38 (1) may not sell, lease, or otherwise disclose the
39 biometric identifier to another person unless:

40 (A) the individual consents to the disclosure
41 for identification purposes in the event of the individual's
42 disappearance or death;

43 (B) the disclosure completes a financial
44 transaction that the individual requested or authorized;

45 (C) the disclosure is required or permitted by a
46 federal statute or by a state statute other than Chapter 552,
47 Government Code; or

1 (D) the disclosure is made by or to a law
2 enforcement agency for a law enforcement purpose in response to
3 a warrant; [and]

4 (2) shall store, transmit, and protect from
5 disclosure the biometric identifier using reasonable care and in
6 a manner that is the same as or more protective than the manner
7 in which the person stores, transmits, and protects any other
8 confidential information the person possesses; and

9 (3) shall destroy the biometric identifier within a
10 reasonable time, but not later than the first anniversary of the
11 date the purpose for collecting the identifier expires, except
12 as provided by Subsection (c-1).

13 (c-1) If a biometric identifier of an individual captured
14 for a commercial purpose is used in connection with an
15 instrument or document that is required by another law to be
16 maintained for a period longer than the period prescribed by
17 Subsection (c)(3), the person who possesses the biometric
18 identifier shall destroy the biometric identifier within a
19 reasonable time, but not later than the first anniversary of the
20 date the instrument or document is no longer required to be
21 maintained by law.

22 (c-2) If a biometric identifier captured for a commercial
23 purpose has been collected for security purposes by an employer,
24 the purpose for collecting the identifier under Subsection
25 (c)(3) is presumed to expire on termination of the employment
26 relationship.

27 SECTION 2. (a) The changes in law made by this Act apply
28 to a biometric identifier possessed by a person:

29 (1) on or after the effective date of this Act; or

30 (2) before the effective date of this Act, subject to
31 Subsection (b) of this section.

32 (b) A person who before the effective date of this Act
33 possesses a biometric identifier that is required to be
34 destroyed because of the changes in law made by this Act shall
35 destroy the biometric identifier on or before October 1, 2009.

36 SECTION 3. This Act takes effect September 1, 2009.

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38 H.B. No. 3201
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43 AN ACT

44 relating to the designation of certain fire marshals and related
45 officers, inspectors, and investigators as peace officers.

46 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

47 SECTION 1. Article 2.12, Code of Criminal Procedure, is

1 amended to read as follows:

2 Art. 2.12. WHO ARE PEACE OFFICERS. The following are
3 peace officers:

4 (1) sheriffs, their deputies, and those reserve
5 deputies who hold a permanent peace officer license issued under
6 Chapter 1701, Occupations Code;

7 (2) constables, deputy constables, and those reserve
8 deputy constables who hold a permanent peace officer license
9 issued under Chapter 1701, Occupations Code;

10 (3) marshals or police officers of an incorporated
11 city, town, or village, and those reserve municipal police
12 officers who hold a permanent peace officer license issued under
13 Chapter 1701, Occupations Code;

14 (4) rangers and officers commissioned by the Public
15 Safety Commission and the Director of the Department of Public
16 Safety;

17 (5) investigators of the district attorneys',
18 criminal district attorneys', and county attorneys' offices;

19 (6) law enforcement agents of the Texas Alcoholic
20 Beverage Commission;

21 (7) each member of an arson investigating unit
22 commissioned by a city, a county, or the state;

23 (8) officers commissioned under Section 37.081,
24 Education Code, or Subchapter E, Chapter 51, Education Code;

25 (9) officers commissioned by the General Services
26 Commission;

27 (10) law enforcement officers commissioned by the
28 Parks and Wildlife Commission;

29 (11) airport police officers commissioned by a city
30 with a population of more than 1.18 million that operates an
31 airport that serves commercial air carriers;

32 (12) airport security personnel commissioned as peace
33 officers by the governing body of any political subdivision of
34 this state, other than a city described by Subdivision (11),
35 that operates an airport that serves commercial air carriers;

36 (13) municipal park and recreational patrolmen and
37 security officers;

38 (14) security officers and investigators commissioned
39 as peace officers by the comptroller;

40 (15) officers commissioned by a water control and
41 improvement district under Section 49.216, Water Code;

42 (16) officers commissioned by a board of trustees
43 under Chapter 54, Transportation Code;

44 (17) investigators commissioned by the Texas Medical
45 Board;

46 (18) officers commissioned by the board of managers
47 of the Dallas County Hospital District, the Tarrant County

1 Hospital District, or the Bexar County Hospital District under
2 Section 281.057, Health and Safety Code;
3 (19) county park rangers commissioned under
4 Subchapter E, Chapter 351, Local Government Code;
5 (20) investigators employed by the Texas Racing
6 Commission;
7 (21) officers commissioned under Chapter 554,
8 Occupations Code;
9 (22) officers commissioned by the governing body of a
10 metropolitan rapid transit authority under Section 451.108,
11 Transportation Code, or by a regional transportation authority
12 under Section 452.110, Transportation Code;
13 (23) investigators commissioned by the attorney
14 general under Section 402.009, Government Code;
15 (24) security officers and investigators commissioned
16 as peace officers under Chapter 466, Government Code;
17 (25) an officer employed by the Department of State
18 Health Services under Section 431.2471, Health and Safety Code;
19 (26) officers appointed by an appellate court under
20 Subchapter F, Chapter 53, Government Code;
21 (27) officers commissioned by the state fire marshal
22 under Chapter 417, Government Code;
23 (28) an investigator commissioned by the commissioner
24 of insurance under Section 701.104, Insurance Code;
25 (29) apprehension specialists and inspectors general
26 commissioned by the Texas Youth Commission as officers under
27 Sections 61.0451 and 61.0931, Human Resources Code;
28 (30) officers appointed by the inspector general of
29 the Texas Department of Criminal Justice under Section 493.019,
30 Government Code;
31 (31) investigators commissioned by the Commission on
32 Law Enforcement Officer Standards and Education under Section
33 1701.160, Occupations Code;
34 (32) commission investigators commissioned by the
35 Texas Private Security Board under Section 1702.061(f),
36 Occupations Code;
37 (33) the fire marshal and any officers, inspectors,
38 or investigators commissioned by an emergency services district
39 under Chapter 775, Health and Safety Code;
40 (34) officers commissioned by the State Board of
41 Dental Examiners under Section 254.013, Occupations Code,
42 subject to the limitations imposed by that section; ~~and~~
43 (35) investigators commissioned by the Texas Juvenile
44 Probation Commission as officers under Section 141.055, Human
45 Resources Code; and
46 (36) the fire marshal and any related officers,
47 inspectors, or investigators commissioned by a county under

1 Subchapter B, Chapter 352, Local Government Code.

2 SECTION 2. This Act takes effect immediately if it
3 receives a vote of two-thirds of all the members elected to each
4 house, as provided by Section 39, Article III, Texas
5 Constitution. If this Act does not receive the vote necessary
6 for immediate effect, this Act takes effect September 1, 2009.

7
8 H.B. No. 3224
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13 AN ACT

14 relating to the prosecution and punishment of the offense of
15 arson.

16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

17 SECTION 1. Section 28.02, Penal Code, is amended by adding
18 Subsection (a-2) and amending Subsections (f) and (g) to read as
19 follows:

20 (a-2) A person commits an offense if the person
21 intentionally starts a fire or causes an explosion and in so
22 doing:

23 (1) recklessly damages or destroys a building
24 belonging to another; or

25 (2) recklessly causes another person to suffer bodily
26 injury or death.

27 (f) An offense under Subsection (a-2) is a state jail
28 felony [It is a felony of the third degree if a person commits
29 an offense under Subsection (a)(2) of this section and the
30 person intentionally starts a fire in or on a building,
31 habitation, or vehicle, with intent to damage or destroy
32 property belonging to another, or with intent to injure any
33 person, and in so doing, recklessly causes damage to the
34 building, habitation, or vehicle].

35 (g) If conduct that constitutes an offense under
36 Subsection (a-1) or that constitutes an offense under Subsection
37 (a-2) [(+f+)] also constitutes an offense under another subsection
38 of this section or another section of this code, the actor may
39 be prosecuted under Subsection (a-1) or Subsection (a-2) [(+f+)],
40 under the other subsection of this section, or under the other
41 section of this code.

42 SECTION 2. The change in law made by this Act applies only
43 to an offense committed on or after the effective date of this
44 Act. An offense committed before the effective date of this Act
45 is covered by the law in effect when the offense was committed,
46 and the former law is continued in effect for that purpose. For
47 purposes of this section, an offense was committed before the

1 effective date of this Act if any element of the offense
2 occurred before that date.

3 SECTION 3. This Act takes effect September 1, 2009.

4
5 H.B. No. 3226
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10 AN ACT

11 relating to the payment of temporary housing costs for certain
12 individuals who are released or are eligible for release on
13 parole or to mandatory supervision.

14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

15 SECTION 1. Subchapter E, Chapter 508, Government Code, is
16 amended by adding Section 508.157 to read as follows:

17 Sec. 508.157. TEMPORARY HOUSING ON RELEASE. (a) This
18 section applies only to inmates who are eligible for release on
19 parole or to mandatory supervision and to releasees.

20 (b) The department may issue payment for the cost of
21 temporary post-release housing for an inmate described by
22 Subsection (a) or for a releasee that meets any conditions or
23 requirements imposed by a parole panel and is located in the
24 county of legal residence of the inmate or releasee.

25 (c) The amount of payment issued under Subsection (b) may
26 not exceed an amount that is equal to the cost the department
27 would incur to incarcerate the inmate for the period for which
28 the payment is issued.

29 (d) The department shall issue payment under Subsection
30 (b) out of funds appropriated by the legislature to the
31 department for use in administering the parole system with
32 respect to the housing of inmates on their release.

33 (e) The executive director of the Texas Department of
34 Criminal Justice shall adopt rules as necessary to implement
35 this section, including rules that ensure that the food,
36 hygiene, and clothing needs of an inmate or releasee on whose
37 behalf payment is issued under this section are adequately met
38 during the period for which the payment is issued.

39 (f) Not later than September 30, 2010, for the first
40 report and September 30, 2011, for the second report, the
41 department shall submit to the Criminal Justice Legislative
42 Oversight Committee a report that covers the period of August 1
43 of the year preceding the year in which the report is submitted
44 through September 1 of the year in which the report is submitted
45 and that includes:

46 (1) the total number of inmates and releasees on
47 whose behalf payment is issued under this section;

1 (2) the total dollar amount of payments issued under
2 this section; and

3 (3) the county of release and the county of legal
4 residence of each inmate or releasee on whose behalf payment is
5 issued under this section.

6 (g) This subsection and Subsection (f) expire January 1,
7 2012.

8 SECTION 2. Section 508.141(e), Government Code, is amended
9 to read as follows:

10 (e) A parole panel may release an inmate on parole only
11 when:

12 (1) arrangements have been made for the inmate's
13 employment or for the inmate's maintenance and care, which may
14 include the issuance of payment for the cost of temporary post-
15 release housing under Section 508.157; and

16 (2) the parole panel believes that the inmate is able
17 and willing to fulfill the obligations of a law-abiding citizen.

18 SECTION 3. The executive director of the Texas Department
19 of Criminal Justice shall adopt the rules required by Section
20 508.157, Government Code, as added by this Act, not later than
21 January 1, 2010.

22 SECTION 4. The change in law made by this Act applies only
23 to an inmate released on parole on or after January 1, 2010.

24 SECTION 5. This Act takes effect immediately if it
25 receives a vote of two-thirds of all the members elected to each
26 house, as provided by Section 39, Article III, Texas
27 Constitution. If this Act does not receive the vote necessary
28 for immediate effect, this Act takes effect September 1, 2009.

29
30 H.B. No. 3228
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35 AN ACT

36 relating to the offense of prohibited substances and items in
37 correctional facilities.

38 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

39 SECTION 1. Section 38.11, Penal Code, as amended by
40 Chapters 949 (H.B. 1575) and 1092 (H.B. 2077), Acts of the 79th
41 Legislature, Regular Session, 2005, is reenacted and amended to
42 read as follows:

43 Sec. 38.11. PROHIBITED SUBSTANCES AND ITEMS IN [~~ADULT OR~~
44 ~~JUVENILE~~] CORRECTIONAL [~~OR DETENTION~~] FACILITY [~~OR ON PROPERTY~~
45 ~~OF TEXAS DEPARTMENT OF CRIMINAL JUSTICE OR TEXAS YOUTH~~
46 ~~COMMISSION~~]. (a) A person commits an offense if the person
47 provides, or possesses with the intent to provide:

1 (1) an alcoholic beverage, controlled substance, or
2 dangerous drug to ~~[an inmate of a correctional facility or to]~~ a
3 person in the custody of a ~~[secure]~~ correctional facility ~~[or~~
4 ~~secure detention facility for juveniles]~~, except on the
5 prescription of a ~~[physician or]~~ practitioner~~[, as defined in~~
6 ~~Section 551.003, Occupations Code];~~

7 (2) a deadly weapon to ~~[an inmate of a correctional~~
8 ~~facility or to]~~ a person in the custody of a ~~[secure]~~
9 correctional facility ~~[or secure detention facility for~~
10 ~~juveniles];~~

11 (3) a cellular telephone or other wireless
12 communications device or a component of one of those devices~~[,~~
13 ~~cigarette, tobacco product, or money]~~ to a person in the custody
14 ~~[an inmate]~~ of a correctional facility ~~[operated by or under~~
15 ~~contract with the Texas Department of Criminal Justice or to a~~
16 ~~person in the custody of a secure correctional facility or~~
17 ~~secure detention facility for juveniles, except for money that~~
18 ~~is provided for the benefit of the juvenile in accordance with~~
19 ~~facility rules];~~

20 (4) ~~[a cellular telephone or]~~ money to a person
21 confined in a correctional facility ~~[local jail regulated by the~~
22 ~~Commission on Jail Standards]; or~~

23 (5) a cigarette or tobacco product to a person
24 confined in a correctional facility, except that if the facility
25 is a local jail regulated by the Commission on Jail Standards,
26 the person commits an offense only if ~~[and in]~~ providing the
27 cigarette or tobacco product ~~[the person]~~ violates a rule or
28 regulation adopted by the sheriff or jail administrator that:

29 (A) prohibits the possession of a cigarette or
30 tobacco product by a person ~~[an inmate]~~ confined in the jail; or

31 (B) places restrictions on:

32 (i) the possession of a cigarette or
33 tobacco product by a person ~~[an inmate]~~ confined in the jail; or

34 (ii) the manner in which a cigarette or
35 tobacco product may be provided to a person ~~[an inmate]~~ confined
36 in the jail.

37 (b) A person commits an offense if the person takes an
38 alcoholic beverage, controlled substance, or dangerous drug into
39 a correctional facility ~~[or a secure correctional facility or~~
40 ~~secure detention facility for juveniles, except for delivery to~~
41 ~~a facility warehouse, pharmacy, or physician].~~

42 (c) A person commits an offense if the person takes a
43 controlled substance or dangerous drug on property owned, used,
44 or controlled by a correctional facility ~~[the Texas Department~~
45 ~~of Criminal Justice, the Texas Youth Commission, or a secure~~
46 ~~correctional facility or secure detention facility for~~
47 ~~juveniles, except for delivery to a warehouse, pharmacy, or~~

1 ~~physician on property owned, used, or controlled by the~~
2 ~~department, the commission, or the facility].~~

3 (d) A person commits an offense if the person:

4 (1) possesses a controlled substance or dangerous
5 drug while in a correctional facility or~~[~~

6 ~~[(A)] on property owned, used, or controlled by~~
7 ~~[the Texas Department of Criminal Justice, the Texas Youth~~
8 ~~Commission, or] a [secure] correctional facility [or secure~~
9 ~~detention facility for juveniles; or~~

10 ~~[(B) in a correctional facility or a secure~~
11 ~~correctional facility or secure detention facility for~~
12 ~~juveniles]; or~~

13 (2) possesses a deadly weapon while in a correctional
14 facility ~~[or in a secure correctional facility or secure~~
15 ~~detention facility for juveniles].~~

16 (e) It is an affirmative defense to prosecution under
17 Subsection (b), (c), or (d)(1) ~~[of this section]~~ that the person
18 possessed the alcoholic beverage, controlled substance, or
19 dangerous drug pursuant to a prescription issued by a
20 practitioner or while delivering the beverage, substance, or
21 drug to a warehouse, pharmacy, or practitioner ~~[physician]~~ on
22 property owned, used, or controlled by the ~~[department, the~~
23 ~~Texas Youth Commission, or by the operator of a secure]~~
24 ~~correctional facility [or secure detention facility for~~
25 ~~juveniles]. It is an affirmative defense to prosecution under~~
26 Subsection (d)(2) ~~[of this section]~~ that the person possessing
27 the deadly weapon is a peace officer or is an officer or
28 employee of the correctional facility who is authorized to
29 possess the deadly weapon while on duty or traveling to or from
30 the person's place of assignment.

31 (f) In this section:

32 (1) "Practitioner" has the meaning assigned by
33 Section 481.002, Health and Safety Code.

34 (2) "Prescription" has the meaning assigned by
35 Section 481.002, Health and Safety Code.

36 (3) "Cigarette" has the meaning assigned by Section
37 154.001, Tax Code.

38 (4) "Tobacco product" has the meaning assigned by
39 Section 155.001, Tax Code.

40 (5) "Component" means any item necessary for the
41 current, ongoing, or future operation of a cellular telephone or
42 other wireless communications device, including a subscriber
43 identity module card or functionally equivalent portable memory
44 chip, a battery or battery charger, and any number of minutes
45 that have been purchased or for which a contract has been
46 entered into and during which a cellular telephone or other
47 wireless communications device is capable of transmitting or

1 receiving communications.
2 (6) "Correctional facility" means:
3 (A) any place described by Section
4 1.07(a)(14)(A), (B), or (C); or
5 (B) a secure correctional facility or secure
6 detention facility, as defined ["Secure correctional facility"
7 and "secure detention facility" have the meanings assigned] by
8 Section 51.02, Family Code.
9 (g) An offense under this section is a felony of the third
10 degree.
11 (h) Notwithstanding Section 15.01(d), if a person commits
12 the offense of criminal attempt to commit an offense under
13 Subsection (a), ~~[or]~~ (b), or (c), the offense committed under
14 Section 15.01 is a felony of the third degree.
15 (i) It is an affirmative defense to prosecution under
16 Subsection (b) that the actor:
17 (1) is a duly authorized member of the clergy with
18 rights and privileges granted by an ordaining authority that
19 includes administration of a religious ritual or ceremony
20 requiring the presence or consumption of an alcoholic
21 beverage; and
22 (2) takes four ounces or less of an alcoholic
23 beverage into the correctional facility ~~[or the secure~~
24 ~~correctional facility or secure detention facility for~~
25 ~~juveniles]~~ and personally consumes all of the alcoholic beverage
26 or departs from the facility with any portion of the beverage
27 not consumed.
28 (j) A person commits an offense if the person, while
29 confined in ~~[an inmate of]~~ a correctional facility, ~~[operated by~~
30 ~~or under contract with the Texas Department of Criminal Justice~~
31 ~~or while in the custody of a secure correctional facility or~~
32 ~~secure detention facility for juveniles]~~ possesses a cellular
33 telephone or other wireless communications device or a component
34 of one of those devices.
35 (k) A person commits an offense if, with the intent to
36 provide to or make a cellular telephone or other wireless
37 communications device or a component of one of those devices
38 available for use by a person in the custody of a correctional
39 facility, the person:
40 (1) acquires a cellular telephone or other wireless
41 communications device or a component of one of those devices to
42 be delivered to the person in custody;
43 (2) provides a cellular telephone or other wireless
44 communications device or a component of one of those devices to
45 another person for delivery to the person in custody; or
46 (3) makes a payment to a communication common
47 carrier, as defined by Article 18.20, Code of Criminal

1 Procedure, or to any communication service that provides to its
2 users the ability to send or receive wire or electronic
3 communications.

4 SECTION 2. The heading to Article 18.20, Code of Criminal
5 Procedure, is amended to read as follows:

6 Art. 18.20. DETECTION, INTERCEPTION, AND USE OF WIRE,
7 ORAL, OR ELECTRONIC COMMUNICATIONS.

8 SECTION 3. Section 4, Article 18.20, Code of Criminal
9 Procedure, is amended to read as follows:

10 Sec. 4. OFFENSES FOR WHICH INTERCEPTIONS MAY BE
11 AUTHORIZED. A judge of competent jurisdiction may issue an
12 order authorizing interception of wire, oral, or electronic
13 communications only if the prosecutor applying for the order
14 shows probable cause to believe that the interception will
15 provide evidence of the commission of:

16 (1) a felony under Section 19.02, 19.03, or 43.26,
17 Penal Code;

18 (2) a felony under:

19 (A) Chapter 481, Health and Safety Code, other
20 than felony possession of marihuana;

21 (B) Section 485.032 [~~485.033~~], Health and Safety
22 Code; or

23 (C) Chapter 483, Health and Safety Code;

24 (3) an offense under Section 20.03 or 20.04, Penal
25 Code;

26 (4) an offense under Chapter 20A, Penal Code;

27 (5) an offense under Chapter 34, Penal Code, if the
28 criminal activity giving rise to the proceeds involves the
29 commission of an offense under Title 5, Penal Code, or an
30 offense under federal law or the laws of another state
31 containing elements that are substantially similar to the
32 elements of an offense under Title 5; [~~or~~]

33 (6) an offense under Section 38.11, Penal Code; or

34 (7) an attempt, conspiracy, or solicitation to commit
35 an offense listed in this section.

36 SECTION 4. Section 5, Article 18.20, Code of Criminal
37 Procedure, is amended by amending Subsection (a) and adding
38 Subsections (c) and (d) to read as follows:

39 (a) Except as otherwise provided by this section and
40 Sections [~~Section~~] 8A and 8B, only the Department of Public
41 Safety is authorized by this article to own, possess, install,
42 operate, or monitor an electronic, mechanical, or other device.
43 The Department of Public Safety may be assisted by an
44 investigative or law enforcement officer or other person in the
45 operation and monitoring of an interception of wire, oral, or
46 electronic communications, provided that the officer or other
47 person:

1 (1) is designated by the director for that purpose;
2 and

3 (2) acts in the presence and under the direction of a
4 commissioned officer of the Department of Public Safety.

5 (c) The Texas Department of Criminal Justice may own
6 electronic, mechanical, or other devices for a use or purpose
7 authorized by Section 500.008, Government Code, and the
8 inspector general of the Texas Department of Criminal Justice, a
9 commissioned officer of that office, or another person acting in
10 the presence and under the direction of a commissioned officer
11 of that office may possess, install, operate, or monitor those
12 devices as provided by Section 500.008.

13 (d) The Texas Youth Commission may own electronic,
14 mechanical, or other devices for a use or purpose authorized by
15 Section 61.0455, Human Resources Code, and the inspector general
16 of the Texas Youth Commission, a commissioned officer of that
17 office, or another person acting in the presence and under the
18 direction of a commissioned officer of that office may possess,
19 install, operate, or monitor those devices as provided by
20 Section 61.0455.

21 SECTION 5. Article 18.20, Code of Criminal Procedure, is
22 amended by adding Section 8B to read as follows:

23 Sec. 8B. DETECTION OF CELLULAR TELEPHONE OR OTHER WIRELESS
24 COMMUNICATIONS DEVICE IN CORRECTIONAL OR DETENTION FACILITY.

25 (a) In this section, "correctional facility" has the meaning
26 assigned by Section 39.04(e), Penal Code.

27 (b) Notwithstanding any other provision of this article or
28 Article 18.21, the office of the inspector general of the Texas
29 Department of Criminal Justice may:

30 (1) without a warrant, use electronic, mechanical, or
31 other devices to detect the presence or use of a cellular
32 telephone or other wireless communications device in a
33 correctional facility;

34 (2) without a warrant, intercept, monitor, detect,
35 or, as authorized by applicable federal laws and regulations,
36 prevent the transmission of any communication transmitted
37 through the use of a cellular telephone or other wireless
38 communications device in a correctional facility; and

39 (3) use, to the extent authorized by law, any
40 information obtained under Subdivision (2), including the
41 contents of an intercepted communication, in any criminal or
42 civil proceeding before a court or other governmental agency or
43 entity.

44 (c) Not later than the 30th day after the date on which
45 the office of the inspector general uses an electronic,
46 mechanical, or other device under Subsection (b), the inspector
47 general shall report the use of the device to:

1 (1) a prosecutor with jurisdiction in the county in
2 which the device was used; or

3 (2) the special prosecution unit established under
4 Subchapter E, Chapter 41, Government Code, if that unit has
5 jurisdiction in the county in which the device was used.

6 (d) When using an electronic, mechanical, or other device
7 under Subsection (b), the office of the inspector general shall
8 minimize the impact of the device on any communication that is
9 not reasonably related to the detection of the presence or use
10 of a cellular telephone or other wireless communications device
11 in a correctional facility.

12 (e) A person confined in a correctional facility does not
13 have an expectation of privacy with respect to the possession or
14 use of a cellular telephone or other wireless communications
15 device located on the premises of the facility. The person who
16 is confined, and any person with whom that person communicates
17 through the use of a cellular telephone or other wireless
18 communications device, does not have an expectation of privacy
19 with respect to the contents of any communication transmitted by
20 the cellular telephone or wireless communications device.

21 SECTION 6. Section 17, Article 18.20, Code of Criminal
22 Procedure, is amended to read as follows:

23 Sec. 17. NONAPPLICABILITY. This article does not apply to
24 conduct described as an affirmative defense under Section
25 16.02(c), Penal Code, except as otherwise specifically provided
26 by that section.

27 SECTION 7. Chapter 500, Government Code, is amended by
28 adding Section 500.008 to read as follows:

29 Sec. 500.008. DETECTION AND MONITORING OF CELLULAR
30 TELEPHONES. (a) The department may own and the office of
31 inspector general may possess, install, operate, or monitor an
32 electronic, mechanical, or other device, as defined by Article
33 18.20, Code of Criminal Procedure.

34 (b) The inspector general shall designate in writing the
35 commissioned officers of the office of inspector general who are
36 authorized to possess, install, operate, and monitor electronic,
37 mechanical, or other devices for the department.

38 (c) An investigative or law enforcement officer or other
39 person, on request of the office of inspector general, may
40 assist the office in the operation and monitoring of an
41 interception of wire, oral, or electronic communications if the
42 investigative or law enforcement officer or other person:

43 (1) is designated by the executive director for that
44 purpose; and

45 (2) acts in the presence and under the direction of a
46 commissioned officer of the inspector general.

47 SECTION 8. Subchapter C, Chapter 61, Human Resources Code,

1 is amended by adding Section 61.0455 to read as follows:

2 Sec. 61.0455. DETECTION AND MONITORING OF CELLULAR
3 TELEPHONES. (a) The commission may own and the office of the
4 inspector general may possess, install, operate, or monitor an
5 electronic, mechanical, or other device, as defined by Article
6 18.20, Code of Criminal Procedure.

7 (b) The inspector general shall designate in writing the
8 commissioned officers of the office of inspector general who are
9 authorized to possess, install, operate, and monitor electronic,
10 mechanical, or other devices for the commission.

11 (c) An investigative or law enforcement officer or other
12 person, on request of the office of inspector general, may
13 assist the office in the operation and monitoring of an
14 interception of wire, oral, or electronic communications if the
15 investigative or law enforcement officer or other person:

16 (1) is designated by the executive commissioner for
17 that purpose; and

18 (2) acts in the presence and under the direction of a
19 commissioned officer of the inspector general.

20 SECTION 9. Section 16.02, Penal Code, is amended by adding
21 Subsection (e-1) to read as follows:

22 (e-1) It is a defense to prosecution under Subsection
23 (d)(1) that the electronic, mechanical, or other device is
24 possessed by a person authorized to possess the device under
25 Section 500.008, Government Code, or Section 61.0455, Human
26 Resources Code.

27 SECTION 10. The changes in law made by this Act with
28 respect to Sections 16.02 and 38.11, Penal Code, apply only to
29 an offense committed on or after the effective date of this Act.
30 An offense committed before the effective date of this Act is
31 governed by the law in effect when the offense was committed,
32 and the former law is continued in effect for that purpose. For
33 purposes of this section, an offense was committed before the
34 effective date of this Act if any element of the offense
35 occurred before that date.

36 SECTION 11. This Act takes effect September 1, 2009.

37
38 H.B. No. 3246
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42

43 AN ACT

44 relating to the issuance of a writ of attachment in a civil suit
45 for certain sexual assaults.

46 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

47 SECTION 1. Subchapter A, Chapter 61, Civil Practice and

1 Remedies Code, is amended by adding Section 61.0021 to read as
2 follows:

3 Sec. 61.0021. GROUNDS FOR ATTACHMENT IN SUIT FOR SEXUAL
4 ASSAULT. (a) Notwithstanding any other provision of this code,
5 attachment is available to a plaintiff who:

6 (1) has general grounds for issuance under Sections
7 61.001(2) and (3); and

8 (2) institutes a suit for personal injury arising as
9 a result of conduct that violates:

10 (A) Section 22.011(a)(2), Penal Code (sexual
11 assault of a child);

12 (B) Section 22.021(a)(1)(B), Penal Code
13 (aggravated sexual assault of a child);

14 (C) Section 21.02, Penal Code (continuous sexual
15 abuse of young child or children); or

16 (D) Section 21.11, Penal Code (indecenty with a
17 child).

18 (b) A court may issue a writ of attachment in a suit
19 described by Subsection (a) in an amount the court determines to
20 be appropriate to provide for the counseling and medical needs
21 of the plaintiff.

22 SECTION 2. Section 61.022, Civil Practice and Remedies
23 Code, is amended by amending Subsection (a) and adding
24 Subsection (a-1) to read as follows:

25 (a) Except as provided by Subsection (a-1), to [~~Te~~] apply
26 for a writ of attachment, a plaintiff or the plaintiff's [~~his~~]
27 agent or attorney must file with the court an affidavit that
28 states:

29 (1) general grounds for issuance under Sections
30 61.001(1), (2), and (3);

31 (2) the amount of the demand; and

32 (3) specific grounds for issuance under Section
33 61.002.

34 (a-1) To apply for a writ of attachment under Section
35 61.0021, a plaintiff or the plaintiff's agent or attorney must
36 file with the court an affidavit that states:

37 (1) general grounds for issuance under Sections
38 61.001(2) and (3);

39 (2) specific grounds for issuance under Section
40 61.0021(a); and

41 (3) the amount of the demand based on the estimated
42 cost of counseling and medical needs of the plaintiff.

43 SECTION 3. The change in law made by this Act applies only
44 to a cause of action that accrues on or after the effective date
45 of this Act. A cause of action that accrues before the
46 effective date of this Act is governed by the law in effect
47 immediately before the effective date of this Act, and that law

1 is continued in effect for that purpose.

2 SECTION 4. This Act takes effect September 1, 2009.
3 H.B. No. 3303

8 AN ACT

9 relating to the use of information and records acquired during a
10 fatality review and investigation.

11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

12 SECTION 1. Section 672.009, Health and Safety Code, is
13 amended by adding Subsection (e) to read as follows:

14 (e) Information, documents, and records that are
15 confidential as provided by this section are not subject to
16 subpoena or discovery and may not be introduced into evidence in
17 any civil or criminal proceeding. A document or other
18 information that is otherwise available from another source is
19 not protected from subpoena, discovery, or introduction into
20 evidence under this subsection solely because the document or
21 information was acquired by a review team in the exercise of its
22 duties under this chapter.

23 SECTION 2. The change in law made by this Act applies to a
24 civil or criminal proceeding commenced on or after the effective
25 date of this Act. A civil or criminal proceeding commenced
26 before the effective date of this Act is governed by the law as
27 it existed immediately before that date, and that law is
28 continued in effect for that purpose.

29 SECTION 3. This Act takes effect September 1, 2009.

30
31 H.B. No. 3316

36 AN ACT

37 relating to venue for certain offenses committed at Texas Youth
38 Commission facilities.

39 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

40 SECTION 1. Chapter 13, Code of Criminal Procedure, is
41 amended by adding Article 13.34 to read as follows:

42 Art. 13.34. CERTAIN OFFENSES COMMITTED AGAINST A CHILD
43 COMMITTED TO THE TEXAS YOUTH COMMISSION. An offense described
44 by Article 104.003(a) committed by an employee or officer of the
45 Texas Youth Commission or a person providing services under a
46 contract with the commission against a child committed to the
47 commission may be prosecuted in:

1 (1) any county in which an element of the offense
2 occurred; or

3 (2) Travis County.

4 SECTION 2. Section 61.098(b), Human Resources Code, is
5 amended to read as follows:

6 (b) As appropriate, the district attorney, criminal
7 district attorney, or county attorney representing the state in
8 criminal matters before the district or inferior courts of the
9 county who would otherwise represent the state in the
10 prosecution of an offense or delinquent conduct concerning the
11 commission and described by Article 104.003(a), Code of Criminal
12 Procedure, may request that the special prosecution unit
13 prosecute, or assist in the prosecution of, the offense or
14 delinquent conduct.

15 SECTION 3. The change in law made by this Act applies only
16 to an offense committed on or after the effective date of this
17 Act. An offense committed before the effective date of this Act
18 is covered by the law in effect when the offense was committed,
19 and the former law is continued in effect for that purpose. For
20 purposes of this section, an offense was committed before the
21 effective date of this Act if any element of the offense
22 occurred before that date.

23 SECTION 4. This Act takes effect September 1, 2009.

24
25 H.B. No. 3385

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30 AN ACT
31 relating to the activation of the statewide alert system for
32 abducted children.

33 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

34 SECTION 1. Section 411.355(a), Government Code, is amended
35 to read as follows:

36 (a) On the request of a local law enforcement agency, the
37 department shall activate the alert system and notify
38 appropriate participants in the alert system, as established by
39 rule, if:

40 (1) the local law enforcement agency believes that a
41 child has been abducted, including a child who:

42 (A) is younger than 14 years of age; and

43 (B) regardless of whether the child departed

44 willingly with the other person, has been taken from the care

45 and custody of the child's parent or legal guardian without the

46 permission of the parent or legal guardian by another person who

47 is:

1 (i) more than three years older than the
2 child; and

3 (ii) not related to the child by any degree
4 of consanguinity or affinity as defined under Subchapter B,
5 Chapter 573, Government Code;

6 (2) the local law enforcement agency believes that
7 the abducted child is in immediate danger of serious bodily
8 injury or death or of becoming the victim of a sexual assault;

9 (3) the local law enforcement agency confirms that a
10 preliminary [an] investigation has taken place that verifies the
11 abduction and eliminates alternative explanations for the
12 child's disappearance; and

13 (4) sufficient information is available to
14 disseminate to the public that could assist in locating the
15 child, a person suspected of abducting the child, or a vehicle
16 suspected of being used in the abduction.

17 SECTION 2. The change in law made by this Act applies only
18 to a request for the activation of the statewide alert system
19 for abducted children under Section 411.355, Government Code, as
20 amended by this Act, that is made on or after the effective date
21 of this Act. A request for the activation of the statewide
22 alert system for abducted children that is made before the
23 effective date of this Act is governed by the law in effect when
24 the request was made, and that law is continued in effect for
25 that purpose.

26 SECTION 3. This Act takes effect immediately if it
27 receives a vote of two-thirds of all the members elected to each
28 house, as provided by Section 39, Article III, Texas
29 Constitution. If this Act does not receive the vote necessary
30 for immediate effect, this Act takes effect September 1, 2009.

31
32 H.B. No. 3389
33
34
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36

37 AN ACT

38 relating to the continuation and functions of the Texas
39 Commission on Law Enforcement Officer Standards and Education;
40 providing civil and administrative penalties.

41 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

42 SECTION 1. Section 1701.002, Occupations Code, is amended
43 to read as follows:

44 Sec. 1701.002. APPLICATION OF SUNSET ACT. The Commission
45 on Law Enforcement Officer Standards and Education is subject to
46 Chapter 325, Government Code (Texas Sunset Act). Unless
47 continued in existence as provided by that chapter, the

1 commission is abolished and this chapter expires September 1,
2 2021 [2009].

3 SECTION 2. Section 1701.053, Occupations Code, is amended
4 to read as follows:

5 Sec. 1701.053. MEMBERSHIP AND EMPLOYEE RESTRICTIONS. (a)
6 In this section, "Texas trade association" means a [~~nonprofit,~~]
7 cooperative[~~,~~] and voluntarily joined statewide association of
8 business or professional competitors in this state designed to
9 assist its members and its industry or profession in dealing
10 with mutual business or professional problems and in promoting
11 their common interest.

12 (b) A person [An officer, employee, or paid consultant of
13 a Texas trade association in the field of law enforcement] may
14 not be a commission member and may not be an employee of the
15 commission employed in a "bona fide executive, administrative,
16 or professional capacity," as that phrase is used for purposes
17 of establishing an exemption to the overtime provisions of the
18 federal Fair Labor Standards Act of 1938 (29 U.S.C. Section 201
19 et seq.), if:

20 (1) the person is an officer, employee, or paid
21 consultant of a Texas trade association in the field of law
22 enforcement or county corrections; or

23 (2) the person's spouse is an officer, manager, or
24 paid consultant of a Texas trade association in the field of law
25 enforcement or county corrections [who is exempt from the
26 state's position classification plan or is compensated at or
27 above the amount prescribed by the General Appropriations Act
28 for step 1, salary group A17, of the position classification
29 salary schedule].

30 (c) [~~A person who is the spouse of an officer, manager, or~~
31 ~~paid consultant of a Texas trade association in the field of law~~
32 ~~enforcement may not be a commission member and may not be an~~
33 ~~employee of the commission who is exempt from the state's~~
34 ~~position classification plan or is compensated at or above the~~
35 ~~amount prescribed by the General Appropriations Act for step 1,~~
36 ~~salary group A17, of the position classification salary~~
37 ~~schedule.~~

38 [~~(d)~~] A person may not be [~~serve as~~] a member of the
39 commission or act as the general counsel to the commission or
40 the agency if the person is required to register as a lobbyist
41 under Chapter 305, Government Code, because of the person's
42 activities for compensation on behalf of a profession related to
43 the commission's operation.

44 SECTION 3. Section 1701.056(a), Occupations Code, is
45 amended to read as follows:

46 (a) It is a ground for removal from the commission that a
47 member:

1 (1) does not have at the time of taking office
2 [~~appointment~~] the qualifications required by Section 1701.051(a)
3 or 1701.052;

4 (2) does not maintain during service on the
5 commission the qualifications required by Section 1701.051(a) or
6 1701.052;

7 (3) is ineligible for membership under [~~violates a~~
8 ~~prohibition established by~~] Section 1701.053;

9 (4) cannot, because of illness or disability,
10 discharge the member's duties for a substantial part of the
11 member's term; or

12 (5) is absent from more than half of the regularly
13 scheduled commission meetings that the member is eligible to
14 attend during a calendar year without an excuse approved by a
15 majority vote of the commission.

16 SECTION 4. Section 1701.059, Occupations Code, is amended
17 to read as follows:

18 Sec. 1701.059. TRAINING. (a) A [~~To be eligible to take~~
19 ~~office as a member of the commission, a~~] person who is appointed
20 to and qualifies for office as a member of the commission may
21 not vote, deliberate, or be counted as a member in attendance at
22 a meeting of the commission until the person completes [~~must~~
23 ~~complete at least one course of~~] a training program that
24 complies with this section.

25 (b) The training program must [~~shall~~] provide the person
26 with information [~~to a member~~] regarding:

27 (1) the legislation that created the commission;

28 (2) the programs, functions, rules, and budget of the
29 commission [~~this chapter~~];

30 (3) [~~(2)~~] the results of the most recent formal audit
31 of [~~programs operated by~~] the commission;

32 (4) [~~(3)~~] the requirements of laws relating to open
33 meetings, public information, administrative procedure, and
34 conflicts of interest [~~role and functions of the commission~~];
35 and

36 [~~(4) the rules of the commission, with an emphasis on~~
37 ~~the rules that relate to disciplinary and investigatory~~
38 ~~authority~~];

39 (5) [~~the current budget for the commission~~;

40 [~~(6) the results of the most recent formal audit of~~
41 ~~the commission~~;

42 [~~(7) the requirements of Chapters 551, 552, and 2001,~~
43 ~~Government Code~~;

44 [~~(8) the requirements of the conflict of interest~~
45 ~~laws and other laws relating to public officials~~; and

46 [~~(9)~~] any applicable ethics policies adopted by the
47 commission or the Texas Ethics Commission.

1 (c) A person appointed to the commission is entitled to
2 reimbursement, as provided by the General Appropriations Act,
3 for travel expenses incurred in attending the training program
4 regardless of whether the attendance at the program occurs
5 before or after the person qualifies for office[, as provided by
6 the General Appropriations Act, as if the person were a member
7 of the commission].

8 SECTION 5. Section 1701.153(b), Occupations Code, is
9 amended to read as follows:

10 (b) The commission shall furnish each agency and licensed
11 training school with the required reporting forms, including
12 access to electronic submission forms when the system under
13 Section 1701.1523 is established.

14 SECTION 6. Sections 1701.157(b) and (c), Occupations Code,
15 are amended to read as follows:

16 (b) To provide the necessary information for an allocation
17 of money under Subsection (a), a [~~Not later than November 1 of~~
18 ~~each calendar year, each~~] local law enforcement agency must
19 [~~shall~~] report to the comptroller not later than November 1 of
20 the preceding calendar year:

21 (1) the number of agency positions described by
22 Subsection (a)(2) authorized as of January 1 of the [that] year
23 the report is due;

24 (2) the number of agency positions described by
25 Subsection (a)(2) filled as of January 1 of the year the report
26 is due;

27 (3) the percentage of the money received by the
28 agency under Subsection (a) pursuant to the allocation made by
29 the comptroller on or before March 1 of the year preceding the
30 year in which the report is due that was used by the agency
31 before the date of the allocation made by the comptroller under
32 Subsection (a) on or before March 1 of the year the report is
33 due;

34 (4) the number of training hours received during the
35 12-month or approximately 12-month period described by
36 Subdivision (3) that were funded by money received by the agency
37 pursuant to the allocation made by the comptroller on or before
38 March 1 of the year preceding the year in which the report is
39 due; and

40 (5) that the agency has complied with the
41 requirements of this section regarding the use of any money
42 received by the agency pursuant to the allocation made by the
43 comptroller on or before March 1 of the year preceding the year
44 in which the report is due.

45 (c) The head of a law enforcement agency shall maintain a
46 complete and detailed [~~written~~] record of money received and
47 spent by the agency under this section. Money received under

1 this section is subject to audit by the comptroller. Money
2 spent under this section is subject to audit by the state
3 auditor.

4 SECTION 7. Subchapter D, Chapter 1701, Occupations Code,
5 is amended by adding Sections 1701.1521, 1701.1522, 1701.1523,
6 1701.1524, 1701.162, and 1701.163 to read as follows:

7 Sec. 1701.1521. USE OF TECHNOLOGY. The commission shall
8 implement a policy requiring the commission to use appropriate
9 technological solutions to improve the commission's ability to
10 perform its functions. The policy must ensure that the public
11 is able to interact with the commission on the Internet.

12 Sec. 1701.1522. ALTERNATIVE DISPUTE RESOLUTION. (a) The
13 commission shall develop and implement a policy to encourage the
14 use of:

15 (1) negotiated rulemaking procedures under Chapter
16 2008, Government Code, for the adoption of commission rules; and

17 (2) appropriate alternative dispute resolution
18 procedures under Chapter 2009, Government Code, to assist in the
19 resolution of internal and external disputes under the
20 commission's jurisdiction.

21 (b) The commission's procedures relating to alternative
22 dispute resolution must conform, to the extent possible, to any
23 model guidelines issued by the State Office of Administrative
24 Hearings for the use of alternative dispute resolution by state
25 agencies.

26 (c) The commission shall designate a trained person to:

27 (1) coordinate the implementation of the policy
28 adopted under Subsection (a);

29 (2) serve as a resource for any training needed to
30 implement the procedures for negotiated rulemaking or
31 alternative dispute resolution; and

32 (3) collect data concerning the effectiveness of
33 those procedures, as implemented by the commission.

34 Sec. 1701.1523. ELECTRONIC SUBMISSION OF FORMS, DATA, AND
35 DOCUMENTS. The commission by rule shall:

36 (1) develop and establish a system for the electronic
37 submission of forms, data, and documents required to be
38 submitted to the commission under this chapter; and

39 (2) once that system is established, require law
40 enforcement agencies to submit to the commission electronically
41 any form, data, or document required to be submitted to the
42 commission under this chapter.

43 Sec. 1701.1524. RULES RELATING TO CONSEQUENCES OF CRIMINAL
44 CONVICTION OR DEFERRED ADJUDICATION. (a) The commission by
45 rule shall establish guidelines consistent with this chapter
46 that are necessary to comply with Chapter 53 to the extent that
47 chapter applies to persons licensed under this chapter.

1 (b) In its rules under this section, the commission shall
2 list the offenses for which a conviction would constitute
3 grounds for the commission to take action under Section 53.021
4 or for which placement on deferred adjudication community
5 supervision would constitute grounds for the commission to take
6 action under this chapter.

7 Sec. 1701.162. RECORDS AND AUDIT REQUIREMENTS. (a) The
8 commission is entitled to access records maintained under
9 Sections 1701.303, 1701.306, and 1701.310 by an agency hiring a
10 person to be an officer or county jailer, including records that
11 relate to age, education, physical standards, citizenship,
12 experience, and other matters relating to competence and
13 reliability, as evidence of qualification for licensing of an
14 officer or county jailer.

15 (b) The commission shall audit the records described by
16 Subsection (a) of each law enforcement agency at least once
17 every five years.

18 (c) The commission by rule shall develop and establish a
19 framework for the audits conducted by the commission under
20 Subsection (b) that:

21 (1) addresses the types of documents subject to
22 audit;

23 (2) provides a schedule for additional risk-based
24 inspections based on:

25 (A) whether there has been a prior violation by
26 the law enforcement agency;

27 (B) the inspection history of the agency; and

28 (C) any other factor the commission by rule
29 considers appropriate;

30 (3) provides timelines for complying with an audit
31 request or correcting a violation found during the audit
32 process; and

33 (4) establishes sanctions for failing to comply with
34 an audit request or to correct a violation found during the
35 audit process.

36 Sec. 1701.163. INFORMATION PROVIDED BY COMMISSIONING
37 ENTITIES. (a) This section applies only to an entity
38 authorized by statute or by the constitution to create a law
39 enforcement agency or police department and commission, appoint,
40 or employ officers that first creates a law enforcement agency
41 or police department and first begins to commission, appoint, or
42 employ officers on or after September 1, 2009.

43 (b) The entity shall submit to the commission on creation
44 of the law enforcement agency or police department information
45 regarding:

46 (1) the need for the law enforcement agency or police
47 department in the community;

1 (2) the funding sources for the law enforcement
2 agency or police department;
3 (3) the physical resources available to officers;
4 (4) the physical facilities that the law enforcement
5 agency or police department will operate, including descriptions
6 of the evidence room, dispatch area, and public area;
7 (5) law enforcement policies of the law enforcement
8 agency or police department, including policies on:
9 (A) use of force;
10 (B) vehicle pursuit;
11 (C) professional conduct of officers;
12 (D) domestic abuse protocols;
13 (E) response to missing persons;
14 (F) supervision of part-time officers; and
15 (G) impartial policing;
16 (6) the administrative structure of the law
17 enforcement agency or police department;
18 (7) liability insurance; and
19 (8) any other information the commission requires by
20 rule.

21 SECTION 8. Subchapter D, Chapter 1701, Occupations Code,
22 is amended by adding Section 1701.164 to read as follows:

23 Sec. 1701.164. COLLECTION OF CERTAIN INCIDENT-BASED DATA
24 SUBMITTED BY LAW ENFORCEMENT AGENCIES. The commission shall
25 collect and maintain incident-based data submitted to the
26 commission under Article 2.134, Code of Criminal Procedure,
27 including incident-based data compiled by a law enforcement
28 agency from reports received by the law enforcement agency under
29 Article 2.133 of that code. The commission in consultation with
30 the Department of Public Safety, the Bill Blackwood Law
31 Enforcement Management Institute of Texas, the W. W. Caruth,
32 Jr., Police Institute at Dallas, and the Texas Police Chiefs
33 Association shall develop guidelines for submitting in a
34 standard format the report containing incident-based data as
35 required by Article 2.134, Code of Criminal Procedure.

36 SECTION 9. Section 1701.202, Occupations Code, is amended
37 to read as follows:

38 Sec. 1701.202. COMPLAINTS. (a) The commission by rule
39 shall establish a comprehensive procedure for each phase of the
40 commission's jurisdictional complaint enforcement process,
41 including:

- 42 (1) complaint intake;
- 43 (2) investigation;
- 44 (3) adjudication and relevant hearings;
- 45 (4) appeals;
- 46 (5) the imposition of sanctions; and
- 47 (6) public disclosure.

1 (b) On request, a license holder may obtain information
2 regarding a complaint made against the license holder under this
3 chapter, including a complete copy of the complaint file. On
4 receipt of a request under this subsection, the commission shall
5 provide the requested information in a timely manner to allow
6 the license holder time to respond to the complaint.

7 (c) The commission shall ensure that detailed information
8 regarding the commission's complaint enforcement process
9 described by this section is available on any publicly
10 accessible Internet website and in any appropriate printed
11 materials maintained by the commission [~~provide the commission's~~
12 ~~policies and procedures relating to complaint investigation and~~
13 ~~resolution to a person filing a complaint and to each person~~
14 ~~that is the subject of the complaint~~].

15 SECTION 10. Section 1701.203, Occupations Code, is amended
16 to read as follows:

17 Sec. 1701.203. RECORDS OF COMPLAINTS. (a) The commission
18 shall maintain a system to promptly and efficiently act on
19 jurisdictional complaints filed with the commission. The
20 commission shall maintain [~~keep an~~] information [~~file~~] about
21 parties to the complaint, [~~each written complaint filed with the~~
22 ~~commission that the commission has authority to resolve. The~~
23 ~~information file must include:~~

24 [~~(1) the date the complaint is received;~~
25 [~~(2) the name of the complainant;~~
26 [~~(3)~~] the subject matter of the complaint, [~~+~~
27 [~~(4) a record of each person contacted in relation to~~
28 ~~the complaint;~~
29 [~~(5)~~] a summary of the results of the review or
30 investigation of the complaint, and its disposition[~~;~~ and
31 [~~(6) an explanation of the reason that a complaint~~
32 ~~was closed without action by the commission~~].

33 (b) The commission shall make information available
34 describing its procedures for complaint investigation and
35 resolution.

36 (c) The commission[~~, at least quarterly and until final~~
37 ~~disposition of the complaint,~~] shall periodically notify the
38 parties to the complaint of the status of the complaint until
39 final disposition [~~unless the notice would jeopardize an~~
40 ~~undercover investigation~~].

41 SECTION 11. Subchapter E, Chapter 1701, Occupations Code,
42 is amended by adding Section 1701.2035 to read as follows:

43 Sec. 1701.2035. TRACKING AND ANALYSIS OF COMPLAINT AND
44 VIOLATION DATA. (a) The commission shall develop and implement
45 a method for:

46 (1) tracking complaints filed with the commission
47 through their final disposition, including:

1 (A) the reason for each complaint;
2 (B) how each complaint was resolved; and
3 (C) the subject matter of each complaint that
4 was not within the jurisdiction of the commission and how the
5 commission responded to the complaint; and

6 (2) tracking and categorizing the sources and types
7 of complaints filed with the commission and of violations of
8 this chapter or a rule adopted under this chapter.

9 (b) The commission shall analyze the complaint and
10 violation data maintained under Subsection (a) to identify
11 trends and areas that may require additional regulation or
12 enforcement.

13 SECTION 12. Section 1701.253, Occupations Code, is amended
14 by adding Subsection (k) to read as follows:

15 (k) As part of the minimum curriculum requirements, the
16 commission shall establish a statewide comprehensive education
17 and training program for officers licensed under this chapter
18 that covers the laws of this state and of the United States
19 pertaining to peace officers.

20 SECTION 13. Section 1701.254, Occupations Code, is amended
21 by adding Subsection (d) to read as follows:

22 (d) The commission by rule shall establish a system for
23 placing a training provider on at-risk probationary status. The
24 rules must prescribe:

25 (1) the criteria to be used by the commission in
26 determining whether to place a training provider on at-risk
27 probationary status;

28 (2) a procedure and timeline for imposing corrective
29 conditions on a training provider placed on at-risk probationary
30 status and for notifying the provider regarding those
31 conditions; and

32 (3) a procedure for tracking a training provider's
33 progress toward compliance with any corrective conditions
34 imposed on the provider by the commission under this subsection.

35 SECTION 14. Section 1701.255(c), Occupations Code, is
36 amended to read as follows:

37 (c) A person may not enroll in a peace officer training
38 program under Section 1701.251(a) unless the person has
39 received:

40 (1) a high school diploma;

41 (2) a high school equivalency certificate [~~and has~~
42 ~~completed at least 12 hours at an institution of higher~~
43 ~~education with at least a 2.0 grade point average on a 4.0~~
44 ~~scale]; or~~

45 (3) an honorable discharge from the armed forces of
46 the United States after at least 24 months of active duty
47 service.

1 SECTION 15. Section 1701.351, Occupations Code, is amended
2 by adding Subsection (a-1) to read as follows:

3 (a-1) As part of the continuing education programs under
4 Subsection (a), a peace officer must complete a training and
5 education program that covers recent changes to the laws of this
6 state and of the United States pertaining to peace officers.

7 SECTION 16. Section 1701.352, Occupations Code, is amended
8 by amending Subsection (b) and adding Subsection (g) to read as
9 follows:

10 (b) The commission shall require a state, county, special
11 district, or municipal agency that appoints or employs peace
12 officers to provide each peace officer with a training program
13 at least once every 48 months that is approved by the commission
14 and consists of:

15 (1) topics selected by the agency; and

16 (2) for an officer holding only a basic proficiency
17 certificate, not more than 20 hours of education and training
18 that contain curricula incorporating the learning objectives
19 developed by the commission regarding:

20 (A) civil rights, racial sensitivity, and
21 cultural diversity; ~~and~~

22 (B) de-escalation and crisis intervention
23 techniques to facilitate interaction with persons with mental
24 impairments; and

25 (C) unless determined by the agency head to be
26 inconsistent with the officer's assigned duties:

27 (i) the recognition and documentation of
28 cases that involve child abuse or neglect, family violence, and
29 sexual assault; and

30 (ii) issues concerning sex offender
31 characteristics.

32 (g) The training and education program on de-escalation
33 and crisis intervention techniques to facilitate interaction
34 with persons with mental impairments under Subsection (b)(2)(B)
35 may not be provided as an online course. The commission shall:

36 (1) determine best practices for interacting with
37 persons with mental impairments, in consultation with the Bill
38 Blackwood Law Enforcement Management Institute of Texas; and

39 (2) review the education and training program under
40 Subsection (b)(2)(B) at least once every 24 months.

41 SECTION 17. Section 1701.402, Occupations Code, is amended
42 by adding Subsections (h) and (i) to read as follows:

43 (h) As a requirement for an intermediate proficiency
44 certificate, an officer must complete an education and training
45 program on investigative topics established by the commission
46 under Section 1701.253(b).

47 (i) As a requirement for an intermediate proficiency

1 certificate, an officer must complete an education and training
2 program on civil rights, racial sensitivity, and cultural
3 diversity established by the commission under Section
4 1701.253(c).

5 SECTION 18. Section 1701.355(a), Occupations Code, is
6 amended to read as follows:

7 (a) An agency that employs one or more [~~at least two~~]
8 peace officers shall designate a firearms proficiency officer
9 and require each peace officer the agency employs to demonstrate
10 weapons proficiency to the firearms proficiency officer at least
11 annually. The agency shall maintain records of the weapons
12 proficiency of the agency's peace officers.

13 SECTION 19. Sections 1701.451(a), (b), and (c),
14 Occupations Code, are amended to read as follows:

15 (a) Before a law enforcement agency may hire a person
16 licensed under this chapter, the agency head or the agency
17 head's designee must:

18 (1) make a [~~written~~] request to the commission for
19 any employment termination report regarding the person that is
20 maintained by the commission under this subchapter; and

21 (2) submit to the commission on the form prescribed
22 by the commission confirmation that the agency:

23 (A) conducted in the manner prescribed by the
24 commission a criminal background check regarding the person;

25 (B) obtained the person's written consent on a
26 form prescribed by the commission for the agency to view the
27 person's employment records;

28 (C) obtained from the commission any service or
29 education records regarding the person maintained by the
30 commission; and

31 (D) contacted each of the person's previous law
32 enforcement employers.

33 (b) The commission by rule shall establish a system for
34 verifying an electronically submitted [~~The written~~] request
35 required by Subsection (a)(1) [~~must be on the agency's~~
36 ~~letterhead and be signed by the agency head or the agency head's~~
37 ~~designee~~].

38 (c) If the commission receives from a law enforcement
39 agency a [~~written~~] request that complies with Subsections (a)(1)
40 and (b), the commission employee having the responsibility to
41 maintain any employment termination report regarding the person
42 who is the subject of the request shall release the report to
43 the agency.

44 SECTION 20. Section 1701.4525, Occupations Code, is
45 amended by adding Subsection (g) to read as follows:

46 (g) The commission is not considered a party in a
47 proceeding conducted by the State Office of Administrative

1 Hearings under this section.

2 SECTION 21. Section 1701.453, Occupations Code, is amended
3 to read as follows:

4 Sec. 1701.453. MAINTENANCE OF REPORTS AND STATEMENTS. The
5 commission shall maintain a copy of each report and [~~written~~]
6 statement submitted to the commission under this subchapter
7 until at least the 10th anniversary of the date on which the
8 report or statement is submitted.

9 SECTION 22. Section 1701.501(a), Occupations Code, is
10 amended to read as follows:

11 (a) Except as provided by Subsection (d), the commission
12 shall revoke or suspend a license, place on probation a person
13 whose license has been suspended, or reprimand a license holder
14 for a violation of:

15 (1) this chapter;

16 (2) the reporting requirements provided by Articles
17 2.132 and 2.134, Code of Criminal Procedure; or

18 (3) a commission rule.

19 SECTION 23. Subchapter K, Chapter 1701, Occupations Code,
20 is amended by adding Section 1701.507 to read as follows:

21 Sec. 1701.507. ADMINISTRATIVE PENALTIES. (a) In addition
22 to other penalties imposed by law, a law enforcement agency or
23 governmental entity that violates this chapter or a rule adopted
24 under this chapter is subject to an administrative penalty in an
25 amount set by the commission not to exceed \$1,000 per day per
26 violation. The administrative penalty shall be assessed in a
27 proceeding conducted in accordance with Chapter 2001, Government
28 Code.

29 (b) The amount of the penalty shall be based on:

30 (1) the seriousness of the violation;

31 (2) the respondent's history of violations;

32 (3) the amount necessary to deter future violations;

33 (4) efforts made by the respondent to correct the
34 violation; and

35 (5) any other matter that justice may require.

36 (c) The commission by rule shall establish a written
37 enforcement plan that provides notice of the specific ranges of
38 penalties that apply to specific alleged violations and the
39 criteria by which the commission determines the amount of a
40 proposed administrative penalty.

41 SECTION 24. Subchapter L, Chapter 1701, Occupations Code,
42 is amended by adding Section 1701.554 to read as follows:

43 Sec. 1701.554. VENUE. Venue for the prosecution of an
44 offense that arises from a violation of this chapter or in
45 connection with the administration of this chapter lies in the
46 county where the offense occurred or in Travis County.

47 SECTION 25. Article 2.132, Code of Criminal Procedure, is

1 amended by amending Subsections (a), (b), (d), and (e) and
2 adding Subsection (g) to read as follows:

3 (a) In this article:

4 (1) "Law enforcement agency" means an agency of the
5 state, or of a county, municipality, or other political
6 subdivision of the state, that employs peace officers who make
7 motor vehicle [~~traffie~~] stops in the routine performance of the
8 officers' official duties.

9 (2) "Motor vehicle stop" means an occasion in which a
10 peace officer stops a motor vehicle for an alleged violation of
11 a law or ordinance.

12 (3) "Race or ethnicity" means of a particular
13 descent, including Caucasian, African, Hispanic, Asian, [~~or~~]
14 Native American, or Middle Eastern descent.

15 (b) Each law enforcement agency in this state shall adopt
16 a detailed written policy on racial profiling. The policy must:

17 (1) clearly define acts constituting racial
18 profiling;

19 (2) strictly prohibit peace officers employed by the
20 agency from engaging in racial profiling;

21 (3) implement a process by which an individual may
22 file a complaint with the agency if the individual believes that
23 a peace officer employed by the agency has engaged in racial
24 profiling with respect to the individual;

25 (4) provide public education relating to the agency's
26 complaint process;

27 (5) require appropriate corrective action to be taken
28 against a peace officer employed by the agency who, after an
29 investigation, is shown to have engaged in racial profiling in
30 violation of the agency's policy adopted under this article;

31 (6) require collection of information relating to
32 motor vehicle [~~traffie~~] stops in which a citation is issued and
33 to arrests made as a result of [~~resulting from~~] those [~~traffie~~]
34 stops, including information relating to:

35 (A) the race or ethnicity of the individual
36 detained; [~~and~~]

37 (B) whether a search was conducted and, if so,
38 whether the individual [~~person~~] detained consented to the
39 search; and

40 (C) whether the peace officer knew the race or
41 ethnicity of the individual detained before detaining that
42 individual; and

43 (7) require the chief administrator of the agency,
44 regardless of whether the administrator is elected, employed, or
45 appointed, to submit [~~to the governing body of each county or~~
46 ~~municipality served by the agency~~] an annual report of the
47 information collected under Subdivision (6) to:

1 (A) the Commission on Law Enforcement Officer
2 Standards and Education; and

3 (B) the governing body of each county or
4 municipality served by the agency, if the agency is an agency of
5 a county, municipality, or other political subdivision of the
6 state.

7 (d) On adoption of a policy under Subsection (b), a law
8 enforcement agency shall examine the feasibility of installing
9 video camera and transmitter-activated equipment in each agency
10 law enforcement motor vehicle regularly used to make motor
11 vehicle [~~traffie~~] stops and transmitter-activated equipment in
12 each agency law enforcement motorcycle regularly used to make
13 motor vehicle [~~traffie~~] stops. If a law enforcement agency
14 installs video or audio equipment as provided by this
15 subsection, the policy adopted by the agency under Subsection
16 (b) must include standards for reviewing video and audio
17 documentation.

18 (e) A report required under Subsection (b)(7) may not
19 include identifying information about a peace officer who makes
20 a motor vehicle [~~traffie~~] stop or about an individual who is
21 stopped or arrested by a peace officer. This subsection does
22 not affect the collection of information as required by a policy
23 under Subsection (b)(6).

24 (g) On a finding by the Commission on Law Enforcement
25 Officer Standards and Education that the chief administrator of
26 a law enforcement agency intentionally failed to submit a report
27 required under Subsection (b)(7), the commission shall begin
28 disciplinary procedures against the chief administrator.

29 SECTION 26. Article 2.133, Code of Criminal Procedure, is
30 amended to read as follows:

31 Art. 2.133. REPORTS REQUIRED FOR MOTOR VEHICLE [~~TRAFFIC~~
32 ~~AND PEDESTRIAN~~] STOPS. (a) In this article, "race" [~~-~~
33 [~~(1)~~ "~~Race~~] or ethnicity" has the meaning assigned by
34 Article 2.132(a).

35 [~~(2)~~ "~~Pedestrian stop~~" means an interaction between a
36 peace officer and an individual who is being detained for the
37 purpose of a criminal investigation in which the individual is
38 not under arrest.]

39 (b) A peace officer who stops a motor vehicle for an
40 alleged violation of a law or ordinance [~~regulating traffic or~~
41 ~~who stops a pedestrian for any suspected offense~~] shall report
42 to the law enforcement agency that employs the officer
43 information relating to the stop, including:

44 (1) a physical description of any [~~each~~] person
45 operating the motor vehicle who is detained as a result of the
46 stop, including:

47 (A) the person's gender; and

1 (B) the person's race or ethnicity, as stated by
2 the person or, if the person does not state the person's race or
3 ethnicity, as determined by the officer to the best of the
4 officer's ability;

5 (2) the initial reason for the stop [~~traffic law or~~
6 ~~ordinance alleged to have been violated or the suspected~~
7 ~~offense~~];

8 (3) whether the officer conducted a search as a
9 result of the stop and, if so, whether the person detained
10 consented to the search;

11 (4) whether any contraband or other evidence was
12 discovered in the course of the search and a description [~~the~~
13 ~~type~~] of the contraband or evidence [~~discovered~~];

14 (5) the reason for the search, including whether:

15 (A) any contraband or other evidence was in
16 plain view;

17 (B) any probable cause or reasonable suspicion
18 existed to perform the search; or

19 (C) the search was performed as a result of the
20 towing of the motor vehicle or the arrest of any person in the
21 motor vehicle [~~existed and the facts supporting the existence of~~
22 ~~that probable cause~~];

23 (6) whether the officer made an arrest as a result of
24 the stop or the search, including a statement of whether the
25 arrest was based on a violation of the Penal Code, a violation
26 of a traffic law or ordinance, or an outstanding warrant and a
27 statement of the offense charged;

28 (7) the street address or approximate location of the
29 stop; and

30 (8) whether the officer issued a written warning or a
31 citation as a result of the stop[~~, including a description of~~
32 ~~the warning or a statement of the violation charged~~].

33 SECTION 27. Article 2.134, Code of Criminal Procedure, is
34 amended by amending Subsections (a) through (e) and adding
35 Subsection (g) to read as follows:

36 (a) In this article:

37 (1) "Motor vehicle[~~, "pedestrian~~] stop" has the
38 meaning assigned by Article 2.132(a) [~~means an interaction~~
39 ~~between a peace officer and an individual who is being detained~~
40 ~~for the purpose of a criminal investigation in which the~~
41 ~~individual is not under arrest~~].

42 (2) "Race or ethnicity" has the meaning assigned by
43 Article 2.132(a).

44 (b) A law enforcement agency shall compile and analyze the
45 information contained in each report received by the agency
46 under Article 2.133. Not later than March 1 of each year, each
47 [~~local~~] law enforcement agency shall submit a report containing

1 the incident-based data [~~information~~] compiled during the
2 previous calendar year to the Commission on Law Enforcement
3 Officer Standards and Education and, if the law enforcement
4 agency is a local law enforcement agency, to the governing body
5 of each county or municipality served by the agency [~~in a manner~~
6 ~~approved by the agency~~].

7 (c) A report required under Subsection (b) must be
8 submitted by the chief administrator of the law enforcement
9 agency, regardless of whether the administrator is elected,
10 employed, or appointed, and must include:

11 (1) a comparative analysis of the information
12 compiled under Article 2.133 to:

13 (A) evaluate and compare the number of motor
14 vehicle stops, within the applicable jurisdiction, of persons
15 who are recognized as racial or ethnic minorities and persons
16 who are not recognized as racial or ethnic minorities [~~determine~~
17 ~~the prevalence of racial profiling by peace officers employed by~~
18 ~~the agency~~]; and

19 (B) examine the disposition of motor vehicle
20 [~~traffic and pedestrian~~] stops made by officers employed by the
21 agency, categorized according to the race or ethnicity of the
22 affected persons, as appropriate, including any searches
23 resulting from [the] stops within the applicable jurisdiction;
24 and

25 (2) information relating to each complaint filed with
26 the agency alleging that a peace officer employed by the agency
27 has engaged in racial profiling.

28 (d) A report required under Subsection (b) may not include
29 identifying information about a peace officer who makes a motor
30 vehicle [~~traffic or pedestrian~~] stop or about an individual who
31 is stopped or arrested by a peace officer. This subsection does
32 not affect the reporting of information required under Article
33 2.133(b)(1).

34 (e) The Commission on Law Enforcement Officer Standards
35 and Education, in accordance with Section 1701.162, Occupations
36 Code, shall develop guidelines for compiling and reporting
37 information as required by this article.

38 (g) On a finding by the Commission on Law Enforcement
39 Officer Standards and Education that the chief administrator of
40 a law enforcement agency intentionally failed to submit a report
41 required under Subsection (b), the commission shall begin
42 disciplinary procedures against the chief administrator.

43 SECTION 28. Article 2.135, Code of Criminal Procedure, is
44 amended to read as follows:

45 Art. 2.135. PARTIAL EXEMPTION FOR AGENCIES USING VIDEO AND
46 AUDIO EQUIPMENT. (a) A peace officer is exempt from the
47 reporting requirement under Article 2.133 and the chief

1 administrator of a law enforcement agency, regardless of whether
2 the administrator is elected, employed, or appointed, is exempt
3 from the compilation, analysis, and reporting requirements under
4 Article 2.134 if:

5 (1) during the calendar year preceding the date that
6 a report under Article 2.134 is required to be submitted:

7 (A) each law enforcement motor vehicle regularly
8 used by an officer employed by the agency to make motor vehicle
9 [~~traffic and pedestrian~~] stops is equipped with video camera and
10 transmitter-activated equipment and each law enforcement
11 motorcycle regularly used to make motor vehicle [~~traffic and~~
12 ~~pedestrian~~] stops is equipped with transmitter-activated
13 equipment; and

14 (B) each motor vehicle [~~traffic and pedestrian~~]
15 stop made by an officer employed by the agency that is capable
16 of being recorded by video and audio or audio equipment, as
17 appropriate, is recorded by using the equipment; or

18 (2) the governing body of the county or municipality
19 served by the law enforcement agency, in conjunction with the
20 law enforcement agency, certifies to the Department of Public
21 Safety, not later than the date specified by rule by the
22 department, that the law enforcement agency needs funds or video
23 and audio equipment for the purpose of installing video and
24 audio equipment as described by Subsection (a)(1)(A) and the
25 agency does not receive from the state funds or video and audio
26 equipment sufficient, as determined by the department, for the
27 agency to accomplish that purpose.

28 (b) Except as otherwise provided by this subsection, a law
29 enforcement agency that is exempt from the requirements under
30 Article 2.134 shall retain the video and audio or audio
31 documentation of each motor vehicle [~~traffic and pedestrian~~]
32 stop for at least 90 days after the date of the stop. If a
33 complaint is filed with the law enforcement agency alleging that
34 a peace officer employed by the agency has engaged in racial
35 profiling with respect to a motor vehicle [~~traffic or~~
36 ~~pedestrian~~] stop, the agency shall retain the video and audio or
37 audio record of the stop until final disposition of the
38 complaint.

39 (c) This article does not affect the collection or
40 reporting requirements under Article 2.132.

41 (d) In this article, "motor vehicle stop" has the meaning
42 assigned by Article 2.132(a).

43 SECTION 29. Chapter 2, Code of Criminal Procedure, is
44 amended by adding Article 2.1385 to read as follows:

45 Art. 2.1385. CIVIL PENALTY. (a) If the chief
46 administrator of a local law enforcement agency intentionally
47 fails to submit the incident-based data as required by Article

1 2.134, the agency is liable to the state for a civil penalty in
2 the amount of \$1,000 for each violation. The attorney general
3 may sue to collect a civil penalty under this subsection.

4 (b) From money appropriated to the agency for the
5 administration of the agency, the executive director of a state
6 law enforcement agency that intentionally fails to submit the
7 incident-based data as required by Article 2.134 shall remit to
8 the comptroller the amount of \$1,000 for each violation.

9 (c) Money collected under this article shall be deposited
10 in the state treasury to the credit of the general revenue fund.

11 SECTION 30. Subchapter A, Chapter 102, Code of Criminal
12 Procedure, is amended by adding Article 102.022 to read as
13 follows:

14 Art. 102.022. COSTS ON CONVICTION TO FUND STATEWIDE
15 REPOSITORY FOR DATA RELATED TO CIVIL JUSTICE. (a) In this
16 article, "moving violation" means an offense that:

17 (1) involves the operation of a motor vehicle; and

18 (2) is classified as a moving violation by the
19 Department of Public Safety under Section 708.052,
20 Transportation Code.

21 (b) A defendant convicted of a moving violation in a
22 justice court, county court, county court at law, or municipal
23 court shall pay a fee of 10 cents as a cost of court.

24 (c) In this article, a person is considered convicted if:

25 (1) a sentence is imposed on the person;

26 (2) the person receives community supervision,
27 including deferred adjudication; or

28 (3) the court defers final disposition of the
29 person's case.

30 (d) The clerks of the respective courts shall collect the
31 costs described by this article. The clerk shall keep separate
32 records of the funds collected as costs under this article and
33 shall deposit the funds in the county or municipal treasury, as
34 appropriate.

35 (e) The custodian of a county or municipal treasury shall:

36 (1) keep records of the amount of funds on deposit
37 collected under this article; and

38 (2) send to the comptroller before the last day of
39 the first month following each calendar quarter the funds
40 collected under this article during the preceding quarter.

41 (f) A county or municipality may retain 10 percent of the
42 funds collected under this article by an officer of the county
43 or municipality as a collection fee if the custodian of the
44 county or municipal treasury complies with Subsection (e).

45 (g) If no funds due as costs under this article are
46 deposited in a county or municipal treasury in a calendar
47 quarter, the custodian of the treasury shall file the report

1 required for the quarter in the regular manner and must state
2 that no funds were collected.

3 (h) The comptroller shall deposit the funds received under
4 this article to the credit of the Civil Justice Data Repository
5 fund in the general revenue fund, to be used only by the
6 Commission on Law Enforcement Officer Standards and Education to
7 implement duties under Section 1701.162, Occupations Code.

8 (i) Funds collected under this article are subject to
9 audit by the comptroller.

10 SECTION 31. (a) Section 102.061, Government Code, as
11 reenacted and amended by Chapter 921 (H.B. 3167), Acts of the
12 80th Legislature, Regular Session, 2007, is amended to conform
13 to the amendments made to Section 102.061, Government Code, by
14 Chapter 1053 (H.B. 2151), Acts of the 80th Legislature, Regular
15 Session, 2007, and is further amended to read as follows:

16 Sec. 102.061. ADDITIONAL COURT COSTS ON CONVICTION IN
17 STATUTORY COUNTY COURT: CODE OF CRIMINAL PROCEDURE. The clerk
18 of a statutory county court shall collect fees and costs under
19 the Code of Criminal Procedure on conviction of a defendant as
20 follows:

21 (1) a jury fee (Art. 102.004, Code of Criminal
22 Procedure) ... \$20;

23 (2) a fee for services of the clerk of the court
24 (Art. 102.005, Code of Criminal Procedure) ... \$40;

25 (3) a records management and preservation services
26 fee (Art. 102.005, Code of Criminal Procedure) ... \$25;

27 (4) a security fee on a misdemeanor offense (Art.
28 102.017, Code of Criminal Procedure) ... \$3;

29 (5) a graffiti eradication fee (Art. 102.0171, Code
30 of Criminal Procedure) ... \$5; ~~and~~

31 (6) a juvenile case manager fee (Art. 102.0174, Code
32 of Criminal Procedure) ... not to exceed \$5; and

33 (7) a civil justice fee (Art. 102.022, Code of
34 Criminal Procedure) ... \$0.10.

35 (b) Section 102.061, Government Code, as amended by
36 Chapter 1053 (H.B. 2151), Acts of the 80th Legislature, Regular
37 Session, 2007, is repealed. Section 102.061, Government Code,
38 as reenacted and amended by Chapter 921 (H.B. 3167), Acts of the
39 80th Legislature, Regular Session, 2007, to reorganize and
40 renumber that section, continues in effect as further amended by
41 this section.

42 SECTION 32. (a) Section 102.081, Government Code, as
43 amended by Chapter 921 (H.B. 3167), Acts of the 80th
44 Legislature, Regular Session, 2007, is amended to conform to the
45 amendments made to Section 102.081, Government Code, by Chapter
46 1053 (H.B. 2151), Acts of the 80th Legislature, Regular Session,
47 2007, and is further amended to read as follows:

1 Sec. 102.081. ADDITIONAL COURT COSTS ON CONVICTION IN
2 COUNTY COURT: CODE OF CRIMINAL PROCEDURE. The clerk of a county
3 court shall collect fees and costs under the Code of Criminal
4 Procedure on conviction of a defendant as follows:

5 (1) a jury fee (Art. 102.004, Code of Criminal
6 Procedure) ... \$20;

7 (2) a fee for clerk of the court services (Art.
8 102.005, Code of Criminal Procedure) ... \$40;

9 (3) a records management and preservation services
10 fee (Art. 102.005, Code of Criminal Procedure) ... \$25;

11 (4) a security fee on a misdemeanor offense (Art.
12 102.017, Code of Criminal Procedure) ... \$3;

13 (5) a graffiti eradication fee (Art. 102.0171, Code
14 of Criminal Procedure) ... \$5; [~~and~~]

15 (6) a juvenile case manager fee (Art. 102.0174, Code
16 of Criminal Procedure) ... not to exceed \$5; and

17 (7) a civil justice fee (Art. 102.022, Code of
18 Criminal Procedure) ... \$0.10.

19 (b) Section 102.081, Government Code, as amended by
20 Chapter 1053 (H.B. 2151), Acts of the 80th Legislature, Regular
21 Session, 2007, is repealed. Section 102.081, Government Code,
22 as amended by Chapter 921 (H.B. 3167), Acts of the 80th
23 Legislature, Regular Session, 2007, to reorganize and renumber
24 that section, continues in effect as further amended by this
25 section.

26 SECTION 33. Section 102.101, Government Code, is amended
27 to read as follows:

28 Sec. 102.101. ADDITIONAL COURT COSTS ON CONVICTION IN
29 JUSTICE COURT: CODE OF CRIMINAL PROCEDURE. A clerk of a justice
30 court shall collect fees and costs under the Code of Criminal
31 Procedure on conviction of a defendant as follows:

32 (1) a jury fee (Art. 102.004, Code of Criminal
33 Procedure) ... \$3;

34 (2) a fee for withdrawing request for jury less than
35 24 hours before time of trial (Art. 102.004, Code of Criminal
36 Procedure) ... \$3;

37 (3) a jury fee for two or more defendants tried
38 jointly (Art. 102.004, Code of Criminal Procedure) ... one jury
39 fee of \$3;

40 (4) a security fee on a misdemeanor offense (Art.
41 102.017, Code of Criminal Procedure) ... \$4;

42 (5) a fee for technology fund on a misdemeanor
43 offense (Art. 102.0173, Code of Criminal Procedure) ... \$4;

44 (6) a juvenile case manager fee (Art. 102.0174, Code
45 of Criminal Procedure) ... not to exceed \$5;

46 (7) a fee on conviction of certain offenses involving
47 issuing or passing a subsequently dishonored check (Art.

1 102.0071, Code of Criminal Procedure) ... not to exceed \$30; [~~and~~]
2 (8) a court cost on conviction of a Class C
3 misdemeanor in a county with a population of 3.3 million or
4 more, if authorized by the county commissioners court (Art.
5 102.009, Code of Criminal Procedure) ... not to exceed \$7; and
6 (9) a civil justice fee (Art. 102.022, Code of
7 Criminal Procedure) ... \$0.10.

8 SECTION 34. Section 102.121, Government Code, is amended
9 to read as follows:

10 Sec. 102.121. ADDITIONAL COURT COSTS ON CONVICTION IN
11 MUNICIPAL COURT: CODE OF CRIMINAL PROCEDURE. The clerk of a
12 municipal court shall collect fees and costs on conviction of a
13 defendant as follows:

14 (1) a jury fee (Art. 102.004, Code of Criminal
15 Procedure) ... \$3;

16 (2) a fee for withdrawing request for jury less than
17 24 hours before time of trial (Art. 102.004, Code of Criminal
18 Procedure) ... \$3;

19 (3) a jury fee for two or more defendants tried
20 jointly (Art. 102.004, Code of Criminal Procedure) ... one jury
21 fee of \$3;

22 (4) a security fee on a misdemeanor offense (Art.
23 102.017, Code of Criminal Procedure) ... \$3;

24 (5) a fee for technology fund on a misdemeanor
25 offense (Art. 102.0172, Code of Criminal Procedure) ... not to
26 exceed \$4; [~~and~~]

27 (6) a juvenile case manager fee (Art. 102.0174, Code
28 of Criminal Procedure) ... not to exceed \$5; and

29 (7) a civil justice fee (Art. 102.022, Code of
30 Criminal Procedure) ... \$0.10.

31 SECTION 35. The following laws are repealed:

32 (1) Section 1701.051(d), Occupations Code;

33 (2) Section 1701.156(c), Occupations Code;

34 (3) Section 1701.315, Occupations Code; and

35 (4) Section 1701.406, Occupations Code.

36 SECTION 36. (a) The changes in law made by this Act to
37 Sections 1701.053, 1701.056, and 1701.059, Occupations Code,
38 apply only to a member of the Texas Commission on Law
39 Enforcement Officer Standards and Education appointed on or
40 after the effective date of this Act and do not affect the
41 entitlement of a member serving on the commission immediately
42 before that date to continue to serve and function as a member
43 of the commission for the remainder of the member's term.

44 (b) Not later than March 1, 2010, the Texas Commission on
45 Law Enforcement Officer Standards and Education shall adopt
46 rules and policies required under:

47 (1) Sections 1701.202, 1701.254, and 1701.451,

1 Occupations Code, as amended by this Act; and

2 (2) Sections 1701.1521, 1701.1522, 1701.1523,
3 1701.1524, and 1701.162, Occupations Code, as added by this Act.

4 (c) The changes in law made by this Act with respect to
5 conduct that is grounds for the imposition of a disciplinary
6 sanction, including an administrative penalty, apply only to
7 conduct that occurs on or after the effective date of this Act.
8 Conduct that occurs before that date is governed by the law in
9 effect on the date the conduct occurred, and the former law is
10 continued in effect for that purpose.

11 (d) The Commission on Law Enforcement Officer Standards
12 and Education shall modify the training program required by
13 Section 1701.352(b), Occupations Code, as amended by this Act,
14 and ensure that the modified program is available not later than
15 January 1, 2010.

16 (e) A law enforcement agency affected by the change in law
17 made by this Act to Section 1701.355(a), Occupations Code, shall
18 designate a firearms proficiency officer not later than March 1,
19 2010. For purposes of this section, a state or local
20 governmental entity that employs one or more peace officers is a
21 law enforcement agency.

22 (f) The changes in law made by this Act to Section
23 1701.157(b), Occupations Code, apply to allocations made on or
24 after January 1, 2011. Allocations made before that date are
25 governed by the law in effect immediately before the effective
26 date of this Act, and the former law is continued in effect for
27 that purpose.

28 (g) The requirements of Articles 2.132, 2.133, and 2.134,
29 Code of Criminal Procedure, as amended by this Act, relating to
30 the compilation, analysis, and submission of incident-based data
31 apply only to information based on a motor vehicle stop
32 occurring on or after January 1, 2010.

33 (h) The imposition of a cost of court under Article
34 102.022, Code of Criminal Procedure, as added by this Act,
35 applies only to an offense committed on or after the effective
36 date of this Act. An offense committed before the effective
37 date of this Act is covered by the law in effect when the
38 offense was committed, and the former law is continued in effect
39 for that purpose. For purposes of this section, an offense was
40 committed before the effective date of this Act if any element
41 of the offense occurred before that date.

42 SECTION 37. This Act takes effect September 1, 2009.

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44 H.B. No. 3517
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AN ACT

relating to the provision of social security numbers by applicants for motor vehicle certificates of title.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 501.0235, Transportation Code, is repealed.

SECTION 2. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2009.

H.B. No. 3593

AN ACT

relating to the issuance of license plates to disabled veterans.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 504.202, Transportation Code, is amended by amending Subsection (e) and adding Subsection (h) to read as follows:

(e) Other than license plates issued under Subsection (h), license [~~License~~] plates issued under this section must include:

(1) the letters "DV" as a prefix or suffix to any numeral on the plate; and

(2) the words "Disabled Veteran" and "U.S. Armed Forces" at the bottom of each license plate.

(h) A person entitled to license plates under this section may elect to receive license plates issued under Chapter 502 under the same conditions for the issuance of license plates under this section.

SECTION 2. This Act takes effect September 1, 2009.

H.B. No. 3594

AN ACT

relating to the preservation of evidence that contains biological material.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Article 38.43, Code of Criminal Procedure, is amended by adding Subsection (f) to read as follows:

1 (f)(1) This subsection applies only to evidence described
2 by Subsection (b) that was used to prosecute and convict a
3 defendant of an offense under Chapter 19, 21, or 22, Penal Code,
4 if on conviction of the offense the defendant was sentenced to a
5 term of imprisonment of 10 years or more.

6 (2) In a county with a population less than 100,000,
7 the attorney representing the state, clerk, or other officer in
8 possession of any evidence to which this subsection applies
9 shall ensure the preservation of the evidence by promptly
10 delivering the evidence to the Department of Public Safety for
11 storage in accordance with Section 411.052, Government Code, and
12 department rules.

13 SECTION 2. Subchapter D, Chapter 411, Government Code, is
14 amended by adding Section 411.052 to read as follows:

15 Sec. 411.052. PRESERVATION OF EVIDENCE CONTAINING
16 BIOLOGICAL MATERIAL. (a) The department:

17 (1) shall maintain a storage space for the
18 preservation of evidence containing biological material that is
19 delivered to the department under Article 38.43(f), Code of
20 Criminal Procedure; and

21 (2) may maintain a storage space for the preservation
22 of evidence of a sexual assault or other sex offense.

23 (b) The department shall adopt rules relating to the
24 delivery, cataloging, and preservation of evidence stored under
25 this section.

26 SECTION 3. (a) The Department of Public Safety of the
27 State of Texas shall adopt rules as required by Section
28 411.052(b), Government Code, as added by this Act, not later
29 than November 1, 2009.

30 (b) The Department of Public Safety of the State of Texas
31 must begin accepting evidence delivered to the department in
32 accordance with Article 38.43, Code of Criminal Procedure, as
33 amended by this Act, and Section 411.052, Government Code, as
34 added by this Act, on January 1, 2010.

35 SECTION 4. The change in law made by this Act applies to
36 the storage of evidence in the possession of the state during a
37 criminal proceeding that commences on or after January 1, 2010.
38 The storage of evidence in the possession of the state during a
39 criminal proceeding that commences before January 1, 2010, is
40 covered by the law in effect when the proceeding commenced, and
41 the former law is continued in effect for that purpose.

42 SECTION 5. This Act does not make an appropriation. A
43 provision in this Act that creates a new governmental program,
44 creates a new entitlement, or imposes a new duty on a
45 governmental entity is not mandatory during a fiscal period for
46 which the legislature has not made a specific appropriation to
47 implement the provision.

1 SECTION 6. This Act takes effect September 1, 2009.

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3 H.B. No. 3599
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8 AN ACT

9 relating to the operation of certain three-wheeled vehicles in
10 this state.

11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

12 SECTION 1. Section 521.001(a), Transportation Code, is
13 amended by adding Subdivision (6-a) to read as follows:

14 (6-a) "Motorcycle" includes an enclosed three-wheeled
15 passenger vehicle that:

16 (A) is designed to operate with three wheels in
17 contact with the ground;

18 (B) has a minimum unladen weight of 900 lbs.;

19 (C) has a single, completely enclosed, occupant
20 compartment;

21 (D) at a minimum, is equipped with:

22 (i) seats that are certified by the vehicle
23 manufacturer to meet the requirements of Federal Motor Vehicle
24 Safety Standard No. 207, 49 C.F.R. Section 571.207;

25 (ii) a steering wheel used to maneuver the
26 vehicle;

27 (iii) a propulsion unit located in front of
28 or behind the enclosed occupant compartment;

29 (iv) a seat belt for each vehicle occupant
30 certified by the manufacturer to meet the requirements of
31 Federal Motor Vehicle Safety Standard No. 209, 49 C.F.R. Section
32 571.209;

33 (v) a windshield and one or more windshield
34 wipers certified by the manufacturer to meet the requirements of
35 Federal Motor Vehicle Safety Standard No. 205, 49 C.F.R. Section
36 571.205, and Federal Motor Vehicle Safety Standard No. 104, 49
37 C.F.R. Section 571.104; and

38 (vi) a vehicle structure certified by the
39 vehicle manufacturer to meet the requirements of Federal Motor
40 Vehicle Safety Standard No. 216, 49 C.F.R. Section 571.216; and

41 (E) is produced by its manufacturer in a minimum
42 quantity of 300 in any calendar year.

43 SECTION 2. Section 521.085, Transportation Code, is
44 amended to read as follows:

45 Sec. 521.085. TYPE OF VEHICLE AUTHORIZED. (a) Unless
46 prohibited by Chapter 522, and except as provided by Subsection
47 (b), the license holder may operate any vehicle of the type for

1 which that class of license is issued and any lesser type of
2 vehicle other than a motorcycle or moped.

3 (b) Subsection (a) does not prohibit a license holder from
4 operating a lesser type of vehicle that is a motorcycle
5 described by Section 521.001(a)(6-a).

6 SECTION 3. Section 661.001(1), Transportation Code, is
7 amended to read as follows:

8 (1) "Motorcycle" means a motor vehicle designed to
9 propel itself with not more than three wheels in contact with
10 the ground, and having a saddle for the use of the rider. The
11 term does not include a tractor or a three-wheeled vehicle
12 equipped with a cab or occupant compartment, seat, and seat belt
13 and designed to contain the operator in the cab or occupant
14 compartment.

15 SECTION 4. Section 680.013, Transportation Code, is
16 amended to read as follows:

17 Sec. 680.013. USE OF PREFERENTIAL LANE BY MOTORCYCLE. A
18 motorcycle, including a motorcycle described by Section
19 521.001(a)(6-a), may be operated in a preferential lane that is
20 not closed to all vehicular traffic.

21 SECTION 5. This Act takes effect September 1, 2009.

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23 H.B. No. 3638
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28 AN ACT

29 relating to the use of safety belts by the operator of or a
30 passenger in a motor vehicle used exclusively to transport solid
31 waste.

32 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

33 SECTION 1. Section 545.413(e), Transportation Code, is
34 amended to read as follows:

35 (e) It is a defense to prosecution under this section
36 that:

37 (1) the person possesses a written statement from a
38 licensed physician stating that for a medical reason the person
39 should not wear a safety belt;

40 (2) the person presents to the court, not later than
41 the 10th day after the date of the offense, a statement from a
42 licensed physician stating that for a medical reason the person
43 should not wear a safety belt;

44 (3) the person is employed by the United States
45 Postal Service and performing a duty for that agency that
46 requires the operator to service postal boxes from a vehicle or
47 that requires frequent entry into and exit from a vehicle;

1 (4) the person is engaged in the actual delivery of
2 newspapers from a vehicle or is performing newspaper delivery
3 duties that require frequent entry into and exit from a vehicle;

4 (5) the person is employed by a public or private
5 utility company and is engaged in the reading of meters or
6 performing a similar duty for that company requiring the
7 operator to frequently enter into and exit from a vehicle; [~~or~~]

8 (6) the [~~The~~] person is operating a commercial
9 vehicle registered as a farm vehicle under the provisions of
10 Section 502.163 that does not have a gross weight, registered
11 weight, or gross weight rating of 48,000 pounds or more; or

12 (7) the person is the operator of or a passenger in a
13 vehicle used exclusively to transport solid waste and performing
14 duties that require frequent entry into and exit from the
15 vehicle.

16 SECTION 2. The change in law made by this Act to Section
17 545.413(e), Transportation Code, as amended by this Act, applies
18 only to an offense under Section 545.413(a) of that code,
19 regardless of whether the offense was committed before, on, or
20 after the effective date of this Act.

21 SECTION 3. This Act takes effect September 1, 2009.

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23 H.B. No. 3649
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28 AN ACT

29 relating to a policy regarding the receipt of books by mail by
30 an inmate in the Texas Department of Criminal Justice.

31 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

32 SECTION 1. Subchapter A, Chapter 501, Government Code, is
33 amended by adding Section 501.0051 to read as follows:

34 Sec. 501.0051. RECEIPT OF BOOKS BY MAIL. (a) The
35 department shall establish a policy that permits an inmate to
36 receive by mail reference books and other educational materials
37 from a volunteer organization that operates programs described
38 by Section 501.009, regardless of whether the organization
39 provides those programs to inmates housed in facilities operated
40 by the department.

41 (b) The department may adopt rules as necessary to
42 implement this section, including rules to:

43 (1) provide for screening of packages sent to
44 inmates;

45 (2) prohibit inmates from receiving books that might
46 assist them in committing crimes, such as books on escaping
47 prison; and

1 (3) define the terms "reference books" and
2 "educational materials."

3 SECTION 2. As soon as practicable after the effective date
4 of this Act, the Texas Department of Criminal Justice shall
5 establish the policy required by Section 501.0051, Government
6 Code, as added by this Act.

7 SECTION 3. This Act takes effect immediately if it
8 receives a vote of two-thirds of all the members elected to each
9 house, as provided by Section 39, Article III, Texas
10 Constitution. If this Act does not receive the vote necessary
11 for immediate effect, this Act takes effect September 1, 2009.

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13 H.B. No. 3653
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18 AN ACT

19 relating to the use of restraints to control the movement of
20 pregnant women and female children confined in certain
21 correctional facilities in this state.

22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

23 SECTION 1. Subchapter B, Chapter 501, Government Code, is
24 amended by adding Section 501.066 to read as follows:

25 Sec. 501.066. RESTRAINT OF PREGNANT INMATE OR DEFENDANT.

26 (a) The department may not use restraints to control the
27 movement of a pregnant woman in the custody of the department at
28 any time during which the woman is in labor or delivery or
29 recovering from delivery, unless the director or director's
30 designee determines that the use of restraints is necessary to:

31 (1) ensure the safety and security of the woman or
32 her infant, department or medical personnel, or any member of
33 the public; or

34 (2) prevent a substantial risk that the woman will
35 attempt escape.

36 (b) If a determination to use restraints is made under
37 Subsection (a), the type of restraint used and the manner in
38 which the restraint is used must be the least restrictive
39 available under the circumstances to ensure safety and security
40 or to prevent escape.

41 SECTION 2. Subchapter E, Chapter 61, Human Resources Code,
42 is amended by adding Section 61.07611 to read as follows:

43 Sec. 61.07611. RESTRAINT OF PREGNANT JUVENILE. (a) The
44 commission may not use restraints to control the movement of a
45 pregnant child who is committed to the commission at any time
46 during which the child is in labor or delivery or recovering
47 from delivery, unless the executive director or executive

1 director's designee determines that the use of restraints is
2 necessary to:

3 (1) ensure the safety and security of the child or
4 her infant, commission or medical personnel, or any member of
5 the public; or

6 (2) prevent a substantial risk that the child will
7 attempt escape.

8 (b) If a determination to use restraints is made under
9 Subsection (a), the type of restraint used and the manner in
10 which the restraint is used must be the least restrictive
11 available under the circumstances to ensure safety and security
12 or to prevent escape.

13 SECTION 3. Subchapter F, Chapter 361, Local Government
14 Code, is amended by adding Section 361.082 to read as follows:

15 Sec. 361.082. RESTRAINT OF PREGNANT INMATE OR DEFENDANT.

16 (a) A municipal or county jail may not use restraints to
17 control the movement of a pregnant woman in the custody of the
18 jail at any time during which the woman is in labor or delivery
19 or recovering from delivery, unless the sheriff or another
20 person with supervisory authority over the jail determines that
21 the use of restraints is necessary to:

22 (1) ensure the safety and security of the woman or
23 her infant, jail or medical personnel, or any member of the
24 public; or

25 (2) prevent a substantial risk that the woman will
26 attempt escape.

27 (b) If a determination to use restraints is made under
28 Subsection (a), the type of restraint used and the manner in
29 which the restraint is used must be the least restrictive
30 available under the circumstances to ensure safety and security
31 or to prevent escape.

32 SECTION 4. This Act takes effect September 1, 2009.

33
34 H.B. No. 3671
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39

40 AN ACT

41 relating to the documents that are required for the transfer of
42 a defendant from a county to the Texas Department of Criminal
43 Justice.

44 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

45 SECTION 1. Section 8(a), Article 42.09, Code of Criminal
46 Procedure, is amended to read as follows:

47 (a) A county that transfers a defendant to the Texas
Department of Criminal Justice under this article shall deliver

1 to an officer designated by the department:
2 (1) a copy of the judgment entered pursuant to
3 Article 42.01 [~~of this code~~], completed on a standardized felony
4 judgment form described by Section 4 of that article;
5 (2) a copy of any order revoking community
6 supervision and imposing sentence pursuant to Section 23,
7 Article 42.12[~~, of this code~~], including:
8 (A) any amounts owed for restitution, fines, and
9 court costs, completed on a standardized felony judgment form
10 described by Section 4, Article 42.01[~~, of this code~~]; and
11 (B) a copy of the client supervision plan
12 prepared for the defendant by the community supervision and
13 corrections department supervising the defendant, if such a plan
14 was prepared;
15 (3) a written report that states the nature and the
16 seriousness of each offense and that states the citation to the
17 provision or provisions of the Penal Code or other law under
18 which the defendant was convicted;
19 (4) a copy of the victim impact statement, if one has
20 been prepared in the case under Article 56.03 [~~of this code~~];
21 (5) a statement as to whether there was a change in
22 venue in the case and, if so, the names of the county
23 prosecuting the offense and the county in which the case was
24 tried;
25 (6) [~~a copy of the record of arrest for each offense;~~
26 [+7)] if requested, information regarding the
27 criminal history of the defendant, including the defendant's
28 state identification number if the number has been issued;
29 (7) [~~+8~~] a copy of the indictment or information for
30 each offense;
31 (8) [~~+9~~] a checklist sent by the department to the
32 county and completed by the county in a manner indicating that
33 the documents required by this subsection and Subsection (c) [~~of~~
34 ~~this section~~] accompany the defendant;
35 (9) [~~+10~~] if prepared, a copy of a presentence or
36 postsentence investigation report prepared under Section 9,
37 Article 42.12 [~~of this code~~];
38 (10) [~~+11~~] a copy of any detainer, issued by an
39 agency of the federal government, that is in the possession of
40 the county and that has been placed on the defendant;
41 (11) [~~+12~~] if prepared, a copy of the defendant's
42 Texas Uniform Health Status Update Form; and
43 (12) [~~+13~~] a written description of a hold or
44 warrant, issued by any other jurisdiction, that the county is
45 aware of and that has been placed on or issued for the
46 defendant.

47 SECTION 2. This Act takes effect September 1, 2009.

1 H.B. No. 3689

2
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6 AN ACT

7 relating to the functions and continuation of the Texas Youth
8 Commission and the Texas Juvenile Probation Commission and to
9 the functions of the Office of Independent Ombudsman for the
10 Texas Youth Commission.

11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

12 ARTICLE 1. TEXAS YOUTH COMMISSION

13 SECTION 1.001. The heading to Chapter 61, Human Resources
14 Code, is amended to read as follows:

15 CHAPTER 61. TEXAS YOUTH COMMISSION [~~COUNCIL~~]

16 SECTION 1.002. Section 61.001, Human Resources Code, is
17 amended by adding Subdivision (3) to read as follows:

18 (3) "Board" means the board of the commission
19 appointed under Section 61.024.

20 SECTION 1.003. Section 61.020, Human Resources Code, is
21 amended to read as follows:

22 Sec. 61.020. SUNSET PROVISION. (a) The Texas Youth
23 Commission is subject to Chapter 325, Government Code (Texas
24 Sunset Act). Unless continued in existence as provided by that
25 chapter, the commission is abolished and this chapter expires
26 September 1, 2011 [~~2009~~].

27 (b) In the review of the Texas Youth Commission by the
28 Sunset Advisory Commission, as required by this section, the
29 sunset commission shall focus its review on:

30 (1) the commission's compliance with Chapter 263
31 (S.B. 103), Acts of the 80th Legislature, Regular Session, 2007;

32 (2) requirements placed on the agency by legislation
33 enacted by the 81st Legislature, Regular Session, 2009, that
34 becomes law, including implementation of programs for the
35 diversion of youth from the commission; and

36 (3) initiatives of the commission and the Texas
37 Juvenile Probation Commission in coordinating activities and
38 services to better integrate Texas Youth Commission, Texas
39 Juvenile Probation Commission, and county juvenile justice
40 functions, including joint strategic planning, the sharing of
41 youth data across youth-serving agencies, assessments and
42 classification of youth, and collection of data on probation
43 outcomes.

44 (c) In its report to the 82nd Legislature, the sunset
45 commission may include any recommendations it considers
46 appropriate. This subsection and Subsection (b) expire
47 September 1, 2011.

1 SECTION 1.004. Section 61.024(a), Human Resources Code, is
2 amended to read as follows:

3 (a) Notwithstanding any other provision of this chapter,
4 effective September 1, 2009, the commission is governed by a
5 board that consists of seven members appointed by the governor
6 with the advice and consent of the senate. Appointments to the
7 board shall be made without regard to the race, color,
8 disability, sex, religion, age, or national origin of the
9 appointees. The governor shall designate a member of the board
10 as the presiding officer of the board to serve in that capacity
11 at the pleasure of the governor.

12 SECTION 1.005. Subchapter B, Chapter 61, Human Resources
13 Code, is amended by adding Sections 61.025 through 61.029 to
14 read as follows:

15 Sec. 61.025. RESTRICTIONS ON BOARD MEMBERSHIP AND
16 EMPLOYMENT. (a) A person may not be a member of the board or
17 employed by the board as the executive director if the person or
18 the person's spouse:

19 (1) is registered, certified, or licensed by a
20 regulatory agency in the field of criminal or juvenile justice;

21 (2) is employed by or participates in the management
22 of a business entity or other organization regulated by or
23 receiving money from the commission;

24 (3) owns or controls, directly or indirectly, more
25 than a 10 percent interest in a business entity or other
26 organization regulated by or receiving money from the
27 commission; or

28 (4) uses or receives a substantial amount of tangible
29 goods, services, or money from the commission, other than
30 compensation or reimbursement authorized by law for board
31 membership, attendance, or expenses.

32 (b) A person may not be a board member and may not be a
33 commission employee who is employed in a "bona fide executive,
34 administrative, or professional capacity," as that phrase is
35 used for purposes of establishing an exemption to the overtime
36 provisions of the federal Fair Labor Standards Act of 1938 (29
37 U.S.C. Section 201 et seq.), if:

38 (1) the person is an officer, employee, or paid
39 consultant of a Texas trade association in the field of criminal
40 or juvenile justice; or

41 (2) the person's spouse is an officer, manager, or
42 paid consultant of a Texas trade association in the field of
43 criminal or juvenile justice.

44 (c) A person may not be a member of the board or act as
45 the general counsel to the board or the commission if the person
46 is required to register as a lobbyist under Chapter 305,
47 Government Code, because of the person's activities for

1 compensation on behalf of a profession related to the operation
2 of the commission.

3 (d) In this section, "Texas trade association" means a
4 cooperative and voluntarily joined statewide association of
5 business or professional competitors in this state designed to
6 assist its members and its industry or profession in dealing
7 with mutual business or professional problems and in promoting
8 their common interest.

9 Sec. 61.026. REMOVAL OF BOARD MEMBERS. (a) It is a
10 ground for removal from the board that a member:

11 (1) does not have at the time of taking office the
12 qualifications required by Section 61.024(b);

13 (2) does not maintain during service on the board the
14 qualifications required by Section 61.024(b);

15 (3) is ineligible for membership under Section
16 61.025;

17 (4) cannot, because of illness or disability,
18 discharge the member's duties for a substantial part of the
19 member's term; or

20 (5) is absent from more than half of the regularly
21 scheduled board meetings that the member is eligible to attend
22 during a calendar year without an excuse approved by a majority
23 vote of the board.

24 (b) The validity of an action of the board is not affected
25 by the fact that it is taken when a ground for removal of a
26 board member exists.

27 (c) If the executive director has knowledge that a
28 potential ground for removal exists, the executive director
29 shall notify the presiding officer of the board of the potential
30 ground. The presiding officer shall then notify the governor
31 and the attorney general that a potential ground for removal
32 exists. If the potential ground for removal involves the
33 presiding officer, the executive director shall notify the next
34 highest ranking officer of the board, who shall then notify the
35 governor and the attorney general that a potential ground for
36 removal exists.

37 Sec. 61.027. TRAINING FOR BOARD MEMBERS. (a) A person
38 who is appointed to and qualifies for office as a member of the
39 board may not vote, deliberate, or be counted as a member in
40 attendance at a meeting of the board until the person completes
41 a training program that complies with this section.

42 (b) The training program must provide the person with
43 information regarding:

44 (1) the legislation that created the commission;

45 (2) the programs, functions, rules, and budget of the
46 commission;

47 (3) the results of the most recent formal audit of

1 the commission;
2 (4) the requirements of laws relating to open
3 meetings, public information, administrative procedure, and
4 conflicts of interest; and
5 (5) any applicable ethics policies adopted by the
6 commission or the Texas Ethics Commission.
7 (c) A person appointed to the board is entitled to
8 reimbursement, as provided by the General Appropriations Act,
9 for the travel expenses incurred in attending the training
10 program regardless of whether the attendance at the program
11 occurs before or after the person qualifies for office.
12 Sec. 61.028. USE OF TECHNOLOGY. The board shall implement
13 a policy requiring the commission to use appropriate
14 technological solutions to improve the commission's ability to
15 perform its functions. The policy must ensure that the public
16 is able to interact with the commission on the Internet.
17 Sec. 61.029. NEGOTIATED RULEMAKING; ALTERNATIVE DISPUTE
18 RESOLUTION. (a) The board shall develop and implement a policy
19 to encourage the use of:
20 (1) negotiated rulemaking procedures under Chapter
21 2008, Government Code, for the adoption of commission rules; and
22 (2) appropriate alternative dispute resolution
23 procedures under Chapter 2009, Government Code, to assist in the
24 resolution of internal and external disputes under the
25 commission's jurisdiction.
26 (b) The commission's procedures relating to alternative
27 dispute resolution must conform, to the extent possible, to any
28 model guidelines issued by the State Office of Administrative
29 Hearings for the use of alternative dispute resolution by state
30 agencies.
31 (c) The board shall designate a trained person to:
32 (1) coordinate the implementation of the policy
33 adopted under Subsection (a);
34 (2) serve as a resource for any training needed to
35 implement the procedures for negotiated rulemaking or
36 alternative dispute resolution; and
37 (3) collect data concerning the effectiveness of
38 those procedures, as implemented by the commission.
39 SECTION 1.006. Section 61.0352, Human Resources Code, is
40 amended to read as follows:
41 Sec. 61.0352. DIVISION OF RESPONSIBILITY. The board
42 [~~executive commissioner~~] shall develop and implement policies
43 that clearly separate the policymaking responsibilities of the
44 board [~~executive commissioner~~] and the management
45 responsibilities of the staff of the commission.
46 SECTION 1.007. Section 61.0422, Human Resources Code, is
47 amended to read as follows:

1 Sec. 61.0422. COMPLAINTS REGARDING SERVICES. (a) The
2 commission shall maintain a system to promptly and efficiently
3 act on a [keep a file about each written] complaint filed with
4 the commission by a person, other than a child receiving
5 services from the commission or the child's parent or guardian,
6 that the commission has authority to resolve. The commission
7 shall maintain information about parties to the complaint, the
8 subject matter of the complaint, a summary of the results of the
9 review or investigation of the complaint, and the disposition of
10 the complaint.

11 (b) The commission shall make information available
12 describing the commission's [provide to the person filing the
13 complaint and the persons or entities complained about the
14 commission's policies and] procedures for [pertaining to]
15 complaint investigation and resolution.

16 (c) The commission[, ~~at least quarterly and until final~~
17 ~~disposition of the complaint,~~] shall periodically notify the
18 [~~person filing the] complaint parties [~~and the persons or~~
19 ~~entities complained about]~~ of the status of the complaint until
20 final disposition, unless the notice would jeopardize an
21 undercover investigation.~~

22 (d) [~~(b) The commission shall keep information about each~~
23 ~~file required by Subsection (a). The information must include:~~

24 [~~(1) the date the complaint is received;~~

25 [~~(2) the name of the complainant;~~

26 [~~(3) the subject matter of the complaint;~~

27 [~~(4) a record of all persons contacted in relation to~~
28 ~~the complaint;~~

29 [~~(5) a summary of the results of the review or~~
30 ~~investigation of the complaint; and~~

31 [~~(6) for complaints for which the commission took no~~
32 ~~action, an explanation of the reason the complaint was closed~~
33 ~~without action.~~

34 [~~(e)] The commission shall keep information about each~~

35 written complaint filed with the commission by a child receiving

36 services from the commission or the child's parent or guardian.

37 The information must include:

38 (1) the subject matter of the complaint;

39 (2) a summary of the results of the review or
40 investigation of the complaint; and

41 (3) the period of time between the date the complaint
42 is received and the date the complaint is closed.

43 SECTION 1.008. Section 61.0423, Human Resources Code, is
44 amended to read as follows:

45 Sec. 61.0423. PUBLIC HEARINGS. (a) The board [~~executive~~
46 ~~commissioner]~~ shall develop and implement policies that provide
47 the public with a reasonable opportunity to appear before the

1 board [~~executive commissioner or the executive commissioner's~~
2 ~~designee~~] and to speak on any issue under the jurisdiction of
3 the commission.

4 (b) The board [~~executive commissioner~~] shall ensure that
5 the location of public hearings held in accordance with this
6 section is rotated between municipalities in which a commission
7 facility is located or that are in proximity to a commission
8 facility.

9 SECTION 1.009. Sections 61.0451(a) and (i), Human
10 Resources Code, are amended to read as follows:

11 (a) The office of inspector general is established at the
12 commission for the purpose of investigating:

13 (1) crimes committed by commission employees,
14 including parole officers employed by or under a contract with
15 the commission; and

16 (2) crimes and delinquent conduct committed at a
17 facility operated by the commission, [~~or at~~] a residential
18 facility operated by another entity under a contract with the
19 commission, or any facility in which a child committed to the
20 custody of the commission is housed or receives medical or
21 mental health treatment.

22 (i) The office of inspector general shall immediately
23 report to the executive director [~~commissioner~~], the [~~advisory~~]
24 board, the governor's general counsel, and the state auditor:

25 (1) any particularly serious or flagrant problem
26 concerning the administration of a commission program or
27 operation; or

28 (2) any interference by the executive director,
29 [~~commissioner or~~] an employee of the commission, a facility
30 described by Subsection (a)(2), or an officer or employee of a
31 facility described by Subsection (a)(2) with an investigation
32 conducted by the office.

33 SECTION 1.010. Subchapter D, Chapter 61, Human Resources
34 Code, is amended by adding Section 61.067 to read as follows:

35 Sec. 61.067. INFORMATION PROVIDED TO COMMITTING COURT.

36 (a) If a court that commits a child to the commission requests,
37 in the commitment order, that the commission keep the court
38 informed of the progress the child is making while committed to
39 the commission, the commission shall provide the court with
40 periodic updates on the child's progress.

41 (b) A report provided under Subsection (a) may include any
42 information the commission determines to be relevant in
43 evaluating the child's progress, including, as applicable,
44 information concerning the child's treatment, education, and
45 health.

46 (c) A report provided under this section may not include
47 information that is protected from disclosure under state or

1 federal law.

2 SECTION 1.011. Subchapter F, Chapter 61, Human Resources
3 Code, is amended by adding Section 61.08131 to read as follows:

4 Sec. 61.08131. COMPREHENSIVE REENTRY AND REINTEGRATION
5 PLAN FOR CHILDREN; STUDY AND REPORT. (a) The commission shall
6 develop a comprehensive plan to reduce recidivism and ensure the
7 successful reentry and reintegration of children into the
8 community following a child's release under supervision or final
9 discharge, as applicable, from the commission.

10 (b) The comprehensive reentry and reintegration plan
11 developed under this section must provide for:

12 (1) an assessment of each child committed to the
13 commission to determine which skills the child needs to develop
14 to be successful in the community following release under
15 supervision or final discharge;

16 (2) programs that address the assessed needs of each
17 child;

18 (3) a comprehensive network of transition programs to
19 address the needs of children released under supervision or
20 finally discharged from the commission;

21 (4) the identification of providers of existing local
22 programs and transitional services with whom the commission may
23 contract under this section to implement the reentry and
24 reintegration plan; and

25 (5) subject to Subsection (c), the sharing of
26 information between local coordinators, persons with whom the
27 commission contracts under this section, and other providers of
28 services as necessary to adequately assess and address the needs
29 of each child.

30 (c) A child's personal health information may be disclosed
31 under Subsection (b)(5) only in the manner authorized by Section
32 61.0731 or other state or federal law, provided that the
33 disclosure does not violate the Health Insurance Portability and
34 Accountability Act of 1996 (Pub. L. No. 104-191).

35 (d) The programs provided under Subsections (b)(2) and (3)
36 must:

37 (1) be implemented by highly skilled staff who are
38 experienced in working with reentry and reintegration programs
39 for children;

40 (2) provide children with:

41 (A) individualized case management and a full
42 continuum of care;

43 (B) life-skills training, including information
44 about budgeting, money management, nutrition, and exercise;

45 (C) education and, if a child has a learning
46 disability, special education;

47 (D) employment training;

1 (E) appropriate treatment programs, including
2 substance abuse and mental health treatment programs; and

3 (F) parenting and relationship-building classes;
4 and

5 (3) be designed to build for children post-release
6 and post-discharge support from the community into which the
7 child is released under supervision or finally discharged,
8 including support from agencies and organizations within that
9 community.

10 (e) The commission may contract and coordinate with
11 private vendors, units of local government, or other entities to
12 implement the comprehensive reentry and reintegration plan
13 developed under this section, including contracting to:

14 (1) coordinate the supervision and services provided
15 to children during the time children are in the custody of the
16 commission with any supervision or services provided children
17 who have been released under supervision or finally discharged
18 from the commission;

19 (2) provide children awaiting release under
20 supervision or final discharge with documents that are necessary
21 after release or discharge, including identification papers,
22 medical prescriptions, job training certificates, and referrals
23 to services; and

24 (3) provide housing and structured programs,
25 including programs for recovering substance abusers, through
26 which children are provided services immediately following
27 release under supervision or final discharge.

28 (f) To ensure accountability, any contract entered into
29 under this section must contain specific performance measures
30 that the commission shall use to evaluate compliance with the
31 terms of the contract.

32 (g) The commission shall ensure that each reentry and
33 reintegration plan developed for a child under Section 61.0814
34 is coordinated with the comprehensive reentry and reintegration
35 plan developed under this section.

36 (h) The commission shall conduct and coordinate research
37 to determine whether the comprehensive reentry and reintegration
38 plan developed under this section reduces recidivism rates.

39 (i) Not later than December 1 of each even-numbered year,
40 the commission shall deliver a report of the results of research
41 conducted or coordinated under Subsection (h) to the lieutenant
42 governor, the speaker of the house of representatives, and the
43 standing committees of each house of the legislature with
44 primary jurisdiction over juvenile justice and corrections.

45 SECTION 1.012. Subchapter F, Chapter 61, Human Resources
46 Code, is amended by adding Section 61.08141 to read as follows:

47 Sec. 61.08141. INFORMATION PROVIDED TO COURT BEFORE

1 RELEASE. (a) In addition to providing the court with notice of
2 release of a child under Section 61.081(e), as soon as possible
3 but not later than the 30th day before the date the commission
4 releases the child, the commission shall provide the court that
5 committed the child to the commission:

6 (1) a copy of the child's reentry and reintegration
7 plan developed under Section 61.0814; and

8 (2) a report concerning the progress the child has
9 made while committed to the commission.

10 (b) If, on release, the commission places a child in a
11 county other than the county served by the court that committed
12 the child to the commission, the commission shall provide the
13 information described by Subsection (a) to both the committing
14 court and the juvenile court in the county where the child is
15 placed after release.

16 (c) If, on release, a child's residence is located in
17 another state, the commission shall provide the information
18 described by Subsection (a) to both the committing court and a
19 juvenile court of the other state that has jurisdiction over the
20 area in which the child's residence is located.

21 SECTION 1.013. Section 61.0911, Human Resources Code, is
22 amended to read as follows:

23 Sec. 61.0911. COORDINATED STRATEGIC PLAN. The Texas Youth
24 Commission shall biennially develop with the Texas Juvenile
25 Probation Commission a coordinated strategic plan in the manner
26 described by Sections [as required by Section] 141.0471 and
27 141.0472.

28 SECTION 1.014. Section 61.098(b), Human Resources Code, is
29 amended to read as follows:

30 (b) As appropriate, the district attorney, criminal
31 district attorney, or county attorney representing the state in
32 criminal matters before the district or inferior courts of the
33 county who would otherwise represent the state in the
34 prosecution of an offense or delinquent conduct concerning the
35 commission and described by Article 104.003(a), Code of Criminal
36 Procedure, may request that the special prosecution unit
37 prosecute, or assist in the prosecution of, the offense or
38 delinquent conduct.

39 ARTICLE 2. OFFICE OF INDEPENDENT OMBUDSMAN FOR THE TEXAS YOUTH
40 COMMISSION

41 SECTION 2.001. Section 64.054, Human Resources Code, is
42 amended to read as follows:

43 Sec. 64.054. SUNSET PROVISION. (a) The office is subject
44 to review under Chapter 325, Government Code (Texas Sunset Act),
45 but is not abolished under that chapter. The office shall be
46 reviewed during the periods in which the Texas Youth Commission
47 is [state agencies abolished in 2009 and every 12th year after

1 ~~2009 are]~~ reviewed.

2 (b) Notwithstanding Subsection (a), the Sunset Advisory
3 Commission shall focus its review of the office on compliance
4 with requirements placed on the office by legislation enacted by
5 the 81st Legislature, Regular Session, 2009, that becomes law.
6 This subsection expires September 1, 2011.

7 SECTION 2.002. Section 64.058, Human Resources Code, is
8 amended to read as follows:

9 Sec. 64.058. RULEMAKING AUTHORITY. (a) The office by
10 rule shall establish policies and procedures for the operations
11 of the office of independent ombudsman.

12 (b) The office and the commission shall adopt rules
13 necessary to implement Section 64.060, including rules that
14 establish procedures for the commission to review and comment on
15 reports of the office and for the commission to expedite or
16 eliminate review of and comment on a report due to an emergency
17 or a serious or flagrant circumstance described by Section
18 64.055(b).

19 SECTION 2.003. Subchapter B, Chapter 64, Human Resources
20 Code, is amended by adding Sections 64.060 and 64.061 to read as
21 follows:

22 Sec. 64.060. REVIEW AND FORMAT OF REPORTS. (a) The
23 office shall accept, both before and after publication, comments
24 from the commission concerning the following types of reports
25 published by the office under this chapter:

26 (1) the office's quarterly report under Section
27 64.055(a);

28 (2) reports concerning serious or flagrant
29 circumstances under Section 64.055(b); and

30 (3) any other formal reports containing findings and
31 making recommendations concerning systemic issues that affect
32 the commission.

33 (b) The commission may not submit comments under
34 Subsection (a) after the 30th day after the date the report on
35 which the commission is commenting is published.

36 (c) The office shall ensure that reports described by
37 Subsection (a) are in a format to which the commission can
38 easily respond.

39 (d) After receipt of comments under this section, the
40 office is not obligated to change any report or change the
41 manner in which the office performs the duties of the office.

42 Sec. 64.061. COMPLAINTS. (a) The office shall maintain a
43 system to promptly and efficiently act on complaints filed with
44 the office that relate to the operations or staff of the office.
45 The office shall maintain information about parties to the
46 complaint, the subject matter of the complaint, a summary of the
47 results of the review or investigation of the complaint, and the

1 disposition of the complaint.

2 (b) The office shall make information available describing
3 its procedures for complaint investigation and resolution.

4 (c) The office shall periodically notify the complaint
5 parties of the status of the complaint until final disposition.

6 SECTION 2.004. Subchapter C, Chapter 64, Human Resources
7 Code, is amended by adding Section 64.104 to read as follows:

8 Sec. 64.104. MEMORANDUM OF UNDERSTANDING. (a) The office
9 and the commission shall enter into a memorandum of
10 understanding concerning:

11 (1) the most efficient manner in which to share
12 information with one another; and

13 (2) the procedures for handling overlapping
14 monitoring duties and activities performed by the office and the
15 commission.

16 (b) The memorandum of understanding entered into under
17 Subsection (a), at a minimum, must:

18 (1) address the interaction of the office with that
19 portion of the commission that conducts an internal audit under
20 Section 61.0331;

21 (2) address communication between the office and the
22 commission concerning individual situations involving children
23 committed to the commission and how those situations will be
24 documented and handled;

25 (3) contain guidelines on the office's role in
26 relevant working groups and policy development decisions at the
27 commission;

28 (4) ensure opportunities for sharing information
29 between the office and the commission for the purposes of
30 assuring quality and improving programming within the
31 commission; and

32 (5) preserve the independence of the office by
33 authorizing the office to withhold information concerning
34 matters under active investigation by the office from the
35 commission and commission staff and to report the information to
36 the governor.

37 ARTICLE 3. TEXAS JUVENILE PROBATION COMMISSION

38 SECTION 3.001. Section 141.011(a), Human Resources Code,
39 is amended to read as follows:

40 (a) The commission consists of:

41 (1) two district court judges who sit as juvenile
42 court judges;

43 (2) two county judges or commissioners; [and]

44 (3) one chief juvenile probation officer;

45 (4) one mental health treatment professional licensed
46 under Subtitle B or I, Title 3, Occupations Code;

47 (5) one educator, as that term is defined by Section

1 5.001, Education Code;

2 (6) one member who represents an organization that
3 advocates on behalf of juvenile offenders or victims of
4 delinquent or criminal conduct; and

5 (7) one member [~~five members~~] of the public who is
6 [~~are~~] not an employee [~~employees~~] in the criminal or juvenile
7 justice system and is recognized in the community for the
8 person's interest in youth.

9 SECTION 3.002. Section 141.012, Human Resources Code, is
10 amended to read as follows:

11 Sec. 141.012. SUNSET PROVISION. (a) The Texas Juvenile
12 Probation Commission is subject to Chapter 325, Government Code
13 (Texas Sunset Act). Unless continued in existence as provided by
14 that chapter, the commission is abolished and this chapter
15 expires September 1, 2011 [~~2009~~].

16 (b) In the review of the Texas Juvenile Probation
17 Commission by the Sunset Advisory Commission, as required by
18 this section, the sunset commission shall focus its review on
19 the following:

20 (1) the commission's compliance with Chapter 263
21 (S.B. 103), Acts of the 80th Legislature, Regular Session, 2007;

22 (2) requirements placed on the agency by legislation
23 enacted by the 81st Legislature, Regular Session, 2009, that
24 becomes law, including implementation of programs for the
25 diversion of youth from the Texas Youth Commission; and

26 (3) initiatives of the commission and the Texas Youth
27 Commission in coordinating activities and services to better
28 integrate Texas Juvenile Probation Commission, Texas Youth
29 Commission, and county juvenile justice functions, including
30 joint strategic planning, the sharing of youth data across
31 youth-serving agencies, assessment and classification of youth,
32 and collection of data on probation outcomes.

33 (c) In its report to the 82nd Legislature, the sunset
34 commission may include any recommendations it considers
35 appropriate. This subsection and Subsection (b) expire September
36 1, 2011.

37 SECTION 3.003. Section 141.014, Human Resources Code, is
38 amended to read as follows:

39 Sec. 141.014. RESTRICTIONS ON COMMISSION APPOINTMENT,
40 MEMBERSHIP, AND EMPLOYMENT. (a) A person may not be [~~is not~~
41 ~~eligible for appointment or service as~~] a public member of the
42 commission if the person or the person's spouse:

43 (1) owns or controls, directly or indirectly, more
44 than a 10 percent interest in a business entity or other
45 organization regulated by or receiving money from the commission
46 [~~or receiving funds from the commission~~]; [~~or~~]

47 (2) uses or receives a substantial amount of tangible

1 goods, services, or funds from the commission, other than
2 compensation or reimbursement authorized by law for commission
3 membership, attendance, or expenses;

4 (3) is registered, certified, or licensed by a
5 regulatory agency in the field of criminal or juvenile justice;
6 or

7 (4) is employed by or participates in the management
8 of a business entity or other organization regulated by or
9 receiving money from the commission.

10 (b) A person may not be a member of the commission and may
11 not be a commission employee employed in a "bona fide executive,
12 administrative, or professional capacity," as that phrase is
13 used for purposes of establishing an exemption to the overtime
14 provisions of the federal Fair Labor Standards Act of 1938 (29
15 U.S.C. Section 201 et seq.), if:

16 (1) the person is an officer, employee, or paid
17 consultant of a Texas trade association in the field of criminal
18 or juvenile justice; or

19 (2) the person's spouse is an officer, manager, or
20 paid consultant of a Texas trade association in the field of
21 criminal or juvenile justice [An officer, employee, or paid
22 consultant of a trade association in the field of criminal or
23 juvenile justice may not be a member or employee of the
24 commission].

25 (c) ~~[A person who is the spouse of an officer, employee,~~
26 ~~or paid consultant of a trade association in the field of~~
27 ~~criminal or juvenile justice may not be a commission member or a~~
28 ~~commission employee, including exempt employees, compensated at~~
29 ~~grade 17 or over according to the position classification~~
30 ~~schedule under the General Appropriations Act.~~

31 ~~[(d)]~~ A person may not serve as a member of the commission
32 or act as the general counsel to the commission if the person is
33 required to register as a lobbyist under Chapter 305, Government
34 Code, because of the person's activities for compensation in or
35 on behalf of a profession related to the operation of the
36 commission.

37 (d) ~~[(e)]~~ In this section, "Texas trade association" means
38 a ~~[nonprofit,]~~ cooperative and ~~[-]~~ voluntarily joined statewide
39 association of business or professional competitors in this
40 state designed to assist its members and its industry or
41 profession in dealing with mutual or professional problems and
42 in promoting their common interest.

43 SECTION 3.004. Section 141.0145, Human Resources Code, is
44 amended to read as follows:

45 Sec. 141.0145. TRAINING FOR COMMISSION MEMBERS. (a) A
46 ~~[To be eligible to take office as a member of the commission, a]~~
47 person who is appointed to and qualifies for office as a member

1 of the commission may not vote, deliberate, or be counted as a
2 member in attendance at a meeting of the commission until the
3 person completes [~~must complete at least one course of~~] a
4 training program that complies with this section.

5 (b) The training program must provide information to the
6 person regarding:

7 (1) the [~~enabling~~] legislation that created the
8 commission [~~and its policymaking body to which the person is~~
9 ~~appointed to serve~~];

10 (2) the programs operated by the commission;

11 (3) the roles [~~role~~] and functions of the commission;

12 (4) [~~the rules of the commission with an emphasis on~~
13 ~~the rules that relate to disciplinary and investigatory~~
14 ~~authority~~;

15 [~~5~~] the [~~current~~] budget of [~~for~~] the commission;

16 (5) [~~6~~] the results of the most recent formal audit
17 of the commission;

18 (6) [~~7~~] the requirements of law relating to open
19 meetings, public information, administrative procedure, and
20 conflicts of interest [~~the~~;

21 [~~(A) open meetings law, Chapter 551, Government~~
22 ~~Code~~;

23 [~~(B) open records law, Chapter 552, Government~~
24 ~~Code~~; and

25 [~~(C) administrative procedure law, Chapter 2001,~~
26 ~~Government Code~~]; and

27 (7) [~~8~~] the requirements of the conflict of
28 interests laws and other laws relating to public officials; and

29 [~~9~~] any applicable ethics policies adopted by the
30 commission or the Texas Ethics Commission.

31 (c) A person appointed to the commission is entitled to
32 reimbursement, as provided in the General Appropriations Act,
33 for travel expenses incurred in attending the training program,
34 regardless of whether the attendance at the program occurs
35 before or after the person qualifies for office [~~as provided by~~
36 ~~the General Appropriations Act and as if the person were a~~
37 ~~member of the commission~~].

38 SECTION 3.005. Sections 141.017(a) and (c), Human
39 Resources Code, are amended to read as follows:

40 (a) It is a ground for removal from the commission if a
41 member:

42 (1) does not have at the time of taking office
43 [~~appointment~~] the qualifications required by Section 141.011;

44 (2) does not maintain during service on the
45 commission the qualifications required by Section 141.011 [~~is~~
46 ~~not eligible for appointment to or service on the commission as~~
47 ~~provided by Section 141.014(a)~~];

1 (3) is ineligible for membership under Section
2 141.014 [~~violates a prohibition established by Section~~
3 141.014(b), (c), or (d)];

4 (4) cannot, because of illness or disability,
5 discharge the member's duties for a substantial part of the term
6 for which the member is appointed [~~because of illness or~~
7 ~~disability~~]; or

8 (5) is absent from more than half of the regularly
9 scheduled commission meetings that the member is eligible to
10 attend during a calendar year unless the absence is excused by
11 majority vote of the commission.

12 (c) If the director has knowledge that a potential ground
13 for removal exists, the director shall notify the presiding
14 officer [~~chairman~~] of the commission of the potential ground.
15 The presiding officer [~~chairman~~] shall then notify the governor
16 and the attorney general that a potential ground for removal
17 exists. If the potential ground for removal involves the
18 presiding officer [~~chairman~~], the director shall notify the next
19 highest officer of the commission, who shall notify the governor
20 and the attorney general that a potential ground for removal
21 exists.

22 SECTION 3.006. Section 141.022(b), Human Resources Code,
23 is amended to read as follows:

24 (b) The advisory council shall report any determinations
25 made under Subsection (c) to the members of the commission
26 appointed under Section 141.011 [~~the director~~].

27 SECTION 3.007. Subchapter B, Chapter 141, Human Resources
28 Code, is amended by adding Sections 141.027 through 141.029 to
29 read as follows:

30 Sec. 141.027. COMPLAINTS. (a) The commission shall
31 maintain a system to promptly and efficiently act on complaints
32 filed with the commission, other than complaints received under
33 Section 141.049. The commission shall maintain information
34 about parties to the complaint, the subject matter of the
35 complaint, a summary of the results of the review or
36 investigation of the complaint, and its disposition.

37 (b) The commission shall make information available
38 describing its procedures for complaint investigation and
39 resolution.

40 (c) The commission shall periodically notify the complaint
41 parties of the status of the complaint until final disposition.

42 Sec. 141.028. USE OF TECHNOLOGY. The commission shall
43 implement a policy requiring the commission to use appropriate
44 technological solutions to improve the commission's ability to
45 perform its functions. The policy must ensure that the public
46 is able to interact with the commission on the Internet.

47 Sec. 141.029. NEGOTIATED RULEMAKING; ALTERNATIVE DISPUTE

1 RESOLUTION. (a) The commission shall develop and implement a
2 policy to encourage the use of:

3 (1) negotiated rulemaking procedures under Chapter
4 2008, Government Code, for the adoption of commission rules; and

5 (2) appropriate alternative dispute resolution
6 procedures under Chapter 2009, Government Code, to assist in the
7 resolution of internal and external disputes under the
8 commission's jurisdiction.

9 (b) The commission's procedures relating to alternative
10 dispute resolution must conform, to the extent possible, to any
11 model guidelines issued by the State Office of Administrative
12 Hearings for the use of alternative dispute resolution by state
13 agencies.

14 (c) The commission shall designate a trained person to:

15 (1) coordinate the implementation of the policy
16 adopted under Subsection (a);

17 (2) serve as a resource for any training needed to
18 implement the procedures for negotiated rulemaking or
19 alternative dispute resolution; and

20 (3) collect data concerning the effectiveness of
21 those procedures, as implemented by the commission.

22 SECTION 3.008. Section 141.042, Human Resources Code, is
23 amended by amending Subsections (a), (e), and (h) and adding
24 Subsections (d), (f), (i), and (j) to read as follows:

25 (a) The commission shall adopt reasonable rules that
26 provide:

27 (1) minimum standards for personnel, staffing, case
28 loads, programs, facilities, record keeping, equipment, and
29 other aspects of the operation of a juvenile board that are
30 necessary to provide adequate and effective probation services;

31 (2) a code of ethics for probation and detention
32 officers and for the enforcement of that code;

33 (3) appropriate educational, preservice and in-
34 service training, and certification standards for probation and
35 detention officers or court-supervised community-based program
36 personnel;

37 (4) subject to Subsection (d), minimum standards for
38 public and private juvenile pre-adjudication secure detention
39 facilities, public juvenile post-adjudication secure
40 correctional facilities that are operated under the authority of
41 a juvenile board or governmental unit, [~~and~~] private juvenile
42 post-adjudication secure correctional facilities operated under
43 a contract with a governmental unit, except those facilities
44 exempt from certification by Section 42.052(g), and nonsecure
45 correctional facilities operated by or under contract with a
46 governmental unit; and

47 (5) minimum standards for juvenile justice

1 alternative education programs created under Section 37.011,
2 Education Code, in collaboration and conjunction with the Texas
3 Education Agency, or its designee.

4 (d) In adopting rules under Subsection (a)(4), the
5 commission shall ensure that the minimum standards for
6 facilities described by Subsection (a)(4) are designed to ensure
7 that juveniles confined in those facilities are provided the
8 rights, benefits, responsibilities, and privileges to which a
9 juvenile is entitled under the United States Constitution,
10 federal law, and the constitution and laws of this state. The
11 minimum standards must include a humane physical and
12 psychological environment, safe conditions of confinement,
13 protection from harm, adequate rehabilitation and education,
14 adequate medical and mental health treatment, and due process of
15 law.

16 (e) Juvenile probation departments shall use the mental
17 health screening instrument selected by the commission for the
18 initial screening of children under the jurisdiction of
19 probation departments who have been formally referred to the
20 department. The commission shall give priority to training in
21 the use of this instrument in any preservice or in-service
22 training that the commission provides for probation officers. A
23 clinical assessment by a licensed mental health professional may
24 be substituted for the mental health screening instrument
25 selected by the commission if the clinical assessment is
26 performed in the time prescribed by the commission[. Juvenile
27 ~~probation departments shall report data from the use of the~~
28 ~~screening instrument or the clinical assessment to the~~
29 ~~commission in a format and in the time prescribed by the~~
30 ~~commission].~~

31 (f) A juvenile probation department must, before the
32 disposition of a child's case and using a validated risk and
33 needs assessment instrument or process provided or approved by
34 the commission, complete a risk and needs assessment for each
35 child under the jurisdiction of the juvenile probation
36 department.

37 (h) A juvenile board that does not accept state aid
38 funding from the commission under Section 141.081 shall report
39 to the commission each month on a form provided by the
40 commission the same data as that required of counties accepting
41 state aid funding regarding juvenile justice activities under
42 the jurisdiction of the juvenile board. If the commission makes
43 available free software to the juvenile board for the automation
44 and tracking of juveniles under the jurisdiction of the juvenile
45 board, the commission may require the monthly report to be
46 provided in an electronic format adopted by [~~rule by~~] the
47 commission.

1 (i) A juvenile probation department shall report data from
2 the use of the screening instrument or clinical assessment under
3 Subsection (e) and the risk and needs assessment under
4 Subsection (f) to the commission in the format and at the time
5 prescribed by the commission.

6 (j) The commission shall adopt rules to ensure that youth
7 in the juvenile justice system are assessed using the screening
8 instrument or clinical assessment under Subsection (e) and the
9 risk and needs assessment under Subsection (f).

10 SECTION 3.009. Subchapter C, Chapter 141, Human Resources
11 Code, is amended by amending Section 141.0471 and adding Section
12 141.0472 to read as follows:

13 Sec. 141.0471. COORDINATED STRATEGIC PLANNING COMMITTEE
14 [~~PLAN FOR JUVENILE JUSTICE SYSTEM~~]. (a) The director
15 [~~commission~~] and the executive director of the Texas Youth
16 Commission shall jointly appoint a strategic planning committee
17 to biennially develop a coordinated strategic plan which shall
18 guide, but not substitute for, the strategic plans developed
19 individually by the agencies. The director and the executive
20 director of the Texas Youth Commission are co-presiding officers
21 of the strategic planning committee.

22 (b) The director shall appoint four members to the
23 strategic planning committee. The director shall appoint at
24 least:

25 (1) one committee member who represents the interests
26 of families of juvenile offenders;

27 (2) one committee member who represents the interests
28 of local juvenile probation departments; and

29 (3) one committee member who is a mental health
30 treatment professional licensed under Subtitle B or I, Title 3,
31 Occupations Code.

32 (c) The executive director of the Texas Youth Commission
33 shall appoint four members to the strategic planning committee.
34 The executive director shall appoint at least:

35 (1) one committee member who represents the interests
36 of juvenile offenders;

37 (2) one committee member who represents the interests
38 of the victims of delinquent or criminal conduct; and

39 (3) one committee member who is an educator as
40 defined by Section 5.001, Education Code.

41 Sec. 141.0472. COORDINATED STRATEGIC PLAN; ADOPTION OF
42 PLAN. (a) [~~(b)~~] The coordinated strategic plan developed by
43 the strategic planning committee under Section 141.0471 must
44 [shall]:

45 (1) identify short-term and long-term policy goals;

46 (2) identify time frames and strategies for meeting
47 the goals identified under Subdivision (1);

1 (3) estimate population projections, including
2 projections of population characteristics;
3 (4) estimate short-term and long-term capacity,
4 programmatic, and funding needs;
5 (5) describe intensive service and surveillance
6 parole pilot programs to be jointly developed;
7 (6) include an evaluation of aftercare services
8 emphasizing concrete outcome measures, including recidivism and
9 educational progress;
10 (7) identify objective criteria for the various
11 decision points throughout the continuum of juvenile justice
12 services and sanctions to guard against disparate treatment of
13 minority youth; ~~and~~
14 (8) identify cross-agency outcome measures by which
15 to evaluate the effectiveness of the system generally;
16 (9) include a plan of implementation for the
17 development of common data sources and data sharing among the
18 commission, juvenile probation departments, the Texas Youth
19 Commission, the Department of Family and Protective Services,
20 the Department of State Health Services, the Health and Human
21 Services Commission, the Texas Education Agency, and other state
22 agencies that serve youth in the juvenile justice system;
23 (10) include the development of new, or the
24 improvement of existing, validated risk assessment instruments;
25 (11) include strategies to determine which programs
26 are most effective in rehabilitating youth in the juvenile
27 justice system;
28 (12) include planning for effective aftercare
29 programs and services, including ensuring that youth in the
30 juvenile justice system have personal identification and
31 appropriate referrals to service providers; and
32 (13) track performance measures to illustrate the
33 costs of different levels of treatment and to identify the most
34 cost-effective programs in each component of the juvenile
35 justice system in this state.
36 (b) In addition to the information described by Subsection
37 (a), the coordinated strategic plan must include specific
38 processes and procedures for routinely communicating juvenile
39 justice system information between the commission and the Texas
40 Youth Commission and determining opportunities to coordinate
41 practices for improving outcomes for youth.
42 (c) The governing boards [~~board~~] of the commission [~~Texas~~
43 Juvenile Probation Commission] and the [~~executive commissioner~~
44 of the] Texas Youth Commission shall review and adopt the
45 coordinated strategic plan on or before December 1st of each
46 odd-numbered year, or before the adoption of the agency's
47 individual strategic plan, whichever is earlier.

1 SECTION 3.010. Section 141.049, Human Resources Code, is
2 amended to read as follows:

3 Sec. 141.049. COMPLAINTS RELATING TO JUVENILE BOARDS. (a)
4 The commission shall maintain a system to promptly and
5 efficiently act on a [~~keep an information file about each~~]
6 complaint filed with the commission relating to a juvenile board
7 funded by the commission. The commission shall maintain
8 information about parties to the complaint, a summary of the
9 results of the review or investigation of the complaint, and the
10 disposition of the complaint.

11 (b) The commission shall make information available
12 describing the commission's procedures for the investigation and
13 resolution of a complaint filed with the commission relating to
14 a juvenile board funded by the commission.

15 (c) The commission shall investigate the allegations in
16 the complaint and make a determination of whether there has been
17 a violation of the commission's rules relating to juvenile
18 probation programs, services, or facilities.

19 (d) [~~(b)~~] If a written complaint is filed with the
20 commission relating to a juvenile board funded by the
21 commission, the commission[, ~~at least quarterly and until final~~
22 ~~disposition of the complaint,~~] shall periodically notify the
23 complainant and the juvenile board of the status of the
24 complaint until final disposition, unless notice would
25 jeopardize an undercover investigation.

26 SECTION 3.011. Section 141.050, Human Resources Code, is
27 amended by adding Subsection (c) to read as follows:

28 (c) The commission shall consider the past performance of
29 a juvenile board when contracting with the juvenile board for
30 local probation services other than basic probation services.
31 In addition to the contract standards described by Subsection
32 (a), a contract with a juvenile board for probation services
33 other than basic probation services must:

34 (1) include specific performance targets for the
35 juvenile board based on the juvenile board's historic
36 performance of the services; and

37 (2) require a juvenile board to report on the
38 juvenile board's success in meeting the performance targets
39 described by Subdivision (1).

40 SECTION 3.012. Subchapter C, Chapter 141, Human Resources
41 Code, is amended by adding Sections 141.057, 141.058, and
42 141.059 to read as follows:

43 Sec. 141.057. DATA COLLECTION. (a) The commission shall
44 collect comprehensive data concerning the outcomes of local
45 probation programs throughout the state.

46 (b) Data collected under Subsection (a) must include:

47 (1) a description of the types of programs and

1 services offered by a juvenile probation department, including a
2 description of the components of each program or service
3 offered; and

4 (2) to the extent possible, the rate at which
5 juveniles who enter or complete juvenile probation are later
6 committed to the custody of the state.

7 Sec. 141.058. QUARTERLY REPORT ON ABUSE, NEGLECT, AND
8 EXPLOITATION. (a) On January 1, 2010, and quarterly after that
9 date, the commission shall prepare and deliver a report to the
10 board concerning the final outcome of any complaint received
11 under Section 261.405, Family Code, that concerns the abuse,
12 neglect, or exploitation of a juvenile. The report must include
13 a summary of the actions performed by the commission and any
14 applicable juvenile board or juvenile probation department in
15 resolving the complaint.

16 (b) A report prepared under Subsection (a) is public
17 information under Chapter 552, Government Code, only to the
18 extent authorized by that chapter.

19 Sec. 141.059. RESIDENTIAL TREATMENT FACILITY. (a) The
20 commission may contract with a local mental health and mental
21 retardation authority that, on April 1, 2009, had an unutilized
22 or underutilized residential treatment facility, for the
23 establishment of a residential treatment facility for juveniles
24 with mental illness or emotional injury who, as a condition of
25 juvenile probation, are ordered by a court to reside at the
26 facility and receive education services at the facility. The
27 commission may work in cooperation with the local mental health
28 and mental retardation authority to provide mental health
29 residential treatment services for juveniles residing at a
30 facility established under this section.

31 (b) A residential treatment facility established under
32 this section must provide juveniles receiving treatment at the
33 facility:

34 (1) a short-term program of mental health
35 stabilization that does not exceed 150 days in duration; and

36 (2) all educational opportunities and services,
37 including special education instruction and related services,
38 that a school district is required under state or federal law to
39 provide for students residing in the district through a charter
40 school operated in accordance with and subject to Subchapter D,
41 Chapter 12, Education Code.

42 (c) If a residential treatment facility established under
43 this section is unable to provide adequate and sufficient
44 educational opportunities and services to juveniles residing at
45 the facility, the facility may not continue to operate beyond
46 the end of the school year in which the opportunities or
47 services provided by the facility are determined to be

1 inadequate or insufficient.

2 (d) Notwithstanding any other law and in addition to the
3 number of charters allowed under Subchapter D, Chapter 12,
4 Education Code, the State Board of Education shall grant a
5 charter on the application of a residential treatment facility
6 established under this section for a school chartered for the
7 purposes of this section.

8 SECTION 3.013. The heading to Subchapter D, Chapter 141,
9 Human Resources Code, is amended to read as follows:

10 SUBCHAPTER D. PROVISIONS RELATING TO CERTAIN [~~JUVENILE~~
11 PROBATION] OFFICERS AND EMPLOYEES

12 SECTION 3.014. Section 141.061(a), Human Resources Code,
13 is amended to read as follows:

14 (a) To be eligible for appointment as a probation officer,
15 a person who was not employed as a probation officer before
16 September 1, 1981, must:

17 (1) be of good moral character;

18 (2) have acquired a bachelor's degree conferred by a
19 college or university accredited by an accrediting organization
20 recognized by the Texas Higher Education Coordinating Board;

21 (3) have either:

22 (A) one year of graduate study in criminology,
23 corrections, counseling, law, social work, psychology,
24 sociology, or other field of instruction approved by the
25 commission; or

26 (B) one year of experience in full-time case
27 work, counseling, or community or group work:

28 (i) in a social service, community,
29 corrections, or juvenile agency that deals with offenders or
30 disadvantaged persons; and

31 (ii) that the commission determines
32 provides the kind of experience necessary to meet this
33 requirement;

34 (4) have satisfactorily completed the course of
35 preservice training or instruction and any continuing education
36 required by the commission;

37 (5) have passed the tests or examinations required by
38 the commission; and

39 (6) possess the level of certification required by
40 the commission.

41 SECTION 3.015. Subchapter D, Chapter 141, Human Resources
42 Code, is amended by adding Section 141.0612 to read as follows:

43 Sec. 141.0612. MINIMUM STANDARDS FOR CERTAIN EMPLOYEES OF
44 NONSECURE CORRECTIONAL FACILITIES. (a) The commission by rule
45 shall adopt certification standards for persons who are employed
46 in nonsecure correctional facilities that accept only juveniles
47 who are on probation and that are operated by or under contract

1 with a governmental unit, as defined by Section 101.001, Civil
2 Practice and Remedies Code.

3 (b) The certification standards adopted under Subsection
4 (a) must be substantially similar to the certification
5 requirements for detention officers under Section 141.0611.

6 SECTION 3.016. Section 141.064, Human Resources Code, is
7 amended to read as follows:

8 Sec. 141.064. REVOCATION OR SUSPENSION OF CERTIFICATION.

9 (a) The commission may revoke or suspend a certification, or
10 reprimand a certified officer:

11 (1) ~~[7]~~ for a violation of this chapter or a
12 commission rule; or

13 (2) if, under Subsection (c), a panel determines that
14 continued certification of the person threatens juveniles in the
15 juvenile justice system.

16 (b) The commission may place on probation a person whose
17 certification is suspended. If the suspension is probated, the
18 commission may require the person to:

19 (1) report regularly to the commission on matters
20 that are the basis of the probation; and

21 (2) continue or review professional education until
22 the person attains a degree of skill satisfactory to the
23 commission in those areas that are the basis of the probation.

24 (c) The director may convene, in person or telephonically,
25 a panel of three commission members to determine if a person's
26 continued certification threatens juveniles in the juvenile
27 justice system. If the panel determines that the person's
28 continued certification threatens juveniles in the juvenile
29 justice system, the person's license is temporarily suspended
30 until an administrative hearing is held as soon as possible
31 under Subsection (d). The director may convene a panel under
32 this subsection only if the danger posed by the person's
33 continued certification is imminent. The panel may hold a
34 telephonic meeting only if immediate action is required and
35 convening the panel at one location is inconvenient for any
36 member of the panel.

37 (d) A person is entitled to a hearing before the State
38 Office of Administrative Hearings ~~[commission or a hearings~~
39 ~~officer appointed by the commission]~~ if the commission proposes
40 to suspend or revoke the person's certification.

41 (e) A person may appeal a ruling or order issued under
42 this section to a district court in the county in which the
43 person resides or in Travis County. The standard of review is
44 under the substantial evidence rule. ~~[The commission shall~~
45 ~~prescribe procedures by which each decision to suspend or revoke~~
46 ~~is made by or is appealable to the commission.]~~

47 SECTION 3.017. Section 141.081, Human Resources Code, is

1 amended by adding Subsection (d) to read as follows:

2 (d) The commission by rule shall, not later than September
3 1, 2010, establish one or more basic probation services funding
4 formulas and one or more community corrections funding formulas.
5 The funding formulas established under this subsection must
6 include each grant for which the commission, on or before
7 September 1, 2009, established an allocation formula.

8 ARTICLE 4. MISCELLANEOUS PROVISIONS

9 SECTION 4.001. Chapter 13, Code of Criminal Procedure, is
10 amended by adding Article 13.34 to read as follows:

11 Art. 13.34. CERTAIN OFFENSES COMMITTED AGAINST CHILD
12 COMMITTED TO TEXAS YOUTH COMMISSION. An offense described by
13 Article 104.003(a) committed by an employee or officer of the
14 Texas Youth Commission or a person providing services under a
15 contract with the commission against a child committed to the
16 commission may be prosecuted in:

17 (1) any county in which an element of the offense
18 occurred; or

19 (2) Travis County.

20 SECTION 4.002. Section 29.012, Education Code, is amended
21 by adding Subsection (e) to read as follows:

22 (e) This section does not apply to a residential treatment
23 facility for juveniles established under Section 141.059, Human
24 Resources Code.

25 SECTION 4.003. Subchapter E, Chapter 30, Education Code,
26 is amended by adding Section 30.106 to read as follows:

27 Sec. 30.106. READING AND BEHAVIOR PLAN. (a) Because
28 learning and behavior are inextricably linked and learning and
29 improved behavior correlate with decreased recidivism rates, the
30 Texas Youth Commission shall not only fulfill the commission's
31 duties under state and federal law to provide general and
32 special educational services to students in commission
33 educational programs but also shall implement a comprehensive
34 plan to improve the reading skills and behavior of those
35 students.

36 (b) To improve the reading skills of students in Texas
37 Youth Commission educational programs, the commission shall:

38 (1) adopt a reliable battery of reading assessments
39 that:

40 (A) are based on a normative sample appropriate
41 to students in commission educational programs;

42 (B) are designed to be administered on an
43 individual basis; and

44 (C) allow school employees to:

45 (i) evaluate performance in each essential
46 component of effective reading instruction, including phonemic
47 awareness, phonics, fluency, vocabulary, and comprehension;

1 (ii) monitor progress in areas of
2 deficiency specific to an individual student; and

3 (iii) provide reading performance data;
4 (2) administer the assessments adopted under
5 Subdivision (1):

6 (A) at periodic intervals not to exceed 12
7 months, to each student in a commission educational program; and

8 (B) at least 15 days and not more than 30 days
9 before a student is released from the commission;

10 (3) provide at least 60 minutes per school day of
11 individualized reading instruction to each student in a
12 commission educational program who exhibits deficits in reading
13 on the assessments adopted under Subdivision (1):

14 (A) by trained educators with expertise in
15 teaching reading to struggling adolescent readers; and

16 (B) through the use of scientifically based,
17 peer-reviewed reading curricula that:

18 (i) have proven effective in improving the
19 reading performance of struggling adolescent readers;

20 (ii) address individualized and
21 differentiated reading goals; and

22 (iii) include each of the essential
23 components of effective reading instruction, including phonemic
24 awareness, phonics, fluency, vocabulary, and comprehension;

25 (4) require each teacher in a commission regular or
26 special educational program who teaches English language arts,
27 reading, mathematics, science, social studies, or career and
28 technology education to be trained in incorporating content area
29 reading instruction using empirically validated instructional
30 methods that are appropriate for struggling adolescent readers;
31 and

32 (5) evaluate the effectiveness of the commission's
33 plan to increase reading skills according to the following
34 criteria:

35 (A) an adequate rate of improvement in reading
36 performance, as measured by monthly progress monitoring using
37 curricular-based assessments in each of the essential components
38 of effective reading instruction, including phonemic awareness,
39 phonics, fluency, vocabulary, and comprehension;

40 (B) a significant annual rate of improvement in
41 reading performance, disaggregated by subgroups designated under
42 commission rule, as measured using the battery of reading
43 assessments adopted under Subdivision (1); and

44 (C) student ratings of the quality and impact of
45 the reading plan under this subsection, as measured on a student
46 self-reporting instrument.

47 (c) To increase the positive social behaviors of students

1 in Texas Youth Commission educational programs and to create an
2 educational environment that facilitates learning, the
3 commission shall:
4 (1) adopt system-wide classroom and individual
5 positive behavior supports that incorporate a continuum of
6 prevention and intervention strategies that:
7 (A) are based on current behavioral research;
8 and
9 (B) are systematically and individually applied
10 to students consistent with the demonstrated level of need;
11 (2) require each teacher and other educational staff
12 member in a commission educational program to be trained in
13 implementing the positive behavior support system adopted under
14 Subdivision (1); and
15 (3) adopt valid assessment techniques to evaluate the
16 effectiveness of the positive behavior support system according
17 to the following criteria:
18 (A) documentation of school-related disciplinary
19 referrals, disaggregated by the type, location, and time of
20 infraction and by subgroups designated under commission rule;
21 (B) documentation of school-related disciplinary
22 actions, including time-out, placement in security, and use of
23 restraints and other aversive control measures, disaggregated by
24 subgroups designated under commission rule;
25 (C) validated measurement of systemic positive
26 behavioral support interventions; and
27 (D) the number of minutes students are out of
28 the regular classroom because of disciplinary reasons.
29 (d) The Texas Youth Commission shall consult with faculty
30 from institutions of higher education who have expertise in
31 reading instruction for adolescents, in juvenile corrections,
32 and in positive behavior supports to develop and implement the
33 plan under Subsections (b) and (c).
34 (e) A student in a Texas Youth Commission educational
35 program may not be released on parole from the commission unless
36 the student participates, to the extent required by commission
37 rule, in the positive behavior support system under Subsection
38 (c). A student in a commission educational program who exhibits
39 deficits in reading on the assessments adopted under Subsection
40 (b)(1) must also participate in reading instruction to the
41 extent required by this section and by commission rule before
42 the student may be released on parole.
43 (f) Not later than December 1, 2010, the Texas Youth
44 Commission shall report to the legislature concerning:
45 (1) the effectiveness of the commission's reading
46 plan based on the criteria specified by Subsection (b)(5); and
47 (2) the implementation of the positive behavior

1 support system plan under Subsection (c).

2 (g) Not later than December 1, 2012, the Texas Youth
3 Commission shall report to the legislature concerning the
4 effectiveness of the positive behavior support system based on
5 the criteria specified by Subsection (c)(3).

6 (h) Subsections (f) and (g) and this subsection expire
7 January 1, 2013.

8 SECTION 4.004. Section 51.02, Family Code, is amended by
9 adding Subdivision (8-a) to read as follows:

10 (8-a) "Nonsecure correctional facility" means a
11 facility, other than a secure correctional facility, that
12 accepts only juveniles who are on probation and that is operated
13 by or under contract with a governmental unit, as defined by
14 Section 101.001, Civil Practice and Remedies Code.

15 SECTION 4.005. Chapter 51, Family Code, is amended by
16 adding Section 51.126 to read as follows:

17 Sec. 51.126. NONSECURE CORRECTIONAL FACILITIES. (a) A
18 nonsecure correctional facility for juvenile offenders may be
19 operated only by:

20 (1) a governmental unit, as defined by Section
21 101.001, Civil Practice and Remedies Code; or

22 (2) a private entity under a contract with a
23 governmental unit in this state.

24 (b) In each county, each judge of the juvenile court and a
25 majority of the members of the juvenile board shall personally
26 inspect, at least annually, all nonsecure correctional
27 facilities that are located in the county and shall certify in
28 writing to the authorities responsible for operating and giving
29 financial support to the facilities and to the Texas Juvenile
30 Probation Commission that the facility or facilities are
31 suitable or unsuitable for the confinement of children. In
32 determining whether a facility is suitable or unsuitable for the
33 confinement of children, the juvenile court judges and juvenile
34 board members shall consider:

35 (1) current monitoring and inspection reports and any
36 noncompliance citation reports issued by the Texas Juvenile
37 Probation Commission, including the report provided under
38 Subsection (c), and the status of any required corrective
39 actions; and

40 (2) the other factors described under Sections
41 51.12(c)(2)-(7).

42 (c) The Texas Juvenile Probation Commission shall annually
43 inspect each nonsecure correctional facility. The Texas
44 Juvenile Probation Commission shall provide a report to each
45 juvenile court judge presiding in the same county as an
46 inspected facility indicating whether the facility is suitable
47 or unsuitable for the confinement of children in accordance with

1 minimum professional standards for the confinement of children
2 in nonsecure confinement promulgated by the Texas Juvenile
3 Probation Commission or, at the election of the juvenile board
4 of the county in which the facility is located, the current
5 standards promulgated by the American Correctional Association.

6 (d) A governmental unit or private entity that operates or
7 contracts for the operation of a juvenile nonsecure correctional
8 facility in this state under Subsection (a), except for a
9 facility operated by or under contract with the Texas Youth
10 Commission, shall:

11 (1) register the facility annually with the Texas
12 Juvenile Probation Commission; and

13 (2) adhere to all applicable minimum standards for
14 the facility.

15 (e) The Texas Juvenile Probation Commission may deny,
16 suspend, or revoke the registration of any facility required to
17 register under Subsection (d) if the facility fails to:

18 (1) adhere to all applicable minimum standards for
19 the facility; or

20 (2) timely correct any notice of noncompliance with
21 minimum standards.

22 SECTION 4.006. Chapter 614, Health and Safety Code, is
23 amended by adding Section 614.018 to read as follows:

24 Sec. 614.018. CONTINUITY OF CARE FOR JUVENILES WITH MENTAL
25 IMPAIRMENTS. (a) The Texas Juvenile Probation Commission, the
26 Texas Youth Commission, the Department of Public Safety, the
27 Department of State Health Services, the Department of Aging and
28 Disability Services, the Department of Family and Protective
29 Services, the Texas Education Agency, and local juvenile
30 probation departments shall adopt a memorandum of understanding
31 that establishes their respective responsibilities to institute
32 a continuity of care and service program for juveniles with
33 mental impairments in the juvenile justice system. The Texas
34 Correctional Office on Offenders with Medical and Mental
35 Impairments shall coordinate and monitor the development and
36 implementation of the memorandum of understanding.

37 (b) The memorandum of understanding must establish methods
38 for:

39 (1) identifying juveniles with mental impairments in
40 the juvenile justice system and collecting and reporting
41 relevant data to the office;

42 (2) developing interagency rules, policies, and
43 procedures for the coordination of care of and the exchange of
44 information on juveniles with mental impairments who are
45 committed to or treated, served, or supervised by the Texas
46 Youth Commission, the Texas Juvenile Probation Commission, the
47 Department of Public Safety, the Department of State Health

1 Services, the Department of Family and Protective Services, the
2 Department of Aging and Disability Services, the Texas Education
3 Agency, local juvenile probation departments, local mental
4 health or mental retardation authorities, and independent school
5 districts; and

6 (3) identifying the services needed by juveniles with
7 mental impairments in the juvenile justice system.

8 (c) For purposes of this section, "continuity of care and
9 service program" includes:

10 (1) identifying the medical, psychiatric, or
11 psychological care or treatment needs and educational or
12 rehabilitative service needs of a juvenile with mental
13 impairments in the juvenile justice system;

14 (2) developing a plan for meeting the needs
15 identified under Subdivision (1); and

16 (3) coordinating the provision of continual
17 treatment, care, and services throughout the juvenile justice
18 system to juveniles with mental impairments.

19 SECTION 4.007. Sections 614.017(a) and (b), Health and
20 Safety Code, are amended to read as follows:

21 (a) An agency shall:

22 (1) accept information relating to a special needs
23 offender or a juvenile with a mental impairment that is sent to
24 the agency to serve the purposes of continuity of care and
25 services regardless of whether other state law makes that
26 information confidential; and

27 (2) disclose information relating to a special needs
28 offender or a juvenile with a mental impairment, including
29 information about the offender's or juvenile's identity, needs,
30 treatment, social, criminal, and vocational history, supervision
31 status and compliance with conditions of supervision, and
32 medical and mental health history, if the disclosure serves the
33 purposes of continuity of care and services.

34 (b) Information obtained under this section may not be
35 used as evidence in any juvenile or criminal proceeding, unless
36 obtained and introduced by other lawful evidentiary means.

37 SECTION 4.008. Section 614.017(c), Health and Safety Code,
38 is amended by amending Subdivision (1) and adding Subdivision
39 (3) to read as follows:

40 (1) "Agency" includes any of the following entities
41 and individuals, a person with an agency relationship with one
42 of the following entities or individuals, and a person who
43 contracts with one or more of the following entities or
44 individuals:

45 (A) the Texas Department of Criminal Justice and
46 the Correctional Managed Health Care Committee;

47 (B) the Board of Pardons and Paroles;

1 (C) the Department of State Health Services;
 2 (D) the Texas Juvenile Probation Commission;
 3 (E) the Texas Youth Commission;
 4 (F) the Department of Assistive and
 5 Rehabilitative Services;
 6 (G) the Texas Education Agency;
 7 (H) the Commission on Jail Standards;
 8 (I) the Department of Aging and Disability
 9 Services;
 10 (J) the Texas School for the Blind and Visually
 11 Impaired;
 12 (K) community supervision and corrections
 13 departments and local juvenile probation departments;
 14 (L) personal bond pretrial release offices
 15 established under Article 17.42, Code of Criminal Procedure;
 16 (M) local jails regulated by the Commission on
 17 Jail Standards;
 18 (N) a municipal or county health department;
 19 (O) a hospital district;
 20 (P) a judge of this state with jurisdiction over
 21 juvenile or criminal cases;
 22 (Q) an attorney who is appointed or retained to
 23 represent a special needs offender or a juvenile with a mental
 24 impairment;
 25 (R) the Health and Human Services Commission;
 26 (S) the Department of Information Resources;
 27 [~~and~~]
 28 (T) the bureau of identification and records of
 29 the Department of Public Safety, for the sole purpose of
 30 providing real-time, contemporaneous identification of
 31 individuals in the Department of State Health Services client
 32 data base; and
 33 (U) the Department of Family and Protective
 34 Services.
 35 (3) "Juvenile with a mental impairment" means a
 36 juvenile with a mental impairment in the juvenile justice
 37 system.

38 SECTION 4.009. Section 614.009, Health and Safety Code, is
 39 amended to read as follows:

40 Sec. 614.009. BIENNIAL REPORT. Not later than February 1
 41 of each odd-numbered year, the office shall present to the board
 42 and file with the governor, lieutenant governor, and speaker of
 43 the house of representatives a report giving the details of the
 44 office's activities during the preceding biennium. The report
 45 must include:

46 (1) an evaluation of any demonstration project
 47 undertaken by the office;

1 (2) an evaluation of the progress made by the office
2 toward developing a plan for meeting the treatment,
3 rehabilitative, and educational needs of offenders with special
4 needs;

5 (3) recommendations of the office made in accordance
6 with Section 614.007(5);

7 (4) an evaluation of the development and
8 implementation of the continuity of care and service programs
9 established under Sections 614.013, 614.014, 614.015, [and]
10 614.016, and 614.018, changes in rules, policies, or procedures
11 relating to the programs, future plans for the programs, and any
12 recommendations for legislation; and

13 (5) any other recommendations that the office
14 considers appropriate.

15 ARTICLE 5. TRANSITION AND EFFECTIVE DATE

16 SECTION 5.001. Sections 61.025 and 61.027, Human Resources
17 Code, as added by this Act, and Sections 141.014 and 141.0145,
18 Human Resources Code, as amended by this Act, apply only to a
19 person who is appointed or reappointed as a member of the
20 governing board of the Texas Youth Commission or the Texas
21 Juvenile Probation Commission on or after the effective date of
22 this Act. A person appointed or reappointed as a member of the
23 board or commission before the effective date of this Act is
24 governed by the law in effect immediately before that date, and
25 the former law is continued in effect for that purpose.

26 SECTION 5.002. Section 61.026, Human Resources Code, as
27 added by this Act, and Section 141.017, Human Resources Code, as
28 amended by this Act, apply only to a ground for removal that
29 occurs on or after the effective date of this Act. A ground for
30 removal that occurs before the effective date of this Act is
31 governed by the law in effect immediately before that date, and
32 the former law is continued in effect for that purpose.

33 SECTION 5.003. (a) Section 141.011(a), Human Resources
34 Code, as amended by this Act, applies only to a person appointed
35 to the Texas Juvenile Probation Commission on or after the
36 effective date of this Act. A person appointed to the Texas
37 Juvenile Probation Commission before the effective date of this
38 Act is governed by the law in effect on the date the person was
39 appointed, and that law is continued in effect for that purpose.

40 (b) A person serving on the Texas Juvenile Probation
41 Commission on the effective date of this Act continues to serve
42 on the commission until the person's term expires. When a term
43 expires or a vacancy on the commission occurs, the governor
44 shall make appointments in accordance with Section 141.011(a),
45 Human Resources Code, as amended by this Act.

46 SECTION 5.004. Section 141.059, Human Resources Code, as
47 added by this Act, and Section 29.012, Education Code, as

1 amended by this Act, apply beginning with the 2009-2010 school
2 year.

3 SECTION 5.005. Article 13.34, Code of Criminal Procedure,
4 as added by this Act, applies only to an offense committed on or
5 after the effective date of this Act. An offense committed
6 before the effective date of this Act is covered by the law in
7 effect when the offense was committed, and the former law is
8 continued in effect for that purpose. For purposes of this
9 section, an offense was committed before the effective date of
10 this Act if any element of the offense occurred before that
11 date.

12 SECTION 5.006. (a) Not later than November 1, 2009, the
13 Texas Youth Commission shall adopt the battery of reading
14 assessments as required by Section 30.106(b), Education Code, as
15 added by this Act.

16 (b) Not later than January 1, 2010, the Texas Youth
17 Commission shall begin administering the battery of reading
18 assessments as required by Section 30.106(b), Education Code, as
19 added by this Act.

20 SECTION 5.007. Section 30.106(e), Education Code, as added
21 by this Act, applies to release on parole from the Texas Youth
22 Commission beginning September 1, 2010.

23 SECTION 5.008. This Act takes effect immediately if it
24 receives a vote of two-thirds of all the members elected to each
25 house, as provided by Section 39, Article III, Texas
26 Constitution. If this Act does not receive the vote necessary
27 for immediate effect, this Act takes effect September 1, 2009.

28
29 H.B. No. 3737
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34 AN ACT

35 relating to criminal history checks for employees of, and
36 applicants for employment at, special care facilities.

37 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

38 SECTION 1. The heading to Chapter 250, Health and Safety
39 Code, is amended to read as follows:

40 CHAPTER 250. NURSE AIDE REGISTRY AND CRIMINAL HISTORY CHECKS OF
41 EMPLOYEES AND APPLICANTS FOR EMPLOYMENT IN CERTAIN FACILITIES
42 SERVING THE ELDERLY, [OR] PERSONS WITH DISABILITIES, OR PERSONS
43 WITH TERMINAL ILLNESSES

44 SECTION 2. Section 250.001(3), Health and Safety Code, is
45 amended to read as follows:

46 (3) "Facility" means:

47 (A) a nursing home, custodial care home, or

1 other institution licensed by the [~~Texas~~] Department of Aging
2 and Disability [~~Human~~] Services under Chapter 242;

3 (B) an assisted living facility licensed by the
4 [~~Texas~~] Department of Aging and Disability [~~Human~~] Services
5 under Chapter 247;

6 (C) a home and community support services agency
7 licensed under Chapter 142;

8 (D) an adult day care facility licensed by the
9 [~~Texas~~] Department of Aging and Disability [~~Human~~] Services
10 under Chapter 103, Human Resources Code;

11 (E) a facility for persons with mental
12 retardation licensed under Chapter 252;

13 (F) an adult foster care provider that contracts
14 with the [~~Texas~~] Department of Aging and Disability [~~Human~~]
15 Services;

16 (G) a facility that provides mental health
17 services and that is operated by or contracts with the [~~Texas~~]
18 Department of State [~~Mental~~] Health Services [~~and Mental~~
19 ~~Retardation~~];

20 (H) a local mental health or mental retardation
21 authority designated under Section 533.035; [~~or~~]

22 (I) a person exempt from licensing under Section
23 142.003(a)(19); or

24 (J) a special care facility licensed by the
25 Department of State Health Services under Chapter 248.

26 SECTION 3. This Act takes effect September 1, 2009.

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28 H.B. No. 3751
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33 AN ACT

34 relating to the conditions of bond for a defendant charged with
35 committing certain offenses against a child and to the denial of
36 bail pending trial with respect to certain defendants who
37 violate those conditions.

38 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

39 SECTION 1. Articles 17.41(a) and (b), Code of Criminal
40 Procedure, are amended to read as follows:

41 (a) This article applies to a defendant charged with an
42 offense under any of the following provisions of the Penal Code,
43 if committed against a child younger than 14 [~~12~~] years of age
44 [~~or younger~~]:

45 (1) Chapter 21 (Sexual Offenses) or 22 (Assaultive
46 Offenses);

47 (2) Section 25.02 (Prohibited Sexual Conduct); or

1 (3) Section 43.25 (Sexual Performance by a Child).

2 (b) Subject to Subsections (c) and (d), a [A] magistrate
3 shall [may] require as a condition of bond for a defendant
4 charged with an offense described by Subsection (a) [~~of this~~
5 article] that the defendant not:

6 (1) directly communicate with the alleged victim of
7 the offense; or

8 (2) go near a residence, school, or other location,
9 as specifically described in the bond, frequented by the alleged
10 victim.

11 SECTION 2. Chapter 17, Code of Criminal Procedure, is
12 amended by adding Article 17.153 to read as follows:

13 Art. 17.153. DENIAL OF BAIL FOR VIOLATION OF CONDITION OF
14 BOND WHERE CHILD ALLEGED VICTIM. (a) This article applies to a
15 defendant charged with a felony offense under any of the
16 following provisions of the Penal Code, if committed against a
17 child younger than 14 years of age:

18 (1) Chapter 21 (Sexual Offenses);

19 (2) Section 25.02 (Prohibited Sexual Conduct); or

20 (3) Section 43.25 (Sexual Performance by a Child).

21 (b) A defendant described by Subsection (a) who violates a
22 condition of bond set under Article 17.41 and whose bail in the
23 case is revoked for the violation may be taken into custody and
24 denied release on bail pending trial if, following a hearing, a
25 judge or magistrate determines by a preponderance of the
26 evidence that the defendant violated a condition of bond related
27 to the safety of the victim of the offense or the safety of the
28 community. If the magistrate finds that the violation occurred,
29 the magistrate may revoke the defendant's bond and order that
30 the defendant be immediately returned to custody. Once the
31 defendant is placed in custody, the revocation of the
32 defendant's bond discharges the sureties on the bond, if any,
33 from any future liability on the bond. A discharge under this
34 subsection from any future liability on the bond does not
35 discharge any surety from liability for previous forfeitures on
36 the bond.

37 SECTION 3. The change in law made by this Act applies only
38 to an offense committed on or after the effective date of this
39 Act. An offense committed before the effective date of this Act
40 is covered by the law in effect when the offense was committed,
41 and the former law is continued in effect for that purpose. For
42 purposes of this section, an offense was committed before the
43 effective date of this Act if any element of the offense
44 occurred before that date.

45 SECTION 4. This Act takes effect September 1, 2009.

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47 H.B. No. 3851

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AN ACT

relating to the authority of the governor or a political subdivision to suspend statutory or local deadlines during a disaster.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 418.016, Government Code, is amended to read as follows:

Sec. 418.016. SUSPENSION OF CERTAIN [PROCEDURAL] LAWS AND RULES. (a) The governor may suspend the provisions of any regulatory statute prescribing the procedures for conduct of state business or the orders or rules of a state agency if strict compliance with the provisions, orders, or rules would in any way prevent, hinder, or delay necessary action in coping with a disaster.

(b) On request of a political subdivision, the governor may waive or suspend a deadline imposed by a statute or the orders or rules of a state agency on the political subdivision, including a deadline relating to a budget or ad valorem tax, if the waiver or suspension is reasonably necessary to cope with a disaster.

SECTION 2. Subchapter E, Chapter 418, Government Code, is amended by adding Section 418.1075 to read as follows:

Sec. 418.1075. SUSPENSION OF DEADLINES IMPOSED BY LOCAL LAW. (a) Notwithstanding any other law, a deadline imposed by local law on a political subdivision, including a deadline relating to a budget or ad valorem tax, is suspended if:

(1) the territory of the political subdivision is wholly or partly located in the area of a disaster declared by the president of the United States or the governor; and

(2) the presiding officer of the political subdivision or, if there is no presiding officer, the political subdivision's governing body, proclaims the political subdivision is unable to comply with the requirement because of the disaster.

(b) The presiding officer of the political subdivision or, if there is no presiding officer, the political subdivision's governing body, may issue an order ending the suspension of a deadline under this section. A deadline may not be suspended for more than 30 days after the date the presiding officer or governing body, as appropriate, makes the proclamation described by Subsection (a)(2).

SECTION 3. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each

1 house, as provided by Section 39, Article III, Texas
2 Constitution. If this Act does not receive the vote necessary
3 for immediate effect, this Act takes effect September 1, 2009.

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5 H.B. No. 4009
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10 AN ACT

11 relating to the provision of services to certain persons
12 involved in, and the prosecution, punishment, and prevention of,
13 offenses involving trafficking of persons or certain forced or
14 sex-based labor or services, and to law enforcement training
15 related to offenses involving that trafficking.

16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

17 SECTION 1. Subchapter B, Chapter 402, Government Code, is
18 amended by adding Section 402.035 to read as follows:

19 Sec. 402.035. HUMAN TRAFFICKING PREVENTION TASK FORCE.

20 (a) In this section, "task force" means the human trafficking
21 prevention task force.

22 (b) The office of the attorney general shall establish the
23 human trafficking prevention task force to develop policies and
24 procedures to assist in the prevention and prosecution of human
25 trafficking crimes.

26 (c) The task force is composed of the following:

27 (1) the governor or the governor's designee;

28 (2) the attorney general or the attorney general's
29 designee;

30 (3) the executive commissioner of the Health and
31 Human Services Commission or the executive commissioner's
32 designee;

33 (4) the commissioner of the Department of Family and
34 Protective Services or the commissioner's designee;

35 (5) the public safety director of the Department of
36 Public Safety or the director's designee;

37 (6) one representative from each of the following
38 state agencies, appointed by the chief administrative officer of
39 the respective agency:

40 (A) the Texas Workforce Commission;

41 (B) the Texas Department of Criminal Justice;

42 (C) the Texas Youth Commission;

43 (D) the Texas Juvenile Probation Commission; and

44 (E) the Texas Alcoholic Beverage Commission; and

45 (7) as appointed by the attorney general:

46 (A) a public defender, as defined by Article
47 26.044, Code of Criminal Procedure;

1 (B) an attorney representing the state;
2 (C) a representative of:
3 (i) a hotel and motel association;
4 (ii) a district and county attorneys
5 association; and
6 (iii) a state police association;
7 (D) representatives of sheriff's departments;
8 (E) representatives of local law enforcement
9 agencies affected by human trafficking; and
10 (F) representatives of nongovernmental entities
11 making comprehensive efforts to combat human trafficking by:
12 (i) identifying human trafficking victims;
13 (ii) providing legal or other services to
14 human trafficking victims;
15 (iii) participating in community outreach
16 or public awareness efforts regarding human trafficking;
17 (iv) providing or developing training
18 regarding the prevention of human trafficking; or
19 (v) engaging in other activities designed
20 to prevent human trafficking.
21 (d) The task force shall:
22 (1) collaborate, as needed to fulfill the duties of
23 the task force, with:
24 (A) United States attorneys for the districts of
25 Texas; and
26 (B) special agents or customs and border
27 protection officers and border patrol agents of:
28 (i) the Federal Bureau of Investigation;
29 (ii) the United States Drug Enforcement
30 Administration;
31 (iii) the Bureau of Alcohol, Tobacco,
32 Firearms and Explosives;
33 (iv) the United States Immigration and
34 Customs Enforcement Agency; or
35 (v) the United States Department of
36 Homeland Security;
37 (2) collect, organize, and periodically publish
38 statistical data on the nature and extent of human trafficking
39 in this state;
40 (3) solicit cooperation and assistance from state and
41 local governmental agencies, political subdivisions of the
42 state, nongovernmental organizations, and other persons, as
43 appropriate, for the purpose of collecting and organizing
44 statistical data under Subdivision (2);
45 (4) ensure that each state or local governmental
46 agency and political subdivision of the state that assists in
47 the prevention of human trafficking collects statistical data

1 related to human trafficking, including, as appropriate:
2 (A) the number of investigations concerning,
3 arrests and prosecutions for, and convictions of:
4 (i) the offense of trafficking of persons;
5 and
6 (ii) the offense of forgery or an offense
7 under Chapter 43, Penal Code, if committed as part of a criminal
8 episode involving the trafficking of persons;
9 (B) demographic information on persons who are
10 convicted of offenses described by Paragraph (A) and persons who
11 are the victims of those offenses;
12 (C) geographic routes by which human trafficking
13 victims are trafficked and geographic patterns in human
14 trafficking, including the country or state of origin and the
15 country or state of destination;
16 (D) means of transportation and methods used by
17 persons who engage in trafficking to transport their victims;
18 and
19 (E) social and economic factors that create a
20 demand for the labor or services that victims of human
21 trafficking are forced to provide;
22 (5) work with the Commission on Law Enforcement
23 Officer Standards and Education to develop and conduct training
24 for law enforcement personnel, victim service providers, and
25 medical service providers to identify victims of human
26 trafficking;
27 (6) on the request of a judge of a county court,
28 county court at law, or district court or a county attorney,
29 district attorney, or criminal district attorney, assist and
30 train the judge or the judge's staff or the attorney or the
31 attorney's staff in the recognition and prevention of human
32 trafficking;
33 (7) examine training protocols related to human
34 trafficking issues, as developed and implemented by federal,
35 state, and local law enforcement agencies;
36 (8) collaborate with state and local governmental
37 agencies, political subdivisions of the state, and
38 nongovernmental organizations to implement a media awareness
39 campaign in communities affected by human trafficking; and
40 (9) develop recommendations on how to strengthen
41 state and local efforts to prevent human trafficking, protect
42 and assist human trafficking victims, and prosecute human
43 trafficking offenders.
44 (e) The presiding officer of the task force is the
45 attorney general or the attorney general's designee.
46 (f) The office of the attorney general shall supervise the
47 administration of the task force. The attorney general shall

1 provide the necessary staff and facilities to assist the task
2 force in performing its duties.

3 (g) Not later than December 1 of each even-numbered year,
4 the task force shall submit a report regarding the task force's
5 activities, findings, and recommendations, including any
6 proposed legislation, to the governor, the lieutenant governor,
7 and the legislature.

8 (h) This section expires September 1, 2013.

9 SECTION 2. Chapter 531, Government Code, is amended by
10 adding Subchapter J-1 to read as follows:

11 SUBCHAPTER J-1. ASSISTANCE PROGRAM FOR DOMESTIC VICTIMS OF
12 TRAFFICKING

13 Sec. 531.381. DEFINITIONS. In this subchapter:

14 (1) "Domestic victim" means a victim of trafficking
15 who is a permanent legal resident or citizen of the United
16 States.

17 (2) "Victim of trafficking" has the meaning assigned
18 by 22 U.S.C. Section 7102.

19 Sec. 531.382. VICTIM ASSISTANCE PROGRAM ESTABLISHED. The
20 commission shall develop and implement a program designed to
21 assist domestic victims, including victims who are children, in
22 accessing necessary services. The program must consist of at
23 least the following components:

24 (1) a searchable database of assistance programs for
25 domestic victims, including programs that provide mental health
26 services, other health services, services to meet victims' basic
27 needs, case management services, and any other services the
28 commission considers appropriate, that may be used to match
29 victims with appropriate resources;

30 (2) the grant program described by Section 531.383;

31 (3) recommended training programs for judges,
32 prosecutors, and law enforcement personnel; and

33 (4) an outreach initiative to ensure that victims,
34 judges, prosecutors, and law enforcement personnel are aware of
35 the availability of services through the program.

36 Sec. 531.383. GRANT PROGRAM. (a) Subject to available
37 funds, the commission shall establish a grant program to award
38 grants to public and nonprofit organizations that provide
39 assistance to domestic victims, including organizations that
40 provide public awareness activities, community outreach and
41 training, victim identification services, and legal services.

42 (b) To apply for a grant under this section, an applicant
43 must submit an application in the form and manner prescribed by
44 the commission. An applicant must describe in the application
45 the services the applicant intends to provide to domestic
46 victims if the grant is awarded.

47 (c) In awarding grants under this section, the commission

1 shall give preference to organizations that have experience in
2 successfully providing the types of services for which the
3 grants are awarded.

4 (d) A grant recipient shall provide reports as required by
5 the commission regarding the use of grant funds.

6 (e) Not later than December 1 of each even-numbered year,
7 the commission shall submit a report to the legislature
8 summarizing the activities, funding, and outcomes of programs
9 awarded a grant under this section and providing recommendations
10 regarding the grant program.

11 Sec. 531.384. TRAINING PROGRAMS. The commission, with
12 assistance from the Office of Court Administration of the Texas
13 Judicial System, the Department of Public Safety, and local law
14 enforcement agencies, shall create training programs designed to
15 increase the awareness of judges, prosecutors, and law
16 enforcement personnel of the needs of domestic victims, the
17 availability of services under this subchapter, the database of
18 services described by Section 531.382, and potential funding
19 sources for those services.

20 Sec. 531.385. FUNDING. (a) The commission may use
21 appropriated funds and may accept gifts, grants, and donations
22 from any sources for purposes of the victim assistance program
23 established under this subchapter.

24 (b) The commission shall conduct a study regarding
25 additional funding strategies for the victim assistance program.
26 In conducting the study, the commission, in cooperation with
27 appropriate governmental entities, shall identify appropriate
28 revenue streams, which may include revenue derived from:

29 (1) revenue streams similar to those used to fund
30 crime victims' compensation under Subchapter B, Chapter 56, Code
31 of Criminal Procedure;

32 (2) imposing additional court costs on defendants on
33 conviction of certain offenses;

34 (3) imposing additional fees on the filing of civil
35 cases;

36 (4) acquiring from law enforcement agencies the
37 proceeds from assets seized or forfeited under state or federal
38 law; and

39 (5) any other source identified by the commission.

40 (c) The commission shall submit a report regarding the
41 results of the study conducted under Subsection (b) to the 82nd
42 Legislature not later than December 1, 2010. The report must
43 include the commission's findings regarding appropriate revenue
44 streams for the victim assistance program, proposed legislation
45 necessary to receive the revenue for that purpose, and proposed
46 legislation regarding the establishment of a dedicated account
47 to which the revenue may be credited.

1 (d) This subsection and Subsections (b) and (c) expire
2 January 1, 2011.

3 SECTION 3. Section 772.006, Government Code, is amended by
4 adding Subsections (d), (e), and (f) to read as follows:

5 (d) The trafficking of persons investigation and
6 prosecution account is created in the general revenue fund. The
7 account is composed of legislative appropriations and other
8 money required by law to be deposited in the account. Income
9 from money in the account shall be credited to the account.
10 Sections 403.095 and 404.071 do not apply to the account.

11 (e) The legislature may appropriate money from the
12 trafficking of persons investigation and prosecution account
13 created under Subsection (d) only to the criminal justice
14 division for the purposes of this subsection. The division may
15 use the appropriated money solely to distribute grants to:

16 (1) counties that apply for the grants and that have
17 dedicated full-time or part-time personnel to identify, prevent,
18 investigate, or prosecute offenses under Chapter 20A, Penal
19 Code; and

20 (2) nongovernmental organizations that apply for the
21 grants and that provide comprehensive services in this state to
22 prevent the commission of offenses under Chapter 20A, Penal
23 Code, or to address the needs of victims of those offenses,
24 including public awareness activities, community outreach and
25 training, victim identification services, legal services, and
26 other services designed to assist victims.

27 (f) The total amount of grants that may be distributed to
28 counties and nongovernmental organizations from the trafficking
29 of persons investigation and prosecution account during each
30 state fiscal year may not exceed \$10 million.

31 SECTION 4. Subchapter C, Chapter 141, Human Resources
32 Code, is amended by adding Section 141.056 to read as follows:

33 Sec. 141.056. STUDY OF ALTERNATIVES TO JUVENILE JUSTICE
34 SYSTEM FOR CHILDREN WHO ENGAGE IN ACTS OF PROSTITUTION.

35 (a) The director shall establish a committee to evaluate
36 alternatives to the juvenile justice system, such as government
37 programs, faith-based programs, and programs offered by
38 nonprofit organizations, for children who are accused of
39 engaging in acts of prostitution.

40 (b) The director shall determine the size of the
41 committee. The committee must be composed of:

42 (1) members of the Texas Juvenile Probation
43 Commission, the Texas Youth Commission, and other relevant state
44 agencies as determined by the director;

45 (2) members of the legislature;

46 (3) members of nongovernmental organizations that
47 provide programs and services to combat and prevent trafficking

1 of persons as described by Section 20A.02, Penal Code, in this
2 state, including the following with respect to that trafficking:

3 (A) programs to promote public awareness;
4 (B) programs to identify and provide services to
5 victims;

6 (C) legal services; and
7 (D) community outreach and training programs;

8 and

9 (4) other juvenile justice experts.

10 (c) Not later than January 1, 2011, the committee shall
11 prepare and deliver to each member of the legislature a report
12 that includes the results of the study and recommendations for
13 alternatives to the juvenile justice system for children who are
14 accused of engaging in acts of prostitution.

15 (d) This section expires June 1, 2011.

16 SECTION 5. Subchapter F, Chapter 1701, Occupations Code,
17 is amended by adding Section 1701.258 to read as follows:

18 Sec. 1701.258. EDUCATION AND TRAINING PROGRAMS ON
19 TRAFFICKING OF PERSONS. (a) The commission by rule shall
20 require an officer first licensed by the commission on or after
21 January 1, 2011, to complete within a reasonable time after
22 obtaining the license a one-time basic education and training
23 program on the trafficking of persons. The program must:

24 (1) consist of at least four hours of training; and

25 (2) include a review of the substance of Sections
26 20A.02 and 43.05, Penal Code.

27 (b) The commission shall make available to each officer a
28 voluntary advanced education, instruction, and training program
29 on the trafficking of persons and compelling prostitution
30 prohibited under Sections 20A.02 and 43.05, Penal Code.

31 (c) Not later than January 1, 2011, the commission shall
32 begin offering the basic and advanced programs established under
33 this section. This subsection expires September 1, 2011.

34 SECTION 6. Section 1701.402, Occupations Code, is amended
35 by adding Subsection (h) to read as follows:

36 (h) As a requirement for an intermediate or advanced
37 proficiency certificate issued by the commission on or after
38 January 1, 2011, an officer must complete the basic education
39 and training program on the trafficking of persons described by
40 Section 1701.258(a).

41 SECTION 7. Subsections (a) and (b), Section 20A.02, Penal
42 Code, are amended to read as follows:

43 (a) A person commits an offense if the person knowingly:

44 (1) [~~knowingly~~] traffics another person with the
45 intent or knowledge that the trafficked person will engage
46 in forced labor or services; or

47 (2) [~~intentionally or knowingly~~] benefits from

1 participating in a venture that involves an activity described
2 by Subdivision (1), including by receiving labor or services the
3 person knows are forced labor or services.

4 (b) Except as otherwise provided by this subsection, an
5 offense under this section is a felony of the second degree. An
6 offense under this section is a felony of the first degree if:

7 (1) the applicable conduct constitutes an offense
8 under Section 43.05 or 43.25 [43.02] and the person who is
9 trafficked is a child younger than 18 years of age at the time
10 of the offense, regardless of whether the actor knows the age of
11 the child at the time the actor commits the offense; or

12 (2) the commission of the offense results in the
13 death of the person who is trafficked.

14 SECTION 8. Section 43.02, Penal Code, is amended by adding
15 Subsection (d) to read as follows:

16 (d) It is a defense to prosecution under this section that
17 the actor engaged in the conduct that constitutes the offense
18 because the actor was the victim of conduct that constitutes an
19 offense under Section 20A.02.

20 SECTION 9. Subsection (a), Section 43.05, Penal Code, is
21 amended to read as follows:

22 (a) A person commits an offense if the person [he]
23 knowingly:

24 (1) causes another by force, threat, or fraud to
25 commit prostitution; or

26 (2) causes by any means a child [person] younger than
27 18 [17] years to commit prostitution, regardless of whether the
28 actor knows the age of the child at the time the actor commits
29 the offense.

30 SECTION 10. (a) Not later than December 1, 2009, the
31 office of the attorney general shall establish the human
32 trafficking prevention task force as required by Section
33 402.035, Government Code, as added by this Act.

34 (b) Not later than October 1, 2009, the executive director
35 of the Texas Juvenile Probation Commission shall establish a
36 committee to evaluate alternatives to the juvenile justice
37 system for children who are accused of engaging in acts of
38 prostitution, as required by Section 141.056, Human Resources
39 Code, as added by this Act.

40 (c) Not later than December 1, 2010, the Commission on Law
41 Enforcement Officer Standards and Education shall adopt the
42 rules necessary to implement Section 1701.258, Occupations Code,
43 as added by this Act.

44 (d) The changes in law made by this Act to Sections
45 20A.02, 43.02, and 43.05, Penal Code, apply only to an offense
46 committed on or after the effective date of this Act. An
47 offense committed before the effective date of this Act is

1 covered by the law in effect when the offense was committed, and
2 the former law is continued in effect for that purpose. For
3 purposes of this section, an offense was committed before the
4 effective date of this Act if any element of the offense was
5 committed before that date.

6 SECTION 11. This Act does not make an appropriation. A
7 provision in this Act that creates a new governmental program,
8 creates a new entitlement, or imposes a new duty on a
9 governmental entity is not mandatory during a fiscal period for
10 which the legislature has not made a specific appropriation to
11 implement the provision.

12 SECTION 12. This Act takes effect September 1, 2009.

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14 H.B. No. 4064
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19 AN ACT

20 relating to the issuance of specialty license plates for cancer
21 of unknown primary origin awareness.

22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

23 SECTION 1. Subchapter G, Chapter 504, Transportation Code,
24 is amended by adding Section 504.6201 to read as follows:

25 Sec. 504.6201. CANCER OF UNKNOWN PRIMARY ORIGIN AWARENESS
26 LICENSE PLATES. (a) The department shall issue specialty
27 license plates to raise awareness of cancer of unknown primary
28 origin. The license plates must include the words "A Fine Cause
29 for Unknown Cancer." The department shall design the license
30 plates in consultation with the Orange Grove Family Career and
31 Community Leaders of America.

32 (b) After deduction of the department's administrative
33 costs, the remainder of the fee for issuance of the license
34 plates shall be deposited to the credit of the cancer prevention
35 and research fund established by Section 102.201, Health and
36 Safety Code.

37 SECTION 2. This Act takes effect September 1, 2009.

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39 H.B. No. 4136
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44 AN ACT

45 relating to sealing court records containing medical information
46 for children who are victims of certain offenses.

47 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1 SECTION 1. Title 1, Code of Criminal Procedure, is amended
2 by adding Chapter 57C to read as follows:

3 CHAPTER 57C. SEALING OF COURT RECORDS CONTAINING MEDICAL
4 INFORMATION FOR CERTAIN CHILD VICTIMS

5 Art. 57C.01. DEFINITIONS. In this chapter:

6 (1) "Child" means a person who is younger than
7 18 years of age.

8 (2) "Medical records" means any information used
9 or generated by health care providers, including records
10 relating to emergency room treatment, rehabilitation therapy, or
11 counseling.

12 Art. 57C.02. SEALING OF RECORDS. (a) Except as provided
13 by Subsection (c), on a motion filed by a person described by
14 Subsection (b), the court shall seal the medical records of a
15 child who is a victim of an offense described by Section 1,
16 Article 38.071.

17 (b) A motion under this article may be filed on the
18 court's own motion or by:

19 (1) the attorney representing the state;

20 (2) the defendant; or

21 (3) the parent or guardian of the victim or, if the
22 victim is no longer a child, the victim.

23 (c) The court is not required to seal the records
24 described by this article on a finding of good cause after a
25 hearing held under Subsection (d).

26 (d) The court shall grant the motion without a hearing
27 unless the motion is contested not later than the seventh day
28 after the date the motion is filed.

29 (e) Medical records sealed under this chapter are not open
30 for inspection by any person except:

31 (1) on further order of the court after:

32 (A) notice to a parent or guardian of the victim
33 whose information is sealed or, if the victim is no longer a
34 child, notice to the victim; and

35 (B) a finding of good cause;

36 (2) in connection with a criminal or civil proceeding
37 as otherwise provided by law; or

38 (3) on request of a parent or legal guardian of the
39 victim whose information is being sealed or, if the victim is no
40 longer a child, on request of the victim.

41 (f) A clerk of court is not liable for any failure to seal
42 medical records after a motion under this chapter is granted,
43 except on a showing of bad faith.

44 SECTION 2. The change in law made by this Act applies only
45 to a motion to seal medical records that is made on or after the
46 effective date of this Act. A motion to seal medical records
47 that is made before the effective date of this Act is governed

1 by the law in effect immediately before the effective date of
2 this Act, and the former law is continued in effect for that
3 purpose.

4 SECTION 3. This Act takes effect immediately if it
5 receives a vote of two-thirds of all the members elected to each
6 house, as provided by Section 39, Article III, Texas
7 Constitution. If this Act does not receive the vote necessary
8 for immediate effect, this Act takes effect September 1, 2009.

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10 H.B. No. 4314
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15 AN ACT

16 relating to the electronic filing of documents for capital cases
17 in the court of criminal appeals.

18 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

19 SECTION 1. Subchapter B, Chapter 22, Government Code, is
20 amended by adding Section 22.1095 to read as follows:

21 Sec. 22.1095. RULES ON ELECTRONIC FILING OF DOCUMENTS FOR
22 CAPITAL CASES IN COURT OF CRIMINAL APPEALS. (a)
23 Notwithstanding Subchapter I, Chapter 51, or any other law, the
24 court of criminal appeals may adopt rules and procedures
25 providing for and governing the electronic filing of briefs,
26 pleadings, and other documents for capital cases in that court.

27 (b) In the adoption of rules and procedures under
28 Subsection (a), the court of criminal appeals shall coordinate
29 with the supreme court and the rules and procedures adopted by
30 that court.

31 SECTION 2. This Act takes effect September 1, 2009.
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33 H.B. No. 4343
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38 AN ACT

39 relating to access to certain criminal history record
40 information maintained by the Department of Public Safety.

41 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

42 SECTION 1. Section 411.081(i), Government Code, is amended
43 to read as follows:

44 (i) A criminal justice agency may disclose criminal
45 history record information that is the subject of an order of
46 nondisclosure to the following noncriminal justice agencies or
47 entities only:

- 1 (1) the State Board for Educator Certification;
- 2 (2) a school district, charter school, private
- 3 school, regional education service center, commercial
- 4 transportation company, or education shared service arrangement;
- 5 (3) the Texas Medical Board;
- 6 (4) the Texas School for the Blind and Visually
- 7 Impaired;
- 8 (5) the Board of Law Examiners;
- 9 (6) the State Bar of Texas;
- 10 (7) a district court regarding a petition for name
- 11 change under Subchapter B, Chapter 45, Family Code;
- 12 (8) the Texas School for the Deaf;
- 13 (9) the Department of Family and Protective Services;
- 14 (10) the Texas Youth Commission;
- 15 (11) the Department of Assistive and Rehabilitative
- 16 Services;
- 17 (12) the Department of State Health Services, a local
- 18 mental health service, a local mental retardation authority, or
- 19 a community center providing services to persons with mental
- 20 illness or retardation;
- 21 (13) the Texas Private Security Board;
- 22 (14) a municipal or volunteer fire department;
- 23 (15) the Texas Board of Nursing;
- 24 (16) a safe house providing shelter to children in
- 25 harmful situations;
- 26 (17) a public or nonprofit hospital or hospital
- 27 district;
- 28 (18) the Texas Juvenile Probation Commission;
- 29 (19) the securities commissioner, the banking
- 30 commissioner, the savings and mortgage lending commissioner, or
- 31 the credit union commissioner;
- 32 (20) the Texas State Board of Public Accountancy;
- 33 (21) the Texas Department of Licensing and
- 34 Regulation;
- 35 (22) the Health and Human Services Commission;
- 36 (23) the Department of Aging and Disability Services;
- 37 [and]
- 38 (24) the Texas Education Agency; and
- 39 (25) the Texas Department of Insurance.

40 SECTION 2. Section 411.081(i), Government Code, as amended
41 by this Act, applies only to the disclosure of criminal history
42 record information that is the subject of an order of
43 nondisclosure issued on or after the effective date of this Act.
44 The disclosure of criminal history record information that is
45 the subject of an order of nondisclosure issued before the
46 effective date of this Act is governed by the law in effect on
47 the date the order of nondisclosure was issued, and that former

1 law is continued in effect for that purpose.

2 SECTION 3. This Act takes effect immediately if it
3 receives a vote of two-thirds of all the members elected to each
4 house, as provided by Section 39, Article III, Texas
5 Constitution. If this Act does not receive the vote necessary
6 for immediate effect, this Act takes effect September 1, 2009.

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8 H.B. No. 4456
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13 AN ACT

14 relating to the definition of a switchblade knife for purposes
15 of the offense of prohibited weapons.

16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

17 SECTION 1. Section 46.01(11), Penal Code, is amended to
18 read as follows:

19 (11) "Switchblade knife" means any knife that has a
20 blade that folds, closes, or retracts into the handle or
21 sheath[~~;~~] and that[~~;~~

22 [~~A~~] opens automatically by pressure applied to
23 a button or other device located on the handle[~~;~~] or

24 [~~B~~] opens or releases a blade from the handle
25 or sheath by the force of gravity or by the application of
26 centrifugal force. The term does not include a knife that has a
27 spring, detent, or other mechanism designed to create a bias
28 toward closure and that requires exertion applied to the blade
29 by hand, wrist, or arm to overcome the bias toward closure and
30 open the knife.

31 SECTION 2. The change in law made by this Act applies only
32 to an offense committed on or after the effective date of this
33 Act. An offense committed before the effective date of this Act
34 is covered by the law in effect when the offense was committed,
35 and the former law is continued in effect for that purpose. For
36 purposes of this section, an offense was committed before the
37 effective date of this Act if any element of the offense was
38 committed before that date.

39 SECTION 3. This Act takes effect September 1, 2009.

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41 H.B. No. 4461
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46 AN ACT

47 relating to confidentiality of certain information maintained by

1 the Texas Department of Insurance.

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

3 SECTION 1. Chapter 36, Insurance Code, is amended by
4 adding Subchapter E to read as follows:

5 SUBCHAPTER E. INVESTIGATION FILES

6 Sec. 36.251. DEFINITION. In this subchapter,
7 "investigation file" means any information collected, assembled,
8 or maintained by or on behalf of the department with respect to
9 an investigation conducted under this code or other law. The
10 term does not include information or material acquired by the
11 department that is:

12 (1) relevant to an investigation by the insurance
13 fraud unit; and

14 (2) subject to Section 701.151.

15 Sec. 36.252. INVESTIGATION FILES CONFIDENTIAL. (a)
16 Information or material acquired by the department that is
17 relevant to an investigation is not a public record for the
18 period that the department determines is relevant to further or
19 complete an investigation.

20 (b) Investigation files are not open records for purposes
21 of Chapter 552, Government Code, except as specified herein.

22 Sec. 36.253. DISCLOSURE OF CERTAIN INFORMATION NOT
23 REQUIRED. The department is not required to disclose under this
24 subchapter:

25 (1) information that is:

26 (A) an attorney-client communication; or

27 (B) an attorney work product; or

28 (2) other information protected by a recognized
29 privilege, a statute, an administrative rule, the Texas Rules of
30 Civil Procedure, or the Texas Rules of Evidence.

31 SECTION 2. This Act takes effect immediately if it
32 receives a vote of two-thirds of all the members elected to each
33 house, as provided by Section 39, Article III, Texas
34 Constitution. If this Act does not receive the vote necessary
35 for immediate effect, this Act takes effect September 1, 2009.

36
37 H.B. No. 4464
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42 AN ACT

43 relating to crime victim information in a criminal judgment.

44 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

45 SECTION 1. Section 1, Article 42.01, Code of Criminal
46 Procedure, is amended to read as follows:

47 Sec. 1. A judgment is the written declaration of the court

1 signed by the trial judge and entered of record showing the
2 conviction or acquittal of the defendant. The sentence served
3 shall be based on the information contained in the
4 judgment. The judgment shall reflect:

- 5 1. The title and number of the case;
- 6 2. That the case was called and the parties appeared,
7 naming the attorney for the state, the defendant, and the
8 attorney for the defendant, or, where a defendant is not
9 represented by counsel, that the defendant knowingly,
10 intelligently, and voluntarily waived the right to
11 representation by counsel;
- 12 3. The plea or pleas of the defendant to the offense
13 charged;
- 14 4. Whether the case was tried before a jury or a jury
15 was waived;
- 16 5. The submission of the evidence, if any;
- 17 6. In cases tried before a jury that the jury was
18 charged by the court;
- 19 7. The verdict or verdicts of the jury or the finding
20 or findings of the court;
- 21 8. In the event of a conviction that the defendant is
22 adjudged guilty of the offense as found by the verdict of the
23 jury or the finding of the court, and that the defendant be
24 punished in accordance with the jury's verdict or the court's
25 finding as to the proper punishment;
- 26 9. In the event of conviction where death or any
27 punishment is assessed that the defendant be sentenced to death,
28 a term of confinement or community supervision, or to pay a
29 fine, as the case may be;
- 30 10. In the event of conviction where the imposition
31 of sentence is suspended and the defendant is placed on
32 community supervision, setting forth the punishment assessed,
33 the length of community supervision, and the conditions of
34 community supervision;
- 35 11. In the event of acquittal that the defendant be
36 discharged;
- 37 12. The county and court in which the case was tried
38 and, if there was a change of venue in the case, the name of the
39 county in which the prosecution was originated;
- 40 13. The offense or offenses for which the defendant
41 was convicted;
- 42 14. The date of the offense or offenses and degree of
43 offense for which the defendant was convicted;
- 44 15. The term of sentence;
- 45 16. The date judgment is entered;
- 46 17. The date sentence is imposed;
- 47 18. The date sentence is to commence and any credit

1 for time served;

2 19. The terms of any order entered pursuant to
3 Article 42.08 of this code that the defendant's sentence is to
4 run cumulatively or concurrently with another sentence or
5 sentences;

6 20. The terms of any plea bargain;

7 21. Affirmative findings entered pursuant to
8 Subdivision (2) of Subsection (a) of Section 3g of Article 42.12
9 of this code;

10 22. The terms of any fee payment ordered under
11 Article 42.151 of this code;

12 23. The defendant's thumbprint taken in accordance
13 with Article 38.33 of this code;

14 24. In the event that the judge orders the defendant
15 to repay a reward or part of a reward under Articles 37.073 and
16 42.152 of this code, a statement of the amount of the payment or
17 payments required to be made;

18 25. In the event that the court orders restitution to
19 be paid to the victim, a statement of the amount of restitution
20 ordered and:

21 (A) the name and address of a person or agency
22 that will accept and forward restitution payments to the victim
23 ~~[and the permanent mailing address of the victim at the time of~~
24 ~~the judgment];~~ or

25 (B) if the court specifically elects to have
26 payments made directly to the crime victim, ~~[determines that the~~
27 ~~inclusion of]~~ the ~~[victim's]~~ name and permanent address ~~[in the~~
28 ~~judgment is not in the best interest]~~ of the victim at the time
29 of judgment ~~[, the name and address of a person or agency that~~
30 ~~will accept and forward restitution payments to the victim];~~

31 26. In the event that a presentence investigation is
32 required by Section 9(a), (b), (h), or (i), Article 42.12 of
33 this code, a statement that the presentence investigation was
34 done according to the applicable provision;

35 27. In the event of conviction of an offense for
36 which registration as a sex offender is required under Chapter
37 62, a statement that the registration requirement of that
38 chapter applies to the defendant and a statement of the age of
39 the victim of the offense;

40 28. The defendant's state identification number
41 required by Section 60.052(a)(2), if that number has been
42 assigned at the time of the judgment; and

43 29. The incident number required by Section
44 60.052(a)(4), if that number has been assigned at the time of
45 the judgment.

46 SECTION 2. Article 42.037(g), Code of Criminal Procedure,
47 is amended to read as follows:

1 (g)(1) The court may require a defendant to make
2 restitution under this article within a specified period or in
3 specified installments. If the court requires the defendant to
4 make restitution in specified installments, in addition to the
5 installment payments, the court may require the defendant to pay
6 a one-time restitution fee of \$12, \$6 of which the court shall
7 retain for costs incurred in collecting the specified
8 installments and \$6 of which the court shall order to be paid to
9 the compensation to victims of crime fund.

10 (2) The end of the period or the last installment may
11 not be later than:

12 (A) the end of the period of probation, if
13 probation is ordered;

14 (B) five years after the end of the term of
15 imprisonment imposed, if the court does not order probation; or

16 (C) five years after the date of sentencing in
17 any other case.

18 (3) If the court does not provide otherwise, the
19 defendant shall make restitution immediately.

20 (4) Except as provided by Subsection (n), the order
21 of restitution must require the defendant to: (i) make
22 restitution directly to the person or agency that will accept
23 and forward restitution payments to the victim or other person
24 eligible for restitution under this article, including the
25 compensation to victims of crime fund; (ii) make restitution
26 directly to the victim or other person eligible for restitution
27 under this article, including the compensation to victims of
28 crime fund; [7] or (iii) [æ] deliver the amount or property due
29 as restitution to a community supervision and corrections
30 department for transfer to the victim or person.

31 SECTION 3. This Act takes effect September 1, 2009.

32
33 H.B. No. 4498
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38 AN ACT

39 relating to the sale and consumption of alcoholic beverages.

40 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

41 SECTION 1. Chapter 28, Alcoholic Beverage Code, is amended
42 by adding Section 28.101 to read as follows:

43 Sec. 28.101. PUBLIC CONSUMPTION. (a) This section
44 applies only to a mixed beverage permit holder whose premises
45 are located in a municipality that:

46 (1) has a population of less than 15,000;

47 (2) is located in a county with a population of less

1 than 65,000; and

2 (3) contains a historic preservation district that
3 borders a lake.

4 (b) Notwithstanding Section 28.10 or any other law, the
5 holder of a mixed beverage permit whose permitted premises are
6 located on property owned by a municipality that contains a
7 municipally owned conference center and that borders a lake may
8 permit a patron to leave the permitted premises, even though the
9 patron possesses an alcoholic beverage, if:

10 (1) the beverage is in an open container and appears
11 to be possessed for present consumption; and

12 (2) the public consumption of alcoholic beverages or
13 possession of an open container of an alcoholic beverage is not
14 prohibited on the municipally owned property where the permitted
15 premises are located.

16 (c) This section does not affect the prohibition against
17 possessing an open container in a passenger area of a motor
18 vehicle under Section 49.031, Penal Code.

19 SECTION 2. Chapter 31, Alcoholic Beverage Code, is amended
20 by adding Section 31.06 to read as follows:

21 Sec. 31.06. PUBLIC CONSUMPTION. (a) This section applies
22 only to the holder of a caterer's permit operating under the
23 permit in an area in a municipality that:

24 (1) has a population of less than 15,000;

25 (2) is located in a county with a population of less
26 than 65,000; and

27 (3) contains a historic preservation district that
28 borders a lake.

29 (b) Notwithstanding any other law, the holder of a
30 caterer's permit operating under the permit in an area located
31 on property owned by a municipality that contains a municipally
32 owned conference center and that borders a lake may permit a
33 patron to leave the area, even though the patron possesses an
34 alcoholic beverage, if:

35 (1) the beverage is in an open container and appears
36 to be possessed for present consumption; and

37 (2) the public consumption of alcoholic beverages or
38 possession of an open container of an alcoholic beverage is not
39 prohibited on the municipally owned property where the area is
40 located.

41 (c) This section does not affect the prohibition against
42 possessing an open container in a passenger area of a motor
43 vehicle under Section 49.031, Penal Code.

44 SECTION 3. Section 501.035(c), Election Code, is amended
45 to read as follows:

46 (c) In an area where the sale of any type or
47 classification of [all] alcoholic beverages [including mixed

1 ~~beverages]~~ has been legalized, the ballot for a prohibitory
2 election shall be prepared to permit voting for or against the
3 one of the following issues that applies:

4 (1) "The legal sale of beer for off-premise
5 consumption only."

6 (2) "The legal sale of beer."

7 (3) "The legal sale of beer and wine for off-premise
8 consumption only."

9 (4) "The legal sale of beer and wine."

10 (5) "The legal sale of all alcoholic beverages for
11 off-premise consumption only."

12 (6) "The legal sale of all alcoholic beverages except
13 mixed beverages."

14 (7) "The legal sale of all alcoholic beverages
15 including mixed beverages."

16 (8) "The legal sale of mixed beverages."

17 (9) "The legal sale of mixed beverages in restaurants
18 by food and beverage certificate holders only."

19 (10) "The legal sale of wine on the premises of a
20 holder of a winery permit."

21 SECTION 4. Sections 501.035(d), (e), and (f), Election
22 Code, are repealed.

23 SECTION 5. This Act takes effect September 1, 2009.

24
25 H.B. No. 4577
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30 AN ACT

31 relating to the seizure and destruction of certain plants.

32 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

33 SECTION 1. Section 71.007, Agriculture Code, is amended to
34 read as follows:

35 Sec. 71.007. RULES. (a) In addition to other rules
36 necessary for the protection of agricultural and horticultural
37 interests, the department may adopt rules that:

38 (1) prevent the selling, moving, or transporting of
39 any plant, plant product, or substance that is found to be
40 infested or found to be from a quarantined area;

41 (2) provide for the destruction of trees or fruits;

42 (3) provide for the cleaning or treatment of
43 orchards;

44 (4) provide for methods of storage;

45 (5) prevent entry into a pest-free zone of any plant,
46 plant product, or substance found to be dangerous to the
47 agricultural and horticultural interests of the zone;

1 (6) provide for the maintenance of a host-free period
2 in which certain fruits are not allowed to ripen; ~~[or]~~

3 (7) provide for specific treatment of a grove or
4 orchard or of infested or infected plants, plant products, or
5 substances; or

6 (8) provide for a program to manage or eradicate
7 exotic citrus diseases, including citrus canker and citrus
8 greening.

9 (b) Rules adopted under Subsection (a)(8) shall establish,
10 based on scientific evidence, when a healthy but suspect citrus
11 plant must be destroyed, and may provide for compensation to an
12 owner of a plant destroyed under this subsection.

13 SECTION 2. Section 71.0091, Agriculture Code, is amended
14 by amending Subsections (a), (b), (c), and (e) and adding
15 Subsection (e-1) to read as follows:

16 (a) The department may seize a citrus plant, citrus plant
17 product, or citrus substance that the department determines:

18 (1) is transported or carried from a quarantined area
19 in violation of a quarantine order; ~~[or]~~

20 (2) is infected with a disease or insect pest
21 dangerous to a citrus plant, citrus plant product, or citrus
22 substance, without regard to whether the citrus plant, citrus
23 plant product, or citrus substance comes from an area known to
24 be infested; or

25 (3) is located within proximity to a plant infected
26 by a disease dangerous to any agricultural or horticultural
27 product and is determined by the department to likely be
28 infected by that disease, regardless of whether the plant
29 currently exhibits symptoms of the disease.

30 (b) If a citrus plant, citrus plant product, or citrus
31 substance is seized under Subsection (a)(1) ~~[of this section]~~,
32 the department immediately shall notify the owner that the
33 citrus plant, citrus plant product, or citrus substance is a
34 public nuisance and that it must be destroyed, treated, or, if
35 feasible, returned to its point of origin. If a citrus plant,
36 citrus plant product, or citrus substance is seized under
37 Subsection (a)(2) or (3) ~~[of this section]~~, the department
38 immediately shall notify the owner that the citrus plant, citrus
39 plant product, or citrus substance is a public nuisance and must
40 be destroyed or treated.

41 (c) If the owner of a citrus plant, citrus plant product,
42 or citrus substance seized under Subsection (a)(1) or (2) ~~(a)~~
43 ~~of this section]~~ is unknown to the department, the department
44 shall publish or post notice that, not earlier than the fifth
45 day after the first day on which notice is published or posted,
46 the department may destroy the citrus plant, citrus plant
47 product, or citrus substance. The department shall publish the

1 notice for three consecutive days in a newspaper of general
2 circulation in the county in which the citrus plant, citrus
3 plant product, or citrus substance is located or post the notice
4 in the immediate vicinity of the area in which the citrus plant,
5 citrus plant product, or citrus substance is located. The
6 notice must describe the citrus plant, citrus plant product, or
7 citrus substance seized. If the owner claims the citrus plant,
8 citrus plant product, or citrus substance before the date for
9 destruction set by the notice, the department shall deliver the
10 citrus plant, citrus plant product, or citrus substance to the
11 owner at the owner's expense. If the owner does not claim the
12 citrus plant, citrus plant product, or citrus substance before
13 the date the notice specifies that destruction is permitted, the
14 department may destroy or arrange for the destruction of the
15 citrus plant, citrus plant product, or citrus substance.

16 (e) The owner of a citrus plant, citrus plant product, or
17 citrus substance treated or destroyed under Subsection (a)(1) or
18 (2) by the department under this section is liable to the
19 department for the costs of treatment or destruction, and the
20 department may sue to collect those costs.

21 (e-1) The department may provide for compensation to an
22 owner of a citrus plant, citrus plant product, or citrus
23 substance destroyed under Subsection (a)(3).

24 SECTION 3. This Act takes effect September 1, 2009.

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26 H.B. No. 4594

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31 AN ACT
32 relating to permits for the movement of oversize and overweight
33 vehicles in a certain county.

34 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

35 SECTION 1. Section 623.252(b), Transportation Code, is
36 amended to read as follows:

37 (b) A permit issued under this subchapter may authorize:

38 (1) the transport of cargo only on the following
39 roads in Chambers County:

40 (A) Farm-to-Market Road 1405 between its
41 intersection with Farm-to-Market Road 2354 and its intersection
42 with Farm-to-Market Road 565; [and]

43 (B) the frontage road of State Highway 99
44 located in the Cedar Crossing Business Park;

45 (C) Farm-to-Market Road 565 from its
46 intersection with Farm-to-Market Road 1405 east approximately
47 6,200 linear feet to the western edge of the 10-foot pipeline

1 easement recorded at volume 351, page 760, of the Chambers
2 County deed records; and
3 (D) Farm-to-Market Road 2354 from its
4 intersection with Farm-to-Market Road 1405 northwest
5 approximately 300 linear feet to the termination of the state-
6 maintained portion of the road; and
7 (2) the movement of equipment and commodities
8 weighing 100,000 pounds or less.
9 SECTION 2. Section 623.255(a), Transportation Code, is
10 amended to read as follows:
11 (a) A permit issued under this subchapter must include:
12 (1) the name of the applicant;
13 (2) the date of issuance;
14 (3) the signature of the designated agent for the
15 county;
16 (4) a statement of the kind of cargo being
17 transported, the maximum weight and dimensions of the equipment,
18 and the kind and weight of each commodity to be transported;
19 (5) a statement of any condition on which the permit
20 is issued;
21 (6) a statement that the cargo may be transported in
22 Chambers County only over the roads described by Section
23 623.252(b)(1) [Farm to Market Road 1405 and the frontage road of
24 State Highway 99 located in the Cedar Crossing Business Park];
25 and
26 (7) the location where the cargo was loaded.
27 SECTION 3. This Act takes effect immediately if it
28 receives a vote of two-thirds of all the members elected to each
29 house, as provided by Section 39, Article III, Texas
30 Constitution. If this Act does not receive the vote necessary
31 for immediate effect, this Act takes effect September 1, 2009.
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SENATE BILLS

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6 AN ACT

7 relating to the use of a computer for an unauthorized purpose;
8 providing a civil penalty.

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

10 SECTION 1. Section 324.002, Business & Commerce Code, as
11 effective April 1, 2009, is amended by adding Subdivisions (1-a)
12 and (9) to read as follows:

13 (1-a) "Botnet" means a collection of two or more
14 zombies.

15 (9) "Zombie" means a computer that, without the
16 knowledge and consent of the computer's owner or operator, has
17 been compromised to give access or control to a program or
18 person other than the computer's owner or operator.

19 SECTION 2. Subsection (a), Section 324.003, Business &
20 Commerce Code, as effective April 1, 2009, is amended to read as
21 follows:

22 (a) Section 324.052, other than Subdivision (1) of that
23 section, and Sections 324.053(4), ~~[and]~~ 324.054, and 324.055 do
24 not apply to a telecommunications carrier, cable operator,
25 computer hardware or software provider, or provider of
26 information service or interactive computer service that
27 monitors or has interaction with a subscriber's Internet or
28 other network connection or service or a protected computer for:

29 (1) a network or computer security purpose;
30 (2) diagnostics, technical support, or a repair
31 purpose;

32 (3) an authorized update of computer software or
33 system firmware;

34 (4) authorized remote system management; or
35 (5) detection or prevention of unauthorized use of or
36 fraudulent or other illegal activity in connection with a
37 network, service, or computer software, including scanning for
38 and removing software proscribed under this chapter.

39 SECTION 3. Section 324.005, Business & Commerce Code, as
40 effective April 1, 2009, is amended to read as follows:

41 Sec. 324.005. KNOWING VIOLATION. A person knowingly
42 violates Section 324.051, 324.052, ~~[or]~~ 324.053, or 324.055 if
43 the person:

44 (1) acts with actual knowledge of the facts that
45 constitute the violation; or

46 (2) consciously avoids information that would
47 establish actual knowledge of those facts.

1 SECTION 4. Subchapter B, Chapter 324, Business & Commerce
2 Code, as effective April 1, 2009, is amended by adding Section
3 324.055 to read as follows:

4 Sec. 324.055. UNAUTHORIZED CREATION OF, ACCESS TO, OR USE
5 OF ZOMBIES OR BOTNETS; PRIVATE ACTION. (a) In this section:

6 (1) "Internet service provider" means a person
7 providing connectivity to the Internet or another wide area
8 network.

9 (2) "Person" has the meaning assigned by Section
10 311.005, Government Code.

11 (b) A person who is not the owner or operator of the
12 computer may not knowingly cause or offer to cause a computer to
13 become a zombie or part of a botnet.

14 (c) A person may not knowingly create, have created, use,
15 or offer to use a zombie or botnet to:

16 (1) send an unsolicited commercial electronic mail
17 message, as defined by Section 321.001;

18 (2) send a signal to a computer system or network
19 that causes a loss of service to users;

20 (3) send data from a computer without authorization
21 by the owner or operator of the computer;

22 (4) forward computer software designed to damage or
23 disrupt another computer or system;

24 (5) collect personally identifiable information; or

25 (6) perform an act for another purpose not authorized
26 by the owner or operator of the computer.

27 (d) A person may not:

28 (1) purchase, rent, or otherwise gain control of a
29 zombie or botnet created by another person; or

30 (2) sell, lease, offer for sale or lease, or
31 otherwise provide to another person access to or use of a zombie
32 or botnet.

33 (e) The following persons may bring a civil action against
34 a person who violates this section:

35 (1) a person who is acting as an Internet service
36 provider and whose network is used to commit a violation under
37 this section; or

38 (2) a person who has incurred a loss or disruption of
39 the conduct of the person's business, including for-profit or
40 not-for-profit activities, as a result of the violation.

41 (f) A person bringing an action under this section may,
42 for each violation:

43 (1) seek injunctive relief to restrain a violator
44 from continuing the violation;

45 (2) subject to Subsection (g), recover damages in an
46 amount equal to the greater of:

47 (A) actual damages arising from the violation;

1 or

2 (B) \$100,000 for each zombie used to commit the
3 violation; or

4 (3) obtain both injunctive relief and damages.

5 (g) The court may increase an award of damages, statutory
6 or otherwise, in an action brought under this section to an
7 amount not to exceed three times the applicable damages if the
8 court finds that the violations have occurred with such a
9 frequency as to constitute a pattern or practice.

10 (h) A plaintiff who prevails in an action brought under
11 this section is entitled to recover court costs and reasonable
12 attorney's fees, reasonable fees of experts, and other
13 reasonable costs of litigation.

14 (i) A remedy authorized by this section is not exclusive
15 but is in addition to any other procedure or remedy provided for
16 by other statutory or common law.

17 (j) Nothing in this section may be construed to impose
18 liability on the following persons with respect to a violation
19 of this section committed by another person:

20 (1) an Internet service provider;

21 (2) a provider of interactive computer service, as
22 defined by Section 230, Communications Act of 1934 (47 U.S.C.
23 Section 230);

24 (3) a telecommunications provider, as defined by
25 Section 51.002, Utilities Code; or

26 (4) a video service provider or cable service
27 provider, as defined by Section 66.002, Utilities Code.

28 SECTION 5. Subsection (a), Section 324.101, Business &
29 Commerce Code, as effective April 1, 2009, is amended to read as
30 follows:

31 (a) Any of the following persons, if adversely affected by
32 the violation, may bring a civil action against a person who
33 violates Section 324.051, 324.052, 324.053, or 324.054 [~~this~~
34 ~~chapter~~]:

35 (1) a provider of computer software;

36 (2) an owner of a web page or trademark;

37 (3) a telecommunications carrier;

38 (4) a cable operator; or

39 (5) an Internet service provider.

40 SECTION 6. The changes in law made by this Act apply only
41 to conduct that occurs on or after the effective date of this
42 Act. Conduct that occurs before the effective date of this Act
43 is governed by the law in effect at the time the conduct
44 occurred, and that law is continued in effect for that purpose.

45 SECTION 7. This Act takes effect September 1, 2009.

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47 S.B. No. 52

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AN ACT

relating to the penalties for the illegal use of a parking space or area designated specifically for persons with disabilities and to the unauthorized use of a disabled parking placard.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subsections (h), (i), (j), and (k), Section 681.011, Transportation Code, are amended to read as follows:

(h) If it is shown on the trial of an offense under this section that the person has been previously convicted one time of an offense under this section, the offense is punishable by:

(1) a fine of not less than \$500 [~~\$300~~] or more than \$800; and

(2) 10 hours of community service [~~\$600~~].

(i) If it is shown on the trial of an offense under this section that the person has been previously convicted two times of an offense under this section, the offense is punishable by:

(1) a fine of not less than \$550 [~~\$300~~] or more than \$800 [~~\$600~~]; and

(2) [~~not less than 10 or more than~~] 20 hours of community service.

(j) If it is shown on the trial of an offense under this section that the person has been previously convicted three times of an offense under this section, the offense is punishable by:

(1) a fine of not less than \$800 [~~\$500~~] or more than \$1,100 [~~\$1,000~~]; and

(2) 30 [~~not less than 20 or more than 50~~] hours of community service.

(k) If it is shown on the trial of an offense under this section that the person has been previously convicted four times of an offense under this section, the offense is punishable by a fine of \$1,250 [~~\$1,000~~] and 50 hours of community service.

SECTION 2. Section 681.012, Transportation Code, is amended by adding Subsections (a-1) and (a-2) and amending Subsection (b) to read as follows:

(a-1) A peace officer may seize a disabled parking placard from a person who operates a vehicle on which a disabled parking placard is displayed if the peace officer determines by inspecting the person's driver's license or personal identification certificate that the disabled parking placard does not contain the first four digits of the driver's license number or personal identification certificate number and the initials of:

- (1) the person operating the vehicle; or
- (2) a person being transported by the vehicle.

(a-2) A peace officer shall submit each seized parking placard to the department not later than the fifth day after the seizure.

(b) On submission to the department under Subsection (a) or (a-2), a placard is revoked. On request of the person from whom the placard was seized, the department shall conduct a hearing and determine whether the revocation should continue or the placard should be returned to the person and the revocation rescinded.

SECTION 3. (a) The change in law made by this Act applies only to an offense committed on or after September 1, 2009.

(b) An offense committed before September 1, 2009, is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this subsection, an offense was committed before September 1, 2009, if any element of the offense was committed before that date.

SECTION 4. This Act takes effect September 1, 2009.

S.B. No. 58

AN ACT

relating to the administration of the Juvenile Justice Case Management System.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 58.403, Family Code, is amended to read as follows:

Sec. 58.403. JUVENILE INFORMATION SYSTEM. (a) Through the adoption of an interlocal contract under Chapter 791, Government Code, with one or more counties, the [The] commission [in partnership with local counties] may participate in and assist counties in the creation, operation, and maintenance of a [statewide] system that is intended for statewide use to:

- (1) aid in processing the cases of children under this title;
- (2) facilitate the delivery of services to children in the juvenile justice system;
- (3) aid in the early identification of at-risk and delinquent children; and
- (4) facilitate cross-jurisdictional sharing of information related to juvenile offenders between authorized criminal and juvenile justice agencies and partner agencies.

1 (b) The commission may use funds appropriated for the
2 implementation of this section to pay costs incurred under an
3 interlocal contract described by Subsection (a), including
4 license fees, maintenance and operations costs, administrative
5 costs, and any other costs specified in the interlocal contract.

6 (c) The commission may provide training services to
7 counties on the use and operation of a system created, operated,
8 or maintained by one or more counties under Subsection (a).

9 SECTION 2. This Act takes effect September 1, 2009.

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11 S.B. No. 82

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16 AN ACT

17 relating to a fee imposed as a condition of community
18 supervision for an offense involving family violence and to
19 certain nonsubstantive revisions involving court fees.

20 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

21 SECTION 1. Subsection (h), Section 11, Article 42.12, Code
22 of Criminal Procedure, is amended to read as follows:

23 (h) If a judge grants community supervision to a person
24 convicted of an offense under Title 5, Penal Code, that the
25 court determines involves family violence, the judge shall [may]
26 require the person to pay [make one payment in an amount not to
27 exceed] \$100 to a family violence [shelter] center that receives
28 state or federal funds and that serves the county in which the
29 court is located. In this subsection, "family violence" has the
30 meaning assigned by Section 71.004, Family Code, and "family
31 violence [shelter] center" has the meaning assigned by Section
32 51.002, Human Resources Code.

33 SECTION 2. (a) Section 103.021, Government Code, as
34 amended by Chapter 921 (H.B. 3167), Acts of the 80th
35 Legislature, Regular Session, 2007, is amended to conform to the
36 amendments made to Section 103.021, Government Code, by Chapter
37 1226 (H.B. 2385), Acts of the 80th Legislature, Regular Session,
38 2007, and to conform to Chapters 805 (S.B. 1083) and 910 (H.B.
39 2949), Acts of the 80th Legislature, Regular Session, 2007, and
40 is further amended to read as follows:

41 Sec. 103.021. ADDITIONAL FEES AND COSTS IN CRIMINAL OR
42 CIVIL CASES: CODE OF CRIMINAL PROCEDURE. An accused or
43 defendant, or a party to a civil suit, as applicable, shall pay
44 the following fees and costs under the Code of Criminal
45 Procedure if ordered by the court or otherwise required:

46 (1) a personal bond fee (Art. 17.42, Code of Criminal
47 Procedure) ... the greater of \$20 or three percent of the amount

1 of the bail fixed for the accused;

2 (2) cost of electronic monitoring as a condition of
3 release on personal bond (Art. 17.43, Code of Criminal
4 Procedure) ... actual cost;

5 (3) a fee for verification of and monitoring of motor
6 vehicle ignition interlock (Art. 17.441, Code of Criminal
7 Procedure) ... not to exceed \$10;

8 (4) repayment of reward paid by a crime stoppers
9 organization on conviction of a felony (Art. 37.073, Code of
10 Criminal Procedure) ... amount ordered;

11 (5) reimbursement to general revenue fund for
12 payments made to victim of an offense as condition of community
13 supervision (Art. 42.12, Code of Criminal Procedure) ... not to
14 exceed \$50 for a misdemeanor offense or \$100 for a felony
15 offense;

16 (6) payment to a crime stoppers organization as
17 condition of community supervision (Art. 42.12, Code of Criminal
18 Procedure) ... not to exceed \$50;

19 (7) children's advocacy center fee (Art. 42.12, Code
20 of Criminal Procedure) ... not to exceed \$50;

21 (8) family violence [~~shelter~~] center fee (Art. 42.12,
22 Code of Criminal Procedure) ... [~~not to exceed~~] \$100;

23 (9) community supervision fee (Art. 42.12, Code of
24 Criminal Procedure) ... not less than \$25 or more than \$60 per
25 month;

26 (10) additional community supervision fee for certain
27 offenses (Art. 42.12, Code of Criminal Procedure) ... \$5 per
28 month;

29 (11) for certain financially able sex offenders as a
30 condition of community supervision, the costs of treatment,
31 specialized supervision, or rehabilitation (Art. 42.12, Code of
32 Criminal Procedure) ... all or part of the reasonable and
33 necessary costs of the treatment, supervision, or rehabilitation
34 as determined by the judge;

35 (12) fee for failure to appear for trial in a justice
36 or municipal court if a jury trial is not waived (Art. 45.026,
37 Code of Criminal Procedure) ... costs incurred for impaneling the
38 jury;

39 (13) costs of certain testing, assessments, or
40 programs during a deferral period (Art. 45.051, Code of Criminal
41 Procedure) ... amount ordered;

42 (14) special expense on dismissal of certain
43 misdemeanor complaints (Art. 45.051, Code of Criminal Procedure)
44 ... not to exceed amount of fine assessed;

45 (15) an additional fee:

46 (A) for a copy of the defendant's driving record
47 to be requested from the Department of Public Safety by the

1 judge (Art. 45.0511(c-1), Code of Criminal Procedure) ... amount
2 equal to the sum of the fee established by Section 521.048,
3 Transportation Code, and the TexasOnline fee [\$10];
4 (B) as an administrative fee for requesting a
5 driving safety course or a course under the motorcycle operator
6 training and safety program for certain traffic offenses to
7 cover the cost of administering the article (Art. 45.0511(f)(1),
8 Code of Criminal Procedure) ... not to exceed \$10; or
9 (C) for requesting a driving safety course or a
10 course under the motorcycle operator training and safety program
11 before the final disposition of the case (Art. 45.0511(f)(2),
12 Code of Criminal Procedure) ... not to exceed the maximum amount
13 of the fine for the offense committed by the defendant;
14 (16) a request fee for teen court program (Art.
15 45.052, Code of Criminal Procedure) ... \$20, if the court ordering
16 the fee is located in the Texas-Louisiana border region, but
17 otherwise not to exceed \$10;
18 (17) a fee to cover costs of required duties of teen
19 court (Art. 45.052, Code of Criminal Procedure) ... \$20, if the
20 court ordering the fee is located in the Texas-Louisiana border
21 region, but otherwise \$10;
22 (18) a mileage fee for officer performing certain
23 services (Art. 102.001, Code of Criminal Procedure) ... \$0.15 per
24 mile;
25 (19) certified mailing of notice of hearing date
26 (Art. 102.006, Code of Criminal Procedure) ... \$1, plus postage;
27 (20) certified mailing of certified copies of an
28 order of expunction (Art. 102.006, Code of Criminal Procedure) ...
29 \$2, plus postage;
30 (20-a) a fee to defray the cost of notifying state
31 agencies of orders of expungement (Art. 45.0216, Code of
32 Criminal Procedure) ... \$30 per application;
33 (20-b) a fee to defray the cost of notifying state
34 agencies of orders of expunction (Art. 45.055, Code of Criminal
35 Procedure) ... \$30 per application;
36 (21) sight orders:
37 (A) if the face amount of the check or sight
38 order does not exceed \$10 (Art. 102.007, Code of Criminal
39 Procedure) ... not to exceed \$10;
40 (B) if the face amount of the check or sight
41 order is greater than \$10 but does not exceed \$100 (Art.
42 102.007, Code of Criminal Procedure) ... not to exceed \$15;
43 (C) if the face amount of the check or sight
44 order is greater than \$100 but does not exceed \$300 (Art.
45 102.007, Code of Criminal Procedure) ... not to exceed \$30;
46 (D) if the face amount of the check or sight
47 order is greater than \$300 but does not exceed \$500 (Art.

1 102.007, Code of Criminal Procedure) ... not to exceed \$50; and
2 (E) if the face amount of the check or sight
3 order is greater than \$500 (Art. 102.007, Code of Criminal
4 Procedure) ... not to exceed \$75;

5 (22) fees for a pretrial intervention program:

6 (A) a supervision fee (Art. 102.012(a)
7 [~~102.012~~], Code of Criminal Procedure) ... [~~not to exceed~~] \$60 a
8 month plus expenses; and

9 (B) a district attorney, criminal district
10 attorney, or county attorney administrative fee (Art. 102.0121,
11 Code of Criminal Procedure) ... not to exceed \$500;

12 (23) parking fee violations for child safety fund in
13 municipalities with populations:

14 (A) greater than 850,000 (Art. 102.014, Code of
15 Criminal Procedure) ... not less than \$2 and not to exceed \$5; and

16 (B) less than 850,000 (Art. 102.014, Code of
17 Criminal Procedure) ... not to exceed \$5;

18 (24) an administrative fee for collection of fines,
19 fees, restitution, or other costs (Art. 102.072, Code of
20 Criminal Procedure) ... not to exceed \$2 for each transaction; and

21 (25) a collection fee, if authorized by the
22 commissioners court of a county or the governing body of a
23 municipality, for certain debts and accounts receivable,
24 including unpaid fines, fees, court costs, forfeited bonds, and
25 restitution ordered paid (Art. 103.0031, Code of Criminal
26 Procedure) ... 30 percent of an amount more than 60 days past due.

27 (b) Section 103.021, Government Code, as amended by
28 Chapter 1226 (H.B. 2385), Acts of the 80th Legislature, Regular
29 Session, 2007, is repealed. Section 103.021, Government Code,
30 as amended by Chapter 921 (H.B. 3167), Acts of the 80th
31 Legislature, Regular Session, 2007, to reorganize and renumber
32 that section, continues in effect as further amended by this
33 section.

34 SECTION 3. Subsection (h), Section 11, Article 42.12, Code
35 of Criminal Procedure, as amended by this Act, applies only to a
36 person granted community supervision for an offense committed on
37 or after the effective date of this Act. A person granted
38 community supervision for an offense committed before the
39 effective date of this Act is governed by the law in effect on
40 the date the offense was committed, and the former law is
41 continued in effect for that purpose.

42 SECTION 4. This Act takes effect September 1, 2009.

43
44 S.B. No. 83
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1
2 AN ACT

3 relating to a right to vacate and avoid residential lease
4 liability following the occurrence of certain sex offenses or
5 domestic violence; providing a penalty.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

7 SECTION 1. Section 92.016, Property Code, is amended by
8 amending Subsections (b) and (c) and adding Subsection (c-1) to
9 read as follows:

10 (b) A tenant may terminate the tenant's rights and
11 obligations under a lease and may vacate the dwelling and avoid
12 liability for future rent and any other sums due under the lease
13 for terminating the lease and vacating the dwelling before the
14 end of the lease term if the tenant complies with Subsection (c)
15 and ~~[obtains and]~~ provides the landlord or the landlord's agent
16 a copy of one or more of the following orders protecting the
17 tenant or an occupant from family violence ~~[committed by a~~
18 ~~cotenant or occupant of the dwelling]~~:

19 (1) a temporary injunction issued under Subchapter F,
20 Chapter 6, Family Code; ~~[or]~~

21 (2) a temporary ex parte order issued under Chapter
22 83, Family Code; or

23 (3) a protective order issued under Chapter 85,
24 Family Code.

25 (c) A tenant may exercise the rights to terminate the
26 lease under Subsection (b), vacate the dwelling before the end
27 of the lease term, and avoid liability beginning on the date
28 after all of the following events have occurred:

29 (1) a judge signs an order described by Subsection
30 (b);

31 (2) the tenant provides ~~[has delivered]~~ a copy of the
32 relevant documentation described by Subsection (b) ~~[order]~~ to
33 the landlord; ~~[and]~~

34 (3) the tenant provides written notice of termination
35 of the lease to the landlord on or before the 30th day before
36 the date the lease terminates;

37 (4) the 30th day after the date the tenant provided
38 notice under Subdivision (3) expires; and

39 (5) the tenant vacates ~~[has vacated]~~ the dwelling.

40 (c-1) If the family violence is committed by a cotenant or
41 occupant of the dwelling, a tenant may exercise the right to
42 terminate the lease under the procedures provided by Subsection
43 (b)(1) or (3) and Subsection (c), except that the tenant is not
44 required to provide the notice described by Subsection (c)(3).

45 SECTION 2. Subchapter A, Chapter 92, Property Code, is
46 amended by adding Section 92.0161 to read as follows:

47 Sec. 92.0161. RIGHT TO VACATE AND AVOID LIABILITY

1 FOLLOWING CERTAIN SEX OFFENSES. (a) In this section,
2 "occupant" has the meaning assigned by Section 92.016.

3 (b) A tenant may terminate the tenant's rights and
4 obligations under a lease and may vacate the dwelling and avoid
5 liability for future rent and any other sums due under the lease
6 for terminating the lease and vacating the dwelling before the
7 end of the lease term after the tenant complies with Subsection
8 (c).

9 (c) If the tenant is a victim of sexual assault or a
10 parent or guardian of a victim of sexual assault under Section
11 22.011, Penal Code, aggravated sexual assault under Section
12 22.021, Penal Code, or continuous sexual abuse of a child under
13 Section 21.02, Penal Code, that takes place during the preceding
14 six-month period on the premises or at any dwelling on the
15 premises, the tenant shall provide to the landlord or the
16 landlord's agent a copy of:

17 (1) documentation of the assault or abuse of the
18 victim from a licensed health care services provider who
19 examined the victim;

20 (2) documentation of the assault or abuse of the
21 victim from a licensed mental health services provider who
22 examined or evaluated the victim;

23 (3) documentation of the assault or abuse of the
24 victim from an individual authorized under Chapter 420,
25 Government Code, who provided services to the victim; or

26 (4) documentation of a protective order issued under
27 Chapter 7A, Code of Criminal Procedure.

28 (d) A tenant may exercise the rights to terminate the
29 lease under Subsection (b), vacate the dwelling before the end
30 of the lease term, and avoid liability beginning on the date
31 after all of the following events have occurred:

32 (1) the tenant provides a copy of the relevant
33 documentation described by Subsection (c) to the landlord;

34 (2) the tenant provides written notice of termination
35 of the lease to the landlord on or before the 30th day before
36 the date the lease terminates;

37 (3) the 30th day after the date the tenant provided
38 notice under Subdivision (2) expires; and

39 (4) the tenant vacates the dwelling.

40 (e) Except as provided by Subsection (g), this section
41 does not affect a tenant's liability for delinquent, unpaid rent
42 or other sums owed to the landlord before the lease was
43 terminated by the tenant under this section.

44 (f) A landlord who violates this section is liable to the
45 tenant for actual damages, a civil penalty equal to the amount
46 of one month's rent plus \$500, and attorney's fees.

47 (g) A tenant who terminates a lease under Subsection (b)

1 is released from all liability for any delinquent, unpaid rent
2 owed to the landlord by the tenant on the effective date of the
3 lease termination if the lease does not contain language
4 substantially equivalent to the following:

5 "Tenants may have special statutory rights to terminate the
6 lease early in certain situations involving sexual assault or
7 sexual abuse."

8 (h) A tenant may not waive a tenant's right to terminate a
9 lease before the end of the lease term, vacate the dwelling, and
10 avoid liability under this chapter.

11 SECTION 3. The change in law made by this Act applies only
12 to a lease that is executed or renewed on or after the effective
13 date of this Act. A lease that is executed or renewed before
14 the effective date of this Act is governed by the law in effect
15 at the time the lease was executed or renewed, and that law is
16 continued in effect for that purpose.

17 SECTION 4. This Act takes effect January 1, 2010.

18
19 S.B. No. 129
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24 AN ACT

25 relating to the maximum speed limit for a neighborhood electric
26 vehicle being operated on a street or highway and to the
27 operation of a motorcycle.

28 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

29 SECTION 1. Subdivision (1), Section 551.301,
30 Transportation Code, as amended by Chapters 281 (H.B. 2702) and
31 1242 (H.B. 1596), Acts of the 79th Legislature, Regular Session,
32 2005, is reenacted and amended to read as follows:

33 (1) "Neighborhood electric vehicle" means a vehicle
34 that can attain a maximum speed of 35 miles per hour on a paved
35 level surface and otherwise complies with ~~subject to~~ Federal
36 Motor Vehicle Safety Standard 500 (49 C.F.R. Section 571.500).

37 SECTION 2. Subsection (a), Section 551.303, Transportation
38 Code, is amended to read as follows:

39 (a) A neighborhood electric vehicle may be operated only
40 on a street or highway for which the posted speed limit is 45
41 [35] miles per hour or less. A neighborhood electric vehicle
42 may cross a road or street at an intersection where the road or
43 street has a posted speed limit of more than 45 [35] miles per
44 hour. A neighborhood electric vehicle may not be operated on a
45 street or highway at a speed that exceeds the lesser of:

46 (1) the posted speed limit; or

47 (2) 35 miles per hour.

1 SECTION 3. Subsection (a), Section 521.001, Transportation
2 Code, is amended by adding Subdivision (6-a) to read as follows:

3 (6-a) "Motorcycle" includes an enclosed three-wheeled
4 passenger vehicle that:

5 (A) is designed to operate with three wheels in
6 contact with the ground;

7 (B) has a minimum unladen weight of 900 lbs.;

8 (C) has a single, completely enclosed, occupant
9 compartment;

10 (D) at a minimum, is equipped with:

11 (i) seats that are certified by the vehicle
12 manufacturer to meet the requirements of Federal Motor Vehicle
13 Safety Standard No. 207, 49 C.F.R. Section 571.207;

14 (ii) a steering wheel used to maneuver the
15 vehicle;

16 (iii) a propulsion unit located in front of
17 or behind the enclosed occupant compartment;

18 (iv) a seat belt for each vehicle occupant
19 certified by the manufacturer to meet the requirements of
20 Federal Motor Vehicle Safety Standard No. 209, 49 C.F.R. Section
21 571.209;

22 (v) a windshield and one or more windshield
23 wipers certified by the manufacturer to meet the requirements of
24 Federal Motor Vehicle Safety Standard No. 205, 49 C.F.R. Section
25 571.205, and Federal Motor Vehicle Safety Standard No. 104, 49
26 C.F.R. Section 571.104; and

27 (vi) a vehicle structure certified by the
28 vehicle manufacturer to meet the requirements of Federal Motor
29 Vehicle Safety Standard No. 216, 49 C.F.R. Section 571.216; and

30 (E) is produced by its manufacturer in a minimum
31 quantity of 300 in any calendar year.

32 SECTION 4. Section 521.085, Transportation Code, is
33 amended to read as follows:

34 Sec. 521.085. TYPE OF VEHICLE AUTHORIZED. (a) Unless
35 prohibited by Chapter 522, and except as provided by Subsection
36 (b), the license holder may operate any vehicle of the type for
37 which that class of license is issued and any lesser type of
38 vehicle other than a motorcycle or moped.

39 (b) Subsection (a) does not prohibit a license holder from
40 operating a lesser type of vehicle that is a motorcycle
41 described by Section 521.001(a)(6-a).

42 SECTION 5. Subdivision (1), Section 661.001,
43 Transportation Code, is amended to read as follows:

44 (1) "Motorcycle" means a motor vehicle designed to
45 propel itself with not more than three wheels in contact with
46 the ground, and having a saddle for the use of the rider. The
47 term does not include a tractor or a three-wheeled vehicle

1 equipped with a cab or occupant compartment, seat, and seat belt
2 and designed to contain the operator in the cab or occupant
3 compartment.

4 SECTION 6. Section 680.013, Transportation Code, is
5 amended to read as follows:

6 Sec. 680.013. USE OF PREFERENTIAL LANE BY MOTORCYCLE. A
7 motorcycle, including a motorcycle described by Section
8 521.001(a)(6-a), may be operated in a preferential lane that is
9 not closed to all vehicular traffic.

10 SECTION 7. This Act takes effect September 1, 2009.

11
12 S.B. No. 161
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17 AN ACT

18 relating to specialty license plates supporting the Safe Routes
19 to School Program.

20 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

21 SECTION 1. Section 504.648, Transportation Code, is
22 amended by amending Subsection (b) and adding Subsections (d)
23 and (e) to read as follows:

24 (b) After deduction of the department's administrative
25 costs, the remainder of the fee [~~for issuance of the license~~
26 ~~plates~~] shall be deposited to the credit of the share the road
27 account in the state treasury [~~state highway fund~~] and may only
28 be used by the Texas Education Agency to support [~~for~~] the Safe
29 Routes to School Program of a designated statewide nonprofit
30 organization whose primary purpose is to promote bicyclist
31 safety, education, and access through:

32 (1) education and awareness programs; and

33 (2) training, workshops, educational materials, and
34 media events.

35 (d) Up to 25 percent of the amount in Subsection (b) may
36 be used to support the activities of the nonprofit organization
37 in marketing and promoting the Safe Routes to School Program and
38 the God Bless Texas and God Bless America license plates.

39 (e) The Texas Education Agency may use money received
40 under this section to secure funds available under federal
41 matching programs for safe routes to school and obesity
42 prevention.

43 SECTION 2. This Act takes effect immediately if it
44 receives a vote of two-thirds of all the members elected to each
45 house, as provided by Section 39, Article III, Texas
46 Constitution. If this Act does not receive the vote necessary
47 for immediate effect, this Act takes effect September 1, 2009.

7 AN ACT

8 relating to the confidentiality of the home address information
9 of the spouses of certain federal judges and certain state
10 judges.

11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

12 SECTION 1. Subsection (b), Section 13.0021, Election Code,
13 is amended to read as follows:

14 (b) If the registration applicant is a federal judge, a
15 ~~[or]~~ state judge, or the spouse of a state judge or a federal
16 judge who seeks to have the applicant's residence address
17 omitted from the registration list, the applicant shall include
18 with the application an affidavit stating that the applicant is
19 a federal judge or state judge or the spouse of a federal judge
20 or state judge.

21 SECTION 2. Subsections (c) and (d), Section 13.004,
22 Election Code, are amended to read as follows:

23 (c) The following information furnished on a registration
24 application is confidential and does not constitute public
25 information for purposes of Chapter 552, Government Code:

26 (1) a social security number;

27 (2) a Texas driver's license number;

28 (3) a number of a personal identification card issued
29 by the Department of Public Safety;

30 (4) an indication that an applicant is interested in
31 working as an election judge; or

32 (5) the residence address of the applicant, if the
33 applicant is a federal judge or state judge, as defined by
34 Section 13.0021, or the spouse of a federal judge or state
35 judge, and included an affidavit with the registration
36 application under Section 13.0021 or the registrar has received
37 an affidavit submitted under Section 15.0215.

38 (d) The voter registrar or other county official who has
39 access to the information furnished on a registration
40 application may not post the following information on a website:

41 (1) a telephone number;

42 (2) a social security number;

43 (3) a driver's license number or a number of a
44 personal identification card;

45 (4) a date of birth; or

46 (5) the residence address of a voter who is a federal
47 judge or state judge, as defined by Section 13.0021, or the

1 spouse of a federal judge or state judge, if the voter included
2 an affidavit with the application under Section 13.0021 or the
3 registrar has received an affidavit submitted under Section
4 15.0215.

5 SECTION 3. Subsection (b), Section 15.0215, Election Code,
6 is amended to read as follows:

7 (b) A federal judge, a [øx] state judge, or the spouse of
8 a federal judge or state judge who is registered to vote may at
9 any time submit to the registrar of the county in which the
10 judge resides an affidavit stating that the voter is a federal
11 judge or state judge or the spouse of a federal judge or state
12 judge.

13 SECTION 4. Subsection (d), Section 15.081, Election Code,
14 is amended to read as follows:

15 (d) Notwithstanding Subsection (b), the suspense list may
16 not contain the residence address of a voter who is a federal
17 judge, a [øx] state judge, or the spouse of a federal judge or
18 state judge, if the voter included an affidavit with the voter's
19 registration application under Section 13.0021 or the registrar
20 received an affidavit submitted under Section 15.0215 before the
21 list was prepared. In this subsection, "federal judge" and
22 "state judge" have the meanings assigned by Section 13.0021.

23 SECTION 5. Subsection (c), Section 18.005, Election Code,
24 is amended to read as follows:

25 (c) The original or supplemental list of registered voters
26 may not contain the residence address of a voter who is a
27 federal judge, a [øx] state judge, or the spouse of a federal
28 judge or state judge, if the voter included an affidavit with
29 the voter's registration application under Section 13.0021 or
30 the registrar received an affidavit submitted under Section
31 15.0215 before the list was prepared. In this subsection,
32 "federal judge" and "state judge" have the meanings assigned by
33 Section 13.0021.

34 SECTION 6. Subsection (b), Section 18.066, Election Code,
35 is amended to read as follows:

36 (b) Information furnished under this section may not
37 include:

38 (1) a voter's social security number; or

39 (2) the residence address of a voter who is a federal
40 judge or state judge, as defined by Section 13.0021, or the
41 spouse of a federal judge or state judge, if the voter included
42 an affidavit with the voter's registration application under
43 Section 13.0021 or the applicable registrar has received an
44 affidavit submitted under Section 15.0215.

45 SECTION 7. Subsection (a), Section 25.025, Tax Code, as
46 amended by Chapters 594 (H.B. 41), 621 (H.B. 455), and 851 (H.B.
47 1141), Acts of the 80th Legislature, Regular Session, 2007, is

1 reenacted and amended to read as follows:

2 (a) This section applies only to:

3 (1) a current or former peace officer as defined by
4 Article 2.12, Code of Criminal Procedure;

5 (2) a county jailer as defined by Section 1701.001,
6 Occupations Code;

7 (3) an employee of the Texas Department of Criminal
8 Justice;

9 (4) a commissioned security officer as defined by
10 Section 1702.002, Occupations Code;

11 (5) a victim of family violence as defined by Section
12 71.004, Family Code, if as a result of the act of family
13 violence against the victim, the actor is convicted of a felony
14 or a Class A misdemeanor; ~~and~~

15 (6) a federal judge, a ~~or~~ state judge, or the
16 spouse of a federal judge or state judge;

17 (7) ~~[(6)]~~ a current or former employee of a district
18 attorney, criminal district attorney, or county or municipal
19 attorney whose jurisdiction includes any criminal law or child
20 protective services matters; and

21 (8) ~~[(6)]~~ an officer or employee of a community
22 supervision and corrections department established under Chapter
23 76, Government Code, who performs a duty described by Section
24 76.004(b) of that code.

25 SECTION 8. This Act takes effect September 1, 2009.

26
27 S.B. No. 328

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32 AN ACT
33 relating to operating a motor vehicle or a watercraft while
34 intoxicated or under the influence of alcohol.

35 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

36 SECTION 1. This Act shall be known as the Nicole "Lilly"
37 Lalime Act.

38 SECTION 2. The heading to Section 106.041, Alcoholic
39 Beverage Code, is amended to read as follows:

40 Sec. 106.041. DRIVING OR OPERATING WATERCRAFT UNDER THE
41 INFLUENCE OF ALCOHOL BY MINOR.

42 SECTION 3. Subsections (a) and (g), Section 106.041,
43 Alcoholic Beverage Code, are amended to read as follows:

44 (a) A minor commits an offense if the minor operates a
45 motor vehicle in a public place, or a watercraft, while having
46 any detectable amount of alcohol in the minor's system.

47 (g) An offense under this section is not a lesser included

1 offense under Section 49.04, 49.045, or 49.06, Penal Code.

2 SECTION 4. Subsection (j), Section 106.041, Alcoholic
3 Beverage Code, is amended by adding Subdivision (4) to read as
4 follows:

5 (4) "Watercraft" has the meaning assigned by Section
6 49.01, Penal Code.

7 SECTION 5. Article 18.01, Code of Criminal Procedure, is
8 amended by amending Subsection (c) and adding Subsection (j) to
9 read as follows:

10 (c) A search warrant may not be issued under Article
11 18.02(10) [~~pursuant to Subdivision (10) of Article 18.02 of this~~
12 ~~code~~] unless the sworn affidavit required by Subsection (b) [~~of~~
13 ~~this article~~] sets forth sufficient facts to establish probable
14 cause: (1) that a specific offense has been committed, (2) that
15 the specifically described property or items that are to be
16 searched for or seized constitute evidence of that offense or
17 evidence that a particular person committed that offense, and
18 (3) that the property or items constituting evidence to be
19 searched for or seized are located at or on the particular
20 person, place, or thing to be searched. Except as provided by
21 Subsections (d), [and] (i), and (j) [~~of this article~~], only a
22 judge of a municipal court of record or a county court who is an
23 attorney licensed by the State of Texas, a statutory county
24 court judge, a district court judge, a judge of the Court of
25 Criminal Appeals, including the presiding judge, or a justice of
26 the Supreme Court of Texas, including the chief justice, may
27 issue warrants under Article 18.02(10) [~~pursuant to Subdivision~~
28 ~~(10), Article 18.02 of this code~~].

29 (j) Any magistrate who is an attorney licensed by this
30 state may issue a search warrant under Article 18.02(10) to
31 collect a blood specimen from a person who:

32 (1) is arrested for an offense under Section 49.04,
33 49.045, 49.05, 49.06, 49.065, 49.07, or 49.08, Penal Code; and

34 (2) refuses to submit to a breath or blood alcohol
35 test.

36 SECTION 6. Subsections (h) and (n), Section 13, Article
37 42.12, Code of Criminal Procedure, are amended to read as
38 follows:

39 (h) If a person convicted of an offense under Sections
40 49.04-49.08, Penal Code, is placed on community supervision, the
41 judge shall require, as a condition of the community
42 supervision, that the defendant attend and successfully complete
43 before the 181st day after the day community supervision is
44 granted an educational program jointly approved by the Texas
45 Commission on Alcohol and Drug Abuse, the Department of Public
46 Safety, the Traffic Safety Section of the Texas Department of
47 Transportation, and the community justice assistance division of

1 the Texas Department of Criminal Justice designed to
2 rehabilitate persons who have driven while intoxicated. The
3 Texas Commission on Alcohol and Drug Abuse shall publish the
4 jointly approved rules and shall monitor, coordinate, and
5 provide training to persons providing the educational programs.
6 The Texas Commission on Alcohol and Drug Abuse is responsible
7 for the administration of the certification of approved
8 educational programs and may charge a nonrefundable application
9 fee for the initial certification of approval and for renewal of
10 a certificate. The judge may waive the educational program
11 requirement or may grant an extension of time to successfully
12 complete the program that expires not later than one year after
13 the beginning date of the person's community supervision,
14 however, if the defendant by a motion in writing shows good
15 cause. In determining good cause, the judge may consider but is
16 not limited to: the defendant's school and work schedule, the
17 defendant's health, the distance that the defendant must travel
18 to attend an educational program, and the fact that the
19 defendant resides out of state, has no valid driver's license,
20 or does not have access to transportation. The judge shall set
21 out the finding of good cause for waiver in the judgment. If a
22 defendant is required, as a condition of community supervision,
23 to attend an educational program or if the court waives the
24 educational program requirement, the court clerk shall
25 immediately report that fact to the Department of Public Safety,
26 on a form prescribed by the department, for inclusion in the
27 person's driving record. If the court grants an extension of
28 time in which the person may complete the program, the court
29 clerk shall immediately report that fact to the Department of
30 Public Safety on a form prescribed by the department. The
31 report must include the beginning date of the person's community
32 supervision. Upon the person's successful completion of the
33 educational program, the person's instructor shall give notice
34 to the Department of Public Safety for inclusion in the person's
35 driving record and to the community supervision and corrections
36 department. The community supervision and corrections
37 department shall then forward the notice to the court clerk for
38 filing. If the Department of Public Safety does not receive
39 notice that a defendant required to complete an educational
40 program has successfully completed the program within the period
41 required by this section, as shown on department records, the
42 department shall revoke the defendant's driver's license,
43 permit, or privilege or prohibit the person from obtaining a
44 license or permit, as provided by Sections 521.344(e) and (f),
45 Transportation Code. The Department of Public Safety may not
46 reinstate a license suspended under this subsection unless the
47 person whose license was suspended makes application to the

1 department for reinstatement of the person's license and pays to
2 the department a reinstatement fee of \$100 [~~\$50~~]. The
3 Department of Public Safety shall remit all fees collected under
4 this subsection to the comptroller for deposit in the general
5 revenue fund. This subsection does not apply to a defendant if
6 a jury recommends community supervision for the defendant and
7 also recommends that the defendant's driver's license not be
8 suspended.

9 (n) Notwithstanding any other provision of this section or
10 other law, the judge who places on community supervision a
11 defendant who was [~~is~~] younger than 21 years of age at the time
12 of the offense and was convicted for an offense under Sections
13 49.04-49.08, Penal Code, shall:

14 (1) order that the defendant's driver's license be
15 suspended for 90 days beginning on the date that the person is
16 placed on community supervision; and

17 (2) require as a condition of community supervision
18 that the defendant not operate a motor vehicle unless the
19 vehicle is equipped with the device described by Subsection (i)
20 of this section.

21 SECTION 7. Section 521.341, Transportation Code, is
22 amended to read as follows:

23 Sec. 521.341. REQUIREMENTS FOR AUTOMATIC LICENSE
24 SUSPENSION. Except as provided by Sections 521.344(d)-(i), a
25 license is automatically suspended on final conviction of the
26 license holder of:

27 (1) an offense under Section 19.05, Penal Code,
28 committed as a result of the holder's criminally negligent
29 operation of a motor vehicle;

30 (2) an offense under Section 38.04, Penal Code, if
31 the holder used a motor vehicle in the commission of the
32 offense;

33 (3) an offense under Section 49.04, 49.045, or 49.08,
34 Penal Code;

35 (4) an offense under Section 49.07, Penal Code, if
36 the holder used a motor vehicle in the commission of the
37 offense;

38 (5) an offense punishable as a felony under the motor
39 vehicle laws of this state;

40 (6) an offense under Section 550.021;

41 (7) an offense under Section 521.451 or 521.453; or

42 (8) an offense under Section 19.04, Penal Code, if
43 the holder used a motor vehicle in the commission of the
44 offense.

45 SECTION 8. Subsections (a) and (b), Section 521.342,
46 Transportation Code, are amended to read as follows:

47 (a) Except as provided by Section 521.344, the license of

1 a person who was under 21 years of age at the time of the
2 offense, other than an offense classified as a misdemeanor
3 punishable by fine only, is automatically suspended on
4 conviction of:

5 (1) an offense under Section 49.04, 49.045, or 49.07,
6 Penal Code, committed as a result of the introduction of alcohol
7 into the body;

8 (2) an offense under the Alcoholic Beverage Code,
9 other than an offense to which Section 106.071 of that code
10 applies, involving the manufacture, delivery, possession,
11 transportation, or use of an alcoholic beverage;

12 (3) a misdemeanor offense under Chapter 481, Health
13 and Safety Code, for which Subchapter P does not require the
14 automatic suspension of the license;

15 (4) an offense under Chapter 483, Health and Safety
16 Code, involving the manufacture, delivery, possession,
17 transportation, or use of a dangerous drug; or

18 (5) an offense under Chapter 485, Health and Safety
19 Code, involving the manufacture, delivery, possession,
20 transportation, or use of an abusable volatile chemical.

21 (b) The department shall suspend for one year the license
22 of a person who is under 21 years of age and is convicted of an
23 offense under Section 49.04, 49.045, 49.07, or 49.08, Penal
24 Code, regardless of whether the person is required to attend an
25 educational program under Section 13(h), Article 42.12, Code of
26 Criminal Procedure, that is designed to rehabilitate persons who
27 have operated motor vehicles while intoxicated, unless the
28 person is placed under community supervision under that article
29 and is required as a condition of the community supervision to
30 not operate a motor vehicle unless the vehicle is equipped with
31 the device described by Section 13(i) of that article. If the
32 person is required to attend such a program and does not
33 complete the program before the end of the person's suspension,
34 the department shall suspend the person's license or continue
35 the suspension, as appropriate, until the department receives
36 proof that the person has successfully completed the program.
37 On the person's successful completion of the program, the
38 person's instructor shall give notice to the department and to
39 the community supervision and corrections department in the
40 manner provided by Section 13(h), Article 42.12, Code of
41 Criminal Procedure.

42 SECTION 9. Subsections (a), (c), and (i), Section 521.344,
43 Transportation Code, are amended to read as follows:

44 (a) Except as provided by Sections 521.342(b) and 521.345,
45 and by Subsections (d)-(i), if a person is convicted of an
46 offense under Section 49.04, 49.045, or 49.07, Penal Code, the
47 license suspension:

1 (1) begins on a date set by the court that is not
2 earlier than the date of the conviction or later than the 30th
3 day after the date of the conviction, as determined by the
4 court; and

5 (2) continues for a period set by the court according
6 to the following schedule:

7 (A) not less than 90 days or more than one year,
8 if the person is punished under Section 49.04, 49.045, or 49.07,
9 Penal Code, except that if the person's license is suspended for
10 a second or subsequent offense under Section 49.07 committed
11 within five years of the date on which the most recent preceding
12 offense was committed, the suspension continues for a period of
13 one year;

14 (B) not less than 180 days or more than two
15 years, if the person is punished under Section 49.09(a) or (b),
16 Penal Code; or

17 (C) not less than one year or more than two
18 years, if the person is punished under Section 49.09(a) or (b),
19 Penal Code, and is subject to Section 49.09(h) of that code.

20 (c) The court shall credit toward the period of suspension
21 a suspension imposed on the person for refusal to give a
22 specimen under Chapter 724 if the refusal followed an arrest for
23 the same offense for which the court is suspending the person's
24 license under this chapter. The court may not extend the credit
25 to a person:

26 (1) who has been previously convicted of an offense
27 under Section 49.04, 49.045, 49.07, or 49.08, Penal Code; or

28 (2) whose period of suspension is governed by Section
29 521.342(b).

30 (i) On the date that a suspension order under Section
31 521.343(c) is to expire, the period of suspension or the
32 corresponding period in which the department is prohibited from
33 issuing a license is automatically increased to two years unless
34 the department receives notice of successful completion of the
35 educational program as required by Section 13, Article 42.12,
36 Code of Criminal Procedure. At the time a person is convicted
37 of an offense under Section 49.04 or 49.045, Penal Code, the
38 court shall warn the person of the effect of this subsection.
39 On the person's successful completion of the program, the
40 person's instructor shall give notice to the department and to
41 the community supervision and corrections department in the
42 manner required by Section 13, Article 42.12, Code of Criminal
43 Procedure. If the department receives proof of completion after
44 a period has been extended under this subsection, the department
45 shall immediately end the suspension or prohibition.

46 SECTION 10. Subdivision (3), Section 524.001,
47 Transportation Code, is amended to read as follows:

1 (3) "Alcohol-related or drug-related enforcement
2 contact" means a driver's license suspension, disqualification,
3 or prohibition order under the laws of this state or another
4 state resulting from:

5 (A) a conviction of an offense prohibiting the
6 operation of a motor vehicle or watercraft while:

7 (i) intoxicated;

8 (ii) under the influence of alcohol; or

9 (iii) under the influence of a controlled
10 substance;

11 (B) a refusal to submit to the taking of a
12 breath or blood specimen following an arrest for an offense
13 prohibiting the operation of a motor vehicle or an offense
14 prohibiting the operation of a watercraft, if the watercraft was
15 powered with an engine having a manufacturer's rating of 50
16 horsepower or more, while:

17 (i) intoxicated;

18 (ii) under the influence of alcohol; or

19 (iii) under the influence of a controlled
20 substance; or

21 (C) an analysis of a breath or blood specimen
22 showing an alcohol concentration of a level specified by Section
23 49.01, Penal Code, following an arrest for an offense
24 prohibiting the operation of a motor vehicle or watercraft while
25 intoxicated.

26 SECTION 11. Subsection (a), Section 524.011,
27 Transportation Code, is amended to read as follows:

28 (a) An officer arresting a person shall comply with
29 Subsection (b) if:

30 (1) the person is arrested for an offense under
31 Section 49.04, 49.045, or 49.06, Penal Code, or an offense under
32 Section 49.07 or 49.08 of that code involving the operation of a
33 motor vehicle or watercraft, submits to the taking of a specimen
34 of breath or blood and an analysis of the specimen shows the
35 person had an alcohol concentration of a level specified by
36 Section 49.01(2)(B), Penal Code; or

37 (2) the person is a minor arrested for an offense
38 under Section 106.041, Alcoholic Beverage Code, or Section
39 49.04, 49.045, or 49.06, Penal Code, or an offense under Section
40 49.07 or 49.08, Penal Code, involving the operation of a motor
41 vehicle or watercraft and:

42 (A) the minor is not requested to submit to the
43 taking of a specimen; or

44 (B) the minor submits to the taking of a
45 specimen and an analysis of the specimen shows that the minor
46 had an alcohol concentration of greater than .00 but less than
47 the level specified by Section 49.01(2)(B), Penal Code.

1 SECTION 12. Subsection (b), Section 524.012,
2 Transportation Code, is amended to read as follows:

3 (b) The department shall suspend the person's driver's
4 license if the department determines that:

5 (1) the person had an alcohol concentration of a
6 level specified by Section 49.01(2)(B), Penal Code, while
7 operating a motor vehicle in a public place or while operating a
8 watercraft; or

9 (2) the person was [~~is~~] a minor on the date that the
10 breath or blood specimen was obtained and had any detectable
11 amount of alcohol in the minor's system while operating a motor
12 vehicle in a public place or while operating a watercraft.

13 SECTION 13. Subsection (b), Section 524.015,
14 Transportation Code, is amended to read as follows:

15 (b) A suspension may not be imposed under this chapter on
16 a person who is acquitted of a criminal charge under Section
17 49.04, 49.045, 49.06, 49.07, or 49.08, Penal Code, or Section
18 106.041, Alcoholic Beverage Code, arising from the occurrence
19 that was the basis for the suspension. If a suspension was
20 imposed before the acquittal, the department shall rescind the
21 suspension and shall remove any reference to the suspension from
22 the person's computerized driving record.

23 SECTION 14. Subsection (b), Section 524.022,
24 Transportation Code, is amended to read as follows:

25 (b) A period of suspension under this chapter for a minor
26 is:

27 (1) 60 days if the minor has not been previously
28 convicted of an offense under Section 106.041, Alcoholic
29 Beverage Code, or Section 49.04, 49.045, or 49.06, Penal Code,
30 or an offense under Section 49.07 or 49.08, Penal Code,
31 involving the operation of a motor vehicle or a watercraft;

32 (2) 120 days if the minor has been previously
33 convicted once of an offense listed by Subdivision (1); or

34 (3) 180 days if the minor has been previously
35 convicted twice or more of an offense listed by Subdivision (1).

36 SECTION 15. Section 524.023, Transportation Code, is
37 amended to read as follows:

38 Sec. 524.023. APPLICATION OF SUSPENSION UNDER OTHER LAWS.

39 (a) If a person is convicted of an offense under Section
40 106.041, Alcoholic Beverage Code, or Section 49.04, 49.045,
41 49.06, 49.07, or 49.08, Penal Code, and if any conduct on which
42 that conviction is based is a ground for a driver's license
43 suspension under this chapter and Section 106.041, Alcoholic
44 Beverage Code, Subchapter O, Chapter 521, or Subchapter H,
45 Chapter 522, each of the suspensions shall be imposed.

46 (b) The court imposing a driver's license suspension under
47 Section 106.041, Alcoholic Beverage Code, or Chapter 521 or 522

1 as required by Subsection (a) shall credit a period of
2 suspension imposed under this chapter toward the period of
3 suspension required under Section 106.041, Alcoholic Beverage
4 Code, or Subchapter O, Chapter 521, or Subchapter H, Chapter
5 522, unless the person was convicted of an offense under Article
6 67011-1, Revised Statutes, as that law existed before September
7 1, 1994, Section 19.05(a)(2), Penal Code, as that law existed
8 before September 1, 1994, Section 49.04, 49.045, 49.06, 49.07,
9 or 49.08, Penal Code, or Section 106.041, Alcoholic Beverage
10 Code, before the date of the conviction on which the suspension
11 is based, in which event credit may not be given.

12 SECTION 16. Subsections (a) and (d), Section 524.035,
13 Transportation Code, are amended to read as follows:

14 (a) The issues that must be proved at a hearing by a
15 preponderance of the evidence are:

16 (1) whether:

17 (A) the person had an alcohol concentration of a
18 level specified by Section 49.01(2)(B), Penal Code, while
19 operating a motor vehicle in a public place or while operating a
20 watercraft; or

21 (B) the person was [~~is~~] a minor on the date that
22 the breath or blood specimen was obtained and had any detectable
23 amount of alcohol in the minor's system while operating a motor
24 vehicle in a public place or while operating a watercraft; and

25 (2) whether reasonable suspicion to stop or probable
26 cause to arrest the person existed.

27 (d) An administrative law judge may not find in the
28 affirmative on the issue in Subsection (a)(1) if:

29 (1) the person is an adult and the analysis of the
30 person's breath or blood determined that the person had an
31 alcohol concentration of a level below that specified by Section
32 49.01, Penal Code, at the time the specimen was taken; or

33 (2) the person was [~~is~~] a minor on the date that the
34 breath or blood specimen was obtained and the administrative law
35 judge does not find that the minor had any detectable amount of
36 alcohol in the minor's system when the minor was arrested.

37 SECTION 17. Subsection (a), Section 524.042,
38 Transportation Code, is amended to read as follows:

39 (a) A suspension of a driver's license under this chapter
40 is stayed on the filing of an appeal petition only if:

41 (1) the person's driver's license has not been
42 suspended as a result of an alcohol-related or drug-related
43 enforcement contact during the five years preceding the date of
44 the person's arrest; and

45 (2) the person has not been convicted during the 10
46 years preceding the date of the person's arrest of an offense
47 under:

1 (A) Article 67011-1, Revised Statutes, as that
2 law existed before September 1, 1994;

3 (B) Section 19.05(a)(2), Penal Code, as that law
4 existed before September 1, 1994;

5 (C) Section 49.04, 49.045, or 49.06, Penal Code;

6 (D) Section 49.07 or 49.08, Penal Code, if the
7 offense involved the operation of a motor vehicle or a
8 watercraft; or

9 (E) Section 106.041, Alcoholic Beverage Code.

10 SECTION 18. Subsections (b) and (d), Section 724.012,
11 Transportation Code, are amended to read as follows:

12 (b) A peace officer shall require the taking of a specimen
13 of the person's breath or blood under any of the following
14 circumstances if[+]

15 [~~1~~] the officer arrests the person for an offense
16 under Chapter 49, Penal Code, involving the operation of a motor
17 vehicle or a watercraft and the person refuses the officer's
18 request to submit to the taking of a specimen voluntarily:[+]

19 (1) [~~2~~] the person was the operator of a motor
20 vehicle or a watercraft involved in an accident that the officer
21 reasonably believes occurred as a result of the offense and,[+]

22 [~~3~~] at the time of the arrest, the officer
23 reasonably believes that as a direct result of the accident:

24 (A) any individual has died or will die; [~~or~~]

25 (B) an individual other than the person has
26 suffered serious bodily injury; or

27 (C) an individual other than the person has
28 suffered bodily injury and been transported to a hospital or
29 other medical facility for medical treatment;

30 (2) the offense for which the officer arrests the
31 person is an offense under Section 49.045, Penal Code; or

32 (3) at the time of the arrest, the officer possesses
33 or receives reliable information from a credible source that the
34 person:

35 (A) has been previously convicted of or placed
36 on community supervision for an offense under Section 49.045,
37 49.07, or 49.08, Penal Code, or an offense under the laws of
38 another state containing elements substantially similar to the
39 elements of an offense under those sections; or

40 (B) on two or more occasions, has been
41 previously convicted of or placed on community supervision for
42 an offense under Section 49.04, 49.05, 49.06, or 49.065, Penal
43 Code, or an offense under the laws of another state containing
44 elements substantially similar to the elements of an offense
45 under those sections [~~and~~

46 [~~4~~] ~~the person refuses the officer's request to~~
47 ~~submit to the taking of a specimen voluntarily].~~

1 (d) In this section, "bodily injury" and "serious bodily
2 injury" have [~~has~~] the meanings [~~meaning~~] assigned by Section
3 1.07, Penal Code.

4 SECTION 19. Section 724.017, Transportation Code, is
5 amended by amending Subsection (b) and adding Subsection (d) to
6 read as follows:

7 (b) If the blood specimen was taken according to
8 recognized medical procedures, the [~~The~~] person who takes the
9 blood specimen under this chapter, the facility that employs the
10 person who takes the blood specimen, or the hospital where the
11 blood specimen is taken[-] is immune from civil liability [~~not~~
12 ~~liable~~] for damages arising from the taking of the blood
13 specimen at the request or order of the peace officer or
14 pursuant to a search warrant [~~to take the blood specimen~~] as
15 provided by this chapter and is not subject to discipline by any
16 licensing or accrediting agency or body [~~if the blood specimen~~
17 ~~was taken according to recognized medical procedures~~]. This
18 subsection does not relieve a person from liability for
19 negligence in the taking of a blood specimen. The taking of a
20 specimen from a person who objects to the taking of the specimen
21 or who is resisting the taking of the specimen does not in
22 itself constitute negligence and may not be considered evidence
23 of negligence.

24 (d) A person whose blood specimen is taken under this
25 chapter in a hospital is not considered to be present in the
26 hospital for medical screening or treatment unless the
27 appropriate hospital personnel determine that medical screening
28 or treatment is required for proper medical care of the person.

29 SECTION 20. (a) The change in law to Article 18.01, Code
30 of Criminal Procedure, applies only to a search warrant issued
31 on or after the effective date of this Act. A search warrant
32 issued before the effective date of this Act is governed by the
33 law in effect on the date the warrant was issued, and the former
34 law is continued in effect for that purpose.

35 (b) The changes in law to Chapters 521 and 524 and Section
36 724.012, Transportation Code, and Section 13, Article 42.12,
37 Code of Criminal Procedure, apply only to an offense committed
38 on or after the effective date of this Act. An offense
39 committed before the effective date of this Act is covered by
40 the law in effect when the offense was committed, and the former
41 law is continued in effect for that purpose. For purposes of
42 this section, an offense was committed before the effective date
43 of this Act if any element of the offense was committed before
44 that date.

45 SECTION 21. This Act takes effect September 1, 2009.

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47 S.B. No. 333

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AN ACT

relating to the retention by a county or municipality of certain court costs for maintaining and supporting a certified breath alcohol testing program.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subsection (b), Article 102.016, Code of Criminal Procedure, is amended to read as follows:

(b) The custodian of a municipal or county treasury in a county that maintains a certified breath alcohol testing program but does not use the services of a certified technical supervisor employed by the department may, to defray the costs of maintaining and supporting a certified breath alcohol ~~[breath]~~ testing program, retain \$22.50 of each court cost collected under Section 133.102, Local Government Code, [Article 102.075] on conviction of an offense under Chapter 49, Penal Code, other than an offense that is a Class C misdemeanor.

SECTION 2. (a) The change in law made by this Act applies only to a court cost collected on or after the effective date of this Act. A court cost collected before the effective date of this Act is governed by the law in effect when the court cost was collected, and the law is continued in effect for that purpose.

(b) Notwithstanding Subsection (a) of this section, the custodian of a municipal or county treasury may retain any amount retained under Subsection (b), Article 102.016, Code of Criminal Procedure, before the effective date of this Act to maintain and support a certified breath alcohol testing program.

SECTION 3. This Act takes effect September 1, 2009.

S.B. No. 359

AN ACT

relating to punishment for certain offenses committed in a disaster area or an evacuated area.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter D, Chapter 12, Penal Code, is amended by adding Section 12.50 to read as follows:

Sec. 12.50. PENALTY IF OFFENSE COMMITTED IN DISASTER AREA OR EVACUATED AREA. (a) Subject to Subsection (c), the punishment for an offense described by Subsection (b) is

1 increased to the punishment prescribed for the next higher
2 category of offense if it is shown on the trial of the offense
3 that the offense was committed in an area that was, at the time
4 of the offense:

5 (1) subject to a declaration of a state of disaster
6 made by:

7 (A) the president of the United States under the
8 Robert T. Stafford Disaster Relief and Emergency Assistance Act
9 (42 U.S.C. Section 5121 et seq.);

10 (B) the governor under Section 418.014,
11 Government Code; or

12 (C) the presiding officer of the governing body
13 of a political subdivision under Section 418.108, Government
14 Code; or

15 (2) subject to an emergency evacuation order.

16 (b) The increase in punishment authorized by this section
17 applies only to an offense under:

18 (1) Section 22.01;

19 (2) Section 29.02;

20 (3) Section 30.02; and

21 (4) Section 31.03.

22 (c) If an offense listed under Subsection (b)(1) or (4) is
23 punishable as a Class A misdemeanor, the minimum term of
24 confinement for the offense is increased to 180 days. If an
25 offense listed under Subsection (b)(3) or (4) is punishable as a
26 felony of the first degree, the punishment for that offense may
27 not be increased under this section.

28 (d) It is a defense to a charge under Subsection (b)(4)
29 that the conduct in question meets the elements of necessity
30 outlined in Section 9.22.

31 (e) For purposes of this section, "emergency evacuation
32 order" means an official statement issued by the governing body
33 of this state or a political subdivision of this state to
34 recommend or require the evacuation of all or part of the
35 population of an area stricken or threatened with a disaster.

36 SECTION 2. The change in law made by this Act applies only
37 to an offense committed on or after the effective date of this
38 Act. An offense committed before the effective date of this Act
39 is governed by the law in effect at the time the offense was
40 committed, and the former law is continued in effect for that
41 purpose. For purposes of this section, an offense was committed
42 before the effective date of this Act if any element of the
43 offense occurred before that date.

44 SECTION 3. This Act takes effect September 1, 2009.

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46 S.B. No. 375
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AN ACT

relating to the release of certain motor vehicle accident report information.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 550.065, Transportation Code, is amended by amending Subsections (a), (b), and (d) and adding Subsections (e), (f), and (g) to read as follows:

(a) This section applies only to information that is held by the department or another governmental entity and relates to a motor vehicle accident reported under this chapter or Section 601.004, including accident report information compiled under Section 201.805, as added by Chapter 1407 (S.B. 766), Acts of the 80th Legislature, Regular Session, 2007.

(b) Except as provided by Subsection (c) or (e), the information is privileged and for the confidential use of:

- (1) the department; and
- (2) an agency of the United States, this state, or a local government of this state that has use for the information for accident prevention purposes.

(d) The fee for a copy of the accident report [~~or accident information~~] is \$6 [~~or the actual cost of the preparation of the copy, whichever is less~~]. The copy may be certified by the department or the governmental entity for an additional fee of \$2. The department or the governmental entity may issue a certification that no report or information is on file for a fee of \$6.

(e) In addition to the information required to be released under Subsection (c), the department may release:

- (1) information relating to motor vehicle accidents that the department compiles under Section 201.805, as added by Chapter 1407 (S.B. 766), Acts of the 80th Legislature, Regular Session, 2007; or
- (2) a vehicle identification number and specific accident information relating to that vehicle.

(f) The department:

(1) may not release under Subsection (e) information that:

- (A) is personal information, as defined by Section 730.003; or
- (B) would allow a person to satisfy the requirements of Subsection (c)(4) for the release of information for a specific motor vehicle accident; and

(2) shall withhold or redact the following items of information:

1 (A) the first, middle, and last name of any
2 person listed in an accident report, including a vehicle driver,
3 occupant, owner, or lessee, a bicyclist, a pedestrian, or a
4 property owner;

5 (B) the number of any driver's license,
6 commercial driver's license, or personal identification
7 certificate issued to any person listed in an accident report;

8 (C) the date of birth, other than the year, of
9 any person listed in an accident report;

10 (D) the address, other than zip code, and
11 telephone number of any person listed in an accident report;

12 (E) the license plate number of any vehicle
13 listed in an accident report;

14 (F) the date of any accident, other than the
15 year;

16 (G) the name of any insurance company listed as
17 a provider of financial responsibility for a vehicle listed in
18 an accident report;

19 (H) the number of any insurance policy issued by
20 an insurance company listed as a provider of financial
21 responsibility;

22 (I) the date the peace officer who investigated
23 the accident was notified of the accident;

24 (J) the date the investigating peace officer
25 arrived at the accident site;

26 (K) the date the investigating officer's report
27 was prepared;

28 (L) the badge number or identification number of
29 the investigating officer;

30 (M) the date on which any person who died as a
31 result of the accident died;

32 (N) the date of any commercial motor vehicle
33 report; and

34 (O) the place where any person injured or killed
35 in an accident was taken and the person or entity that provided
36 the transportation.

37 (g) The amount that may be charged for information
38 provided under Subsection (e) shall be calculated in the manner
39 specified by Chapter 552, Government Code, for public
40 information provided by a governmental body under that chapter.

41 SECTION 2. This Act takes effect immediately if it
42 receives a vote of two-thirds of all the members elected to each
43 house, as provided by Section 39, Article III, Texas
44 Constitution. If this Act does not receive the vote necessary
45 for immediate effect, this Act takes effect September 1, 2009.

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47 S.B. No. 376

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AN ACT

relating to the powers and duties of the Texas Department of Transportation related to county traffic officers.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 701.006, Transportation Code, is amended to read as follows:

Sec. 701.006. [~~COMPLAINT; HEARING;~~] DISMISSAL. [~~(a) If a county traffic officer fails to perform the officer's duty to enforce the law, the district engineer of the Texas Department of Transportation district in which the officer operates may send a written, signed complaint to the commissioners court.~~

~~[(b) On receipt of the complaint, the commissioners court shall hold a hearing and summon the officer to appear before it.~~

~~[(c) If the commissioners court determines at the hearing that the officer has not performed the officer's duty, the commissioners court shall immediately discharge the officer and promptly employ another officer.~~

~~[(d)]~~ The commissioners court on its own initiative, or on recommendation of the sheriff, may dismiss a county traffic officer if the officer is no longer needed or if the officer's service is unsatisfactory.

SECTION 2. Subsection (b), Section 701.002, Transportation Code, is repealed.

SECTION 3. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2009.

S.B. No. 379

AN ACT

relating to the duties of the Texas Fusion Center, including an annual report by the center regarding criminal street gangs.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 421.082, Government Code, is amended by adding Subsections (e), (f), and (g) to read as follows:

(e) The gang section of the center shall annually submit to the governor and the legislature a report assessing the threat posed statewide by criminal street gangs. The report

1 must include identification of:

2 (1) law enforcement strategies that have been proven
3 effective in deterring gang-related crime; and

4 (2) gang involvement in trafficking of persons.

5 (f) On request, the office of the attorney general, the
6 Department of Public Safety, the Texas Department of Criminal
7 Justice, other law enforcement agencies, and juvenile justice
8 agencies of this state shall provide to the gang section of the
9 center information relating to criminal street gangs, gang-
10 related crime, and gang involvement in trafficking of persons.

11 (g) Any information received by the center under this
12 section that is stored, combined with other information,
13 analyzed, or disseminated is subject to the rules governing
14 criminal intelligence in 28 C.F.R. Part 23.

15 SECTION 2. The gang section of the Texas Fusion Center
16 shall submit the first annual report regarding criminal street
17 gangs to the governor and the legislature as required by
18 Subsection (e), Section 421.082, Government Code, as added by
19 this Act, not later than September 1, 2010.

20 SECTION 3. This Act takes effect immediately if it
21 receives a vote of two-thirds of all the members elected to each
22 house, as provided by Section 39, Article III, Texas
23 Constitution. If this Act does not receive the vote necessary
24 for immediate effect, this Act takes effect September 1, 2009.

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26 S.B. No. 379
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30

31 AN ACT

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11 this Act, not later than September 1, 2010.

12 SECTION 3. This Act takes effect immediately if it
13 receives a vote of two-thirds of all the members elected to each
14 house, as provided by Section 39, Article III, Texas
15 Constitution. If this Act does not receive the vote necessary
16 for immediate effect, this Act takes effect September 1, 2009.

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18 S.B. No. 390
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23 AN ACT

24 relating to confidentiality of certain information under the
25 public information law and in local tax appraisal records
26 regarding federal law enforcement officers.

27 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

28 SECTION 1. Subsections (a) and (c), Article 2.122, Code of
29 Criminal Procedure, are amended to read as follows:

30 (a) The following named criminal investigators of the
31 United States shall not be deemed peace officers, but shall have
32 the powers of arrest, search and seizure as to felony offenses
33 only under the laws of the State of Texas:

34 (1) Special Agents of the Federal Bureau of
35 Investigation;

36 (2) Special Agents of the Secret Service;

37 (3) Special Agents of the United States Immigration
38 and Customs Enforcement [~~Service~~];

39 (4) Special Agents of Alcohol, Tobacco and Firearms;

40 (5) Special Agents of Federal Drug Enforcement
41 Agency;

42 (6) Inspectors of the United States Postal Service;

43 (7) Special Agents of the Criminal Investigation
44 Division and Inspectors of the Internal Security Division of the
45 Internal Revenue Service;

46 (8) Civilian Special Agents of the United States
47 Naval Investigative Service;

1 (9) Marshals and Deputy Marshals of the United States
2 Marshals Service;

3 (10) Special Agents of the United States Citizenship
4 and Immigration Services [~~Immigration and Naturalization~~
5 ~~Service~~]; and

6 (11) Special Agents of the United States Department
7 of State, Bureau of Diplomatic Security.

8 (c) A Customs and Border Protection Officer of the United
9 States Customs and Border Protection [~~customs inspector of the~~
10 ~~United States Customs Service~~] or a Border Patrol agent,
11 immigration enforcement agent, or deportation [~~border patrolman~~
12 ~~or immigration~~] officer of the Department of Homeland Security
13 [~~United States Department of Justice~~] is not a peace officer
14 under the laws of this state but, on the premises of a port
15 facility designated by the commissioner of the United States
16 Customs and Border Protection [~~Immigration and Naturalization~~
17 ~~Service~~] as a port of entry for arrival in the United States by
18 land transportation from the United Mexican States into the
19 State of Texas or at a permanent established border patrol
20 traffic check point, has the authority to detain a person
21 pending transfer without unnecessary delay to a peace officer if
22 the agent [~~inspector, patrolman,~~] or officer has probable cause
23 to believe that the person has engaged in conduct that is a
24 violation of Section 49.02, 49.04, 49.07, or 49.08, Penal Code,
25 regardless of whether the violation may be disposed of in a
26 criminal proceeding or a juvenile justice proceeding.

27 SECTION 2. Subsection (a), Section 552.1175, Government
28 Code, is amended to read as follows:

29 (a) This section applies only to:

30 (1) peace officers as defined by Article 2.12, Code
31 of Criminal Procedure;

32 (2) county jailers as defined by Section 1701.001,
33 Occupations Code;

34 (3) current or former employees of the Texas
35 Department of Criminal Justice or of the predecessor in function
36 of the department or any division of the department;

37 (4) commissioned security officers as defined by
38 Section 1702.002, Occupations Code;

39 (5) employees of a district attorney, criminal
40 district attorney, or county or municipal attorney whose
41 jurisdiction includes any criminal law or child protective
42 services matters; [~~and~~]

43 (6) officers and employees of a community supervision
44 and corrections department established under Chapter 76 who
45 perform a duty described by Section 76.004(b);

46 (7) criminal investigators of the United States as
47 described by Article 2.122(a), Code of Criminal Procedure; and

1 (8) police officers and inspectors of the United
2 States Federal Protective Service.

3 SECTION 3. Subsection (a), Section 25.025, Tax Code, as
4 amended by Chapters 594 (H.B. 41), 621 (H.B. 455), and 851 (H.B.
5 1141), Acts of the 80th Legislature, Regular Session, 2007, is
6 reenacted and amended to read as follows:

7 (a) This section applies only to:

8 (1) a current or former peace officer as defined by
9 Article 2.12, Code of Criminal Procedure;

10 (2) a county jailer as defined by Section 1701.001,
11 Occupations Code;

12 (3) an employee of the Texas Department of Criminal
13 Justice;

14 (4) a commissioned security officer as defined by
15 Section 1702.002, Occupations Code;

16 (5) a victim of family violence as defined by Section
17 71.004, Family Code, if as a result of the act of family
18 violence against the victim, the actor is convicted of a felony
19 or a Class A misdemeanor; ~~and~~

20 (6) a federal judge or state judge;

21 (7) ~~(6)~~ a current or former employee of a district
22 attorney, criminal district attorney, or county or municipal
23 attorney whose jurisdiction includes any criminal law or child
24 protective services matters;

25 (8) ~~(6)~~ an officer or employee of a community
26 supervision and corrections department established under Chapter
27 76, Government Code, who performs a duty described by Section
28 76.004(b) of that code;

29 (9) a criminal investigator of the United States as
30 described by Article 2.122(a), Code of Criminal Procedure; and

31 (10) a police officer or inspector of the United
32 States Federal Protective Service.

33 SECTION 4. The changes in law made by this Act to Section
34 552.1175, Government Code, and Section 25.025, Tax Code, apply
35 only to a request for information that is received by a
36 governmental body or an officer for public information on or
37 after the effective date of this Act. A request for information
38 that was received before the effective date of this Act is
39 governed by the law in effect on the date the request was
40 received, and the former law is continued in effect for that
41 purpose.

42 SECTION 5. This Act takes effect September 1, 2009.

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44 S.B. No. 409

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AN ACT

relating to fees charged by a justice of the peace for certain documents in a criminal case.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 118.124, Local Government Code, is amended to read as follows:

Sec. 118.124. PROHIBITED FEES. A justice of the peace is not entitled to a fee for:

(1) the examination of a paper or record in the justice's office;

(2) filing any process or document the justice issues that is returned to court;

(3) a motion or judgment on a motion for security for costs; [~~or~~]

(4) taking or approving a bond for costs; or

(5) the first copy of a document in a criminal case issued to:

(A) a criminal defendant in the case;

(B) an attorney representing a criminal defendant in the case; or

(C) a prosecuting attorney.

SECTION 2. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2009.

S.B. No. 410

AN ACT

relating to the statute of limitations for a misdemeanor.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Article 12.02, Code of Criminal Procedure, is amended to read as follows:

Art. 12.02. MISDEMEANORS. (a) An indictment or information for any Class A or Class B misdemeanor may be presented within two years from the date of the commission of the offense, and not afterward.

(b) A complaint or information for any Class C misdemeanor may be presented within two years from the date of the commission of the offense, and not afterward.

SECTION 2. The change in law made by Article 12.02, Code of Criminal Procedure, as amended by this Act, does not apply to

1 an offense if the prosecution of that offense became barred by
2 limitation before the effective date of this Act. The
3 prosecution of that offense remains barred as if this Act had
4 not taken effect.

5 SECTION 3. This Act takes effect September 1, 2009.

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7 S.B. No. 413
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12 AN ACT

13 relating to the prosecution of a Class C misdemeanor offense for
14 which the defendant does not appear.

15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

16 SECTION 1. Subsection (d), Article 27.14, Code of Criminal
17 Procedure, is amended to read as follows:

18 (d) If written notice of an offense for which maximum
19 possible punishment is by fine only or of a violation relating
20 to the manner, time, and place of parking has been prepared,
21 delivered, and filed with the court and a legible duplicate copy
22 has been given to the defendant, the written notice serves as a
23 complaint to which the defendant may plead "guilty," "not
24 guilty," or "nolo contendere." If the defendant pleads "not
25 guilty" to the offense or fails to appear based on the written
26 notice, a complaint shall be filed that conforms to the
27 requirements of Chapter 45 of this code, and that complaint
28 serves as an original complaint. A defendant may waive the
29 filing of a sworn complaint and elect that the prosecution
30 proceed on the written notice of the charged offense if the
31 defendant agrees in writing with the prosecution, signs the
32 agreement, and files it with the court.

33 SECTION 2. The change in law made by this Act applies only
34 to the prosecution of an offense committed on or after the
35 effective date of this Act. The prosecution of an offense
36 committed before the effective date of this Act is covered by
37 the law in effect at the time the offense was committed, and the
38 former law is continued in effect for that purpose. For
39 purposes of this section, an offense was committed before the
40 effective date of this Act if any element of the offense
41 occurred before that date.

42 SECTION 3. This Act takes effect September 1, 2009.

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44 S.B. No. 414
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AN ACT

relating to conducting by electronic means a hearing to determine a defendant's ability to discharge certain fines and court costs.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Article 43.03, Code of Criminal Procedure, is amended by adding Subsection (f) to read as follows:

(f) For purposes of a hearing described by Subsection (d), a defendant may be brought before the court in person or by means of an electronic broadcast system through which an image of the defendant is presented to the court. For purposes of this subsection, "electronic broadcast system" means a two-way electronic communication of image and sound between the defendant and the court and includes secure Internet videoconferencing.

SECTION 2. Article 45.046, Code of Criminal Procedure, is amended by adding Subsection (c) to read as follows:

(c) For purposes of a hearing described by Subsection (a), a defendant may be brought before the court in person or by means of an electronic broadcast system through which an image of the defendant is presented to the court. For purposes of this subsection, "electronic broadcast system" means a two-way electronic communication of image and sound between the defendant and the court and includes secure Internet videoconferencing.

SECTION 3. The change in law made by this Act applies only to a hearing held under Article 43.03 or 45.046, Code of Criminal Procedure, on or after the effective date of this Act. A hearing held under Article 43.03 or 45.046, Code of Criminal Procedure, before the effective date of this Act is governed by the law in effect at the time of the hearing, and the former law is continued in effect for that purpose.

SECTION 4. This Act takes effect September 1, 2009.

S.B. No. 415

AN ACT

relating to the court in which certain persons charged with misdemeanors punishable by fine only may be arraigned.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subsection (b), Article 15.17, Code of Criminal Procedure, is amended to read as follows:

(b) After an accused charged with a misdemeanor punishable

1 by fine only is taken before a magistrate under Subsection (a)
2 [~~of this article~~] and the magistrate has identified the accused
3 with certainty, the magistrate may release the accused without
4 bond and order the accused to appear at a later date for
5 arraignment in the applicable justice [~~county~~] court or
6 municipal [~~statutory county~~] court. The order must state in
7 writing the time, date, and place of the arraignment, and the
8 magistrate must sign the order. The accused shall receive a
9 copy of the order on release. If an accused fails to appear as
10 required by the order, the judge of the court in which the
11 accused is required to appear shall issue a warrant for the
12 arrest of the accused. If the accused is arrested and brought
13 before the judge, the judge may admit the accused to bail, and
14 in admitting the accused to bail, the judge should set as the
15 amount of bail an amount double that generally set for the
16 offense for which the accused was arrested. This subsection
17 does not apply to an accused who has previously been convicted
18 of a felony or a misdemeanor other than a misdemeanor punishable
19 by fine only.

20 SECTION 2. This Act takes effect September 1, 2009.

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22 S.B. No. 417

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27 AN ACT

28 relating to the purchase of a retired firearm from the Parks and
29 Wildlife Department by a game warden.

30 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

31 SECTION 1. Subchapter B, Chapter 11, Parks and Wildlife
32 Code, is amended by adding Section 11.0193 to read as follows:

33 Sec. 11.0193. PURCHASE OF FIREARM FROM DEPARTMENT BY
34 COMMISSIONED PEACE OFFICER. (a) An employee commissioned by
35 the director as a peace officer may purchase for an amount set
36 by the department, not to exceed fair market value, a firearm
37 issued to the person by the department if:

38 (1) the firearm is not listed as a prohibited weapon
39 under Section 46.05, Penal Code; and

40 (2) the firearm is retired by the department for
41 replacement purposes.

42 (b) The commission may adopt rules for the sale of a
43 retired firearm under this section to a peace officer
44 commissioned by the director.

45 SECTION 2. This Act takes effect immediately if it
46 receives a vote of two-thirds of all the members elected to each
47 house, as provided by Section 39, Article III, Texas

1 Constitution. If this Act does not receive the vote necessary
2 for immediate effect, this Act takes effect September 1, 2009.

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4 S.B. No. 418
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AN ACT

10 relating to the compilation, maintenance, and release of
11 information in a criminal street gang intelligence database by
12 law enforcement agencies and criminal justice agencies.

13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

14 SECTION 1. Article 61.02, Code of Criminal Procedure, is
15 amended by amending Subsections (a) and (b) and adding
16 Subsection (b-1) to read as follows:

17 (a) Subject to Subsection (b), a criminal justice agency
18 shall ~~[may]~~ compile criminal information into an intelligence
19 database for the purpose of investigating or prosecuting the
20 criminal activities of criminal combinations or criminal street
21 gangs. ~~[The information may be compiled on paper, by computer,
22 or in any other useful manner.]~~

23 (b) A law enforcement agency in a municipality with a
24 population of 50,000 or more or in a county with a population of
25 100,000 or more shall ~~[may]~~ compile and maintain in a local or
26 regional intelligence database criminal information relating to
27 a criminal street gang as provided by Subsection (a). The
28 information must be compiled and maintained ~~[in a local or~~
29 ~~regional intelligence database only if the agency compiles and~~
30 ~~maintains the information]~~ in accordance with the criminal
31 intelligence systems operating policies established under 28
32 C.F.R. Section 23.1 et seq. and the submission criteria
33 established under Subsection (c).

34 (b-1) Information described by this article may be
35 compiled on paper, by computer, or in any other useful manner by
36 a criminal justice agency or law enforcement agency.

37 SECTION 2. Subsections (a) and (c), Article 61.03, Code of
38 Criminal Procedure, are amended to read as follows:

39 (a) A criminal justice agency ~~[that maintains criminal~~
40 ~~information under this chapter]~~ may release on request ~~[the]~~
41 information maintained under this chapter ~~[on request]~~ to:

42 (1) another criminal justice agency;
43 (2) a court; or
44 (3) a defendant in a criminal proceeding who is
45 entitled to the discovery of the information under Chapter 39.

46 (c) A ~~[If a]~~ local law enforcement agency described by
47 Article 61.02(b) ~~[compiles and maintains information under this~~

1 ~~chapter relating to a criminal street gang, the agency]~~ shall
2 send to the department ~~[the]~~ information compiled and maintained
3 under this chapter ~~[to the department]~~.

4 SECTION 3. Subsections (b) and (d), Article 61.04, Code of
5 Criminal Procedure, are amended to read as follows:

6 (b) A criminal justice agency ~~[that maintains information~~
7 ~~under this chapter]~~ may release ~~[the]~~ information maintained
8 under this chapter to an attorney representing a child who is a
9 party to a proceeding under Title 3, Family Code, if the
10 juvenile court determines the information:

11 (1) is material to the proceeding; and

12 (2) is not privileged under law.

13 (d) ~~The~~ ~~[If a local law enforcement agency collects~~
14 ~~criminal information under this chapter relating to a criminal~~
15 ~~street gang, the]~~ governing body of a ~~[the]~~ county or
16 municipality served by a ~~[the]~~ law enforcement agency described
17 by Article 61.02(b) may adopt a policy to notify the parent or
18 guardian of a child of the agency's observations relating to the
19 child's association with a criminal street gang.

20 SECTION 4. Chapter 61, Code of Criminal Procedure, is
21 amended by adding Article 61.12 to read as follows:

22 Art. 61.12. DATABASE USER TRAINING. (a) The department
23 shall enter into a memorandum of understanding with the United
24 States Department of Justice or other appropriate federal
25 department or agency to provide any person in this state who
26 enters information into or retrieves information from an
27 intelligence database described by this chapter with training
28 regarding the operating principles described by 28 C.F.R. Part
29 23, as those principles relate to an intelligence database
30 established or maintained under this chapter.

31 (b) A person in this state who enters information into or
32 retrieves information from an intelligence database described by
33 this chapter shall complete continuing education training on the
34 material described by Subsection (a) at least once for each
35 continuous two-year period the person has primary responsibility
36 for performing a function described by this subsection.

37 (c) The department shall adopt the rules necessary to
38 implement this article.

39 SECTION 5. (a) Not later than October 1, 2009, the
40 Department of Public Safety of the State of Texas shall adopt
41 rules as required by Article 61.12, Code of Criminal Procedure,
42 as added by this Act.

43 (b) The Department of Public Safety of the State of Texas
44 shall enter into a memorandum of understanding with the United
45 States Department of Justice or other appropriate federal
46 department or agency, as required by Article 61.12, Code of
47 Criminal Procedure, as added by this Act, not later than

1 December 1, 2009.

2 SECTION 6. This Act takes effect September 1, 2009.

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4 S.B. No. 446
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9 AN ACT

10 relating to the use of certain court costs in a criminal case
11 for municipal programs enhancing public safety and security.

12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

13 SECTION 1. Subsection (g), Article 102.014, Code of
14 Criminal Procedure, is amended to read as follows:

15 (g) In a municipality with a population less than 850,000
16 according to the most recent federal decennial census, the money
17 collected under this article in a municipal court case must be
18 used for a school crossing guard program if the municipality
19 operates one. If the municipality does not operate a school
20 crossing guard program or if the money received from court costs
21 from municipal court cases exceeds the amount necessary to fund
22 the school crossing guard program, the municipality may:

23 (1) deposit the additional money in an
24 interest-bearing account;

25 (2) expend the additional money ~~[i.e.]~~ for
26 programs designed to enhance child safety, health, or nutrition,
27 including child abuse prevention and intervention and drug and
28 alcohol abuse prevention; or

29 (3) expend the additional money for programs designed
30 to enhance public safety and security.

31 SECTION 2. Subsection (g), Section 502.173, Transportation
32 Code, is amended to read as follows:

33 (g) A municipality with a population greater than 850,000
34 shall deposit revenue from a fee imposed under this subsection
35 to the credit of the child safety trust fund created under
36 Section 106.001, Local Government Code. A municipality with a
37 population less than 850,000 shall use revenue from a fee
38 imposed under this section in accordance with Article 102.014(g)
39 [Subsection (f), Article 102.014], Code of Criminal Procedure.

40 SECTION 3. This Act takes effect immediately if it
41 receives a vote of two-thirds of all the members elected to each
42 house, as provided by Section 39, Article III, Texas
43 Constitution. If this Act does not receive the vote necessary
44 for immediate effect, this Act takes effect September 1, 2009.

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46 S.B. No. 449
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1 AN ACT

2 relating to the penalty group classification of certain
3 controlled substances.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Section 481.102, Health and Safety Code, is
6 amended to read as follows:

7 Sec. 481.102. PENALTY GROUP 1. Penalty Group 1 consists
8 of:

9 (1) the following opiates, including their isomers,
10 esters, ethers, salts, and salts of isomers, esters, and ethers,
11 unless specifically excepted, if the existence of these isomers,
12 esters, ethers, and salts is possible within the specific
13 chemical designation:

- 14 Alfentanil;
- 15 Allylprodine;
- 16 Alphacetylmethadol;
- 17 Benzethidine;
- 18 Betaprodine;
- 19 Clonitazene;
- 20 Diampromide;
- 21 Diethylthiambutene;
- 22 Difenoxin not listed in Penalty Group 3 or 4;
- 23 Dimenoxadol;
- 24 Dimethylthiambutene;
- 25 Dioxaphetyl butyrate;
- 26 Dipipanone;
- 27 Ethylmethylthiambutene;
- 28 Etonitazene;
- 29 Etoxadine;
- 30 Furethidine;
- 31 Hydroxypethidine;
- 32 Ketobemidone;
- 33 Levophenacetylmorphan;
- 34 Meprodine;
- 35 Methadol;
- 36 Moramide;
- 37 Morpheridine;
- 38 Noracymethadol;
- 39 Norlevorphanol;
- 40 Normethadone;
- 41 Norpipanone;
- 42 Phenadoxone;
- 43 Phenampromide;
- 44 Phenomorphan;
- 45 Phenoperidine;
- 46 Piritramide;
- 47 Proheptazine;

1 Properidine;
2 Propiram;
3 Sufentanil;
4 Tilidine; and
5 Trimeperidine;

6 (2) the following opium derivatives, their salts,
7 isomers, and salts of isomers, unless specifically excepted, if
8 the existence of these salts, isomers, and salts of isomers is
9 possible within the specific chemical designation:

10 Acetorphine;
11 Acetyldihydrocodeine;
12 Benzylmorphine;
13 Codeine methylbromide;
14 Codeine-N-Oxide;
15 Cyprenorphine;
16 Desomorphine;
17 Dihydromorphine;
18 Drotebanol;
19 Etorphine, except hydrochloride salt;
20 Heroin;
21 Hydromorphanol;
22 Methyldesorphine;
23 Methyldihydromorphine;
24 Monoacetylmorphine;
25 Morphine methylbromide;
26 Morphine methylsulfonate;
27 Morphine-N-Oxide;
28 Myrophine;
29 Nicocodeine;
30 Nicomorphine;
31 Normorphine;
32 Pholcodine; and
33 Thebacon;

34 (3) the following substances, however produced,
35 except those narcotic drugs listed in another group:

36 (A) Opium and opiate not listed in Penalty Group
37 3 or 4, and a salt, compound, derivative, or preparation of
38 opium or opiate, other than thebaine derived butorphanol,
39 nalmeferene and its salts, naloxone and its salts, and naltrexone
40 and its salts, but including:

41 Codeine not listed in Penalty Group 3 or 4;
42 Dihydroetorphine;
43 Ethylmorphine not listed in Penalty Group 3
44 or 4;
45 Granulated opium;
46 Hydrocodone not listed in Penalty Group 3;
47 Hydromorphone;

1 Metopon;
2 Morphine not listed in Penalty Group 3;
3 Opium extracts;
4 Opium fluid extracts;
5 Oripavine;
6 Oxycodone;
7 Oxymorphone;
8 Powdered opium;
9 Raw opium;
10 Thebaine; and
11 Tincture of opium;
12 (B) a salt, compound, isomer, derivative, or
13 preparation of a substance that is chemically equivalent or
14 identical to a substance described by Paragraph (A), other than
15 the isoquinoline alkaloids of opium;
16 (C) Opium poppy and poppy straw;
17 (D) Cocaine, including:
18 (i) its salts, its optical, position, and
19 geometric isomers, and the salts of those isomers;
20 (ii) coca leaves and a salt, compound,
21 derivative, or preparation of coca leaves;
22 (iii) a salt, compound, derivative, or
23 preparation of a salt, compound, or derivative that is
24 chemically equivalent or identical to a substance described by
25 Subparagraph (i) or (ii), other than decocainized coca leaves or
26 extractions of coca leaves that do not contain cocaine or
27 ecgonine; and
28 (E) concentrate of poppy straw, meaning the
29 crude extract of poppy straw in liquid, solid, or powder form
30 that contains the phenanthrine alkaloids of the opium poppy;
31 (4) the following opiates, including their isomers,
32 esters, ethers, salts, and salts of isomers, if the existence of
33 these isomers, esters, ethers, and salts is possible within the
34 specific chemical designation:
35 Acetyl-alpha-methylfentanyl (N-[1-(1-methyl-2-
36 phenethyl)-4-piperidinyl]-N-phenylacetamide);
37 Alpha-methylthiofentanyl (N-[1-methyl-2-(2-
38 thienyl)ethyl-4-piperidinyl]-N-phenylpropanamide);
39 Alphaprodine;
40 Anileridine;
41 Beta-hydroxyfentanyl (N-[1-(2-hydroxy-2-
42 phenethyl)-4-piperidinyl]-N-phenylpropanamide);
43 Beta-hydroxy-3-methylfentanyl;
44 Bezitramide;
45 Carfentanil;
46 Dihydrocodeine not listed in Penalty Group 3 or
47 4;

1 Diphenoxylate not listed in Penalty Group 3 or 4;
2 Fentanyl or alpha-methylfentanyl, or any other
3 derivative of Fentanyl;
4 Isomethadone;
5 Levomethorphan;
6 Levorphanol;
7 Metazocine;
8 Methadone;
9 Methadone-Intermediate, 4-cyano-2-dimethylamino-
10 4, 4-diphenyl butane;
11 3-methylfentanyl(N-[3-methyl-1-(2-phenylethyl)-
12 4-piperidyl]-N-phenylpropanamide);
13 3-methylthiofentanyl(N-[3-methyl-1-(2-thienyl)
14 ethyl-4-piperidinyl]-N-phenylpropanamide);
15 Moramide-Intermediate, 2-methyl-3-morpholino-1,
16 1-diphenyl-propane-carboxylic acid;
17 Para-fluorofentanyl(N-(4-fluorophenyl)-N-1-(2-
18 phenylethyl)-4-piperidinylpropanamide);
19 PEPAP (1-(2-phenethyl)-4-phenyl-4-
20 acetoxypiperidine);
21 Pethidine (Meperidine);
22 Pethidine-Intermediate-A, 4-cyano-1-methyl-4-
23 phenylpiperidine;
24 Pethidine-Intermediate-B, ethyl-4-
25 phenylpiperidine-4 carboxylate;
26 Pethidine-Intermediate-C, 1-methyl-4-
27 phenylpiperidine-4-carboxylic acid;
28 Phenazocine;
29 Piminodine;
30 Racemethorphan;
31 Racemorphan;
32 Remifentanil; and
33 Thiofentanyl(N-phenyl-N-[1-(2-thienyl)ethyl-4-
34 piperidinyl]-propanamide);
35 (5) Flunitrazepam (trade or other name: Rohypnol);
36 (6) Methamphetamine, including its salts, optical
37 isomers, and salts of optical isomers;
38 (7) Phenylacetone and methylamine, if possessed
39 together with intent to manufacture methamphetamine;
40 (8) Phencyclidine, including its salts;
41 (9) Gamma hydroxybutyric acid (some trade or other
42 names: gamma hydroxybutyrate, GHB), including its salts; and
43 (10) Ketamine.
44 SECTION 2. Subsection (a), Section 481.103, Health and
45 Safety Code, is amended to read as follows:
46 (a) Penalty Group 2 consists of:
47 (1) any quantity of the following hallucinogenic

1 substances, their salts, isomers, and salts of isomers, unless
2 specifically excepted, if the existence of these salts, isomers,
3 and salts of isomers is possible within the specific chemical
4 designation:
5 alpha-ethyltryptamine;
6 alpha-methyltryptamine;
7 4-bromo-2, 5-dimethoxyamphetamine (some trade or
8 other names: 4-bromo-2, 5-dimethoxy-alpha-methylphenethylamine;
9 4-bromo-2, 5-DMA);
10 4-bromo-2, 5-dimethoxyphenethylamine;
11 Bufotenine (some trade and other names: 3-(beta-
12 Dimethylaminoethyl)-5-hydroxyindole; 3-(2-dimethylaminoethyl)-
13 5- indolol; N, N-dimethylserotonin; 5-hydroxy-N, N-
14 dimethyltryptamine; mappine);
15 Diethyltryptamine (some trade and other names:
16 N, N-Diethyltryptamine, DET);
17 2, 5-dimethoxyamphetamine (some trade or other
18 names: 2, 5-dimethoxy-alpha-methylphenethylamine; 2, 5-DMA);
19 2, 5-dimethoxy-4-ethylamphetamine (trade or other
20 name: DOET);
21 2, 5-dimethoxy-4-(n)-propylthiophenethylamine
22 (trade or other name: 2C-T-7);
23 Dimethyltryptamine (trade or other name: DMT);
24 Dronabinol (synthetic) in sesame oil and
25 encapsulated in a soft gelatin capsule in a U.S. Food and Drug
26 Administration approved drug product (some trade or other names
27 for Dronabinol: (a6aR-trans)-6a,7,8,10a-tetrahydro- 6,6, 9-
28 trimethyl-3-pentyl-6H- dibenzo [b,d]pyran-1-ol or (-)-delta-9-
29 (trans)- tetrahydrocannabinol);
30 Ethylamine Analog of Phencyclidine (some trade or
31 other names: N-ethyl-1-phenylcyclohexylamine, (1-
32 phenylcyclohexyl) ethylamine, N-(1-phenylcyclohexyl) ethylamine,
33 cyclohexamine, PCE);
34 Ibogaine (some trade or other names: 7-Ethyl-6,
35 6, beta 7, 8, 9, 10, 12, 13-octahydro-2-methoxy-6, 9-methano-5H-
36 pyrido [1', 2':1, 2] azepino [5, 4-b] indole; tabernanthe
37 iboga.);
38 Mescaline;
39 5-methoxy-N, N-diisopropyltryptamine;
40 5-methoxy-3, 4-methylenedioxy amphetamine;
41 4-methoxyamphetamine (some trade or other names:
42 4-methoxy-alpha-methylphenethylamine; paramethoxyamphetamine;
43 PMA);
44 1-methyl- 4-phenyl-4-propionoxypiperidine (MPPP,
45 PPMP);
46 4-methyl-2, 5-dimethoxyamphetamine (some trade
47 and other names: 4-methyl-2, 5-dimethoxy-alpha-

1 methylphenethylamine; "DOM"; "STP");
2 3,4-methylenedioxy methamphetamine (MDMA, MDM);
3 3,4-methylenedioxy amphetamine;
4 3,4-methylenedioxy N-ethylamphetamine (Also known
5 as N-ethyl MDA);
6 Nabilone (Another name for nabilone: (+)-trans-
7 3-(1,1-dimethylheptyl)- 6,6a, 7,8,10,10a-hexahydro-1-hydroxy- 6,
8 6-dimethyl-9H-dibenzo[b,d] pyran-9-one;
9 N-benzylpiperazine (some trade or other names:
10 BZP; 1-benzylpiperazine);
11 N-ethyl-3-piperidyl benzilate;
12 N-hydroxy-3,4-methylenedioxyamphetamine (Also
13 known as N-hydroxy MDA);
14 4-methylaminorex;
15 N-methyl-3-piperidyl benzilate;
16 Parahexyl (some trade or other names: 3-Hexyl-1-
17 hydroxy-7, 8, 9, 10-tetrahydro-6, 6, 9-trimethyl-6H-dibenzo [b,
18 d] pyran; Synhexyl);
19 1-Phenylcyclohexylamine;
20 1-Piperidinocyclohexanecarbonitrile (PCC);
21 Psilocin;
22 Psilocybin;
23 Pyrrolidine Analog of Phencyclidine (some trade
24 or other names: 1-(1-phenylcyclohexyl)-pyrrolidine, PCPy, PHP);
25 Tetrahydrocannabinols, other than marihuana, and
26 synthetic equivalents of the substances contained in the plant,
27 or in the resinous extractives of Cannabis, or synthetic
28 substances, derivatives, and their isomers with similar chemical
29 structure and pharmacological activity such as:
30 delta-1 cis or trans tetrahydrocannabinol,
31 and their optical isomers;
32 delta-6 cis or trans tetrahydrocannabinol,
33 and their optical isomers;
34 delta-3, 4 cis or trans
35 tetrahydrocannabinol, and its optical isomers;
36 compounds of these structures, regardless of
37 numerical designation of atomic positions, since nomenclature of
38 these substances is not internationally standardized;
39 Thiophene Analog of Phencyclidine (some trade or
40 other names: 1-[1-(2-thienyl) cyclohexyl] piperidine; 2-Thienyl
41 Analog of Phencyclidine; TCPy, TCP);
42 1-pyrrolidine (some trade or other name: TCPy);
43 1-(3-trifluoromethylphenyl)piperazine (trade or
44 other name: TFMPP); and
45 3,4,5-trimethoxy amphetamine;
46 (2) Phenylacetone (some trade or other names:
47 Phenyl-2-propanone; P2P, Benzylmethyl ketone, methyl benzyl

1 ketone); and
2 (3) unless specifically excepted or unless listed in
3 another Penalty Group, a material, compound, mixture, or
4 preparation that contains any quantity of the following
5 substances having a potential for abuse associated with a
6 depressant or stimulant effect on the central nervous system:
7 Aminorex (some trade or other names:
8 aminoxaphen; 2-amino-5-phenyl-2-oxazoline; 4,5-dihydro-5-
9 phenyl-2-oxazolamine);
10 Amphetamine, its salts, optical isomers, and
11 salts of optical isomers;
12 Cathinone (some trade or other names: 2-amino-1-
13 phenyl-1-propanone, alpha-aminopropiophenone, 2-
14 aminopropiophenone);
15 Etorphine Hydrochloride;
16 Fenethylline and its salts;
17 Lisdexamfetamine, including its salts, isomers,
18 and salts of isomers;
19 Mecloqualone and its salts;
20 Methaqualone and its salts;
21 Methcathinone (some trade or other names: 2-
22 methylamino-propiofenone; alpha-(methylamino)propiofenone; 2-
23 (methylamino)-1-phenylpropan-1-one; alpha-N-
24 methylaminopropiophenone; monomethylpropion; ephedrone, N-
25 methylcathinone; methylcathinone; AL-464; AL-422; AL-463; and UR
26 1431);
27 N-Ethylamphetamine, its salts, optical isomers,
28 and salts of optical isomers; and
29 N,N-dimethylamphetamine (some trade or other
30 names: N,N,alpha-trimethylbenzeneethaneamine; N,N,alpha-
31 trimethylphenethylamine), its salts, optical isomers, and salts
32 of optical isomers.
33 SECTION 3. Subsection (a), Section 481.104, Health and
34 Safety Code, is amended to read as follows:
35 (a) Penalty Group 3 consists of:
36 (1) a material, compound, mixture, or preparation
37 that contains any quantity of the following substances having a
38 potential for abuse associated with a stimulant effect on the
39 central nervous system:
40 Methylphenidate and its salts; and
41 Phenmetrazine and its salts;
42 (2) a material, compound, mixture, or preparation
43 that contains any quantity of the following substances having a
44 potential for abuse associated with a depressant effect on the
45 central nervous system:
46 a substance that contains any quantity of a
47 derivative of barbituric acid, or any salt of a derivative of

1 barbituric acid not otherwise described by this subsection;
2 a compound, mixture, or preparation containing
3 amobarbital, secobarbital, pentobarbital, or any salt of any of
4 these, and one or more active medicinal ingredients that are not
5 listed in any penalty group;
6 a suppository dosage form containing amobarbital,
7 secobarbital, pentobarbital, or any salt of any of these drugs,
8 and approved by the United States Food and Drug Administration
9 for marketing only as a suppository;
10 Alprazolam;
11 Amobarbital;
12 Bromazepam;
13 Camazepam;
14 Chlordiazepoxide;
15 Chlorhexadol;
16 Clobazam;
17 Clonazepam;
18 Clorazepate;
19 Clotiazepam;
20 Cloxazolam;
21 Delorazepam;
22 Diazepam;
23 Estazolam;
24 Ethyl loflazepate;
25 Fludiazepam;
26 Flurazepam;
27 Glutethimide;
28 Halazepam;
29 Haloxzolam;
30 Ketazolam;
31 Loprazolam;
32 Lorazepam;
33 Lormetazepam;
34 Lysergic acid, including its salts, isomers, and
35 salts of isomers;
36 Lysergic acid amide, including its salts,
37 isomers, and salts of isomers;
38 Mebutamate;
39 Medazepam;
40 Methyprylon;
41 Midazolam;
42 Nimetazepam;
43 Nitrazepam;
44 Nordiazepam;
45 Oxazepam;
46 Oxazolam;
47 Pentazocine, its salts, derivatives, or compounds

1 or mixtures thereof;
2 Pentobarbital;
3 Pinazepam;
4 Prazepam;
5 Quazepam;
6 Secobarbital;
7 Sulfondiethylmethane;
8 Sulfonethylmethane;
9 Sulfonmethane;
10 Temazepam;
11 Tetrazepam;
12 Tiletamine and zolazepam in combination, and its
13 salts. (some trade or other names for a tiletamine-zolazepam
14 combination product: Telazol, for tiletamine: 2-(ethylamino)-
15 2-(2-thienyl)-cyclohexanone, and for zolazepam: 4-(2-
16 fluorophenyl)-6, 8-dihydro-1,3,8,-trimethylpyrazolo-[3,4-
17 e](1,4)-d diazepin-7(1H)-one, flupyrazapon);
18 Triazolam;
19 Zaleplon; ~~and~~
20 Zolpidem; and
21 Zopiclone;
22 (3) Nalorphine;
23 (4) a material, compound, mixture, or preparation
24 containing limited quantities of the following narcotic drugs,
25 or any of their salts:
26 not more than 1.8 grams of codeine, or any of its
27 salts, per 100 milliliters or not more than 90 milligrams per
28 dosage unit, with an equal or greater quantity of an
29 isoquinoline alkaloid of opium;
30 not more than 1.8 grams of codeine, or any of its
31 salts, per 100 milliliters or not more than 90 milligrams per
32 dosage unit, with one or more active, nonnarcotic ingredients in
33 recognized therapeutic amounts;
34 not more than 300 milligrams of dihydrocodeinone
35 (hydrocodone), or any of its salts, per 100 milliliters or not
36 more than 15 milligrams per dosage unit, with a fourfold or
37 greater quantity of an isoquinoline alkaloid of opium;
38 not more than 300 milligrams of dihydrocodeinone
39 (hydrocodone), or any of its salts, per 100 milliliters or not
40 more than 15 milligrams per dosage unit, with one or more
41 active, nonnarcotic ingredients in recognized therapeutic
42 amounts;
43 not more than 1.8 grams of dihydrocodeine, or any
44 of its salts, per 100 milliliters or not more than 90 milligrams
45 per dosage unit, with one or more active, nonnarcotic
46 ingredients in recognized therapeutic amounts;
47 not more than 300 milligrams of ethylmorphine, or

1 any of its salts, per 100 milliliters or not more than 15
2 milligrams per dosage unit, with one or more active, nonnarcotic
3 ingredients in recognized therapeutic amounts;
4 not more than 500 milligrams of opium per 100
5 milliliters or per 100 grams, or not more than 25 milligrams per
6 dosage unit, with one or more active, nonnarcotic ingredients in
7 recognized therapeutic amounts;
8 not more than 50 milligrams of morphine, or any
9 of its salts, per 100 milliliters or per 100 grams with one or
10 more active, nonnarcotic ingredients in recognized therapeutic
11 amounts; and
12 not more than 1 milligram of difenoxin and not
13 less than 25 micrograms of atropine sulfate per dosage unit;
14 (5) a material, compound, mixture, or preparation
15 that contains any quantity of the following substances:
16 Barbitol;
17 Chloral betaine;
18 Chloral hydrate;
19 Ethchlorvynol;
20 Ethinamate;
21 Meproamate;
22 Methohexital;
23 Methylphenobarbital (Mephobarbital);
24 Paraldehyde;
25 Petrichloral; and
26 Phenobarbital;
27 (6) Peyote, unless unharvested and growing in its
28 natural state, meaning all parts of the plant classified
29 botanically as Lophophora, whether growing or not, the seeds of
30 the plant, an extract from a part of the plant, and every
31 compound, manufacture, salt, derivative, mixture, or preparation
32 of the plant, its seeds, or extracts;
33 (7) unless listed in another penalty group, a
34 material, compound, mixture, or preparation that contains any
35 quantity of the following substances having a stimulant effect
36 on the central nervous system, including the substance's salts,
37 optical, position, or geometric isomers, and salts of the
38 substance's isomers, if the existence of the salts, isomers, and
39 salts of isomers is possible within the specific chemical
40 designation:
41 Benzphetamine;
42 Cathine [(+)-norpseudoephedrine];
43 Chlorphentermine;
44 Clortermine;
45 Diethylpropion;
46 Fencamfamin;
47 Fenfluramine;

1 Fenproporex;
2 Mazindol;
3 Mefenorex;
4 Modafinil;
5 Pemoline (including organometallic complexes and
6 their chelates);
7 Phendimetrazine;
8 Phentermine;
9 Pipradrol;
10 Sibutramine; and
11 SPA [(-)-1-dimethylamino-1,2-diphenylethane];
12 (8) unless specifically excepted or unless listed in
13 another penalty group, a material, compound, mixture, or
14 preparation that contains any quantity of the following
15 substance, including its salts:
16 Dextropropoxyphene (Alpha-(+)-4-dimethylamino-
17 1,2-diphenyl-3-methyl-2-propionoxybutane); and
18 (9) an anabolic steroid, including any drug or
19 hormonal substance, or any substance that is chemically or
20 pharmacologically related to testosterone, other than an
21 estrogen, progestin, dehydroepiandrosterone, or corticosteroid,
22 and promotes muscle growth, including the following drugs and
23 substances and any salt, ester, or ether of the following drugs
24 and substances:
25 Androstanediol;
26 Androstanedione;
27 Androstenediol;
28 Androstenedione;
29 Bolasterone;
30 Boldenone;
31 Calusterone;
32 [~~Chlorotestosterone (4-chlorotestosterone);~~]
33 Clostebol;
34 Dehydrochlormethyltestosterone;
35 Delta-1-dihydrotestosterone;
36 Dihydrotestosterone (4-dihydrotestosterone);
37 Drostanolone;
38 Ethylestrenol;
39 Fluoxymesterone;
40 Formebolone;
41 Furazabol;
42 13beta-ethyl-17beta-hydroxygon-4-en-3-one;
43 4-hydroxytestosterone;
44 4-hydroxy-19-nortestosterone;
45 Mestanolone;
46 Mesterolone;
47 Methandienone;

1 [~~Methandranone;~~]
2 Methandriol;
3 [~~Methandrostenolone;~~]
4 Methenolone;
5 17alpha-methyl-3beta, 17 beta-dihydroxy-5alpha-
6 androstane;
7 17alpha-methyl-3alpha, 17 beta-dihydroxy-5alpha-
8 androstane;
9 17alpha-methyl-3beta, 17beta-dihydroxyandrost-4-
10 ene;
11 17alpha-methyl-4-hydroxynandrolone;
12 Methyldienolone;
13 Methyltestosterone;
14 Methyltrienolone;
15 17alpha-methyl-delta-1-dihydrotestosterone;
16 Mibolerone;
17 Nandrolone;
18 Norandrostenediol;
19 Norandrostenedione;
20 Norbolethone;
21 Norclostebol;
22 Norethandrolone;
23 Normethandrolone;
24 Oxandrolone;
25 Oxymesterone;
26 Oxymetholone;
27 [~~Stanolone;~~]
28 Stanozolol;
29 Stenbolone;
30 Testolactone;
31 Testosterone;
32 Tetrahydrogestrinone; and
33 Trenbolone.

34 SECTION 4. The change in law made by this Act applies only
35 to an offense committed on or after the effective date of this
36 Act. An offense committed before the effective date of this Act
37 is covered by the law in effect when the offense was committed,
38 and the former law is continued in effect for that purpose. For
39 purposes of this section, an offense was committed before the
40 effective date of this Act if any element of the offense was
41 committed before that date.

42 SECTION 5. This Act takes effect September 1, 2009.

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44 S.B. No. 461
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AN ACT

relating to eligibility to take the entrance examination for a beginning position in the fire department.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subsection (a), Section 143.023, Local Government Code, is amended to read as follows:

(a) A person may not take an entrance examination for a beginning position in the [~~fire or~~] police department unless the person is at least 18 years of age. A person may not take an entrance examination for a beginning position in the fire department unless the person is at least 18 years of age but not 36 years of age or older.

SECTION 2. The change in law made by this Act to Subsection (a), Section 143.023, Local Government Code, applies only to an entrance examination given on or after the effective date of this Act.

SECTION 3. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2009.

S.B. No. 481

AN ACT

relating to safety regulations for certain contract carriers.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 644.054, Transportation Code, is amended by amending Subsection (b) and adding Subsection (c) to read as follows:

(b) The department shall adopt rules regulating the operation of a contract carrier to which this section applies. The rules must:

(1) prohibit a person from operating a vehicle for more than 12 hours in a day;

(2) require a person who operates a vehicle for the number of consecutive hours or days the department determines is excessive to rest for a period determined by the department;

(3) require a contract carrier to keep a record of all hours a vehicle subject to regulation under this section is operated; ~~and~~

(4) require a contract carrier to perform alcohol and drug testing of vehicle operators on employment, on suspicion of

1 alcohol or drug abuse, and periodically as determined by the
2 department;

3 (5) require a contract carrier, at a minimum, to
4 maintain liability insurance in the amount of \$1.5 million for
5 each vehicle; and

6 (6) be determined by the department to be necessary
7 to protect the safety of a passenger being transported or the
8 general public.

9 (c) The department shall inform contract carriers and
10 railroad companies that employ contract carriers of the
11 requirements of state statutes applicable to contract carriers.

12 SECTION 2. This Act takes effect September 1, 2009.

13
14 S.B. No. 518
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19 AN ACT

20 relating to providing access to certain information relating to
21 the discretionary transfer of a child from a juvenile court to a
22 criminal court.

23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

24 SECTION 1. Subsection (e), Section 54.02, Family Code, is
25 amended to read as follows:

26 (e) At the transfer hearing the court may consider written
27 reports from probation officers, professional court employees,
28 or professional consultants in addition to the testimony of
29 witnesses. At least five days [~~one day~~] prior to the transfer
30 hearing, the court shall provide the attorney for the child and
31 the prosecuting attorney with access to all written matter to be
32 considered by the court in making the transfer decision. The
33 court may order counsel not to reveal items to the child or the
34 child's [~~his~~] parent, guardian, or guardian ad litem if such
35 disclosure would materially harm the treatment and
36 rehabilitation of the child or would substantially decrease the
37 likelihood of receiving information from the same or similar
38 sources in the future.

39 SECTION 2. Subsection (e), Section 54.02, Family Code, as
40 amended by this Act, applies to a transfer hearing commenced
41 under Section 54.02, Family Code, on or after the effective date
42 of this Act. A transfer hearing commenced before the effective
43 date of this Act is governed by the law in effect on the date
44 the hearing was commenced, and the former law is continued in
45 effect for that purpose.

46 SECTION 3. This Act takes effect September 1, 2009.
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1 S.B. No. 530

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6 AN ACT

7 relating to the disposition of cash in possession of a deceased
8 pauper.

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

10 SECTION 1. Section 694.002, Health and Safety Code, is
11 amended by adding Subsections (c), (d), and (e) to read as
12 follows:

13 (c) If a county discovers cash in the possession of a
14 deceased pauper, a county may use the cash to pay the actual
15 costs incurred by the county in disposing of the pauper's body.

16 (d) If any cash remains after the county has paid the
17 costs of disposing of the body under Subsection (c), the county
18 shall place the cash in trust. A person having a claim to the
19 money in trust must exercise the right to collect the money not
20 later than the first anniversary of the date of disposition of
21 the pauper's body.

22 (e) A county may create a fund to be used by the county to
23 pay the costs incurred in disposing of the bodies of deceased
24 paupers and administering the county's body disposition
25 activities. If money placed in a trust under Subsection (d) is
26 not claimed by the first anniversary of the date of disposition
27 of the pauper's body, the county may transfer the money to the
28 fund created under this subsection.

29 SECTION 2. This Act takes effect immediately if it
30 receives a vote of two-thirds of all the members elected to each
31 house, as provided by Section 39, Article III, Texas
32 Constitution. If this Act does not receive the vote necessary
33 for immediate effect, this Act takes effect September 1, 2009.

34
35 S.B. No. 537

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40 AN ACT

41 relating to the emergency installation and use of a device to
42 intercept wire, oral, or electronic communications.

43 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

44 SECTION 1. Subsection (b), Section 8A, Article 18.20, Code
45 of Criminal Procedure, is amended to read as follows:

46 (b) A peace officer designated under Subsection (a) or
47 under Section 5(b) may possess, install, operate, or monitor an

1 electronic, mechanical, or other device to intercept wire, oral,
2 or electronic communications if the officer:

3 (1) reasonably believes an immediate life-threatening
4 situation exists that:

5 (A) is within the territorial jurisdiction of
6 the officer or another officer the officer is assisting; and

7 (B) requires interception of communications
8 before an order authorizing the interception can, with due
9 diligence, be obtained under this section;

10 (2) reasonably believes there are sufficient grounds
11 under this section on which to obtain an order authorizing the
12 interception; and

13 (3) obtains oral or written consent to the
14 interception before beginning the interception from:

15 (A) a judge of competent jurisdiction;

16 (B) a district judge for the county in which the
17 device will be installed or used; or

18 (C) [~~B~~] a judge or justice of a court of
19 appeals or of a higher court.

20 SECTION 2. The change in law made by this Act to
21 Subsection (b), Section 8A, Article 18.20, Code of Criminal
22 Procedure, applies only to the interception of a wire, oral, or
23 electronic communication in an immediate life-threatening
24 situation that occurs on or after the effective date of this
25 Act. An interception of a wire, oral, or electronic
26 communication in an immediate life-threatening situation that
27 occurred before the effective date of this Act is covered by the
28 law in effect on the date the life-threatening situation
29 occurred, and the former law is continued in effect for that
30 purpose.

31 SECTION 3. This Act takes effect September 1, 2009.

32
33 S.B. No. 554

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38 AN ACT
39 relating to conduct constituting the offense of dog fighting and
40 to the criminal and civil consequences of committing that
41 offense.

42 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

43 SECTION 1. Subsections (a), (b), and (e), Section 42.10,
44 Penal Code, are amended to read as follows:

45 (a) A person commits an offense if the person [~~he~~]
46 intentionally or knowingly:

47 (1) causes a dog to fight with another dog;

1 (2) participates in the earnings of or operates a
2 facility used for dog fighting;
3 (3) uses or permits another to use any real estate,
4 building, room, tent, arena, or other property for dog fighting;
5 (4) owns or possesses dog-fighting equipment with the
6 intent that the equipment be used to train a dog for dog
7 fighting or in furtherance of dog fighting;
8 (5) owns or trains a dog with the intent that the dog
9 be used in an exhibition of dog fighting; or
10 (6) [~~5~~] attends as a spectator an exhibition of dog
11 fighting.
12 (b) In this section:
13 (1) "Dog[~~,~~—"dog] fighting" means any situation in
14 which one dog attacks or fights with another dog.
15 (2) "Dog-fighting equipment" has the meaning assigned
16 by Article 18.18(g), Code of Criminal Procedure.
17 (e) An offense under Subsection (a)(4), [~~or~~] (5), or (6)
18 is a Class A misdemeanor. An offense under Subsection (a)(1),
19 (2), or (3) is a state jail felony.
20 SECTION 2. Subsection (a), Section 71.02, Penal Code, is
21 amended to read as follows:
22 (a) A person commits an offense if, with the intent to
23 establish, maintain, or participate in a combination or in the
24 profits of a combination or as a member of a criminal street
25 gang, he commits or conspires to commit one or more of the
26 following:
27 (1) murder, capital murder, arson, aggravated
28 robbery, robbery, burglary, theft, aggravated kidnapping,
29 kidnapping, aggravated assault, aggravated sexual assault,
30 sexual assault, forgery, deadly conduct, assault punishable as a
31 Class A misdemeanor, burglary of a motor vehicle, or
32 unauthorized use of a motor vehicle;
33 (2) any gambling offense punishable as a Class A
34 misdemeanor;
35 (3) promotion of prostitution, aggravated promotion
36 of prostitution, or compelling prostitution;
37 (4) unlawful manufacture, transportation, repair, or
38 sale of firearms or prohibited weapons;
39 (5) unlawful manufacture, delivery, dispensation, or
40 distribution of a controlled substance or dangerous drug, or
41 unlawful possession of a controlled substance or dangerous drug
42 through forgery, fraud, misrepresentation, or deception;
43 (6) any unlawful wholesale promotion or possession of
44 any obscene material or obscene device with the intent to
45 wholesale promote the same;
46 (7) any offense under Subchapter B, Chapter 43,
47 depicting or involving conduct by or directed toward a child

- 1 younger than 18 years of age;
2 (8) any felony offense under Chapter 32;
3 (9) any offense under Chapter 36;
4 (10) any offense under Chapter 34 or 35;
5 (11) any offense under Section 37.11(a);
6 (12) any offense under Chapter 20A; ~~[or]~~
7 (13) any offense under Section 37.10; or
8 (14) any offense under Section 42.10.

9 SECTION 3. Subdivision (2), Article 59.01, Code of
10 Criminal Procedure, as amended by Chapters 127 (S.B. 1694), 822
11 (H.B. 73), and 885 (H.B. 2278), Acts of the 80th Legislature,
12 Regular Session, 2007, is reenacted and amended to read as
13 follows:

14 (2) "Contraband" means property of any nature,
15 including real, personal, tangible, or intangible, that is:

16 (A) used in the commission of:

17 (i) any first or second degree felony under
18 the Penal Code;

19 (ii) any felony under Section 15.031(b),
20 20.05, 21.11, 38.04, Subchapter B of Chapter 43, or Chapter 29,
21 30, 31, 32, 33, 33A, or 35, Penal Code;

22 (iii) any felony under The Securities Act
23 (Article 581-1 et seq., Vernon's Texas Civil Statutes); or

24 (iv) any offense under Chapter 49, Penal
25 Code, that is punishable as a felony of the third degree or
26 state jail felony, if the defendant has been previously
27 convicted three times of an offense under that chapter;

28 (B) used or intended to be used in the
29 commission of:

30 (i) any felony under Chapter 481, Health
31 and Safety Code (Texas Controlled Substances Act);

32 (ii) any felony under Chapter 483, Health
33 and Safety Code;

34 (iii) a felony under Chapter 153, Finance
35 Code;

36 (iv) any felony under Chapter 34, Penal
37 Code;

38 (v) a Class A misdemeanor under Subchapter
39 B, Chapter 365, Health and Safety Code, if the defendant has
40 been previously convicted twice of an offense under that
41 subchapter;

42 (vi) any felony under Chapter 152, Finance
43 Code;

44 (vii) any felony under Chapter 32, Human
45 Resources Code, or Chapter 31, 32, 35A, or 37, Penal Code, that
46 involves the state Medicaid program;

47 (viii) a Class B misdemeanor under Chapter

1 522, Business & Commerce Code; [~~or~~]
2 (ix) a Class A misdemeanor under Section
3 35.153, Business & Commerce Code; or
4 (x) any offense under Section 42.10, Penal
5 Code;

6 (C) the proceeds gained from the commission of a
7 felony listed in Paragraph (A) or (B) of this subdivision, a
8 misdemeanor listed in Paragraph (B)(viii) or (x) of this
9 subdivision, or a crime of violence;

10 (D) acquired with proceeds gained from the
11 commission of a felony listed in Paragraph (A) or (B) of this
12 subdivision, a misdemeanor listed in Paragraph (B)(viii) or (x)
13 of this subdivision, or a crime of violence; or

14 (E) used to facilitate or intended to be used to
15 facilitate the commission of a felony under Section 15.031 or
16 43.25, Penal Code.

17 SECTION 4. Chapter 59, Code of Criminal Procedure, is
18 amended by adding Article 59.011 to read as follows:

19 Art. 59.011. If property described by Article
20 59.01(2)(B)(x) is subject to forfeiture under this chapter and
21 Article 18.18, the attorney representing the state may proceed
22 under either provision.

23 SECTION 5. The changes in law made by this Act apply only
24 to an offense committed on or after the effective date of this
25 Act or to the forfeiture of property used in the commission of
26 that offense. An offense committed before the effective date of
27 this Act, or the forfeiture of property used in the commission
28 of that offense, is governed by the law in effect when the
29 offense was committed, and the former law is continued in effect
30 for that purpose. For purposes of this section, an offense was
31 committed before the effective date of this Act if any element
32 of the offense occurred before that date.

33 SECTION 6. This Act takes effect September 1, 2009.

34
35 S.B. No. 575
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40 AN ACT

41 relating to the time for dissolution of crime control and
42 prevention districts and to certain taxes imposed by such
43 districts or by fire control, prevention, and emergency medical
44 services districts.

45 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

46 SECTION 1. Subsections (a) and (b), Section 363.301, Local
47 Government Code, are amended to read as follows:

1 (a) The district is dissolved on the first uniform
2 election date that occurs after the fifth anniversary of the
3 date the district began to levy taxes for district purposes if
4 the district has not held a continuation or dissolution
5 referendum.

6 (b) The district is dissolved on the first uniform
7 election date that occurs after the fifth anniversary of the
8 date of the most recent continuation or dissolution referendum.

9 SECTION 2. Subchapter B, Chapter 321, Tax Code, is amended
10 by adding Section 321.1055 to read as follows:

11 Sec. 321.1055. IMPOSITION OF FIRE CONTROL OR CRIME CONTROL
12 DISTRICT TAX ON THE RESIDENTIAL USE OF GAS AND ELECTRICITY.

13 (a) This section applies to a fire control, prevention, and
14 emergency medical services district or crime control and
15 prevention district located in all or part of a municipality
16 that imposes a tax on the residential use of gas and electricity
17 under Section 321.105.

18 (b) The board of directors of a district to which this
19 section applies may, by order or resolution adopted in a public
20 hearing by a vote of a majority of the membership of the board
21 and recorded in the district's minutes:

22 (1) impose a tax adopted under Section 321.106 or
23 321.108, as applicable, on receipts from the sale, production,
24 distribution, lease, or rental of, and the use, storage, or
25 other consumption within the district of, gas and electricity
26 for residential use;

27 (2) exempt from taxation the items described by
28 Subdivision (1); or

29 (3) reimpose the tax under Subdivision (1).

30 (c) A district that adopts an order or resolution under
31 Subsection (b) shall:

32 (1) send a copy of the order or resolution to the
33 comptroller by United States certified or registered mail;

34 (2) send a copy of the order or resolution and a copy
35 of the district's boundaries to each gas and electric company
36 whose customers are subject to the tax by United States
37 certified or registered mail; and

38 (3) publish notice of the order or resolution in a
39 newspaper of general circulation in the district.

40 (d) If the residential use of gas and electricity ceases
41 to be taxable in the municipality in which a district is
42 located, then the residential use of gas and electricity is not
43 taxable by the district.

44 (e) The provisions of Sections 321.201 and 321.204 that
45 govern the computation of municipal taxes on gas and electricity
46 for residential use apply to the computation of district taxes
47 on gas and electricity for residential use under this section.

1 SECTION 3. Subsection (b), Section 321.3022, Tax Code, is
2 amended to read as follows:

3 (b) The comptroller on request shall provide to a
4 municipality that has adopted a tax under this chapter
5 information relating to the amount of tax paid to the
6 municipality under this chapter during the preceding or current
7 calendar year by each person doing business in an area, as
8 defined by the municipality, that is part of:

- 9 (1) an interlocal agreement;
- 10 (2) a tax abatement agreement;
- 11 (3) a reinvestment zone;
- 12 (4) a tax increment financing district;
- 13 (5) a revenue sharing agreement;
- 14 (6) an enterprise zone;
- 15 (7) a neighborhood empowerment zone;
- 16 (8) a crime control and prevention district;
- 17 (9) a fire control, prevention, and emergency medical
18 services district;
- 19 (10) any other agreement, zone, or district similar
20 to those listed in Subdivisions (1)-(9) [~~(1)-(7)~~]; or
- 21 (11) [~~(9)~~] any area defined by the municipality for
22 the purpose of economic forecasting.

23 SECTION 4. The changes in law made by this Act by the
24 addition of Section 321.1055, Tax Code, and the amendment of
25 Subsection (b), Section 321.3022, Tax Code, take effect January
26 1, 2010.

27 SECTION 5. Except as provided by Section 4 of this Act, this
28 Act takes effect immediately if it receives a vote of two-thirds
29 of all the members elected to each house, as provided by Section
30 39, Article III, Texas Constitution. If this Act does not
31 receive the vote necessary for immediate effect, this Act takes
32 effect September 1, 2009, except as provided by Section 4 of
33 this Act.

34
35 S.B. No. 589
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40 AN ACT

41 relating to certain requirements for suncreening devices that
42 are placed on or attached to a motor vehicle; providing a
43 penalty.

44 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

45 SECTION 1. Section 547.609, Transportation Code, is
46 amended to read as follows:

47 Sec. 547.609. REQUIRED LABEL FOR SUNSCREENING DEVICES

1 ~~PERMITTED~~. A sunscreening device must have a label that:
2 (1) is legible;
3 (2) contains information required by the department
4 on light transmission and luminous reflectance of the device;
5 ~~and~~
6 (3) if the device is placed on or attached to a
7 windshield or a side or rear window, states that the light
8 transmission of the device is consistent with Section
9 547.613(b)(1) or (2), as applicable; and
10 (4) is permanently installed between the material and
11 the surface to which the material is applied.

12 SECTION 2. Section 547.613, Transportation Code, is
13 amended by adding Subsection (a-1) and amending Subsections (b)
14 and (e) to read as follows:
15 (a-1) A person in the business of placing or attaching
16 transparent material that alters the color or reduces the light
17 transmission to the windshield or side or rear window of a motor
18 vehicle commits a misdemeanor punishable by a fine not to exceed
19 \$1,000 if the person:
20 (1) places or attaches such transparent material to
21 the windshield or side or rear window of a motor vehicle; and
22 (2) does not install a label that complies with
23 Section 547.609 between the transparent material and the
24 windshield or side or rear window of the vehicle, as applicable.
25 (b) Subsection (a) [This section] does not apply to:
26 (1) a windshield that has a suncreening device that:
27 (A) in combination with the windshield has a
28 light transmission of 25 percent or more;
29 (B) in combination with the windshield has a
30 luminous reflectance of 25 percent or less;
31 (C) is not red, blue, or amber; and
32 (D) does not extend downward beyond the AS-1
33 line or more than five inches from the top of the windshield,
34 whichever is closer to the top of the windshield;
35 (2) a wing vent or a window that is to the left or
36 right of the vehicle operator [ether than a windshield] if the
37 vent or window has a sunscreening device that in combination
38 with the vent or window has:
39 (A) a light transmission of 25 percent or more;
40 and
41 (B) a luminous reflectance of 25 percent or
42 less;
43 (2-a) a side window that is to the rear of the
44 vehicle operator;
45 (3) a rear window, if the motor vehicle is equipped
46 with an outside mirror on each side of the vehicle that reflects
47 to the vehicle operator a view of the highway for a distance of

1 at least 200 feet from the rear;
2 (4) a rearview mirror;
3 (5) an adjustable nontransparent sun visor that is
4 mounted in front of a side window and not attached to the glass;
5 (6) a direction, destination, or termination sign on
6 a passenger common carrier motor vehicle, if the sign does not
7 interfere with the vehicle operator's view of approaching
8 traffic;
9 (7) a rear window wiper motor;
10 (8) a rear trunk lid handle or hinge;
11 (9) a luggage rack attached to the rear trunk;
12 (10) a side window that is to the rear of the vehicle
13 operator on a multipurpose vehicle;
14 (11) a window that has a United States, state, or
15 local certificate placed on or attached to it as required by
16 law;
17 (12) a motor vehicle that is not registered in this
18 state;
19 (13) a window that complies with federal standards
20 for window materials, including a factory-tinted or a pretinted
21 window installed by the vehicle manufacturer, or a replacement
22 window meeting the specifications required by the vehicle
23 manufacturer;
24 (14) a vehicle that is:
25 (A) used regularly to transport passengers for a
26 fee; and
27 (B) authorized to operate under license or
28 permit by a local authority;
29 (15) a vehicle that is maintained by a law
30 enforcement agency and used for law enforcement purposes; or
31 (16) a commercial motor vehicle as defined by Section
32 644.001.
33 (e) It is a defense to prosecution under Subsection (a)
34 [~~this section~~] that the defendant or a passenger in the vehicle
35 at the time of the violation is required for a medical reason to
36 be shielded from direct rays of the sun.
37 SECTION 3. (a) The change in law made by this Act applies
38 only to an offense committed on or after the effective date of
39 this Act. For purposes of this section, an offense was
40 committed before the effective date of this Act if any element
41 of the offense occurred before that date.
42 (b) An offense committed before the effective date of this
43 Act is covered by the law in effect when the offense was
44 committed, and the former law is continued in effect for that
45 purpose.
46 SECTION 4. This Act takes effect September 1, 2009.
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6 AN ACT

7 relating to the sealing of and discovery procedures relating to
8 evidence that constitutes child pornography in a criminal
9 hearing or proceeding.

10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

11 SECTION 1. Chapter 38, Code of Criminal Procedure, is
12 amended by adding Article 38.45 to read as follows:

13 Art. 38.45. EVIDENCE THAT CONSTITUTES CHILD PORNOGRAPHY.

14 (a) During the course of a criminal hearing or proceeding, the
15 court may not make available or allow to be made available for
16 copying or dissemination to the public property or material that
17 constitutes child pornography, as described by Section
18 43.26(a)(1), Penal Code.

19 (b) The court shall place property or material described
20 by Subsection (a) under seal of the court on conclusion of the
21 criminal hearing or proceeding.

22 (c) The attorney representing the state shall be provided
23 access to property or material described by Subsection (a). In
24 the manner provided by Article 39.15, the defendant, the
25 defendant's attorney, and any individual the defendant seeks to
26 qualify to provide expert testimony at trial shall be provided
27 access to property or material described by Subsection (a).

28 (d) A court that places property or material described by
29 Subsection (a) under seal may issue an order lifting the seal on
30 a finding that the order is in the best interest of the public.

31 SECTION 2. Subsection (a), Article 39.14, Code of Criminal
32 Procedure, is amended to read as follows:

33 (a) Upon motion of the defendant showing good cause
34 therefor and upon notice to the other parties, except as
35 provided by Article 39.15, the court in which an action is
36 pending shall order the State before or during trial of a
37 criminal action therein pending or on trial to produce and
38 permit the inspection and copying or photographing by or on
39 behalf of the defendant of any designated documents, papers,
40 written statement of the defendant, (except written statements
41 of witnesses and except the work product of counsel in the case
42 and their investigators and their notes or report), books,
43 accounts, letters, photographs, objects or tangible things not
44 privileged, which constitute or contain evidence material to any
45 matter involved in the action and which are in the possession,
46 custody or control of the State or any of its agencies. The
47 order shall specify the time, place and manner of making the

1 inspection and taking the copies and photographs of any of the
2 aforementioned documents or tangible evidence; provided,
3 however, that the rights herein granted shall not extend to
4 written communications between the State or any of its agents or
5 representatives or employees. Nothing in this Act shall
6 authorize the removal of such evidence from the possession of
7 the State, and any inspection shall be in the presence of a
8 representative of the State.

9 SECTION 3. Chapter 39, Code of Criminal Procedure, is
10 amended by adding Article 39.15 to read as follows:

11 Art. 39.15. DISCOVERY OF EVIDENCE THAT CONSTITUTES CHILD
12 PORNOGRAPHY. (a) In the manner provided by this article, a
13 court shall allow discovery under Article 39.14 of property or
14 material that constitutes child pornography, as described by
15 Section 43.26(a)(1), Penal Code.

16 (b) Property or material described by Subsection (a) must
17 remain in the care, custody, or control of the court or the
18 state as provided by Article 38.45.

19 (c) A court shall deny any request by a defendant to copy,
20 photograph, duplicate, or otherwise reproduce any property or
21 material described by Subsection (a), provided that the state
22 makes the property or material reasonably available to the
23 defendant.

24 (d) For purposes of Subsection (c), property or material
25 is considered to be reasonably available to the defendant if, at
26 a facility under the control of the state, the state provides
27 ample opportunity for the inspection, viewing, and examination
28 of the property or material by the defendant, the defendant's
29 attorney, and any individual the defendant seeks to qualify to
30 provide expert testimony at trial.

31 SECTION 4. This Act takes effect September 1, 2009.

32
33 S.B. No. 633
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38 AN ACT

39 relating to the number of counties or municipalities necessary
40 to establish a regional drug court program.

41 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

42 SECTION 1. Subsection (a), Section 469.0025, Health and
43 Safety Code, is amended to read as follows:

44 (a) The commissioners courts of two [~~three~~] or more
45 counties, or the governing bodies of two [~~three~~] or more
46 municipalities, may elect to establish a regional drug court
47 program under this chapter for the participating counties or

1 municipalities.

2 SECTION 2. This Act takes effect immediately if it
3 receives a vote of two-thirds of all the members elected to each
4 house, as provided by Section 39, Article III, Texas
5 Constitution. If this Act does not receive the vote necessary
6 for immediate effect, this Act takes effect September 1, 2009.

7
8 S.B. No. 643
9

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13 AN ACT

14 relating to the protection and care of individuals with mental
15 retardation and to certain legal protections for individuals
16 with disabilities; providing criminal penalties.

17 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

18 SECTION 1. Article 38.072, Code of Criminal Procedure, is
19 amended to read as follows:

20 Art. 38.072. HEARSAY STATEMENT OF CERTAIN [~~CHILD~~]
21 VICTIMS [VICTIM]

22 Sec. 1. This article applies to a proceeding in the
23 prosecution of an offense under any of the following provisions
24 of the Penal Code, if committed against a child 12 years of age
25 or younger or a person with a disability:

26 (1) Chapter 21 (Sexual Offenses) or 22 (Assaultive
27 Offenses);

28 (2) Section 25.02 (Prohibited Sexual Conduct); or

29 (3) Section 43.25 (Sexual Performance by a Child).

30 Sec. 2. (a) This article applies only to statements that
31 describe the alleged offense that:

32 (1) were made by the child or person with a
33 disability against whom the offense was allegedly committed; and

34 (2) were made to the first person, 18 years of age or
35 older, other than the defendant, to whom the child or person
36 with a disability made a statement about the offense.

37 (b) A statement that meets the requirements of Subsection
38 (a) [~~of this article~~] is not inadmissible because of the hearsay
39 rule if:

40 (1) on or before the 14th day before the date the
41 proceeding begins, the party intending to offer the statement:

42 (A) notifies the adverse party of its intention
43 to do so;

44 (B) provides the adverse party with the name of
45 the witness through whom it intends to offer the statement; and

46 (C) provides the adverse party with a written
47 summary of the statement;

1 (2) the trial court finds, in a hearing conducted
2 outside the presence of the jury, that the statement is reliable
3 based on the time, content, and circumstances of the statement;
4 and

5 (3) the child or person with a disability testifies
6 or is available to testify at the proceeding in court or in any
7 other manner provided by law.

8 Sec. 3. In this article, "person with a disability" means
9 a person 13 years of age or older who because of age or physical
10 or mental disease, disability, or injury is substantially unable
11 to protect the person's self from harm or to provide food,
12 shelter, or medical care for the person's self.

13 SECTION 2. Chapter 29, Education Code, is amended by
14 adding Subchapter L to read as follows:

15 SUBCHAPTER L. SCHOOL DISTRICT PROGRAM FOR RESIDENTS OF FORENSIC
16 STATE SUPPORTED LIVING CENTER

17 Sec. 29.451. DEFINITIONS. In this subchapter, "alleged
18 offender resident," "interdisciplinary team," and "state
19 supported living center" have the meanings assigned by Section
20 555.001, Health and Safety Code.

21 Sec. 29.452. APPLICABILITY. This subchapter applies only
22 to an alleged offender resident of the forensic state supported
23 living center established under Section 555.002, Health and
24 Safety Code.

25 Sec. 29.453. SCHOOL DISTRICT SERVICES. (a) A school
26 district shall provide educational services, including services
27 required under Subchapter A, to each alleged offender resident
28 who is under 22 years of age and otherwise eligible under
29 Section 25.001 to attend school in the district. The district
30 shall provide educational services to each alleged offender
31 resident who is 21 years of age on September 1 of the school
32 year and otherwise eligible to attend school in the district
33 until the earlier of:

34 (1) the end of that school year; or

35 (2) the student's graduation from high school.

36 (b) The educational placement of an alleged offender
37 resident and the educational services to be provided by a school
38 district to the resident shall be determined by the resident's
39 admission, review, and dismissal committee consistent with
40 federal law and regulations regarding the placement of students
41 with disabilities in the least restrictive environment. The
42 resident's admission, review, and dismissal committee shall:

43 (1) inform the resident's interdisciplinary team of a
44 determination the committee makes in accordance with this
45 subsection; and

46 (2) consult, to the extent practicable, with the
47 resident's interdisciplinary team concerning such a

1 determination.

2 Sec. 29.454. BEHAVIOR MANAGEMENT; BEHAVIOR SUPPORT
3 SPECIALISTS. (a) The discipline of an alleged offender
4 resident by a school district is subject to Sections 37.0021 and
5 37.004 and to federal law governing the discipline of students
6 with disabilities.

7 (b) A school district in which alleged offender residents
8 are enrolled shall employ one or more behavior support
9 specialists to serve the residents while at school. A behavior
10 support specialist must:

11 (1) hold a baccalaureate degree;

12 (2) have training in providing to students positive
13 behavioral support and intervention, as determined by the
14 commissioner of education; and

15 (3) meet any other requirement jointly determined by
16 the commissioner of education and the commissioner of the
17 Department of Aging and Disability Services.

18 (c) A behavior support specialist shall conduct for each
19 alleged offender resident enrolled in the school district a
20 functional behavioral assessment that includes:

21 (1) data collection, through interviews with and
22 observation of the resident;

23 (2) data analysis; and

24 (3) development of an individualized school
25 behavioral intervention plan for the resident.

26 (d) Each behavior support specialist shall:

27 (1) ensure that each alleged offender resident
28 enrolled in the school district is provided behavior management
29 services under a school behavioral intervention plan based on
30 the resident's functional behavioral assessment, as described by
31 Subsection (c);

32 (2) communicate and coordinate with the resident's
33 interdisciplinary team to ensure that behavioral intervention
34 actions of the district and of the forensic state supported
35 living center do not conflict;

36 (3) in the case of a resident who regresses:

37 (A) ensure that necessary corrective action is
38 taken in the resident's individualized education program or
39 school behavioral intervention plan, as appropriate; and

40 (B) communicate with the resident's
41 interdisciplinary team concerning the regression and encourage
42 the team to aggressively address the regression;

43 (4) participate in the resident's admission, review,
44 and dismissal committee meetings in conjunction with:

45 (A) developing and implementing the resident's
46 school behavioral intervention plan; and

47 (B) determining the appropriate educational

1 placement for each resident, considering all available academic
2 and behavioral information;

3 (5) coordinate each resident's school behavioral
4 intervention plan with the resident's program of active
5 treatment provided by the forensic state supported living center
6 to ensure consistency of approach and response to the resident's
7 identified behaviors;

8 (6) provide training for school district staff and,
9 as appropriate, state supported living center staff in
10 implementing behavioral intervention plans for each resident;
11 and

12 (7) remain involved with the resident during the
13 school day.

14 (e) Section 22.0511 applies to a behavior support
15 specialist employed under this section by a school district.

16 Sec. 29.455. MEMORANDUM OF UNDERSTANDING. (a) A school
17 district in which alleged offender residents are enrolled in
18 school and the forensic state supported living center shall
19 enter into a memorandum of understanding to:

20 (1) establish the duties and responsibilities of the
21 behavior support specialist to ensure the safety of all students
22 and teachers while educational services are provided to a
23 resident at a school in the district; and

24 (2) ensure the provision of appropriate facilities
25 for providing educational services and of necessary
26 technological equipment if a resident's admission, review, and
27 dismissal committee determines that the resident must receive
28 educational services at the forensic state supported living
29 center.

30 (b) A memorandum of understanding under Subsection (a)
31 remains in effect until superseded by a subsequent memorandum of
32 understanding between the school district and the forensic state
33 supported living center or until otherwise rescinded.

34 Sec. 29.456. FAILURE OF SCHOOL DISTRICT AND CENTER TO
35 AGREE. (a) If a school district in which alleged offender
36 residents are enrolled in school and the forensic state
37 supported living center fail to agree on the services required
38 for residents or responsibility for those services, the district
39 or center may refer the issue in disagreement to the
40 commissioner of education and the commissioner of the Department
41 of Aging and Disability Services.

42 (b) If the commissioner of education and the commissioner
43 of the Department of Aging and Disability Services are unable to
44 bring the school district and forensic state supported living
45 center to agreement, the commissioners shall jointly submit a
46 written request to the attorney general to appoint a neutral
47 third party knowledgeable in special education and mental

1 retardation issues to resolve each issue on which the district
2 and the center disagree. The decision of the neutral third
3 party is final and may not be appealed. The district and the
4 center shall implement the decision of the neutral third party.
5 The commissioner of education or the commissioner of the
6 Department of Aging and Disability Services shall ensure that
7 the district and the center implement the decision of the
8 neutral third party.

9 Sec. 29.457. FUNDING. (a) In addition to other funding
10 to which a school district is entitled under this code, each
11 district in which alleged offender residents attend school is
12 entitled to an annual allotment of \$5,100 for each resident in
13 average daily attendance or a different amount for any year
14 provided by appropriation.

15 (b) Not later than December 1 of each year, a school
16 district that receives an allotment under this section shall
17 submit a report accounting for the expenditure of funds received
18 under this section to the governor, the lieutenant governor, the
19 speaker of the house of representatives, the chairs of the
20 standing committees of the senate and house of representatives
21 with primary jurisdiction regarding persons with mental
22 retardation and public education, and each member of the
23 legislature whose district contains any portion of the territory
24 included in the school.

25 Sec. 29.458. RULES. The commissioner may adopt rules as
26 necessary to administer this subchapter.

27 SECTION 3. Section 54.031, Family Code, is amended to read
28 as follows:

29 Sec. 54.031. HEARSAY STATEMENT OF CERTAIN [~~CHILD~~] ABUSE
30 VICTIMS [~~VICTIM~~]. (a) This section applies to a hearing under
31 this title in which a child is alleged to be a delinquent child
32 on the basis of a violation of any of the following provisions
33 of the Penal Code, if a child 12 years of age or younger or a
34 person with a disability is the alleged victim of the violation:

35 (1) Chapter 21 (Sexual Offenses) or 22 (Assaultive
36 Offenses);

37 (2) Section 25.02 (Prohibited Sexual Conduct); or

38 (3) Section 43.25 (Sexual Performance by a Child).

39 (b) This section applies only to statements that describe
40 the alleged violation that:

41 (1) were made by the child or person with a
42 disability who is the alleged victim of the violation; and

43 (2) were made to the first person, 18 years of age or
44 older, to whom the child or person with a disability made a
45 statement about the violation.

46 (c) A statement that meets the requirements of Subsection
47 (b) [~~of this section~~] is not inadmissible because of the hearsay

1 rule if:

2 (1) on or before the 14th day before the date the
3 hearing begins, the party intending to offer the statement:

4 (A) notifies each other party of its intention
5 to do so;

6 (B) provides each other party with the name of
7 the witness through whom it intends to offer the statement; and

8 (C) provides each other party with a written
9 summary of the statement;

10 (2) the juvenile court finds, in a hearing conducted
11 outside the presence of the jury, that the statement is reliable
12 based on the time, content, and circumstances of the statement;
13 and

14 (3) the child or person with a disability who is the
15 alleged victim testifies or is available to testify at the
16 hearing in court or in any other manner provided by law.

17 (d) In this section, "person with a disability" means a
18 person 13 years of age or older who because of age or physical
19 or mental disease, disability, or injury is substantially unable
20 to protect the person's self from harm or to provide food,
21 shelter, or medical care for the person's self.

22 SECTION 4. Section 261.105, Family Code, is amended by
23 adding Subsection (c-1) to read as follows:

24 (c-1) Notwithstanding Subsections (b) and (c), if a report
25 under this section relates to a child with mental retardation
26 receiving services in a state supported living center as defined
27 by Section 531.002, Health and Safety Code, or the ICF-MR
28 component of the Rio Grande State Center, the department shall
29 proceed with the investigation of the report as provided by
30 Section 261.404.

31 SECTION 5. Subsection (b), Section 261.109, Family Code,
32 is amended to read as follows:

33 (b) An offense under this section is a Class A [B]
34 misdemeanor, except that the offense is a state jail felony if
35 it is shown on the trial of the offense that the child was a
36 person with mental retardation who resided in a state supported
37 living center, the ICF-MR component of the Rio Grande State
38 Center, or a facility licensed under Chapter 252, Health and
39 Safety Code, and the actor knew that the child had suffered
40 serious bodily injury as a result of the abuse or neglect.

41 SECTION 6. Subsection (b), Section 261.401, Family Code,
42 is amended to read as follows:

43 (b) Except as provided by Section 261.404, a [A] state
44 agency that operates, licenses, certifies, or registers a
45 facility in which children are located or provides oversight of
46 a program that serves children shall make a prompt, thorough
47 investigation of a report that a child has been or may be

1 abused, neglected, or exploited in the facility or program. The
2 primary purpose of the investigation shall be the protection of
3 the child.

4 SECTION 7. Section 261.404, Family Code, is amended to
5 read as follows:

6 Sec. 261.404. INVESTIGATIONS REGARDING CERTAIN CHILDREN
7 WITH MENTAL ILLNESS OR [IN FACILITIES UNDER DEPARTMENT OF MENTAL
8 HEALTH AND] MENTAL RETARDATION. (a) The department shall
9 investigate a report of abuse, neglect, or exploitation of a
10 child receiving services:

11 (1) in a facility operated by the [~~Texas~~] Department
12 of Aging and Disability Services or a mental health facility
13 operated by the Department of State [~~Mental~~] Health Services
14 [and Mental Retardation];

15 (2) in or from a community center, a local mental
16 health authority, or a local mental retardation authority; [~~or~~]

17 (3) through a program providing services to that
18 child by contract with a facility operated by the [~~Texas~~]
19 Department of Aging and Disability Services, a mental health
20 facility operated by the Department of State [~~Mental~~] Health
21 Services [and Mental Retardation], a community center, a local
22 mental health authority, or a local mental retardation
23 authority;

24 (4) from a provider of home and community-based
25 services who contracts with the Department of Aging and
26 Disability Services; or

27 (5) in a facility licensed under Chapter 252, Health
28 and Safety Code.

29 (b) The department shall investigate the report under
30 rules developed by the executive commissioner of the Health and
31 Human Services Commission with the advice and assistance of
32 [~~jointly between~~] the department, [~~and~~] the [~~Texas~~] Department
33 of Aging and Disability Services, and the Department of State
34 [~~Mental~~] Health Services [and Mental Retardation].

35 (c) If a report under this section relates to a child with
36 mental retardation receiving services in a state supported
37 living center or the ICF-MR component of the Rio Grande State
38 Center, the department shall, within one hour of receiving the
39 report, notify the facility in which the child is receiving
40 services of the allegations in the report.

41 (d) If during the course of the department's investigation
42 of reported abuse, neglect, or exploitation a caseworker of the
43 department or the caseworker's supervisor has cause to believe
44 that a child with mental retardation described by Subsection (c)
45 has been abused, neglected, or exploited by another person in a
46 manner that constitutes a criminal offense under any law,
47 including Section 22.04, Penal Code, the caseworker shall

1 immediately notify the Health and Human Services Commission's
2 office of inspector general and promptly provide the
3 commission's office of inspector general with a copy of the
4 department's investigation report.

5 (e) The definitions of "abuse" and "neglect" prescribed by
6 Section 261.001 do not apply to an investigation under this
7 section.

8 (f) [~~(d)~~] In this section:

9 (1) [~~7~~] "Community [~~community~~] center," "local mental
10 health authority," [~~and~~] "local mental retardation authority,"
11 and "state supported living center" have the meanings assigned
12 by Section 531.002, Health and Safety Code.

13 (2) "Provider" has the meaning assigned by Section
14 48.351, Human Resources Code.

15 SECTION 8. Subchapter F, Chapter 411, Government Code, is
16 amended by adding Section 411.1144 to read as follows:

17 Sec. 411.1144. ACCESS TO CRIMINAL HISTORY RECORD
18 INFORMATION: AGENCIES WITH EMPLOYEES OR VOLUNTEERS AT STATE
19 SUPPORTED LIVING CENTERS. (a) The Department of State Health
20 Services and the Department of Aging and Disability Services are
21 entitled to obtain from the department criminal history record
22 information maintained by the department that relates to a
23 person:

24 (1) who is:

25 (A) an applicant for employment with the agency;

26 (B) an employee of the agency;

27 (C) a volunteer with the agency; or

28 (D) an applicant for a volunteer position with
29 the agency; and

30 (2) who would be placed in direct contact with a
31 resident or client of a state supported living center or the
32 ICF-MR component of the Rio Grande State Center.

33 (b) Criminal history record information obtained by an
34 agency under Subsection (a) may not be released or disclosed to
35 any person except:

36 (1) on court order;

37 (2) with the consent of the person who is the subject
38 of the criminal history record information;

39 (3) for purposes of an administrative hearing held by
40 the agency concerning the person who is the subject of the
41 criminal history record information; or

42 (4) as provided by Subsection (c).

43 (c) An agency is not prohibited from releasing criminal
44 history record information obtained under Subsection (a) or (d)
45 to the person who is the subject of the criminal history record
46 information.

47 (d) Subject to Section 411.087, the Department of State

1 Health Services and the Department of Aging and Disability
2 Services are entitled to:

3 (1) obtain through the Federal Bureau of
4 Investigation criminal history record information maintained or
5 indexed by that bureau that pertains to a person described by
6 Subsection (a); and

7 (2) obtain from any other criminal justice agency in
8 this state criminal history record information maintained by
9 that criminal justice agency that relates to a person described
10 by Subsection (a).

11 (e) This section does not prohibit an agency from
12 obtaining and using criminal history record information as
13 provided by other law.

14 SECTION 9. Chapter 531, Government Code, is amended by
15 adding Subchapter U to read as follows:

16 SUBCHAPTER U. MORTALITY REVIEW FOR CERTAIN INDIVIDUALS WITH
17 DEVELOPMENTAL DISABILITIES

18 Sec. 531.851. MORTALITY REVIEW. (a) The executive
19 commissioner shall establish an independent mortality review
20 system to review the death of a person with a developmental
21 disability who, at the time of the person's death:

22 (1) resided in or received services from:

23 (A) an intermediate care facility for persons
24 with mental retardation (ICF-MR) operated or licensed by the
25 Department of Aging and Disability Services or a community
26 center; or

27 (B) the ICF-MR component of the Rio Grande State
28 Center; or

29 (2) received residential assistance through a Section
30 1915(c) waiver program serving individuals who are eligible for
31 ICF-MR services in a residence in which residential assistance
32 is provided to three or more persons and in which the waiver
33 program provider has a property interest.

34 (b) A review under this subchapter must be conducted in
35 addition to any review conducted by the facility in which the
36 person resided or the facility, agency, or provider from which
37 the person received services. A review under this subchapter
38 must be conducted after any investigation of alleged or
39 suspected abuse, neglect, or exploitation is completed.

40 (c) The executive commissioner shall contract with a
41 patient safety organization certified in accordance with 42
42 C.F.R. Part 3, as effective on January 19, 2009, to conduct
43 independent mortality reviews required by this subchapter. The
44 contract must require the patient safety organization to conduct
45 an independent mortality review using a team consisting of:

46 (1) a physician with expertise regarding the medical
47 treatment of individuals with mental retardation;

1 (2) a registered nurse with expertise regarding the
2 medical treatment of individuals with mental retardation;

3 (3) a clinician or other professional with expertise
4 in the delivery of services and supports for individuals with
5 mental retardation; and

6 (4) any other appropriate person as provided by the
7 executive commissioner.

8 (d) The executive commissioner shall adopt rules regarding
9 the manner in which the death of a person described by
10 Subsection (a) must be reported to the patient safety
11 organization by a facility or waiver program provider described
12 by that subsection.

13 (e) To ensure consistency across mortality review systems,
14 a review under this section must collect information consistent
15 with the information required to be collected by any other
16 independent mortality review process established specifically
17 for persons with mental retardation.

18 Sec. 531.852. ACCESS TO INFORMATION. (a) A patient
19 safety organization may request information and records
20 regarding a deceased person as necessary to carry out the
21 patient safety organization's duties. Records and information
22 that may be requested under this section include:

23 (1) medical, dental, and mental health care
24 information; and

25 (2) information and records maintained by any state
26 or local government agency, including:

27 (A) a birth certificate;

28 (B) law enforcement investigative data;

29 (C) medical examiner investigative data;

30 (D) juvenile court records;

31 (E) parole and probation information and
32 records; and

33 (F) adult or child protective services
34 information and records.

35 (b) On request of the patient safety organization, the
36 custodian of the relevant information and records relating to a
37 deceased person shall provide those records to the patient
38 safety organization at no charge.

39 Sec. 531.853. MORTALITY REVIEW REPORT. The patient safety
40 organization shall, to the extent allowed by federal law,
41 submit:

42 (1) to the Department of Aging and Disability
43 Services, the Department of Family and Protective Services, the
44 office of independent ombudsman for state supported living
45 centers, and the commission's office of inspector general a
46 report of the findings of the mortality review; and

47 (2) semiannually to the governor, the lieutenant

1 governor, the speaker of the house of representatives, and the
2 standing committees of the senate and house of representatives
3 with primary jurisdiction over the Department of Aging and
4 Disability Services a report that contains:

5 (A) aggregate information regarding the deaths
6 for which the patient safety organization performed an
7 independent mortality review;

8 (B) trends in the causes of death identified by
9 the patient safety organization; and

10 (C) any suggestions for system-wide improvements
11 to address conditions that contributed to deaths reviewed by the
12 patient safety organization.

13 Sec. 531.854. USE AND PUBLICATION RESTRICTIONS;
14 CONFIDENTIALITY. (a) The commission may use or publish
15 information under this subchapter only to advance statewide
16 practices regarding the treatment and care of individuals with
17 developmental disabilities. A summary of the data in the
18 patient safety organization's reports or a statistical
19 compilation of data reports may be released by the commission
20 for general publication if the summary or statistical
21 compilation does not contain any information that would permit
22 the identification of an individual or that is patient safety
23 work product.

24 (b) Information and records acquired by the patient safety
25 organization in the exercise of its duties under this subchapter
26 are confidential and exempt from disclosure under the open
27 records law, Chapter 552, and may be disclosed only as necessary
28 to carry out the patient safety organization's duties.

29 (c) The identity of a person whose death was reviewed in
30 accordance with this subchapter is confidential and may not be
31 revealed.

32 (d) The identity of a health care provider or the name of
33 a facility or agency that provided services to or was the
34 residence of a person whose death was reviewed in accordance
35 with this subchapter is confidential and may not be revealed.

36 (e) Reports, information, statements, memoranda, and other
37 information furnished under this subchapter and any findings or
38 conclusions resulting from a review by the patient safety
39 organization are privileged.

40 Sec. 531.855. LIMITATION ON LIABILITY. A health care
41 provider or other person is not civilly or criminally liable for
42 furnishing information to the patient safety organization or to
43 the commission for use by the patient safety organization in
44 accordance with this subchapter unless the person acted in bad
45 faith or knowingly provided false information to the patient
46 safety organization or the commission.

47 SECTION 10. Subchapter B, Chapter 252, Health and Safety

1 Code, is amended by adding Section 252.0311 to read as follows:

2 Sec. 252.0311. PERSON INELIGIBLE FOR LICENSE. (a) In
3 this section, "controlling person" means a person who, acting
4 alone or with others, has the ability to directly or indirectly
5 influence, direct, or cause the direction of the management,
6 expenditure of money, or policies of a facility or a person who
7 operates a facility. The term includes:

8 (1) a management company or other business entity
9 that operates or contracts with others for the operation of a
10 facility;

11 (2) a person who is a controlling person of a
12 management company or other business entity that operates a
13 facility or that contracts with another person for the operation
14 of a facility; and

15 (3) any other individual who, because of a personal,
16 familial, or other relationship with the owner, manager, or
17 provider of a facility, is in a position of actual control or
18 authority with respect to the facility, without regard to
19 whether the individual is formally named as an owner, manager,
20 director, officer, provider, consultant, contractor, or employee
21 of the facility.

22 (b) A controlling person described by Subsection (a)(3)
23 does not include an employee, lender, secured creditor, or other
24 person who does not exercise formal or actual influence or
25 control over the operation of a facility.

26 (c) The executive commissioner of the Health and Human
27 Services Commission may adopt rules that specify the ownership
28 interests and other relationships that qualify a person as a
29 controlling person.

30 (d) A person is not eligible for a license or to renew a
31 license if the applicant, a controlling person with respect to
32 the applicant, or an administrator or chief financial officer of
33 the applicant has been convicted of an offense that would bar a
34 person's employment at a facility in accordance with Chapter
35 250.

36 SECTION 11. Section 252.039, Health and Safety Code, is
37 amended to read as follows:

38 Sec. 252.039. POSTING. Each facility shall prominently
39 and conspicuously post for display in a public area of the
40 facility that is readily available to residents, employees, and
41 visitors:

42 (1) the license issued under this chapter;

43 (2) a sign prescribed by the department that
44 specifies complaint procedures established under this chapter or
45 rules adopted under this chapter and that specifies how
46 complaints may be registered with the department;

47 (3) a notice in a form prescribed by the department

1 stating that inspection and related reports are available at the
2 facility for public inspection and providing the department's
3 toll-free telephone number that may be used to obtain
4 information concerning the facility;

5 (4) a concise summary of the most recent inspection
6 report relating to the facility; ~~and~~

7 (5) a notice providing instructions for reporting an
8 allegation of abuse, neglect, or exploitation to the Department
9 of Family and Protective Services; and

10 (6) a notice that employees, other staff, residents,
11 volunteers, and family members and guardians of residents are
12 protected from discrimination or retaliation as provided by
13 Sections 252.132 and 252.133.

14 SECTION 12. The heading to Subchapter E, Chapter 252,
15 Health and Safety Code, is amended to read as follows:

16 SUBCHAPTER E. INVESTIGATIONS [REPORTS] OF ABUSE,
17 [AND] NEGLECT, AND EXPLOITATION AND REPORTS OF RETALIATION

18 SECTION 13. Sections 252.121, 252.122, 252.125, and
19 252.126, Health and Safety Code, are amended to read as follows:

20 Sec. 252.121. AUTHORITY TO RECEIVE REPORTS AND INVESTIGATE
21 [DEFINITION]. (a) A person, including an owner or employee of
22 a facility, who has cause to believe that [In this subchapter,
23 "designated agency" means an agency designated by a court to be
24 responsible for the protection of] a resident is being or has
25 been subjected to [who is the subject of a report of] abuse,
26 [or] neglect, or exploitation shall report the suspected abuse,
27 neglect, or exploitation to the Department of Family and
28 Protective Services, as required by Chapter 48, Human Resources
29 Code, or Chapter 261, Family Code, as appropriate. The
30 Department of Family and Protective Services shall investigate
31 the allegation of abuse, neglect, or exploitation in the manner
32 provided by Chapter 48, Human Resources Code, or Section
33 261.404, Family Code, as applicable.

34 (b) If the department receives a report of suspected
35 abuse, neglect, or exploitation of a resident of a facility
36 licensed under this chapter, the department shall immediately
37 refer the report to the Department of Family and Protective
38 Services for investigation.

39 Sec. 252.122. NOTIFICATION OF DUTY TO REPORT [REPORTING
40 OF] ABUSE, [AND] NEGLECT, AND EXPLOITATION. [(a) A person,
41 including an owner or employee of a facility, who has cause to
42 believe that the physical or mental health or welfare of a
43 resident has been or may be adversely affected by abuse or
44 neglect caused by another person shall report the abuse or
45 neglect to the department, to a designated agency, or to both
46 the department and the designated agency, as specified in
47 department rules.

1 ~~[(b)]~~ Each facility shall require each employee of the
2 facility, as a condition of employment with the facility, to
3 sign a statement that the employee realizes that the employee
4 may be criminally liable for failure to report abuse, ~~[or]~~
5 neglect, or exploitation.

6 ~~[(c) A person shall make an oral report immediately on
7 learning of abuse or neglect and shall make a written report to
8 the same agency not later than the fifth day after the oral
9 report is made.]~~

10 Sec. 252.125. IMMEDIATE REMOVAL TO PROTECT RESIDENT
11 [INVESTIGATION AND REPORT OF RECEIVING AGENCY]. ~~[(a) The~~
12 ~~department or the designated agency shall make a thorough~~
13 ~~investigation promptly after receiving either the oral or~~
14 ~~written report.~~

15 ~~[(b) The primary purpose of the investigation is the~~
16 ~~protection of the resident.~~

17 ~~[(c) In the investigation, the department or the~~
18 ~~designated agency shall determine:~~

19 ~~[(1) the nature, extent, and cause of the abuse or~~
20 ~~neglect;~~

21 ~~[(2) the identity of the person responsible for the~~
22 ~~abuse or neglect;~~

23 ~~[(3) the names and conditions of the other residents;~~

24 ~~[(4) an evaluation of the persons responsible for the~~
25 ~~care of the residents;~~

26 ~~[(5) the adequacy of the facility environment; and~~

27 ~~[(6) any other information required by the~~
28 ~~department.~~

29 ~~[(d) The investigation may include a visit to the~~
30 ~~resident's facility and an interview with the resident, if~~
31 ~~considered appropriate by the department.~~

32 ~~[(e) If the department attempts to carry out an on-site~~
33 ~~investigation and it is shown that admission to the facility or~~
34 ~~any place where a resident is located cannot be obtained, a~~
35 ~~probate or county court shall order the person responsible for~~
36 ~~the care of the resident or the person in charge of a place~~
37 ~~where the resident is located to allow admission for the~~
38 ~~investigation and any interview with the resident.~~

39 ~~[(f)]~~ Before the completion of the investigation by the
40 Department of Family and Protective Services, the department
41 shall file a petition for temporary care and protection of a
42 ~~[the]~~ resident if the department determines, based on
43 information provided to the department by the Department of
44 Family and Protective Services, that immediate removal is
45 necessary to protect the resident from further abuse, ~~[or]~~
46 neglect, or exploitation.

47 ~~[(g) The department or the designated agency shall make a~~

1 ~~complete written report of the investigation and submit the~~
2 ~~report and its recommendations to the district attorney and the~~
3 ~~appropriate law enforcement agency and, if necessary, to the~~
4 ~~department on the department's request.]~~

5 Sec. 252.126. CONFIDENTIALITY; DISCLOSURE OF INVESTIGATION
6 REPORT. (a) A report, record, or working paper used or
7 developed in an investigation made under this subchapter is
8 confidential and may be disclosed only as provided by Chapter
9 48, Human Resources Code, Chapter 261, Family Code, or this
10 section [for purposes consistent with the rules adopted by the
11 board or the designated agency].

12 (b) The Department of Family and Protective Services shall
13 provide a copy of a completed investigation report to the
14 department and may disclose information related to the
15 investigation at any time to the department as necessary to
16 protect a resident of a facility from abuse, neglect, or
17 exploitation.

18 SECTION 14. Subsection (h), Section 252.132, Health and
19 Safety Code, is amended to read as follows:

20 (h) Each facility shall require each employee of the
21 facility, as a condition of employment with the facility, to
22 sign a statement that the employee understands the employee's
23 rights under this section. The statement must be part of the
24 statement required under Section 252.122 [252.122(b)]. If a
25 facility does not require an employee to read and sign the
26 statement, the periods prescribed by Subsection (e) do not
27 apply, and the petitioner must bring suit not later than the
28 second anniversary of the date on which the person's employment
29 is suspended or terminated.

30 SECTION 15. Subdivision (4), Section 253.001, Health and
31 Safety Code, is amended to read as follows:

32 (4) "Facility" means:

33 (A) a facility:

34 (i) licensed by the department; or

35 (ii) licensed under Chapter 252;

36 (B) an adult foster care provider that contracts
37 with the department; or

38 (C) a home and community support services agency
39 licensed by the department under Chapter 142.

40 SECTION 16. Section 253.002, Health and Safety Code, is
41 amended to read as follows:

42 Sec. 253.002. INVESTIGATION BY DEPARTMENT. (a) If the
43 department receives a report that an employee of a facility,
44 other than a facility licensed under Chapter 252, committed
45 reportable conduct, the department shall investigate the report
46 to determine whether the employee has committed the reportable
47 conduct.

1 (b) If the Department of Aging and Disability Services
2 receives a report that an employee of a facility licensed under
3 Chapter 252 committed reportable conduct, the department shall
4 forward that report to the Department of Family and Protective
5 Services for investigation.

6 SECTION 17. Subdivision (17), Section 531.002, Health and
7 Safety Code, is amended to read as follows:

8 (17) "State supported living center [~~school~~]" means a
9 state-supported and structured residential facility operated by
10 the Department of Aging and Disability Services [~~department~~] to
11 provide to clients with mental retardation a variety of
12 services, including medical treatment, specialized therapy, and
13 training in the acquisition of personal, social, and vocational
14 skills.

15 SECTION 18. Chapter 531, Health and Safety Code, is
16 amended by adding Section 531.0021 to read as follows:

17 Sec. 531.0021. REFERENCE TO STATE SCHOOL OR
18 SUPERINTENDENT. (a) A reference in law to a "state school"
19 means a state supported living center.

20 (b) A reference in law to a "superintendent," to the
21 extent the term is intended to refer to the person in charge of
22 a state supported living center, means the director of a state
23 supported living center.

24 SECTION 19. Subsection (b), Section 532.001, Health and
25 Safety Code, is amended to read as follows:

26 (b) The Department of Aging and Disability Services and
27 the Department of State Health Services [~~department~~] also
28 include [~~includes~~] community services operated by those
29 departments [~~the department~~] and the following facilities, as
30 appropriate:

- 31 (1) the central office of each [~~the~~] department;
- 32 (2) the Austin State Hospital;
- 33 (3) the Big Spring State Hospital;
- 34 (4) the Kerrville State Hospital;
- 35 (5) the Rusk State Hospital;
- 36 (6) the San Antonio State Hospital;
- 37 (7) the Terrell State Hospital;
- 38 (8) the North Texas State Hospital;
- 39 (9) the Abilene State Supported Living Center
40 [~~School~~];
- 41 (10) the Austin State Supported Living Center
42 [~~School~~];
- 43 (11) the Brenham State Supported Living Center
44 [~~School~~];
- 45 (12) the Corpus Christi State Supported Living Center
46 [~~School~~];
- 47 (13) the Denton State Supported Living Center

- 1 [~~School~~];
2 (14) the Lubbock State Supported Living Center
3 [~~School~~];
4 (15) the Lufkin State Supported Living Center
5 [~~School~~];
6 (16) the Mexia State Supported Living Center
7 [~~School~~];
8 (17) the Richmond State Supported Living Center
9 [~~School~~];
10 (18) the San Angelo State Supported Living Center
11 [~~School~~];
12 (19) the San Antonio State Supported Living Center
13 [~~School~~];
14 (20) the El Paso State Supported Living Center;
15 (21) the Rio Grande State Center; and
16 (22) the Waco Center for Youth.

17 SECTION 20. Section 551.022, Health and Safety Code, is
18 amended by adding Subsection (e) to read as follows:

19 (e) This section does not apply to a state supported
20 living center or the director of a state supported living
21 center.

22 SECTION 21. Subchapter B, Chapter 551, Health and Safety
23 Code, is amended by adding Section 551.0225 to read as follows:

24 Sec. 551.0225. POWERS AND DUTIES OF STATE SUPPORTED LIVING
25 CENTER DIRECTOR. (a) The director of a state supported living
26 center is the administrative head of the center.

27 (b) The director of a state supported living center has
28 the custody of and responsibility to care for the buildings,
29 grounds, furniture, and other property relating to the center.

30 (c) The director of a state supported living center shall:

31 (1) oversee the admission and discharge of residents
32 and clients;

33 (2) keep a register of all residents and clients
34 admitted to or discharged from the center;

35 (3) ensure that the civil rights of residents and
36 clients of the center are protected;

37 (4) ensure the health, safety, and general welfare of
38 residents and clients of the center;

39 (5) supervise repairs and improvements to the center;

40 (6) ensure that center money is spent judiciously and
41 economically;

42 (7) keep an accurate and detailed account of all
43 money received and spent, stating the source of the money and on
44 whom and the purpose for which the money is spent;

45 (8) keep a full record of the center's operations;

46 (9) monitor the arrival and departure of individuals
47 to and from the center as appropriate to ensure the safety of

1 residents; and
2 (10) ensure that residents' family members and
3 legally authorized representatives are notified of serious
4 events that may indicate problems in the care or treatment of
5 residents.
6 (d) In accordance with department rules and operating
7 procedures, the director of a state supported living center may:
8 (1) establish policy to govern the center that the
9 director considers will best promote the residents' interest and
10 welfare;
11 (2) hire subordinate officers, teachers, and other
12 employees and set their salaries, in the absence of other law;
13 and
14 (3) dismiss a subordinate officer, teacher, or
15 employee for good cause.
16 (e) The Department of Aging and Disability Services shall,
17 with input from residents of a state supported living center,
18 and the family members and legally authorized representatives of
19 those residents, develop a policy that defines "serious event"
20 for purposes of Subsection (c)(10).
21 SECTION 22. Subtitle B, Title 7, Health and Safety Code,
22 is amended by adding Chapter 555 to read as follows:
23 CHAPTER 555. STATE SUPPORTED LIVING CENTERS
24 SUBCHAPTER A. GENERAL PROVISIONS
25 Sec. 555.001. DEFINITIONS. In this chapter:
26 (1) "Alleged offender resident" means a person with
27 mental retardation who:
28 (A) was committed to or transferred to a state
29 supported living center under Chapter 46B or 46C, Code of
30 Criminal Procedure, as a result of being charged with or
31 convicted of a criminal offense; or
32 (B) is a child committed to or transferred to a
33 state supported living center under Chapter 55, Family Code, as
34 a result of being alleged by petition or having been found to
35 have engaged in delinquent conduct constituting a criminal
36 offense.
37 (2) "Center" means the state supported living centers
38 and the ICF-MR component of the Rio Grande State Center.
39 (3) "Center employee" means an employee of a state
40 supported living center or the ICF-MR component of the Rio
41 Grande State Center.
42 (4) "Client" means a person with mental retardation
43 who receives ICF-MR services from a state supported living
44 center or the ICF-MR component of the Rio Grande State Center.
45 (5) "Commission" means the Health and Human Services
46 Commission.
47 (6) "Complaint" means information received by the

1 office of independent ombudsman regarding a possible violation
2 of a right of a resident or client and includes information
3 received regarding a failure by a state supported living center
4 or the ICF-MR component of the Rio Grande State Center to comply
5 with the department's policies and procedures relating to the
6 community living options information process.

7 (7) "Department" means the Department of Aging and
8 Disability Services.

9 (8) "Direct care employee" means a center employee
10 who provides direct delivery of services to a resident or
11 client.

12 (9) "Executive commissioner" means the executive
13 commissioner of the Health and Human Services Commission.

14 (10) "High-risk alleged offender resident" means an
15 alleged offender resident who has been determined under Section
16 555.003 to be at risk of inflicting substantial physical harm to
17 another.

18 (11) "Independent ombudsman" means the individual who
19 has been appointed to the office of independent ombudsman for
20 state supported living centers.

21 (12) "Inspector general" means the Health and Human
22 Services Commission's office of inspector general.

23 (13) "Interdisciplinary team" has the meaning
24 assigned by Section 591.003.

25 (14) "Office" means the office of independent
26 ombudsman for state supported living centers established under
27 Subchapter C.

28 (15) "Resident" means a person with mental
29 retardation who resides in a state supported living center or
30 the ICF-MR component of the Rio Grande State Center.

31 (16) "State supported living center" has the meaning
32 assigned by Section 531.002.

33 Sec. 555.002. FORENSIC STATE SUPPORTED LIVING CENTER.

34 (a) The department shall establish a separate forensic state
35 supported living center for the care apart from other clients
36 and residents of high-risk alleged offender residents. The
37 department shall designate the Mexia State Supported Living
38 Center for this purpose.

39 (b) In establishing the forensic state supported living
40 center, the department shall:

41 (1) transfer an alleged offender resident already
42 residing in a center who is classified as a high-risk alleged
43 offender resident in accordance with Section 555.003, to the
44 forensic state supported living center;

45 (2) place high-risk alleged offender residents in
46 separate homes at the forensic state supported living center
47 based on whether an individual is:

1 (A) an adult or a person younger than 18 years
2 of age; or

3 (B) male or female;

4 (3) place alleged offender residents who are charged
5 with or convicted of a felony offense or who are alleged by
6 petition or have been found to have engaged in delinquent
7 conduct defined as a felony offense, at the time the residents
8 are initially committed to or transferred to a center, in the
9 forensic state supported living center until a determination
10 under Section 555.003 has been completed;

11 (4) transfer all residents who request a transfer,
12 other than high-risk alleged offender residents and alleged
13 offender residents described by Subdivision (3) and for whom a
14 determination has not been completed under Section 555.003, from
15 the forensic state supported living center; and

16 (5) provide training regarding the service delivery
17 system for high-risk alleged offender residents to direct care
18 employees of the forensic state supported living center.

19 (c) An alleged offender resident committed to the forensic
20 state supported living center, for whom a determination under
21 Section 555.003 has been completed and who is not classified as
22 a high-risk alleged offender resident, may request a transfer to
23 another center in accordance with Subchapter B, Chapter 594.

24 (d) The department shall ensure that the forensic state
25 supported living center:

26 (1) complies with the requirements for ICF-MR
27 certification under the Medicaid program, as appropriate; and

28 (2) has additional center employees, including direct
29 care employees, to protect the safety of center employees,
30 residents, and the community.

31 (e) The department shall collect data regarding the
32 commitment of alleged offender residents to state supported
33 living centers, including any offense with which an alleged
34 offender resident is charged, the location of the committing
35 court, whether the alleged offender resident has previously been
36 in the custody of the Texas Youth Commission or the Department
37 of Family and Protective Services, and whether the alleged
38 offender resident receives mental health services or previously
39 received any services under a Section 1915(c) waiver program.
40 The department shall annually submit to the governor, the
41 lieutenant governor, the speaker of the house of
42 representatives, and the standing committees of the legislature
43 with primary subject matter jurisdiction over state supported
44 living centers a report of the information collected under this
45 section. The report may not contain personally identifiable
46 information for any person in the report.

47 Sec. 555.003. DETERMINATION OF HIGH-RISK ALLEGED OFFENDER

1 STATUS. (a) Not later than the 30th day after the date an
2 alleged offender resident is first committed to a state
3 supported living center and, if the resident is classified as a
4 high-risk alleged offender resident, annually on the anniversary
5 of that date, an interdisciplinary team shall determine whether
6 the alleged offender resident is at risk of inflicting
7 substantial physical harm to another and should be classified or
8 remain classified as a high-risk alleged offender resident.

9 (b) In making a determination under Subsection (a), the
10 interdisciplinary team shall document and collect evidence
11 regarding the reason the alleged offender resident is determined
12 to be at risk of inflicting substantial physical harm to
13 another.

14 (c) The interdisciplinary team shall provide the team's
15 findings regarding whether the alleged offender resident is at
16 risk of inflicting substantial physical harm to another and the
17 documentation and evidence collected under this section to:

- 18 (1) the department;
19 (2) the director of the state supported living
20 center;
21 (3) the independent ombudsman;
22 (4) the alleged offender resident or the alleged
23 offender resident's parent if the resident is a minor; and
24 (5) the alleged offender resident's legally
25 authorized representative.

26 (d) An alleged offender resident who is determined to be
27 at risk of inflicting substantial physical harm to another and
28 is classified as a high-risk alleged offender resident is
29 entitled to an administrative hearing with the department to
30 contest that determination and classification.

31 (e) An individual who has exhausted the administrative
32 remedies provided by Subsection (d) may bring a suit to appeal
33 the determination and classification in district court in Travis
34 County. The suit must be filed not later than the 30th day
35 after the date the final order in the administrative hearing is
36 provided to the individual. An appeal under this section is by
37 trial de novo.

38 [Sections 555.004-555.020 reserved for expansion]

39 SUBCHAPTER B. POWERS AND DUTIES

40 Sec. 555.021. REQUIRED CRIMINAL HISTORY CHECKS FOR
41 EMPLOYEES AND VOLUNTEERS OF CENTERS. (a) The department and
42 the Department of State Health Services shall perform a state
43 and federal criminal history background check on a person:

- 44 (1) who is:
45 (A) an applicant for employment with the agency;
46 (B) an employee of the agency;
47 (C) a volunteer with the agency; or

1 (D) an applicant for a volunteer position with
2 the agency; and

3 (2) who would be placed in direct contact with a
4 resident or client.

5 (b) The department and the Department of State Health
6 Services shall require a person described by Subsection (a) to
7 submit fingerprints in a form and of a quality acceptable to the
8 Department of Public Safety and the Federal Bureau of
9 Investigation for use in conducting a criminal history
10 background check.

11 (c) Each agency shall obtain electronic updates from the
12 Department of Public Safety of arrests and convictions of a
13 person:

14 (1) for whom the agency performs a background check
15 under Subsection (a); and

16 (2) who remains an employee or volunteer of the
17 agency and continues to have direct contact with a resident or
18 client.

19 Sec. 555.022. DRUG TESTING; POLICY. (a) The executive
20 commissioner shall adopt a policy regarding random testing and
21 reasonable suspicion testing for the illegal use of drugs by a
22 center employee.

23 (b) The policy adopted under Subsection (a) must provide
24 that a center employee may be terminated solely on the basis of
25 a single positive test for illegal use of a controlled
26 substance. The policy must establish an appeals process for a
27 center employee who tests positively for illegal use of a
28 controlled substance.

29 (c) The director of a state supported living center or the
30 superintendent of the Rio Grande State Center shall enforce the
31 policy adopted under Subsection (a) by performing necessary drug
32 testing of the center employees for the use of a controlled
33 substance as defined by Section 481.002.

34 (d) Testing under this section may be performed on a
35 random basis or on reasonable suspicion of the use of a
36 controlled substance.

37 (e) For purposes of this section, a report made under
38 Section 555.023 is considered reasonable suspicion of the use of
39 a controlled substance.

40 Sec. 555.023. REPORTS OF ILLEGAL DRUG USE; POLICY. The
41 executive commissioner shall adopt a policy requiring a center
42 employee who knows or reasonably suspects that another center
43 employee is illegally using or under the influence of a
44 controlled substance, as defined by Section 481.002, to report
45 that knowledge or reasonable suspicion to the director of the
46 state supported living center or the superintendent of the Rio
47 Grande State Center, as appropriate.

1 Sec. 555.024. CENTER EMPLOYEE TRAINING. (a) Before a
2 center employee begins to perform the employee's duties without
3 direct supervision, the department shall provide the employee
4 with competency training and a course of instruction about the
5 general duties of a center employee. The department shall
6 ensure the basic center employee competency course focuses on:

7 (1) the uniqueness of the individuals the center
8 employee serves;

9 (2) techniques for improving quality of life for and
10 promoting the health and safety of individuals with mental
11 retardation; and

12 (3) the conduct expected of center employees.

13 (b) The department shall ensure the training required by
14 Subsection (a) provides instruction and information regarding
15 the following topics:

16 (1) the general operation and layout of the center at
17 which the person is employed, including armed intruder lockdown
18 procedures;

19 (2) an introduction to mental retardation;

20 (3) an introduction to autism;

21 (4) an introduction to mental illness and dual
22 diagnosis;

23 (5) the rights of individuals with mental retardation
24 who receive services from the department;

25 (6) respecting personal choices made by residents and
26 clients;

27 (7) the safe and proper use of restraints;

28 (8) recognizing and reporting:

29 (A) evidence of abuse, neglect, and exploitation
30 of individuals with mental retardation;

31 (B) unusual incidents;

32 (C) reasonable suspicion of illegal drug use in
33 the workplace;

34 (D) workplace violence; or

35 (E) sexual harassment in the workplace;

36 (9) preventing and treating infection;

37 (10) first aid;

38 (11) cardiopulmonary resuscitation;

39 (12) the Health Insurance Portability and
40 Accountability Act of 1996 (Pub. L. No. 104-191); and

41 (13) the rights of center employees.

42 (c) In addition to the training required by Subsection (a)
43 and before a direct care employee begins to perform the direct
44 care employee's duties without direct supervision, the
45 department shall provide a direct care employee with training
46 and instructional information regarding implementation of the
47 interdisciplinary treatment program for each resident or client

1 for whom the direct care employee will provide direct care,
2 including the following topics:

3 (1) prevention and management of aggressive or
4 violent behavior;

5 (2) observing and reporting changes in behavior,
6 appearance, or health of residents and clients;

7 (3) positive behavior support;

8 (4) emergency response;

9 (5) person-directed plans;

10 (6) self-determination;

11 (7) seizure safety;

12 (8) techniques for:

13 (A) lifting;

14 (B) positioning; and

15 (C) movement and mobility;

16 (9) working with aging residents and clients;

17 (10) assisting residents and clients:

18 (A) who have a visual impairment;

19 (B) who have a hearing deficit; or

20 (C) who require the use of adaptive devices and
21 specialized equipment;

22 (11) communicating with residents and clients who use
23 augmentative and alternative devices for communication;

24 (12) assisting residents and clients with personal
25 hygiene;

26 (13) recognizing appropriate food textures;

27 (14) using proper feeding techniques to assist
28 residents and clients with meals;

29 (15) physical and nutritional management plans; and

30 (16) home and community-based services, including the
31 principles of community inclusion and participation and the
32 community living options information process.

33 (d) The executive commissioner shall adopt rules that
34 require a center to provide refresher training courses to direct
35 care employees on a regular basis.

36 (e) A center may allow an employee of an intermediate care
37 facility for persons with mental retardation licensed by the
38 department, an employee of a person licensed or certified to
39 provide Section 1915(c) waiver program services, or another
40 employee or professional involved in the provision of services
41 to persons with mental retardation to receive information and
42 training under this section, as appropriate. The center may
43 charge an administrative fee in an amount not to exceed the cost
44 of providing the information or training.

45 Sec. 555.025. VIDEO SURVEILLANCE. (a) In this section,
46 "private space" means a place in a center in which a resident or
47 client has a reasonable expectation of privacy, including:

1 (1) a bedroom;
2 (2) a bathroom;
3 (3) a place in which a resident or client receives
4 medical or nursing services;
5 (4) a place in which a resident or client meets
6 privately with visitors; or
7 (5) a place in which a resident or client privately
8 makes phone calls.

9 (b) The department shall install and operate video
10 surveillance equipment in a center for the purpose of detecting
11 and preventing the exploitation or abuse of residents and
12 clients.

13 (c) The department may not install or operate video
14 surveillance equipment in a private space or in a location in
15 which video surveillance equipment can capture images within a
16 private space.

17 (d) The department shall ensure that the use of video
18 surveillance equipment under this section complies with federal
19 requirements for ICF-MR certification.

20 [Sections 555.026-555.050 reserved for expansion]

21 SUBCHAPTER C. OFFICE OF INDEPENDENT OMBUDSMAN FOR STATE

22 SUPPORTED LIVING CENTERS

23 Sec. 555.051. ESTABLISHMENT; PURPOSE. The office of
24 independent ombudsman is established for the purpose of
25 investigating, evaluating, and securing the rights of residents
26 and clients of state supported living centers and the ICF-MR
27 component of the Rio Grande State Center. The office is
28 administratively attached to the department. The department
29 shall provide administrative support and resources to the office
30 as necessary for the office to perform its duties.

31 Sec. 555.052. INDEPENDENCE. The independent ombudsman in
32 the performance of the ombudsman's duties and powers under this
33 subchapter acts independently of the department.

34 Sec. 555.053. APPOINTMENT OF INDEPENDENT OMBUDSMAN.

35 (a) The governor shall appoint the independent ombudsman.

36 (b) The governor may appoint as independent ombudsman only
37 an individual with at least five years of experience managing
38 and ensuring the quality of care and services provided to
39 individuals with mental retardation.

40 Sec. 555.054. ASSISTANT OMBUDSMEN. (a) The independent
41 ombudsman shall:

42 (1) hire assistant ombudsmen to perform, under the
43 direction of the independent ombudsman, the same duties and
44 exercise the same powers as the independent ombudsman; and

45 (2) station an assistant ombudsman at each center.

46 (b) The independent ombudsman may hire as assistant
47 ombudsmen only individuals with at least five years of

1 experience ensuring the quality of care and services provided to
2 individuals with mental retardation.

3 Sec. 555.055. CONFLICT OF INTEREST. A person may not
4 serve as independent ombudsman or as an assistant ombudsman if
5 the person or the person's spouse:

6 (1) is employed by or participates in the management
7 of a business entity or other organization receiving funds from
8 the department;

9 (2) owns or controls, directly or indirectly, any
10 interest in a business entity or other organization receiving
11 funds from the department; or

12 (3) is required to register as a lobbyist under
13 Chapter 305, Government Code, because of the person's activities
14 or compensation on behalf of a profession related to the
15 operation of the department.

16 Sec. 555.056. REPORT. (a) The independent ombudsman
17 shall submit on a biannual basis to the governor, the lieutenant
18 governor, the speaker of the house of representatives, and the
19 chairs of the standing committees of the senate and the house of
20 representatives with primary jurisdiction over state supported
21 living centers a report that is both aggregated and
22 disaggregated by individual center and describes:

23 (1) the work of the independent ombudsman;

24 (2) the results of any review or investigation
25 undertaken by the independent ombudsman, including a review or
26 investigation of services contracted by the department;

27 (3) any recommendations that the independent
28 ombudsman has in relation to the duties of the independent
29 ombudsman; and

30 (4) any recommendations that the independent
31 ombudsman has for systemic improvements needed to decrease
32 incidents of abuse, neglect, or exploitation at an individual
33 center or at all centers.

34 (b) The independent ombudsman shall ensure that
35 information submitted in a report under Subsection (a) does not
36 permit the identification of an individual.

37 (c) The independent ombudsman shall immediately report to
38 the governor, the lieutenant governor, the speaker of the house
39 of representatives, and the chairs of the standing committees of
40 the senate and the house of representatives having primary
41 jurisdiction over the Department of Aging and Disability
42 Services any particularly serious or flagrant:

43 (1) case of abuse or injury of a resident or client
44 about which the independent ombudsman is made aware;

45 (2) problem concerning the administration of a center
46 program or operation; or

47 (3) interference by a center, the department, or the

1 commission, other than actions by the commission's office of
2 inspector general in accordance with the office's duties, with
3 an investigation conducted by the independent ombudsman.

4 Sec. 555.057. COMMUNICATION AND CONFIDENTIALITY. (a) The
5 department shall allow any resident or client, authorized
6 representative of a resident or client, family member of a
7 resident or client, or other interested party to communicate
8 with the independent ombudsman or an assistant ombudsman. The
9 communication:

10 (1) may be in person, by mail, or by any other means;
11 and

12 (2) is confidential and privileged.

13 (b) The records of the independent ombudsman are
14 confidential, except that the independent ombudsman shall:

15 (1) share with the Department of Family and
16 Protective Services a communication that may involve the abuse,
17 neglect, or exploitation of a resident or client;

18 (2) share with the inspector general a communication
19 that may involve an alleged criminal offense;

20 (3) share with the regulatory services division of
21 the department a communication that may involve a violation of
22 an ICF-MR standard or condition of participation; and

23 (4) disclose the ombudsman's nonprivileged records if
24 required by a court order on a showing of good cause.

25 (c) The independent ombudsman may make reports relating to
26 an investigation by the independent ombudsman public after the
27 investigation is complete but only if the name and any other
28 personally identifiable information of a resident or client,
29 legally authorized representative of a resident or client,
30 family member of a resident or client, center, center employee,
31 or other individual are redacted from the report and remain
32 confidential. The independent ombudsman may provide an
33 unredacted report to the center involved in the investigation,
34 the department, the Department of Family and Protective
35 Services, and the inspector general.

36 (d) The name, address, or other personally identifiable
37 information of a person who files a complaint with the office of
38 independent ombudsman, information generated by the office of
39 independent ombudsman in the course of an investigation, and
40 confidential records obtained by the office of independent
41 ombudsman are confidential and not subject to disclosure under
42 Chapter 552, Government Code, except as provided by this
43 section.

44 Sec. 555.058. PROMOTION OF AWARENESS OF OFFICE. The
45 independent ombudsman shall promote awareness among the public,
46 residents, clients, and center employees of:

47 (1) how the office may be contacted;

- (2) the purpose of the office; and
- (3) the services the office provides.

Sec. 555.059. DUTIES AND POWERS. (a) The independent ombudsman shall:

(1) evaluate the process by which a center investigates, reviews, and reports an injury to a resident or client or an unusual incident;

(2) evaluate the delivery of services to residents and clients to ensure that the rights of residents and clients are fully observed, including ensuring that each center conducts sufficient unannounced patrols;

(3) immediately refer a complaint alleging the abuse, neglect, or exploitation of a resident or client to the Department of Family and Protective Services;

(4) refer a complaint alleging employee misconduct that does not involve abuse, neglect, or exploitation or a possible violation of an ICF-MR standard or condition of participation to the regulatory services division of the department;

(5) refer a complaint alleging a criminal offense, other than an allegation of abuse, neglect, or exploitation of a resident or client, to the inspector general;

(6) conduct investigations of complaints, other than complaints alleging criminal offenses or the abuse, neglect, or exploitation of a resident or client, if the office determines that:

(A) a resident or client or the resident's or client's family may be in need of assistance from the office; or

(B) a complaint raises the possibility of a systemic issue in the center's provision of services;

(7) conduct biennial on-site audits at each center of:

(A) the ratio of direct care employees to residents;

(B) the provision and adequacy of training to:

(i) center employees; and

(ii) direct care employees; and

(C) if the center serves alleged offender residents, the provision of specialized training to direct care employees;

(8) conduct an annual audit of each center's policies, practices, and procedures to ensure that each resident and client is encouraged to exercise the resident's or client's rights, including:

(A) the right to file a complaint; and

(B) the right to due process;

(9) prepare and deliver an annual report regarding

1 the findings of each audit to the:
2 (A) executive commissioner;
3 (B) commissioner;
4 (C) Aging and Disability Services Council;
5 (D) governor;
6 (E) lieutenant governor;
7 (F) speaker of the house of representatives;
8 (G) standing committees of the senate and house
9 of representatives with primary jurisdiction over state
10 supported living centers; and
11 (H) state auditor;
12 (10) require a center to provide access to all
13 records, data, and other information under the control of the
14 center that the independent ombudsman determines is necessary to
15 investigate a complaint or to conduct an audit under this
16 section;
17 (11) review all final reports produced by the
18 Department of Family and Protective Services, the regulatory
19 services division of the department, and the inspector general
20 regarding a complaint referred by the independent ombudsman;
21 (12) provide assistance to a resident, client,
22 authorized representative of a resident or client, or family
23 member of a resident or client who the independent ombudsman
24 determines is in need of assistance, including advocating with
25 an agency, provider, or other person in the best interests of
26 the resident or client;
27 (13) make appropriate referrals under any of the
28 duties and powers listed in this subsection; and
29 (14) monitor and evaluate the department's actions
30 relating to any problem identified or recommendation included in
31 a report received from the Department of Family and Protective
32 Services relating to an investigation of alleged abuse, neglect,
33 or exploitation of a resident or client.
34 (b) The independent ombudsman may apprise a person who is
35 interested in a resident's or client's welfare of the rights of
36 the resident or client.
37 (c) To assess whether a resident's or client's rights have
38 been violated, the independent ombudsman may, in any matter that
39 does not involve an alleged criminal offense or the abuse,
40 neglect, or exploitation of a resident or client, contact or
41 consult with an administrator, employee, resident, client,
42 family member of a resident or client, expert, or other
43 individual in the course of the investigation or to secure
44 information.
45 (d) Notwithstanding any other provision of this chapter,
46 the independent ombudsman may not investigate an alleged
47 criminal offense or the alleged abuse, neglect, or exploitation

1 of a resident or client.

2 Sec. 555.060. RETALIATION PROHIBITED. The department or a
3 center may not retaliate against a department employee, center
4 employee, or any other person who in good faith makes a
5 complaint to the office of independent ombudsman or cooperates
6 with the office in an investigation.

7 Sec. 555.061. TOLL-FREE NUMBER. (a) The office shall
8 establish a permanent, toll-free number for the purpose of
9 receiving any information concerning the violation of a right of
10 a resident or client.

11 (b) The office shall ensure that:

12 (1) the toll-free number is prominently displayed in
13 the main administration area and other appropriate common areas
14 of a center; and

15 (2) a resident, a client, the legally authorized
16 representative of a resident or client, and a center employee
17 have confidential access to a telephone for the purpose of
18 calling the toll-free number.

19 [Sections 555.062-555.100 reserved for expansion]

20 SUBCHAPTER D. INSPECTOR GENERAL DUTIES

21 Sec. 555.101. ASSISTING LAW ENFORCEMENT AGENCIES WITH
22 CERTAIN INVESTIGATIONS. The inspector general shall employ and
23 commission peace officers for the purpose of assisting a state
24 or local law enforcement agency in the investigation of an
25 alleged criminal offense involving a resident or client of a
26 center. A peace officer employed and commissioned by the
27 inspector general is a peace officer for purposes of Article
28 2.12, Code of Criminal Procedure.

29 Sec. 555.102. SUMMARY REPORT. (a) The inspector general
30 shall prepare a summary report for each investigation conducted
31 with the assistance of the inspector general under this
32 subchapter. The inspector general shall ensure that the report
33 does not contain personally identifiable information of an
34 individual mentioned in the report.

35 (b) The summary report must include:

36 (1) a summary of the activities performed during an
37 investigation for which the inspector general provided
38 assistance;

39 (2) a statement regarding whether the investigation
40 resulted in a finding that an alleged criminal offense was
41 committed; and

42 (3) a description of the alleged criminal offense
43 that was committed.

44 (c) The inspector general shall deliver the summary report
45 to the:

46 (1) executive commissioner;

47 (2) commissioner of the department;

1 (3) commissioner of the Department of Family and
2 Protective Services;

3 (4) Aging and Disability Services Council;

4 (5) governor;

5 (6) lieutenant governor;

6 (7) speaker of the house of representatives;

7 (8) standing committees of the senate and house of
8 representatives with primary jurisdiction over centers;

9 (9) state auditor;

10 (10) the independent ombudsman and the assistant
11 ombudsman for the center involved in the report; and

12 (11) the alleged victim or the alleged victim's
13 legally authorized representative.

14 (d) A summary report regarding an investigation is subject
15 to required disclosure under Chapter 552, Government Code. All
16 information and materials compiled by the inspector general in
17 connection with an investigation are confidential, and not
18 subject to disclosure under Chapter 552, Government Code, and
19 not subject to disclosure, discovery, subpoena, or other means
20 of legal compulsion for their release to anyone other than the
21 inspector general or the inspector general's employees or agents
22 involved in the investigation, except that this information may
23 be disclosed to the Department of Family and Protective
24 Services, the office of the attorney general, the state
25 auditor's office, and law enforcement agencies.

26 Sec. 555.103. ANNUAL STATUS REPORT. (a) The inspector
27 general shall prepare an annual status report of the inspector
28 general's activities under this subchapter. The annual report
29 may not contain personally identifiable information of an
30 individual mentioned in the report.

31 (b) The annual status report must include information that
32 is aggregated and disaggregated by individual center regarding:

33 (1) the number and type of investigations conducted
34 with the assistance of the inspector general;

35 (2) the number and type of investigations involving a
36 center employee;

37 (3) the relationship of an alleged victim to an
38 alleged perpetrator, if any;

39 (4) the number of investigations conducted that
40 involve the suicide, death, or hospitalization of an alleged
41 victim; and

42 (5) the number of completed investigations in which
43 commission of an alleged offense was confirmed or
44 unsubstantiated or in which the investigation was inconclusive,
45 and a description of the reason that allegations were
46 unsubstantiated or the investigation was inconclusive.

47 (c) The inspector general shall submit the annual status

1 report to the:

2 (1) executive commissioner;

3 (2) commissioner of the department;

4 (3) commissioner of the Department of Family and
5 Protective Services;

6 (4) Aging and Disability Services Council;

7 (5) Family and Protective Services Council;

8 (6) governor;

9 (7) lieutenant governor;

10 (8) speaker of the house of representatives;

11 (9) standing committees of the senate and house of
12 representatives with primary jurisdiction over centers;

13 (10) state auditor; and

14 (11) comptroller.

15 (d) An annual status report submitted under this section
16 is public information under Chapter 552, Government Code.

17 Sec. 555.104. RETALIATION PROHIBITED. The department or a
18 center may not retaliate against a department employee, a center
19 employee, or any other person who in good faith cooperates with
20 the inspector general under this subchapter.

21 SECTION 23. Section 40.001, Human Resources Code, is
22 amended by adding Subdivision (6) to read as follows:

23 (6) "State supported living center" has the meaning
24 assigned by Section 531.002, Health and Safety Code.

25 SECTION 24. Subsection (b), Section 40.0315, Human
26 Resources Code, is amended to read as follows:

27 (b) An investigator in the unit shall determine whether an
28 elderly or disabled person who is the subject of a report made
29 under Section 48.051(a) may have suffered from abuse, neglect,
30 or exploitation as a result of the criminal conduct of another
31 person. If the investigator determines that criminal conduct
32 may have occurred, the investigator shall immediately notify:

33 (1) the commission's office of inspector general if
34 the disabled person who is the subject of the report resides in
35 a state supported living center or the ICF-MR component of the
36 Rio Grande State Center; or

37 (2) the appropriate law enforcement agency.

38 SECTION 25. Subchapter A, Chapter 48, Human Resources
39 Code, is amended by adding Section 48.007 to read as follows:

40 Sec. 48.007. MEMORANDUM OF UNDERSTANDING REGARDING CERTAIN
41 ABUSE, NEGLECT, OR EXPLOITATION INVESTIGATIONS. The Health and
42 Human Services Commission, the department, the Department of
43 Aging and Disability Services, the office of independent
44 ombudsman for state supported living centers, and the Health and
45 Human Services Commission's office of inspector general shall
46 enter into a memorandum of understanding regarding
47 investigations of alleged abuse, neglect, or exploitation of

1 residents or clients of state supported living centers or the
2 ICF-MR component of the Rio Grande State Center that delineates
3 the responsibilities of each agency under this chapter, Chapter
4 261, Family Code, and Chapter 555, Health and Safety Code, and
5 amend the memorandum of understanding as necessary to reflect
6 changes in those responsibilities. During the negotiation of
7 the memorandum of understanding, the agencies shall jointly
8 determine whether the forensic training received by relevant
9 staff of the Department of Family and Protective Services is
10 adequate. Specifically, the agencies shall assess and, if
11 necessary, develop a plan to enhance the ability of department
12 staff to identify and report incidences that constitute a
13 potential criminal offense. The Health and Human Services
14 Commission is the final arbiter of any dispute regarding the
15 memorandum of understanding under this section.

16 SECTION 26. Subsections (a) and (b), Section 48.051, Human
17 Resources Code, are amended to read as follows:

18 (a) Except as prescribed by Subsection (b), a person
19 having cause to believe that an elderly or disabled person is in
20 the state of abuse, neglect, or exploitation, including a
21 disabled person receiving services as described by Section
22 48.252, shall report the information required by Subsection (d)
23 immediately to the department.

24 (b) If a person has cause to believe that an elderly or
25 disabled person, other than a disabled person receiving services
26 as described by Section 48.252, has been abused, neglected, or
27 exploited in a facility operated, licensed, certified, or
28 registered by a state agency [~~other than the Texas Department of~~
29 ~~Mental Health and Mental Retardation~~], the person shall report
30 the information to the state agency that operates, licenses,
31 certifies, or registers the facility for investigation by that
32 agency.

33 SECTION 27. Subsection (a), Section 48.052, Human
34 Resources Code, is amended to read as follows:

35 (a) A person commits an offense if the person has cause to
36 believe that an elderly or disabled person has been abused,
37 neglected, or exploited or is in the state of abuse, neglect, or
38 exploitation and knowingly fails to report in accordance with
39 this chapter. An offense under this subsection is a Class A
40 misdemeanor, except that the offense is a state jail felony if
41 it is shown on the trial of the offense that the disabled person
42 was a person with mental retardation who resided in a state
43 supported living center, the ICF-MR component of the Rio Grande
44 State Center, or a facility licensed under Chapter 252, Health
45 and Safety Code, and the actor knew that the disabled person had
46 suffered serious bodily injury as a result of the abuse,
47 neglect, or exploitation.

1 SECTION 28. Section 48.1522, Human Resources Code, is
2 amended to read as follows:

3 Sec. 48.1522. REPORTS OF CRIMINAL CONDUCT TO LAW
4 ENFORCEMENT AGENCY. (a) Except as provided by Subsection (b),
5 if [~~if~~] during the course of the department's or another state
6 agency's investigation of reported abuse, neglect, or
7 exploitation a caseworker of the department or other state
8 agency, as applicable, or the caseworker's supervisor has cause
9 to believe that the elderly or disabled person has been abused,
10 neglected, or exploited by another person in a manner that
11 constitutes a criminal offense under any law, including Section
12 22.04, Penal Code, the caseworker or supervisor shall:

13 (1) immediately notify an appropriate law enforcement
14 agency; and

15 (2) provide the law enforcement agency with a copy of
16 the investigation report of the department or other state
17 agency, as applicable, in a timely manner.

18 (b) If during the course of the department's investigation
19 of reported abuse, neglect, or exploitation a caseworker of the
20 department or the caseworker's supervisor has cause to believe
21 that a disabled person who is a resident or client of a state
22 supported living center or the ICF-MR component of the Rio
23 Grande State Center has been abused, neglected, or exploited by
24 another person in a manner that constitutes a criminal offense
25 under any law, including Section 22.04, Penal Code, the
26 caseworker shall immediately notify the commission's office of
27 inspector general and promptly provide the commission's office
28 of inspector general with a copy of the department's
29 investigation report.

30 SECTION 29. The heading to Subchapter F, Chapter 48, Human
31 Resources Code, is amended to read as follows:

32 SUBCHAPTER F. INVESTIGATIONS IN CERTAIN [~~TDMMR~~] FACILITIES,
33 COMMUNITY CENTERS, AND LOCAL MENTAL HEALTH AND MENTAL
34 RETARDATION [~~MHMR~~] AUTHORITIES

35 SECTION 30. Section 48.252, Human Resources Code, is
36 amended to read as follows:

37 Sec. 48.252. INVESTIGATION OF REPORTS IN CERTAIN [~~MHMR~~]
38 FACILITIES AND IN COMMUNITY CENTERS. (a) The department shall
39 receive and investigate reports of the abuse, neglect, or
40 exploitation of an individual with a disability receiving
41 services:

42 (1) in:

43 (A) a mental health facility operated by the
44 [~~Texas~~] Department of State [~~Mental~~] Health Services [~~and Mental~~
45 Retardation]; or

46 (B) a facility licensed under Chapter 252,
47 Health and Safety Code;

1 (2) in or from a community center, a local mental
2 health authority, or a local mental retardation authority; or

3 (3) through a program providing services to that
4 person by contract with a mental health facility operated by the
5 ~~[Texas]~~ Department of State ~~[Mental]~~ Health Services ~~[and Mental~~
6 ~~Retardation]~~, a community center, a local mental health
7 authority, or a local mental retardation authority.

8 (b) The department shall receive and shall investigate
9 reports of the abuse, neglect, or exploitation of an individual
10 with a disability receiving services:

11 (1) in a state supported living center or the ICF-MR
12 component of the Rio Grande State Center; or

13 (2) through a program providing services to that
14 person by contract with a state supported living center or the
15 ICF-MR component of the Rio Grande State Center.

16 (c) The department by rule shall define who is "an
17 individual with a disability receiving services."

18 (d) ~~[+e+]~~ In this section, "community center," "local
19 mental health authority," and "local mental retardation
20 authority" have the meanings assigned by Section 531.002, Health
21 and Safety Code.

22 SECTION 31. Section 48.254, Human Resources Code, is
23 amended to read as follows:

24 Sec. 48.254. FORWARDING OF CERTAIN REPORTS ~~[COMPLETED~~
25 ~~INVESTIGATION REPORT]~~. In accordance with department rules, the
26 [The] department shall forward a copy of the initial intake
27 report and a copy of the completed investigation report relating
28 to alleged or suspected abuse, neglect, or exploitation to the
29 appropriate [a state mental health or mental retardation]
30 facility, [a] community center, [a] mental health authority, [a]
31 mental retardation authority, or [a] program providing mental
32 health or mental retardation services under contract with the
33 [such a] facility, community center, or authority[+]

34 ~~[(1) a copy of any report the department receives~~
35 ~~relating to alleged or suspected abuse, neglect, or exploitation~~
36 ~~of an individual receiving services from that facility,~~
37 ~~community center, authority, or program; and~~

38 ~~[(2) a copy of the department's investigation~~
39 ~~findings and report].~~

40 SECTION 32. Section 48.255, Human Resources Code, is
41 amended by amending Subsections (a), (b), (c), and (d) and
42 adding Subsection (c-1) to read as follows:

43 (a) The department, the Department of Aging and Disability
44 Services, and the [Texas] Department of State ~~[Mental]~~ Health
45 Services ~~[and Mental Retardation]~~ shall develop joint rules to
46 facilitate investigations in state mental health facilities and
47 state supported living centers ~~[mental retardation facilities].~~

1 (b) The department, the Department of Aging and Disability
2 Services, and the [Texas] Department of State [Mental] Health
3 Services [and Mental Retardation] by joint rules shall establish
4 procedures for resolving disagreements between the department
5 and the [Texas] Department of Aging and Disability Services or
6 the Department of State [Mental] Health Services [and Mental
7 Retardation] concerning the department's investigation findings.

8 (c) The department, the Department of Aging and Disability
9 Services, and the [Texas] Department of State [Mental] Health
10 Services [and Mental Retardation] shall develop joint rules to
11 facilitate investigations in community centers, mental health
12 authorities, and mental retardation authorities.

13 (c-1) The executive commissioner shall adopt rules
14 regarding investigations in a facility licensed under Chapter
15 252, Health and Safety Code, to ensure that those investigations
16 are as consistent as practicable with other investigations
17 conducted under this subchapter.

18 (d) A confirmed investigation finding by the department
19 may not be changed by a superintendent of a state mental health
20 [or mental retardation] facility, by a director of a state
21 supported living center, by a director of a community center, or
22 by a mental health authority or mental retardation authority.

23 SECTION 33. Section 48.256, Human Resources Code, is
24 amended to read as follows:

25 Sec. 48.256. SINGLE TRACKING SYSTEM FOR REPORTS AND
26 INVESTIGATIONS. (a) The department, [and] the [Texas]
27 Department of Aging and Disability Services, and the Department
28 of State [Mental] Health Services [and Mental Retardation] shall
29 jointly develop and implement a single system to track reports
30 and investigations under this subchapter [section].

31 (b) To facilitate implementation of the system, the
32 department, [and] the [Texas] Department of Aging and Disability
33 Services, and the Department of State [Mental] Health Services
34 [and Mental Retardation] shall use appropriate methods of
35 measuring the number and outcome of reports and investigations
36 under this subchapter [section].

37 SECTION 34. Subsections (a) and (c), Section 48.301, Human
38 Resources Code, are amended to read as follows:

39 (a) If the department receives a report of suspected
40 abuse, neglect, or exploitation of [under this section relating
41 to] an elderly or disabled person, other than a disabled person
42 receiving services as described by Section 48.252, in a facility
43 operated, licensed, certified, or registered by a state agency
44 [other than the Texas Department of Mental Health and Mental
45 Retardation], the department shall refer the report to that
46 agency.

47 (c) Each state agency that may receive reports under this

1 section~~[, other than the Texas Department of Mental Health and~~
2 ~~Mental Retardation, that operates, licenses, certifies, or~~
3 ~~registers a facility in which elderly or disabled persons are~~
4 ~~located]~~ shall adopt rules relating to the investigation and
5 resolution of reports received under this section.

6 SECTION 35. Subdivisions (1) and (4), Section 48.401,
7 Human Resources Code, are amended to read as follows:

8 (1) "Agency" means:

9 (A) an entity licensed under Chapter 142, Health
10 and Safety Code; ~~[or]~~

11 (B) a person exempt from licensing under Section
12 142.003(a)(19), Health and Safety Code; or

13 (C) a facility licensed under Chapter 252,
14 Health and Safety Code.

15 (4) "Executive director" means the commissioner
16 ~~[executive director]~~ of the Department of Family and Protective
17 ~~[and Regulatory]~~ Services.

18 SECTION 36. Subchapter C, Chapter 161, Human Resources
19 Code, is amended by adding Section 161.0515 to read as follows:

20 Sec. 161.0515. ASSISTANT COMMISSIONER OF STATE SUPPORTED
21 LIVING CENTERS. (a) The commissioner shall employ an assistant
22 commissioner of state supported living centers. The assistant
23 commissioner must be selected based on education, training,
24 experience, and demonstrated ability.

25 (b) The assistant commissioner reports directly to the
26 commissioner.

27 (c) The assistant commissioner shall supervise the
28 operation of the state supported living centers. As part of
29 that duty, the assistant commissioner shall:

30 (1) verify that quality health and medical services
31 are being provided in state supported living centers;

32 (2) verify and certify employee qualifications for
33 employees of a state supported living center; and

34 (3) work with the commissioner to create
35 administrative guidelines for proper implementation of federal
36 and state statutory law and judicial decisions.

37 (d) The assistant commissioner shall coordinate with the
38 appropriate staff of the Department of State Health Services to
39 ensure that the ICF-MR component of the Rio Grande State Center
40 implements and enforces state law and rules that apply to the
41 operation of state supported living centers.

42 (e) The assistant commissioner shall consult with the
43 appropriate staff at the Department of State Health Services to
44 ensure that an individual with a dual diagnosis of mental
45 illness and mental retardation who is a resident of a state
46 supported living center or the ICF-MR component of the Rio
47 Grande State Center is provided with appropriate care and

1 treatment.

2 SECTION 37. Subchapter D, Chapter 161, Human Resources
3 Code, is amended by adding Sections 161.076 and 161.077 to read
4 as follows:

5 Sec. 161.076. ON-SITE SURVEYS OF CERTAIN PROVIDERS. At
6 least every 12 months, the department shall conduct an
7 unannounced on-site survey in each group home, other than a
8 foster home, at which a Home and Community-based Services (HCS)
9 provider provides services.

10 Sec. 161.077. INVESTIGATION DATABASE. (a) The
11 department, in consultation with the Department of Family and
12 Protective Services, shall develop and maintain an electronic
13 database to collect and analyze information regarding the
14 investigation and prevention of abuse, neglect, and exploitation
15 of individuals with mental retardation who reside in a publicly
16 or privately operated intermediate care facility for persons
17 with mental retardation or in a group home, other than a foster
18 home, at which a Home and Community-based Services (HCS)
19 provider provides services and the results of regulatory
20 investigations or surveys performed by the department regarding
21 those facilities or providers.

22 (b) The information collected in the database regarding
23 investigations must be detailed, be easily retrievable, and
24 include information relating to abuse, neglect, and exploitation
25 investigations performed by either department and regulatory
26 investigations performed by the department that are capable of
27 being sorted by home, provider, and facility.

28 (c) The database must facilitate the entry of required
29 information and the sharing of information between the
30 department and the Department of Family and Protective Services.
31 At a minimum, the database must include the following
32 information regarding investigations of abuse, neglect, or
33 exploitation:

34 (1) the number of allegations of abuse, neglect, or
35 exploitation received relating to a facility or group home,
36 other than a foster home; and

37 (2) the number of allegations relating to a facility
38 or group home, other than a foster home, substantiated through
39 an investigation.

40 (d) Each allegation involving a unique individual in a
41 facility or group home, other than a foster home, is considered
42 a separate allegation for purposes of Subsection (c).

43 (e) The department shall ensure that information related
44 to findings concerning failure to comply with regulatory
45 standards directly related to the prevention of abuse, neglect,
46 or exploitation in a facility or group home, other than a foster
47 home, is collected and stored in the database and may be

1 disaggregated by home, provider, and facility.

2 (f) The department and the Department of Family and
3 Protective Services may not release or distribute information in
4 the database in a form that contains personally identifiable
5 information related to an individual in a facility or group home
6 or to a victim of abuse, neglect, or exploitation.

7 SECTION 38. Subsection (f), Section 22.04, Penal Code, is
8 amended to read as follows:

9 (f) An offense under Subsection (a)(3) or (a-1)(3) or (4)
10 is a felony of the third degree when the conduct is committed
11 intentionally or knowingly, except that an offense under
12 Subsection (a)(3) is a felony of the second degree when the
13 conduct is committed intentionally or knowingly and the victim
14 is a disabled individual residing in a center, as defined by
15 Section 555.001, Health and Safety Code, or in a facility
16 licensed under Chapter 252, Health and Safety Code, and the
17 actor is an employee of the center or facility whose employment
18 involved providing direct care for the victim. When the conduct
19 is engaged in recklessly, the offense is a state jail felony.

20 SECTION 39. (a) Sections 252.123, 252.124, 252.127,
21 252.128, 252.129, 252.130, and 252.131, Health and Safety Code,
22 are repealed.

23 (b) Subsection (c), Section 5, Chapter 693 (S.B. 1248),
24 Acts of the 75th Legislature, Regular Session, 1997, is
25 repealed.

26 SECTION 40. The changes in law made by Article 38.072,
27 Code of Criminal Procedure, as amended by this Act, and Section
28 54.031, Family Code, as amended by this Act, apply only to a
29 criminal proceeding that commences on or after the effective
30 date of this Act. A criminal proceeding that commences before
31 the effective date of this Act is governed by the law in effect
32 when the proceeding commenced, and the former law is continued
33 in effect for that purpose.

34 SECTION 41. Subchapter L, Chapter 29, Education Code, as
35 added by this Act, applies beginning with the school year in
36 which the Department of Aging and Disability Services begins
37 operating the Mexia State Supported Living Center as the
38 forensic state supported living center as required by Section
39 555.002, Health and Safety Code, as added by this Act.

40 SECTION 42. (a) Not later than December 1, 2009, the
41 Health and Human Services Commission, the Department of Family
42 and Protective Services, the Department of Aging and Disability
43 Services, the office of independent ombudsman for state
44 supported living centers, and the Health and Human Services
45 Commission's office of inspector general shall enter into a
46 memorandum of understanding as required by Section 48.007, Human
47 Resources Code, as added by this Act.

1 (b) Notwithstanding any other provision of this Act, the
2 changes in law made by this Act relating to the investigation of
3 suspected abuse, neglect, or exploitation involving a state
4 supported living center or the ICF-MR component of the Rio
5 Grande State Center apply only to a report of suspected abuse,
6 neglect, or exploitation involving a state supported living
7 center or the ICF-MR component of the Rio Grande State Center
8 that is made on or after January 1, 2010.

9 (c) Notwithstanding any other provision of this Act, the
10 changes in law made by this Act relating to the investigation of
11 suspected abuse, neglect, or exploitation involving a facility
12 licensed under Chapter 252, Health and Safety Code, apply only
13 to a report of suspected abuse, neglect, or exploitation
14 involving a facility licensed under Chapter 252, Health and
15 Safety Code, that is made on or after June 1, 2010.

16 SECTION 43. (a) The Interim Select Committee on Criminal
17 Commitments of Individuals with Mental Retardation is
18 established to study the criminal commitment process for
19 individuals with mental retardation who are found incompetent to
20 stand trial or are acquitted by reason of insanity. The
21 committee's study must include an analysis of:

22 (1) the advantages and disadvantages of the existing
23 system for criminal commitments of individuals with mental
24 retardation or individuals with a dual diagnosis of mental
25 illness and mental retardation who are found incompetent to
26 stand trial or are acquitted by reason of insanity;

27 (2) the number of individuals with mental retardation
28 who are criminally committed on an annual basis and the number
29 of individuals with mental retardation who are found to be
30 violent or dangerous through the criminal commitment process;

31 (3) whether the criminal commitment process should be
32 modified to provide for the commitment of certain individuals
33 with mental retardation who are found to be violent or dangerous
34 to a mental retardation facility instead of to a mental health
35 facility; and

36 (4) the costs associated with modifying the criminal
37 commitment process as described by Subdivision (3) of this
38 subsection.

39 (b) The committee is composed of six members as follows:

40 (1) the chairs of the following standing committees
41 of the house of representatives:

- 42 (A) criminal jurisprudence;
- 43 (B) human services; and
- 44 (C) public health; and

45 (2) the chairs of the following standing committees
46 of the senate:

- 47 (A) criminal justice;

1 (B) health and human services; and
2 (C) state affairs.

3 (c) The co-presiding officers of the committee are the
4 chair of the Senate Committee on Health and Human Services and
5 the chair of the House Committee on Human Services.

6 (d) The committee has all other powers and duties provided
7 to a special or select committee by the rules of the senate and
8 house of representatives, by Subchapter B, Chapter 301,
9 Government Code, and by policies of the senate and house
10 committees on administration.

11 (e) From the contingent expense fund of the senate and the
12 contingent expense fund of the house of representatives equally,
13 the members of the committee are entitled to reimbursement for
14 expenses incurred in carrying out this section in accordance
15 with the rules of the senate and house of representatives and
16 the policies of the senate and house committees on
17 administration.

18 (f) Not later than December 1, 2010, the committee shall
19 report the committee's findings and recommendations resulting
20 from the study to the governor, lieutenant governor, speaker of
21 the house of representatives, and members of the legislature.

22 SECTION 44. The Department of Aging and Disability
23 Services shall evaluate and determine the types of training that
24 an employee or owner of a facility licensed by the department
25 under Chapter 252, Health and Safety Code, or an employee or
26 owner of a provider licensed or certified by the department as a
27 Section 1915(c) waiver program provider needs and whether that
28 training is available. Not later than December 1, 2010, the
29 department shall provide a report to the governor, lieutenant
30 governor, speaker of the house of representatives, and chairs of
31 the standing committees of the senate and house of
32 representatives with primary jurisdiction regarding persons with
33 mental retardation regarding:

34 (1) the types of training required by federal law;
35 (2) the types of training identified as necessary by
36 the department;

37 (3) the availability of that training in this state;
38 and

39 (4) recommended legislation or actions necessary to
40 ensure the appropriate training is received by the persons
41 described by this section.

42 SECTION 45. On the effective date of this Act, an
43 individual who is an employee of the Department of Aging and
44 Disability Services and who performs duties primarily related to
45 consumer rights and services at state schools is required to
46 reapply for an employment position with the department and may
47 apply for a position as an assistant independent ombudsman.

1 SECTION 46. (a) The commissioner of the Department of
2 Aging and Disability Services shall employ an assistant
3 commissioner of state supported living centers as soon as
4 possible after the effective date of Section 161.0515, Human
5 Resources Code, as added by this Act. On the date the assistant
6 commissioner is employed, the position of section director over
7 state schools is eliminated.

8 (b) As soon as practicable after the effective date of
9 this Act, the Department of Aging and Disability Services shall
10 develop the database required by Section 161.077, Human
11 Resources Code, as added by this Act.

12 (c) Not later than December 1, 2009, the Health and Human
13 Services Commission's office of inspector general shall begin
14 employing and commissioning peace officers as required by
15 Section 555.101, Health and Safety Code, as added by this Act.

16 (d) Not later than December 1, 2009, the executive
17 commissioner of the Health and Human Services Commission shall
18 contract for mortality review services as required by Subchapter
19 U, Chapter 531, Government Code, as added by this Act.

20 (e) Not later than September 1, 2009, the governor shall
21 appoint the independent ombudsman as required by Section
22 555.053, Health and Safety Code, as added by this Act.

23 (f) Not later than September 1, 2010, the executive
24 commissioner of the Health and Human Services Commission shall
25 require the Department of Aging and Disability Services, and any
26 facility the department licenses under Chapter 252, Health and
27 Safety Code, to conduct a criminal history check on each
28 employee and shall require the department or licensed facility
29 to discharge any person whose criminal history check reveals a
30 conviction of an offense that bars employment under Chapter 250,
31 Health and Safety Code.

32 (g) Not later than January 1, 2010, the Department of
33 Aging and Disability Services shall develop the training
34 required by Section 555.024, Health and Safety Code, as added by
35 this Act.

36 (h) The Department of Aging and Disability Services shall
37 ensure that each center employee and direct care employee
38 receives the training required by Section 555.024, Health and
39 Safety Code, as added by this Act, regardless of when the
40 employee was hired, not later than September 1, 2010.

41 (i) Not later than September 1, 2011, the Department of
42 Aging and Disability Services shall begin operating the Mexia
43 State Supported Living Center as the forensic state supported
44 living center as required by Section 555.002, Health and Safety
45 Code, as added by this Act.

46 SECTION 47. (a) Not later than September 1, 2011, the
47 Department of Aging and Disability Services shall ensure that an

1 interdisciplinary team has completed a determination in the
2 manner provided by Section 555.003, Health and Safety Code, as
3 added by this Act, for each alleged offender resident residing
4 in a state supported living center or the ICF-MR component of
5 the Rio Grande State Center on the effective date of this Act.

6 (b) An alleged offender resident for whom a determination
7 is completed in accordance with Subsection (a) of this section
8 and who is classified as a high-risk alleged offender resident
9 is entitled to:

10 (1) an administrative hearing and appeal provided by
11 Section 555.003, Health and Safety Code, as added by this Act,
12 regarding that determination and classification; and

13 (2) an administrative hearing regarding the
14 resident's proposed transfer to the forensic state supported
15 living center as provided by Section 594.014, Health and Safety
16 Code.

17 (c) The Department of Aging and Disability Services may
18 not transfer an alleged offender resident residing in a state
19 supported living center or the ICF-MR component of the Rio
20 Grande State Center on the effective date of this Act to the
21 forensic state supported living center while the resident is
22 pursuing the administrative remedies listed in Subsection (b) of
23 this section.

24 (d) Except as provided by Subsection (c) of this section,
25 the Department of Aging and Disability Services shall transfer
26 an alleged offender resident classified as a high-risk alleged
27 offender resident to the forensic state supported living center
28 on the date the Mexia State Supported Living Center begins
29 operating as the forensic state supported living center, or as
30 soon as possible after that date.

31 (e) This section expires September 1, 2013.

32 SECTION 48. (a) The changes in law made by this Act to
33 Section 261.109, Family Code, Section 48.052, Human Resources
34 Code, and Section 22.04, Penal Code, apply only to an offense
35 committed on or after the effective date of this Act. An
36 offense committed before the effective date of this Act is
37 governed by the law in effect when the offense was committed,
38 and the former law is continued in effect for that purpose. For
39 purposes of this section, an offense was committed before the
40 effective date of this Act if any element of the offense
41 occurred before that date.

42 (b) Section 411.1144, Government Code, as added by this
43 Act, and Section 555.021, Health and Safety Code, as added by
44 this Act, apply only to background and criminal history checks
45 performed on or after the effective date of this Act.

46 (c) The change in law made by Subsection (e), Section
47 551.022, Health and Safety Code, as added by this Act, and the

1 change in law made by Section 551.0225, Health and Safety Code,
2 as added by this Act, apply to the dismissal of an officer,
3 teacher, or other employee of a state developmental center hired
4 before, on, or after the effective date of this Act.

5 SECTION 49. If before implementing any provision of this
6 Act a state agency determines that a waiver or authorization
7 from a federal agency is necessary for implementation of that
8 provision, the agency affected by the provision shall request
9 the waiver or authorization and may delay implementing that
10 provision until the waiver or authorization is granted.

11 SECTION 50. This Act takes effect immediately if it
12 receives a vote of two-thirds of all the members elected to each
13 house, as provided by Section 39, Article III, Texas
14 Constitution. If this Act does not receive the vote necessary
15 for immediate effect, this Act takes effect September 1, 2009.

16
17 S.B. No. 650
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22 AN ACT

23 relating to certain peace officers commissioned by the Texas
24 State Board of Pharmacy.

25 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

26 SECTION 1. Subsection (b), Section 554.010, Occupations
27 Code, is amended to read as follows:

28 (b) An employee commissioned as a peace officer under this
29 subtitle has the powers, privileges, and immunities of a peace
30 officer while carrying out duties as a peace officer under this
31 subtitle~~[, except that the employee may not carry a firearm or
32 make an arrest].~~

33 SECTION 2. This Act takes effect immediately if it
34 receives a vote of two-thirds of all the members elected to each
35 house, as provided by Section 39, Article III, Texas
36 Constitution. If this Act does not receive the vote necessary
37 for immediate effect, this Act takes effect September 1, 2009.

38
39 S.B. No. 652
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44 AN ACT

45 relating to the maintenance of emergency contact and medical
46 information databases by the Department of Public Safety of the
47 State of Texas.

1 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

2 SECTION 1. Subchapter C, Chapter 521, Transportation Code,
3 is amended by adding Section 521.060 to read as follows:

4 Sec. 521.060. EMERGENCY CONTACT AND MEDICAL INFORMATION
5 DATABASES. (a) The department shall maintain in its files a
6 record of the name, address, and telephone number of each
7 individual identified by the holder of a driver's license or
8 personal identification certificate as an individual the holder
9 authorizes to be contacted in the event that the holder is
10 injured or dies in or as a result of a vehicular accident or
11 another emergency situation. In addition, the department shall
12 maintain in its files a record of any medical information
13 described by Section 521.125(a) that is provided to the
14 department under Subsection (c) or any health condition
15 information that is voluntarily provided to the department under
16 Section 521.142(h).

17 (b) A record maintained by the department under Subsection
18 (a) is confidential and, on request, may be disclosed:

19 (1) only to a peace officer in this or another state;
20 (2) only if the peace officer is otherwise authorized
21 to obtain information in the driver's license or personal
22 identification certificate files of the department; and

23 (3) only for the purpose, as applicable, of making
24 contact with a named individual to report the injury to or death
25 of the holder of the driver's license or personal identification
26 certificate, learning the nature of any medical information
27 reported by the person who holds the driver's license or
28 identification certificate, or learning whether the person who
29 holds the driver's license or identification certificate has a
30 health condition that may impede communications with the peace
31 officer.

32 (c) An application for an original, renewal, or duplicate
33 driver's license or personal identification certificate must:

34 (1) be designed to allow, but not require, the
35 applicant to provide:

36 (A) the name, address, and telephone number of
37 not more than two individuals to be contacted if the applicant
38 is injured or dies in a circumstance described by Subsection
39 (a); and

40 (B) in addition to health condition information
41 voluntarily provided under Section 521.142(h), medical
42 information described by Section 521.125(a); and

43 (2) include a statement that:

44 (A) describes the confidential nature of the
45 information; and

46 (B) states that by providing the department with
47 the information, the applicant consents to the limited

1 disclosure and use of the information.

2 (d) The department shall establish and maintain on the
3 department's Internet website forms and procedures by which the
4 holder of a driver's license or personal identification
5 certificate may request that the department:

6 (1) add specific emergency contact or medical
7 information described by Subsection (a) to the appropriate file
8 maintained by the department; or

9 (2) amend or delete emergency contact or medical
10 information the holder previously provided to the department.

11 (e) The forms and procedures maintained under Subsection
12 (d) must comply with Subsection (c).

13 (f) Subsection (b) does not prohibit the department from
14 disclosing information to the holder of a driver's license or
15 personal identification certificate who provided the information
16 or to an authorized agent of the holder.

17 SECTION 2. (a) This Act takes effect September 1, 2009.

18 (b) The Department of Public Safety of the State of Texas
19 shall implement the provisions of Section 521.060,
20 Transportation Code, as added by this Act, not later than
21 January 1, 2010.

22 (c) The Department of Public Safety of the State of Texas
23 shall implement Section 521.060, Transportation Code, as added
24 by this Act, using existing personnel.

25
26 S.B. No. 671
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31 AN ACT

32 relating to information requested by a member, committee, or
33 agency of the legislature under the public information law.

34 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

35 SECTION 1. Section 552.008, Government Code, is amended by
36 adding Subsections (b-1) and (b-2) to read as follows:

37 (b-1) A member, committee, or agency of the legislature
38 required by a governmental body to sign a confidentiality
39 agreement under Subsection (b) may seek a decision as provided
40 by Subsection (b-2) about whether the information covered by the
41 confidentiality agreement is confidential under law. A
42 confidentiality agreement signed under Subsection (b) is void to
43 the extent that the agreement covers information that is finally
44 determined under Subsection (b-2) to not be confidential under
45 law.

46 (b-2) The member, committee, or agency of the legislature
47 may seek a decision from the attorney general about the matter.

1 The attorney general by rule shall establish procedures and
2 deadlines for receiving information necessary to decide the
3 matter and briefs from the requestor, the governmental body, and
4 any other interested person. The attorney general shall
5 promptly render a decision requested under this subsection,
6 determining whether the information covered by the
7 confidentiality agreement is confidential under law, not later
8 than the 45th business day after the date the attorney general
9 received the request for a decision under this subsection. The
10 attorney general shall issue a written decision on the matter
11 and provide a copy of the decision to the requestor, the
12 governmental body, and any interested person who submitted
13 necessary information or a brief to the attorney general about
14 the matter. The requestor or the governmental body may appeal a
15 decision of the attorney general under this subsection to a
16 Travis County district court. A person may appeal a decision of
17 the attorney general under this subsection to a Travis County
18 district court if the person claims a proprietary interest in
19 the information affected by the decision or a privacy interest
20 in the information that a confidentiality law or judicial
21 decision is designed to protect.

22 SECTION 2. This Act takes effect September 1, 2010.

23
24 S.B. No. 689

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29 AN ACT

30 relating to restrictions on the use of the Internet by sex
31 offenders and to the reporting, collection, and exchange of
32 information regarding those offenders; providing a civil
33 penalty.

34 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

35 SECTION 1. Article 42.12, Code of Criminal Procedure, is
36 amended by adding Section 13E to read as follows:

37 Sec. 13E. PROHIBITIONS ON INTERNET ACCESS FOR CERTAIN SEX
38 OFFENDERS. (a) This section applies only to a person who is
39 required to register as a sex offender under Chapter 62, by
40 court order or otherwise, and:

41 (1) is convicted of or receives a grant of deferred
42 adjudication community supervision for a violation of Section
43 21.11, 22.011(a)(2), 22.021(a)(1)(B), 33.021, or 43.25, Penal
44 Code;

45 (2) used the Internet or any other type of electronic
46 device used for Internet access to commit the offense or engage
47 in the conduct for which the person is required to register

1 under Chapter 62; or

2 (3) is assigned a numeric risk level of three based
3 on an assessment conducted under Article 62.007.

4 (b) If the court grants community supervision to a
5 defendant described by Subsection (a), the court as a condition
6 of community supervision shall prohibit the defendant from using
7 the Internet to:

8 (1) access material that is obscene as defined by
9 Section 43.21, Penal Code;

10 (2) access a commercial social networking site, as
11 defined by Article 62.0061(f);

12 (3) communicate with any individual concerning sexual
13 relations with an individual who is younger than 17 years of
14 age; or

15 (4) communicate with another individual the defendant
16 knows is younger than 17 years of age.

17 (c) The court may modify at any time the condition
18 described by Subsection (b)(4) if:

19 (1) the condition interferes with the defendant's
20 ability to attend school or become or remain employed and
21 consequently constitutes an undue hardship for the defendant; or

22 (2) the defendant is the parent or guardian of an
23 individual who is younger than 17 years of age and the defendant
24 is not otherwise prohibited from communicating with that
25 individual.

26 SECTION 2. Article 62.001, Code of Criminal Procedure, is
27 amended by adding Subdivision (11) to read as follows:

28 (11) "Online identifier" means electronic mail
29 address information or a name used by a person when sending or
30 receiving an instant message, social networking communication,
31 or similar Internet communication or when participating in an
32 Internet chat. The term includes an assumed name, nickname,
33 pseudonym, moniker, or user name established by a person for use
34 in connection with an electronic mail address, chat or instant
35 chat room platform, commercial social networking site, or online
36 picture-sharing service.

37 SECTION 3. Article 62.005, Code of Criminal Procedure, is
38 amended by amending Subsection (b) and adding Subsection (j) to
39 read as follows:

40 (b) The information contained in the database, including
41 the numeric risk level assigned to a person under this chapter,
42 is public information, with the exception of any information:

43 (1) regarding the person's social security number
44 or[-] driver's license number, or any home, work, or cellular
45 telephone number of the person;

46 (2) that is described [required] by [the department
47 under] Article 62.051(c)(7) or required by the department under

1 Article 62.051(c)(8); or

2 (3) that would identify the victim of the offense for
3 which the person is subject to registration.

4 (j) The department, for law enforcement purposes, shall
5 release all relevant information described by Subsection (a),
6 including information that is not public information under
7 Subsection (b), to a peace officer, an employee of a local law
8 enforcement authority, or the attorney general on the request of
9 the applicable person or entity.

10 SECTION 4. Subchapter A, Chapter 62, Code of Criminal
11 Procedure, is amended by adding Article 62.0061 to read as
12 follows:

13 Art. 62.0061. REQUEST FOR ONLINE IDENTIFIERS BY SOCIAL
14 NETWORKING SITES. (a) On request by a commercial social
15 networking site, the department may provide to the commercial
16 social networking site:

17 (1) all public information that is contained in the
18 database maintained under Article 62.005; and

19 (2) notwithstanding Article 62.005(b)(2), any online
20 identifier established or used by a person who uses the site, is
21 seeking to use the site, or is precluded from using the site.

22 (b) The department by rule shall establish a procedure
23 through which a commercial social networking site may request
24 information under Subsection (a), including rules regarding the
25 eligibility of commercial social networking sites to request
26 information under Subsection (a). The department shall consult
27 with the attorney general, other appropriate state agencies, and
28 other appropriate entities in adopting rules under this
29 subsection.

30 (c) A commercial social networking site or the site's
31 agent:

32 (1) may use information received under Subsection (a)
33 only to:

34 (A) prescreen persons seeking to use the site;

35 or

36 (B) preclude persons registered under this
37 chapter from using the site; and

38 (2) may not use any information received under
39 Subsection (a) that the networking site obtained solely under
40 Subsection (a) in any manner not described by Subdivision (1).

41 (d) A commercial social networking site that uses
42 information received under Subsection (a) in any manner not
43 described by Subsection (c)(1) or that violates a rule adopted
44 by the department under Subsection (b) is subject to a civil
45 penalty of \$1,000 for each misuse of information or rule
46 violation. A commercial social networking site that is assessed
47 a civil penalty under this article shall pay, in addition to the

1 civil penalty, all court costs, investigative costs, and
2 attorney's fees associated with the assessment of the penalty.
3 A civil penalty assessed under this subsection shall be
4 deposited to the compensation to victims of crime fund
5 established under Subchapter B, Chapter 56.

6 (e) This article does not create a private cause of action
7 against a commercial social networking site, including a cause
8 of action that is based on the site:

9 (1) identifying, removing, disabling, blocking, or
10 otherwise affecting the user of a commercial social networking
11 site, based on a good faith belief that the person is required
12 to register as a sex offender under this chapter or federal law;
13 or

14 (2) failing to identify, remove, disable, block, or
15 otherwise affect the user of a commercial social networking site
16 who is required to register as a sex offender under this chapter
17 or federal law.

18 (f) In this article, "commercial social networking site":

19 (1) means an Internet website that:

20 (A) allows users, through the creation of
21 Internet web pages or profiles or other similar means, to
22 provide personal information to the public or other users of the
23 Internet website;

24 (B) offers a mechanism for communication with
25 other users of the Internet website; and

26 (C) has the primary purpose of facilitating
27 online social interactions; and

28 (2) does not include an Internet service provider,
29 unless the Internet service provider separately operates and
30 directly derives revenue from an Internet website described by
31 Subdivision (1).

32 SECTION 5. Subsection (c), Article 62.051, Code of
33 Criminal Procedure, is amended to read as follows:

34 (c) The registration form shall require:

35 (1) the person's full name, [~~each alias,~~] date of
36 birth, sex, race, height, weight, eye color, hair color, social
37 security number, driver's license number, shoe size, and home
38 address and each alias used by the person and any home, work, or
39 cellular telephone number of the person;

40 (2) a recent color photograph or, if possible, an
41 electronic digital image of the person and a complete set of the
42 person's fingerprints;

43 (3) the type of offense the person was convicted of,
44 the age of the victim, the date of conviction, and the
45 punishment received;

46 (4) an indication as to whether the person is
47 discharged, paroled, or released on juvenile probation,

1 community supervision, or mandatory supervision;
2 (5) an indication of each license, as defined by
3 Article 62.005(g), that is held or sought by the person;
4 (6) an indication as to whether the person is or will
5 be employed, carrying on a vocation, or a student at a
6 particular public or private institution of higher education in
7 this state or another state, and the name and address of that
8 institution; ~~and~~
9 (7) the identification of any online identifier
10 established or used by the person; and
11 (8) any other information required by the department.
12 SECTION 6. Subsection (f), Article 62.053, Code of
13 Criminal Procedure, is amended to read as follows:
14 (f) The local law enforcement authority shall include in
15 the notice to the superintendent of the public school district
16 and to the administrator of any private primary or secondary
17 school located in the public school district any information the
18 authority determines is necessary to protect the public, except:
19 (1) the person's social security number or[-]
20 driver's license number, or any home, work, or cellular
21 telephone number of the person; and
22 (2) any information that would identify the victim of
23 the offense for which the person is subject to registration.
24 SECTION 7. Subsection (g), Article 62.055, Code of
25 Criminal Procedure, is amended to read as follows:
26 (g) The local law enforcement authority shall include in
27 the notice to the superintendent of the public school district
28 and the administrator of any private primary or secondary school
29 located in the public school district any information the
30 authority determines is necessary to protect the public, except:
31 (1) the person's social security number or[-]
32 driver's license number, or any home, work, or cellular
33 telephone number of the person; and
34 (2) any information that would identify the victim of
35 the offense for which the person is subject to registration.
36 SECTION 8. Subchapter B, Chapter 62, Code of Criminal
37 Procedure, is amended by adding Article 62.0551 to read as
38 follows:
39 Art. 62.0551. CHANGE IN ONLINE IDENTIFIERS. (a) If a
40 person required to register under this chapter changes any
41 online identifier included on the person's registration form or
42 establishes any new online identifier not already included on
43 the person's registration form, the person, not later than the
44 later of the seventh day after the change or establishment or
45 the first date the applicable authority by policy allows the
46 person to report, shall report the change or establishment to
47 the person's primary registration authority in the manner

1 prescribed by the authority.

2 (b) A primary registration authority that receives
3 information under this article shall forward information in the
4 same manner as information received by the authority under
5 Article 62.055.

6 SECTION 9. Subsections (a) and (b), Article 62.057, Code
7 of Criminal Procedure, are amended to read as follows:

8 (a) If the juvenile probation officer, community
9 supervision and corrections department officer, or parole
10 officer supervising a person subject to registration under this
11 chapter receives information to the effect that the person's
12 status has changed in any manner that affects proper supervision
13 of the person, including a change in the person's name, online
14 identifiers, physical health, job or educational status,
15 including higher educational status, incarceration, or terms of
16 release, the supervising officer shall promptly notify the
17 appropriate local law enforcement authority or authorities of
18 that change. If the person required to register intends to
19 change address, the supervising officer shall notify the local
20 law enforcement authorities designated by Article
21 62.055(b). Not later than the seventh day after the date the
22 supervising officer receives the relevant information, the
23 supervising officer shall notify the local law enforcement
24 authority of any change in the person's job or educational
25 status in which the person:

26 (1) becomes employed, begins to carry on a vocation,
27 or becomes a student at a particular public or private
28 institution of higher education; or

29 (2) terminates the person's status in that capacity.

30 (b) Not later than the later of the seventh day after the
31 date of the change or the first date the applicable authority by
32 policy allows the person to report, a person subject to
33 registration under this chapter shall report to the local law
34 enforcement authority designated as the person's primary
35 registration authority by the department any change in the
36 person's name, online identifiers, physical health, or job or
37 educational status, including higher educational status.

38 SECTION 10. Subchapter F, Chapter 508, Government Code, is
39 amended by adding Section 508.1861 to read as follows:

40 Sec. 508.1861. PROHIBITIONS ON INTERNET ACCESS FOR CERTAIN
41 SEX OFFENDERS. (a) This section applies only to a person who,
42 on release, will be required to register as a sex offender under
43 Chapter 62, Code of Criminal Procedure, by court order or
44 otherwise, and:

45 (1) is serving a sentence for an offense under
46 Section 21.11, 22.011(a)(2), 22.021(a)(1)(B), 33.021, or 43.25,
47 Penal Code;

1 (2) used the Internet or any other type of electronic
2 device used for Internet access to commit the offense or engage
3 in the conduct for which the person is required to register
4 under Chapter 62, Code of Criminal Procedure; or

5 (3) is assigned a numeric risk level of three based
6 on an assessment conducted under Article 62.007, Code of
7 Criminal Procedure.

8 (b) If the parole panel releases on parole or to mandatory
9 supervision a person described by Subsection (a), the parole
10 panel as a condition of parole or mandatory supervision shall
11 prohibit the releasee from using the Internet to:

12 (1) access material that is obscene as defined by
13 Section 43.21, Penal Code;

14 (2) access a commercial social networking site, as
15 defined by Article 62.0061(f), Code of Criminal Procedure;

16 (3) communicate with any individual concerning sexual
17 relations with an individual who is younger than 17 years of
18 age; or

19 (4) communicate with another individual the releasee
20 knows is younger than 17 years of age.

21 (c) The parole panel may modify at any time the condition
22 described by Subsection (b)(4) if:

23 (1) the condition interferes with the releasee's
24 ability to attend school or become or remain employed and
25 consequently constitutes an undue hardship for the releasee; or

26 (2) the releasee is the parent or guardian of an
27 individual who is younger than 17 years of age and the releasee
28 is not otherwise prohibited from communicating with that
29 individual.

30 SECTION 11. The changes in law made by this Act in adding
31 Section 13E, Article 42.12, Code of Criminal Procedure, and
32 Section 508.1861, Government Code, apply only to a person who is
33 placed on community supervision or released on parole or to
34 mandatory supervision on or after the effective date of this
35 Act.

36 SECTION 12. The Department of Public Safety of the State
37 of Texas shall implement Subsection (c), Article 62.051, Code of
38 Criminal Procedure, as amended by this Act, and Subsection (j),
39 Article 62.005, and Article 62.0061, Code of Criminal Procedure,
40 as added by this Act, as soon as practicable after September 1,
41 2009, but not later than January 1, 2010.

42 SECTION 13. The change in law made by this Act in amending
43 Chapter 62, Code of Criminal Procedure, applies to any person
44 who, on or after January 1, 2010, is subject to registration
45 under that chapter regardless of whether the offense or conduct
46 for which the person is subject to registration occurred before,
47 on, or after that date.

1 SECTION 14. This Act takes effect September 1, 2009.

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3 S.B. No. 693
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8 AN ACT

9 relating to proof of identification to purchase an alcoholic
10 beverage.

11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

12 SECTION 1. Subsection (b), Section 106.03, Alcoholic
13 Beverage Code, is amended to read as follows:

14 (b) A person who sells a minor an alcoholic beverage does
15 not commit an offense if the minor falsely represents himself to
16 be 21 years old or older by displaying an apparently valid proof
17 of identification that contains [Texas driver's license or an
18 identification card issued by the Texas Department of Public
19 Safety, containing] a physical description and photograph
20 consistent with the minor's [his] appearance, purports to
21 establish that the minor is 21 years of age or older, and was
22 issued by a governmental agency [for the purpose of inducing the
23 person to sell him an alcoholic beverage]. The proof of
24 identification may include a driver's license or identification
25 card issued by the Department of Public Safety, a passport, or a
26 military identification card.

27 SECTION 2. The defenses added by this Act to Subsection
28 (b), Section 160.03, Alcoholic Beverage Code, are available to a
29 person regardless of when the offense was committed but only for
30 trials commencing on or after the effective date of this Act.

31 SECTION 3. This Act takes effect immediately if it
32 receives a vote of two-thirds of all the members elected to each
33 house, as provided by Section 39, Article III, Texas
34 Constitution. If this Act does not receive the vote necessary
35 for immediate effect, this Act takes effect September 1, 2009.

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37 S.B. No. 702
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42 AN ACT

43 relating to the regulation of the towing and storage of
44 vehicles.

45 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

46 SECTION 1. Subchapter C, Chapter 2303, Occupations Code,
47 is amended by adding Section 2303.1016 to read as follows:

1 Sec. 2303.1016. VEHICLE STORAGE FACILITY EMPLOYEE AND
2 TOWING OPERATOR; DUAL LICENSE. (a) The commission shall adopt
3 rules for the issuance of a dual license for a person who is a
4 vehicle storage facility employee and towing operator. The
5 department shall issue the license to an applicant who:

6 (1) meets the requirements established under:

7 (A) Section 2303.1015;

8 (B) Section 2308.153, 2308.154, or 2308.155; and

9 (C) any applicable rules adopted under this
10 subchapter or Subchapter D, Chapter 2308; and

11 (2) submits to the department:

12 (A) an application on a department-approved
13 form; and

14 (B) the required license fee.

15 (b) A person holding a license issued under this section
16 may:

17 (1) work at a vehicle storage facility; and

18 (2) perform towing operations.

19 SECTION 2. Subchapter D, Chapter 2303, Occupations Code,
20 is amended by adding Sections 2303.1511 and 2303.1551 to read as
21 follows:

22 Sec. 2303.1511. VEHICLE STORAGE FACILITY'S DUTY TO REPORT
23 AFTER ACCEPTING UNAUTHORIZED VEHICLE. (a) A vehicle storage
24 facility accepting a vehicle that is towed under this chapter
25 shall, within two hours after receiving the vehicle, report to
26 the local law enforcement agency with jurisdiction over the area
27 from which the vehicle was towed:

28 (1) a general description of the vehicle;

29 (2) the state and number of the vehicle's license
30 plate, if any;

31 (3) the vehicle identification number of the vehicle,
32 if it can be ascertained;

33 (4) the location from which the vehicle was towed;
34 and

35 (5) the name and location of the vehicle storage
36 facility where the vehicle is being stored.

37 (b) The report required by this section must be made by
38 telephone or electronically or delivered personally or by
39 facsimile.

40 Sec. 2303.1551. REQUIRED POSTING. (a) All storage fees
41 shall be posted at the licensed vehicle storage facility to
42 which the motor vehicle has been delivered and shall be posted
43 in view of the person who claims the vehicle.

44 (b) A vehicle storage facility accepting a nonconsent
45 towed vehicle shall post a sign in one inch letters stating
46 "Nonconsent tow fees schedules available on request." The
47 vehicle storage facility shall provide a copy of a nonconsent

1 towing fees schedule on request.

2 SECTION 3. Subdivision (11), Section 2308.002, Occupations
3 Code, is amended to read as follows:

4 (11) "Tow truck" means a motor vehicle, including a
5 wrecker, equipped with a mechanical device used to tow, winch,
6 or otherwise move another motor vehicle. The term does not
7 include:

8 (A) a motor vehicle owned and operated by a
9 governmental entity, including a public school district;

10 (B) a motor vehicle towing:

11 (i) a race car;

12 (ii) a motor vehicle for exhibition; or

13 (iii) an antique motor vehicle;

14 (C) a recreational vehicle towing another
15 vehicle;

16 (D) a motor vehicle used in combination with a
17 tow bar, tow dolly, or other mechanical device if the vehicle is
18 not operated in the furtherance of a commercial enterprise;

19 (E) a motor vehicle that is controlled or
20 operated by a farmer or rancher and used for towing a farm
21 vehicle; or

22 (F) a motor vehicle that:

23 (i) is owned or operated by an entity the
24 primary business of which is the rental of motor vehicles; and

25 (ii) only tows vehicles rented by the
26 entity.

27 SECTION 4. Subchapter D, Chapter 2308, Occupations Code,
28 is amended by adding Section 2308.1521 to read as follows:

29 Sec. 2308.1521. VEHICLE STORAGE FACILITY EMPLOYEE AND
30 TOWING OPERATOR; DUAL LICENSE. (a) The commission shall adopt
31 rules for the issuance of a dual license for a person who is a
32 vehicle storage facility employee and towing operator. The
33 department shall issue the license to an applicant who:

34 (1) meets the requirements established under:

35 (A) Section 2308.153, 2308.154, or 2308.155;

36 (B) Section 2303.1015; and

37 (C) any applicable rules adopted under this
38 subchapter or Subchapter C, Chapter 2303; and

39 (2) submits to the department:

40 (A) an application on a department-approved
41 form; and

42 (B) the required license fee.

43 (b) A person holding a license issued under this section
44 may:

45 (1) work at a vehicle storage facility; and

46 (2) perform towing operations.

47 (c) The fee for a license issued under this section may

1 not be:

2 (1) less than the fee for a license issued under this
3 subchapter or Section 2303.1015; or

4 (2) more than the sum of the fees for a license
5 issued under this subchapter and a license issued under Section
6 2303.1015.

7 SECTION 5. Subsection (b), Section 2308.153, Occupations
8 Code, is amended to read as follows:

9 (b) An applicant for an incident management towing
10 operator's license must:

11 (1) hold a valid driver's license issued by a state
12 in the United States [~~be a licensed Texas driver~~]; and

13 (2) be certified by a [~~the National Drivers~~
14 Certification Program of the Towing and Recovery Association of
15 America or another certification] program approved by the
16 department.

17 SECTION 6. Subsection (b), Section 2308.154, Occupations
18 Code, is amended to read as follows:

19 (b) An applicant for a private property towing operator's
20 license must:

21 (1) hold a valid driver's license issued by a state
22 in the United States [~~be a licensed Texas driver~~]; and

23 (2) be certified by a [~~the National Drivers~~
24 Certification Program of the Towing and Recovery Association of
25 America or another certification] program approved by the
26 department.

27 SECTION 7. Subsection (b), Section 2308.155, Occupations
28 Code, is amended to read as follows:

29 (b) An applicant for a consent towing operator's license
30 must hold a valid driver's license issued by a state in the
31 United States [~~be a licensed Texas driver~~].

32 SECTION 8. Subchapter D, Chapter 2308, Occupations Code,
33 is amended by adding Section 2308.1551 to read as follows:

34 Sec. 2308.1551. TRAINING LICENSE. (a) The department may
35 issue a training license to an applicant for a license under
36 this subchapter if the applicant:

37 (1) holds a valid driver's license issued by a state
38 in the United States;

39 (2) meets the qualifications established by rule by
40 the commission; and

41 (3) is engaged in the process of learning and
42 assisting in the operation of a tow truck under the supervision
43 of a licensed tow truck operator.

44 (b) Notwithstanding Subsection (a), an applicant for a
45 license under Section 2308.153 may be supervised by an operator
46 who holds a license issued under Section 2308.153, 2308.154, or
47 2308.155.

1 (c) A training license issued under this section expires
2 on the 91st day after the date of issuance and may not be
3 renewed.

4 (d) The commission by rule shall set the fee, establish
5 the qualifications, and provide for the issuance of a training
6 license under this section.

7 SECTION 9. Subsection (c), Section 2308.157, Occupations
8 Code, is amended to read as follows:

9 (c) To renew an incident management towing operator's
10 license the first time, a license holder must complete a
11 professional development course relating to incident management
12 towing that is [~~licensed or certified by the National Safety~~
13 ~~Council or another course~~] approved and administered by the
14 department under this section.

15 SECTION 10. Section 2308.158, Occupations Code, is amended
16 to read as follows:

17 Sec. 2308.158. ALCOHOL AND DRUG TESTING OF TOWING
18 OPERATORS. (a) A towing company shall establish an alcohol and
19 [a] drug testing policy for towing operators. A towing company
20 that establishes an alcohol and [a] drug testing policy under
21 this subsection may adopt the model alcohol and drug testing
22 policy adopted by the commission or may use another alcohol and
23 drug testing policy that the department determines is at least
24 as stringent as the policy adopted by the commission.

25 (b) The commission by rule shall adopt a model alcohol and
26 drug testing policy for use by a towing company. The model
27 alcohol and drug testing policy must be designed to ensure the
28 safety of the public through appropriate alcohol and drug
29 testing and to protect the rights of employees. The model
30 alcohol and drug testing policy must:

31 (1) require at least one scheduled drug test each
32 year for each towing operator; and

33 (2) authorize random, unannounced alcohol and drug
34 testing for towing operators.

35 SECTION 11. Subsection (a), Section 2308.251, Occupations
36 Code, is amended to read as follows:

37 (a) The owner or operator of a vehicle may not leave
38 unattended on a parking facility a vehicle that:

39 (1) is in or obstructs a vehicular traffic aisle,
40 entry, or exit of the parking facility;

41 (2) prevents a vehicle from exiting a parking space
42 in the facility;

43 (3) is in or obstructs a fire lane marked according
44 to Subsection (c); [~~or~~]

45 (4) does not display the special license plates
46 issued under Section 504.201, Transportation Code, or the
47 disabled parking placard issued under Chapter 681,

1 Transportation Code, for a vehicle transporting a disabled
2 person and is in a parking space that is designated for the
3 exclusive use of a vehicle transporting a disabled person; or
4 (5) is leaking a fluid that presents a hazard or
5 threat to persons or property.

6 SECTION 12. Subchapter F, Chapter 2308, Occupations Code,
7 is amended by adding Section 2308.257 to read as follows:

8 Sec. 2308.257. REMOVAL OF CERTAIN UNAUTHORIZED VEHICLES IN
9 RURAL AREAS. (a) This section applies only to an abandoned
10 vehicle that has damaged a fence on private property in a rural
11 area.

12 (b) A law enforcement agency directing a towing company or
13 tow operator to remove an abandoned vehicle that is located on
14 private property shall provide the towing company or tow
15 operator with the name and telephone number of the property
16 owner or the owner's agent if the owner or agent has provided
17 the information to the law enforcement agency.

18 (c) A towing company or tow operator provided with
19 information under Subsection (b) shall contact the property
20 owner or the owner's agent before entering private property to
21 tow a vehicle described by Subsection (a).

22 SECTION 13. Sections 2308.207 and 2308.256, Occupations
23 Code, are repealed.

24 SECTION 14. (a) The changes in law made by this Act to
25 Sections 2308.153, 2308.154, and 2308.155, Occupations Code,
26 apply only to a license application filed on or after the
27 effective date of this Act. A license application filed before
28 the effective date of this Act is governed by the law in effect
29 when the license application was filed, and the former law is
30 continued in effect for that purpose.

31 (b) Not later than April 1, 2010, the Texas Commission of
32 Licensing and Regulation shall adopt the model alcohol and drug
33 testing policy required by Section 2308.158, Occupations Code,
34 as amended by this Act.

35 (c) A towing company is not required to comply with the
36 alcohol and drug testing policy required by Section 2308.158,
37 Occupations Code, as amended by this Act, until January 1, 2010.

38 (d) Not later than April 1, 2010, the Texas Commission of
39 Licensing and Regulation shall adopt rules as necessary to
40 implement Sections 2303.1016, 2308.1521, and 2308.1551,
41 Occupations Code, as added by this Act.

42 SECTION 15. (a) Except as provided by Subsection (b) of
43 this section, this Act takes effect September 1, 2009.

44 (b) Sections 2303.1016, 2308.1521, and 2308.1551,
45 Occupations Code, as added by this Act, take effect June 1,
46 2010.

47

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4
5
6 AN ACT

7 relating to requiring a sexually oriented business to maintain
8 certain photographic identification records; providing a
9 criminal penalty.

10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

11 SECTION 1. Subchapter B, Chapter 51, Labor Code, is
12 amended by adding Section 51.016 to read as follows:

13 Sec. 51.016. SEXUALLY ORIENTED BUSINESSES. (a) In this
14 section, "sexually oriented business" has the meaning assigned
15 by Section 243.002, Local Government Code.

16 (b) A sexually oriented business may not employ an
17 individual younger than 18 years of age.

18 (c) A sexually oriented business shall maintain at the
19 business a record that contains a copy of a valid proof of
20 identification of each employee or independent contractor
21 working at the premises of the business.

22 (d) A proof of identification satisfies the requirements
23 of Subsection (c) if the identification:

24 (1) contains a physical description and photograph
25 consistent with the person's appearance;

26 (2) contains the date of birth of the person; and

27 (3) was issued by a government agency.

28 (e) The form of identification under Subsection (c) may
29 include:

30 (1) a driver's license issued by this state or
31 another state;

32 (2) a passport; or

33 (3) an identification card issued by this or another
34 state or the federal government.

35 (f) A sexually oriented business shall maintain a record
36 under this section for at least two years after the date the
37 employee or independent contractor ends employment with or a
38 contractual obligation to the business.

39 (g) The requirements of Subsections (c) and (f) do not
40 apply with regard to an independent contractor who contracts
41 with a sexually oriented business solely to perform repair,
42 maintenance, or construction services at the business.

43 (h) The commission, the attorney general, or a local law
44 enforcement agency may inspect a record maintained under this
45 section if there is good reason to believe that an individual
46 younger than 18 years of age is employed or has been employed by
47 the sexually oriented business within the two years preceding

1 the date of the inspection.

2 (i) A person commits an offense if the person:

3 (1) fails to maintain a record as required by this
4 section; or

5 (2) knowingly or intentionally hinders an inspection
6 authorized under Subsection (h).

7 SECTION 2. This Act takes effect September 1, 2009.

8
9 S.B. No. 727

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13
14 AN ACT

15 relating to the creation of DNA records for the DNA database
16 system.

17 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

18 SECTION 1. The heading to Article 102.020, Code of
19 Criminal Procedure, is amended to read as follows:

20 Art. 102.020. COSTS RELATED TO [~~ON CONVICTION FOR OFFENSES~~
21 ~~REQUIRING~~] DNA TESTING.

22 SECTION 2. Article 102.020, Code of Criminal Procedure, is
23 amended by amending Subsections (a) and (h) and adding
24 Subsections (h-1) and (j) to read as follows:

25 (a) A person shall pay as a cost of court:

26 (1) \$250 [as a court cost] on conviction of an
27 offense listed in Section 411.1471(a)(1), Government Code;

28 (2) [~~and~~] \$50 [as a court cost] on conviction of an
29 offense listed in Section 411.1471(a)(3) of that code; or

30 (3) \$34 on placement of the person on community
31 supervision, including deferred adjudication community
32 supervision, if the person is required to submit a DNA sample
33 under Section 11(j), Article 42.12.

34 (h) Except as provided by Subsection (h-1), the [The]
35 comptroller shall deposit 35 percent of the funds received under
36 this article in the state treasury to the credit of the state
37 highway fund and 65 percent of the funds received under this
38 article to the credit of the criminal justice planning account
39 in the general revenue fund.

40 (h-1) The clerk of the court shall transfer to the
41 comptroller any funds received under Subsection (a)(3). The
42 comptroller shall credit the funds to the Department of Public
43 Safety to help defray the cost of any analyses performed on DNA
44 samples provided by defendants who are required to pay a court
45 cost under this article.

46 (j) The court may waive the imposition of a court cost
47 under this article if the court determines that the defendant is

1 indigent and unable to pay the cost.

2 SECTION 3. Chapter 54, Family Code, is amended by adding
3 Section 54.0409 to read as follows:

4 Sec. 54.0409. DNA SAMPLE REQUIRED ON CERTAIN FELONY
5 ADJUDICATIONS. (a) This section applies only to conduct
6 constituting the commission of a felony:

7 (1) that is listed in Section 3g(a)(1), Article
8 42.12, Code of Criminal Procedure; or

9 (2) for which it is shown that a deadly weapon, as
10 defined by Section 1.07, Penal Code, was used or exhibited
11 during the commission of the conduct or during immediate flight
12 from the commission of the conduct.

13 (b) If a court or jury makes a disposition under Section
14 54.04 in which a child is adjudicated as having engaged in
15 conduct constituting the commission of a felony to which this
16 section applies and the child is placed on probation, the court
17 shall require as a condition of probation that the child provide
18 a DNA sample under Subchapter G, Chapter 411, Government Code,
19 for the purpose of creating a DNA record of the child, unless
20 the child has already submitted the required sample under other
21 state law.

22 SECTION 4. Chapter 54, Family Code, is amended by adding
23 Section 54.0462 to read as follows:

24 Sec. 54.0462. PAYMENT OF FEES FOR OFFENSES REQUIRING DNA
25 TESTING. (a) If a child is adjudicated as having engaged in
26 delinquent conduct that constitutes the commission of a felony
27 and the provision of a DNA sample is required under Section
28 54.0409 or other law, the juvenile court shall order the child,
29 parent, or other person responsible for the child's support to
30 pay to the court as a cost of court:

31 (1) a \$50 fee if the disposition of the case includes
32 a commitment to a facility operated by or under contract with
33 the Texas Youth Commission; and

34 (2) a \$34 fee if the disposition of the case does not
35 include a commitment described by Subdivision (1) and the child
36 is required to submit a DNA sample under Section 54.0409 or
37 other law.

38 (b) The clerk of the court shall transfer to the
39 comptroller any funds received under this section. The
40 comptroller shall credit the funds to the Department of Public
41 Safety to help defray the cost of any analyses performed on DNA
42 samples provided by children with respect to whom a court cost
43 is collected under this section.

44 (c) If the court finds that a child, parent, or other
45 person responsible for the child's support is unable to pay the
46 fee required under Subsection (a), the court shall enter into
47 the child's case records a statement of that finding. The court

1 may waive a fee under this section only if the court makes the
2 finding under this subsection.

3 SECTION 5. Subsection (a), Section 61.002, Family Code, is
4 amended to read as follows:

5 (a) Except as provided by Subsection (b), this chapter
6 applies to a proceeding to enter a juvenile court order:

7 (1) for payment of probation fees under Section
8 54.061;

9 (2) for restitution under Sections 54.041(b) and
10 54.048;

11 (3) for payment of graffiti eradication fees under
12 Section 54.0461;

13 (4) for community service under Section 54.044(b);

14 (5) for payment of costs of court under Section
15 54.0411 or other provisions of law;

16 (6) requiring the person to refrain from doing any
17 act injurious to the welfare of the child under Section
18 54.041(a)(1);

19 (7) enjoining contact between the person and the
20 child who is the subject of a proceeding under Section
21 54.041(a)(2);

22 (8) ordering a person living in the same household
23 with the child to participate in counseling under Section
24 54.041(a)(3);

25 (9) requiring a parent or guardian of a child found
26 to be truant to participate in an available program addressing
27 truancy under Section 54.041(f);

28 (10) requiring a parent or other eligible person to
29 pay reasonable attorney's fees for representing the child under
30 Section 51.10(e);

31 (11) requiring the parent or other eligible person to
32 reimburse the county for payments the county has made to an
33 attorney appointed to represent the child under Section
34 51.10(j);

35 (12) requiring payment of deferred prosecution
36 supervision fees under Section 53.03(d);

37 (13) requiring a parent or other eligible person to
38 attend a court hearing under Section 51.115;

39 (14) requiring a parent or other eligible person to
40 act or refrain from acting to aid the child in complying with
41 conditions of release from detention under Section 54.01(r);
42 [~~or~~]

43 (15) requiring a parent or other eligible person to
44 act or refrain from acting under any law imposing an obligation
45 of action or omission on a parent or other eligible person
46 because of the parent's or person's relation to the child who is
47 the subject of a proceeding under this title; or

1 (16) for payment of fees under Section 54.0462.

2 SECTION 6. Section 11, Article 42.12, Code of Criminal
3 Procedure, is amended by adding Subsection (j) to read as
4 follows:

5 (j) A judge granting community supervision to a defendant
6 convicted of a felony shall require that the defendant, as a
7 condition of community supervision, provide a DNA sample under
8 Subchapter G, Chapter 411, Government Code, for the purpose of
9 creating a DNA record of the defendant, unless the defendant has
10 already submitted the required sample under other state law.

11 SECTION 7. (a) Section 102.021, Government Code, is
12 amended to conform to Chapter 1263 (H.B. 3060), Acts of the 80th
13 Legislature, Regular Session, 2007, and is further amended to
14 read as follows:

15 Sec. 102.021. COURT COSTS ON CONVICTION: CODE OF CRIMINAL
16 PROCEDURE. A person convicted of an offense shall pay the
17 following under the Code of Criminal Procedure, in addition to
18 all other costs:

19 (1) court cost on conviction of any offense, other
20 than a conviction of an offense relating to a pedestrian or the
21 parking of a motor vehicle (Art. 102.0045, Code of Criminal
22 Procedure) ... \$4;

23 (2) a fee for services of prosecutor (Art. 102.008,
24 Code of Criminal Procedure) ... \$25;

25 (3) fees for services of peace officer:

26 (A) issuing a written notice to appear in court
27 for certain violations (Art. 102.011, Code of Criminal
28 Procedure) ... \$5;

29 (B) executing or processing an issued arrest
30 warrant, ~~[o]~~ capias, or capias pro fine (Art. 102.011, Code of
31 Criminal Procedure) ... \$50;

32 (C) summoning a witness (Art. 102.011, Code of
33 Criminal Procedure) ... \$5;

34 (D) serving a writ not otherwise listed (Art.
35 102.011, Code of Criminal Procedure) ... \$35;

36 (E) taking and approving a bond and, if
37 necessary, returning the bond to courthouse (Art. 102.011, Code
38 of Criminal Procedure) ... \$10;

39 (F) commitment or release (Art. 102.011, Code of
40 Criminal Procedure) ... \$5;

41 (G) summoning a jury (Art. 102.011, Code of
42 Criminal Procedure) ... \$5;

43 (H) attendance of a prisoner in habeas corpus
44 case if prisoner has been remanded to custody or held to bail
45 (Art. 102.011, Code of Criminal Procedure) ... \$8 each day;

46 (I) mileage for certain services performed (Art.
47 102.011, Code of Criminal Procedure) ... \$0.29 per mile; and

1 (J) services of a sheriff or constable who
2 serves process and attends examining trial in certain cases
3 (Art. 102.011, Code of Criminal Procedure) ... not to exceed \$5;
4 (4) services of a peace officer in conveying a
5 witness outside the county (Art. 102.011, Code of Criminal
6 Procedure) ... \$10 per day or part of a day, plus actual necessary
7 travel expenses;
8 (5) overtime of peace officer for time spent
9 testifying in the trial or traveling to or from testifying in
10 the trial (Art. 102.011, Code of Criminal Procedure) ... actual
11 cost;
12 (6) court costs on an offense relating to rules of
13 the road, when offense occurs within a school crossing zone
14 (Art. 102.014, Code of Criminal Procedure) ... \$25;
15 (7) court costs on an offense of passing a school bus
16 (Art. 102.014, Code of Criminal Procedure) ... \$25;
17 (8) court costs on an offense of truancy or
18 contributing to truancy (Art. 102.014, Code of Criminal
19 Procedure) ... \$20;
20 (9) cost for visual recording of intoxication arrest
21 before conviction (Art. 102.018, Code of Criminal Procedure) ...
22 \$15;
23 (10) cost of certain evaluations (Art. 102.018, Code
24 of Criminal Procedure) ... actual cost;
25 (11) additional costs attendant to certain
26 intoxication convictions under Chapter 49, Penal Code, for
27 emergency medical services, trauma facilities, and trauma care
28 systems (Art. 102.0185, Code of Criminal Procedure) ... \$100;
29 (12) additional costs attendant to certain child
30 sexual assault and related convictions, for child abuse
31 prevention programs (Art. 102.0186, Code of Criminal Procedure)
32 ... \$100;
33 (13) court cost for DNA testing for certain felonies
34 (Art. 102.020(a)(1) [~~102.020~~], Code of Criminal Procedure) ...
35 \$250;
36 (14) court cost for DNA testing for the [~~on an~~]
37 offense of public lewdness or indecent exposure (Art.
38 102.020(a)(2) [~~102.020~~], Code of Criminal Procedure) ... \$50;
39 (15) court cost for DNA testing for certain felonies
40 (Art. 102.020(a)(3), Code of Criminal Procedure) ... \$34;
41 (16) if required by the court, a restitution fee for
42 costs incurred in collecting restitution installments and for
43 the compensation to victims of crime fund (Art. 42.037, Code of
44 Criminal Procedure) ... \$12; [~~and~~]
45 (17) [~~16~~] if directed by the justice of the peace
46 or municipal court judge hearing the case, court costs on
47 conviction in a criminal action (Art. 45.041, Code of Criminal

1 Procedure) ... part or all of the costs as directed by the judge;
2 and

3 (18) costs attendant to convictions under Chapter 49,
4 Penal Code, and under Chapter 481, Health and Safety Code, to
5 help fund drug court programs established under Chapter 469,
6 Health and Safety Code (Art. 102.0178, Code of Criminal
7 Procedure) ... \$50.

8 (b) Section 102.0215, Government Code, is repealed.

9 SECTION 8. Section 103.0212, Government Code, is amended
10 to conform to Chapters 910 (H.B. 2949) and 1053 (H.B. 2151),
11 Acts of the 80th Legislature, Regular Session, 2007, and is
12 further amended to read as follows:

13 Sec. 103.0212. ADDITIONAL FEES AND COSTS IN CRIMINAL OR
14 CIVIL CASES: FAMILY CODE. An accused or defendant, or a party
15 to a civil suit, as applicable, shall pay the following fees and
16 costs under the Family Code if ordered by the court or otherwise
17 required:

18 (1) in family matters:

19 (A) issuing writ of withholding (Sec. 8.262,
20 Family Code) ... \$15;

21 (B) filing copy of writ of withholding to
22 subsequent employer (Sec. 8.267, Family Code) ... \$15;

23 (C) issuing and delivering modified writ of
24 withholding or notice of termination (Sec. 8.302, Family Code) ...
25 \$15;

26 (D) issuing and delivering notice of termination
27 of withholding (Sec. 8.303, Family Code) ... \$15;

28 (E) issuance of change of name certificate (Sec.
29 45.106, Family Code) ... \$10;

30 (F) protective order fee (Sec. 81.003, Family
31 Code) ... \$16;

32 (G) filing suit requesting adoption of child
33 (Sec. 108.006, Family Code) ... \$15;

34 (H) filing fees for suits affecting parent-child
35 relationship (Sec. 110.002, Family Code):

36 (i) suit or motion for modification (Sec.
37 110.002, Family Code) ... \$15;

38 (ii) motion for enforcement (Sec. 110.002,
39 Family Code) ... \$15;

40 (iii) notice of application for judicial
41 writ of withholding (Sec. 110.002, Family Code) ... \$15;

42 (iv) motion to transfer (Sec. 110.002,
43 Family Code) ... \$15;

44 (v) petition for license suspension (Sec.
45 110.002, Family Code) ... \$15;

46 (vi) motion to revoke a stay of license
47 suspension (Sec. 110.002, Family Code) ... \$15; and

1 (vii) motion for contempt (Sec. 110.002,
2 Family Code) ... \$15;
3 (I) order or writ of income withholding to be
4 delivered to employer (Sec. 110.004, Family Code) ... not to
5 exceed \$15;
6 (J) filing fee for transferred case (Sec.
7 110.005, Family Code) ... \$45;
8 (K) filing a writ of withholding (Sec. 158.319,
9 Family Code) ... \$15;
10 (L) filing a request for modified writ of
11 withholding or notice of termination (Sec. 158.403, Family Code)
12 ... not to exceed \$15;
13 (M) filing an administrative writ to employer
14 (Sec. 158.503, Family Code) ... not to exceed \$15; and
15 (N) genetic testing fees in relation to a child
16 born to a gestational mother (Sec. 160.762, Family Code) ... as
17 assessed by the court; and
18 (2) in juvenile court:
19 (A) fee schedule for deferred prosecution
20 services (Sec. 53.03, Family Code) ... maximum fee of \$15 a month;
21 (B) a request fee for a teen court program
22 [administration fee] (Sec. 54.032, Family Code) ... \$20, if the
23 court ordering the fee is located in the Texas-Louisiana border
24 region, but otherwise not to exceed \$10;
25 (C) court costs for juvenile probation diversion
26 fund (Sec. 54.0411, Family Code) ... \$20;
27 (D) a juvenile delinquency prevention fee (Sec.
28 54.0461, Family Code) ... \$50 [~~\$5~~]; [~~and~~]
29 (E) a court fee for child's probationary period
30 (Sec. 54.061, Family Code) ... not to exceed \$15 a month;
31 (F) a fee to cover costs of required duties of
32 teen court (Sec. 54.032, Family Code) ... \$20, if the court
33 ordering the fee is located in the Texas-Louisiana border
34 region, but otherwise not to exceed \$10;
35 (G) a fee for DNA testing on commitment to
36 certain facilities (Sec. 54.0462, Family Code) ... \$50; and
37 (H) a fee for DNA testing after placement on
38 probation or as otherwise required by law (Sec. 54.0462, Family
39 Code) ... \$34.
40 SECTION 9. Subdivision (3), Section 411.141, Government
41 Code, is amended to read as follows:
42 (3) "Criminal justice agency" means:
43 (A) a federal or state agency that is engaged in
44 the administration of criminal justice under a statute or
45 executive order and that allocates a substantial part of its
46 annual budget to the administration of criminal justice;
47 (B) a secure correctional facility as defined by

1 Section 1.07, Penal Code; or

2 (C) a community supervision and corrections
3 department, a parole office, or a local juvenile probation
4 department or parole office [~~has the meaning assigned by Article~~
5 ~~60.01, Code of Criminal Procedure~~].

6 SECTION 10. Subsections (a), (d), (f-1), (j), and (k),
7 Section 411.148, Government Code, are amended to read as
8 follows:

9 (a) This section applies to:

10 (1) an individual, other than a juvenile, who is:

11 (A) ordered by a magistrate or court to provide
12 a DNA sample under Section 411.154 or other law, including as
13 part of an order granting community supervision to the
14 individual; or

15 (B) confined in a penal institution operated by
16 or under contract with the Texas Department of Criminal Justice;
17 or

18 (2) a juvenile who [~~is~~], following [~~after~~] an
19 adjudication for conduct constituting a felony, is:

20 (A) confined in a facility operated by or under
21 contract with the Texas Youth Commission; or

22 (B) placed on probation, if the conduct
23 constitutes a felony described by Section 54.0409, Family Code.

24 (d) If an individual described by Subsection (a)(1)(B) is
25 received into custody by the Texas Department of Criminal
26 Justice, that department shall collect the sample from the
27 individual during the diagnostic process or at another time
28 determined by the Texas Department of Criminal Justice. If an
29 individual described by Subsection (a)(2)(A) is received into
30 custody by the Texas Youth Commission, the youth commission
31 shall collect the sample from the individual during the initial
32 examination or at another time determined by the youth
33 commission. If an individual who is required under this section
34 or other law to provide a DNA sample is in the custody or under
35 the supervision of another criminal justice agency, such as a
36 community supervision and corrections department, a parole
37 office, or a local juvenile probation department or parole
38 office, that agency shall collect the sample from the individual
39 at a time determined by the agency.

40 (f-1) The Texas Youth Commission shall notify the director
41 that an individual described by Subsection (a)(2)(A) [~~(a)(2)~~] is
42 to be released from custody not earlier than the 120th day
43 before the individual's release date.

44 (j)(1) The Texas Youth Commission as soon as practicable
45 shall cause a sample to be collected from an individual
46 described by Subsection (a)(2)(A) [~~(a)(2)~~] if:

47 (A) the individual is detained in another

1 juvenile detention facility after adjudication and before
2 admission to the youth commission; and

3 (B) the youth commission determines the
4 individual is likely to be released before being admitted to the
5 youth commission.

6 (2) The administrator of the other juvenile detention
7 facility shall cooperate with the Texas Youth Commission as
8 necessary to allow the youth commission to perform its duties
9 under this subsection.

10 (k) When a criminal justice agency of this state agrees to
11 accept custody or supervision of an individual from another
12 state or jurisdiction under an interstate compact or a
13 reciprocal agreement with a local, county, state, or federal
14 agency, the criminal justice agency that agrees to accept
15 custody or supervision of the individual shall collect
16 [acceptance is conditional on the individual providing] a DNA
17 sample under this subchapter if the individual was convicted of
18 or adjudicated as having engaged in conduct constituting a
19 felony and is otherwise required to provide a DNA sample under
20 this section.

21 SECTION 11. Subsection (e), Section 411.148, Government
22 Code, is repealed.

23 SECTION 12. (a) The changes in law made by this Act in
24 adding Subsection (j), Section 11, Article 42.12, Code of
25 Criminal Procedure, and Section 54.0409, Family Code, apply only
26 to a person who is granted community supervision or placed on
27 juvenile probation on or after the effective date of this Act.

28 (b) The changes in law made by this Act in amending
29 Article 102.020, Code of Criminal Procedure, and adding Section
30 54.0462, Family Code, apply only to an offense committed or
31 conduct engaged in on or after the effective date of this Act.
32 An offense committed or conduct engaged in before the effective
33 date of this Act is covered by the law in effect at the time the
34 offense was committed or the conduct was engaged in, and the
35 former law is continued in effect for that purpose. For
36 purposes of this section, an offense was committed or conduct
37 was engaged in before the effective date of this Act if any
38 element of the offense or conduct occurred before that date.

39 SECTION 13. To the extent of any conflict, this Act
40 prevails over another Act of the 81st Legislature, Regular
41 Session, 2009, relating to nonsubstantive additions to and
42 corrections in enacted codes.

43 SECTION 14. This Act does not make an appropriation. A
44 provision in this Act that creates a new governmental program,
45 creates a new entitlement, or imposes a new duty on a
46 governmental entity is not mandatory during a fiscal period for
47 which the legislature has not made a specific appropriation to

1 implement the provision.

2 SECTION 15. This Act takes effect September 1, 2009.

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4 S.B. No. 743
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9 AN ACT

10 relating to the time allowed for execution of a search warrant
11 issued to obtain a specimen for DNA analysis.

12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

13 SECTION 1. Article 18.07, Code of Criminal Procedure, is
14 amended to read as follows:

15 Art. 18.07. DAYS ALLOWED FOR WARRANT TO RUN. (a) The
16 time allowed for the execution of a search warrant [~~shall be~~
17 ~~three whole days~~], exclusive of the day of its issuance and of
18 the day of its execution, is:

19 (1) 15 whole days if the warrant is issued solely to
20 search for and seize specimens from a specific person for DNA
21 analysis and comparison, including blood and saliva samples; or

22 (2) three whole days if the warrant is issued for a
23 purpose other than that described by Subdivision (1).

24 (b) The magistrate issuing a search warrant under [~~the~~
25 ~~provisions of~~] this chapter shall endorse on the [~~such~~] search
26 warrant the date and hour of its [~~the~~] issuance [~~of the same~~].

27 SECTION 2. The change in law made by this Act applies only
28 to a search warrant that is issued on or after the effective
29 date of this Act. A search warrant that was issued before the
30 effective date of this Act is covered by the law in effect when
31 the warrant was issued, and the former law is continued in
32 effect for that purpose.

33 SECTION 3. This Act takes effect September 1, 2009.

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35 S.B. No. 745
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40 AN ACT

41 relating to state travel policies and procedures for the
42 reimbursement or payment of travel expenses.

43 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

44 SECTION 1. Subsection (a), Section 660.024, Government
45 Code, is amended to read as follows:

46 (a) The chief administrator of a state agency must give
47 advance written approval for any travel related to official

1 state business for which a reimbursement for travel expenses is
2 claimed or for which an advance for travel expenses to be
3 incurred is sought. The advance [~~A copy of the~~] written
4 approval may [~~shall~~] be communicated electronically [~~submitted~~
5 ~~with the travel voucher to the comptroller in accordance with~~
6 ~~Section 660.027~~].

7 SECTION 2. Subsections (b), (d), and (e), Section 660.027,
8 Government Code, are amended to read as follows:

9 (b) A voucher submitted under Subsection (a) is valid only
10 if:

11 (1) the state agency submitting the voucher approves
12 it in accordance with Chapter 2103 and, if required by law,
13 certifies the voucher; and

14 (2) the state employee who incurred the travel
15 expense or, if the employee is unavailable, another individual
16 acceptable to the comptroller approves the description,
17 information, and documentation required by Subsection (d)
18 [voucher] in writing or electronically, except that the
19 employee's approval is not required if another person is
20 required by law to provide the approval.

21 (d) A voucher must be supported by:

22 (1) a description of [~~describe~~] the official state
23 business performed; and

24 (2) [~~be accompanied by~~] the information and
25 documentation that the comptroller considers necessary for the
26 comptroller to determine compliance with this chapter, the
27 travel provisions of the General Appropriations Act, and the
28 rules adopted by the comptroller under this chapter.

29 (e) The comptroller may require a state agency to provide
30 to the comptroller the description, information, and
31 documentation required under [~~by~~] Subsection (d):

32 (1) on the form adopted by the comptroller under
33 Subsection (c);

34 (2) electronically;

35 (3) by submitting receipts or other documents; or

36 (4) [~~+3~~] by any [~~a~~] combination of Subdivisions (1),
37 [~~and~~] (2), and (3).

38 SECTION 3. Section 660.028, Government Code, is amended by
39 amending Subsections (b), (c), and (d) and adding Subsection (e)
40 to read as follows:

41 (b) If the comptroller audits a state agency's voucher
42 after the comptroller issues a warrant or initiates an
43 electronic funds transfer in response to the voucher, the
44 comptroller may require the agency to maintain in its files the
45 description, information, and documentation [~~receipts~~] relating
46 to the travel expense paid or reimbursed by the voucher until
47 the comptroller audits the voucher.

1 (c) If a state agency pays or reimburses a travel expense
2 without first submitting a voucher to the comptroller, the
3 comptroller may audit the payment or reimbursement for
4 compliance with this chapter and the travel provisions of the
5 General Appropriations Act. The comptroller may report the
6 results of the audit to the governor, the lieutenant governor,
7 the speaker of the house of representatives, the state auditor,
8 and the Legislative Budget Board. The state agency shall
9 cooperate with the comptroller and make available the
10 description, information, and documentation [~~receipts~~] required
11 by the comptroller at the time and in the manner required by the
12 comptroller.

13 (d) The comptroller may require a state agency to maintain
14 in its files the description, information, and documentation
15 [~~receipts~~] regarding a travel expense payment or reimbursement
16 for the period required by the comptroller.

17 (e) The comptroller may require or authorize the
18 description, information, and documentation relating to a travel
19 expense payment or reimbursement to be maintained in paper form
20 or electronically.

21 SECTION 4. Subsections (b) and (d), Section 660.043,
22 Government Code, are amended to read as follows:

23 (b) For the purpose of Subsection (a), the shortest route
24 between two points is presumed to be the most cost-effective
25 route. A longer route may be considered the most cost-effective
26 route only if:

27 (1) the documentation [~~voucher~~] states that the
28 longer route is more cost effective;

29 (2) the documentation [~~voucher~~] provides a reasonable
30 justification for that statement; and

31 (3) the statement and justification are made by the
32 chief administrator of the state agency making the reimbursement
33 or by the chief administrator's designee.

34 (d) If the number of miles between points is not shown in
35 the guide, the mileage incurred while traveling between those
36 points is not reimbursable unless:

37 (1) the documentation [~~voucher~~] itemizes the mileage
38 on a point-to-point basis; and

39 (2) the mileage is reasonable.

40 SECTION 5. Subsection (b), Section 660.147, Government
41 Code, is amended to read as follows:

42 (b) A state agency may not pay or reimburse a state
43 employee for a travel expense associated with a training seminar
44 conducted by the agency for its employees unless the chief
45 administrator of the agency or the administrator's designee
46 certifies in the supporting documentation [~~on the voucher or~~
47 ~~other expense reimbursement form~~] that the agency:

1 (1) does not possess interactive television or video
2 conference facilities at the designated headquarters of the
3 employees attending the seminar;

4 (2) cannot purchase or lease such facilities at a
5 cost less than the total travel expenses associated with the
6 seminar; and

7 (3) does not have access to another agency's
8 facilities at the same location.

9 SECTION 6. This Act takes effect September 1, 2009.

10
11 S.B. No. 808
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16 AN ACT

17 relating to allowing certain claimants to file an application
18 under the Crime Victims' Compensation Act.

19 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

20 SECTION 1. Article 56.37, Code of Criminal Procedure, is
21 amended by adding Subsection (e) to read as follows:

22 (e) For a claim that is based on criminally injurious
23 conduct in violation of Chapter 19, Penal Code, the claimant
24 must file an application not later than three years after the
25 date the identity of the victim is established by a law
26 enforcement agency.

27 SECTION 2. Article 56.61, Code of Criminal Procedure, is
28 amended to read as follows:

29 Art. 56.61. COMPENSATION FOR CERTAIN CRIMINALLY INJURIOUS
30 CONDUCT PROHIBITED; EXCEPTION. (a) Except as provided by
31 Subsection (b), the [The] attorney general may not award
32 compensation for pecuniary [economie] loss arising from
33 criminally injurious conduct that occurred before January 1,
34 1980.

35 (b) The attorney general may award compensation for
36 pecuniary loss arising from criminally injurious conduct that
37 occurred before January 1, 1980, if:

38 (1) the conduct was in violation of Chapter 19, Penal
39 Code;

40 (2) the identity of the victim is established by a
41 law enforcement agency on or after September 1, 2009; and

42 (3) the claimant files the application for
43 compensation within the limitations period provided by Article
44 56.37(e).

45 SECTION 3. The change in law made by this Act applies only
46 to criminally injurious conduct committed against a victim whose
47 identity is established by a law enforcement agency on or after

1 the effective date of this Act. Criminally injurious conduct
2 committed against a victim whose identity is established by a
3 law enforcement agency before the effective date of this Act is
4 covered by the law in effect on the date the victim's identity
5 was established, and the former law is continued in effect for
6 that purpose.

7 SECTION 4. This Act takes effect September 1, 2009.

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9 S.B. No. 828

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14 AN ACT

15 relating to a determination of value for purposes of punishment
16 of the offense of abuse of official capacity.

17 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

18 SECTION 1. Section 39.02, Penal Code, is amended by adding
19 Subsections (e) and (f) to read as follows:

20 (e) If separate transactions that violate Subsection
21 (a)(2) are conducted pursuant to one scheme or continuing course
22 of conduct, the conduct may be considered as one offense and the
23 value of the use of the things misused in the transactions may
24 be aggregated in determining the classification of the offense.

25 (f) The value of the use of a thing of value misused under
26 Subsection (a)(2) may not exceed:

27 (1) the fair market value of the thing at the time of
28 the offense; or

29 (2) if the fair market value of the thing cannot be
30 ascertained, the cost of replacing the thing within a reasonable
31 time after the offense.

32 SECTION 2. The change in law made by this Act applies only
33 to an offense committed on or after the effective date of this
34 Act. An offense committed before the effective date of this Act
35 is covered by the law in effect when the offense was committed,
36 and the former law is continued in effect for that purpose. For
37 purposes of this section, an offense was committed before the
38 effective date of this Act if any element of the offense
39 occurred before that date.

40 SECTION 3. This Act takes effect September 1, 2009.

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42 S.B. No. 833

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47 AN ACT

1 relating to the accrual of vacation and sick leave for certain
2 state employees during a military leave of absence and to the
3 eligibility of military service members to hold state office.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Subsections (b) and (c), Section 661.904,
6 Government Code, are amended to read as follows:

7 (b) The employee on an unpaid leave of absence during
8 military duty described by Subsection (a) continues to accrue:

9 (1) state service credit for purposes of longevity
10 pay;

11 (2) [~~while on military duty described by Subsection~~
12 ~~(a) but does not accrue~~] vacation leave; and

13 (3) [~~or~~] sick leave [~~during an unpaid leave of~~
14 ~~absence~~].

15 (c) The employee may retain any accrued vacation or sick
16 leave and is entitled to be credited with those balances on
17 return to state employment from military duty described by
18 Subsection (a). Leave earned while on an unpaid leave of
19 absence during military duty described by Subsection (a) [~~in a~~
20 ~~state-paid status~~] is credited to the employee's balance when
21 the employee returns to active state employment.

22 SECTION 2. Subchapter A, Chapter 431, Government Code, is
23 amended by adding Section 431.0055 to read as follows:

24 Sec. 431.0055. DUAL OFFICE HOLDING. A position in or
25 membership in the state military forces is not considered to be
26 a civil office of emolument.

27 SECTION 3. Section 1 of this Act takes effect immediately
28 if this Act receives a vote of two-thirds of all the members
29 elected to each house, as provided by Section 39, Article III,
30 Texas Constitution. If this Act does not receive the vote
31 necessary for immediate effect, Section 1 of this Act takes
32 effect September 1, 2009. Section 2 of this Act takes effect
33 January 1, 2010, but only if the constitutional amendment
34 proposed by the 81st Legislature, Regular Session, 2009,
35 authorizing an officer or enlisted member of the Texas State
36 Guard or other state militia or military force to hold other
37 civil offices is approved by the voters. If that proposed
38 constitutional amendment is not approved by the voters, Section
39 2 of this Act has no effect.

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41 S.B. No. 839
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46 AN ACT

47 relating to the punishment for a capital felony committed by a

1 juvenile whose case is transferred to criminal court.

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

3 SECTION 1. Section 12.31, Penal Code, is amended to read
4 as follows:

5 Sec. 12.31. CAPITAL FELONY. (a) An individual adjudged
6 guilty of a capital felony in a case in which the state seeks
7 the death penalty shall be punished by imprisonment in the Texas
8 Department of Criminal Justice [~~institutional division~~] for life
9 without parole or by death. An individual adjudged guilty of a
10 capital felony in a case in which the state does not seek the
11 death penalty shall be punished by imprisonment in the Texas
12 Department of Criminal Justice [~~institutional division~~] for:

13 (1) life, if the individual's case was transferred to
14 the court under Section 54.02, Family Code; or

15 (2) life without parole.

16 (b) In a capital felony trial in which the state seeks the
17 death penalty, prospective jurors shall be informed that a
18 sentence of life imprisonment without parole or death is
19 mandatory on conviction of a capital felony. In a capital
20 felony trial in which the state does not seek the death penalty,
21 prospective jurors shall be informed that the state is not
22 seeking the death penalty and that:

23 (1) a sentence of life imprisonment is mandatory on
24 conviction of the capital felony, if the case was transferred to
25 the court under Section 54.02, Family Code; or

26 (2) a sentence of life imprisonment without parole is
27 mandatory on conviction of the capital felony.

28 SECTION 2. Section 508.145, Government Code, is amended by
29 adding Subsection (b) to read as follows:

30 (b) An inmate serving a life sentence under Section
31 12.31(a)(1), Penal Code, for a capital felony is not eligible
32 for release on parole until the actual calendar time the inmate
33 has served, without consideration of good conduct time, equals
34 40 calendar years.

35 SECTION 3. The change in law made by this Act applies only
36 to an offense committed on or after the effective date of this
37 Act. An offense committed before the effective date of this Act
38 is covered by the law in effect when the offense was committed,
39 and the former law is continued in effect for that purpose. For
40 purposes of this section, an offense was committed before the
41 effective date of this Act if any element of the offense
42 occurred before that date.

43 SECTION 4. This Act takes effect September 1, 2009.

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45 S.B. No. 858
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AN ACT

relating to offering the classroom portion of a driver education course through an alternative method of instruction.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter H, Chapter 1001, Education Code, is amended by adding Section 1001.3541 to read as follows:

Sec. 1001.3541. ALTERNATIVE METHOD OF INSTRUCTION FOR DRIVER EDUCATION COURSE. (a) A driver education school may teach all or part of the classroom portion of an approved driver education course by an alternative method of instruction that does not require students to be present in a classroom if the commissioner approves the alternative method.

(b) The commissioner may approve the alternative method only if:

(1) the alternative method includes testing and security measures that the commissioner determines are at least as secure as the measures available in the usual classroom setting; and

(2) the course, with the use of the alternative method, satisfies any other requirement applicable to a course in which the classroom portion is taught to students in the usual classroom setting.

SECTION 2. Section 1001.151, Education Code, is amended by adding Subsection (m) to read as follows:

(m) The commissioner may establish a fee for an application for approval to offer a driver education course by an alternative method of instruction under Section 1001.3541 in an amount the commissioner considers appropriate, not to exceed the amount sufficient to cover the costs of considering the application.

SECTION 3. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2009.

S.B. No. 872

AN ACT

relating to continued health insurance coverage and financial assistance for eligible survivors of certain public servants killed in the line of duty.

1 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
2 SECTION 1. Section 615.003, Government Code, is amended to
3 read as follows:
4 Sec. 615.003. APPLICABILITY. This chapter applies only to
5 eligible survivors of the following individuals:
6 (1) an individual elected, appointed, or employed as
7 a peace officer by the state or a political subdivision of the
8 state under Article 2.12, Code of Criminal Procedure, or other
9 law;
10 (2) a paid probation officer appointed by the
11 director of a community supervision and corrections department
12 who has the duties set out in Section 76.002 and the
13 qualifications set out in Section 76.005, or who was appointed
14 in accordance with prior law;
15 (3) a parole officer employed by the pardons and
16 paroles division of the Texas Department of Criminal Justice who
17 has the duties set out in Section 508.001 and the qualifications
18 set out in Section 508.113 or in prior law;
19 (4) a paid jailer;
20 (5) a member of an organized police reserve or
21 auxiliary unit who regularly assists peace officers in enforcing
22 criminal laws;
23 (6) a member of the class of employees of the
24 institutional division or the state jail division of the Texas
25 Department of Criminal Justice formally designated as custodial
26 personnel under Section 615.006 by the Texas Board of Criminal
27 Justice or its predecessor in function;
28 (7) a jailer or guard of a county jail who is
29 appointed by the sheriff and who:
30 (A) performs a security, custodial, or
31 supervisory function over the admittance, confinement, or
32 discharge of prisoners; and
33 (B) is certified by the Commission on Law
34 Enforcement Officer Standards and Education;
35 (8) a juvenile correctional employee of the Texas
36 Youth Commission;
37 (9) an employee of the Texas Department of Mental
38 Health and Mental Retardation who:
39 (A) works at the department's maximum security
40 unit; or
41 (B) performs on-site services for the Texas
42 Department of Criminal Justice;
43 (10) an individual who is employed by the state or a
44 political or legal subdivision and is subject to certification
45 by the Texas Commission on Fire Protection;
46 (11) an individual employed by the state or a
47 political or legal subdivision whose principal duties are

1 aircraft crash and rescue fire fighting;
2 (12) a member of an organized volunteer fire-fighting
3 unit that:

4 (A) renders fire-fighting services without
5 remuneration; and

6 (B) conducts a minimum of two drills each month,
7 each two hours long;

8 (13) an individual who:

9 (A) performs emergency medical services or
10 operates an ambulance;

11 (B) is employed by a political subdivision of
12 the state or is an emergency medical services volunteer as
13 defined by Section 773.003, Health and Safety Code; and

14 (C) is qualified as an emergency care attendant
15 or at a higher level of training under Section 773.046, 773.047,
16 773.048, 773.049, or 773.0495, Health and Safety Code; [~~or~~]

17 (14) an individual who is employed or formally
18 designated as a chaplain for:

19 (A) an organized volunteer fire-fighting unit or
20 other fire department of this state or of a political
21 subdivision of this state;

22 (B) a law enforcement agency of this state or of
23 a political subdivision of this state; or

24 (C) the Texas Department of Criminal Justice; or

25 (15) an individual who is employed by the state or a
26 political subdivision of the state and who is considered by the
27 governmental employer to be a trainee for a position otherwise
28 described by this section.

29 SECTION 2. Subsection (e), Section 615.021, Government
30 Code, is amended to read as follows:

31 (e) In this section:

32 (1) "Personal injury" means an injury resulting from
33 an external force, an activity, or a disease caused by or
34 resulting from:

35 (A) a line-of-duty accident; or

36 (B) an illness caused by line-of-duty work under
37 hazardous conditions.

38 (2) "Line of duty" means an action an individual
39 listed under Section 615.003 is required or authorized by rule,
40 condition of employment, or law to perform. The term includes:

41 (A) an action by the individual at a social,
42 ceremonial, athletic, or other function to which the individual
43 is assigned by the individual's employer; and

44 (B) an action performed as part of a training
45 program the individual is required or authorized by rule,
46 condition of employment, or law to undertake.

47 SECTION 3. Subsection (c), Section 615.073, Government

1 Code, is amended to read as follows:

2 (c) The surviving spouse is entitled to continue to
3 purchase health insurance coverage until [~~the earlier of:~~
4 [~~(1) the date the surviving spouse remarries;~~
5 [~~(2) the date the surviving spouse becomes eligible~~
6 ~~for group health insurance through another employer; or~~
7 [~~(3)~~] the date the surviving spouse becomes eligible
8 for federal Medicare benefits.

9 SECTION 4. Section 615.074, Government Code, is amended to
10 read as follows:

11 Sec. 615.074. BENEFIT TO DEPENDENT. (a) An eligible
12 surviving dependent who is a minor child is entitled to continue
13 health insurance coverage until [~~the earlier of:~~

14 [~~(1)~~] the date the dependent reaches the age of 18
15 [~~years; or~~

16 [~~(2) the date the dependent becomes eligible for~~
17 ~~group health insurance through another employer].~~

18 (b) An eligible surviving dependent who is not a minor
19 child is entitled to continue health insurance coverage until
20 the earlier of:

21 (1) [~~the date the dependent marries;~~

22 [~~(2)~~] the date the dependent becomes eligible for
23 group health insurance through another employer; or

24 (2) [~~(3)~~] the date the dependent becomes eligible for
25 federal Medicare benefits.

26 SECTION 5. Subsections (a) and (c), Section 615.075,
27 Government Code, are amended to read as follows:

28 (a) An employing entity shall provide written notice to an
29 eligible survivor to whom this subchapter may apply of the
30 survivor's rights under this subchapter not later than the 10th
31 day after the date of the decedent's death. Not later than the
32 150th day after the date of the decedent's death, the employing
33 entity shall send a subsequent written notice under this
34 subsection by certified mail to any eligible survivor who has
35 not already elected to continue coverage on or before that date.

36 (c) To receive continued coverage under this subchapter,
37 the employing entity must be informed not later than the 180th
38 [~~90th~~] day after the date the decedent died that the eligible
39 survivor elects to continue coverage.

40 SECTION 6. Section 615.077, Government Code, is amended to
41 read as follows:

42 Sec. 615.077. PAYMENTS; RATE. An eligible survivor who is
43 entitled to continued coverage under this subchapter [~~is~~
44 ~~entitled to~~]:

45 (1) is entitled to:

46 (A) make payments for the coverage or have
47 payments made on the survivor's behalf at the same time and to

1 the same entity that payments for coverage are made by current
2 employees of the employing entity; and

3 (B) obtain [~~(2) purchase~~] the coverage at the
4 [group] rate paid by current employees of the employing entity
5 for that coverage; and

6 (2) may not be required to pay a premium amount for
7 the coverage that is greater than the premium amount that a
8 current employee of the employing entity without a spouse is
9 required to pay to cover the employee alone or to cover the
10 employee and the employee's dependent children, as applicable to
11 the eligible survivor [~~that exists at the time of payment~~].

12 SECTION 7. Subchapter D, Chapter 615, Government Code, is
13 amended by adding Sections 615.080 and 615.081 to read as
14 follows:

15 Sec. 615.080. GRACE PERIOD. Health insurance benefits
16 coverage in force on the date of the decedent's death under
17 which a deceased individual listed under Section 615.071 covered
18 one or more other persons may not lapse before the 181st day
19 after the date of the decedent's death for failure to pay the
20 premium.

21 Sec. 615.081. LIMITED OPPORTUNITY FOR CERTAIN ELIGIBLE
22 SURVIVORS TO REAPPLY FOR COVERAGE. (a) This section applies
23 only to an eligible survivor of a deceased individual listed
24 under Section 615.071 who died on or after September 1, 1993.

25 (b) Notwithstanding any other provision of this subchapter
26 or other law, an eligible survivor to whom this section applies
27 who did not purchase continued health insurance benefits under
28 this subchapter or under the law codified by this subchapter
29 within the time allowed after the listed individual's death, or
30 who discontinued coverage under this subchapter or under the law
31 codified by this subchapter after the listed individual's death,
32 may reapply for coverage under the employing entity's health
33 insurance benefits plan not later than March 1, 2010.

34 (c) An eligible survivor who reapplies for coverage under
35 Subsection (b) is entitled to purchase the coverage according to
36 the same rate schedule and coverage options as would apply had
37 the eligible survivor continued coverage under this subchapter
38 after the listed individual's death.

39 (d) This section expires September 1, 2010.

40 SECTION 8. This Act takes effect immediately if it
41 receives a vote of two-thirds of all the members elected to each
42 house, as provided by Section 39, Article III, Texas
43 Constitution. If this Act does not receive the vote necessary
44 for immediate effect, this Act takes effect September 1, 2009.

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46 S.B. No. 904
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AN ACT

relating to the classification of and prescriptions issued for certain controlled substances.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 481.074, Health and Safety Code, is amended by adding Subsection (d-1) and amending Subsection (k) to read as follows:

(d-1) Notwithstanding Subsection (d), a prescribing practitioner may issue multiple prescriptions authorizing the patient to receive a total of up to a 90-day supply of a Schedule II controlled substance if:

(1) each separate prescription is issued for a legitimate medical purpose by a prescribing practitioner acting in the usual course of professional practice;

(2) the prescribing practitioner provides written instructions on each prescription to be filled at a later date indicating the earliest date on which a pharmacy may fill each prescription;

(3) the prescribing practitioner concludes that providing the patient with multiple prescriptions in this manner does not create an undue risk of diversion or abuse; and

(4) the issuance of multiple prescriptions complies with other applicable state and federal laws.

(k) A prescription for a controlled substance must show:

(1) the quantity of the substance prescribed:

(A) numerically, followed by the number written as a word, if the prescription is written; or

(B) if the prescription is communicated orally or telephonically, as transcribed by the receiving pharmacist;

(2) the date of issue;

(2-a) if the prescription is issued for a Schedule II controlled substance to be filled at a later date under Subsection (d-1), the earliest date on which a pharmacy may fill the prescription;

(3) the name, address, and date of birth or age of the patient or, if the controlled substance is prescribed for an animal, the species of the animal and the name and address of its owner;

(4) the name and strength of the controlled substance prescribed;

(5) the directions for use of the controlled substance;

(6) the intended use of the substance prescribed unless the practitioner determines the furnishing of this

1 information is not in the best interest of the patient;

2 (7) the legibly printed or stamped name, address,
3 Federal Drug Enforcement Administration registration number, and
4 telephone number of the practitioner at the practitioner's usual
5 place of business;

6 (8) if the prescription is handwritten, the signature
7 of the prescribing practitioner; and

8 (9) if the prescribing practitioner is licensed in
9 this state, the practitioner's department registration number.

10 SECTION 2. Subsection (e), Section 481.075, Health and
11 Safety Code, is amended to read as follows:

12 (e) Each official prescription form used to prescribe a
13 Schedule II controlled substance must contain:

14 (1) information provided by the prescribing
15 practitioner, including:

16 (A) the date the prescription is written;

17 (B) the controlled substance prescribed;

18 (C) the quantity of controlled substance
19 prescribed, shown numerically followed by the number written as
20 a word;

21 (D) the intended use of the controlled substance
22 or the diagnosis for which it is prescribed and the instructions
23 for use of the substance;

24 (E) the practitioner's name, address, department
25 registration number, and Federal Drug Enforcement Administration
26 number; ~~and~~

27 (F) the name, address, and date of birth or age
28 of the person for whom the controlled substance is prescribed;
29 and

30 (G) if the prescription is issued to be filled
31 at a later date under Section 481.074(d-1), the earliest date on
32 which a pharmacy may fill the prescription;

33 (2) information provided by the dispensing
34 pharmacist, including the date the prescription is filled; and

35 (3) the signatures of the prescribing practitioner
36 and the dispensing pharmacist.

37 SECTION 3. Subsection (c), Section 481.0761, Health and
38 Safety Code, is amended to read as follows:

39 (c) The director by rule may:

40 (1) permit more than one prescription to be
41 administered or dispensed and recorded on one prescription form
42 for a Schedule III through V controlled substance;

43 (1-a) establish a procedure for the issuance of
44 multiple prescriptions of a Schedule II controlled substance
45 under Section 481.074(d-1);

46 (2) remove from or return to the official
47 prescription program any aspect of a practitioner's or

1 pharmacist's hospital practice, including administering or
2 dispensing;

3 (3) waive or delay any requirement relating to the
4 time or manner of reporting;

5 (4) establish compatibility protocols for electronic
6 data transfer hardware, software, or format;

7 (5) establish a procedure to control the release of
8 information under Sections 481.074, 481.075, and 481.076; and

9 (6) establish a minimum level of prescription
10 activity below which a reporting activity may be modified or
11 deleted.

12 SECTION 4. Subchapter B, Chapter 481, Health and Safety
13 Code, is amended by adding Section 481.037 to read as follows:

14 Sec. 481.037. CARISOPRODOL. Schedule IV includes
15 carisoprodol.

16 SECTION 5. The change in law made by this Act applies only
17 to the issuance of a prescription on or after the effective date
18 of this Act. The issuance of a prescription before the
19 effective date of this Act is covered by the law in effect when
20 the prescription was issued, and the former law is continued in
21 effect for that purpose.

22 SECTION 6. This Act takes effect immediately if it
23 receives a vote of two-thirds of all the members elected to each
24 house, as provided by Section 39, Article III, Texas
25 Constitution. If this Act does not receive the vote necessary
26 for immediate effect, this Act takes effect September 1, 2009.

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28 S.B. No. 926
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33 AN ACT

34 relating to the imposition of a civil penalty against the owner
35 of an authorized emergency vehicle for a violation recorded by a
36 photographic traffic signal enforcement system.

37 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

38 SECTION 1. Chapter 707, Transportation Code, is amended by
39 adding Section 707.0021 to read as follows:

40 Sec. 707.0021. IMPOSITION OF CIVIL PENALTY ON OWNER OF
41 AUTHORIZED EMERGENCY VEHICLE. (a) In this section, "authorized
42 emergency vehicle" has the meaning assigned by Section 541.201.

43 (b) A local authority may not impose or attempt to impose
44 a civil penalty under this chapter on the owner of an authorized
45 emergency vehicle.

46 (c) This section does not prohibit an employer from taking
47 disciplinary action against an employee who as the operator of

1 an authorized emergency vehicle operated the vehicle in
2 violation of a rule or policy of the employer.

3 SECTION 2. This Act takes effect September 1, 2009.

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5 S.B. No. 969

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10 AN ACT

11 relating to a length exemption for a vehicle or combination of
12 vehicles used to transport a combine used in farm custom
13 harvesting operations.

14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

15 SECTION 1. Section 622.902, Transportation Code, is
16 amended to read as follows:

17 Sec. 622.902. LENGTH EXCEPTIONS. The length limitations
18 provided by Sections 621.203 to 621.205 do not apply to:

19 (1) machinery used exclusively for drilling water
20 wells, including machinery that is itself a unit or that is a
21 unit mounted on a conventional vehicle or chassis;

22 (2) a vehicle owned or operated by a public, private,
23 or volunteer fire department;

24 (3) a vehicle or combination of vehicles operated
25 exclusively in the territory of a municipality or to a
26 combination of vehicles operated by a municipality in a suburb
27 adjoining the municipality in which the municipality has been
28 using the equipment or similar equipment in connection with an
29 established service to the suburb;

30 (4) a truck-tractor, truck-tractor combination, or
31 truck-trailer combination exclusively transporting machinery,
32 materials, and equipment used in the construction, operation,
33 and maintenance of facilities, including pipelines, that are
34 used for the discovery, production, and processing of natural
35 gas or petroleum;

36 (5) a drive-away saddlemount vehicle transporter
37 combination or a drive-away saddlemount with fullmount vehicle
38 transporter combination, as defined by 23 C.F.R. Part 658 or its
39 successor, if:

40 (A) the overall length of the combination is not
41 longer than 97 feet; and

42 (B) the combination does not have more than
43 three saddlemounted vehicles if the combination does not include
44 more than one fullmount vehicle;

45 (6) the combination of a tow truck and another
46 vehicle or vehicle combination if:

47 (A) the other vehicle or vehicle combination

1 cannot be normally or safely driven or was abandoned on a
2 highway; and

3 (B) the tow truck is towing the other vehicle or
4 vehicle combination directly to the nearest authorized place of
5 repair, terminal, or destination of unloading; or

6 (7) a vehicle or combination of vehicles used to
7 transport a combine that is used in farm custom harvesting
8 operations on a farm if the overall length of the vehicle or
9 combination is not longer than:

10 (A) 75 feet if the vehicle is traveling on a
11 highway that is part of the national system of interstate and
12 defense highways or the federal aid primary highway system; or

13 (B) 81-1/2 feet if the vehicle is not traveling
14 on a highway that is part of the national system of interstate
15 and defense highways or the federal aid primary highway system.

16 SECTION 2. This Act takes effect September 1, 2009.

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18 S.B. No. 1005
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23 AN ACT

24 relating to the regulation of polygraph examiners by the Texas
25 Department of Licensing and Regulation and the abolition of the
26 Polygraph Examiners Board.

27 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

28 SECTION 1. Section 1703.003, Occupations Code, is amended
29 by amending Subdivisions (1), (2), and (5) and adding
30 Subdivision (1-a) to read as follows:

31 (1) "Commission" means the Texas Commission of
32 Licensing and Regulation.

33 (1-a) "Committee" ["Board"] means the Polygraph
34 Advisory Committee [~~Examiners Board~~].

35 (2) "Department" means the Texas Department of
36 Licensing and Regulation [~~Public Safety of the State of Texas~~].

37 (5) "Polygraph examiner internship" means a course of
38 study of polygraph examinations and of the administration of
39 polygraph examinations by a trainee under the personal
40 supervision and control of a polygraph examiner as prescribed by
41 the department [~~board~~] at the beginning of the internship.

42 SECTION 2. The heading to Subchapter B, Chapter 1703,
43 Occupations Code, is amended to read as follows:

44 SUBCHAPTER B. POLYGRAPH ADVISORY COMMITTEE [~~EXAMINERS BOARD~~]

45 SECTION 3. The heading to Section 1703.051, Occupations
46 Code, is amended to read as follows:

47 Sec. 1703.051. COMMITTEE [~~BOARD~~] MEMBERSHIP.

1 SECTION 4. Subsections (a), (c), (d), and (e), Section
2 1703.051, Occupations Code, are amended to read as follows:

3 (a) The Polygraph Advisory Committee [~~Examiners Board~~]
4 consists of five [~~seven~~] members appointed by the presiding
5 officer of the commission, with the approval of the commission,
6 [~~governor with the advice and consent of the senate~~] as follows:

7 (1) two polygraph examiner members who are qualified
8 polygraph examiners for a governmental law enforcement agency;

9 (2) two polygraph examiner members who are qualified
10 polygraph examiners in the commercial field; and

11 (3) one member [~~three members~~] who represents
12 [~~represent~~] the public.

13 (c) A polygraph examiner member must[+]
14 [+1] be actively engaged as a polygraph examiner on
15 the date of appointment[+ and

16 [(2) have been engaged as a polygraph examiner for at
17 least five consecutive years before the date of appointment].

18 (d) Two committee [~~board~~] members may not be employed by
19 the same person.

20 (e) Appointments to the committee [~~board~~] shall be made
21 without regard to the race, color, disability [~~creed~~], sex,
22 religion, or national origin of the appointee.

23 SECTION 5. Section 1703.054, Occupations Code, is amended
24 to read as follows:

25 Sec. 1703.054. TERMS; VACANCY. (a) Committee [~~Board~~]
26 members serve staggered six-year terms.

27 (b) If a vacancy occurs on the committee [~~board~~], the
28 presiding officer of the commission, with the commission's
29 approval, [~~governor~~] shall appoint a successor to fill the
30 unexpired term.

31 SECTION 6. Section 1703.055, Occupations Code, is amended
32 to read as follows:

33 Sec. 1703.055. PRESIDING OFFICER [~~OFFICERS~~]. The
34 presiding officer of the commission, with the commission's
35 approval, [~~board~~] shall appoint a member of the committee to
36 serve as [~~elect from among its members a~~] presiding officer of
37 the committee for a two-year term [~~, assistant presiding officer,~~
38 ~~and secretary~~].

39 SECTION 7. Subchapter B, Chapter 1703, Occupations Code,
40 is amended by adding Section 1703.058 to read as follows:

41 Sec. 1703.058. COMMITTEE DUTIES. The committee shall
42 advise the commission on:

43 (1) educational requirements for a polygraph
44 examiner;

45 (2) the contents of a licensing examination;

46 (3) technical issues related to a polygraph
47 examination;

1 (4) the specific offenses for which a conviction
2 would constitute grounds for the department to take action under
3 Section 53.021; and

4 (5) administering and enforcing this chapter.

5 SECTION 8. Section 1703.202, Occupations Code, is amended
6 to read as follows:

7 Sec. 1703.202. LICENSE APPLICATION. An application for a
8 polygraph examiner license must:

9 (1) be made to the department [~~board's secretary in~~
10 ~~writing under oath~~] on a form prescribed by the department
11 [~~board~~];

12 (2) be accompanied by the required nonrefundable fee;
13 and

14 (3) include any information the department [~~board~~]
15 considers necessary to evaluate the applicant's qualifications.

16 SECTION 9. Section 1703.203, Occupations Code, is amended
17 to read as follows:

18 Sec. 1703.203. QUALIFICATIONS FOR LICENSE. (a) A person
19 is qualified for a polygraph examiner license if the person:

20 (1) has not been convicted of an offense that
21 directly relates to the duties and responsibilities of a
22 polygraph examiner [~~a misdemeanor involving moral turpitude or a~~
23 ~~felony~~];

24 (2) either:

25 (A) holds a baccalaureate degree from a college
26 or university accredited by an organization designated by the
27 department [~~board~~] that the department [~~board~~] determines has
28 accreditation standards ensuring a high level of student
29 scholarship; or

30 (B) has active investigative experience during
31 the five years preceding the date of application;

32 (3) either:

33 (A) is a graduate of a department-approved
34 [~~board-approved~~] polygraph examiners course and has
35 satisfactorily completed at least six months of a polygraph
36 examiner internship; or

37 (B) has satisfactorily completed at least 12
38 months of a polygraph examiner internship; and

39 (4) has passed an examination conducted by, [~~or~~]
40 under the supervision of, or approved by the department [~~board~~]
41 to determine the person's competency for a license.

42 (b) The commission [~~board~~] by rule shall establish:

43 (1) the specific offenses that disqualify an
44 applicant under Subsection (a)(1); and

45 (2) the criteria by which the department [~~board~~]
46 evaluates an applicant's compliance with the active
47 investigative experience requirement established by Subsection

1 (a)(2)(B).

2 (c) The department [~~board~~] shall provide for an
3 examination under this chapter to be administered in three-month
4 intervals.

5 SECTION 10. Section 1703.205, Occupations Code, is amended
6 to read as follows:

7 Sec. 1703.205. ISSUANCE OF LICENSE; SURETY BOND OR
8 INSURANCE POLICY REQUIREMENT. (a) Before a polygraph examiner
9 license is issued, the person to whom the license is to be
10 issued must provide to the department [~~board~~] evidence of a
11 surety bond or insurance policy that:

12 (1) is in the amount of \$5,000; and

13 (2) requires the obligor on the bond or policy to
14 pay, to the extent of the face amount of the bond or policy, all
15 judgments recovered against the license holder for any wrongful
16 or illegal act committed by the license holder in the course of
17 administering a polygraph examination.

18 (b) Each license must be [~~signed by the board members and~~]
19 issued by [~~under~~] the department [~~board seal~~].

20 SECTION 11. Subsections (a) and (c), Section 1703.206,
21 Occupations Code, are amended to read as follows:

22 (a) An applicant for the issuance or renewal of a
23 polygraph examiner license who is not a resident of this state,
24 in addition to meeting all other requirements for a license,
25 must file with the department [~~board~~] an irrevocable consent to
26 have:

27 (1) an action against the applicant filed in a court
28 of a county or municipality of this state in which:

29 (A) the plaintiff resides; or

30 (B) a part of the transaction out of which the
31 alleged cause of action arose occurred; and

32 (2) process in the action served on the applicant by
33 leaving two copies of the process with the department [~~board's~~
34 ~~secretary~~].

35 (c) The department [~~board's secretary~~] shall immediately
36 send by registered or certified mail a copy of the process to
37 the applicant at the address shown on department [~~board~~]
38 records.

39 SECTION 12. Section 1703.207, Occupations Code, is amended
40 to read as follows:

41 Sec. 1703.207. APPLICANT WITH OUT-OF-STATE LICENSE. The
42 executive director [~~board~~] may waive any license requirement for
43 an applicant who holds a license from another state that has
44 license requirements substantially equivalent to those of this
45 state.

46 SECTION 13. Subsections (b), (c), and (d), Section
47 1703.208, Occupations Code, are amended to read as follows:

1 (b) The department may [~~On board approval, the secretary~~
2 ~~of the board shall~~] issue a polygraph examiner internship
3 license to an applicant who applies for the license and pays the
4 required fee [~~at least 10 days before the date the internship~~
5 ~~begins~~]. The application must contain any information required
6 by the department [~~board~~].

7 (c) A polygraph examiner internship license expires on the
8 first anniversary of the date of issuance and [~~.—On good cause~~
9 ~~shown to the board, the license~~] may be [~~extended or~~] renewed
10 once [~~for not more than six months~~].

11 (d) After the expiration of the original term of a
12 polygraph examiner internship license and any extension or
13 renewal of that license granted by the department [~~board~~], a
14 trainee may not hold another internship license before the first
15 anniversary of the date the trainee's previous internship
16 license expired.

17 SECTION 14. Subsection (a), Section 1703.252, Occupations
18 Code, is amended to read as follows:

19 (a) The commission [~~board~~] by rule may adopt a system
20 under which polygraph examiner licenses expire on various dates
21 during the year.

22 SECTION 15. Subsection (b), Section 1703.254, Occupations
23 Code, is amended to read as follows:

24 (b) A person eligible for license renewal under Subsection
25 (a) must, before the second anniversary of the date the service,
26 training, or education terminates, pay to the department [~~board~~]
27 the required renewal fee and certify [~~provide~~] to the department
28 [~~board an affidavit stating~~] that:

29 (1) the person was engaged in the service, training,
30 or education; and

31 (2) termination of the service, training, or
32 education occurred under an honorable condition.

33 SECTION 16. Subsection (a), Section 1703.255, Occupations
34 Code, is amended to read as follows:

35 (a) The department [~~board~~] may recognize, prepare, or
36 implement continuing education programs for polygraph examiners
37 and trainees.

38 SECTION 17. Section 1703.301, Occupations Code, is amended
39 to read as follows:

40 Sec. 1703.301. LICENSE HOLDER INFORMATION. [~~(a)~~] A
41 polygraph examiner shall notify the department [~~secretary of the~~
42 ~~board~~] in writing of a change in the examiner's principal
43 business location not later than the 30th day after the date the
44 change is made.

45 [~~(b) Failure to notify the secretary as required by~~
46 ~~Subsection (a) results in automatic suspension of the examiner's~~
47 ~~license.~~]

1 SECTION 18. Subsection (b), Section 1703.306, Occupations
2 Code, is amended to read as follows:

3 (b) The department [~~board~~] or any other governmental
4 agency that acquires information from a polygraph examination
5 under this section shall maintain the confidentiality of the
6 information.

7 SECTION 19. Subchapter G, Chapter 1703, Occupations Code,
8 is amended by adding Section 1703.307 to read as follows:

9 Sec. 1703.307. INFORMATION INCLUDED IN CONTRACT FOR
10 SERVICES AND WAIVER OF LIABILITY. A written contract for a
11 polygraph examiner's services and a waiver of liability signed
12 by the subject of a polygraph examination must:

13 (1) inform the subject of the procedures to file a
14 complaint against the examiner with the department; and

15 (2) contain the name, mailing address, and telephone
16 number of the department.

17 SECTION 20. Section 1703.351, Occupations Code, is amended
18 to read as follows:

19 Sec. 1703.351. LICENSE DENIAL AND DISCIPLINARY ACTION.

20 (a) The department may [~~board shall~~] take action authorized
21 under Subsection (b) against an applicant or license holder who:

22 (1) wilfully violates this chapter or a rule adopted
23 under this chapter;

24 (2) violates Section 1703.306(a);

25 (3) wilfully aids or abets another to violate this
26 chapter or a rule adopted under this chapter;

27 (4) allows the person's license issued under this
28 chapter to be used by an unlicensed person in violation of this
29 chapter;

30 (5) makes a material misstatement in an application
31 for the issuance or renewal of a license;

32 (6) makes a wilful misrepresentation or false promise
33 or causes the printing of a false or misleading advertisement to
34 directly or indirectly obtain business or trainees;

35 (7) fails to inform a subject to be examined:

36 (A) of the nature of the examination; and

37 (B) that the subject's participation in the
38 examination is voluntary;

39 (8) fails to inform the subject of an examination of
40 the examination results on request;

41 (9) violates Section 51.151, Family Code;

42 (10) wilfully makes a false report concerning an
43 examination for polygraph examination purposes;

44 (11) fails to provide within a reasonable time
45 information requested by the department [~~board's secretary~~]
46 the result of a formal complaint to the department [~~board~~]
47 alleging a violation of this chapter;

1 (12) demonstrates unworthiness or incompetency to act
2 as a polygraph examiner;

3 (13) is convicted of an offense that directly relates
4 to the duties and responsibilities of a polygraph examiner [a
5 ~~misdemeanor involving moral turpitude or a felony]~~; or

6 (14) is found to be incapacitated as provided by the
7 Probate Code.

8 (b) On determining that an applicant or license holder has
9 engaged in an act listed in Subsection (a), the department
10 [~~board~~] shall:

11 (1) deny [~~refuse to issue~~] a license to the
12 applicant;

13 (2) revoke or suspend the person's license; or

14 (3) reprimand the person.

15 (c) The department [~~board~~] may probate a license
16 suspension.

17 SECTION 21. Section 1703.353, Occupations Code, is amended
18 to read as follows:

19 Sec. 1703.353. SURRENDER OF LICENSE. [~~a~~] A license
20 holder whose license is suspended or revoked shall immediately
21 surrender the license to the department [~~board's secretary~~].

22 [~~(b) The board's secretary shall restore a suspended or~~
23 ~~revoked license to the license holder on the board's written~~
24 ~~recommendations.~~]

25 SECTION 22. Section 1703.354, Occupations Code, is amended
26 to read as follows:

27 Sec. 1703.354. EFFECT OF VIOLATION ON EMPLOYER. If a
28 polygraph examiner or trainee engages in an unlawful act or a
29 violation of this chapter, the department [~~board~~] may not revoke
30 the license of the polygraph examiner who employed the examiner
31 or trainee unless the department [~~board~~] is satisfied that the
32 employer wilfully or negligently aided or abetted the examiner
33 or trainee in the unlawful act or violation.

34 SECTION 23. Section 1703.355, Occupations Code, is amended
35 to read as follows:

36 Sec. 1703.355. ADMINISTRATIVE PROCEDURE [~~JUDICIAL REVIEW~~].
37 The administrative procedures under Sections 51.310, 51.353, and
38 51.354 apply to a disciplinary action taken under this chapter.

39 [~~(a) A person may appeal an action of the board, including the~~
40 ~~refusal to issue a license to the person or the suspension or~~
41 ~~revocation of the person's license, by timely filing a petition~~
42 ~~in a district court in the county in which the person resides or~~
43 ~~in Travis County.~~]

44 [~~(b) An appeal of a board action is governed by Chapter~~
45 ~~2001, Government Code.~~]

46 SECTION 24. Subchapter H, Chapter 1703, Occupations Code,
47 is amended by adding Section 1703.356 to read as follows:

1 Sec. 1703.356. APPEAL. (a) An appeal of a department
2 action under this chapter is governed by Chapter 2001,
3 Government Code.

4 (b) The standard of review is under the substantial
5 evidence rule.

6 SECTION 25. Subsection (a), Section 1703.401, Occupations
7 Code, is amended to read as follows:

8 (a) If a person violates this chapter, the department,
9 [~~board's secretary, on direction of a majority of the board and~~]
10 through the attorney general, shall apply in the state's name in
11 district court for an order to enjoin the violation of or to
12 enforce compliance with this chapter.

13 SECTION 26. Subsection (d), Section 411.122, Government
14 Code, is amended to read as follows:

15 (d) The following state agencies are subject to this
16 section:

17 (1) Texas Appraiser Licensing and Certification
18 Board;

19 (2) Texas Board of Architectural Examiners;

20 (3) Texas Board of Chiropractic Examiners;

21 (4) State Board of Dental Examiners;

22 (5) Texas Board of Professional Engineers;

23 (6) Texas Funeral Service Commission;

24 (7) Texas Board of Professional Geoscientists;

25 (8) Department of State Health Services, except as
26 provided by Section 411.110, and agencies attached to the
27 department, including:

28 (A) Texas State Board of Examiners of
29 Dietitians;

30 (B) Texas State Board of Examiners of Marriage
31 and Family Therapists;

32 (C) Midwifery Board;

33 (D) Texas State Board of Examiners of
34 Perfusionists;

35 (E) Texas State Board of Examiners of
36 Professional Counselors;

37 (F) Texas State Board of Social Worker
38 Examiners;

39 (G) State Board of Examiners for Speech-Language
40 Pathology and Audiology;

41 (H) Advisory Board of Athletic Trainers;

42 (I) State Committee of Examiners in the Fitting
43 and Dispensing of Hearing Instruments;

44 (J) Texas Board of Licensure for Professional
45 Medical Physicists; and

46 (K) Texas Board of Orthotics and Prosthetics;

47 (9) Texas Board of Professional Land Surveying;

- 1 (10) Texas Department of Licensing and Regulation,
 2 except as provided by Section 411.093;
 3 (11) Texas Commission on Environmental Quality;
 4 (12) Texas Board of Occupational Therapy Examiners;
 5 (13) Texas Optometry Board;
 6 (14) Texas State Board of Pharmacy;
 7 (15) Texas Board of Physical Therapy Examiners;
 8 (16) Texas State Board of Plumbing Examiners;
 9 (17) Texas State Board of Podiatric Medical
 10 Examiners;
 11 (18) [~~Polygraph Examiners Board;~~
 12 [~~19~~] Texas State Board of Examiners of
 13 Psychologists;
 14 (19) [~~20~~] Texas Real Estate Commission;
 15 (20) [~~21~~] Board of Tax Professional Examiners;
 16 (21) [~~22~~] Texas Department of Transportation;
 17 (22) [~~23~~] State Board of Veterinary Medical
 18 Examiners;
 19 (23) [~~24~~] Texas Department of Housing and Community
 20 Affairs;
 21 (24) [~~25~~] secretary of state;
 22 (25) [~~26~~] state fire marshal;
 23 (26) [~~27~~] Texas Education Agency; and
 24 (27) [~~28~~] Department of Agriculture.

25 SECTION 27. Subsection (a), Section 2054.352, Government
 26 Code, is amended to read as follows:

27 (a) The following licensing entities shall participate in
 28 the system established under Section 2054.353:

- 29 (1) Texas Board of Chiropractic Examiners;
 30 (2) Court Reporters Certification Board;
 31 (3) State Board of Dental Examiners;
 32 (4) Texas Funeral Service Commission;
 33 (5) Texas Board of Professional Land Surveying;
 34 (6) Texas Medical Board;
 35 (7) Texas Board of Nursing;
 36 (8) Texas Optometry Board;
 37 (9) Department of Agriculture, for licenses issued
 38 under Chapter 1951, Occupations Code;
 39 (10) Texas State Board of Pharmacy;
 40 (11) Executive Council of Physical Therapy and
 41 Occupational Therapy Examiners;
 42 (12) Texas State Board of Plumbing Examiners;
 43 (13) Texas State Board of Podiatric Medical
 44 Examiners;
 45 (14) Board of Tax Professional Examiners;
 46 (15) [~~Polygraph Examiners Board;~~
 47 [~~16~~] Texas State Board of Examiners of

1 Psychologists;
2 (16) [~~17~~] State Board of Veterinary Medical
3 Examiners;
4 (17) [~~18~~] Texas Real Estate Commission;
5 (18) [~~19~~] Texas Appraiser Licensing and
6 Certification Board;
7 (19) [~~20~~] Texas Department of Licensing and
8 Regulation;
9 (20) [~~21~~] Texas State Board of Public Accountancy;
10 (21) [~~22~~] State Board for Educator Certification;
11 (22) [~~23~~] Texas Board of Professional Engineers;
12 (23) [~~24~~] Department of State Health Services;
13 (24) [~~25~~] Texas Board of Architectural Examiners;
14 (25) [~~26~~] Texas Racing Commission;
15 (26) [~~27~~] Commission on Law Enforcement Officer
16 Standards and Education; and
17 (27) [~~28~~] Texas Private Security Board.

18 SECTION 28. The following laws are repealed:
19 (1) Section 1703.005, Occupations Code;
20 (2) Section 1703.052, Occupations Code;
21 (3) Section 1703.053, Occupations Code;
22 (4) Section 1703.056, Occupations Code;
23 (5) Section 1703.057, Occupations Code;
24 (6) Subchapters C and D, Chapter 1703, Occupations
25 Code;
26 (7) Section 1703.204, Occupations Code;
27 (8) Section 1703.253, Occupations Code; and
28 (9) Section 1703.352, Occupations Code.

29 SECTION 29. As soon as possible after the effective date
30 of this Act, the presiding officer of the Texas Commission of
31 Licensing and Regulation shall appoint the members of the
32 Polygraph Advisory Committee in accordance with Chapter 1703,
33 Occupations Code, as amended by this Act. In making the initial
34 appointments, the presiding officer shall designate two members
35 for terms expiring February 1, 2011, two members for terms
36 expiring February 1, 2013, and one member for a term expiring
37 February 1, 2015.

38 SECTION 30. (a) The Polygraph Examiners Board is
39 abolished but continues in existence until January 1, 2010, for
40 the sole purpose of transferring obligations, property, full-
41 time equivalent positions, rights, powers, and duties to the
42 Texas Department of Licensing and Regulation. The department
43 assumes all of the obligations, property, full-time equivalent
44 positions, rights, powers, and duties of the board as it exists
45 immediately before the effective date of this Act. All
46 unexpended funds appropriated to the board are transferred to
47 the department. The transfer of the obligations, property,

1 full-time equivalent positions, rights, powers, and duties of
2 the board to the department must be completed not later than
3 January 1, 2010.

4 (b) All rules of the Polygraph Examiners Board are
5 continued in effect as rules of the Texas Commission of
6 Licensing and Regulation until superseded by a rule of the
7 commission. A license issued by the board is continued in
8 effect as provided by the law in effect immediately before the
9 effective date of this Act. A complaint, investigation,
10 contested case, or other proceeding pending on the effective
11 date of this Act is continued without change in status of the
12 parties after the effective date of this Act. An activity
13 conducted by the board is considered to be an activity conducted
14 by the department.

15 (c) A reference in another law or an administrative rule
16 to the Polygraph Examiners Board means the Texas Department of
17 Licensing and Regulation.

18 (d) Before July 15, 2009, the Department of Public Safety
19 of the State of Texas and the Texas Department of Licensing and
20 Regulation shall develop and enter into a memorandum of
21 understanding relating to the transfer of functions relating to
22 polygraph examiners from the Department of Public Safety to the
23 Texas Department of Licensing and Regulation as provided by this
24 Act. The memorandum must include a transition plan with a
25 timetable with specific steps and deadlines needed to complete
26 the transfer.

27 SECTION 31. This Act takes effect immediately if it
28 receives a vote of two-thirds of all the members elected to each
29 house, as provided by Section 39, Article III, Texas
30 Constitution. If this Act does not receive the vote necessary
31 for immediate effect, this Act takes effect September 1, 2009.

32
33 S.B. No. 1050
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38 AN ACT

39 relating to the release of certain information relating to child
40 fatalities resulting from abuse or neglect.

41 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

42 SECTION 1. Subsection (a), Section 261.201, Family Code,
43 is amended to read as follows:

44 (a) Except as provided by Section 261.203, the [The]
45 following information is confidential, is not subject to public
46 release under Chapter 552, Government Code, and may be disclosed
47 only for purposes consistent with this code and applicable

1 federal or state law or under rules adopted by an investigating
2 agency:

3 (1) a report of alleged or suspected abuse or neglect
4 made under this chapter and the identity of the person making
5 the report; and

6 (2) except as otherwise provided in this section, the
7 files, reports, records, communications, audiotapes, videotapes,
8 and working papers used or developed in an investigation under
9 this chapter or in providing services as a result of an
10 investigation.

11 SECTION 2. Subchapter C, Chapter 261, Family Code, is
12 amended by adding Section 261.203 to read as follows:

13 Sec. 261.203. INFORMATION RELATING TO CHILD FATALITY.

14 (a) Not later than the fifth day after the date the department
15 receives a request for information about a child fatality with
16 respect to which the department is conducting an investigation
17 of alleged abuse or neglect, the department shall release:

18 (1) the age and sex of the child;

19 (2) the date of death;

20 (3) whether the state was the managing conservator of
21 the child at the time of the child's death; and

22 (4) whether the child resided with the child's
23 parent, managing conservator, guardian, or other person entitled
24 to possession of the child at the time of the child's death.

25 (b) If, after a child abuse or neglect investigation is
26 completed, the department determines a child's death was caused
27 by abuse or neglect, the department shall promptly release the
28 following information on request:

29 (1) the information described by Subsection (a), if
30 not previously released to the person requesting the
31 information;

32 (2) for cases in which the child's death occurred
33 while the child was living with the child's parent, managing
34 conservator, guardian, or other person entitled to possession of
35 the child:

36 (A) a summary of any previous reports of abuse
37 or neglect of the deceased child or another child made while the
38 child was living with that parent, managing conservator,
39 guardian, or other person entitled to possession of the child;

40 (B) the disposition of any report under
41 Paragraph (A);

42 (C) a description of the services, if any, that
43 were provided by the department to the child or the child's
44 family as a result of any report under Paragraph (A); and

45 (D) the results of any risk or safety assessment
46 completed by the department relating to the deceased child; and

47 (3) for a case in which the child's death occurred

1 while the child was in substitute care with the department or
2 with a residential child-care provider regulated under Chapter
3 42, Human Resources Code, the following information:

4 (A) the date the substitute care provider with
5 whom the child was residing at the time of death was licensed or
6 verified;

7 (B) a summary of any previous reports of abuse
8 or neglect investigated by the department relating to the
9 substitute care provider, including the disposition of any
10 investigation resulting from a report;

11 (C) any reported licensing violations, including
12 notice of any action taken by the department regarding a
13 violation; and

14 (D) records of any training completed by the
15 substitute care provider while the child was placed with the
16 provider.

17 (c) If the department is unable to release the information
18 required by Subsection (b) before the 11th day after the date
19 the department receives a request for the information or the
20 date the investigation of the child fatality is completed,
21 whichever is later, the department shall inform the person
22 requesting the information of the date the department will
23 release the information.

24 (d) After receiving a request for information required by
25 Subsection (b), the department shall notify and provide a copy
26 of the request to the attorney ad litem for the deceased child,
27 if any.

28 (e) Before the department releases any information under
29 Subsection (b), the department shall redact from the records any
30 information the release of which would:

31 (1) identify:

32 (A) the individual who reported the abuse or
33 neglect; or

34 (B) any other individual other than the deceased
35 child or an alleged perpetrator of the abuse or neglect;

36 (2) jeopardize an ongoing criminal investigation or
37 prosecution;

38 (3) endanger the life or safety of any individual; or

39 (4) violate other state or federal law.

40 (f) The executive commissioner of the Health and Human
41 Services Commission shall adopt rules to implement this section.

42 SECTION 3. Section 261.203, Family Code, as added by this
43 Act, applies only to information relating to a child fatality
44 that occurs on or after the effective date of this Act.
45 Information relating to a child fatality that occurred before
46 the effective date of this Act is governed by the law as it
47 existed on the date the child fatality occurred, and the former

1 law is continued in effect for that purpose.

2 SECTION 4. This Act takes effect September 1, 2009.

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4 S.B. No. 1056

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9 AN ACT

10 relating to authorizing a criminal justice agency to disclose
11 certain criminal history record information and to orders of
12 disclosure regarding such information.

13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

14 SECTION 1. Section 411.081, Government Code, is amended by
15 adding Subsections (f-1) and (j) and amending Subsection (i) to
16 read as follows:

17 (f-1) In this subsection, "child" has the meaning assigned
18 by Section 51.02, Family Code. Notwithstanding any other
19 provision of this subchapter, on conviction of a child for a
20 misdemeanor offense punishable by fine only that does not
21 constitute conduct indicating a need for supervision under
22 Section 51.03, Family Code, the convicting court shall
23 immediately issue an order prohibiting criminal justice agencies
24 from disclosing to the public criminal history record
25 information related to the offense. A criminal justice agency
26 may disclose criminal history record information that is the
27 subject of the order only to other criminal justice agencies for
28 criminal justice purposes, to an agency or entity listed in
29 Subsection (j), or to the person who is the subject of the
30 order.

31 (i) A criminal justice agency may disclose criminal
32 history record information that is the subject of an order of
33 nondisclosure under Subsection (d) to the following noncriminal
34 justice agencies or entities only:

- 35 (1) the State Board for Educator Certification;
36 (2) a school district, charter school, private
37 school, regional education service center, commercial
38 transportation company, or education shared service arrangement;
39 (3) the Texas Medical Board;
40 (4) the Texas School for the Blind and Visually
41 Impaired;
42 (5) the Board of Law Examiners;
43 (6) the State Bar of Texas;
44 (7) a district court regarding a petition for name
45 change under Subchapter B, Chapter 45, Family Code;
46 (8) the Texas School for the Deaf;
47 (9) the Department of Family and Protective Services;

1 (10) the Texas Youth Commission;
2 (11) the Department of Assistive and Rehabilitative
3 Services;
4 (12) the Department of State Health Services, a local
5 mental health service, a local mental retardation authority, or
6 a community center providing services to persons with mental
7 illness or retardation;
8 (13) the Texas Private Security Board;
9 (14) a municipal or volunteer fire department;
10 (15) the Texas Board of Nursing;
11 (16) a safe house providing shelter to children in
12 harmful situations;
13 (17) a public or nonprofit hospital or hospital
14 district;
15 (18) the Texas Juvenile Probation Commission;
16 (19) the securities commissioner, the banking
17 commissioner, the savings and mortgage lending commissioner, or
18 the credit union commissioner;
19 (20) the Texas State Board of Public Accountancy;
20 (21) the Texas Department of Licensing and
21 Regulation;
22 (22) the Health and Human Services Commission;
23 (23) the Department of Aging and Disability Services;
24 [~~and~~]
25 (24) the Texas Education Agency;
26 (25) the Guardianship Certification Board; and
27 (26) a county clerk's office in relation to a
28 proceeding for the appointment of a guardian under Chapter XIII,
29 Texas Probate Code.
30 (j) A criminal justice agency may disclose criminal
31 history record information that is the subject of an order of
32 nondisclosure under Subsection (f-1) to the following agencies
33 or entities only:
34 (1) the Texas Youth Commission;
35 (2) the Texas Juvenile Probation Commission;
36 (3) the Department of State Health Services, a local
37 mental health or mental retardation authority, or a community
38 center providing services to persons with mental illness or
39 retardation;
40 (4) the Department of Family and Protective Services;
41 (5) a juvenile probation department;
42 (6) a municipal or county health department;
43 (7) a public or nonprofit hospital or hospital
44 district;
45 (8) a county department that provides services to at-
46 risk youth or their families;
47 (9) a children's advocacy center established under

1 Section 264.402, Family Code;

2 (10) a school district, charter school, private
3 school, regional education service center, commercial
4 transportation company, or education shared service arrangement;
5 and

6 (11) a safe house providing shelter to children in
7 harmful situations.

8 SECTION 2. Subsection (a), Section 411.0851, Government
9 Code, is amended to read as follows:

10 (a) A private entity that compiles and disseminates for
11 compensation criminal history record information shall destroy
12 and may not disseminate any information in the possession of the
13 entity with respect to which the entity has received notice
14 that:

15 (1) an order of expunction has been issued under
16 Article 55.02, Code of Criminal Procedure; or

17 (2) an order of nondisclosure has been issued under
18 Section 411.081(d) or (f-1).

19 SECTION 3. The heading to Section 552.142, Government
20 Code, is amended to read as follows:

21 Sec. 552.142. EXCEPTION: RECORDS OF CERTAIN DEFERRED
22 ADJUDICATIONS AND CERTAIN MISDEMEANORS PUNISHABLE BY FINE ONLY.

23 SECTION 4. Subsection (a), Section 552.142, Government
24 Code, is amended to read as follows:

25 (a) Information is excepted from the requirements of
26 Section 552.021 if an order of nondisclosure with respect to the
27 information has been issued under Section 411.081(d) or (f-1).

28 SECTION 5. Subsection (a), Section 552.1425, Government
29 Code, is amended to read as follows:

30 (a) A private entity that compiles and disseminates for
31 compensation criminal history record information may not compile
32 or disseminate information with respect to which the entity has
33 received notice that:

34 (1) an order of expunction has been issued under
35 Article 55.02, Code of Criminal Procedure; or

36 (2) an order of nondisclosure has been issued under
37 Section 411.081(d) or (f-1).

38 SECTION 6. The change in law made by this Act applies to a
39 conviction that occurs on or after the effective date of this
40 Act, regardless of whether the offense was committed before, on,
41 or after the effective date of this Act.

42 SECTION 7. Notwithstanding Section 6 of this Act, a child,
43 as that term is defined by Section 51.02, Family Code, who is
44 convicted of a misdemeanor offense punishable by fine only that
45 does not constitute conduct indicating a need for supervision
46 under Section 51.03, Family Code, before the effective date of
47 this Act may petition the court for an order of nondisclosure,

1 and the court shall issue the order under Subsection (f-1),
2 Section 411.081, Government Code, as added by this Act.

3 SECTION 8. This Act takes effect immediately if it
4 receives a vote of two-thirds of all the members elected to each
5 house, as provided by Section 39, Article III, Texas
6 Constitution. If this Act does not receive the vote necessary
7 for immediate effect, this Act takes effect September 1, 2009.

8
9 S.B. No. 1057

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14 AN ACT

15 relating to criminal history record information relating to
16 persons who are certified to provide guardianship services.

17 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

18 SECTION 1. Section 411.1386, Government Code, is amended
19 by amending Subsections (a), (b), (c), (d), and (e) and adding
20 Subsection (a-6) to read as follows:

21 (a) Except as provided by Subsections (a-1), ~~[and]~~ (a-5),
22 and (a-6), the clerk of the county having venue over a
23 proceeding for the appointment of a guardian under Chapter XIII,
24 Texas Probate Code, shall obtain from the department criminal
25 history record information maintained by the department that
26 relates to:

27 (1) a private professional guardian;

28 (2) each person who represents or plans to represent
29 the interests of a ward as a guardian on behalf of the private
30 professional guardian;

31 (3) each person employed by a private professional
32 guardian who will:

33 (A) have personal contact with a ward or
34 proposed ward;

35 (B) exercise control over and manage a ward's
36 estate; or

37 (C) perform any duties with respect to the
38 management of a ward's estate;

39 (4) each person employed by or volunteering or
40 contracting with a guardianship program to provide guardianship
41 services to a ward of the program on the program's behalf; or

42 (5) any other person proposed to serve as a guardian
43 under Chapter XIII, Texas Probate Code, including a proposed
44 temporary guardian and a proposed successor guardian, other than
45 the ward's or proposed ward's family member or an attorney.

46 (a-6) The clerk described by Subsection (a) is not
47 required to obtain criminal history record information for a

1 person who holds a certificate issued under Section 111.042 or a
2 provisional certificate issued under Section 111.0421 if the
3 Guardianship Certification Board conducted a criminal history
4 check on the person before issuing or renewing the certificate.
5 The board shall provide to the clerk at the court's request the
6 criminal history record information that was obtained from the
7 department or the Federal Bureau of Investigation.

8 (b) Criminal history record information obtained by or
9 provided to a clerk under Subsection (a), ~~or~~ (a-5), or (a-6)
10 is for the exclusive use of the court and is privileged and
11 confidential.

12 (c) Criminal history record information obtained by or
13 provided to a clerk under Subsection (a), ~~or~~ (a-5), or (a-6)
14 may not be released or disclosed to any person or agency except
15 on court order or with the consent of the person who is the
16 subject of the information. The clerk may destroy the criminal
17 history record information after the information is used for the
18 purposes authorized by this section.

19 (d) The criminal history record information obtained under
20 Subsection (a-4) is for the exclusive use of the court or
21 Guardianship Certification Board, as appropriate, and is
22 privileged and confidential. The information may not be
23 released or otherwise disclosed to any person or agency except
24 on court order, with the ~~or~~ consent of the person being
25 investigated, or as authorized by Subsection (a-6) or Section
26 698(a-6), Texas Probate Code. The county clerk or Guardianship
27 Certification Board may destroy the criminal history record
28 information after the information is used for the purposes
29 authorized by this section.

30 (e) The court, as that term is defined by Section 601,
31 Texas Probate Code, shall use the information obtained or
32 provided under Subsection (a), (a-4)(1), ~~or~~ (a-5), or (a-6)
33 only in determining whether to:

34 (1) appoint, remove, or continue the appointment of a
35 private professional guardian, a guardianship program, or the
36 Department of Aging and Disability Services; or

37 (2) appoint any other person proposed to serve as a
38 guardian under Chapter XIII, Texas Probate Code, including a
39 proposed temporary guardian and a proposed successor guardian,
40 other than the ward's or proposed ward's family member or an
41 attorney.

42 SECTION 2. Subsection (c), Section 411.1406, Government
43 Code, as added by Chapter 15 (S.B. 505), Acts of the 80th
44 Legislature, Regular Session, 2007, is amended to read as
45 follows:

46 (c) Criminal history record information obtained by the
47 board under Subsection (b):

1 (1) may be used by the board for any purpose related
2 to the issuance, denial, suspension, revocation, or renewal of a
3 certificate issued by the board;

4 (2) may not be released or disclosed to any person
5 except:

6 (A) on court order;

7 (B) ~~[or]~~ with the consent of the person who is
8 the subject of the information; or

9 (C) as authorized by Section 411.1386(a-6) of
10 this code or Section 698(a-6), Texas Probate Code; and

11 (3) shall be destroyed by the board after the
12 information is used for the authorized purposes.

13 SECTION 3. Section 698, Texas Probate Code, is amended by
14 amending Subsections (a), (b), and (b-1) and adding Subsection
15 (a-6) to read as follows:

16 (a) Except as provided by Subsections (a-1), ~~[and]~~ (a-5),
17 and (a-6) of this section, the clerk of the county having venue
18 over the proceeding for the appointment of a guardian shall
19 obtain criminal history record information that is maintained by
20 the Department of Public Safety or the Federal Bureau of
21 Investigation identification division relating to:

22 (1) a private professional guardian;

23 (2) each person who represents or plans to represent
24 the interests of a ward as a guardian on behalf of the private
25 professional guardian;

26 (3) each person employed by a private professional
27 guardian who will:

28 (A) have personal contact with a ward or
29 proposed ward;

30 (B) exercise control over and manage a ward's
31 estate; or

32 (C) perform any duties with respect to the
33 management of a ward's estate;

34 (4) each person employed by or volunteering or
35 contracting with a guardianship program to provide guardianship
36 services to a ward of the program on the program's behalf; or

37 (5) any other person proposed to serve as a guardian
38 under this chapter, including a proposed temporary guardian and
39 a proposed successor guardian, other than the ward's or proposed
40 ward's family member or an attorney.

41 (a-6) The clerk described by Subsection (a) of this
42 section is not required to obtain criminal history record
43 information for a person who holds a certificate issued under
44 Section 111.042, Government Code, or a provisional certificate
45 issued under Section 111.0421, Government Code, if the
46 Guardianship Certification Board conducted a criminal history
47 check on the person before issuing or renewing the certificate.

1 The board shall provide to the clerk at the court's request the
2 criminal history record information that was obtained from the
3 Department of Public Safety or the Federal Bureau of
4 Investigation.

5 (b) The criminal history record information obtained or
6 provided under Subsection (a), ~~[(a-5)]~~, or (a-6) of this
7 section is for the exclusive use of the court and is privileged
8 and confidential. The criminal history record information may
9 not be released or otherwise disclosed to any person or agency
10 except on court order or consent of the person being
11 investigated. The county clerk may destroy the criminal history
12 information records after the records are used for the purposes
13 authorized by this section.

14 (b-1) The criminal history record information obtained
15 under Subsection (a-4) of this section is for the exclusive use
16 of the court or Guardianship Certification Board, as
17 appropriate, and is privileged and confidential. The
18 information may not be released or otherwise disclosed to any
19 person or agency except on court order, with the ~~[(a-6)]~~ consent of
20 the person being investigated, or as authorized by Subsection
21 (a-6) of this section or Section 411.1386(a-6), Government Code.
22 The county clerk or Guardianship Certification Board may destroy
23 the criminal history record information after the information is
24 used for the purposes authorized by this section.

25 SECTION 4. The changes in law made by this Act apply to a
26 proceeding for the appointment of a guardian that is pending or
27 filed on or after the effective date of this Act.

28 SECTION 5. Notwithstanding Section 4 of this Act, the
29 requirement that the Guardianship Certification Board provide
30 criminal history record information to a county clerk on request
31 that is imposed by Subsection (a-6), Section 411.1386,
32 Government Code, as added by this Act, and Subsection (a-6),
33 Section 698, Texas Probate Code, as added by this Act, applies
34 only with respect to criminal history record information
35 obtained by the board on or after January 1, 2009.

36 SECTION 6. This Act takes effect immediately if it
37 receives a vote of two-thirds of all the members elected to each
38 house, as provided by Section 39, Article III, Texas
39 Constitution. If this Act does not receive the vote necessary
40 for immediate effect, this Act takes effect September 1, 2009.

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42 S.B. No. 1068
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AN ACT

1 relating to allowing a governmental body to redact certain
2 personal information under the public information law without
3 the necessity of requesting a decision from the attorney general
4 and allowing information about a public officer or public
5 employee to be withheld if disclosure would pose a substantial
6 risk of physical harm.

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

8 SECTION 1. Section 552.024, Government Code, is amended by
9 amending Subsection (c) and adding Subsections (c-1) and (c-2)
10 to read as follows:

11 (c) If the employee or official or former employee or
12 official chooses not to allow public access to the information:

13 (1) [7] the information is protected under Subchapter
14 C; and

15 (2) the governmental body may redact the information
16 from any information the governmental body discloses under
17 Section 552.021 without the necessity of requesting a decision
18 from the attorney general under Subchapter G.

19 (c-1) If, under Subsection (c)(2), a governmental body
20 redacts or withholds information without requesting a decision
21 from the attorney general about whether the information may be
22 redacted or withheld, the requestor is entitled to seek a
23 decision from the attorney general about the matter. The
24 attorney general by rule shall establish procedures and
25 deadlines for receiving information necessary to decide the
26 matter and briefs from the requestor, the governmental body, and
27 any other interested person. The attorney general shall
28 promptly render a decision requested under this subsection,
29 determining whether the redacted or withheld information was
30 excepted from required disclosure to the requestor, not later
31 than the 45th business day after the date the attorney general
32 received the request for a decision under this subsection. The
33 attorney general shall issue a written decision on the matter
34 and provide a copy of the decision to the requestor, the
35 governmental body, and any interested person who submitted
36 necessary information or a brief to the attorney general about
37 the matter. The requestor or the governmental body may appeal a
38 decision of the attorney general under this subsection to a
39 Travis County district court.

40 (c-2) A governmental body that redacts or withholds
41 information under Subsection (c)(2) shall provide the following
42 information to the requestor on a form prescribed by the
43 attorney general:

44 (1) a description of the redacted or withheld
45 information;

46 (2) a citation to this section; and

47 (3) instructions regarding how the requestor may seek

1 a decision from the attorney general regarding whether the
2 redacted or withheld information is excepted from required
3 disclosure.

4 SECTION 2. Section 552.1175, Government Code, is amended
5 by adding Subsections (f), (g), and (h) to read as follows:

6 (f) A governmental body may redact information that must
7 be withheld under Subsection (b) from any information the
8 governmental body discloses under Section 552.021 without the
9 necessity of requesting a decision from the attorney general
10 under Subchapter G.

11 (g) If, under Subsection (f), a governmental body redacts
12 or withholds information without requesting a decision from the
13 attorney general about whether the information may be redacted
14 or withheld, the requestor is entitled to seek a decision from
15 the attorney general about the matter. The attorney general by
16 rule shall establish procedures and deadlines for receiving
17 information necessary to decide the matter and briefs from the
18 requestor, the governmental body, and any other interested
19 person. The attorney general shall promptly render a decision
20 requested under this subsection, determining whether the
21 redacted or withheld information was excepted from required
22 disclosure to the requestor, not later than the 45th business
23 day after the date the attorney general received the request for
24 a decision under this subsection. The attorney general shall
25 issue a written decision on the matter and provide a copy of the
26 decision to the requestor, the governmental body, and any
27 interested person who submitted necessary information or a brief
28 to the attorney general about the matter. The requestor or the
29 governmental body may appeal a decision of the attorney general
30 under this subsection to a Travis County district court.

31 (h) A governmental body that redacts or withholds
32 information under Subsection (f) shall provide the following
33 information to the requestor on a form prescribed by the
34 attorney general:

35 (1) a description of the redacted or withheld
36 information;

37 (2) a citation to this section; and

38 (3) instructions regarding how the requestor may seek
39 a decision from the attorney general regarding whether the
40 redacted or withheld information is excepted from required
41 disclosure.

42 SECTION 3. Section 552.138, Government Code, is amended by
43 adding Subsections (c), (d), and (e) to read as follows:

44 (c) A governmental body may redact information maintained
45 by a family violence shelter center or sexual assault program
46 that may be withheld under Subsection (b)(1) or (6) from any
47 information the governmental body discloses under Section

1 552.021 without the necessity of requesting a decision from the
2 attorney general under Subchapter G.

3 (d) If, under Subsection (c), a governmental body redacts
4 or withholds information without requesting a decision from the
5 attorney general about whether the information may be redacted
6 or withheld, the requestor is entitled to seek a decision from
7 the attorney general about the matter. The attorney general by
8 rule shall establish procedures and deadlines for receiving
9 information necessary to decide the matter and briefs from the
10 requestor, the governmental body, and any other interested
11 person. The attorney general shall promptly render a decision
12 requested under this subsection, determining whether the
13 redacted or withheld information was excepted from required
14 disclosure to the requestor, not later than the 45th business
15 day after the date the attorney general received the request for
16 a decision under this subsection. The attorney general shall
17 issue a written decision on the matter and provide a copy of the
18 decision to the requestor, the governmental body, and any
19 interested person who submitted necessary information or a brief
20 to the attorney general about the matter. The requestor or the
21 governmental body may appeal a decision of the attorney general
22 under this subsection to a Travis County district court.

23 (e) A governmental body that redacts or withholds
24 information under Subsection (c) shall provide the following
25 information to the requestor on a form prescribed by the
26 attorney general:

27 (1) a description of the redacted or withheld
28 information;

29 (2) a citation to this section; and

30 (3) instructions regarding how the requestor may seek
31 a decision from the attorney general regarding whether the
32 redacted or withheld information is excepted from required
33 disclosure.

34 SECTION 4. Subchapter C, Chapter 552, Government Code, is
35 amended by adding Section 552.151 to read as follows:

36 Sec. 552.151. EXCEPTION: PUBLIC EMPLOYEE OR OFFICER
37 PERSONAL SAFETY. Information in the custody of a governmental
38 body that relates to an employee or officer of the governmental
39 body is excepted from the requirements of Section 552.021 if,
40 under the specific circumstances pertaining to the employee or
41 officer, disclosure of the information would subject the
42 employee or officer to a substantial threat of physical harm.

43 SECTION 5. This Act takes effect immediately if it
44 receives a vote of two-thirds of all the members elected to each
45 house, as provided by Section 39, Article III, Texas
46 Constitution. If this Act does not receive the vote necessary
47 for immediate effect, this Act takes effect September 1, 2009.

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6 AN ACT

7 relating to the required disclosure under the public information
8 law of information pertaining to an employee or trustee of a
9 public employee pension system.

10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

11 SECTION 1. Subchapter B, Chapter 552, Government Code, is
12 amended by adding Section 552.0221 to read as follows:

13 Sec. 552.0221. EMPLOYEE OR TRUSTEE OF PUBLIC EMPLOYEE
14 PENSION SYSTEM. (a) Information concerning the employment of
15 an employee of a public employee pension system is public
16 information under the terms of this chapter, including
17 information concerning the income, salary, benefits, and bonuses
18 received from the pension system by the employee in the person's
19 capacity as an employee of the system, and is not removed from
20 the application of this chapter, made confidential, or otherwise
21 excepted from the requirements of Section 552.021 by any statute
22 intended to protect the records of persons as members,
23 beneficiaries, or retirees of a public employee pension system
24 in their capacity as such.

25 (b) Information concerning the service of a trustee of a
26 public employee pension system is public information under the
27 terms of this chapter, including information concerning the
28 income, salary, benefits, and bonuses received from the pension
29 system by the trustee in the person's capacity as a trustee of
30 the system, and is not removed from the application of this
31 chapter, made confidential, or otherwise excepted from the
32 requirements of Section 552.021 by any statute intended to
33 protect the records of persons as members, beneficiaries, or
34 retirees of a public employee pension system in their capacity
35 as such.

36 (c) Information subject to Subsections (a) and (b) must be
37 released only to the extent the information is not excepted from
38 required disclosure under this subchapter or Subchapter C.

39 (d) For purposes of this section, "benefits" does not
40 include pension benefits provided to an individual by a pension
41 system under the statutory plan covering the individual as a
42 member, beneficiary, or retiree of the pension system.

43 SECTION 2. Section 552.0221, Government Code, as added by
44 this Act, applies only in relation to a request for public
45 information made on or after the effective date of this Act.

46 SECTION 3. This Act takes effect immediately if it
47 receives a vote of two-thirds of all the members elected to each

1 house, as provided by Section 39, Article III, Texas
2 Constitution. If this Act does not receive the vote necessary
3 for immediate effect, this Act takes effect September 1, 2009.

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5 S.B. No. 1081
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10 AN ACT

11 relating to access to criminal history record information by the
12 office of the attorney general.

13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

14 SECTION 1. Subchapter F, Chapter 411, Government Code, is
15 amended by adding Section 411.1271 to read as follows:

16 Sec. 411.1271. ACCESS TO CRIMINAL HISTORY RECORD
17 INFORMATION: OFFICE OF THE ATTORNEY GENERAL. (a) The office
18 of the attorney general is entitled to obtain from the
19 Department of Public Safety, the Federal Bureau of Investigation
20 identification division, or another law enforcement agency
21 criminal history record information maintained by the department
22 or agency that relates to a person who is an applicant for a
23 position of employment with the office of the attorney general
24 or an applicant to serve as a consultant, intern, or volunteer
25 for the office.

26 (b) The office of the attorney general is entitled to
27 obtain from the Department of Public Safety, the Federal Bureau
28 of Investigation identification division, or another law
29 enforcement agency criminal history record information
30 maintained by the department or agency that relates to a person
31 who proposes to enter into a contract with or who has a contract
32 with the office of the attorney general to supply goods or
33 services to the office of the attorney general. The
34 authorization under this subsection to obtain criminal history
35 record information about a person includes information relating
36 to an employee or subcontractor of the person or an employee of
37 the person's subcontractor.

38 (c) Criminal history record information obtained by the
39 office of the attorney general under Subsection (a) or (b) may
40 not be released or disclosed to any person except on court order
41 or with the consent of the person who is the subject of the
42 criminal history record information.

43 (d) The office of the attorney general shall destroy
44 criminal history record information that relates to a person
45 after the information is used for its authorized purpose.

46 SECTION 2. This Act takes effect immediately if it
47 receives a vote of two-thirds of all the members elected to each

1 house, as provided by Section 39, Article III, Texas
2 Constitution. If this Act does not receive the vote necessary
3 for immediate effect, this Act takes effect September 1, 2009.

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5 S.B. No. 1091
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10 AN ACT

11 relating to the establishment of the capital writs committee and
12 the office of capital writs and to the appointment and
13 compensation of certain counsel for indigent defendants in a
14 capital case.

15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

16 SECTION 1. Subtitle F, Title 2, Government Code, is
17 amended by adding Chapter 78 to read as follows:

18 CHAPTER 78. CAPITAL WRITS COMMITTEE AND OFFICE OF CAPITAL WRITS
19 SUBCHAPTER A. CAPITAL WRITS COMMITTEE

20 Sec. 78.001. DEFINITIONS. In this subchapter:

21 (1) "Committee" means the capital writs committee
22 established under this subchapter.

23 (2) "Office of capital writs" means the office of
24 capital writs established under Subchapter B.

25 Sec. 78.002. ESTABLISHMENT OF COMMITTEE; DUTIES. (a) The
26 capital writs committee is established.

27 (b) The committee shall recommend to the court of criminal
28 appeals as provided by Section 78.004 a director for the office
29 of capital writs when a vacancy exists for the position of
30 director.

31 Sec. 78.003. APPOINTMENT AND COMPOSITION OF COMMITTEE.

32 (a) The committee is composed of the following five members who
33 are appointed by the president of the State Bar of Texas, with
34 ratification by the executive committee of the State Bar of
35 Texas:

36 (1) three attorneys who are members of the State Bar
37 of Texas and who are not employed as prosecutors or law
38 enforcement officials, all of whom must have criminal defense
39 experience with death penalty proceedings in this state; and

40 (2) two state district judges, one of whom serves as
41 presiding judge of an administrative judicial region.

42 (b) The committee shall elect one member of the committee
43 to serve as the presiding officer of the committee.

44 (c) The committee members serve at the pleasure of the
45 president of the State Bar of Texas, and the committee meets at
46 the call of the presiding officer of the committee.

47 Sec. 78.004. RECOMMENDATION AND APPOINTMENT OF DIRECTOR OF

1 OFFICE OF CAPITAL WRITS. (a) The committee shall submit to the
2 court of criminal appeals, in order of the committee's
3 preference, a list of the names of not more than five persons
4 the committee recommends that the court consider in appointing
5 the director of the office of capital writs when a vacancy
6 exists for the position of director. If the committee finds
7 that three or more persons under the committee's consideration
8 are qualified to serve as the director of the office of capital
9 writs, the committee must include at least three names in the
10 list submitted under this subsection.

11 (b) Each person recommended to the court of criminal
12 appeals by the committee under Subsection (a):

13 (1) must exhibit proficiency and commitment to
14 providing quality representation to defendants in death penalty
15 cases, as described by the Guidelines and Standards for Texas
16 Capital Counsel, as published by the State Bar of Texas; and

17 (2) may not have been found by a state or federal
18 court to have rendered ineffective assistance of counsel during
19 the trial or appeal of a death penalty case.

20 (c) When a vacancy for the position exists, the court of
21 criminal appeals shall appoint from the list of persons
22 submitted to the court under Subsection (a) the director of the
23 office of capital writs.

24 [Sections 78.005-78.050 reserved for expansion]

25 SUBCHAPTER B. OFFICE OF CAPITAL WRITS

26 Sec. 78.051. DEFINITIONS. In this subchapter:

27 (1) "Committee" means the capital writs committee
28 established under Subchapter A.

29 (2) "Office" means the office of capital writs
30 established under this subchapter.

31 Sec. 78.052. ESTABLISHMENT; FUNDING. (a) The office of
32 capital writs is established and operates under the direction
33 and supervision of the director of the office.

34 (b) The office shall receive funds for personnel costs and
35 expenses:

36 (1) as specified in the General Appropriations Act;
37 and

38 (2) from the fair defense account under Section
39 71.058, in an amount sufficient to cover personnel costs and
40 expenses not covered by appropriations described by Subdivision
41 (1).

42 Sec. 78.053. DIRECTOR; STAFF. (a) The court of criminal
43 appeals shall appoint a director to direct and supervise the
44 operation of the office. The director serves a four-year term
45 and continues to serve until a successor has been appointed and
46 qualified. The court of criminal appeals may remove the
47 director only for good cause. The director may be reappointed

1 for a second or subsequent term.

2 (b) The director shall employ attorneys and employ or
3 retain licensed investigators and other personnel necessary to
4 perform the duties of the office. To be employed by the
5 director, an attorney may not have been found by a state or
6 federal court to have rendered ineffective assistance of counsel
7 during the trial or appeal of a death penalty case.

8 (c) The director and any attorney employed by the office
9 may not:

10 (1) engage in the private practice of criminal law;
11 or

12 (2) accept anything of value not authorized by law
13 for services rendered under this subchapter.

14 Sec. 78.054. POWERS AND DUTIES. (a) The office may not
15 accept an appointment under Article 11.071, Code of Criminal
16 Procedure, if:

17 (1) a conflict of interest exists;

18 (2) the office has insufficient resources to provide
19 adequate representation for the defendant;

20 (3) the office is incapable of providing
21 representation for the defendant in accordance with the rules of
22 professional conduct; or

23 (4) other good cause is shown for not accepting the
24 appointment.

25 (b) The office may not represent a defendant in a federal
26 habeas review. The office may not represent a defendant in an
27 action or proceeding in state court other than an action or
28 proceeding that:

29 (1) is conducted under Article 11.071, Code of
30 Criminal Procedure;

31 (2) is collateral to the preparation of an
32 application under Article 11.071, Code of Criminal Procedure; or

33 (3) concerns any other post-conviction matter in a
34 death penalty case other than a direct appeal, including an
35 action or proceeding under Article 46.05 or Chapter 64, Code of
36 Criminal Procedure.

37 (c) Notwithstanding Article 26.04(p), Code of Criminal
38 Procedure, the office may independently investigate the
39 financial condition of any person the office is appointed to
40 represent. The office shall report the results of the
41 investigation to the appointing judge. The judge may hold a
42 hearing to determine if the person is indigent and entitled to
43 representation under this section.

44 Sec. 78.055. COMPENSATION OF OTHER APPOINTED ATTORNEYS.
45 If it is necessary that an attorney other than an attorney
46 employed by the office be appointed, that attorney shall be
47 compensated as provided by Articles 11.071 and 26.05, Code of

1 Criminal Procedure.

2 Sec. 78.056. APPOINTMENT LIST. (a) The presiding judges
3 of the administrative judicial regions shall maintain a
4 statewide list of competent counsel available for appointment
5 under Section 2(f), Article 11.071, Code of Criminal Procedure,
6 if the office does not accept or is prohibited from accepting an
7 appointment under Section 78.054. Each attorney on the list:

8 (1) must exhibit proficiency and commitment to
9 providing quality representation to defendants in death penalty
10 cases; and

11 (2) may not have been found by a state or federal
12 court to have rendered ineffective assistance of counsel during
13 the trial or appeal of a death penalty case.

14 (b) The Office of Court Administration of the Texas
15 Judicial System and the Task Force on Indigent Defense shall
16 provide administrative support necessary under this section.

17 SECTION 2. Subsections (b), (c), (e), and (f), Section 2, Article
18 11.071, Code of Criminal Procedure, are amended to read as follows:

19 (b) If a defendant is sentenced to death the convicting
20 court, immediately after judgment is entered under Article
21 42.01, shall determine if the defendant is indigent and, if so,
22 whether the defendant desires appointment of counsel for the
23 purpose of a writ of habeas corpus. If the defendant desires
24 appointment of counsel for the purpose of a writ of habeas
25 corpus, the court shall appoint the office of capital writs to
26 represent the defendant as provided by Subsection (c).

27 (c) At the earliest practical time, but in no event later
28 than 30 days, after the convicting court makes the findings
29 required under Subsections (a) and (b), the convicting court
30 shall appoint the office of capital writs or, if the office of
31 capital writs does not accept or is prohibited from accepting an
32 appointment under Section 78.054, Government Code, other
33 competent counsel under Subsection (f), unless the applicant
34 elects to proceed pro se or is represented by retained counsel.
35 On appointing counsel under this section, the convicting court
36 shall immediately notify the court of criminal appeals of the
37 appointment, including in the notice a copy of the judgment and
38 the name, address, and telephone number of the appointed
39 counsel.

40 (e) If the court of criminal appeals denies an applicant
41 relief under this article, an attorney appointed under this
42 section to represent the applicant shall, not later than the
43 15th day after the date the court of criminal appeals denies
44 relief or, if the case is filed and set for submission, the 15th
45 day after the date the court of criminal appeals issues a
46 mandate on the initial application for a writ of habeas corpus
47 under this article, move for the appointment of ~~[to be appointed]~~

1 ~~as]~~ counsel in federal habeas review under 18 U.S.C. Section
2 3599 [~~21 U.S.C. Section 848(q) or equivalent provision or, if~~
3 ~~necessary, move for the appointment of other counsel under 21~~
4 ~~U.S.C. Section 848(q) or equivalent provision]~~. The attorney
5 shall immediately file a copy of the motion with the court of
6 criminal appeals, and if the attorney fails to do so, the court
7 may take any action to ensure that the applicant's right to
8 federal habeas review is protected, including initiating
9 contempt proceedings against the attorney.

10 (f) If the office of capital writs does not accept or is
11 prohibited from accepting an appointment under Section 78.054,
12 Government Code, the [The] convicting court shall appoint
13 counsel from a list of competent counsel maintained by the
14 presiding judges of the administrative judicial regions under
15 Section 78.056, Government Code. The convicting court shall
16 reasonably compensate as provided by Section 2A an attorney
17 appointed under this section, other than an attorney employed by
18 the office of capital writs, regardless of whether the attorney
19 is appointed by the convicting court or was appointed by the
20 court of criminal appeals under prior law. An attorney
21 appointed under this section who is employed by the office of
22 capital writs shall be compensated in accordance with Subchapter
23 B, Chapter 78, Government Code.

24 SECTION 3. Subsection (a), Section 2A, Article 11.071,
25 Code of Criminal Procedure, is amended to read as follows:

26 (a) The state shall reimburse a county for compensation of
27 counsel under Section 2, other than for compensation of counsel
28 employed by the office of capital writs, and for payment of
29 expenses under Section 3, regardless of whether counsel is
30 employed by the office of capital writs. The total amount of
31 reimbursement to which a county is entitled under this section
32 for an application under this article may not exceed \$25,000.
33 Compensation and expenses in excess of the \$25,000 reimbursement
34 provided by the state are the obligation of the county.

35 SECTION 4. Section 3, Article 11.071, Code of Criminal
36 Procedure, is amended by adding Subsection (f) to read as
37 follows:

38 (f) This section applies to counsel's investigation of the
39 factual and legal grounds for the filing of an application for a
40 writ of habeas corpus, regardless of whether counsel is employed
41 by the office of capital writs.

42 SECTION 5. Subsections (e) and (f), Section 4A, Article
43 11.071, Code of Criminal Procedure, are amended to read as
44 follows:

45 (e) Sections 2A and 3 apply to compensation and
46 reimbursement of counsel appointed under Subsection (b)(3) in
47 the same manner as if counsel had been appointed by the

1 convicting court, unless the attorney is employed by the office
2 of capital writs, in which case the compensation of that
3 attorney is governed by Subchapter B, Chapter 78, Government
4 Code.

5 (f) Notwithstanding any other provision of this article,
6 the court of criminal appeals shall appoint counsel and
7 establish a new filing date for application, which may be no
8 later than the 270th day after the date on which counsel is
9 appointed, for each applicant who before September 1, 1999,
10 filed an untimely application or failed to file an application
11 before the date required by Section 4(a) or (b). Section 2A
12 applies to the compensation and payment of expenses of counsel
13 appointed by the court of criminal appeals under this
14 subsection, unless the attorney is employed by the office of
15 capital writs, in which case the compensation of that attorney
16 is governed by Subchapter B, Chapter 78, Government Code.

17 SECTION 6. Subsection (b), Article 26.04, Code of Criminal
18 Procedure, is amended to read as follows:

19 (b) Procedures adopted under Subsection (a) shall:

20 (1) authorize only the judges of the county courts,
21 statutory county courts, and district courts trying criminal
22 cases in the county, or the judges' designee, to appoint counsel
23 for indigent defendants in the county;

24 (2) apply to each appointment of counsel made by a
25 judge or the judges' designee in the county;

26 (3) ensure that each indigent defendant in the county
27 who is charged with a misdemeanor punishable by confinement or
28 with a felony and who appears in court without counsel has an
29 opportunity to confer with appointed counsel before the
30 commencement of judicial proceedings;

31 (4) require appointments for defendants in capital
32 cases in which the death penalty is sought to comply with any
33 applicable [~~the~~] requirements under Articles 11.071 and
34 [~~Article~~] 26.052;

35 (5) ensure that each attorney appointed from a public
36 appointment list to represent an indigent defendant perform the
37 attorney's duty owed to the defendant in accordance with the
38 adopted procedures, the requirements of this code, and
39 applicable rules of ethics; and

40 (6) ensure that appointments are allocated among
41 qualified attorneys in a manner that is fair, neutral, and
42 nondiscriminatory.

43 SECTION 7. Subsection (a), Article 26.044, Code of
44 Criminal Procedure, is amended by adding Subdivision (3) to read
45 as follows:

46 (3) "Office of capital writs" means the office of
47 capital writs established under Subchapter B, Chapter 78,

1 Government Code.

2 SECTION 8. Article 26.044, Code of Criminal Procedure, is
3 amended by adding Subsection (n) to read as follows:

4 (n) An attorney employed by a public defender's office may
5 be appointed with respect to an application for a writ of habeas
6 corpus only if:

7 (1) an attorney employed by the office of capital
8 writs is not appointed in the case; and

9 (2) the attorney employed by the public defender's
10 office is on the list of competent counsel maintained under
11 Section 78.056, Government Code.

12 SECTION 9. Subsection (a), Article 26.05, Code of Criminal
13 Procedure, is amended to read as follows:

14 (a) A counsel, other than an attorney with a public
15 defender or an attorney employed by the office of capital writs,
16 appointed to represent a defendant in a criminal proceeding,
17 including a habeas corpus hearing, shall be paid a reasonable
18 attorney's fee for performing the following services, based on
19 the time and labor required, the complexity of the case, and the
20 experience and ability of the appointed counsel:

21 (1) time spent in court making an appearance on
22 behalf of the defendant as evidenced by a docket entry, time
23 spent in trial, and time spent in a proceeding in which sworn
24 oral testimony is elicited;

25 (2) reasonable and necessary time spent out of court
26 on the case, supported by any documentation that the court
27 requires;

28 (3) preparation of an appellate brief and preparation
29 and presentation of oral argument to a court of appeals or the
30 Court of Criminal Appeals; and

31 (4) preparation of a motion for rehearing.

32 SECTION 10. Section 71.058, Government Code, is amended to
33 read as follows:

34 Sec. 71.058. FAIR DEFENSE ACCOUNT. The fair defense
35 account is an account in the general revenue fund that may be
36 appropriated only to:

37 (1) the Task Force on Indigent Defense for the
38 purpose of implementing this subchapter; and

39 (2) the office of capital writs for the purpose of
40 implementing Subchapter B, Chapter 78.

41 SECTION 11. Subsection (d), Section 2, Article 11.071,
42 Code of Criminal Procedure, is repealed, effective January 1,
43 2010.

44 SECTION 12. (a) Not later than January 1, 2010, in
45 accordance with Section 78.056, Government Code, as added by
46 this Act, the presiding judges of the administrative judicial
47 regions shall complete the statewide list of competent counsel

1 available for appointment to represent defendants in
2 applications for writs of habeas corpus.

3 (b) Not later than January 15, 2010, the president of the
4 State Bar of Texas shall appoint the members of the capital
5 writs committee.

6 (c) Not later than May 15, 2010, the capital writs
7 committee shall submit to the Texas Court of Criminal Appeals
8 the list of candidates for the position of the director of the
9 office of capital writs.

10 (d) Not later than September 1, 2010, the Texas Court of
11 Criminal Appeals shall appoint the director of the office of
12 capital writs under Chapter 78, Government Code, as added by
13 this Act.

14 SECTION 13. This Act takes effect September 1, 2009.

15
16 S.B. No. 1093

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AN ACT

22 relating to the operation of commercial motor vehicles and
23 vehicles used exclusively to transport waste.

24 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

25 SECTION 1. Subdivision (5), Section 522.003,
26 Transportation Code, is amended to read as follows:

27 (5) "Commercial motor vehicle" means a motor vehicle
28 or combination of motor vehicles used to transport passengers or
29 property that:

30 (A) has a gross combination weight or a gross
31 combination weight rating of 26,001 or more pounds, including a
32 towed unit with a gross vehicle weight or a gross vehicle weight
33 rating of more than 10,000 pounds;

34 (B) has a gross vehicle weight or a gross
35 vehicle weight rating of 26,001 or more pounds;

36 (C) is designed to transport 16 or more
37 passengers, including the driver; or

38 (D) is transporting hazardous materials and is
39 required to be placarded under 49 C.F.R. Part 172, Subpart F.

40 SECTION 2. Subsection (a), Section 522.072, Transportation
41 Code, as amended by Chapters 13 (S.B. 332) and 424 (S.B. 1372),
42 Acts of the 80th Legislature, Regular Session, 2007, is
43 reenacted to read as follows:

44 (a) An employer may not knowingly permit a person to drive
45 a commercial motor vehicle during a period in which:

46 (1) the person has been denied the privilege of
47 driving a commercial motor vehicle;

1 (2) the person is disqualified from driving a
2 commercial motor vehicle;

3 (3) the person, the person's employer, or the vehicle
4 being operated is subject to an out-of-service order in a state;
5 or

6 (4) the person has more than one commercial driver's
7 license, except during the 10-day period beginning on the date
8 the person is issued a driver's license.

9 SECTION 3. Subsection (b), Section 545.301, Transportation
10 Code, is amended to read as follows:

11 (b) This section does not apply to an operator of:

12 (1) a vehicle that is disabled while on the paved or
13 main traveled part of a highway if it is impossible to avoid
14 stopping and temporarily leaving the vehicle on the highway; or

15 (2) a vehicle used exclusively to transport solid,
16 semisolid, or liquid waste operated at the time in connection
17 with the removal or transportation of solid, semisolid, or
18 liquid waste from a location adjacent to the highway.

19 SECTION 4. This Act takes effect September 1, 2009.

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21 S.B. No. 1095
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26 AN ACT

27 relating to the licensing and regulation of used automotive
28 parts recyclers; providing penalties.

29 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

30 SECTION 1. Subdivision (6), Section 2302.001, Occupations
31 Code, is amended to read as follows:

32 (6) "Salvage vehicle agent" means a person who
33 acquires, sells, or otherwise deals in nonrepairable or salvage
34 motor vehicles [~~or used parts~~] in this state as directed by the
35 salvage vehicle dealer under whose license the person operates.
36 The term does not include a person who:

37 (A) is a licensed salvage vehicle dealer or a
38 licensed used automotive parts recycler;

39 (B) is a partner, owner, or officer of a
40 business entity that holds a salvage vehicle dealer license or a
41 used automotive parts recycler license;

42 (C) is an employee of a licensed salvage vehicle
43 dealer or a licensed used automotive parts recycler; or

44 (D) only transports salvage motor vehicles for a
45 licensed salvage vehicle dealer or a licensed used automotive
46 parts recycler.

47 SECTION 2. Subsection (b), Section 2302.006, Occupations

1 Code, is amended to read as follows:

2 (b) This chapter applies to a transaction in which a motor
3 vehicle:

4 (1) is sold, transferred, released, or delivered to a
5 metal recycler for the purpose of reuse or resale as a motor
6 vehicle [~~or as a source of used parts~~]; and

7 (2) is used for that purpose.

8 SECTION 3. Subchapter A, Chapter 2302, Occupations Code,
9 is amended by adding Section 2302.008 to read as follows:

10 Sec. 2302.008. APPLICABILITY OF CHAPTER TO USED AUTOMOTIVE
11 PARTS RECYCLERS. This chapter does not apply to a used
12 automotive parts recycler licensed under Chapter 2309.

13 SECTION 4. Subsection (b), Section 2302.103, Occupations
14 Code, is amended to read as follows:

15 (b) An applicant may apply for a salvage vehicle dealer
16 license with an endorsement in one or more of the following
17 classifications:

18 (1) new automobile dealer;

19 (2) used automobile dealer;

20 (3) [~~used vehicle parts dealer~~;

21 [+4)] salvage pool operator;

22 (4) [+5)] salvage vehicle broker; or

23 (5) [+6)] salvage vehicle rebuilder.

24 SECTION 5. Subsection (d), Section 2302.107, Occupations
25 Code, is amended to read as follows:

26 (d) A salvage vehicle agent may acquire, sell, or
27 otherwise deal in, nonrepairable or salvage motor vehicles [~~or~~
28 ~~used parts~~] as directed by the authorizing dealer.

29 SECTION 6. Section 2302.202, Occupations Code, is amended
30 to read as follows:

31 Sec. 2302.202. RECORDS OF PURCHASES. A salvage vehicle
32 dealer shall maintain a record of each salvage motor vehicle
33 [~~and each used part~~] purchased or sold by the dealer.

34 SECTION 7. Subtitle A, Title 14, Occupations Code, is
35 amended by adding Chapter 2309 to read as follows:

36 CHAPTER 2309. USED AUTOMOTIVE PARTS RECYCLERS

37 SUBCHAPTER A. GENERAL PROVISIONS

38 Sec. 2309.001. SHORT TITLE. This chapter may be cited as
39 the Texas Used Automotive Parts Recycling Act.

40 Sec. 2309.002. DEFINITIONS. In this chapter:

41 (1) "Insurance company," "metal recycler," "motor
42 vehicle," "nonrepairable motor vehicle," "nonrepairable vehicle
43 title," "salvage motor vehicle," "salvage vehicle title," and
44 "salvage vehicle dealer" have the meanings assigned by Section
45 501.091, Transportation Code.

46 (2) "Commission" means the Texas Commission of
47 Licensing and Regulation.

1 (3) "Department" means the Texas Department of
2 Licensing and Regulation.

3 (4) "Executive director" means the executive director
4 of the department.

5 (5) "Used automotive part" has the meaning assigned
6 to "used part" by Section 501.091, Transportation Code.

7 (6) "Used automotive parts recycler" means a person
8 licensed under this chapter to operate a used automotive parts
9 recycling business.

10 (7) "Used automotive parts recycling" means the
11 dismantling and reuse or resale of used automotive parts and the
12 safe disposal of salvage motor vehicles or nonrepairable motor
13 vehicles, including the resale of those vehicles.

14 Sec. 2309.003. APPLICABILITY OF CHAPTER TO METAL
15 RECYCLERS. (a) Except as provided by Subsection (b), this
16 chapter does not apply to a transaction to which a metal
17 recycler is a party.

18 (b) This chapter applies to a transaction in which a motor
19 vehicle:

20 (1) is sold, transferred, released, or delivered to a
21 metal recycler as a source of used automotive parts; and

22 (2) is used as a source of used automotive parts.

23 Sec. 2309.004. APPLICABILITY OF CHAPTER TO SALVAGE VEHICLE
24 DEALERS. (a) Except as provided by Subsection (b), this
25 chapter does not apply to a transaction in which a salvage
26 vehicle dealer is a party.

27 (b) This chapter applies to a salvage vehicle dealer who
28 deals in used automotive parts as more than an incidental part
29 of the salvage vehicle dealer's primary business.

30 Sec. 2309.005. APPLICABILITY OF CHAPTER TO INSURANCE
31 COMPANIES. This chapter does not apply to an insurance company.

32 [Sections 2309.006-2309.050 reserved for expansion]

33 SUBCHAPTER B. ADVISORY BOARD

34 Sec. 2309.051. USED AUTOMOTIVE PARTS RECYCLING ADVISORY
35 BOARD. (a) The advisory board consists of five members
36 representing the used automotive parts industry in this state
37 appointed by the presiding officer of the commission with the
38 approval of the commission.

39 (b) The advisory board shall include members who represent
40 used automotive parts businesses owned by domestic entities, as
41 defined by Section 1.002, Business Organizations Code.

42 (c) The advisory board shall include one member who
43 represents a used automotive parts business owned by a foreign
44 entity, as defined by Section 1.002, Business Organizations
45 Code.

46 (d) The advisory board may not include more than one
47 member from any one used automotive parts business entity.

1 (e) Appointments to the advisory board shall be made
2 without regard to the race, color, disability, sex, religion,
3 age, or national origin of the appointee.

4 Sec. 2309.052. TERMS; VACANCIES. (a) Advisory board
5 members serve terms of six years, with the terms of one or two
6 members expiring on February 1 of each odd-numbered year.

7 (b) A member may not serve more than two full consecutive
8 terms.

9 (c) If a vacancy occurs during a term, the presiding
10 officer of the commission shall appoint a replacement who meets
11 the qualifications of the vacated position to serve for the
12 remainder of the term.

13 Sec. 2309.053. PRESIDING OFFICER. The presiding officer
14 of the commission shall appoint one of the advisory board
15 members to serve as presiding officer of the advisory board for
16 a term of one year. The presiding officer of the advisory board
17 may vote on any matter before the advisory board.

18 Sec. 2309.054. POWERS AND DUTIES OF ADVISORY BOARD. The
19 advisory board shall provide advice and recommendations to the
20 department on technical matters relevant to the administration
21 and enforcement of this chapter, including licensing standards.

22 Sec. 2309.055. COMPENSATION; REIMBURSEMENT OF EXPENSES.
23 Advisory board members may not receive compensation but are
24 entitled to reimbursement for actual and necessary expenses
25 incurred in performing the functions of the advisory board,
26 subject to the General Appropriations Act.

27 Sec. 2309.056. MEETINGS. The advisory board shall meet
28 twice annually and may meet at other times at the call of the
29 presiding officer of the commission or the executive director.

30 [Sections 2309.057-2309.100 reserved for expansion]

31 SUBCHAPTER C. POWERS AND DUTIES OF COMMISSION AND DEPARTMENT

32 Sec. 2309.101. GENERAL POWERS AND DUTIES. The executive
33 director or commission, as appropriate, may take action as
34 necessary to administer and enforce this chapter.

35 Sec. 2309.102. RULES. (a) The commission shall adopt
36 rules for licensing used automotive parts recyclers and used
37 automotive parts employees.

38 (b) The commission by rule shall adopt standards of
39 conduct for license holders under this chapter.

40 Sec. 2309.103. RULES REGARDING LICENSING AND STANDARDS OF
41 CONDUCT. (a) The commission shall adopt rules for licensing
42 applicants, including rules for denial of an application if the
43 applicant, a partner, principal, officer, or general manager of
44 the applicant, or another license or permit holder with a
45 connection to the applicant, has:

46 (1) before the application date, been convicted of,
47 pleaded guilty or nolo contendere to, or been placed on deferred

1 adjudication for:
2 (A) a felony; or
3 (B) a misdemeanor punishable by confinement in
4 jail or by a fine exceeding \$500;
5 (2) violated an order of the commission or executive
6 director, including an order for sanctions or administrative
7 penalties; or
8 (3) knowingly submitted false information on the
9 application.
10 (b) The commission by rule shall adopt standards of
11 conduct for license holders under this chapter.
12 Sec. 2309.104. FEES. The commission shall establish and
13 collect reasonable and necessary fees in amounts sufficient to
14 cover the costs of administering this chapter.
15 Sec. 2309.105. RULES RESTRICTING ADVERTISING OR
16 COMPETITIVE BIDDING. (a) The commission may not adopt a rule
17 restricting advertising or competitive bidding by a person who
18 holds a license issued under this chapter except to prohibit
19 false, misleading, or deceptive practices by the person.
20 (b) The commission may not include in its rules to
21 prohibit false, misleading, or deceptive practices a rule that:
22 (1) restricts the use of any advertising medium;
23 (2) restricts the person's personal appearance or use
24 of the person's voice in an advertisement;
25 (3) relates to the size or duration of an
26 advertisement by the person; or
27 (4) restricts the use of a trade name in advertising
28 by the person.
29 Sec. 2309.106. PERIODIC AND RISK-BASED INSPECTIONS.
30 (a) The department shall inspect each used automotive parts
31 recycling facility at least once every two years.
32 (b) The department may enter and inspect at any time
33 during business hours:
34 (1) the place of business of any person regulated
35 under this chapter; or
36 (2) any place in which the department has reasonable
37 cause to believe that a license holder is in violation of this
38 chapter or in violation of a rule or order of the commission or
39 executive director.
40 (c) The department shall conduct additional inspections
41 based on a schedule of risk-based inspections using the
42 following criteria:
43 (1) the inspection history;
44 (2) any history of complaints involving a used
45 automotive parts recycler; and
46 (3) any other factor determined by the commission by
47 rule.

1 (d) A used automotive parts recycler shall pay a fee for
2 each risk-based inspection performed under this section. The
3 commission by rule shall set the amount of the fee.

4 (e) In conducting an inspection under this section, the
5 department may inspect a facility, a used automotive part, a
6 business record, or any other place or thing reasonably required
7 to enforce this chapter or a rule or order adopted under this
8 chapter.

9 Sec. 2309.107. PERSONNEL. The department may employ
10 personnel necessary to administer and enforce this chapter.

11 [Sections 2309.108-2309.150 reserved for expansion]

12 SUBCHAPTER D. LICENSE REQUIREMENTS

13 Sec. 2309.151. USED AUTOMOTIVE PARTS RECYCLER LICENSE
14 REQUIRED. (a) Unless the person holds a used automotive parts
15 recycler license issued under this chapter, a person may not own
16 or operate a used automotive parts recycling business or sell
17 used automotive parts.

18 (b) A used automotive parts recycler license:

19 (1) is valid only with respect to the person who
20 applied for the license; and

21 (2) authorizes the license holder to operate a used
22 automotive parts recycling business only at the one facility
23 listed on the license.

24 Sec. 2309.152. GENERAL LICENSE APPLICATION REQUIREMENTS.
25 An applicant for a used automotive parts recycler license under
26 this chapter must submit to the department:

27 (1) a completed application on a form prescribed by
28 the executive director;

29 (2) the required fees; and

30 (3) any other information required by commission
31 rule.

32 Sec. 2309.153. LICENSE REQUIREMENTS. An applicant for a
33 used automotive parts recycler license under this chapter must
34 provide in a manner prescribed by the executive director:

35 (1) a federal tax identification number;

36 (2) proof of general liability insurance in an amount
37 not less than \$250,000; and

38 (3) proof of a storm water permit if the applicant is
39 required by the Texas Commission on Environmental Quality to
40 obtain a permit.

41 Sec. 2309.154. USED AUTOMOTIVE PARTS EMPLOYEE LICENSE
42 REQUIRED. (a) A person employed by a used automotive parts
43 recycler may not in the scope of the person's employment acquire
44 a vehicle or used automotive parts and may not sell used
45 automotive parts unless the person holds a used automotive parts
46 employee license issued under this chapter.

47 (b) The commission by rule shall adopt requirements for

1 the application for and issuance of a used automotive parts
2 employee license under this chapter.

3 Sec. 2309.155. NONTRANSFERABILITY OF LICENSE. A license
4 issued by the executive director is valid throughout this state
5 and is not transferable.

6 Sec. 2309.156. LICENSE RENEWAL. (a) A license issued
7 under this chapter is valid for one year. The department may
8 adopt a system under which licenses expire at different times
9 during the year.

10 (b) The department shall notify the license holder at
11 least 30 days before the date a license expires. The notice
12 must be in writing and sent to the license holder's last known
13 address according to the records of the department.

14 (c) The commission by rule shall adopt requirements to
15 renew a license issued under this chapter.

16 [Sections 2309.157-2309.200 reserved for expansion]

17 SUBCHAPTER E. LOCAL REGULATION

18 Sec. 2309.201. APPLICABILITY OF CERTAIN MUNICIPAL
19 ORDINANCES, LICENSES, AND PERMITS. (a) The requirements of
20 this chapter apply in addition to the requirements of any
21 applicable municipal ordinance relating to the regulation of a
22 person who deals in used automotive parts.

23 (b) This chapter does not prohibit the enforcement of an
24 applicable municipal license or permit requirement that is
25 related to an activity regulated under this chapter.

26 [Sections 2309.202-2309.250 reserved for expansion]

27 SUBCHAPTER F. ENFORCEMENT

28 Sec. 2309.251. ADMINISTRATIVE PENALTY. (a) The
29 commission may impose an administrative penalty on a person
30 under Subchapter F, Chapter 51, regardless of whether the person
31 holds a license under this chapter, if the person violates:

32 (1) this chapter or a rule adopted under this
33 chapter; or

34 (2) a rule or order of the executive director or
35 commission.

36 (b) An administrative penalty may not be imposed unless
37 the person charged with a violation is provided the opportunity
38 for a hearing.

39 Sec. 2309.252. CEASE AND DESIST ORDER; INJUNCTION; CIVIL
40 PENALTY. (a) The executive director may issue a cease and
41 desist order as necessary to enforce this chapter if the
42 executive director determines that the action is necessary to
43 prevent a violation of this chapter and to protect public health
44 and safety.

45 (b) The attorney general or executive director may
46 institute an action for an injunction or a civil penalty under
47 this chapter as provided by Section 51.352.

1 Sec. 2309.253. SANCTIONS. The department may impose
2 sanctions as provided by Section 51.353.

3 Sec. 2309.254. CRIMINAL PENALTY; LICENSING. (a) A person
4 commits an offense if the person:

5 (1) violates the licensing requirements of this
6 chapter;

7 (2) deals in used parts without a license required by
8 this chapter; or

9 (3) employs an individual who does not hold the
10 appropriate license required by this chapter.

11 (b) An offense under this section is a Class C
12 misdemeanor.

13 [Sections 2309.255-2309.300 reserved for expansion]

14 SUBCHAPTER G. CONDUCTING BUSINESS

15 Sec. 2309.301. DUTIES ON ACQUISITION OF SALVAGE MOTOR
16 VEHICLE. (a) A used automotive parts recycler who acquires
17 ownership of a salvage motor vehicle shall obtain a properly
18 assigned title from the previous owner of the vehicle.

19 (b) A used automotive parts recycler who acquires
20 ownership of a motor vehicle, nonrepairable motor vehicle, or
21 salvage motor vehicle for the purpose of dismantling, scrapping,
22 or destroying the motor vehicle, shall, before the 31st day
23 after the date of acquiring the motor vehicle, submit to the
24 Texas Department of Transportation a properly assigned
25 manufacturer's certificate of origin, regular certificate of
26 title, nonrepairable vehicle title, salvage vehicle title, other
27 ownership document, or comparable out-of-state ownership
28 document for the motor vehicle.

29 (c) After receiving the title or document, the Texas
30 Department of Transportation shall issue the used automotive
31 parts recycler a receipt for the manufacturer's certificate of
32 origin, regular certificate of title, nonrepairable vehicle
33 title, salvage vehicle title, other ownership document, or
34 comparable out-of-state ownership document.

35 (d) The recycler shall comply with Subchapter E, Chapter
36 501, Transportation Code.

37 Sec. 2309.302. RECORDS OF PURCHASES. A used automotive
38 parts recycler shall maintain a record of or sales receipt for
39 each motor vehicle, salvage motor vehicle, nonrepairable motor
40 vehicle, and used automotive part purchased.

41 Sec. 2309.303. REGISTRATION OF NEW BUSINESS LOCATION.
42 Before moving a place of business, a used automotive parts
43 recycler must notify the department of the new location. The
44 used automotive parts recycler shall provide a storm water
45 permit for the location if a permit is required by the Texas
46 Commission on Environmental Quality.

47 [Sections 2309.304-2309.350 reserved for expansion]

1 SUBCHAPTER H. ADDITIONAL DUTIES OF USED AUTOMOTIVE PARTS
2 RECYCLER IN CONNECTION WITH MOTOR VEHICLE COMPONENT PARTS

3 Sec. 2309.351. DEFINITIONS. In this subchapter:

4 (1) "Component part" means a major component part as
5 defined by Section 501.091, Transportation Code, or a minor
6 component part.

7 (2) "Interior component part" means a motor vehicle's
8 seat or radio.

9 (3) "Minor component part" means an interior
10 component part, a special accessory part, or a motor vehicle
11 part that displays or should display at least one of the
12 following:

13 (A) a federal safety certificate;

14 (B) a motor number;

15 (C) a serial number or a derivative; or

16 (D) a manufacturer's permanent vehicle
17 identification number or a derivative.

18 (4) "Special accessory part" means a motor vehicle's
19 tire, wheel, tailgate, or removable glass top.

20 Sec. 2309.352. REMOVAL OF LICENSE PLATES. Immediately on
21 receipt of a motor vehicle, a used automotive parts recycler
22 shall:

23 (1) remove any unexpired license plates from the
24 vehicle; and

25 (2) place the license plates in a secure place until
26 destroyed by the used automotive parts recycler.

27 Sec. 2309.353. DISMANTLEMENT OR DISPOSITION OF MOTOR
28 VEHICLE. A used automotive parts recycler may not dismantle or
29 dispose of a motor vehicle unless the recycler first obtains:

30 (1) a certificate of authority to dispose of the
31 vehicle, a sales receipt, or a transfer document for the vehicle
32 issued under Chapter 683, Transportation Code; or

33 (2) a certificate of title showing that there are no
34 liens on the vehicle or that all recorded liens have been
35 released.

36 Sec. 2309.354. RECORD OF PURCHASE; INVENTORY OF PARTS.

37 (a) A used automotive parts recycler shall keep an accurate and
38 legible record of each used component part purchased by or
39 delivered to the recycler. The record must include:

40 (1) the date of purchase or delivery;

41 (2) the driver's license number of the seller and a
42 legible photocopy of the seller's driver's license; and

43 (3) a description of the part and, if applicable, the
44 make and model of the part.

45 (b) As an alternative to the information required by
46 Subsection (a), a used automotive parts recycler may record:

47 (1) the name of the person who sold the part or the

1 motor vehicle from which the part was obtained; and

2 (2) the Texas certificate of inventory number or the
3 federal taxpayer identification number of the person.

4 (c) The department shall prescribe the form of the record
5 required by Subsection (a) and shall make the form available to
6 used automotive parts recyclers.

7 (d) This section does not apply to:

8 (1) an interior component part or special accessory
9 part from a motor vehicle more than 10 years old; or

10 (2) a part delivered to a used automotive parts
11 recycler by a commercial freight line, commercial carrier, or
12 licensed used automotive parts recycler.

13 Sec. 2309.355. RETENTION OF COMPONENT PARTS. (a) A used
14 automotive parts recycler shall retain each component part in
15 its original condition on the business premises of the recycler
16 for at least three calendar days, excluding Sundays, after the
17 date the recycler obtains the part.

18 (b) This section does not apply to the purchase by a used
19 automotive parts recycler of a nonoperational engine,
20 transmission, or rear axle assembly from another used automotive
21 parts recycler or an automotive-related business.

22 Sec. 2309.356. MAINTENANCE OF RECORDS. A used automotive
23 parts recycler shall maintain copies of each record required
24 under this subchapter until the first anniversary of the
25 purchase date of the item for which the record is maintained.

26 Sec. 2309.357. SURRENDER OF CERTAIN DOCUMENTS OR LICENSE
27 PLATES. (a) A used automotive parts recycler shall surrender
28 to the Texas Department of Transportation for cancellation a
29 certificate of title or authority, sales receipt, or transfer
30 document, as required by the department.

31 (b) The Texas Department of Transportation shall provide a
32 signed receipt for a surrendered certificate of title.

33 Sec. 2309.358. INSPECTION OF RECORDS. (a) A peace
34 officer at any reasonable time may inspect a record required to
35 be maintained under this subchapter, including an inventory
36 record.

37 (b) On demand by a peace officer, a used automotive parts
38 recycler shall provide to the officer a copy of a record
39 required to be maintained under this subchapter.

40 (c) A peace officer may inspect the inventory on the
41 premises of a used automotive parts recycler at any reasonable
42 time to verify, check, or audit the records required to be
43 maintained under this subchapter.

44 (d) A used automotive parts recycler or an employee of the
45 recycler shall allow and may not interfere with a peace
46 officer's inspection of the recycler's inventory, premises, or
47 required inventory records.

1 [Sections 2309.359-2309.400 reserved for expansion]

2 SUBCHAPTER I. MOTOR VEHICLE SALVAGE YARDS IN CERTAIN COUNTIES

3 Sec. 2309.401. APPLICABILITY OF SUBCHAPTER. This
4 subchapter applies only to a used automotive parts facility
5 located in a county with a population of 2.8 million or more.

6 Sec. 2309.402. LIMITS ON OPERATION OF HEAVY MACHINERY.
7 (a) A used automotive parts recycler may not operate heavy
8 machinery in a used automotive parts recycling facility between
9 the hours of 7 p.m. of one day and 7 a.m. of the following day.

10 (b) This section does not apply to conduct necessary to a
11 sale or purchase by the recycler.

12 SECTION 8. Section 501.091, Transportation Code, is
13 amended by amending Subdivision (17) and adding Subdivision (20)
14 to read as follows:

15 (17) "Salvage vehicle dealer" means a person engaged
16 in this state in the business of acquiring, selling,
17 [~~dismantling,~~] repairing, rebuilding, reconstructing, or
18 otherwise dealing in nonrepairable motor vehicles, salvage motor
19 vehicles, or, if incidental to a salvage motor vehicle dealer's
20 primary business, used automotive parts. The term does not
21 include a person who casually repairs, rebuilds, or reconstructs
22 fewer than five [~~three~~] salvage motor vehicles in the same
23 calendar year or, except as provided by Paragraph (C), a used
24 automotive parts recycler. The term includes a person engaged
25 in the business of:

26 (A) a salvage vehicle dealer, regardless of
27 whether the person holds a license issued by the department to
28 engage in that business;

29 (B) dealing in nonrepairable motor vehicles or
30 salvage motor vehicles[~~, regardless of whether the person deals~~
31 ~~in used parts~~]; or

32 (C) a used automotive parts recycler if the sale
33 of repaired, rebuilt, or reconstructed nonrepairable motor
34 vehicles or salvage motor vehicles is more than an incidental
35 part of the used automotive parts recycler's business [~~dealing~~
36 ~~in used parts regardless of whether the person deals in~~
37 ~~nonrepairable motor vehicles or salvage motor vehicles~~].

38 (20) "Used parts dealer" and "used automotive parts
39 recycler" have the meaning assigned to "used automotive parts
40 recycler" by Section 2309.002, Occupations Code.

41 SECTION 9. Subsection (d), Section 501.092, Transportation
42 Code, is amended to read as follows:

43 (d) An insurance company may sell a motor vehicle to which
44 this section applies, or assign a salvage vehicle title or a
45 nonrepairable vehicle title for the motor vehicle, only to a
46 salvage vehicle dealer, an out-of-state buyer, a buyer in a
47 casual sale at auction, [~~or~~] a metal recycler, or a used

1 automotive parts recycler. If the motor vehicle is not a
2 salvage motor vehicle or a nonrepairable motor vehicle, the
3 insurance company is not required to surrender the regular
4 certificate of title for the vehicle or to be issued a salvage
5 vehicle title or a nonrepairable vehicle title for the motor
6 vehicle.

7 SECTION 10. Subsections (a) and (b), Section 501.095,
8 Transportation Code, are amended to read as follows:

9 (a) If the department has not issued a nonrepairable
10 vehicle title or salvage vehicle title for the motor vehicle and
11 an out-of-state ownership document for the motor vehicle has not
12 been issued by another state or jurisdiction, a business or
13 governmental entity described by Subdivisions (1)-(3) may sell,
14 transfer, or release a nonrepairable motor vehicle or salvage
15 motor vehicle only to a person who is:

16 (1) a licensed salvage vehicle dealer, a used
17 automotive parts recycler under Chapter 2309, Occupations Code,
18 or a metal recycler under Chapter 2302, Occupations Code;

19 (2) an insurance company that has paid a claim on the
20 nonrepairable or salvage motor vehicle;

21 (3) a governmental entity; or

22 (4) an out-of-state buyer.

23 (b) A person, other than a salvage vehicle dealer, a used
24 automotive parts recycler, or an insurance company licensed to
25 do business in this state, who acquired ownership of a
26 nonrepairable or salvage motor vehicle that has not been issued
27 a nonrepairable vehicle title, salvage vehicle title, or a
28 comparable ownership document issued by another state or
29 jurisdiction shall, before selling the motor vehicle, surrender
30 the properly assigned certificate of title for the motor vehicle
31 to the department and apply to the department for:

32 (1) a nonrepairable vehicle title if the vehicle is a
33 nonrepairable motor vehicle; or

34 (2) a salvage vehicle title if the vehicle is a
35 salvage motor vehicle.

36 SECTION 11. Section 501.105, Transportation Code, is
37 amended to read as follows:

38 Sec. 501.105. RETENTION OF RECORDS RELATING TO CERTAIN
39 CASUAL SALES. Each licensed salvage vehicle dealer, used
40 automotive parts recycler, or insurance company that sells a
41 nonrepairable motor vehicle or a salvage motor vehicle at a
42 casual sale shall keep on the business premises of the dealer or
43 the insurance company a list of all casual sales made during the
44 preceding 36-month period that contains:

45 (1) the date of the sale;

46 (2) the name of the purchaser;

47 (3) the name of the jurisdiction that issued the

1 identification document provided by the purchaser, as shown on
2 the document; and

3 (4) the vehicle identification number.

4 SECTION 12. Section 2302.253, Occupations Code, is
5 repealed.

6 SECTION 13. Not later than January 1, 2010, the Texas
7 Commission of Licensing and Regulation shall adopt rules under
8 Section 2309.102, Occupations Code, as added by this Act.

9 SECTION 14. If there is a conflict between a provision of
10 this Act and a provision of another Act of the 81st Legislature,
11 Regular Session, 2009, that becomes law concerning the licensing
12 or regulation of used automotive parts recyclers, this Act
13 prevails regardless of the relative dates of enactment.

14 SECTION 15. (a) Except as provided by Subsection (b) of
15 this section, this Act takes effect September 1, 2009.

16 (b) Sections 2309.151 and 2309.154, Occupations Code, as
17 added by this Act, and Subchapter F, Chapter 2309, Occupations
18 Code, as added by this Act, take effect September 1, 2010.

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20 S.B. No. 1107

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AN ACT

relating to the requirement that driver education curriculum
include information regarding distractions while driving.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter C, Chapter 1001, Education Code, is
amended by adding Section 1001.110 to read as follows:

Sec. 1001.110. INFORMATION RELATING TO DRIVING
DISTRACTIONS. (a) The commissioner by rule shall require that
information relating to the effect of using a wireless
communication device or engaging in other actions that may
distract a driver on the safe or effective operation of a motor
vehicle be included in the curriculum of each driver education
course or driving safety course.

(b) In developing rules under this section, the
commissioner shall consult with the department.

SECTION 2. As soon as practicable after the effective date
of this Act, the commissioner of education shall adopt the rules
required by Section 1001.110, Education Code, as added by this
Act.

SECTION 3. This Act takes effect September 1, 2009.

S.B. No. 1127

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AN ACT

relating to the confidentiality of test results of samples of compounded products.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 556.053, Occupations Code, is amended to read as follows:

Sec. 556.053. EXTENT OF INSPECTION; CONFIDENTIALITY.

(a) Except as otherwise provided in an inspection warrant, the person authorized to represent the board may:

(1) inspect and copy documents, including records or reports, required to be kept or made under this subtitle, Chapter 481 or 483, Health and Safety Code, or the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. Section 801 et seq.) or rules adopted under one of those laws;

(2) inspect, within reasonable limits and in a reasonable manner, a facility's storage, equipment, security, prescription drugs or devices, components used in compounding, finished and unfinished products, or records; or

(3) perform an inventory of any stock of prescription drugs or devices, components used in compounding, or finished and unfinished products in a facility and obtain samples of those substances.

(b) Reports, records, formulas, and test results of samples of products compounded by pharmacies obtained by the board may be provided to the pharmacy that compounded the product but otherwise are confidential and do not constitute public information for purposes of Chapter 552, Government Code. The board may create, use, or disclose statistical information from the test results of samples of compounded products.

(c) The board may disclose information confidential under Subsection (b):

(1) in a disciplinary hearing before the board or in a subsequent trial or appeal of a board action or order;

(2) to a pharmacist licensing or disciplinary authority of another jurisdiction; or

(3) under a court order.

(d) The board shall require a pharmacy to recall a compounded product and may release the results of the tests of the samples of the compounded product if the board determines that:

(1) the test results indicate a patient safety problem that may involve potential harm to a patient; and

(2) the release of the test results is necessary to protect the public.

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AN ACT

relating to the liability of a landowner for an act or omission of a firefighter or peace officer on the property of the landowner.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 75, Civil Practice and Remedies Code, is amended by adding Section 75.006 to read as follows:

Sec. 75.006. LIABILITY LIMITED FOR ACTIONS OF FIREFIGHTER OR PEACE OFFICER. (a) In this section:

(1) "Firefighter" means a member of a fire department who performs a function listed in Section 419.021(3)(C), Government Code.

(2) "Livestock" has the meaning assigned by Section 1.003, Agriculture Code.

(3) "Peace officer" has the meaning assigned by Section 1.07, Penal Code, or other state or federal law.

(b) A landowner is not liable for damages arising from an incident or accident caused by livestock of the landowner due to an act or omission of a firefighter or a peace officer who has entered the landowner's property with or without the permission of the landowner, regardless of whether the damage occurs on the landowner's property.

SECTION 2. The change in law made by this Act applies only to an act or omission of a firefighter or peace officer that occurs on or after the effective date of this Act. An act or omission of a firefighter or peace officer that occurred before the effective date of this Act is covered by the law in effect when the act or omission occurred, and the former law is continued in effect for that purpose.

SECTION 3. This Act takes effect September 1, 2009.

S.B. No. 1163

AN ACT

relating to the penalties for theft of cattle, horses, exotic livestock, exotic fowl, sheep, swine, or goats.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subsection (e), Section 31.03, Penal Code, is amended to read as follows:

(e) Except as provided by Subsection (f), an offense under

1 this section is:
2 (1) a Class C misdemeanor if the value of the
3 property stolen is less than:
4 (A) \$50; or
5 (B) \$20 and the defendant obtained the property
6 by issuing or passing a check or similar sight order in a manner
7 described by Section 31.06;
8 (2) a Class B misdemeanor if:
9 (A) the value of the property stolen is:
10 (i) \$50 or more but less than \$500; or
11 (ii) \$20 or more but less than \$500 and the
12 defendant obtained the property by issuing or passing a check or
13 similar sight order in a manner described by Section 31.06; or
14 (B) the value of the property stolen is less
15 than:
16 (i) \$50 and the defendant has previously
17 been convicted of any grade of theft; or
18 (ii) \$20, the defendant has previously been
19 convicted of any grade of theft, and the defendant obtained the
20 property by issuing or passing a check or similar sight order in
21 a manner described by Section 31.06;
22 (3) a Class A misdemeanor if the value of the
23 property stolen is \$500 or more but less than \$1,500;
24 (4) a state jail felony if:
25 (A) the value of the property stolen is \$1,500
26 or more but less than \$20,000, or the property is less than 10
27 head of [~~cattle, horses, or exotic livestock or exotic fowl as~~
28 ~~defined by Section 142.001, Agriculture Code, or any part~~
29 ~~thereof under the value of \$20,000, or less than 100 head of]~~
30 sheep, swine, or goats or any part thereof under the value of
31 \$20,000;
32 (B) regardless of value, the property is stolen
33 from the person of another or from a human corpse or grave;
34 (C) the property stolen is a firearm, as defined
35 by Section 46.01;
36 (D) the value of the property stolen is less
37 than \$1,500 and the defendant has been previously convicted two
38 or more times of any grade of theft;
39 (E) the property stolen is an official ballot or
40 official carrier envelope for an election; or
41 (F) the value of the property stolen is less
42 than \$20,000 and the property stolen is insulated or
43 noninsulated wire or cable that consists of at least 50 percent:
44 (i) aluminum;
45 (ii) bronze; or
46 (iii) copper;
47 (5) a felony of the third degree if the value of the

1 property stolen is \$20,000 or more but less than \$100,000, or
2 the property is:

3 (A) [~~10 or more head of~~] cattle, horses, or
4 exotic livestock or exotic fowl as defined by Section 142.001,
5 Agriculture Code, stolen during a single transaction and having
6 an aggregate value of less than \$100,000; or

7 (B) 10 [~~100~~] or more head of sheep, swine, or
8 goats stolen during a single transaction and having an aggregate
9 value of less than \$100,000;

10 (6) a felony of the second degree if the value of the
11 property stolen is \$100,000 or more but less than \$200,000; or

12 (7) a felony of the first degree if the value of the
13 property stolen is \$200,000 or more.

14 SECTION 2. The change in law made by this Act applies only
15 to an offense committed on or after the effective date of this
16 Act. An offense committed before the effective date of this Act
17 is covered by the law in effect when the offense was committed,
18 and the former law is continued in effect for that purpose. For
19 purposes of this section, an offense was committed before the
20 effective date of this Act if any element of the offense
21 occurred before that date.

22 SECTION 3. This Act takes effect September 1, 2009.

23
24 S.B. No. 1182

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AN ACT

30 relating to public information and open government.

31 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

32 SECTION 1. Subchapter C, Chapter 551, Government Code, is
33 amended by adding Section 551.0415 to read as follows:

34 Sec. 551.0415. GOVERNING BODY OF MUNICIPALITY: REPORTS
35 ABOUT ITEMS OF COMMUNITY INTEREST REGARDING WHICH NO ACTION WILL
36 BE TAKEN. (a) Notwithstanding Sections 551.041 and 551.042, a
37 quorum of the governing body of a municipality may receive from
38 municipal staff and a member of the governing body may make a
39 report about items of community interest during a meeting of the
40 governing body without having given notice of the subject of the
41 report as required by this subchapter if no action is taken and,
42 except as provided by Section 551.042, possible action is not
43 discussed regarding the information provided in the report.

44 (b) For purposes of Subsection (a), "items of community
45 interest" includes:

46 (1) expressions of thanks, congratulations, or
47 condolence;

- 1 (2) information regarding holiday schedules;
2 (3) an honorary or salutory recognition of a public
3 official, public employee, or other citizen, except that a
4 discussion regarding a change in the status of a person's public
5 office or public employment is not an honorary or salutory
6 recognition for purposes of this subdivision;
7 (4) a reminder about an upcoming event organized or
8 sponsored by the governing body;
9 (5) information regarding a social, ceremonial, or
10 community event organized or sponsored by an entity other than
11 the governing body that was attended or is scheduled to be
12 attended by a member of the governing body or an official or
13 employee of the municipality; and
14 (6) announcements involving an imminent threat to the
15 public health and safety of people in the municipality that has
16 arisen after the posting of the agenda.

17 SECTION 2. Section 552.008, Government Code, is amended by
18 adding Subsections (b-1) and (b-2) to read as follows:

19 (b-1) A member, committee, or agency of the legislature
20 required by a governmental body to sign a confidentiality
21 agreement under Subsection (b) may seek a decision as provided
22 by Subsection (b-2) about whether the information covered by the
23 confidentiality agreement is confidential under law. A
24 confidentiality agreement signed under Subsection (b) is void to
25 the extent that the agreement covers information that is finally
26 determined under Subsection (b-2) to not be confidential under
27 law.

28 (b-2) The member, committee, or agency of the legislature
29 may seek a decision from the attorney general about the matter.
30 The attorney general by rule shall establish procedures and
31 deadlines for receiving information necessary to decide the
32 matter and briefs from the requestor, the governmental body, and
33 any other interested person. The attorney general shall
34 promptly render a decision requested under this subsection,
35 determining whether the information covered by the
36 confidentiality agreement is confidential under law, not later
37 than the 45th business day after the date the attorney general
38 received the request for a decision under this subsection. The
39 attorney general shall issue a written decision on the matter
40 and provide a copy of the decision to the requestor, the
41 governmental body, and any interested person who submitted
42 necessary information or a brief to the attorney general about
43 the matter. The requestor or the governmental body may appeal a
44 decision of the attorney general under this subsection to a
45 Travis County district court. A person may appeal a decision of
46 the attorney general under this subsection to a Travis County
47 district court if the person claims a proprietary interest in

1 the information affected by the decision or a privacy interest
2 in the information that a confidentiality law or judicial
3 decision is designed to protect.

4 SECTION 3. The heading to Section 552.009, Government
5 Code, is amended to read as follows:

6 Sec. 552.009. OPEN RECORDS STEERING COMMITTEE: ADVICE TO
7 ATTORNEY GENERAL [~~COMMISSION~~]; ELECTRONIC AVAILABILITY OF PUBLIC
8 INFORMATION.

9 SECTION 4. Subchapter C, Chapter 552, Government Code, is
10 amended by adding Section 552.150 to read as follows:

11 Sec. 552.150. EXCEPTION: INFORMATION THAT COULD
12 COMPROMISE SAFETY OF OFFICER OR EMPLOYEE OF HOSPITAL DISTRICT.

13 (a) Information in the custody of a hospital district that
14 relates to an employee or officer of the hospital district is
15 excepted from the requirements of Section 552.021 if:

16 (1) it is information that, if disclosed under the
17 specific circumstances pertaining to the individual, could
18 reasonably be expected to compromise the safety of the
19 individual, such as information that describes or depicts the
20 likeness of the individual, information stating the times that
21 the individual arrives at or departs from work, a description of
22 the individual's automobile, or the location where the
23 individual works or parks; and

24 (2) the employee or officer applies in writing to the
25 hospital district's officer for public information to have the
26 information withheld from public disclosure under this section
27 and includes in the application:

28 (A) a description of the information; and

29 (B) the specific circumstances pertaining to the
30 individual that demonstrate why disclosure of the information
31 could reasonably be expected to compromise the safety of the
32 individual.

33 (b) On receiving a written request for information
34 described in an application submitted under Subsection (a)(2),
35 the officer for public information shall:

36 (1) request a decision from the attorney general in
37 accordance with Section 552.301 regarding withholding the
38 information; and

39 (2) include a copy of the application submitted under
40 Subsection (a)(2) with the request for the decision.

41 (c) This section expires September 1, 2013.

42 SECTION 5. Subchapter C, Chapter 552, Government Code, is
43 amended by adding Section 552.151 to read as follows:

44 Sec. 552.151. EXCEPTION: INFORMATION REGARDING SELECT
45 AGENTS. (a) The following information that pertains to a
46 biological agent or toxin identified or listed as a select agent
47 under federal law, including under the Public Health Security

1 and Bioterrorism Preparedness and Response Act of 2002 (Pub. L.
2 No. 107-188) and regulations adopted under that Act, is excepted
3 from the requirements of Section 552.021:

4 (1) the specific location of a select agent within an
5 approved facility;

6 (2) personal identifying information of an individual
7 whose name appears in documentation relating to the chain of
8 custody of select agents, including a materials transfer
9 agreement; and

10 (3) the identity of an individual authorized to
11 possess, use, or access a select agent.

12 (b) This section does not except from disclosure the
13 identity of the select agents present at a facility.

14 (c) This section does not except from disclosure the
15 identity of an individual faculty member or employee whose name
16 appears or will appear on published research.

17 (d) This section does not except from disclosure otherwise
18 public information relating to contracts of a governmental body.

19 (e) If a resident of another state is present in Texas and
20 is authorized to possess, use, or access a select agent in
21 conducting research or other work at a Texas facility,
22 information relating to the identity of that individual is
23 subject to disclosure under this chapter only to the extent the
24 information would be subject to disclosure under the laws of the
25 state of which the person is a resident.

26 SECTION 6. Subsection (a), Section 552.263, Government
27 Code, is amended to read as follows:

28 (a) An officer for public information or the officer's
29 agent may require a deposit or bond for payment of anticipated
30 costs for the preparation of a copy of public information if:

31 (1) the officer for public information or the
32 officer's agent has provided the requestor with the [~~required~~]
33 written itemized statement required under Section 552.2615
34 detailing the estimated charge for providing the copy; and

35 (2) [~~if~~] the charge for providing the copy of the
36 public information specifically requested by the requestor is
37 estimated by the governmental body to exceed:

38 (A) [~~+~~1] \$100, if the governmental body has
39 more than 15 full-time employees; or

40 (B) [~~+~~2] \$50, if the governmental body has
41 fewer than 16 full-time employees.

42 SECTION 7. Subsection (a), Section 552.274, Government
43 Code, as amended by Chapters 329 (S.B. 727) and 716 (S.B. 452),
44 Acts of the 79th Legislature, Regular Session, 2005, is
45 reenacted to read as follows:

46 (a) The attorney general shall:

47 (1) biennially update a report prepared by the

1 attorney general about the charges made by state agencies for
2 providing copies of public information; and

3 (2) provide a copy of the updated report on the
4 attorney general's open records page on the Internet not later
5 than March 1 of each even-numbered year.

6 SECTION 8. Subsection (e-1), Section 552.301, Government
7 Code, is amended to read as follows:

8 (e-1) A governmental body that submits written comments to
9 the attorney general under Subsection (e)(1)(A) shall send a
10 copy of those comments to the person who requested the
11 information from the governmental body not later than the 15th
12 business day after the date of receiving the written request.
13 If the written comments disclose or contain the substance of the
14 information requested, the copy of the comments provided to the
15 person must be a redacted copy.

16 SECTION 9. Subsection (b), Section 552.323, Government
17 Code, is amended to read as follows:

18 (b) In an action brought under Section 552.324
19 [~~552.353(b)(3)~~], the court may assess costs of litigation and
20 reasonable attorney's fees incurred by a plaintiff or defendant
21 who substantially prevails. In exercising its discretion under
22 this subsection, the court shall consider whether the conduct of
23 [~~the officer for public information of~~] the governmental body
24 had a reasonable basis in law and whether the litigation was
25 brought in good faith.

26 SECTION 10. Section 552.324, Government Code, is amended
27 to read as follows:

28 Sec. 552.324. SUIT BY GOVERNMENTAL BODY. (a) The only
29 suit a governmental body [~~or officer for public information~~] may
30 file seeking to withhold information from a requestor is a suit
31 that:

32 (1) is filed in a Travis County district court
33 against the attorney general in accordance with Section
34 [~~Sections~~] 552.325; [and 552.353] and

35 (2) seeks declaratory relief from compliance with
36 [~~that challenges~~] a decision by the attorney general issued
37 under Subchapter G.

38 (b) The governmental body must bring the suit not later
39 than the 30th calendar day after the date the governmental body
40 receives the decision of the attorney general determining that
41 the requested information must be disclosed to the requestor
42 [~~being challenged~~]. If the governmental body does not bring
43 suit within that period, the governmental body shall comply with
44 the decision of the attorney general. If a governmental body
45 wishes to preserve an affirmative defense for its officer for
46 public information as provided in Section 552.353(b)(3), suit
47 must be filed within the deadline provided in Section

1 552.353(b)(3) [~~This subsection does not affect the earlier~~
2 ~~deadline for purposes of Section 552.353(b)(3) for a suit~~
3 ~~brought by an officer for public information)].~~

4 SECTION 11. Subsection (b), Section 552.325, Government
5 Code, is amended to read as follows:

6 (b) The governmental body, officer for public information,
7 or other person or entity that files the suit shall demonstrate
8 to the court that the governmental body, officer for public
9 information, or other person or entity made a timely good faith
10 effort to inform the requestor, by certified mail or by another
11 written method of notice that requires the return of a receipt,
12 of:

13 (1) the existence of the suit, including the subject
14 matter and cause number of the suit and the court in which the
15 suit is filed;

16 (2) the requestor's right to intervene in the suit or
17 to choose to not participate in the suit;

18 (3) the fact that the suit is against the attorney
19 general in Travis County district court; and

20 (4) the address and phone number of the office of the
21 attorney general.

22 SECTION 12. Subsections (b) and (c), Section 552.353,
23 Government Code, are amended to read as follows:

24 (b) It is an affirmative defense to prosecution under
25 Subsection (a) that the officer for public information
26 reasonably believed that public access to the requested
27 information was not required and that [~~the officer~~]:

28 (1) the officer acted in reasonable reliance on a
29 court order or a written interpretation of this chapter
30 contained in an opinion of a court of record or of the attorney
31 general issued under Subchapter G;

32 (2) the officer requested a decision from the
33 attorney general in accordance with Subchapter G, and the
34 decision is pending; or

35 (3) not later than the 10th calendar day after the
36 date of receipt of a decision by the attorney general that the
37 information is public, the officer or the governmental body for
38 whom the defendant is the officer for public information filed a
39 petition for a declaratory judgment[, a writ of mandamus, or
40 both,] against the attorney general in a Travis County district
41 court seeking relief from compliance with the decision of the
42 attorney general, as provided by Section 552.324, and the cause
43 [a petition] is pending.

44 (c) It is an affirmative defense to prosecution under
45 Subsection (a) that a person or entity has, not later than the
46 10th calendar day after the date of receipt by a governmental
47 body of a decision by the attorney general that the information

1 is public, filed a cause of action seeking relief from
2 compliance with the decision of the attorney general, as
3 provided by Section 552.325, and the cause is pending.

4 SECTION 13. Section 261.201, Family Code, is amended by
5 adding Subsections (k) and (l) to read as follows:

6 (k) Notwithstanding Subsection (a), an investigating
7 agency, other than the department or the Texas Youth Commission,
8 on request, shall provide to the parent, managing conservator,
9 or other legal representative of a child who is the subject of
10 reported abuse or neglect, or to the child if the child is at
11 least 18 years of age, information concerning the reported abuse
12 or neglect that would otherwise be confidential under this
13 section. The investigating agency shall withhold information
14 under this subsection if the parent, managing conservator, or
15 other legal representative of the child requesting the
16 information is alleged to have committed the abuse or neglect.

17 (l) Before a child or a parent, managing conservator, or
18 other legal representative of a child may inspect or copy a
19 record or file concerning the child under Subsection (k), the
20 custodian of the record or file must redact:

21 (1) any personally identifiable information about a
22 victim or witness under 18 years of age unless that victim or
23 witness is:

24 (A) the child who is the subject of the report;
25 or

26 (B) another child of the parent, managing
27 conservator, or other legal representative requesting the
28 information;

29 (2) any information that is excepted from required
30 disclosure under Chapter 552, Government Code, or other law; and

31 (3) the identity of the person who made the report.

32 SECTION 14. The changes in law made by Section 552.150,
33 Government Code, as added by this Act, apply in relation to a
34 request for information made under Chapter 552, Government Code,
35 before, on, or after the effective date of this Act.

36 SECTION 15. Section 552.151, Government Code, as added by
37 this Act, applies in relation to:

38 (1) a request for public information under Chapter
39 552, Government Code, made before, on, or after the effective
40 date of this Act; and

41 (2) information that on the effective date of this
42 Act has not yet been disclosed that:

43 (A) was the subject of a request for information
44 made before the effective date of this Act; and

45 (B) the attorney general determined before the
46 effective date of this Act to be subject to disclosure under
47 Chapter 552, Government Code.

1 SECTION 16. (a) Except as provided by Subsection (b) of
2 this section, this Act takes effect September 1, 2009.
3 (b) Subsections (b-1) and (b-2), Section 552.008, Government
4 Code, as added by this Act, take effect September 1, 2010.

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6 S.B. No. 1188
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10
11 AN ACT

12 relating to the interstate purchase of certain firearms.

13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

14 SECTION 1. Section 46.07, Penal Code, is amended to read
15 as follows:

16 Sec. 46.07. INTERSTATE PURCHASE. A resident of this state
17 may, if not otherwise precluded by law, purchase firearms,
18 ammunition, reloading components, or firearm accessories in
19 another state [~~contiguous states~~]. This authorization is
20 enacted in conformance with 18 U.S.C. Section 922(b)(3)(A)[~~7~~
21 ~~Public Law 90-618, 90th Congress~~].

22 SECTION 2. This Act takes effect immediately if it
23 receives a vote of two-thirds of all the members elected to each
24 house, as provided by Section 39, Article III, Texas
25 Constitution. If this Act does not receive the vote necessary
26 for immediate effect, this Act takes effect September 1, 2009.

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28 S.B. No. 1218
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33 AN ACT

34 relating to the collection of data by the Texas Department of
35 Transportation regarding bridge collapses.

36 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

37 SECTION 1. Section 201.805, Transportation Code, as added
38 by Chapter 1407 (S.B. 766), Acts of the 80th Legislature,
39 Regular Session, 2007, is amended to read as follows:

40 Sec. 201.805. ACCIDENT REPORTS. (a) The department
41 shall:

42 (1) tabulate and analyze the vehicle accident reports
43 it receives;

44 (2) annually or more frequently publish statistical
45 information derived from the accident reports as to the number,
46 cause, and location of highway accidents, including information
47 regarding the number of:

1 (A) accidents involving injury to, death of, or
2 property damage to a bicyclist or pedestrian; and

3 (B) fatalities caused by a bridge collapse, as
4 defined by Section 550.081; and

5 (3) not later than December 15 of each even-numbered
6 year provide to the governor and the legislature:

7 (A) an abstract of the statistical information
8 for the biennium ending on the preceding August 31; and

9 (B) a report with the department's conclusions,
10 findings, and recommendations for decreasing highway accidents
11 and increasing highway and bridge safety.

12 (b) The department shall provide electronic access to the
13 system containing the accident reports so that the Department of
14 Public Safety can perform its duties, including the duty to make
15 timely entries on driver records.

16 SECTION 2. Section 550.081, Transportation Code, as
17 amended by Chapters 74 (H.B. 423) and 1407 (S.B. 766), Acts of
18 the 80th Legislature, Regular Session, 2007, is reenacted and
19 amended to read as follows:

20 Sec. 550.081. REPORT OF MEDICAL EXAMINER OR JUSTICE OF THE
21 PEACE. (a) In this section:

22 (1) "Department" means the Texas Department of
23 Transportation.

24 (2) "Bridge collapse" means the abrupt failure of the
25 basic structure of a bridge that impairs the ability of the
26 bridge to serve its intended purpose and that damages a highway
27 located on or under the structure.

28 (b) A medical examiner or justice of the peace acting as
29 coroner in a county that does not have a medical examiner's
30 office or that is not part of a medical examiner's district
31 shall submit a report in writing to the department [~~Texas~~
32 ~~Department of Transportation~~] of the death of a person that was
33 the result of a traffic accident or bridge collapse:

34 (1) to which this chapter applies; and

35 (2) that occurred within the jurisdiction of the
36 medical examiner or justice of the peace in the preceding
37 calendar quarter.

38 (c) [~~(b)~~] The report must be submitted before the 11th day
39 of each calendar month and include:

40 (1) the name of the deceased and a statement as to
41 whether the deceased was:

42 (A) the operator of or a passenger in a vehicle
43 involved in the accident; or

44 (B) a pedestrian or other nonoccupant of a
45 vehicle;

46 (2) the date of the accident and the name of the
47 county in which the accident occurred, and, if a bridge

1 collapse, the location of the bridge in that county;

2 (3) the name of any laboratory, medical examiner's
3 office, or other facility that conducted toxicological testing
4 relative to the deceased; and

5 (4) the results of any toxicological testing that was
6 conducted.

7 (d) [~~(e)~~] A report required by this section shall be sent
8 to:

9 (1) the crash records bureau of the department at its
10 headquarters in Austin; or

11 (2) any other office or bureau of the department that
12 the department designates.

13 (e) [~~(d)~~] If toxicological test results are not available
14 to the medical examiner or justice of the peace on the date a
15 report must be submitted, the medical examiner or justice shall:

16 (1) submit a report that includes the statement
17 "toxicological test results unavailable"; and

18 (2) submit a supplement to the report that contains
19 the information required by Subsections (c)(3) [~~(b)(3)~~] and (4)
20 as soon as practicable after the toxicological test results
21 become available.

22 (f) [~~(e)~~] The department shall prepare and when requested
23 supply to medical examiners' offices and justices of the peace
24 the forms necessary to make the reports required by this
25 section.

26 SECTION 3. To the extent of any conflict, this Act
27 prevails over another Act of the 81st Legislature, Regular
28 Session, 2009, relating to nonsubstantive additions to and
29 corrections in enacted codes.

30 SECTION 4. This Act takes effect September 1, 2009.
31 S.B. No. 1224

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36 AN ACT

37 relating to a waiver of fees imposed for certain expunctions.

38 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

39 SECTION 1. Article 102.006, Code of Criminal Procedure, is
40 amended to read as follows:

41 Art. 102.006. FEES IN EXPUNCTION PROCEEDINGS. (a) In
42 addition to any other fees required by other law and except as
43 provided by Subsection (b), a petitioner seeking expunction of a
44 criminal record shall pay the following fees:

45 (1) the fee charged for filing an ex parte petition
46 in a civil action in district court;

47 (2) \$1 plus postage for each certified mailing of

1 notice of the hearing date; and

2 (3) \$2 plus postage for each certified mailing of
3 certified copies of an order of expunction.

4 (b) The fees under Subsection (a) shall be waived if:

5 (1) the petitioner seeks expunction of a criminal
6 record that relates to an arrest for an offense of which the
7 person was acquitted, other than an acquittal for an offense
8 described by Article 55.01(c); and

9 (2) the petition for expunction is filed not later
10 than the 30th day after the date of the acquittal.

11 SECTION 2. The change in law made by this Act applies only
12 to a petition for expunction filed on or after the effective
13 date of this Act. A petition for expunction filed before the
14 effective date of this Act is governed by the law in effect on
15 the date the petition was filed, and the former law is continued
16 in effect for that purpose.

17 SECTION 3. This Act takes effect September 1, 2009.

18
19 S.B. No. 1235
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24 AN ACT

25 relating to the sale and use of unregistered vehicles, including
26 the issuance and use of temporary tags on vehicles.

27 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

28 SECTION 1. Subsection (d), Section 501.022, Transportation
29 Code, is amended to read as follows:

30 (d) Subsection (c) does not apply to a motor vehicle
31 operated on a public highway in this state with a metal dealer's
32 license plate or a dealer's or buyer's temporary [~~cardboard~~] tag
33 attached to the vehicle as provided by Chapter 503.

34 SECTION 2. Subsections (a) and (c), Section 503.038,
35 Transportation Code, are amended to read as follows:

36 (a) The department may cancel a dealer's general
37 distinguishing number if the dealer:

38 (1) falsifies or forges a title document, including
39 an affidavit making application for a certified copy of a title;

40 (2) files a false or forged tax document, including a
41 sales tax affidavit;

42 (3) fails to take assignment of any basic evidence of
43 ownership, including a certificate of title or manufacturer's
44 certificate, for a vehicle the dealer acquires;

45 (4) fails to assign any basic evidence of ownership,
46 including a certificate of title or manufacturer's certificate,
47 for a vehicle the dealer sells;

1 (5) uses or permits the use of a metal dealer's
2 license plate or a dealer's temporary [~~cardboard~~] tag on a
3 vehicle that the dealer does not own or control or that is not
4 in stock and offered for sale;

5 (6) makes a material misrepresentation in an
6 application or other information filed with the department;

7 (7) fails to maintain the qualifications for a
8 general distinguishing number;

9 (8) fails to provide to the department within 30 days
10 after the date of demand by the department satisfactory and
11 reasonable evidence that the person is regularly and actively
12 engaged in business as a wholesale or retail dealer;

13 (9) has been licensed for at least 12 months and has
14 not assigned at least five vehicles during the previous 12-month
15 period;

16 (10) has failed to demonstrate compliance with
17 Sections 23.12, 23.121, and 23.122, Tax Code;

18 (11) uses or allows the use of the dealer's general
19 distinguishing number or the location for which the general
20 distinguishing number is issued to avoid the requirements of
21 this chapter;

22 (12) misuses or allows the misuse of a temporary
23 [~~cardboard~~] tag authorized under this chapter;

24 (13) refuses to show on a buyer's temporary
25 [~~cardboard~~] tag the date of sale or other reasonable information
26 required by the department; or

27 (14) otherwise violates this chapter or a rule
28 adopted under this chapter.

29 (c) A person whose general distinguishing number is
30 canceled under this chapter shall surrender to a representative
31 of the department each license, license plate, temporary
32 [~~cardboard~~] tag, sticker, and receipt issued under this chapter
33 not later than the 10th day after the date the general
34 distinguishing number is canceled. The department shall direct
35 any peace officer to secure and return to the department any
36 plate, tag, sticker, or receipt of a person who does not comply
37 with this subsection.

38 SECTION 3. The heading to Section 503.062, Transportation
39 Code, is amended to read as follows:

40 Sec. 503.062. DEALER'S TEMPORARY [~~CARBOARD~~] TAGS.

41 SECTION 4. Subsections (a), (b), and (d), Section 503.062,
42 Transportation Code, are amended to read as follows:

43 (a) A dealer may issue a temporary [~~cardboard~~] tag for use
44 on an unregistered vehicle by the dealer or the dealer's
45 employees only to:

46 (1) demonstrate or cause to be demonstrated to a
47 prospective buyer the vehicle for sale purposes only;

1 (2) convey or cause to be conveyed the vehicle:
2 (A) from one of the dealer's places of business
3 in this state to another of the dealer's places of business in
4 this state;
5 (B) from the dealer's place of business to a
6 place the vehicle is to be repaired, reconditioned, or serviced;
7 (C) from the state line or a location in this
8 state where the vehicle is unloaded to the dealer's place of
9 business;
10 (D) from the dealer's place of business to a
11 place of business of another dealer;
12 (E) from the point of purchase by the dealer to
13 the dealer's place of business; or
14 (F) to road test the vehicle; or
15 (3) use the vehicle for or allow its use by a
16 charitable organization.
17 (b) Subsection (a)(1) does not prohibit a dealer from
18 permitting:
19 (1) a prospective buyer to operate a vehicle while
20 the vehicle is being demonstrated; or
21 (2) a customer to operate a vehicle temporarily while
22 the customer's vehicle is being repaired.
23 (d) The department may not issue a dealer temporary
24 [~~cardboard~~] tag or contract for the issuance of a dealer
25 temporary [~~cardboard~~] tag but shall prescribe:
26 (1) the specifications, form, and color of a dealer
27 temporary [~~cardboard~~] tag;
28 (2) procedures for a dealer to generate a vehicle-
29 specific number using the database developed under Section
30 503.0626 and assign it to each tag;
31 (3) procedures to clearly display the vehicle-
32 specific number on the tag; and
33 (4) the period for which a tag may be used for or by
34 a charitable organization.
35 SECTION 5. The heading to Section 503.0625, Transportation
36 Code, is amended to read as follows:
37 Sec. 503.0625. CONVERTER'S TEMPORARY [~~CARDBOARD~~] TAGS.
38 SECTION 6. Subsections (b), (e), and (f), Section
39 503.0625, Transportation Code, are amended to read as follows:
40 (b) A converter may issue a temporary [~~cardboard~~] tag for
41 use on an unregistered vehicle by the converter or the
42 converter's employees only to:
43 (1) demonstrate or cause to be demonstrated to a
44 prospective buyer who is an employee of a franchised motor
45 vehicle dealer the vehicle; or
46 (2) convey or cause to be conveyed the vehicle:
47 (A) from one of the converter's places of

1 business in this state to another of the converter's places of
2 business in this state;

3 (B) from the converter's place of business to a
4 place the vehicle is to be assembled, repaired, reconditioned,
5 modified, or serviced;

6 (C) from the state line or a location in this
7 state where the vehicle is unloaded to the converter's place of
8 business;

9 (D) from the converter's place of business to a
10 place of business of a franchised motor vehicle dealer; or

11 (E) to road test the vehicle.

12 (e) The department may not issue a converter temporary
13 [~~cardboard~~] tag or contract for the issuance of a converter
14 temporary [~~cardboard~~] tag but shall prescribe:

15 (1) the specifications, form, and color of a
16 converter temporary [~~cardboard~~] tag;

17 (2) procedures for a converter to generate a vehicle-
18 specific number using the database developed under Section
19 503.0626 and assign it to each tag; and

20 (3) procedures to clearly display the vehicle-
21 specific number on the tag.

22 (f) A converter or employee of a converter may not use a
23 temporary [~~cardboard~~] tag issued under this section as
24 authorization to operate a vehicle for the converter's or the
25 employee's personal use.

26 SECTION 7. Subsections (a) and (c), Section 503.0626,
27 Transportation Code, are amended to read as follows:

28 (a) The department shall develop and maintain a secure,
29 real-time database of information on vehicles to which dealers
30 and converters have affixed temporary [~~cardboard~~] tags. The
31 database shall be managed by the vehicle titles and registration
32 division of the department.

33 (c) Before a dealer's or converter's temporary [~~cardboard~~]
34 tag may be displayed on a vehicle, the dealer or converter must
35 enter into the database through the Internet information on the
36 vehicle and information about the dealer or converter as
37 prescribed by the department. The department may not deny
38 access to the database to any dealer who holds a general
39 distinguishing number issued under this chapter or who is
40 licensed under Chapter 2301, Occupations Code, or to any
41 converter licensed under Chapter 2301, Occupations Code.

42 SECTION 8. The heading to Section 503.063, Transportation
43 Code, is amended to read as follows:

44 Sec. 503.063. BUYER'S TEMPORARY [~~CARDBOARD~~] TAGS.

45 SECTION 9. Subsections (a), (b), (g), and (h), Section
46 503.063, Transportation Code, are amended to read as follows:

47 (a) Except as provided by this section, a dealer shall

1 issue to a person who buys a vehicle one temporary [~~cardboard~~]
2 buyer's tag for the vehicle.

3 (b) Except as provided by this section, the buyer's tag is
4 valid for the operation of the vehicle until the earlier of:

5 (1) the date on which the vehicle is registered; or

6 (2) the 60th [~~21st~~] day after the date of purchase.

7 [~~Using the same vehicle specific number generated~~
8 ~~under Subsection (c)(2)(A), a dealer may issue an additional~~
9 ~~temporary cardboard buyer's tag to a person after the expiration~~
10 ~~of 20 working days after the issue of a temporary cardboard~~
11 ~~buyer's tag, and the person may operate the vehicle for which~~
12 ~~the tag was issued on the additional temporary cardboard buyer's~~
13 ~~tag if the dealer has been unable to obtain on behalf of the~~
14 ~~vehicle's owner the necessary documents to obtain permanent~~
15 ~~metal license plates because the documents are in the possession~~
16 ~~of a lienholder who has not complied with the terms of Section~~
17 ~~501.115(a). An additional tag issued under the terms of this~~
18 ~~subsection is valid for a maximum of 20 working days after the~~
19 ~~date of issue.~~

20 [~~h~~] For each buyer's temporary [~~cardboard~~] tag [~~other~~
21 ~~than an additional temporary cardboard buyer's tag under~~
22 ~~Subsection (g)~~], a dealer shall charge the buyer a registration
23 fee of not more than \$5 as prescribed by the department to be
24 sent to the comptroller for deposit to the credit of the state
25 highway fund.

26 SECTION 10. Subsection (c), Section 503.0631,
27 Transportation Code, is amended to read as follows:

28 (c) Except as provided by Subsection (d), before a buyer's
29 temporary [~~cardboard~~] tag may be displayed on a vehicle, a
30 dealer must enter into the database through the Internet
31 information about the buyer of the vehicle for which the tag was
32 issued as prescribed by the department and generate a vehicle-
33 specific number for the tag as required by Section 503.063(e).
34 The department may not deny access to the database to any dealer
35 who holds a general distinguishing number issued under this
36 chapter or who is licensed under Chapter 2301, Occupations Code.

37 SECTION 11. Subsection (a), Section 503.065,
38 Transportation Code, is amended to read as follows:

39 (a) The department may issue or cause to be issued to a
40 person a temporary license plate [~~made of cardboard or similar~~
41 ~~material~~] authorizing the person to operate a new unregistered
42 vehicle on a public highway of this state if the person:

43 (1) buys the vehicle from a dealer outside this state
44 and intends to drive the vehicle from the dealer's place of
45 business; or

46 (2) buys the vehicle from a dealer in this state but
47 intends to drive the vehicle from the manufacturer's place of

1 business outside this state.

2 SECTION 12. Section 503.067, Transportation Code, is
3 amended to read as follows:

4 Sec. 503.067. UNAUTHORIZED REPRODUCTION, PURCHASE, USE, OR
5 SALE OF TEMPORARY [~~CARDBOARD~~] TAGS. (a) A person may not
6 produce or reproduce a temporary [~~cardboard~~] tag or an item
7 represented to be a temporary [~~cardboard~~] tag for the purpose of
8 distributing the tag to someone other than a dealer or
9 converter.

10 (b) A person may not operate a vehicle that displays an
11 unauthorized temporary [~~cardboard~~] tag.

12 (c) A person other than a dealer or converter may not
13 purchase a temporary [~~cardboard~~] tag.

14 (d) A person may not sell or distribute a temporary
15 [~~cardboard~~] tag or an item represented to be a temporary
16 [~~cardboard~~] tag unless the person is:

17 (1) a dealer issuing the tag in connection with the
18 sale of a vehicle; or

19 (2) a printer or distributor engaged in the business
20 of selling temporary [~~cardboard~~] tags solely for uses authorized
21 under this chapter.

22 SECTION 13. Subsections (a), (b), and (c), Section
23 503.068, Transportation Code, are amended to read as follows:

24 (a) A dealer or an employee of a dealer may not use a
25 dealer's temporary [~~cardboard~~] tag as authorization to operate a
26 vehicle for the dealer's or the employee's personal use.

27 (b) A person may not use a metal dealer's license plate or
28 dealer's temporary [~~cardboard~~] tag on:

29 (1) a service or work vehicle; or

30 (2) a commercial vehicle that is carrying a load.

31 (c) For purposes of this section, a boat trailer carrying
32 a boat is not a commercial vehicle carrying a load. A dealer
33 complying with this chapter may affix to the rear of a boat
34 trailer the dealer owns or sells a metal dealer's license plate
35 or temporary [~~cardboard~~] tag issued under Section 503.061,
36 503.062, or 503.063.

37 SECTION 14. Subsection (a), Section 503.069,
38 Transportation Code, is amended to read as follows:

39 (a) A license plate, other than an in-transit license
40 plate, or a temporary [~~cardboard~~] tag issued under this chapter
41 shall be displayed in accordance with commission [~~board~~] rules.

42 SECTION 15. Subdivision (12), Section 601.002,
43 Transportation Code, is amended to read as follows:

44 (12) "Vehicle registration" means:

45 (A) a registration certificate, registration
46 receipt, or number plate issued under Chapter 502; or

47 (B) a dealer's license plate or temporary

1 [~~cardboard~~] tag issued under Chapter 503.

2 SECTION 16. Subsection (a), Section 152.069, Tax Code, is
3 amended to read as follows:

4 (a) The seller of a motor vehicle sold in a seller-
5 financed sale shall apply for the registration of, and a Texas
6 certificate of title for, the motor vehicle in the name of the
7 purchaser to the appropriate county tax assessor-collector not
8 later than the 45th day after the date the motor vehicle is
9 delivered to the purchaser.

10 SECTION 17. Section 503.0632, Transportation Code, is
11 repealed.

12 SECTION 18. The changes in law made by this Act to Section
13 503.067, Transportation Code, apply to an offense committed on
14 or after the effective date of this Act. An offense committed
15 before the effective date of this Act is governed by the law in
16 effect when the offense was committed, and the former law is
17 continued in effect for that purpose. For purposes of this
18 section, an offense was committed before the effective date of
19 this Act if any element of the offense was committed before that
20 date.

21 SECTION 19. This Act takes effect September 1, 2009.

22
23 S.B. No. 1236
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28 AN ACT

29 relating to admonishments given to a person charged with a
30 misdemeanor.

31 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

32 SECTION 1. Subsection (b), Article 14.06, Code of Criminal
33 Procedure, is amended to read as follows:

34 (b) A peace officer who is charging a person, including a
35 child, with committing an offense that is a Class C misdemeanor,
36 other than an offense under Section 49.02, Penal Code, may,
37 instead of taking the person before a magistrate, issue a
38 citation to the person that contains written notice of the time
39 and place the person must appear before a magistrate, the name
40 and address of the person charged, ~~and~~ the offense charged,
41 and the following admonishment, in boldfaced or underlined type
42 or in capital letters:

43 "If you are convicted of a misdemeanor offense involving
44 violence where you are or were a spouse, intimate partner,
45 parent, or guardian of the victim or are or were involved in
46 another, similar relationship with the victim, it may be
47 unlawful for you to possess or purchase a firearm, including a

1 handgun or long gun, or ammunition, pursuant to federal law
2 under 18 U.S.C. Section 922(g)(9) or Section 46.04(b), Texas
3 Penal Code. If you have any questions whether these laws make
4 it illegal for you to possess or purchase a firearm, you should
5 consult an attorney."

6 SECTION 2. Subsection (a), Article 26.13, Code of Criminal
7 Procedure, is amended to read as follows:

8 (a) Prior to accepting a plea of guilty or a plea of nolo
9 contendere, the court shall admonish the defendant of:

10 (1) the range of the punishment attached to the
11 offense;

12 (2) the fact that the recommendation of the
13 prosecuting attorney as to punishment is not binding on the
14 court. Provided that the court shall inquire as to the
15 existence of any plea bargaining agreements between the state
16 and the defendant and, in the event that such an agreement
17 exists, the court shall inform the defendant whether it will
18 follow or reject such agreement in open court and before any
19 finding on the plea. Should the court reject any such
20 agreement, the defendant shall be permitted to withdraw his plea
21 of guilty or nolo contendere;

22 (3) the fact that if the punishment assessed does not
23 exceed the punishment recommended by the prosecutor and agreed
24 to by the defendant and his attorney, the trial court must give
25 its permission to the defendant before he may prosecute an
26 appeal on any matter in the case except for those matters raised
27 by written motions filed prior to trial;

28 (4) the fact that if the defendant is not a citizen
29 of the United States of America, a plea of guilty or nolo
30 contendere for the offense charged may result in deportation,
31 the exclusion from admission to this country, or the denial of
32 naturalization under federal law; and

33 (5) the fact that the defendant will be required to
34 meet the registration requirements of Chapter 62, if the
35 defendant is convicted of or placed on deferred adjudication for
36 an offense for which a person is subject to registration under
37 that chapter[; ~~and~~

38 [~~(6) the fact that it is unlawful for the defendant~~
39 ~~to possess or transfer a firearm or ammunition if the defendant~~
40 ~~is convicted of a misdemeanor involving family violence, as~~
41 ~~defined by Section 71.004, Family Code].~~

42 SECTION 3. Article 27.14, Code of Criminal Procedure, is
43 amended by adding Subsection (e) to read as follows:

44 (e)(1) Before accepting a plea of guilty or a plea of nolo
45 contendere by a defendant charged with a misdemeanor involving
46 family violence, as defined by Section 71.004, Family Code, the
47 court shall admonish the defendant by using the following

1 statement:

2 "If you are convicted of a misdemeanor offense involving
3 violence where you are or were a spouse, intimate partner,
4 parent, or guardian of the victim or are or were involved in
5 another, similar relationship with the victim, it may be
6 unlawful for you to possess or purchase a firearm, including a
7 handgun or long gun, or ammunition, pursuant to federal law
8 under 18 U.S.C. Section 922(g)(9) or Section 46.04(b), Texas
9 Penal Code. If you have any questions whether these laws make
10 it illegal for you to possess or purchase a firearm, you should
11 consult an attorney."

12 (2) The court may provide the admonishment under
13 Subdivision (1) orally or in writing, except that if the
14 defendant is charged with a misdemeanor punishable by fine only,
15 the statement printed on a citation issued under Article
16 14.06(b) may serve as the court admonishment required by this
17 subsection.

18 SECTION 4. The change in law made by this Act applies only
19 to an offense committed on or after the effective date of this
20 Act. An offense committed before the effective date of this Act
21 is governed by the law in effect at the time the offense was
22 committed, and the former law is continued in effect for that
23 purpose. For purposes of this section, an offense was committed
24 before the effective date of this Act if any element of the
25 offense occurred before that date.

26 SECTION 5. This Act takes effect September 1, 2009.

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28 S.B. No. 1237
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33 AN ACT

34 relating to the authority of certain juvenile probation officers
35 to carry firearms.

36 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

37 SECTION 1. The heading to Section 141.066, Human Resources
38 Code, is amended to read as follows:

39 Sec. 141.066. [~~PROHIBITION ON~~] CARRYING OF FIREARM BY
40 CERTAIN OFFICERS PROHIBITED.

41 SECTION 2. Subsection (b), Section 141.066, Human
42 Resources Code, is amended to read as follows:

43 (b) This section does not apply to:

44 (1) an employee of the Texas Youth Commission; or
45 (2) a juvenile probation officer authorized to carry
46 a firearm under Section 142.006.

47 SECTION 3. Chapter 142, Human Resources Code, is amended

1 by adding Section 142.006 to read as follows:

2 Sec. 142.006. AUTHORIZATION TO CARRY FIREARM. (a) A
3 juvenile probation officer may carry a firearm in the course of
4 the officer's official duties if:

5 (1) the juvenile probation officer possesses a
6 certificate of firearms proficiency issued by the Commission on
7 Law Enforcement Officer Standards and Education under Section
8 1701.258, Occupations Code;

9 (2) the chief juvenile probation officer of the
10 juvenile probation department that employs the juvenile
11 probation officer authorizes the juvenile probation officer to
12 carry a firearm in the course of the officer's official duties;
13 and

14 (3) the juvenile probation officer has been employed
15 for at least one year by the juvenile probation department
16 described by Subdivision (2).

17 (b) A juvenile probation officer is disqualified from
18 being authorized to carry a firearm under this section if the
19 officer has been designated a perpetrator in a Texas Juvenile
20 Probation Commission abuse, neglect, or exploitation
21 investigation.

22 (c) This section does not affect the sovereign immunity of
23 the state, an agency of the state, or a political subdivision of
24 the state.

25 SECTION 4. Subsection (a), Section 46.15, Penal Code, as
26 amended by Chapters 1214 (H.B. 1889) and 1222 (H.B. 2300), Acts
27 of the 80th Legislature, Regular Session, 2007, is reenacted and
28 amended to read as follows:

29 (a) Sections 46.02 and 46.03 do not apply to:

30 (1) peace officers or special investigators under
31 Article 2.122, Code of Criminal Procedure, and neither section
32 prohibits a peace officer or special investigator from carrying
33 a weapon in this state, including in an establishment in this
34 state serving the public, regardless of whether the peace
35 officer or special investigator is engaged in the actual
36 discharge of the officer's or investigator's duties while
37 carrying the weapon;

38 (2) parole officers and neither section prohibits an
39 officer from carrying a weapon in this state if the officer is:

40 (A) engaged in the actual discharge of the
41 officer's duties while carrying the weapon; and

42 (B) in compliance with policies and procedures
43 adopted by the Texas Department of Criminal Justice regarding
44 the possession of a weapon by an officer while on duty;

45 (3) community supervision and corrections department
46 officers appointed or employed under Section 76.004, Government
47 Code, and neither section prohibits an officer from carrying a

1 weapon in this state if the officer is:

2 (A) engaged in the actual discharge of the
3 officer's duties while carrying the weapon; and

4 (B) authorized to carry a weapon under Section
5 76.0051, Government Code;

6 (4) a judge or justice of a federal court, the
7 supreme court, the court of criminal appeals, a court of
8 appeals, a district court, a criminal district court, a
9 constitutional county court, a statutory county court, a justice
10 court, or a municipal court who is licensed to carry a concealed
11 handgun under Subchapter H, Chapter 411, Government Code;

12 (5) an honorably retired peace officer or federal
13 criminal investigator who holds a certificate of proficiency
14 issued under Section 1701.357, Occupations Code, and is carrying
15 a photo identification that:

16 (A) verifies that the officer honorably retired
17 after not less than 15 years of service as a commissioned
18 officer; and

19 (B) is issued by a state or local law
20 enforcement agency;

21 (6) a district attorney, criminal district attorney,
22 county attorney, or municipal attorney who is licensed to carry
23 a concealed handgun under Subchapter H, Chapter 411, Government
24 Code; [e]

25 (7) an assistant district attorney, assistant
26 criminal district attorney, or assistant county attorney who is
27 licensed to carry a concealed handgun under Subchapter H,
28 Chapter 411, Government Code;

29 (8) [+7] a bailiff designated by an active judicial
30 officer as defined by Section 411.201, Government Code, who is:

31 (A) licensed to carry a concealed handgun under
32 Chapter 411, Government Code; and

33 (B) engaged in escorting the judicial officer;
34 or

35 (9) a juvenile probation officer who is authorized to
36 carry a firearm under Section 142.006, Human Resources Code.

37 SECTION 5. Subchapter F, Chapter 1701, Occupations Code,
38 is amended by adding Section 1701.258 to read as follows:

39 Sec. 1701.258. FIREARMS TRAINING PROGRAM FOR JUVENILE
40 PROBATION OFFICERS. (a) The commission and the Texas Juvenile
41 Probation Commission by rule shall adopt a memorandum of
42 understanding that establishes a training program in the use of
43 firearms by juvenile probation officers. The memorandum of
44 understanding must establish a program that provides instruction
45 in:

46 (1) legal limitations on the use of firearms and on
47 the powers and authority of juvenile probation officers;

1 (2) range firing and procedure, and firearms safety
2 and maintenance; and

3 (3) other topics determined by the commission and the
4 Texas Juvenile Probation Commission to be necessary for the
5 responsible use of firearms by juvenile probation officers.

6 (b) The commission shall administer the training program
7 and shall issue a certificate of firearms proficiency to each
8 juvenile probation officer the commission determines has
9 successfully completed the program described by Subsection (a).

10 (c) The commission may establish reasonable and necessary
11 fees for the administration of this section.

12 (d) This section does not affect the sovereign immunity of
13 the state, an agency of the state, or a political subdivision of
14 the state.

15 SECTION 6. The Commission on Law Enforcement Officer
16 Standards and Education and the Texas Juvenile Probation
17 Commission shall adopt the memorandum of understanding required
18 by Section 1701.258, Occupations Code, as added by this Act, not
19 later than January 1, 2010.

20 SECTION 7. This Act takes effect immediately if it
21 receives a vote of two-thirds of all the members elected to each
22 house, as provided by Section 39, Article III, Texas
23 Constitution. If this Act does not receive the vote necessary
24 for immediate effect, this Act takes effect September 1, 2009.

25
26 S.B. No. 1263
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31 AN ACT

32 relating to certain mass transit entities.

33 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

34 SECTION 1. Subsections (e) and (f), Section 451.0611,
35 Transportation Code, are amended to read as follows:

36 (e) The notice required by Subsection (d)(2) may be
37 included in a citation issued to the person under Article 14.06,
38 Code of Criminal Procedure, or under Section 451.0612, in
39 connection with an offense relating to the nonpayment of the
40 appropriate fare or charge for the use of the public
41 transportation system.

42 (f) An offense under Subsection (d) is:

43 (1) a Class C misdemeanor; and

44 (2) not a crime of moral turpitude.

45 SECTION 2. Subchapter B, Chapter 451, Transportation Code,
46 is amended by adding Section 451.0612 to read as follows:

47 Sec. 451.0612. FARE ENFORCEMENT OFFICERS IN CERTAIN

1 AUTHORITIES. (a) An authority confirmed before July 1, 1985,
2 in which the principal municipality has a population of less
3 than 750,000 may employ persons to serve as fare enforcement
4 officers to enforce the payment of fares for use of the public
5 transportation system by:

6 (1) requesting and inspecting evidence showing
7 payment of the appropriate fare from a person using the public
8 transportation system; and

9 (2) issuing a citation to a person described by
10 Section 451.0611(d)(1).

11 (b) Before commencing duties as a fare enforcement
12 officer, a person must complete a 40-hour training course
13 approved by the authority that is appropriate to the duties
14 required of a fare enforcement officer.

15 (c) While performing duties, a fare enforcement officer
16 shall:

17 (1) wear a distinctive uniform that identifies the
18 officer as a fare enforcement officer; and

19 (2) work under the direction of the authority's
20 manager of safety and security.

21 (d) A fare enforcement officer may:

22 (1) request evidence showing payment of the
23 appropriate fare from passengers of the public transportation
24 system;

25 (2) request personal identification from a passenger
26 who does not produce evidence showing payment of the appropriate
27 fare on request by the officer;

28 (3) request that a passenger leave the public
29 transportation system if the passenger does not possess evidence
30 of payment of the appropriate fare; and

31 (4) file a complaint in the appropriate court that
32 charges the person with an offense under Section 451.0611(d).

33 (e) A fare enforcement officer may not carry a weapon
34 while performing duties under this section.

35 (f) A fare enforcement officer is not a peace officer and
36 has no authority to enforce a criminal law, other than the
37 authority possessed by any other person who is not a peace
38 officer.

39 SECTION 3. Subsection (c), Section 451.108, Transportation
40 Code, is amended to read as follows:

41 (c) A peace officer commissioned under this section,
42 except as provided by Subsections (d) and (e), or a peace
43 officer contracted for employment by an authority confirmed
44 before July 1, 1985, in which the principal municipality has a
45 population of less than 750,000, may:

46 (1) make an arrest in any county in which the transit
47 authority system is located as necessary to prevent or abate the

1 commission of an offense against the law of this state or a
2 political subdivision of this state if the offense or threatened
3 offense occurs on or involves the transit authority system;

4 (2) make an arrest for an offense involving injury or
5 detriment to the transit authority system;

6 (3) enforce traffic laws and investigate traffic
7 accidents that involve or occur in the transit authority system;
8 and

9 (4) provide emergency and public safety services to
10 the transit authority system or users of the transit authority
11 system.

12 SECTION 4. Section 451.061, Transportation Code, is
13 amended by amending Subsection (d) and adding Subsection (d-1)
14 to read as follows:

15 (d) Except as provided by Subsection (d-1), the [The]
16 fares, tolls, charges, rents, and other compensation established
17 by an authority in which the principal municipality has a
18 population of less than 1.2 million may not take effect until
19 approved by a majority vote of a committee composed of:

20 (1) five members of the governing body of the
21 principal municipality, selected by that governing body;

22 (2) three members of the commissioners court of the
23 county having the largest portion of the incorporated territory
24 of the principal municipality, selected by that commissioners
25 court; and

26 (3) three mayors of municipalities, other than the
27 principal municipality, located in the authority, selected by:

28 (A) the mayors of all the municipalities, except
29 the principal municipality, located in the authority; or

30 (B) the mayor of the most populous municipality,
31 other than the principal municipality, in the case of an
32 authority in which the principal municipality has a population
33 of less than 300,000.

34 (d-1) The establishment of or a change to fares, tolls,
35 charges, rents, and other compensation by an authority confirmed
36 before July 1, 1985, in which the principal municipality has a
37 population of less than 750,000, takes effect immediately on
38 approval by a majority vote of the board, except that the
39 establishment of or a change to a single-ride base fare takes
40 effect on the 60th day after the date the board approves the
41 fare or change to the fare, unless the policy board of the
42 metropolitan planning organization that serves the area of the
43 authority disapproves the fare or change to the fare by a
44 majority vote.

45 SECTION 5. Section 451.071, Transportation Code, is
46 amended by adding Subsections (g) and (h) to read as follows:

47 (g) This section does not require the authority to hold a

1 referendum on a proposal to enter into a contract or interlocal
2 agreement to build, operate, or maintain a fixed rail transit
3 system for another entity. Notwithstanding Subsection (d), the
4 authority may spend funds of the authority to enter into a
5 contract and operate under that contract to build, operate, or
6 maintain a fixed rail transit system if the other entity will
7 reimburse the authority for the funds.

8 (h) A referendum held by a political subdivision, the
9 authority, or an entity other than the authority at which
10 funding is approved for a fixed rail transit system is
11 considered to meet the requirements of Subsections (d) and (e)
12 and Section 451.3625 if the notice for the election called by
13 the political subdivision, the authority, or other entity
14 contains the description required by Subsection (c). The
15 referendum may allow for financial participation of more than
16 one political subdivision or entity. The authority may only
17 spend funds of the authority if the referendum authorizes that
18 expenditure.

19 SECTION 6. Subchapter J, Chapter 451, Transportation Code,
20 is amended by adding Sections 451.458, 451.459, and 451.460 to
21 read as follows:

22 Sec. 451.458. INTERNAL AUDITOR. (a) This section applies
23 only to an authority confirmed before July 1, 1985, in which the
24 principal municipality has a population of less than 750,000.

25 (b) The board shall appoint a qualified individual to
26 perform internal auditing services for a term of five years.
27 The board may remove the auditor only on the affirmative vote of
28 at least three-fourths of the members of the board.

29 (c) The auditor shall report directly to the board.

30 Sec. 451.459. SUNSET REVIEW. (a) An authority confirmed
31 before July 1, 1985, in which the principal municipality has a
32 population of less than 750,000 is subject to review under
33 Chapter 325, Government Code (Texas Sunset Act), as if it were a
34 state agency but may not be abolished under that chapter. The
35 review shall be conducted as if the authority were scheduled to
36 be abolished September 1, 2011. In addition, another review
37 shall be conducted as if the authority were scheduled to be
38 abolished September 1, 2017. The reviews conducted under this
39 section must include an assessment of the governance,
40 management, and operating structure of the authority and the
41 authority's compliance with the duties and requirements placed
42 on it by the legislature.

43 (b) The authority shall pay the cost incurred by the
44 Sunset Advisory Commission in performing a review of the
45 authority under this section. The Sunset Advisory Commission
46 shall determine the cost, and the authority shall pay the amount
47 promptly on receipt of a statement from the Sunset Advisory

1 Commission detailing the cost.

2 Sec. 451.460. ANNUAL REPORT. (a) This section applies
3 only to an authority confirmed before July 1, 1985, in which the
4 principal municipality has a population of less than 750,000.

5 (b) The authority shall provide an annual report to each
6 governing body of a municipality or county in the authority
7 regarding the status of any financial obligation of the
8 authority to the municipality or county.

9 SECTION 7. Section 451.5021, Transportation Code, is
10 amended by amending Subsections (a), (b), (d), and (e) and
11 adding Subsections (b-1), (d-1), (d-2), and (d-3) to read as
12 follows:

13 (a) This section applies only to the board of an authority
14 created before July 1, 1985, in which the principal municipality
15 has a population of less than 750,000 [~~in which each member of~~
16 ~~the governing body of the principal municipality is elected at~~
17 ~~large~~].

18 (b) Members of the [~~The~~] board [~~is composed of seven~~
19 ~~members who~~] are appointed as follows:

20 (1) one member, who is an elected official, [~~two~~
21 ~~members representing the general public~~] appointed by the
22 metropolitan planning organization designated by the governor
23 that serves the area of the authority;

24 (2) two members, one who must be and one who may be
25 an elected official, [~~two members~~] appointed by the governing
26 body of the principal municipality;

27 (3) one member appointed by the commissioners court
28 of the principal county;

29 (4) one member appointed by the commissioners court
30 of the county, excluding the principal county, that has the
31 largest population of the counties in the authority [~~a panel~~
32 ~~composed of the mayors of all the municipalities in the~~
33 ~~authority located in the principal county of the authority,~~
34 ~~excluding the mayor of the principal municipality~~]; [~~and~~]

35 (5) one member, who is an elected official, appointed
36 by a panel composed of[~~+~~

37 [~~A~~] the mayors of all municipalities in the
38 authority [~~located outside the principal county of the~~
39 ~~authority~~], excluding the mayor of the principal municipality;

40 (6) one member, who has at least 10 years of
41 experience as a financial or accounting professional, appointed
42 by the metropolitan planning organization that serves the area
43 in which the authority is located;

44 (7) one member, who has at least 10 years of
45 experience in an executive-level position in a public or private
46 organization, including a governmental entity, appointed by the
47 metropolitan planning organization that serves the area in which

1 the authority is located; and
2 (8) two members appointed by the metropolitan
3 planning organization that serves the area in which the
4 authority is located, if according to the most recent federal
5 decennial census more than 35 percent of the population in the
6 territory of the authority resides outside the principal
7 municipality [~~(B) the county judges of the counties having~~
8 ~~unincorporated area in the authority, excluding the county judge~~
9 ~~of the principal county; and~~
10 [~~(C) the presiding officer of each municipal~~
11 ~~utility district that:~~
12 [~~(i) has a majority of its territory~~
13 ~~located outside the principal county; and~~
14 [~~(ii) is located wholly or partly in the~~
15 ~~authority]~~.
16 (b-1) Notwithstanding Section 451.505, members of the
17 board serve staggered three-year terms, with the terms of two or
18 three members, as applicable, expiring June 1 of each year.
19 (d) A person appointed under Subsection (b)(1), (2)
20 [~~(b)(2), (3), (4)~~], or (5), except as provided by Subsection
21 (b)(2):
22 (1) must be a member of the governing body:
23 (A) of the political subdivision that is
24 entitled to make the appointment; or
25 (B) over which a member of the panel entitled to
26 make an appointment presides;
27 (2) vacates the office of board member if the person
28 ceases to be a member of the governing body described by
29 Subdivision (1);
30 (3) serves on the board as an additional duty of the
31 office held on the governing body described by Subdivision (1);
32 and
33 (4) is not entitled to compensation for serving as a
34 member of the board.
35 (d-1) At least two members appointed under Subsections
36 (b)(1), (6), and (7) must be qualified voters residing in the
37 principal municipality.
38 (d-2) A person appointed under Subsection (b)(3) must:
39 (1) have the person's principal place of occupation
40 or employment in the portion of the authority's service area
41 that is located in the principal county; or
42 (2) be a qualified voter of the principal county.
43 (d-3) A person appointed under Subsection (b)(4) must:
44 (1) have the person's principal place of occupation
45 or employment in the portion of the authority's service area
46 that is located in the county, other than the principal county,
47 that has the largest population of the counties in the

1 authority; or

2 (2) be a qualified voter of the county, other than
3 the principal county, that has the largest population of the
4 counties in the authority.

5 (e) A panel appointing a member under Subsection (b)(5)
6 [~~this section~~] operates in the manner prescribed by Section
7 451.503.

8 SECTION 8. Subsection (b), Section 451.505, Transportation
9 Code, is amended to read as follows:

10 (b) The terms of members of a board are staggered if the
11 authority was[+]

12 [~~(1)~~] created before 1980 and has a principal
13 municipality with a population of less than 1.2 million[~~+-~~

14 [~~(2)~~ confirmed before July 1, 1985, and has a
15 principal municipality with a population of less than 750,000].

16 SECTION 9. Subsections (g) and (h), Section 451.5021,
17 Transportation Code, are repealed.

18 SECTION 10. (a) This section applies only to a member of
19 the board of a metropolitan rapid transit authority created
20 before July 1, 1985, in which the principal municipality has a
21 population of 750,000 or less.

22 (b) The term of a board member that is scheduled, under
23 the law as it existed before the effective date of this Act, to
24 expire:

25 (1) after the effective date of this Act but before
26 January 1, 2010, is extended to December 31, 2009; and

27 (2) on or after January 1, 2010, expires on the date
28 the term was scheduled to expire under this law as it existed
29 before the effective date of this Act.

30 (c) As soon as practicable on or after the effective date
31 of this Act, but not later than December 31, 2009, the persons
32 and entities specified in Section 451.5021, Transportation Code,
33 as amended by this Act, shall appoint the members of the board
34 in compliance with that section, as amended, to serve terms that
35 begin, as applicable and as subject to Subsection (d) of this
36 section:

37 (1) January 1, 2010; or

38 (2) the day after a term expires under Subdivision
39 (2), Subsection (b) of this section.

40 (d) A vacancy created because of the expiration of a term
41 under Subsection (b) of this section is filled in the following
42 manner:

43 (1) for a member appointed under Subdivision (1),
44 Subsection (b), Section 451.5021, Transportation Code, under the
45 law as it existed before the effective date of this Act:

46 (A) one vacancy shall be filled by the
47 appointing person or entity specified by Subdivision (6),

1 Subsection (b), Section 451.5021, Transportation Code, as added
2 by this Act; and
3 (B) one vacancy shall be filled by the
4 appointing person or entity specified by Subdivision (7),
5 Subsection (b), Section 451.5021, Transportation Code, as added
6 by this Act;
7 (2) for a member appointed under Subdivision (2),
8 Subsection (b), Section 451.5021, Transportation Code, under the
9 law as it existed before the effective date of this Act:
10 (A) one vacancy shall be filled by the
11 appointing person or entity specified by Subdivision (1),
12 Subsection (b), Section 451.5021, Transportation Code, as
13 amended by this Act; and
14 (B) one vacancy shall be filled by the
15 appointing person or entity specified by Subdivision (2),
16 Subsection (b), Section 451.5021, Transportation Code, as
17 amended by this Act;
18 (3) for a member appointed under Subdivision (3),
19 Subsection (b), Section 451.5021, Transportation Code, under the
20 law as it existed before the effective date of this Act, the
21 vacancy shall be filled by the appointing person or entity
22 specified by Subdivision (3), Subsection (b), Section 451.5021,
23 Transportation Code, as amended by this Act;
24 (4) for a member appointed under Subdivision (4),
25 Subsection (b), Section 451.5021, Transportation Code, under the
26 law as it existed before the effective date of this Act, the
27 vacancy shall be filled by the appointing person or entity
28 specified by Subdivision (5), Subsection (b), Section 451.5021,
29 Transportation Code, as amended by this Act; and
30 (5) for a member appointed under Subdivision (5),
31 Subsection (b), Section 451.5021, Transportation Code, under the
32 law as it existed before the effective date of this Act, the
33 vacancy shall be filled by the appointing person or entity
34 specified by Subdivision (4), Subsection (b), Section 451.5021,
35 Transportation Code, as amended by this Act.
36 (e) The members of the board appointed under Subsection
37 (c) of this section shall draw lots to determine which terms of
38 two members expire June 1, 2011, which terms of three members
39 expire June 1, 2012, and which terms of three members expire
40 June 1, 2013.
41 (f) As soon as practicable after the metropolitan planning
42 organization specified by Subdivision (8), Subsection (b),
43 Section 451.5021, Transportation Code, as added by this Act,
44 determines that that subdivision applies to the metropolitan
45 rapid transit authority, the metropolitan planning organization
46 shall appoint:
47 (1) one member of the board of the authority for a

1 term to expire June 1, 2011, or, if that date has passed, the
2 following six-year anniversary of that date; and

3 (2) one member of the board of the authority for a
4 term to expire June 1, 2013, or, if that date has passed, the
5 following six-year anniversary of that date.

6 SECTION 11. This Act takes effect September 1, 2009.

7
8 S.B. No. 1273
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12
13 AN ACT

14 relating to creating an offense for interference with certain
15 radio frequencies.

16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

17 SECTION 1. Chapter 38, Penal Code, is amended by adding
18 Section 38.152 to read as follows:

19 Sec. 38.152. INTERFERENCE WITH RADIO FREQUENCY LICENSED TO
20 GOVERNMENT ENTITY. (a) A person commits an offense if, without
21 the effective consent of the law enforcement agency, fire
22 department, or emergency medical services provider, the person
23 intentionally interrupts, disrupts, impedes, jams, or otherwise
24 interferes with a radio frequency that is licensed by the
25 Federal Communications Commission to a government entity and is
26 used by the law enforcement agency, fire department, or
27 emergency medical services provider.

28 (b) An offense under this section is a Class A
29 misdemeanor, except that the offense is a state jail felony if
30 the actor committed the offense with the intent to:

31 (1) facilitate the commission of another offense; or

32 (2) interfere with the ability of a law enforcement
33 agency, a fire department, or an emergency medical services
34 provider to respond to an emergency.

35 (c) In this section:

36 (1) "Emergency" has the meaning assigned by Section
37 38.15.

38 (2) "Emergency medical services provider" has the
39 meaning assigned by Section 773.003, Health and Safety Code.

40 (3) "Law enforcement agency" has the meaning assigned
41 by Article 59.01, Code of Criminal Procedure.

42 (d) If conduct constituting an offense under this section
43 also constitutes an offense under another section of this code,
44 the actor may be prosecuted under either section or under both
45 sections.

46 SECTION 2. This Act takes effect September 1, 2009.
47

1 S.B. No. 1303

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6 AN ACT

7 relating to the requirement that certain state and local
8 governmental entities designate a firearms proficiency officer
9 and require weapons proficiency.

10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

11 SECTION 1. Subsection (a), Section 1701.355, Occupations
12 Code, is amended to read as follows:

13 (a) An agency that employs one or more [~~at least two~~]
14 peace officers shall designate a firearms proficiency officer
15 and require each peace officer the agency employs to demonstrate
16 weapons proficiency to the firearms proficiency officer at least
17 annually. The agency shall maintain records of the weapons
18 proficiency of the agency's peace officers.

19 SECTION 2. A law enforcement agency affected by the change
20 in law made by this Act shall designate a firearms proficiency
21 officer not later than March 1, 2010. For purposes of this
22 section, a state or local governmental entity that employs one
23 or more peace officers is a law enforcement agency.

24 SECTION 3. This Act takes effect September 1, 2009.

25
26 S.B. No. 1317

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31 AN ACT

32 relating to education and examination requirements for the
33 issuance of a driver's license to certain persons.

34 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

35 SECTION 1. Subsection (d), Section 521.142, Transportation
36 Code, is amended to read as follows:

37 (d) If the applicant is under 25 years of age, the
38 application must state whether the applicant has completed a
39 driver education course required by Section 521.1601 [~~approved~~
40 ~~by the department~~].

41 SECTION 2. The heading to Subchapter H, Chapter 521,
42 Transportation Code, is amended to read as follows:

43 SUBCHAPTER H. EDUCATION AND EXAMINATION REQUIREMENTS

44 SECTION 3. Subchapter H, Chapter 521, Transportation Code,
45 is amended by adding Sections 521.1601 and 521.167 to read as
46 follows:

47 Sec. 521.1601. DRIVER EDUCATION REQUIRED. The department

1 may not issue a driver's license to a person who is younger than
2 25 years of age unless the person submits to the department a
3 driver education certificate issued under Chapter 1001,
4 Education Code, that states that the person has completed and
5 passed:

6 (1) a driver education and traffic safety course
7 approved by the Texas Education Agency under Section 29.902,
8 Education Code, or a driver education course approved by that
9 agency under Section 1001.101(a)(1) of that code or approved by
10 the department under Section 521.205; or

11 (2) if the person is 18 years of age or older, a
12 driver education course approved by the Texas Education Agency
13 under Section 1001.101(a)(1) or (2), Education Code.

14 Sec. 521.167. WAIVER OF CERTAIN EDUCATION AND EXAMINATION
15 REQUIREMENTS. A person who has completed and passed a driver
16 education course approved by the Texas Education Agency under
17 Section 1001.101(a)(2), Education Code, is not required to take
18 the highway sign and traffic law parts of the examination
19 required under Section 521.161 if those parts have been
20 successfully completed as determined by a licensed driver
21 education instructor.

22 SECTION 4. Section 1001.004, Education Code, is amended to
23 read as follows:

24 Sec. 1001.004. COST OF ADMINISTERING CHAPTER. (a) Except
25 as provided by Subsection (b), the [The] cost of administering
26 this chapter shall be included in the state budget allowance for
27 the agency.

28 (b) The commissioner may charge a fee to each driver
29 education school in an amount not to exceed the actual expense
30 incurred in the regulation of driver education courses
31 established under Section 1001.101(a)(2).

32 SECTION 5. Subsection (a), Section 1001.055, Education
33 Code, is amended to read as follows:

34 (a) The agency shall print and supply to each licensed or
35 exempt driver education school driver education certificates to
36 be used for certifying completion of an approved driver
37 education course to satisfy the requirements of Sections
38 [~~Section~~] 521.204(a)(2) and 521.1601, Transportation Code. The
39 certificates must be numbered serially.

40 SECTION 6. Section 1001.101, Education Code, is amended to
41 read as follows:

42 Sec. 1001.101. DRIVER EDUCATION COURSE CURRICULUM AND
43 EDUCATIONAL MATERIALS [~~TEXTBOOKS~~]. (a) The commissioner by
44 rule shall establish the curriculum and designate the
45 educational materials [~~textbooks~~] to be used in:

46 (1) a driver education course for minors and adults;
47 and

1 (2) a driver education course exclusively for adults.
 2 **(b) A driver education course under Subsection (a)(2)**
 3 **must:**
 4 (1) be a six-hour course; and
 5 (2) include instruction in:
 6 (A) alcohol and drug awareness;
 7 (B) the traffic laws of this state;
 8 (C) highway signs, signals, and markings that
 9 regulate, warn, or direct traffic; and
 10 (D) the issues commonly associated with motor
 11 vehicle accidents, including poor decision-making, risk taking,
 12 impaired driving, distraction, speed, failure to use a safety
 13 belt, driving at night, failure to yield the right-of-way, and
 14 using a wireless communication device while operating a vehicle.
 15 (c) A course approved under Subsection (a)(2) may be
 16 offered as an online course.
 17 (d) A driving safety course or a drug and alcohol driving
 18 awareness program may not be approved as a driver education
 19 course under Subsection (a)(2).

20 SECTION 7. The changes in law made by this Act apply to an
 21 application for the issuance of a driver's license filed on or
 22 after the effective date of this Act. An application for the
 23 issuance of a driver's license filed before the effective date
 24 of this Act is governed by the law in effect on the date of the
 25 filing, and that law is continued in effect for that purpose.

26 SECTION 8. This Act takes effect March 1, 2010.

27
 28 S.B. No. 1356
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33 AN ACT

34 relating to a fee associated with the assignment of a vehicle
 35 identification number by the Texas Department of Transportation.

36 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

37 SECTION 1. Section 501.033, Transportation Code, is
 38 amended by adding Subsection (e) to read as follows:

39 (e) If the auto theft unit of a county or municipal law
 40 enforcement agency conducts an inspection required by the
 41 department under this section, the agency may impose a fee of
 42 \$40. The county or municipal treasurer shall credit the fee to
 43 the general fund of the county or municipality, as applicable,
 44 to defray the agency's cost associated with the inspection. The
 45 fee shall be waived by the department or agency imposing the fee
 46 if the person applying under this section is the current
 47 registered owner.

1 SECTION 2. This Act takes effect September 1, 2009.

2
3 S.B. No. 1367

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8 AN ACT

9 relating to parking placard or specialty license plate
10 applications by persons with a mobility problem caused by an
11 impairment of vision.

12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

13 SECTION 1. Subsection (a), Section 504.201, Transportation
14 Code, is amended by adding Subdivision (3) to read as follows:

15 (3) "Practice of optometry" and "practice of
16 therapeutic optometry" have the meanings assigned by Section
17 351.002, Occupations Code.

18 SECTION 2. Section 504.201, Transportation Code, is
19 amended by amending Subsection (d) and adding Subsection (d-1)
20 to read as follows:

21 (d) Except as provided by Subsection (d-1), the [The]
22 initial application for specialty license plates under this
23 section must be accompanied by a written statement from a
24 physician who is licensed to practice medicine in this state or
25 in a state adjacent to this state or who is authorized by
26 applicable law to practice medicine in a hospital or other
27 health facility of the Department of Veterans Affairs. If the
28 applicant has a mobility problem caused by a disorder of the
29 foot, the written statement may be issued by a person licensed
30 to practice podiatry in this state or a state adjacent to this
31 state. In this subsection, "podiatry" has the meaning assigned
32 by Section 681.001. The statement must certify that the person
33 making the application or on whose behalf the application is
34 made is legally blind or has a mobility problem that
35 substantially impairs the person's ability to ambulate. The
36 statement must also certify whether a mobility problem is
37 temporary or permanent. A written statement is not required as
38 acceptable medical proof if:

39 (1) the person with a disability:

40 (A) has had a limb, hand, or foot amputated; or

41 (B) must use a wheelchair; and

42 (2) the applicant and the county assessor-collector
43 processing the application execute an affidavit attesting to the
44 person's disability.

45 (d-1) If the initial application for specialty license
46 plates under this section is made by or on behalf of a person
47 who is legally blind, the written statement required by

1 Subsection (d) may be issued by a person licensed to engage in
2 the practice of optometry or the practice of therapeutic
3 optometry in this state or a state adjacent to this state.

4 SECTION 3. Section 681.003, Transportation Code, is
5 amended by amending Subsection (e) and adding Subsection (f) to
6 read as follows:

7 (e) If a first application for a disabled parking placard
8 under this section is made by or on behalf of a person with:

9 (1) a mobility problem caused by a disorder of the
10 foot, the notarized written statement or written prescription
11 required by Subsection (c) may be issued by a person licensed to
12 practice podiatry in this state or a state adjacent to this
13 state; or

14 (2) a disability caused by an impairment of vision as
15 provided by Section 681.001(2), the notarized written statement
16 or written prescription required by Subsection (c) may be issued
17 by a person licensed to engage in the practice of optometry or
18 the practice of therapeutic optometry in this state or a state
19 adjacent to this state.

20 (f) In this section, "practice of optometry" and "practice
21 of therapeutic optometry" have the meanings assigned by Section
22 351.002, Occupations Code.

23 SECTION 4. The changes in law made by this Act apply only
24 to an application for a disabled parking placard or disabled
25 license plates submitted on or after the effective date of this
26 Act. An application submitted before the effective date of this
27 Act is governed by the law in effect on the date the application
28 was submitted, and the former law is continued in effect for
29 that purpose.

30 SECTION 5. This Act takes effect September 1, 2009.

31
32 S.B. No. 1377
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37 AN ACT

38 relating to the administration of the compensation to victims of
39 crime fund and the compensation to victims of crime auxiliary
40 fund.

41 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

42 SECTION 1. Article 56.54, Code of Criminal Procedure, is
43 amended by adding Subsection (m) to read as follows:

44 (m) Not later than September 15 of each year, the attorney
45 general, after consulting with the comptroller, shall certify
46 the amount of money remaining in the compensation to victims of
47 crime auxiliary fund at the end of the preceding state fiscal

1 year. If the amount remaining in the fund exceeds \$5 million,
2 as soon as practicable after the date of certification, the
3 attorney general may transfer from that excess amount in the
4 compensation to victims of crime auxiliary fund to the
5 compensation to victims of crime fund an amount that is not more
6 than 50 percent of the excess amount in the auxiliary fund, to
7 be used only for the purpose of making compensation payments
8 during the fiscal year in which the amount is transferred.

9 SECTION 2. Subsection (b), Article 56.541, Code of
10 Criminal Procedure, is amended to read as follows:

11 (b) At the time the attorney general certifies the
12 estimates made under Subsection (a), the attorney general shall
13 also certify for the next state fiscal biennium the amount of
14 excess money in the compensation to victims of crime fund
15 available for the purposes of Subsection (c), calculated by
16 multiplying [~~subtracting~~] the amount estimated under Subsection
17 (a)(2) by 105 percent, and subtracting that product from the sum
18 of the amounts estimated under Subsections (a)(1) and (a)(3).

19 SECTION 3. The attorney general may not transfer money
20 under Subsection (m), Article 56.54, Code of Criminal Procedure,
21 as added by this Act, before the 2011 state fiscal year.

22 SECTION 4. This Act takes effect September 1, 2009.

23
24 S.B. No. 1409
25
26
27
28

29 AN ACT

30 relating to the definition of first responder for purposes of
31 the immunization registry.

32 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

33 SECTION 1. Subdivision (1-a), Section 161.0001, Health and
34 Safety Code, is amended to read as follows:

35 (1-a) "First responder" means:

36 (A) any federal, state, local, or private
37 personnel who may respond to a disaster, including:

38 (i) public health and public safety
39 personnel;

40 (ii) commissioned law enforcement
41 personnel;

42 (iii) fire protection personnel, including
43 volunteer firefighters;

44 (iv) emergency medical services personnel,
45 including hospital emergency facility staff;

46 (v) a member of the National Guard;

47 (vi) a member of the Texas State Guard; or

1 administrative head shall reduce the employee's compensatory
2 time balance by one hour for each hour the employee is paid
3 overtime under this section.

4 SECTION 2. This Act takes effect September 1, 2009.

5
6 S.B. No. 1485
7
8
9

10
11 AN ACT

12 relating to the sale of surplus or salvage property and
13 firefighting equipment by an emergency services district.

14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

15 SECTION 1. Chapter 775, Health and Safety Code, is amended
16 by adding Subchapter I to read as follows:

17 SUBCHAPTER I. SURPLUS AND SALVAGE PROPERTY

18 Sec. 775.251. SALE AND DISPOSITION OF SURPLUS OR SALVAGE
19 PROPERTY. (a) In this section:

20 (1) "Salvage property" means personal property, other
21 than wastepaper, that because of use, time, or accident is so
22 damaged, used, or consumed that it has no value for the purpose
23 for which it was originally intended.

24 (2) "Surplus property" means personal property that
25 is in excess of the needs of its owner, that is not required for
26 the owner's foreseeable needs, and that possesses some
27 usefulness for the purpose for which it was intended or for some
28 other purpose.

29 (3) "Volunteer fire department" means an association
30 that:

31 (A) operates firefighting equipment;

32 (B) is organized primarily to provide and
33 actively provides firefighting services;

34 (C) does not pay its members compensation other
35 than nominal compensation; and

36 (D) does not distribute any of its income to its
37 members, officers, or governing body, other than for
38 reimbursement of expenses.

39 (b) Notwithstanding other law, a district may sell surplus
40 firefighting equipment, including equipment described by
41 Sections 419.040 and 419.041, Government Code, to any volunteer
42 fire department or district in this state for fair market value
43 if the equipment:

44 (1) met the National Fire Protection Association
45 Standards at the original time of purchase; and

46 (2) at the time of the sale:

47 (A) meets the National Fire Protection

1 Association Standards in effect at the original time of
2 purchase; or

3 (B) meets the National Fire Protection
4 Association Standards in effect.

5 (c) A district may contract to supply surplus property to
6 any volunteer fire department or district in this state at fair
7 market value.

8 (d) A district may sell salvage property to any person in
9 this state for fair market value. If a district is unable to
10 sell the property for fair market value, the district may
11 destroy or otherwise dispose of the property as worthless.

12 (e) The district may determine the fair market value of
13 surplus and salvage property sold under Subsections (b), (c),
14 and (d).

15 SECTION 2. This Act takes effect September 1, 2009.

16
17 S.B. No. 1495
18
19
20
21

22 AN ACT

23 relating to the taxation of motor fuels; providing penalties.

24 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

25 SECTION 1. Subsection (b), Section 101.009, Tax Code, is
26 amended to read as follows:

27 (b) Cigarette tax revenue allocated under Section
28 154.603(b) [~~of this code~~] shall be allocated as provided by
29 Section 154.603 [~~of this code~~]. Motor fuel tax revenue shall be
30 allocated and deposited as provided by Subchapter F, Chapter 162
31 [~~of Chapter 153 of this code~~].

32 SECTION 2. Subsection (g), Section 111.006, Tax Code, is
33 amended to read as follows:

34 (g) Information made confidential by Subsection (a)(2)
35 that relates to a taxpayer's responsibilities under Chapter 162
36 [~~153~~] may be examined by an official of another state or of the
37 United States if:

38 (1) the official has information that would assist
39 the comptroller in administering Chapter 162 [~~153~~];

40 (2) the comptroller is conducting or may conduct an
41 examination or a criminal investigation of the taxpayer that is
42 the subject of the information made confidential by Subsection
43 (a)(2); and

44 (3) a reciprocal agreement exists allowing the
45 comptroller to examine information under the control of the
46 official in a manner substantially equivalent to the official's
47 access to information under this subsection.

1 SECTION 3. Subsection (d), Section 111.060, Tax Code, is
2 amended to read as follows:

3 (d) Subsection (c) does not apply to the taxes imposed by
4 Chapters 152 and 211 or under an agreement made under Section
5 162.003 [~~153.017~~].

6 SECTION 4. Subsection (d), Section 111.064, Tax Code, is
7 amended to read as follows:

8 (d) This section does not apply to an amount paid to the
9 comptroller under Title 6, Property Code, or under an agreement
10 made under Section 162.003 [~~153.017~~].

11 SECTION 5. Subsection (a), Section 111.107, Tax Code, is
12 amended to read as follows:

13 (a) Except as otherwise expressly provided, a person may
14 request a refund or a credit or the comptroller may make a
15 refund or issue a credit for the overpayment of a tax imposed by
16 this title at any time before the expiration of the period
17 during which the comptroller may assess a deficiency for the tax
18 and not thereafter unless the refund or credit is requested:

19 (1) under Subchapter B of Chapter 112 and the refund
20 is made or the credit is issued under a court order;

21 (2) under the provision of Section 111.104(c)(3)
22 applicable to a refund claim filed after a jeopardy or
23 deficiency determination becomes final; or

24 (3) under Chapter 162 [~~153~~], except Section
25 162.126(f) [~~153.1195(e)~~], 162.128(d) [~~153.121(d)~~], 162.228(f)
26 [~~153.2225(e)~~], or 162.230(d) [~~153.224(d)~~].

27 SECTION 6. Section 151.308, Tax Code, is amended to read
28 as follows:

29 Sec. 151.308. ITEMS TAXED BY OTHER LAW. (a) The
30 following are exempted from the taxes imposed by this chapter:

31 (1) oil as taxed by Chapter 202;

32 (2) sulphur as taxed by Chapter 203;

33 (3) motor fuels and special fuels as defined, taxed,
34 or exempted by Chapter 162 [~~153~~];

35 (4) cement as taxed by Chapter 181;

36 (5) motor vehicles, trailers, and semitrailers as
37 defined, taxed, or exempted by Chapter 152, other than a mobile
38 office as defined by Section 152.001(16);

39 (6) mixed beverages, ice, or nonalcoholic beverages
40 and the preparation or service of these items if the receipts
41 are taxable by Chapter 183;

42 (7) alcoholic beverages when sold to the holder of a
43 private club registration permit or to the agent or employee of
44 the holder of a private club registration permit if the holder
45 or agent or employee is acting as the agent of the members of
46 the club and if the beverages are to be served on the premises
47 of the club;

1 (8) oil well service as taxed by Subchapter E,
2 Chapter 191; and

3 (9) insurance premiums subject to gross premiums
4 taxes.

5 (b) Natural gas is exempted under Subsection (a)(3) only
6 to the extent that the gas is taxed as a motor fuel under
7 Chapter 162 [~~153~~].

8 SECTION 7. Section 162.001, Tax Code, is amended by
9 amending Subdivisions (7), (9), (11), (19), (20), (29), (31),
10 (42), (43), and (55) and adding Subdivision (10-a) to read as
11 follows:

12 (7) "Biodiesel fuel" means any motor fuel or mixture
13 of motor fuels, other than gasoline blended fuel, that is:

14 (A) derived wholly or partly from agricultural
15 products, vegetable oils, recycled greases, or animal fats, or
16 the wastes of those products or fats; and

17 (B) advertised, offered for sale, sold, used, or
18 capable of [~~suitable for~~] use[~~, or used~~] as [~~a motor~~] fuel for a
19 diesel-powered [~~in an internal combustion~~] engine.

20 (9) "Blending" means the mixing together of liquids
21 that produces a product that is offered for sale, sold, used, or
22 [~~one or more petroleum products with another product, regardless~~
23 ~~of the original character of the product blended, if the product~~
24 ~~obtained by the blending is]~~ capable of use as fuel for a
25 gasoline-powered engine or diesel-powered engine [~~in the~~
26 ~~generation of power for the propulsion of a motor vehicle~~]. The
27 term does not include mixing that occurs in the process of
28 refining by the original refiner of crude petroleum or the
29 commingling of products during transportation in a pipeline.

30 (10-a) "Bulk storage" means a container of more than
31 10 gallons.

32 (11) "Bulk transfer" means a transfer of motor fuel
33 from one location to another by pipeline [~~tender~~] or marine
34 movement [~~delivery~~] within a bulk transfer/terminal system,
35 including:

36 (A) a marine vessel movement of motor fuel from
37 a refinery or terminal to a terminal;

38 (B) a pipeline movement of motor fuel from a
39 refinery or terminal to a terminal;

40 (C) a book transfer or in-tank transfer of motor
41 fuel within a terminal between licensed suppliers before
42 completion of removal across the rack; and

43 (D) a two-party exchange between licensed
44 suppliers or between licensed suppliers and permissive
45 suppliers.

46 (19) "Diesel fuel" means kerosene or another liquid,
47 or a combination of liquids blended together, offered for sale,

1 sold, [~~that is suitable for or~~] used, or capable of use as fuel
2 for the propulsion of a diesel-powered engine [~~motor vehicles~~].
3 The term includes products commonly referred to as kerosene,
4 light cycle oil, #1 diesel fuel, #2 diesel fuel, dyed or undyed
5 diesel fuel, aviation jet fuel, biodiesel, distillate fuel,
6 cutter stock, or heating oil, but does not include gasoline,
7 aviation gasoline, or liquefied gas.

8 (20) "Distributor" means a person who [~~acquires motor~~
9 ~~fuel from a licensed supplier, permissive supplier, or another~~
10 ~~licensed distributor and who~~] makes sales of motor fuel at
11 wholesale. A distributor's [~~and whose~~] activities may also
12 include sales of motor fuel at retail.

13 (29) "Gasoline" means any liquid or combination of
14 liquids blended together, offered for sale, sold, [~~or~~] used, or
15 capable of use as [~~the~~] fuel for a gasoline-powered engine. The
16 term includes gasohol, aviation gasoline, and blending agents,
17 but does not include racing gasoline, diesel fuel, aviation jet
18 fuel, or liquefied gas.

19 (31) "Gasoline blended fuel" means a mixture composed
20 of gasoline and other liquids, including gasoline blend stocks,
21 gasohol, ethanol, methanol, fuel grade alcohol, and resulting
22 blends, other than a de minimus amount of a product such as
23 carburetor detergent or oxidation inhibitor, that is offered for
24 sale, sold, [~~can be~~] used, or capable of use as fuel for a
25 gasoline-powered engine [~~gasoline in a motor vehicle~~].

26 (42) "Motor fuel" means gasoline, diesel fuel,
27 liquefied gas, gasoline blended fuel, and other products that
28 are offered for sale, sold, [~~can be~~] used, or capable of use as
29 fuel for a gasoline-powered engine or a diesel-powered engine
30 [~~to propel a motor vehicle~~].

31 (43) "Motor fuel transporter" means a person who
32 transports gasoline, diesel fuel, [~~or~~] gasoline blended fuel,
33 aviation fuel, or any other motor fuel, except liquefied gas,
34 outside the bulk transfer/terminal system by means of a
35 transport vehicle, a railroad tank car, or a marine vessel. The
36 term does not include a person who:

37 (A) is licensed under this chapter as a
38 supplier, permissive supplier, or distributor; and

39 (B) exclusively transports gasoline, diesel
40 fuel, gasoline blended fuel, aviation fuel, or any other motor
41 fuel to which the person retains ownership while the fuel is
42 being transported by the person.

43 (55) "Shipping document" means a delivery document
44 issued [~~by a terminal or bulk plant operator~~] in conjunction
45 with the sale, transfer, or transport [~~removal~~] of motor fuel
46 [~~from the terminal or bulk plant~~]. A shipping document issued
47 by a terminal operator shall be machine printed. All other

1 shipping documents [~~A shipping document issued by a bulk plant~~]
2 shall be typed or handwritten on a preprinted form or machine
3 printed.

4 SECTION 8. Section 162.004, Tax Code, is amended by
5 amending Subsections (a) and (b) and adding Subsections (a-1)
6 and (h) to read as follows:

7 (a) A person may not transport in this state any motor
8 fuel by barge, vessel, railroad tank car, or transport vehicle
9 unless the person has a shipping document for the motor fuel
10 that complies with this section.

11 (a-1) A terminal operator or operator of a bulk plant
12 shall give a shipping document to the person who operates the
13 barge, vessel, railroad tank car, or transport vehicle into
14 which motor fuel is loaded at the terminal rack or bulk plant
15 rack.

16 (b) A [~~The~~] shipping document [~~issued by the terminal~~
17 ~~operator or operator of a bulk plant~~] shall contain the
18 following information and any other information required by the
19 comptroller:

20 (1) the terminal control number of the terminal or
21 physical address of the terminal or bulk plant from which the
22 motor fuel was received;

23 (2) the name [~~and license number~~] of the purchaser;

24 (3) the date the motor fuel was loaded;

25 (4) the net gallons loaded, or the gross gallons
26 loaded if the fuel was purchased from a bulk plant;

27 (5) the destination state of the motor fuel, as
28 represented by the purchaser of the motor fuel or the
29 purchaser's agent; and

30 (6) a description of the product being transported.

31 (h) This section does not apply to motor fuel that is
32 delivered into the fuel supply tank of a motor vehicle.

33 SECTION 9. Subsections (a), (b), (d), and (e), Section
34 162.016, Tax Code, are amended to read as follows:

35 (a) A person may not import motor fuel to a destination in
36 this state or export motor fuel to a destination outside this
37 state by any means unless the person possesses a shipping
38 document for that fuel [~~created by the terminal or bulk plant at~~
39 ~~which the fuel was received~~]. The shipping document must
40 include:

41 (1) the name and physical address of the terminal or
42 bulk plant from which the motor fuel was received for import or
43 export;

44 (2) the name [~~and federal employer identification~~
45 ~~number, or the social security number if the employer~~
46 ~~identification number is not available,~~] of the carrier
47 transporting the motor fuel;

1 (3) the date the motor fuel was loaded;
2 (4) the type of motor fuel;
3 (5) the number of gallons:
4 (A) in temperature-adjusted gallons if purchased
5 from a terminal for export or import; or
6 (B) in temperature-adjusted gallons or in gross
7 gallons if purchased from a bulk plant;
8 (6) the destination of the motor fuel as represented
9 by the purchaser of the motor fuel and the number of gallons of
10 the fuel to be delivered, if delivery is to only one state;
11 (7) the name[, ~~federal employer identification~~
12 ~~number, license number,~~] and physical address of the purchaser
13 of the motor fuel;
14 (8) the name of the person responsible for paying the
15 tax imposed by this chapter, as given to the terminal by the
16 purchaser if different from the licensed supplier or
17 distributor; ~~and~~
18 (9) the destination state of each portion of a split
19 load of motor fuel if the motor fuel is to be delivered to more
20 than one state; and
21 (10) any other information that, in the opinion of
22 the comptroller, is necessary for the proper administration of
23 this chapter.
24 (b) The [~~terminal or bulk plant shall provide the~~]
25 shipping documents shall be provided to the importer or
26 exporter.
27 (d) A seller, transporter, or receiver of [~~terminal, a~~
28 ~~bulk plant, the carrier, the licensed distributor or supplier,~~
29 ~~and the person that received the~~] motor fuel shall:
30 (1) retain a copy of the shipping document until at
31 least the fourth anniversary of the date the fuel is received;
32 and
33 (2) provide a copy of the document to the comptroller
34 or any law enforcement officer not later than the 10th working
35 day after the date a request for the copy is received.
36 (e) An importer or exporter shall keep in the person's
37 possession the shipping document [~~issued by the terminal or bulk~~
38 ~~plant~~] when transporting motor fuel imported into this state or
39 for export from this state. The importer or exporter shall show
40 the document to the comptroller or a peace officer on request.
41 The comptroller may delegate authority to inspect the document
42 to other governmental agencies. The importer or exporter shall
43 provide a copy of the shipping document to the person that
44 receives the fuel when it is delivered.
45 SECTION 10. Subsections (a) through (e), Section 162.101,
46 Tax Code, are amended to read as follows:
47 (a) A tax is imposed on the removal of gasoline from the

1 terminal using the terminal rack, other than by bulk transfer.
2 The supplier or permissive supplier is liable for and shall
3 collect the tax imposed by this subchapter from the person who
4 orders the withdrawal at the terminal rack.

5 (b) A tax is imposed at the time gasoline is imported into
6 this state, other than by a bulk transfer, for delivery to a
7 destination in this state. The supplier or permissive supplier
8 is liable for and shall collect the tax imposed by this
9 subchapter from the person who imports the gasoline into this
10 state. If the seller is not a supplier or permissive supplier,
11 then the person who imports the gasoline into this state is
12 liable for and shall pay the tax.

13 (c) A tax is imposed on the removal [~~sale or transfer~~] of
14 gasoline from [~~in~~] the bulk transfer/terminal system in this
15 state [~~by a supplier to a person who does not hold a supplier's~~
16 ~~license~~]. The supplier is liable for and shall collect the tax
17 imposed by this subchapter from the person who orders the
18 removal from [~~sale or transfer in~~] the bulk transfer terminal
19 system.

20 (d) A tax is imposed on gasoline brought into this state
21 in a motor fuel supply tank or tanks of a motor vehicle operated
22 by a person required to be licensed as an interstate trucker.
23 The interstate trucker is liable for and shall pay the tax.

24 (e) A tax is imposed on the blending of gasoline at the
25 point gasoline blended fuel is made in this state outside the
26 bulk transfer/terminal system. The blender is liable for and
27 shall pay the tax. The number of gallons of gasoline blended
28 fuel on which the tax is imposed is equal to the difference
29 between the number of gallons of blended fuel made and the
30 number of gallons of previously taxed gasoline used to make the
31 blended fuel.

32 SECTION 11. Subchapter B, Chapter 162, Tax Code, is
33 amended by adding Section 162.1025 to read as follows:

34 Sec. 162.1025. SEPARATE STATEMENT OF TAX COLLECTED FROM
35 PURCHASER. (a) In each subsequent sale of gasoline on which
36 the tax has been paid, the tax imposed by this subchapter shall
37 be collected from the purchaser so that the tax is paid
38 ultimately by the person who uses the gasoline. Gasoline is
39 considered to be used when it is delivered into a fuel supply
40 tank.

41 (b) The tax imposed by this subchapter must be stated
42 separately from the sales price of gasoline and identified as
43 gasoline tax on the invoice or receipt issued to a purchaser.
44 Backup gasoline tax may be identified as gasoline tax. The tax
45 must be separately stated and identified in the same manner on a
46 shipping document, if the shipping document includes the sales
47 price of the gasoline.

1 (c) Except as provided by Subsection (d), the sales price
2 of gasoline stated on an invoice, receipt, or shipping document
3 is presumed to be exclusive of the tax imposed by this
4 subchapter. The seller or purchaser may overcome the
5 presumption by using the seller's records to show that the tax
6 imposed by this subchapter was included in the sales price.

7 (d) Subsection (b) does not apply to a sale of gasoline by
8 a licensed dealer to a person who delivers the gasoline at the
9 dealer's place of business into a fuel supply tank or into a
10 container having a capacity of not more than 10 gallons.

11 SECTION 12. Subsections (a) and (d), Section 162.103, Tax
12 Code, are amended to read as follows:

13 (a) A backup tax is imposed at the rate prescribed by
14 Section 162.102 on:

15 (1) a person who obtains a refund of tax on gasoline
16 by claiming the gasoline was used for an off-highway purpose,
17 but actually uses the gasoline to operate a motor vehicle on a
18 public highway;

19 (2) a person who operates a motor vehicle on a public
20 highway using gasoline on which tax has not been paid; ~~and~~

21 (3) a person who sells to the ultimate consumer
22 gasoline on which tax has not been paid and who knew or had
23 reason to know that the gasoline would be used for a taxable
24 purpose; and

25 (4) a person, other than a person exempted under
26 Section 162.104, who acquires gasoline on which tax has not been
27 paid from any source in this state.

28 (d) A person who sells gasoline in this state, other than
29 by a bulk transfer, on which tax has not been paid for any
30 purpose other than a purpose exempt under Section 162.104 shall
31 at the time of sale collect the tax from the purchaser or
32 recipient of gasoline in addition to the selling price and is
33 liable to this state for the taxes imposed ~~collected at the~~
34 ~~time and~~ in the manner provided by this chapter.

35 SECTION 13. Subsections (b) and (c), Section 162.112, Tax
36 Code, are amended to read as follows:

37 (b) A licensed supplier, ~~or~~ permissive supplier, or
38 distributor who sells gasoline tax-free to a person whose
39 supplier's, ~~or~~ permissive supplier's, or aviation fuel
40 dealer's license has been canceled or revoked under this chapter
41 is liable for any tax due on gasoline sold after receiving
42 notice of the cancellation or revocation.

43 (c) The comptroller shall notify all license holders under
44 this chapter when a canceled or revoked license is subsequently
45 reinstated and include in the notice the effective date of the
46 reinstatement. Sales to the supplier, ~~or~~ permissive supplier,
47 or aviation fuel dealer after the effective date of the

1 reinstatement may be made tax-free.

2 SECTION 14. Section 162.115, Tax Code, is amended by
3 adding Subsection (n) to read as follows:

4 (n) In addition to the records specifically required by
5 this chapter, a license holder, a dealer, or a person required
6 to hold a license shall keep any other record required by the
7 comptroller.

8 SECTION 15. Section 162.117, Tax Code, is amended to read
9 as follows:

10 Sec. 162.117. DUTIES OF SELLER OF GASOLINE [~~SUPPLIER OR~~
11 ~~PERMISSIVE SUPPLIER~~]. (a) A seller [~~supplier or permissive~~
12 ~~supplier~~] who receives or collects tax holds the amount received
13 or collected in trust for the benefit of this state and has a
14 fiduciary duty to remit to the comptroller the amount of tax
15 received or collected.

16 (b) A seller [~~supplier or permissive supplier~~] shall
17 furnish the purchaser with an invoice, bill of lading, or other
18 documentation as evidence of the number of gallons received by
19 the purchaser.

20 (c) A seller [~~supplier or permissive supplier~~] who
21 receives a payment of tax may not apply the payment of tax to a
22 debt that the person making the payment owes for gasoline
23 purchased from the seller [~~supplier or permissive supplier~~].

24 (d) A person required to receive or collect a tax under
25 this chapter is liable for and shall pay the tax in the manner
26 provided by this chapter.

27 SECTION 16. Section 162.122, Tax Code, is amended to read
28 as follows:

29 Sec. 162.122. INFORMATION REQUIRED ON EXPORTER'S RETURN
30 AND PAYMENT OF TAX ON EXPORTS. The monthly return and
31 supplements of an exporter shall contain for the period covered
32 by the return:

33 (1) the number of net gallons of gasoline acquired
34 from a supplier and exported during the month, including
35 supplier name, terminal control number, and product code;

36 (2) the number of net gallons of gasoline acquired
37 from a bulk plant and exported during the month, including bulk
38 plant name and product code;

39 (3) the number of net gallons of gasoline acquired
40 from a source other than a supplier or bulk plant and exported
41 during the month, including the name of the source from which
42 the gasoline was acquired and the name and address of the person
43 receiving the gasoline;

44 (4) the destination state of the gasoline exported
45 during the month; and

46 (5) [~~4~~] any other information required by the
47 comptroller.

1 SECTION 17. Section 162.125, Tax Code, is amended by
2 adding Subsection (j) to read as follows:

3 (j) A license holder may take a credit on a return for the
4 tax included in the retail purchase price of gasoline for the
5 period in which the purchase occurred when made by one of the
6 following purchasers, if the purchase was made by acceptance of
7 a credit card not issued by the license holder, the credit card
8 issuer did not collect the tax from the purchaser, and the
9 license holder reimbursed the credit card issuer for the amount
10 of tax included in the retail purchase price:

11 (1) the United States government for its exclusive
12 use;

13 (2) a public school district in this state for the
14 district's exclusive use;

15 (3) a commercial transportation company that provides
16 public school transportation services to a public school
17 district under Section 34.008, Education Code, for its exclusive
18 use to provide those services;

19 (4) a nonprofit electric cooperative corporation
20 organized under Chapter 161, Utilities Code; and

21 (5) a nonprofit telephone cooperative corporation
22 organized under Chapter 162, Utilities Code.

23 SECTION 18. Subsection (d), Section 162.128, Tax Code, is
24 amended to read as follows:

25 (d) A supplier, [øx] permissive supplier, distributor,
26 importer, exporter, or blender that determines taxes were
27 erroneously reported and remitted or that paid more taxes than
28 were due this state because of a mistake of fact or law may take
29 a credit on the monthly tax report on which the error has
30 occurred and tax payment made to the comptroller. The credit
31 must be taken before the expiration of the applicable period of
32 limitation as provided by Chapter 111.

33 SECTION 19. Subsections (a) through (e), Section 162.201,
34 Tax Code, are amended to read as follows:

35 (a) A tax is imposed on the removal of diesel fuel from
36 the terminal using the terminal rack other than by bulk
37 transfer. The supplier or permissive supplier is liable for and
38 shall collect the tax imposed by this subchapter from the person
39 who orders the withdrawal at the terminal rack.

40 (b) A tax is imposed at the time diesel fuel is imported
41 into this state, other than by a bulk transfer, for delivery to
42 a destination in this state. The supplier or permissive
43 supplier is liable for and shall collect the tax imposed by this
44 subchapter from the person who imports the diesel fuel into this
45 state. If the seller is not a supplier or permissive supplier,
46 the person who imports the diesel fuel into this state is liable
47 for and shall pay the tax.

1 (c) A tax is imposed on the removal [~~sale or transfer~~] of
2 diesel fuel from [~~in~~] the bulk transfer/terminal system in this
3 state [~~by a supplier to a person who does not hold a supplier's~~
4 ~~license~~]. The supplier is liable for and shall collect the tax
5 imposed by this subchapter from the person who orders the
6 removal from [~~sale or transfer in~~] the bulk transfer/terminal
7 system.

8 (d) A tax is imposed on diesel fuel brought into this
9 state in the motor fuel supply tank or tanks of a motor vehicle
10 operated by a person required to be licensed as an interstate
11 trucker. The interstate trucker is liable for and shall pay the
12 tax.

13 (e) A tax is imposed on the blending of diesel fuel at the
14 point blended diesel fuel is made in this state outside the bulk
15 transfer/terminal system. The blender is liable for and shall
16 pay the tax. The number of gallons of blended diesel fuel on
17 which the tax is imposed is equal to the difference between the
18 number of gallons of blended fuel made and the number of gallons
19 of previously taxed diesel fuel used to make the blended fuel.

20 SECTION 20. Subchapter C, Chapter 162, Tax Code, is
21 amended by adding Section 162.2025 to read as follows:

22 Sec. 162.2025. SEPARATE STATEMENT OF TAX COLLECTED FROM
23 PURCHASER. (a) In each subsequent sale of diesel fuel on which
24 the tax has been paid, the tax imposed by this subchapter shall
25 be collected from the purchaser so that the tax is paid
26 ultimately by the person who uses the diesel fuel. Diesel fuel
27 is considered to be used when it is delivered into a fuel supply
28 tank.

29 (b) The tax imposed by this subchapter must be stated
30 separately from the sales price of diesel fuel and identified as
31 diesel fuel tax on the invoice or receipt issued to a purchaser.
32 Backup diesel fuel tax may be identified as diesel fuel tax.
33 The tax must be separately stated and identified in the same
34 manner on a shipping document, if the shipping document includes
35 the sales price of the diesel fuel.

36 (c) Except as provided by Subsection (d), the sales price
37 of diesel fuel stated on an invoice, receipt, or shipping
38 document is presumed to be exclusive of the tax imposed by this
39 subchapter. The seller or purchaser may overcome the
40 presumption by using the seller's records to show that the tax
41 imposed by this subchapter was included in the sales price.

42 (d) Subsection (b) does not apply to a sale of diesel fuel
43 by a licensed dealer to a person who delivers the diesel fuel at
44 the dealer's place of business into a fuel supply tank or into a
45 container having a capacity of not more than 10 gallons.

46 SECTION 21. Subsections (a) and (d), Section 162.203, Tax
47 Code, are amended to read as follows:

1 (a) A backup tax is imposed at the rate prescribed by
2 Section 162.202 on:

3 (1) a person who obtains a refund of tax on diesel
4 fuel by claiming the diesel fuel was used for an off-highway
5 purpose, but actually uses the diesel fuel to operate a motor
6 vehicle on a public highway;

7 (2) a person who operates a motor vehicle on a public
8 highway using diesel fuel on which tax has not been paid; ~~and~~

9 (3) a person who sells to the ultimate consumer
10 diesel fuel on which a tax has not been paid and who knew or had
11 reason to know that the diesel fuel would be used for a taxable
12 purpose; and

13 (4) a person, other than a person exempted under
14 Section 162.204, who acquires diesel fuel on which tax has not
15 been paid from any source in this state.

16 (d) A person who sells diesel fuel in this state, other
17 than by a bulk transfer, on which tax has not been paid for any
18 purpose other than a purpose exempt under Section 162.204 shall
19 at the time of sale collect the tax from the purchaser or
20 recipient of diesel fuel in addition to the selling price and is
21 liable to this state for the taxes imposed ~~[collected at the~~
22 ~~time and]~~ in the manner provided by this chapter.

23 SECTION 22. Subsection (b), Section 162.205, Tax Code, is
24 amended to read as follows:

25 (b) A person must obtain a license as a dyed diesel fuel
26 bonded user to purchase dyed diesel fuel in amounts that exceed
27 the limitations prescribed by Section 162.206(c). This
28 subsection does not affect the right of a purchaser to purchase
29 not more than the number of ~~[10,000]~~ gallons of dyed diesel fuel
30 prescribed by Section 162.206(c) each month for the purchaser's
31 own use using a signed statement ~~[under Section 162.206]~~.

32 SECTION 23. Section 162.206, Tax Code, is amended by
33 amending Subsections (c), (d), and (j) and adding Subsections
34 (c-1), (g-1), and (k) to read as follows:

35 (c) A person may not make a tax-free purchase and a
36 licensed supplier or distributor may not make a tax-free sale to
37 a purchaser of any dyed diesel fuel under this section using a
38 signed statement for the first sale or purchase and for any
39 subsequent sale or purchase ~~[-~~

40 ~~[-(1) for the purchase or the sale of more than 7,400~~
41 ~~gallons of dyed diesel fuel in a single delivery; or~~

42 ~~[-(2)] in a calendar month for [in which the person~~
43 ~~has previously purchased from all sources or in which the~~
44 ~~licensed supplier has previously sold to that purchaser] more~~
45 ~~than:~~

46 (1) ~~[-(A)]~~ 10,000 gallons of dyed diesel fuel;

47 (2) ~~[-(B)]~~ 25,000 gallons of dyed diesel fuel if the

1 purchaser stipulates in the signed statement that all of the
2 fuel will be consumed by the purchaser in the original
3 production of, or to increase the production of, oil or gas and
4 furnishes the licensed supplier or distributor with a letter of
5 exception issued by the comptroller; or

6 (3) [(+€)] 25,000 gallons of dyed diesel fuel if the
7 purchaser stipulates in the signed statement that all of the
8 fuel will be consumed by the purchaser in agricultural off-
9 highway equipment.

10 (c-1) The monthly limitations prescribed by Subsection (c)
11 apply regardless of whether the dyed diesel fuel is purchased in
12 a single transaction during that month or in multiple
13 transactions during that month.

14 (d) Any gallons purchased or sold in excess of the
15 limitations prescribed by Subsection (c) constitute a taxable
16 purchase or sale. [~~The purchaser paying the tax on dyed diesel~~
17 ~~fuel in excess of the limitations prescribed by Subsection (c)~~
18 ~~may claim a refund of the tax paid on any dyed diesel fuel used~~
19 ~~for nonhighway purposes under Section 162.227.] A purchaser
20 that exceeds the limitations prescribed by Subsection (c) shall
21 be required to obtain a dyed diesel fuel bonded user license.~~

22 (g-1) For purposes of this section, the purchaser is
23 considered to have temporarily furnished the signed statement to
24 the licensed supplier or distributor if the supplier or
25 distributor verifies that the purchaser has an end user number
26 issued by the comptroller. The licensed supplier or distributor
27 shall use the comptroller's Internet website or other materials
28 provided or produced by the comptroller to verify this
29 information until the purchaser provides to the supplier or
30 distributor a completed signed statement.

31 (j) A taxable use of any part of the dyed diesel fuel
32 purchased under a signed statement shall, in addition to
33 application of any criminal penalty, forfeit the right of the
34 person to purchase dyed diesel fuel tax-free for a period of one
35 year from the date of the offense. Any tax, interest, and
36 penalty found to be due through false or erroneous execution or
37 continuance of a promissory statement by the purchaser, if
38 assessed to the licensed supplier or distributor, is a debt of
39 the purchaser to the licensed supplier or distributor until paid
40 and is recoverable at law in the same manner as the purchase
41 price of the fuel. [~~The person may, however, claim a refund of~~
42 ~~the tax paid on any dyed diesel fuel used for nonhighway~~
43 ~~purposes under Section 162.227.]~~

44 (k) Properly completed signed statements should be in the
45 possession of the licensed supplier or distributor at the time
46 the sale of dyed diesel fuel occurs. If the licensed supplier
47 or distributor is not in possession of the signed statements

1 within 60 days after the date written notice requiring
2 possession of them is given to the licensed supplier or
3 distributor by the comptroller, exempt sales claimed by the
4 licensed supplier or distributor that require delivery of the
5 signed statements shall be disallowed. If the licensed supplier
6 or distributor delivers the signed statements to the comptroller
7 within the 60-day period, the comptroller may verify the reason
8 or basis for the signed statements before allowing the exempt
9 sales. An exempt sale may not be granted on the basis of signed
10 statements delivered to the comptroller after the 60-day period.

11 SECTION 24. Subsections (b) and (c), Section 162.213, Tax
12 Code, are amended to read as follows:

13 (b) A licensed supplier or permissive supplier who sells
14 diesel fuel tax-free to a supplier, ~~[or]~~ permissive supplier, or
15 aviation fuel dealer whose license has been canceled or revoked
16 under this chapter, or who sells dyed diesel fuel to a
17 distributor or dyed diesel fuel bonded user whose license has
18 been canceled or revoked under this chapter, is liable for any
19 tax due on diesel fuel sold after receiving notice of the
20 cancellation or revocation.

21 (c) The comptroller shall notify all license holders under
22 this chapter when a canceled or revoked license is subsequently
23 reinstated and include in the notice the effective date of the
24 reinstatement. Sales to a supplier, permissive supplier,
25 distributor, aviation fuel dealer, or dyed diesel fuel bonded
26 user after the effective date of the reinstatement may be made
27 tax-free.

28 SECTION 25. Section 162.216, Tax Code, is amended by
29 adding Subsection (o) to read as follows:

30 (o) In addition to the records specifically required by
31 this chapter, a license holder, a dealer, or a person required
32 to hold a license shall keep any other record required by the
33 comptroller.

34 SECTION 26. Section 162.218, Tax Code, is amended to read
35 as follows:

36 Sec. 162.218. DUTIES OF SELLER OF DIESEL FUEL [~~SUPPLIER OR~~
37 ~~PERMISSIVE SUPPLIER~~]. (a) A seller [~~supplier or permissive~~
38 ~~supplier~~] who receives or collects tax holds the amount received
39 or collected in trust for the benefit of this state and has a
40 fiduciary duty to remit to the comptroller the amount of tax
41 received or collected.

42 (b) A seller [~~supplier or permissive supplier~~] shall
43 furnish the purchaser with an invoice, bill of lading, or other
44 documentation as evidence of the number of gallons received by
45 the purchaser.

46 (c) A seller [~~supplier or permissive supplier~~] who
47 receives a payment of tax may not apply the payment of tax to a

1 debt that the person making the payment owes for diesel fuel
2 purchased from the seller [~~supplier or permissive supplier~~].

3 (d) A person required to receive or collect a tax under
4 this chapter is liable for and shall pay the tax in the manner
5 provided by this chapter.

6 SECTION 27. Section 162.223, Tax Code, is amended to read
7 as follows:

8 Sec. 162.223. INFORMATION REQUIRED ON EXPORTER'S RETURN
9 AND PAYMENT OF TAX ON IMPORTS. The monthly return and
10 supplements of an exporter shall contain for the period covered
11 by the return:

12 (1) the number of net gallons of diesel fuel acquired
13 from a supplier and exported during the month, including
14 supplier name, terminal control number, and product code;

15 (2) the number of net gallons of diesel fuel acquired
16 from a bulk plant and exported during the month, including bulk
17 plant name and product code;

18 (3) the number of net gallons of diesel fuel acquired
19 from a source other than a supplier or bulk plant and exported
20 during the month, including the name of the source from which
21 the diesel fuel was acquired and the name and address of the
22 person receiving the diesel fuel;

23 (4) the destination state of the diesel fuel exported
24 during the month; and

25 (5) [~~4~~] any other information the comptroller
26 requires.

27 SECTION 28. Section 162.227, Tax Code, is amended by
28 adding Subsection (j) to read as follows:

29 (j) A license holder may take a credit on a return for the
30 tax included in the retail purchase price of diesel fuel for the
31 period in which the purchase occurred when made by one of the
32 following purchasers, if the purchase was made by acceptance of
33 a credit card not issued by the license holder, the credit card
34 issuer did not collect the tax from the purchaser, and the
35 license holder reimbursed the credit card issuer for the amount
36 of tax included in the retail purchase price:

37 (1) the United States government for its exclusive
38 use;

39 (2) a public school district in this state for the
40 district's exclusive use;

41 (3) a commercial transportation company that provides
42 public school transportation services to a public school
43 district under Section 34.008, Education Code, for its exclusive
44 use to provide those services;

45 (4) a nonprofit electric cooperative corporation
46 organized under Chapter 161, Utilities Code; and

47 (5) a nonprofit telephone cooperative corporation

1 organized under Chapter 162, Utilities Code.

2 SECTION 29. Subsection (d), Section 162.230, Tax Code, is
3 amended to read as follows:

4 (d) A supplier, [or] permissive supplier, distributor,
5 importer, exporter, or blender that determines taxes were
6 erroneously reported and remitted or that paid more taxes than
7 were due to this state because of a mistake of fact or law may
8 take a credit on the monthly tax report on which the error has
9 occurred and tax payment made to the comptroller. The credit
10 must be taken before the expiration of the applicable period of
11 limitation as provided by Chapter 111.

12 SECTION 30. Subsection (a), Section 162.308, Tax Code, is
13 amended to read as follows:

14 (a) A licensed dealer or a person required to hold a
15 dealer's license who makes a sale or delivery of liquefied gas
16 into a fuel supply tank of a motor vehicle on which the tax is
17 required to be collected is liable to this state for the tax
18 imposed and shall report and pay the tax in the manner required
19 by this subchapter.

20 SECTION 31. Subsections (a) and (c), Section 162.309, Tax
21 Code, are amended to read as follows:

22 (a) A dealer or a person required to hold a dealer's
23 license shall keep for four years, open to inspection at all
24 times by the comptroller and the attorney general, a complete
25 record of all liquefied gas sold or delivered for taxable
26 purposes.

27 (c) Each taxable sale or delivery by a dealer or a person
28 required to hold a dealer's license of liquefied gas into the
29 fuel supply tanks of a motor vehicle, including deliveries by
30 interstate truckers from bulk storage, shall be covered by an
31 invoice. The invoice must be printed and contain:

32 (1) the preprinted or stamped name and address of the
33 licensed dealer or interstate trucker;

34 (2) the date of the sale or delivery;

35 (3) the number of gallons sold or delivered;

36 (4) the mileage recorded on the odometer;

37 (5) the state and state highway license number;

38 (6) the signature of the driver of the motor vehicle;

39 and

40 (7) the amount of tax paid or accounted for stated
41 separately from the selling price.

42 SECTION 32. Subsections (a) and (d), Section 162.402, Tax
43 Code, are amended to read as follows:

44 (a) A person forfeits to the state a civil penalty of not
45 less than \$25 and not more than \$200 if the person:

46 (1) refuses to stop and permit the inspection and
47 examination of a motor vehicle transporting or using motor fuel

1 on demand of a peace officer or the comptroller;

2 (2) operates a motor vehicle in this state without a
3 valid interstate trucker's license or a trip permit when the
4 person is required to hold one of those licenses or permits;

5 (3) operates a liquefied gas-propelled motor vehicle
6 that is required to be licensed in this state, including motor
7 vehicles equipped with dual carburetion, and does not display a
8 current liquefied gas tax decal or multistate fuels tax
9 agreement decal;

10 (4) makes a tax-free sale or delivery of liquefied
11 gas into the fuel supply tank of a motor vehicle that does not
12 display a current Texas liquefied gas tax decal;

13 (5) makes a taxable sale or delivery of liquefied gas
14 without holding a valid dealer's license;

15 (6) makes a tax-free sale or delivery of liquefied
16 gas into the fuel supply tank of a motor vehicle bearing out-of-
17 state license plates;

18 (7) makes a delivery of liquefied gas into the fuel
19 supply tank of a motor vehicle bearing Texas license plates and
20 no Texas liquefied gas tax decal, unless licensed under a
21 multistate fuels tax agreement;

22 (8) transports gasoline or diesel fuel in any cargo
23 tank that has a connection by pipe, tube, valve, or otherwise
24 with the fuel injector or carburetor of, or with the fuel supply
25 tank feeding the fuel injector or carburetor of, the motor
26 vehicle transporting the product;

27 (9) sells or delivers gasoline or diesel fuel from
28 any fuel supply tank connected with the fuel injector or
29 carburetor of a motor vehicle;

30 (10) owns or operates a motor vehicle for which
31 reports or mileage records are required by this chapter without
32 an operating odometer or other device in good working condition
33 to record accurately the miles traveled;

34 (11) furnishes to a licensed supplier or distributor
35 a signed statement for purchasing diesel fuel tax-free and then
36 uses the tax-free diesel fuel to operate a diesel-powered motor
37 vehicle on a public highway;

38 (12) fails or refuses to comply with or violates a
39 provision of this chapter;

40 (13) fails or refuses to comply with or violates a
41 comptroller's rule for administering or enforcing this chapter;

42 (14) is an importer who does not obtain an import
43 verification number when required by this chapter; or

44 (15) purchases motor fuel for export, on which the
45 tax imposed by this chapter has not been paid, and subsequently
46 diverts or causes the motor fuel to be diverted to a destination
47 in this state or any other state or country other than the

1 originally designated state or country without first obtaining a
2 diversion number.

3 (d) A person [~~operating a bulk plant or terminal~~] who
4 issues a shipping document that does not conform with the
5 requirements of Section 162.016(a) is liable to this state for a
6 civil penalty of \$2,000 or five times the amount of the unpaid
7 tax, whichever is greater, for each occurrence.

8 SECTION 33. Section 162.403, Tax Code, is amended to read
9 as follows:

10 Sec. 162.403. CRIMINAL OFFENSES. Except as provided by
11 Section 162.404, a person commits an offense if the person:

12 (1) refuses to stop and permit the inspection and
13 examination of a motor vehicle transporting or using motor fuel
14 on the demand of a peace officer or the comptroller;

15 (2) is required to hold a valid trip permit or
16 interstate trucker's license, but operates a motor vehicle in
17 this state without a valid trip permit or interstate trucker's
18 license;

19 (3) operates a liquefied gas-propelled motor vehicle
20 that is required to be licensed in this state, including a motor
21 vehicle equipped with dual carburetion, and does not display a
22 current liquefied gas tax decal or multistate fuels tax
23 agreement decal;

24 (4) transports gasoline or diesel fuel in any cargo
25 tank that has a connection by pipe, tube, valve, or otherwise
26 with the fuel injector or carburetor or with the fuel supply
27 tank feeding the fuel injector or carburetor of the motor
28 vehicle transporting the product;

29 (5) sells or delivers gasoline or diesel fuel from a
30 fuel supply tank that is connected with the fuel injector or
31 carburetor of a motor vehicle;

32 (6) owns or operates a motor vehicle for which
33 reports or mileage records are required by this chapter without
34 an operating odometer or other device in good working condition
35 to record accurately the miles traveled;

36 (7) sells or delivers dyed diesel fuel for the
37 operation of a motor vehicle on a public highway;

38 (8) uses dyed diesel fuel for the operation of a
39 motor vehicle on a public highway except as allowed under
40 Section 162.235;

41 (9) makes a tax-free sale or delivery of liquefied
42 gas into the fuel supply tank of a motor vehicle that does not
43 display a current Texas liquefied gas tax decal;

44 (10) makes a sale or delivery of liquefied gas on
45 which the person knows the tax is required to be collected, if
46 at the time the sale is made the person does not hold a valid
47 dealer's license;

1 (11) makes a tax-free sale or delivery of liquefied
2 gas into the fuel supply tank of a motor vehicle bearing out-of-
3 state license plates;

4 (12) makes a delivery of liquefied gas into the fuel
5 supply tank of a motor vehicle bearing Texas license plates and
6 no Texas liquefied gas tax decal, unless licensed under a
7 multistate fuels tax agreement;

8 (13) refuses to permit the comptroller or the
9 attorney general to inspect, examine, or audit a book or record
10 required to be kept by a license holder, other user, or any
11 person required to hold a license under this chapter;

12 (14) refuses to permit the comptroller or the
13 attorney general to inspect or examine any plant, equipment,
14 materials, or premises where motor fuel is produced, processed,
15 blended, stored, sold, delivered, or used;

16 (15) refuses to permit the comptroller, the attorney
17 general, an employee of either of those officials, a peace
18 officer, an employee of the Texas Commission on Environmental
19 Quality, or an employee of the Department of Agriculture to
20 measure or gauge the contents of or take samples from a storage
21 tank or container on premises where motor fuel is produced,
22 processed, blended, stored, sold, delivered, or used;

23 (16) is a license holder, a person required to be
24 licensed, or another user and fails or refuses to make or
25 deliver to the comptroller a report required by this chapter to
26 be made and delivered to the comptroller;

27 (17) is an importer who does not obtain an import
28 verification number when required by this chapter;

29 (18) purchases motor fuel for export, on which the
30 tax imposed by this chapter has not been paid, and subsequently
31 diverts or causes the motor fuel to be diverted to a destination
32 in this state or any other state or country other than the
33 originally designated state or country without first obtaining a
34 diversion number;

35 (19) conceals motor fuel with the intent of engaging
36 in any conduct proscribed by this chapter or refuses to make
37 sales of motor fuel on the volume-corrected basis prescribed by
38 this chapter;

39 (20) refuses, while transporting motor fuel, to stop
40 the motor vehicle the person is operating when called on to do
41 so by a person authorized to stop the motor vehicle;

42 (21) refuses to surrender a motor vehicle and cargo
43 for impoundment after being ordered to do so by a person
44 authorized to impound the motor vehicle and cargo;

45 (22) mutilates, destroys, or secretes a book or
46 record required by this chapter to be kept by a license holder,
47 other user, or person required to hold a license under this

1 chapter;

2 (23) is a license holder, other user, or other person
3 required to hold a license under this chapter, or the agent or
4 employee of one of those persons, and makes a false entry or
5 fails to make an entry in the books and records required under
6 this chapter to be made by the person or fails to retain a
7 document as required by this chapter;

8 (24) transports in any manner motor fuel under a
9 false cargo manifest or shipping document, or transports in any
10 manner motor fuel to a location without delivering at the same
11 time a shipping document relating to that shipment;

12 (25) engages in a motor fuel transaction that
13 requires that the person have a license under this chapter
14 without then and there holding the required license;

15 (26) makes and delivers to the comptroller a report
16 required under this chapter to be made and delivered to the
17 comptroller, if the report contains false information;

18 (27) forges, falsifies, or alters an invoice or
19 shipping document prescribed by law;

20 (28) makes any statement, knowing said statement to
21 be false, in a claim for a tax refund filed with the
22 comptroller;

23 (29) furnishes to a licensed supplier or distributor
24 a signed statement for purchasing diesel fuel tax-free and then
25 uses the tax-free diesel fuel to operate a diesel-powered motor
26 vehicle on a public highway;

27 (30) holds an aviation fuel dealer's license and
28 makes a taxable sale or use of any gasoline or diesel fuel;

29 (31) fails to remit any tax funds collected or
30 required to be collected by a license holder, another user, or
31 any other person required to hold a license under this chapter;

32 (32) makes a sale of dyed diesel fuel tax-free into a
33 storage facility of a person who:

34 (A) is not licensed as a distributor, as an
35 aviation fuel dealer, or as a dyed diesel fuel bonded user; or
36 (B) does not furnish to the licensed supplier or
37 distributor a signed statement prescribed in Section 162.206;

38 (33) makes a sale of gasoline tax-free to any person
39 who is not licensed as an aviation fuel dealer;

40 (34) [~~is a dealer who~~] purchases any motor fuel tax-
41 free when not authorized to make a tax-free purchase under this
42 chapter;

43 (35) [~~is a dealer who~~] purchases motor fuel with the
44 intent to evade any tax imposed by this chapter or [~~who~~] accepts
45 a delivery of motor fuel by any means and does not at the same
46 time accept or receive a shipping document relating to the
47 delivery;

1 (36) transports motor fuel for which a cargo manifest
2 or shipping document is required to be carried without
3 possessing or exhibiting on demand by an officer authorized to
4 make the demand a cargo manifest or shipping document containing
5 the information required to be shown on the manifest or shipping
6 document;

7 (37) imports, sells, uses, blends, distributes, or
8 stores motor fuel within this state on which the taxes imposed
9 by this chapter are owed but have not been first paid to or
10 reported by a license holder, another user, or any other person
11 required to hold a license under this chapter;

12 (38) blends products together to produce a blended
13 fuel that is offered for sale, sold, or used and that expands
14 the volume of the original product to evade paying applicable
15 motor fuel taxes; or

16 (39) evades or attempts to evade in any manner a tax
17 imposed on motor fuel by this chapter.

18 SECTION 34. Subsection (f), Section 162.405, Tax Code, is
19 amended to read as follows:

20 (f) Violations of three or more separate offenses under
21 the following sections [~~Sections 162.403(22) through (29)~~]
22 committed pursuant to one scheme or continuous course of conduct
23 may be considered as one offense and punished as a felony of the
24 second degree:

25 (1) Section 162.403(7);

26 (2) Sections 162.403(13) through (16); or

27 (3) Sections 162.403(22) through (29).

28 SECTION 35. The heading to Section 162.409, Tax Code, is
29 amended to read as follows:

30 Sec. 162.409. ISSUANCE OF BAD CHECK TO LICENSED
31 DISTRIBUTOR, [~~OR~~] LICENSED SUPPLIER, OR PERMISSIVE SUPPLIER.

32 SECTION 36. Subsections (a) and (d), Section 162.409, Tax
33 Code, are amended to read as follows:

34 (a) A person commits an offense if:

35 (1) the person issues or passes a check or similar
36 sight order for the payment of money knowing that the issuer
37 does not have sufficient funds in or on deposit with the bank or
38 other drawee for the payment in full of the check or order as
39 well as all other checks or orders outstanding at the time of
40 issuance;

41 (2) the payee on the check or order is a licensed
42 distributor, [~~or~~] licensed supplier, or permissive supplier; and

43 (3) the payment is for an obligation or debt that
44 includes a tax under this chapter to be collected by the
45 licensed distributor, [~~or~~] licensed supplier, or permissive
46 supplier.

47 (d) A person who makes payment on an obligation or debt

1 that includes a tax under this chapter and pays with an
2 insufficient funds check issued to a licensed distributor, ~~[or]~~
3 licensed supplier, or permissive supplier may be held liable for
4 a penalty equal to the total amount of tax not paid to the
5 licensed distributor, ~~[or]~~ licensed supplier, or permissive
6 supplier.

7 SECTION 37. Subchapter E, Chapter 162, Tax Code, is
8 amended by adding Section 162.410 to read as follows:

9 Sec. 162.410. ELECTION OF OFFENSES. If a violation of a
10 criminal offense provision of this chapter by a person
11 constitutes another offense under the laws of this state, the
12 state may elect the offense for which it will prosecute the
13 person.

14 SECTION 38. Article 12.01, Code of Criminal Procedure, as
15 amended by Chapters 285 (H.B. 716), 593 (H.B. 8), 640 (H.B.
16 887), and 841 (H.B. 959), Acts of the 80th Legislature, Regular
17 Session, 2007, is reenacted and amended to read as follows:

18 Art. 12.01. FELONIES. Except as provided in Article
19 12.03, felony indictments may be presented within these limits,
20 and not afterward:

21 (1) no limitation:

22 (A) murder and manslaughter;

23 (B) sexual assault under Section 22.011(a)(2),
24 Penal Code, or aggravated sexual assault under Section
25 22.021(a)(1)(B), Penal Code;

26 (C) sexual assault, if during the investigation
27 of the offense biological matter is collected and subjected to
28 forensic DNA testing and the testing results show that the
29 matter does not match the victim or any other person whose
30 identity is readily ascertained;

31 (D) continuous sexual abuse of young child or
32 children under Section 21.02, Penal Code;

33 (E) indecency with a child under Section 21.11,
34 Penal Code; or

35 (F) an offense involving leaving the scene of an
36 accident under Section 550.021, Transportation Code, if the
37 accident resulted in the death of a person;

38 (2) ten years from the date of the commission of the
39 offense:

40 (A) theft of any estate, real, personal or
41 mixed, by an executor, administrator, guardian or trustee, with
42 intent to defraud any creditor, heir, legatee, ward,
43 distributee, beneficiary or settlor of a trust interested in
44 such estate;

45 (B) theft by a public servant of government
46 property over which he exercises control in his official
47 capacity;

1 (C) forgery or the uttering, using or passing of
2 forged instruments;
3 (D) injury to an elderly or disabled individual
4 punishable as a felony of the first degree under Section 22.04,
5 Penal Code;
6 (E) sexual assault, except as provided by
7 Subdivision (1) [~~or (5)~~]; or
8 (F) arson;
9 (3) seven years from the date of the commission of
10 the offense:
11 (A) misapplication of fiduciary property or
12 property of a financial institution;
13 (B) securing execution of document by deception;
14 (C) a felony violation under Chapter 162
15 [~~Sections 162.403(22)-(39)~~], Tax Code;
16 (D) false statement to obtain property or credit
17 under Section 32.32, Penal Code;
18 (E) money laundering;
19 (F) [~~(D)~~] credit card or debit card abuse under
20 Section 32.31, Penal Code; or
21 (G) [~~(F)~~] fraudulent use or possession of
22 identifying information under Section 32.51, Penal Code;
23 (4) five years from the date of the commission of the
24 offense:
25 (A) theft or robbery;
26 (B) except as provided by Subdivision (5),
27 kidnapping or burglary;
28 (C) injury to an elderly or disabled individual
29 that is not punishable as a felony of the first degree under
30 Section 22.04, Penal Code;
31 (D) abandoning or endangering a child; or
32 (E) insurance fraud;
33 (5) if the investigation of the offense shows that
34 the victim is younger than 17 years of age at the time the
35 offense is committed, 20 years from the 18th birthday of the
36 victim of one of the following offenses:
37 (A) sexual performance by a child under Section
38 43.25, Penal Code;
39 (B) aggravated kidnapping under Section
40 20.04(a)(4), Penal Code, if the defendant committed the offense
41 with the intent to violate or abuse the victim sexually; or
42 (C) burglary under Section 30.02, Penal Code, if
43 the offense is punishable under Subsection (d) of that section
44 and the defendant committed the offense with the intent to
45 commit an offense described by Subdivision (1)(B) or (D) of this
46 article or Paragraph (B) of this subdivision; [~~or~~]
47 (6) [~~(5)~~] ten years from the 18th birthday of the

1 victim of the offense:
2 [~~(A)~~ indecency with a child under Section
3 21.11(a)(1) or (2), Penal Code;
4 [~~(B)~~ except as provided by Subdivision (1),
5 sexual assault under Section 22.011(a)(2), Penal Code, or
6 aggravated sexual assault under Section 22.021(a)(1)(B), Penal
7 Code; or
8 [~~(C)~~] injury to a child under Section 22.04,
9 Penal Code; or
10 (7) [~~(6)~~] three years from the date of the commission
11 of the offense: all other felonies.
12 SECTION 39. Subsections (b) and (d), Section 20.002,
13 Transportation Code, are amended to read as follows:
14 (b) This section applies to a person, other than a
15 political subdivision, who:
16 (1) owns, controls, operates, or manages a commercial
17 motor vehicle; and
18 (2) is exempt from the state diesel fuel tax under
19 Section 162.204 [~~153.203~~], Tax Code.
20 (d) The fee imposed by this section is equal to 25 percent
21 of the diesel fuel tax rate imposed under Section 162.202
22 [~~153.202(b)~~], Tax Code.
23 SECTION 40. Subsection (o), Section 26.3574, Water Code,
24 is amended to read as follows:
25 (o) Chapters 101 and 111-113, and Sections 162.005
26 [~~153.006~~], 162.007 [~~153.007~~], and 162.111(b)-(k) [~~153.116(b)-~~
27 ~~(j)~~], Tax Code, apply to the administration, payment,
28 collection, and enforcement of fees under this section in the
29 same manner that those chapters apply to the administration,
30 payment, collection, and enforcement of taxes under Title 2, Tax
31 Code.
32 SECTION 41. Section 162.017, Tax Code, is repealed.
33 SECTION 42. (a) The change in law made by this Act
34 applies only to an offense committed on or after the effective
35 date of this Act. For purposes of this section, an offense is
36 committed before the effective date of this Act if any element
37 of the offense occurs before that date.
38 (b) An offense committed before the effective date of this
39 Act is governed by the law in effect when the offense was
40 committed, and the former law is continued in effect for that
41 purpose.
42 SECTION 43. The change in law made by this Act does not
43 affect tax liability accruing before the effective date of this
44 Act. That liability continues in effect as if this Act had not
45 been enacted, and the former law is continued in effect for the
46 collection of taxes due and for civil and criminal enforcement
47 of the liability for those taxes.

1 SECTION 44. This Act takes effect September 1, 2009.

2
3 S.B. No. 1504
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8 AN ACT

9 relating to the concurrent jurisdiction of certain municipal
10 courts in certain criminal cases punishable by fine only.

11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

12 SECTION 1. Article 4.14, Code of Criminal Procedure, is
13 amended by adding Subsection (f) to read as follows:

14 (f) A municipality with a population of 1.9 million or
15 more and another municipality contiguous to that municipality
16 may enter into an agreement providing concurrent jurisdiction
17 for the municipal courts of either jurisdiction for all criminal
18 cases arising from offenses under state law that are:

19 (1) committed on the boundary of those municipalities
20 or within 200 yards of that boundary; and

21 (2) punishable by fine only.

22 SECTION 2. Chapter 13, Code of Criminal Procedure, is
23 amended by adding Article 13.045 to read as follows:

24 Art. 13.045. ON THE BOUNDARIES OF CERTAIN MUNICIPALITIES.
25 An offense punishable by fine only that is committed on the
26 boundary, or within 200 yards of the boundary, of contiguous
27 municipalities that have entered into an agreement authorized by
28 Article 4.14(f) and Section 29.003(h), Government Code, may be
29 prosecuted in either of those municipalities.

30 SECTION 3. Section 29.003, Government Code, is amended by
31 adding Subsection (h) to read as follows:

32 (h) A municipality with a population of 1.9 million or
33 more and another municipality contiguous to that municipality
34 may enter into an agreement providing concurrent jurisdiction
35 for the municipal courts of either jurisdiction for all criminal
36 cases arising from offenses under state law that are:

37 (1) committed on the boundary of those municipalities
38 or within 200 yards of that boundary; and

39 (2) punishable by fine only.

40 SECTION 4. The change in law made by this Act applies only
41 to an offense committed on or after the effective date of this
42 Act. An offense committed before the effective date of this Act
43 is governed by the law in effect when the offense was committed,
44 and the former law is continued in effect for that purpose. For
45 purposes of this section, an offense was committed before the
46 effective date of this Act if any element of the offense
47 occurred before that date.

1 SECTION 5. This Act takes effect September 1, 2009.

2
3 S.B. No. 1506
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8 AN ACT

9 relating to the payment of the costs associated with certain
10 conditions of bond.

11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

12 SECTION 1. Article 17.44, Code of Criminal Procedure, is
13 amended by amending Subsection (c) and adding Subsection (e) to
14 read as follows:

15 (c) The magistrate may revoke the bond and order the
16 defendant arrested if the [If a] defendant:

17 (1) violates a condition of home confinement and
18 electronic monitoring;

19 (2) [] refuses to submit to a test for controlled
20 substances[] or submits to a test for controlled substances and
21 the test indicates the presence of a controlled substance in the
22 defendant's body; or

23 (3) fails to pay the costs of monitoring or testing
24 for controlled substances, if payment is ordered under
25 Subsection (e) as a condition of bond and the magistrate
26 determines that the defendant is not indigent and is financially
27 able to make the payments as ordered[, the magistrate may revoke
28 the bond and order the defendant arrested].

29 (e) The cost of electronic monitoring or testing for
30 controlled substances under this article may be assessed as
31 court costs or ordered paid directly by the defendant as a
32 condition of bond.

33 SECTION 2. This Act takes effect September 1, 2009.

34
35 S.B. No. 1557
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40 AN ACT

41 relating to the early identification of criminal defendants who
42 are or may be persons with mental illness or mental retardation.

43 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

44 SECTION 1. Article 16.22, Code of Criminal Procedure, is
45 amended to read as follows:

46 Art. 16.22. EARLY IDENTIFICATION [~~EXAMINATION~~ ~~AND~~
47 ~~TRANSFER~~] OF DEFENDANT SUSPECTED OF HAVING MENTAL ILLNESS OR

1 MENTAL RETARDATION. (a)(1) Not later than 72 hours after
2 receiving credible information [~~evidence or a statement~~] that
3 may establish reasonable cause to believe that a defendant
4 committed to the sheriff's custody has a mental illness or is a
5 person with mental retardation, including observation of the
6 defendant's behavior immediately before, during, and after the
7 defendant's arrest and the results of any previous assessment of
8 the defendant, the sheriff shall provide written or electronic
9 notice of the information to the [~~notify a~~] magistrate [~~of that~~
10 ~~fact~~]. [~~A defendant's behavior or the result of a prior~~
11 ~~evaluation indicating a need for referral for further mental~~
12 ~~health or mental retardation assessment must be considered in~~
13 ~~determining whether reasonable cause exists to believe the~~
14 ~~defendant has a mental illness or is a person with mental~~
15 ~~retardation.~~] On a determination that there is reasonable cause
16 to believe that the defendant has a mental illness or is a
17 person with mental retardation, the magistrate, except as
18 provided by Subdivision (2), shall order [~~an examination of the~~
19 ~~defendant by~~] the local mental health or mental retardation
20 authority or another qualified mental health or mental
21 retardation expert to:

22 (A) collect information regarding [~~determine~~]
23 whether the defendant has a mental illness as defined by Section
24 571.003, Health and Safety Code, or is a person with mental
25 retardation as defined by Section 591.003, Health and Safety
26 Code, including information obtained from any previous
27 assessment of the defendant; and

28 (B) provide to the magistrate a written
29 assessment of the information collected under Paragraph (A).

30 (2) The magistrate is not required to order the
31 collection of information under [~~an examination described by~~]
32 Subdivision (1) if the defendant in the year preceding the
33 defendant's applicable date of arrest has been [~~evaluated and~~]
34 determined to have a mental illness or to be a person with
35 mental retardation by the local mental health or mental
36 retardation authority or another mental health or mental
37 retardation expert described by Subdivision (1). A court that
38 elects to use the results of that previous determination
39 [~~evaluation~~] may proceed under Subsection (c).

40 (3) If the defendant fails or refuses to submit to
41 the collection of information regarding the defendant as [~~an~~
42 ~~examination~~] required under Subdivision (1), the magistrate may
43 order the defendant to submit to an examination in a mental
44 health facility determined to be appropriate by the local mental
45 health or mental retardation authority for a reasonable period
46 not to exceed 21 days. The magistrate may order a defendant to
47 a facility operated by the Department of State Health Services

1 or the Department of Aging and Disability Services for
2 examination only on request of the local mental health or mental
3 retardation authority and with the consent of the head of the
4 facility. If a defendant who has been ordered to a facility
5 operated by the Department of State Health Services or the
6 Department of Aging and Disability Services for examination
7 remains in the facility for a period exceeding 21 days, the head
8 of that facility shall cause the defendant to be immediately
9 transported to the committing court and placed in the custody of
10 the sheriff of the county in which the committing court is
11 located. That county shall reimburse the facility for the
12 mileage and per diem expenses of the personnel required to
13 transport the defendant calculated in accordance with the state
14 travel regulations in effect at the time.

15 (b) A written assessment of the information collected
16 under Subsection (a)(1)(A) [~~report of the examination~~] shall be
17 provided [~~submitted~~] to the magistrate not later than the 30th
18 day after the date of any order [~~of examination~~] issued under
19 Subsection (a) in a felony case and not later than the 10th day
20 after the date of any order [~~of examination~~] issued under that
21 subsection in a misdemeanor case, and the magistrate shall
22 provide copies of the written assessment [~~report~~] to the defense
23 counsel, [~~and~~] the prosecuting attorney, and the trial
24 court. The written assessment [~~report~~] must include a
25 description of the procedures used in the collection of
26 information under Subsection (a)(1)(A) [~~examination~~] and the
27 applicable expert's [~~examiner's~~] observations and findings
28 pertaining to:

29 (1) whether the defendant is a person who has a
30 mental illness or is a person with mental retardation;

31 (2) whether there is clinical evidence to support a
32 belief that the defendant may be incompetent to stand trial and
33 should undergo a complete competency examination under
34 Subchapter B, Chapter 46B; and

35 (3) recommended treatment.

36 (c) After the trial court receives the applicable
37 [~~examining~~] expert's written assessment [~~report~~] relating to the
38 defendant under Subsection (b) or elects to use the results of a
39 previous determination as [~~an evaluation~~] described by
40 Subsection (a)(2), the trial court may, as applicable:

41 (1) resume criminal proceedings against the
42 defendant, including any appropriate proceedings related to the
43 defendant's release on personal bond under Article 17.032; [~~or~~]

44 (2) resume or initiate competency proceedings, if
45 required, as provided by Chapter 46B or other proceedings
46 affecting the defendant's receipt of appropriate court-ordered
47 mental health or mental retardation services, including

1 proceedings related to the defendant's receipt of outpatient
2 mental health services under Section 574.034, Health and Safety
3 Code; or

4 (3) consider the written assessment during the
5 punishment phase after a conviction of the offense for which the
6 defendant was arrested, as part of a presentence investigation
7 report, or in connection with the impositions of conditions
8 following placement on community supervision, including deferred
9 adjudication community supervision.

10 (d) This article does not prevent [~~Nothing in this article~~
11 ~~prevents~~] the applicable court from, before, during, or after
12 the collection of information regarding the defendant [~~pending~~
13 ~~an evaluation of the defendant~~] as described by this article:

14 (1) releasing a mentally ill or mentally retarded
15 defendant from custody on personal or surety bond; or

16 (2) ordering an examination regarding the defendant's
17 competency to stand trial.

18 SECTION 2. Subsection (b), Article 17.032, Code of
19 Criminal Procedure, is amended to read as follows:

20 (b) A magistrate shall release a defendant on personal
21 bond unless good cause is shown otherwise if the:

22 (1) defendant is not charged with and has not been
23 previously convicted of a violent offense;

24 (2) defendant is examined by the local mental health
25 or mental retardation authority or another mental health expert
26 under Article 16.22 of this code;

27 (3) applicable [~~examining~~] expert, in a written
28 assessment [~~report~~] submitted to the magistrate under Article
29 16.22:

30 (A) concludes that the defendant has a mental
31 illness or is a person with mental retardation and is
32 nonetheless competent to stand trial; and

33 (B) recommends mental health treatment for the
34 defendant; and

35 (4) magistrate determines, in consultation with the
36 local mental health or mental retardation authority, that
37 appropriate community-based mental health or mental retardation
38 services for the defendant are available through the Texas
39 Department of Mental Health and Mental Retardation under Section
40 534.053, Health and Safety Code, or through another mental
41 health or mental retardation services provider.

42 SECTION 3. Subsection (d), Section 11, Article 42.12, Code
43 of Criminal Procedure, is amended to read as follows:

44 (d) If the judge places a defendant on community
45 supervision and the defendant is determined to have a mental
46 illness or be a person with mental retardation as provided by
47 [~~an examining expert under~~] Article 16.22 or Chapter 46B or in a

1 psychological evaluation conducted under Section 9(i) of this
2 article, the judge may require the defendant as a condition of
3 community supervision to submit to outpatient or inpatient
4 mental health or mental retardation treatment if the:

5 (1) defendant's:

6 (A) mental impairment is chronic in nature; or

7 (B) ability to function independently will
8 continue to deteriorate if the defendant does not receive mental
9 health or mental retardation services; and

10 (2) judge determines, in consultation with a local
11 mental health or mental retardation services provider, that
12 appropriate mental health or mental retardation services for the
13 defendant are available through the Texas Department of Mental
14 Health and Mental Retardation under Section 534.053, Health and
15 Safety Code, or through another mental health or mental
16 retardation services provider.

17 SECTION 4. The change in law made by this Act applies only
18 to a defendant charged with an offense committed on or after the
19 effective date of this Act. A defendant charged with an offense
20 committed before the effective date of this Act is covered by
21 the law in effect when the offense was committed, and the former
22 law is continued in effect for that purpose. For purposes of
23 this section, an offense was committed before the effective date
24 of this Act if any element of the offense occurred before that
25 date.

26 SECTION 5. This Act takes effect September 1, 2009.

27
28 S.B. No. 1589
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33 AN ACT

34 relating to the reporting and handling of unclaimed property.

35 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

36 SECTION 1. Subsection (c), Section 74.101, Property Code,
37 is amended to read as follows:

38 (c) The property report must include, if known by the
39 holder:

40 (1) the name, [~~and~~] social security number, driver's
41 license or state identification number, e-mail address [~~if~~
42 ~~known~~], and the last known address[~~, if any,~~] of:

43 (A) each person who, from the records of the
44 holder of the property, appears to be the owner of the
45 property;[~~]~~ or

46 (B) [~~the name and address, if known, of~~] any
47 person who is entitled to the property;

1 (2) a description of the property, the identification
2 number, if any, and, if appropriate, a balance of each account,
3 except as provided by Subsection (d);

4 (3) the date that the property became payable,
5 demandable, or returnable;

6 (4) the date of the last transaction with the owner
7 concerning the property; and

8 (5) other information that the comptroller by rule
9 requires to be disclosed as necessary for the administration of
10 this chapter.

11 SECTION 2. Subchapter B, Chapter 74, Property Code, is
12 amended by adding Section 74.1011 to read as follows:

13 Sec. 74.1011. NOTICE BY PROPERTY HOLDER REQUIRED.

14 (a) Except as provided by Subsection (b), a holder who on June
15 30 holds property valued at more than \$250 that is presumed
16 abandoned under Chapter 72, 73, or 75 of this code or Chapter
17 154, Finance Code, shall, on or before the following August 1,
18 mail to the last known address of the known owner written notice
19 stating that:

20 (1) the holder is holding the property; and

21 (2) the holder may be required to deliver the
22 property to the comptroller on or before November 1 if the
23 property is not claimed.

24 (b) The notice required under Subsection (a) does not
25 apply to a holder who:

26 (1) has already provided such notice to the owner of
27 the property or a person entitled to the property under existing
28 federal law, rules, and regulations or state law within the time
29 specified under Subsection (a); or

30 (2) does not have a record of an address for the
31 property owner or any other person entitled to the property.

32 (c) A holder that provides notice under this section may
33 charge the cost of the postage as a service charge against the
34 property.

35 SECTION 3. The heading to Subchapter C, Chapter 74,
36 Property Code, is amended to read as follows:

37 SUBCHAPTER C. NOTICE BY COMPTROLLER

38 SECTION 4. Section 74.601, Property Code, is amended by
39 adding Subsection (g) to read as follows:

40 (g) If an owner does not assert a claim for unclaimed
41 money and the owner is reported to be the state or a state
42 agency, the comptroller may deposit the unclaimed money to the
43 credit of the general revenue fund. The comptroller may
44 establish procedures and adopt rules as necessary to implement
45 this subsection.

46 SECTION 5. Subchapter A, Chapter 411, Government Code, is
47 amended by adding Section 411.0111 to read as follows:

1 Sec. 411.0111. PROVISION OF CERTAIN INFORMATION TO
2 COMPTRROLLER. (a) Not later than June 1 of each year, the
3 department shall provide to the comptroller, for the purpose of
4 assisting the comptroller in the identification of persons
5 entitled to unclaimed property reported to the comptroller, the
6 name, address, social security number, date of birth, and
7 driver's license or state identification number of each person
8 about whom the department has such information in its records.

9 (b) Information provided to the comptroller under this
10 section is confidential and may not be disclosed to the public.

11 (c) The department shall provide the information in the
12 format prescribed by rule of the comptroller.

13 SECTION 6. Subchapter A, Chapter 811, Government Code, is
14 amended by adding Section 811.010 to read as follows:

15 Sec. 811.010. PROVISION OF CERTAIN INFORMATION TO
16 COMPTRROLLER. (a) Not later than June 1 of each year, the
17 retirement system shall provide to the comptroller, for the
18 purpose of assisting the comptroller in the identification of
19 persons entitled to unclaimed property reported to the
20 comptroller, the name, address, social security number, and date
21 of birth of each member, retiree, and beneficiary from the
22 retirement system's records.

23 (b) Information provided to the comptroller under this
24 section is confidential and may not be disclosed to the public.

25 (c) The retirement system shall provide the information in
26 the format prescribed by rule of the comptroller.

27 SECTION 7. Subchapter A, Chapter 821, Government Code, is
28 amended by adding Section 821.010 to read as follows:

29 Sec. 821.010. PROVISION OF CERTAIN INFORMATION TO
30 COMPTRROLLER. (a) Not later than June 1 of each year, the
31 retirement system shall provide to the comptroller, for the
32 purpose of assisting the comptroller in the identification of
33 persons entitled to unclaimed property reported to the
34 comptroller, the name, address, social security number, and date
35 of birth of each member, retiree, and beneficiary from the
36 retirement system's records.

37 (b) Information provided to the comptroller under this
38 section is confidential and may not be disclosed to the public.

39 (c) The retirement system shall provide the information in
40 the format prescribed by rule of the comptroller.

41 SECTION 8. Subchapter F, Chapter 301, Labor Code, is
42 amended by adding Section 301.086 to read as follows:

43 Sec. 301.086. PROVISION OF CERTAIN INFORMATION TO
44 COMPTRROLLER. (a) Not later than June 1 of each year, the
45 commission shall provide to the comptroller, for the purpose of
46 assisting the comptroller in the identification of persons
47 entitled to unclaimed property reported to the comptroller, the

1 name, address, social security number, and date of birth of each
2 person about whom the commission has such information in its
3 records.

4 (b) Information provided to the comptroller under this
5 section is confidential and may not be disclosed to the public.

6 (c) The commission shall provide the information in the
7 format prescribed by rule of the comptroller.

8 SECTION 9. The heading to Section 521.044, Transportation
9 Code, is amended to read as follows:

10 Sec. 521.044. USE OR DISCLOSURE OF SOCIAL SECURITY NUMBER
11 INFORMATION [~~FOR CHILD SUPPORT COLLECTION~~].

12 SECTION 10. Subsection (a), Section 521.044,
13 Transportation Code, is amended to read as follows:

14 (a) Information provided on a driver's license application
15 that relates to the applicant's social security number may be
16 used only by the department or disclosed only to:

17 (1) the child support enforcement division of the
18 attorney general's office;

19 (2) another state entity responsible for enforcing
20 the payment of child support; [~~or~~]

21 (3) the United States Selective Service System as
22 provided by Section 521.147; or

23 (4) the unclaimed property division of the
24 comptroller's office.

25 SECTION 11. This Act takes effect September 1, 2009.

26
27 S.B. No. 1599
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32 AN ACT

33 relating to the disclosure of criminal history record
34 information to the Court Reporters Certification Board.

35 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

36 SECTION 1. Subsection (i), Section 411.081, Government
37 Code, is amended to read as follows:

38 (i) A criminal justice agency may disclose criminal
39 history record information that is the subject of an order of
40 nondisclosure to the following noncriminal justice agencies or
41 entities only:

42 (1) the State Board for Educator Certification;

43 (2) a school district, charter school, private
44 school, regional education service center, commercial
45 transportation company, or education shared service arrangement;

46 (3) the Texas Medical Board;

47 (4) the Texas School for the Blind and Visually

- 1 Impaired;
- 2 (5) the Board of Law Examiners;
- 3 (6) the State Bar of Texas;
- 4 (7) a district court regarding a petition for name
- 5 change under Subchapter B, Chapter 45, Family Code;
- 6 (8) the Texas School for the Deaf;
- 7 (9) the Department of Family and Protective Services;
- 8 (10) the Texas Youth Commission;
- 9 (11) the Department of Assistive and Rehabilitative
- 10 Services;
- 11 (12) the Department of State Health Services, a local
- 12 mental health service, a local mental retardation authority, or
- 13 a community center providing services to persons with mental
- 14 illness or retardation;
- 15 (13) the Texas Private Security Board;
- 16 (14) a municipal or volunteer fire department;
- 17 (15) the Texas Board of Nursing;
- 18 (16) a safe house providing shelter to children in
- 19 harmful situations;
- 20 (17) a public or nonprofit hospital or hospital
- 21 district;
- 22 (18) the Texas Juvenile Probation Commission;
- 23 (19) the securities commissioner, the banking
- 24 commissioner, the savings and mortgage lending commissioner, or
- 25 the credit union commissioner;
- 26 (20) the Texas State Board of Public Accountancy;
- 27 (21) the Texas Department of Licensing and
- 28 Regulation;
- 29 (22) the Health and Human Services Commission;
- 30 (23) the Department of Aging and Disability Services;
- 31 [~~and~~]
- 32 (24) the Texas Education Agency; and
- 33 (25) the Court Reporters Certification Board.

34 SECTION 2. Subchapter F, Chapter 411, Government Code, is

35 amended by adding Section 411.1403 to read as follows:

36 Sec. 411.1403. ACCESS TO CRIMINAL HISTORY RECORD

37 INFORMATION: COURT REPORTERS CERTIFICATION BOARD. (a) In this

38 section, "board" means the Court Reporters Certification Board

39 established under Chapter 52.

40 (b) The board is entitled to obtain from the department

41 criminal history record information maintained by the department

42 that relates to a person who is an applicant for or the holder

43 of a certification issued by the board.

44 (c) Criminal history record information obtained by the

45 board under Subsection (b):

46 (1) may be used by the board for any purpose related

47 to the issuance, denial, suspension, revocation, or renewal of a

1 certification issued by the board;

2 (2) may not be released or disclosed to any person
3 except on court order or with the consent of the person who is
4 the subject of the information; and

5 (3) shall be destroyed by the board after the
6 information is used for the authorized purposes.

7 SECTION 3. This Act takes effect September 1, 2009.

8
9 S.B. No. 1616

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14 AN ACT

15 relating to the fees for and issuance of certain license plates.

16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

17 SECTION 1. Section 504.003, Transportation Code, is
18 amended by amending Subsection (c) and adding Subsection (c-1)
19 to read as follows:

20 (c) If a [the] souvenir license plate issued before
21 September 1, 2009, is personalized, the fee for the plate is
22 \$40. Of the fee:

23 (1) \$20 shall be deposited to the credit of the state
24 highway fund;

25 (2) \$10 shall be deposited to the credit of the
26 designated account if the souvenir license plate is a replica of
27 a specialty license plate issued under Subchapter G or I for
28 which the fee is deposited to a designated account other than
29 the state highway fund; and

30 (3) the remainder shall be deposited to the credit of
31 the general revenue fund.

32 (c-1) The fee for a souvenir license plate issued on or
33 after September 1, 2009, is the amount established under Section
34 504.851(c).

35 SECTION 2. Section 504.102, Transportation Code, is
36 amended to read as follows:

37 Sec. 504.102. PERSONALIZATION OF [~~OTHER~~] SPECIALTY LICENSE
38 PLATE [PLATES]. Unless expressly prohibited by this chapter or
39 department rule, any specialty license plate issued under this
40 chapter may be personalized. If a [another] specialty license
41 plate is personalized, the fee for personalization of the
42 specialty license plate [established by Section 504.101(c)]
43 shall be added to the fee for issuance of that specialty license
44 plate.

45 SECTION 3. Section 504.409, Transportation Code, is
46 amended to read as follows:

47 Sec. 504.409. [~~VOLUNTEER~~] FIREFIGHTERS. (a) The

1 department shall issue specialty license plates for:
2 (1) volunteer firefighters certified by:
3 (A) [~~1~~] the Texas Commission on Fire
4 Protection; or
5 (B) [~~2~~] the State Firemen's and Fire Marshals'
6 Association of Texas; and
7 (2) fire protection personnel as that term is defined
8 by Section 419.021, Government Code.
9 (b) The fee for issuance of each set of [the] license
10 plates is:
11 (1) \$4 for volunteer firefighters; and
12 (2) \$30 for fire protection personnel.
13 (c) A person may be issued not more than three sets [only
14 one set] of [the] license plates.
15 SECTION 4. Section 504.601, Transportation Code, is
16 amended to read as follows:
17 Sec. 504.601. GENERAL PROVISIONS APPLICABLE TO [ALL]
18 SPECIALTY LICENSE PLATES FOR GENERAL DISTRIBUTION. (a) Unless
19 expressly provided by this subchapter or department rule:
20 (1) the fee for issuance of a license plate under
21 this subchapter is \$30; and
22 (2) of each fee received under this subchapter, the
23 department shall use \$8 to defray its administrative costs in
24 complying with this subchapter.
25 (b) This section does not apply to a specialty license
26 plate marketed and sold by a private vendor at the request of
27 the specialty license plate sponsor under Section 504.6011.
28 SECTION 5. Subchapter G, Chapter 504, Transportation Code,
29 is amended by adding Section 504.6011 to read as follows:
30 Sec. 504.6011. GENERAL PROVISIONS APPLICABLE TO SPECIALTY
31 LICENSE PLATES FOR GENERAL DISTRIBUTION SOLD THROUGH PRIVATE
32 VENDOR. (a) The sponsor of a specialty license plate
33 authorized to be issued under this subchapter before September
34 1, 2009, may contract with the private vendor authorized under
35 Subchapter J for the marketing and sale of the specialty license
36 plate.
37 (b) The fee for issuance of a specialty license plate
38 described by Subsection (a) is the amount established under
39 Section 504.851.
40 (c) Notwithstanding any other law, from each fee received
41 for the issuance of a specialty license plate described by
42 Subsection (a), the department shall:
43 (1) deduct the administrative costs described by
44 Section 504.601(a)(2);
45 (2) deposit to the credit of the account designated
46 by the law authorizing the specialty license plate the portion
47 of the fee for the sale of the plate that the state would

1 ordinarily receive under the contract described by Section
2 504.851(a); and

3 (3) pay to the private vendor the remainder of the
4 fee.

5 SECTION 6. Subchapter G, Chapter 504, Transportation Code,
6 is amended by adding Section 504.660 to read as follows:

7 Sec. 504.660. SEXUAL ASSAULT AWARENESS LICENSE PLATES.

8 (a) The department shall design and issue specialty license
9 plates to support victims of sexual assault.

10 (b) The license plates must include the words "Speak up.
11 Speak out." and an image of a blue ribbon.

12 (c) After deduction of the department's administrative
13 costs, the remainder of the fee for issuance of the license
14 plates shall be deposited to the credit of the sexual assault
15 program fund established by Section 420.008, Government Code.

16 SECTION 7. Section 504.801, Transportation Code, is
17 amended by amending Subsections (d), (e), and (f) and adding
18 Subsection (d-1) to read as follows:

19 (d) The fee for issuance of license plates created
20 [authorized] under this subchapter before September 1, 2009, is
21 \$30 unless the department sets a higher fee. This subsection
22 does not apply to a specialty license plate marketed and sold by
23 a private vendor at the request of the specialty license plate
24 sponsor.

25 (d-1) The fee for issuance of license plates created under
26 this subchapter on or after September 1, 2009, is the amount
27 established under Section 504.851.

28 (e) For each fee collected for a license plate issued by
29 the department under this section:

30 (1) \$8 shall be used to reimburse the department for
31 its administrative costs; and

32 (2) the remainder shall be deposited to the credit
33 of:

34 (A) the specialty license plate fund, which is
35 an account in the general revenue fund, if the sponsor nominated
36 a state agency to receive the funds; or

37 (B) the state highway fund if the sponsor did
38 not nominate a state agency to receive the funds or if there is
39 no sponsor.

40 (f) Subchapter D, Chapter 316, Government Code, and
41 Section 403.095, Government Code, do not apply to fees collected
42 under this subchapter [section].

43 SECTION 8. Subchapter I, Chapter 504, Transportation Code,
44 is amended by adding Section 504.802 to read as follows:

45 Sec. 504.802. MARKETING AND SALE BY PRIVATE VENDOR OF
46 SPECIALTY LICENSE PLATES CREATED BEFORE SEPTEMBER 1, 2009.

47 (a) A sponsor of a specialty license plate created under this

1 subchapter before September 1, 2009, may contract with the
2 private vendor authorized under Subchapter J for the marketing
3 and sale of the specialty license plate.

4 (b) The fee for issuance of a specialty license plate
5 described by Subsection (a) is the amount established under
6 Section 504.851(c).

7 (c) Notwithstanding any other law, from each fee received
8 from the issuance of a specialty license plate marketed and sold
9 by the private vendor under this section, the department shall:

10 (1) deduct the administrative costs described by
11 Section 504.801(e)(1);

12 (2) deposit the portion of the fee for the sale of
13 the plate that the state would ordinarily receive under the
14 contract described by Section 504.851(a) to the credit of:

15 (A) the specialty license plate fund, if the
16 sponsor nominated a state agency to receive the funds; or

17 (B) the general revenue fund, if the sponsor did
18 not nominate a state agency to receive the funds or if there is
19 no sponsor; and

20 (3) pay to the private vendor the remainder of the
21 fee.

22 SECTION 9. Section 504.851, Transportation Code, is
23 amended by amending Subsections (a), (b), and (j) and adding
24 Subsections (a-1), (a-2), and (c-1) to read as follows:

25 (a) The department shall enter into a contract with the
26 private vendor whose proposal is most advantageous to the state,
27 as determined from competitive sealed proposals that satisfy the
28 requirements of this section, for the marketing and sale of:

29 (1) personalized license plates [~~authorized by~~
30 Section 504.101]; or

31 (2) with the agreement of the private vendor, other
32 specialty license plates authorized by Subchapters G and I [~~this~~
33 subchapter].

34 (a-1) The department may not issue specialty,
35 personalized, or souvenir license plates with background colors
36 other than white, unless the plates are marketed and sold by the
37 private vendor.

38 (a-2) Specialty license plates authorized for marketing
39 and sale under Subsection (a) must include:

40 (1) specialty license plates created under
41 Subchapters G and I on or after September 1, 2009; and

42 (2) at the request of the specialty license plate
43 sponsor, an existing specialty license plate created under
44 Subchapters G and I before September 1, 2009.

45 (b) The [~~Instead of the fees established by Section~~
46 504.101(c), ~~the~~] commission by rule shall establish fees for the
47 issuance or renewal of personalized license plates that are

1 marketed and sold by the private vendor. Fees must be
2 reasonable and not less than the greater of:

3 (1) the amounts necessary to allow the department to
4 recover all reasonable costs to the department associated with
5 the evaluation of the competitive sealed proposals received by
6 the department and with the implementation and enforcement of
7 the contract, including direct, indirect, and administrative
8 costs; or

9 (2) the amount established by Section 504.853(b)
10 [504.101(e)].

11 (c-1) Subsections (b) and (c) do not apply to the sale at
12 auction of a specialty plate or personalized specialty plate
13 that is not used on a motor vehicle.

14 (j) From amounts received by the department under the
15 contract described by Subsection (a), the department shall
16 deposit to the credit of the state highway fund an amount
17 sufficient to enable the department to recover its
18 administrative costs for all license plates issued under this
19 section, [including] any payments to the vendor under the
20 contract [Subsection (a)], and any other amounts allocated by
21 law to the state highway fund [by another law]. To the extent
22 that the disposition of other amounts received by [from] the
23 department is [vendor-are] governed by another law, those
24 amounts shall be deposited in accordance with the other law[,
25 and for each type of license plate the amount charged for the
26 license plate may not be less than the amount in effect on
27 January 1, 2003]. Any additional amount received by [from] the
28 department under the contract [vendor] shall be deposited to the
29 credit of the general revenue fund.

30 SECTION 10. Subchapter J, Chapter 504, Transportation
31 Code, is amended by adding Sections 504.853 and 504.854 to read
32 as follows:

33 Sec. 504.853. PERSONALIZED LICENSE PLATES ISSUED BEFORE
34 SEPTEMBER 1, 2009. (a) A personalized license plate issued
35 before September 1, 2009, may be issued for a subsequent
36 registration period only if the applicant submits an application
37 and pays the required fee for the applicable registration
38 period. A person who is issued a personalized license plate has
39 first priority on that license plate for each subsequent
40 registration period for which the person submits a new
41 application for that plate.

42 (b) The fee for issuance of a personalized license plate
43 issued before September 1, 2009, is \$40, unless the director
44 adopts by rule a higher fee.

45 (c) A person who is issued a personalized license plate by
46 the department before September 1, 2009, may:

47 (1) submit an application for the plate under

1 Subsection (a) and pay the required fee for each subsequent
2 registration period under Subsection (b); or

3 (2) purchase through the private vendor a license to
4 display the alphanumeric pattern on a license plate for any term
5 allowed by law.

6 (d) The department may not issue a replacement set of
7 personalized license plates to the same person before the sixth
8 anniversary of the date of issuance unless the applicant for
9 issuance of replacement plates pays an additional fee of \$30.

10 (e) Of each fee collected by the department under this
11 section:

12 (1) \$1.25 shall be used to defray the cost of
13 administering this section; and

14 (2) the remainder shall be deposited to the credit of
15 the general revenue fund.

16 Sec. 504.854. AUCTION. (a) The private vendor may sell
17 at auction a license to display a unique alphanumeric pattern on
18 a license plate.

19 (b) Only a license to display an alphanumeric pattern
20 purchased under this section or a license to display an
21 alphanumeric pattern sold by the private vendor under Section
22 504.853 may be transferred to another person. The transferee is
23 entitled to the same rights and privileges as the transferor.

24 (c) The transferee shall file a form prescribed by the
25 department to notify the department of the transfer. The
26 department may set a fee to be paid by the transferee to the
27 department for the transfer.

28 SECTION 11. The following provisions of the Transportation
29 Code are repealed:

30 (1) Section 504.101; and

31 (2) Subsection (m), Section 504.851.

32 SECTION 12. The changes in law made by this Act do not
33 require the rebidding of a contract that is in effect on the
34 effective date of this Act.

35 SECTION 13. This Act takes effect September 1, 2009.

36
37 S.B. No. 1617
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42 AN ACT

43 relating to the titling and registration of certain motor
44 vehicles.

45 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

46 SECTION 1. Section 501.021, Transportation Code, is
47 amended by adding Subsection (c) to read as follows:

1 (c) A certificate of title for a motor vehicle that has
2 been the subject of an ordered repurchase or replacement under
3 Chapter 2301, Occupations Code, must contain on its face a
4 notice sufficient to inform a purchaser that the motor vehicle
5 has been the subject of an ordered repurchase or replacement.

6 SECTION 2. Section 520.023, Transportation Code, is
7 amended by adding Subsection (g) to read as follows:

8 (g) A transferor who files the appropriate form with the
9 department as provided by, and in accordance with, this section,
10 whether that form is a part of a certificate of title or a form
11 otherwise promulgated by the department to comply with the terms
12 of this section, has no vicarious civil or criminal liability
13 arising out of the use, operation, or abandonment of the vehicle
14 by another person. Proof by the transferor that the transferor
15 filed a form under this section is a complete defense to an
16 action brought against the transferor for an act or omission,
17 civil or criminal, arising out of the use, operation, or
18 abandonment of the vehicle by another person after the
19 transferor filed the form. A copy of the form filed under this
20 section is proof of the filing of the form.

21 SECTION 3. Section 702.003, Transportation Code, is
22 amended by adding Subsection (f) to read as follows:

23 (f) This section does not apply to the registration of a
24 motor vehicle under Section 501.0234.

25 SECTION 4. Section 707.017, Transportation Code, is
26 amended to read as follows:

27 Sec. 707.017. ENFORCEMENT. If the owner of a motor
28 vehicle is delinquent in the payment of a civil penalty imposed
29 under this chapter, the county assessor-collector or the Texas
30 Department of Transportation may refuse to register a motor
31 vehicle alleged to have been involved in the violation. This
32 section does not apply to the registration of a motor vehicle
33 under Section 501.0234.

34 SECTION 5. (a) The change in law made to Section 501.021,
35 Transportation Code, as amended by this Act, applies only to a
36 title issued on or after the effective date of this Act. A
37 title issued before the effective date of this Act is governed
38 by the law in effect immediately before the effective date of
39 this Act, and the former law is continued in effect for that
40 purpose.

41 (b) The change in law made to Section 520.023,
42 Transportation Code, as amended by this Act, applies only to a
43 transfer of a vehicle that occurred on or after the effective
44 date of this Act. A transfer that occurred before the effective
45 date of this Act is governed by the law in effect immediately
46 before the effective date of this Act, and the former law is
47 continued in effect for that purpose.

1 (c) The change in law made to Sections 702.003 and
2 707.017, Transportation Code, as amended by this Act, applies
3 only to a registration period beginning on or after the
4 effective date of this Act.

5 SECTION 6. This Act takes effect September 1, 2009.

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7 S.B. No. 1629
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12 AN ACT

13 relating to the persons exempted from the required prepayment of
14 the personnel costs incurred by a governmental body in
15 responding to requests from a requestor under the public
16 information law that require large amounts of personnel time.

17 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

18 SECTION 1. Subsection (j), Section 552.275, Government
19 Code, is amended to read as follows:

20 (j) This section does not apply if the requestor is an
21 individual who, for a substantial portion of the individual's
22 livelihood or for substantial financial gain, gathers, compiles,
23 prepares, collects, photographs, records, writes, edits,
24 reports, investigates, processes, or publishes news or
25 information for and is seeking the information for [a
26 representative of]:

27 (1) a radio or television broadcast station that
28 holds a broadcast license for an assigned frequency issued by
29 the Federal Communications Commission; ~~[or]~~

30 (2) a newspaper that is qualified under Section
31 2051.044 to publish legal notices or is a free newspaper of
32 general circulation and that is published at least once a week
33 and available and of interest to the general public in
34 connection with the dissemination of news;

35 (3) a newspaper of general circulation that is
36 published on the Internet by a news medium engaged in the
37 business of disseminating news or information to the general
38 public; or

39 (4) a magazine that is published at least once a week
40 or on the Internet by a news medium engaged in the business of
41 disseminating news or information to the general public.

42 SECTION 2. This Act takes effect September 1, 2009.

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44 S.B. No. 1675
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AN ACT

relating to donations of juror reimbursements.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subsection (a), Section 61.003, Government Code, as amended by Chapters 661 (H.B. 1204) and 1378 (S.B. 560), Acts of the 80th Legislature, Regular Session, 2007, is reenacted and amended to read as follows:

(a) Each person who reports for jury service shall be personally provided a form letter that when signed by the person directs the county treasurer to donate all, or a specific amount designated by the person, of the person's daily reimbursement under this chapter to:

(1) the compensation to victims of crime fund under Subchapter B, Chapter 56, Code of Criminal Procedure;

(2) the child welfare, child protective services, or child services board of the county appointed under Section 264.005, Family Code, that serves abused and neglected children;

(3) any program selected by the commissioners court that is operated by a public or private nonprofit organization and that provides shelter and services to victims of family violence; or

(4) any other program approved by the commissioners court of the county, including a program established under Article 56.04(f), Code of Criminal Procedure, that offers psychological counseling to jurors in criminal cases involving graphic evidence or testimony.

SECTION 2. Section 61.003, Government Code, is amended by adding Subsection (a-2) to read as follows:

(a-2) The form letter provided under Subsection (a) must contain a brief description of the programs designated for donation under that subsection.

SECTION 3. The change in law made by this Act applies only to donations from jurors appearing in response to a summons issued on or after the effective date of this Act.

SECTION 4. This Act takes effect September 1, 2009.

S.B. No. 1681

AN ACT

relating to requiring the corroboration of certain testimony to support a criminal conviction.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 38, Code of Criminal Procedure, is

1 amended by adding Article 38.075 to read as follows:

2 Art. 38.075. CORROBORATION OF CERTAIN TESTIMONY REQUIRED.

3 (a) A defendant may not be convicted of an offense on the
4 testimony of a person to whom the defendant made a statement
5 against the defendant's interest during a time when the person
6 was imprisoned or confined in the same correctional facility as
7 the defendant unless the testimony is corroborated by other
8 evidence tending to connect the defendant with the offense
9 committed. In this subsection, "correctional facility" has the
10 meaning assigned by Section 1.07, Penal Code.

11 (b) Corroboration is not sufficient for the purposes of
12 this article if the corroboration only shows that the offense
13 was committed.

14 SECTION 2. The change in law made by this Act applies to
15 any case in which a judgment has not been entered before the
16 effective date of this Act. A case in which a judgment has been
17 entered before the effective date of this Act is governed by the
18 law in effect when the judgment was entered, and the former law
19 is continued in effect for that purpose.

20 SECTION 3. This Act takes effect September 1, 2009.

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22 S.B. No. 1735
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27 AN ACT

28 relating to providing police and security services for certain
29 post-secondary educational institutions.

30 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

31 SECTION 1. Subsections (a) and (c), Section 51.2125,
32 Education Code, are amended to read as follows:

33 (a) This section applies only to a private institution of
34 higher education that [~~has a fall head count enrollment of more~~
35 ~~than 10,000 students and that~~] has under its control and
36 jurisdiction property that is contiguous to, or located in any
37 part within the boundaries of, a home-rule municipality that has
38 [with] a population of 1.18 million or more and is located
39 predominantly in a county that has a total area of less than
40 1,000 square miles [~~than one million~~]. For purposes of this
41 section, a private institution of higher education is a private
42 or independent institution of higher education as defined by
43 Section 61.003.

44 (c) A mutual assistance agreement authorized by this
45 section may designate the geographic area in which the campus
46 peace officers are authorized to provide assistance to the peace
47 officers of the municipality, except that if the agreement is

1 entered into with a municipality described by Subsection (a)
2 that elects all or part of the municipality's governing body
3 from election districts [with a population of more than one
4 million], the designated geographic area consists of each of the
5 election districts of the municipality's governing body that
6 contains any part of the campus of the institution and each of
7 the election districts of the governing body that is contiguous
8 to another municipality that contains any part of the campus of
9 the institution.

10 SECTION 2. Subsections (a), (c), (d), (f), and (g),
11 Section 51.214, Education Code, are amended to read as follows:

12 (a) In any municipality with a population of 1.18 million
13 or more, the governing board of a private, nonprofit medical
14 corporation, or of the parent corporation of such medical
15 corporation, that provides police or security services for an
16 institution of higher education or a private postsecondary
17 educational institution [and other entities] located within one
18 of the medical corporation's or parent corporation's [the same]
19 medical complexes [complex], or that provides police or security
20 services for another medical complex legally affiliated with or
21 owned, leased, managed, or controlled by the [a branch of that]
22 medical corporation or parent corporation, may employ and
23 commission police or security personnel to enforce the law of
24 this state within the jurisdiction designated by Subsection (c).

25 (c) The jurisdiction of an officer commissioned under this
26 section is limited to:

27 (1) property under the control and jurisdiction of
28 the private, nonprofit medical corporation or its parent
29 corporation or any entity legally affiliated with or owned,
30 leased, managed, or controlled by the medical corporation or its
31 parent corporation; [and]

32 (2) a street or alley that abuts the property or an
33 easement in or a right-of-way over or through the property
34 described by Subdivision (1); and

35 (3) any other location in which the officer is
36 performing duties assigned to the officer by the private,
37 nonprofit medical corporation or its parent corporation,
38 regardless of whether the officer is on property under the
39 control and jurisdiction of the medical corporation or its
40 parent corporation, provided that the assigned duties are
41 consistent with the mission of the medical corporation or its
42 parent corporation and are being performed within a county in
43 which the medical corporation or its parent corporation owns
44 real property.

45 (d) An officer commissioned [~~by a medical corporation~~]
46 under this section is not entitled to compensation or benefits
47 provided by this state or a political subdivision of this state.

1 (f) A [~~medical corporation may not commission a~~] person
2 may not be commissioned under this section unless the person
3 obtains a peace officer license issued by the Commission on Law
4 Enforcement Officer Standards and Education. The employing
5 medical corporation or parent corporation shall pay to the
6 Commission on Law Enforcement Officer Standards and Education on
7 behalf of an employee any fees that are necessary to obtain a
8 required license.

9 (g) A person's commission and any authority to act as an
10 officer under this section are automatically revoked if the
11 person's employment [~~with a medical corporation~~] is terminated
12 for any reason.

13 SECTION 3. This Act takes effect immediately if it
14 receives a vote of two-thirds of all the members elected to each
15 house, as provided by Section 39, Article III, Texas
16 Constitution. If this Act does not receive the vote necessary
17 for immediate effect, this Act takes effect September 1, 2009.

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19 S.B. No. 1742
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24 AN ACT

25 relating to the regulation of the discharge of firearms and
26 certain other weapons by certain municipalities.

27 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

28 SECTION 1. Chapter 229, Local Government Code, is amended
29 by adding Section 229.003 to read as follows:

30 Sec. 229.003. REGULATION OF DISCHARGE OF WEAPON BY CERTAIN
31 MUNICIPALITIES. (a) This section applies only to a
32 municipality located wholly or partly in a county:

33 (1) with a population of 450,000 or more;

34 (2) in which all or part of a municipality with a
35 population of one million or more is located; and

36 (3) that is located adjacent to a county with a
37 population of two million or more.

38 (b) Notwithstanding Section 229.002, a municipality may
39 not apply a regulation relating to the discharge of firearms or
40 other weapons in the extraterritorial jurisdiction of the
41 municipality or in an area annexed by the municipality after
42 September 1, 1981, if the firearm or other weapon is:

43 (1) a shotgun, air rifle or pistol, BB gun, or bow
44 and arrow discharged:

45 (A) on a tract of land of 10 acres or more and:

46 (i) more than 1,000 feet from:

47 (a) the property line of a public

1 tract of land, generally accessible by the public, that is
2 routinely used for organized sporting or recreational activities
3 or that has permanent recreational facilities or equipment; and

4 (b) the property line of a school,
5 hospital, or commercial day-care facility;

6 (ii) more than 600 feet from:

7 (a) the property line of a residential
8 subdivision; and

9 (b) the property line of a multifamily
10 residential complex; and

11 (iii) more than 150 feet from a residence
12 or occupied building located on another property; and

13 (B) in a manner not reasonably expected to cause
14 a projectile to cross the boundary of the tract;

15 (2) a center fire or rim fire rifle or pistol of any
16 caliber discharged:

17 (A) on a tract of land of 50 acres or more and:

18 (i) more than 1,000 feet from:

19 (a) the property line of a public
20 tract of land, generally accessible by the public, that is
21 routinely used for organized sporting or recreational activities
22 or that has permanent recreational facilities or equipment; and

23 (b) the property line of a school,
24 hospital, or commercial day-care facility;

25 (ii) more than 600 feet from:

26 (a) the property line of a residential
27 subdivision; and

28 (b) the property line of a multifamily
29 residential complex; and

30 (iii) more than 300 feet from a residence
31 or occupied building located on another property; and

32 (B) in a manner not reasonably expected to cause
33 a projectile to cross the boundary of the tract; or

34 (3) discharged at a sport shooting range, as defined
35 by Section 250.001, in a manner not reasonably expected to cause
36 a projectile to cross the boundary of a tract of land.

37 SECTION 2. This Act takes effect immediately if it
38 receives a vote of two-thirds of all the members elected to each
39 house, as provided by Section 39, Article III, Texas
40 Constitution. If this Act does not receive the vote necessary
41 for immediate effect, this Act takes effect September 1, 2009.

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43 S.B. No. 1774
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1 AN ACT

2 relating to the disposal of certain exhibits used in criminal
3 proceedings in certain counties.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Article 2.21, Code of Criminal Procedure, is
6 amended by amending Subsections (f) and (i) and adding
7 Subsection (f-1) to read as follows:

8 (f) Subject to Subsections (g), (h), (i), and (j), a [A]
9 clerk [in a county with a population of 1.7 million or more] may
10 dispose of an eligible exhibit or may deliver the eligible
11 exhibit to the county purchasing agent for disposal as surplus
12 or salvage property under Section 263.152, Local Government
13 Code, [on the date provided by Subsection (e) of this article]
14 if on the [that] date provided by Subsection (e) the clerk has
15 not received a request for the exhibit from either the attorney
16 representing the state in the case or the attorney representing
17 the defendant.

18 (f-1) Notwithstanding Section 263.156, Local Government
19 Code, or any other law, the commissioners court shall remit 50
20 percent of any proceeds of the disposal of an eligible exhibit
21 as surplus or salvage property as described by Subsection (f),
22 less the reasonable expense of keeping the exhibit before
23 disposal and the costs of that disposal, to each of the
24 following:

25 (1) the county treasury, to be used only to defray
26 the costs incurred by the district clerk of the county for the
27 management, maintenance, or destruction of eligible exhibits in
28 the county; and

29 (2) the state treasury to the credit of the
30 compensation to victims of crime fund established under
31 Subchapter B, Chapter 56.

32 (i) If a request is not received by a clerk covered by
33 Subsection (g) [of this article] before the 31st day after the
34 date of notice, the clerk may dispose of the eligible exhibit in
35 the manner permitted by this article, including the delivery of
36 the eligible exhibit for disposal as surplus or salvage property
37 as described by Subsection (f).

38 SECTION 2. This Act takes effect September 1, 2009.

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40 S.B. No. 1803
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45 AN ACT

46 relating to the Glenda Dawson Donate Life-Texas Registry.

47 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1 SECTION 1. Subsection (m), Section 49.002, Health and
2 Safety Code, is amended to read as follows:

3 (m) In consultation with the Texas Organ, Tissue, and Eye
4 Donor Council, the department shall ~~may~~ implement a training
5 program for all appropriate Department of Public Safety and
6 Texas Department of Transportation employees on the benefits of
7 organ, tissue, and eye donation and the procedures for
8 individuals to be added to the statewide Internet-based registry
9 of organ, tissue, and eye donors. Department of Public Safety
10 and Texas Department of Transportation employees are not
11 required to answer customer questions about donation or
12 transplantation. The Department of Public Safety training under
13 this section must include training on asking the appropriate
14 question under Section 521.401(c)(1)(B). The department, with
15 expert council input and support, shall implement the training
16 program [before the date that the statewide Internet-based
17 registry is operational] and [shall] conduct the training on an
18 ongoing basis for new employees.

19 SECTION 2. Subsection (d), Section 692.003, Health and
20 Safety Code, is amended to read as follows:

21 (d) A gift made by a document other than a will is
22 effective on the death of the donor. The document may be a card
23 designed to be carried by the donor or another record signed by
24 the donor or other person making the gift. A statement or
25 symbol in an online donor registry and authorized by the donor
26 indicating the donor has made an anatomical gift may also serve
27 as a document making a gift. To be effective, the document must
28 be signed by the donor in the presence of two witnesses except
29 as otherwise provided by Subchapter Q, Chapter 521,
30 Transportation Code, this subsection, or other law. If the
31 donor cannot sign the document, a person may sign the document
32 for the donor at the donor's direction and in the presence of
33 the donor and two witnesses. The witnesses to the signing of a
34 document under this subsection must sign the document in the
35 presence of the donor. Delivery of the document during the
36 donor's lifetime is not necessary to make the gift valid. An
37 online donation registration does not require the consent of
38 another person or require two witnesses. The online
39 registration constitutes a legal document under this chapter and
40 remains binding after the donor's death.

41 SECTION 3. Subchapter D, Chapter 502, Transportation Code,
42 is amended by adding Section 502.189 to read as follows:

43 Sec. 502.189. DONOR REGISTRY INFORMATION. (a) The
44 department, with expert input and support from the Texas Organ,
45 Tissue, and Eye Donor Council, shall:

46 (1) add a link from the department's Internet website
47 to the Donor Education, Awareness, and Registry Program of Texas

1 established under Chapter 49, Health and Safety Code; and
2 (2) provide a method to distribute donor registry
3 information to interested individuals in each office authorized
4 to issue motor vehicle registrations.

5 (b) The department shall make available for distribution
6 to each office authorized to issue motor vehicle registrations
7 Donate Life brochures that provide basic donor information in
8 English and Spanish and a contact phone number and e-mail
9 address. The department shall ensure that the question provided
10 in Section 521.401(c)(1)(B) and information on the donor
11 registry Internet website is included with registration renewal
12 notices.

13 SECTION 4. Section 521.401, Transportation Code, is
14 amended by amending Subsection (c) and adding Subsection (e) to
15 read as follows:

16 (c) Donor registry information [~~cards~~] shall be provided
17 to the department and the Texas Department of Transportation by
18 qualified organ or tissue procurement organizations or eye
19 banks, as those terms are defined in Section 692.002, Health and
20 Safety Code, or by the Donor Education, Awareness, and Registry
21 Program of Texas established under Chapter 49, Health and Safety
22 Code. The department, with expert input and support from the
23 Texas Organ, Tissue, and Eye Donor Council, shall:

24 (1) provide to each applicant for the issuance of an
25 original, renewal, corrected, or duplicate driver's license or
26 personal identification certificate who applies in person, by
27 mail, over the Internet, or by other electronic means:

28 (A) the opportunity to indicate on the person's
29 driver's license or personal identification certificate that the
30 person is willing to make an anatomical gift, in the event of
31 death, in accordance with Section 692.003, Health and Safety
32 Code; and

33 (B) an opportunity for the person to consent in
34 writing to the department's provision of the person's name, date
35 of birth, driver's license number, most recent address, and
36 other information needed for identification purposes at the time
37 of donation to the organization selected by the commissioner of
38 state health services under Chapter 49, Health and Safety Code,
39 for inclusion in the statewide Internet-based registry of organ,
40 tissue, and eye donors and for release to qualified organ,
41 tissue, and eye bank organizations by specifically asking each
42 applicant only the question, "Would you like to register as an
43 organ donor?"; and

44 (2) provide a means to distribute donor registry
45 information [~~cards~~] to interested individuals in each office
46 authorized to issue driver's licenses or personal identification
47 certificates.

1 (e) The department shall distribute at all field offices
2 Donate Life brochures that provide basic donation information in
3 English and Spanish and include a contact phone number and e-
4 mail address. The department shall include the question
5 required under Subsection (c)(1)(B) and information on the donor
6 registry Internet website in renewal notices.

7 SECTION 5. Not later than January 1, 2010:

8 (1) the Department of State Health Services shall
9 implement the training program required under Subsection (m),
10 Section 49.002, Health and Safety Code, as amended by this Act;

11 (2) the Department of Public Safety of the State of
12 Texas shall implement Section 521.401, Transportation Code, as
13 amended by this Act; and

14 (3) the Texas Department of Transportation shall implement
15 Section 502.189, Transportation Code, as added by this Act.

16 SECTION 6. This Act takes effect September 1, 2009.

17
18 S.B. No. 1832
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23 AN ACT

24 relating to the eligibility for judge-ordered community
25 supervision or for release on parole or to mandatory supervision
26 of a defendant convicted of criminal solicitation of capital
27 murder.

28 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

29 SECTION 1. Subsection (a), Section 3g, Article 42.12, Code
30 of Criminal Procedure, as amended by Chapters 405 (S.B. 877) and
31 593 (H.B. 8), Acts of the 80th Legislature, Regular Session,
32 2007, is reenacted and amended to read as follows:

33 (a) The provisions of Section 3 of this article do not
34 apply:

35 (1) to a defendant adjudged guilty of an offense
36 under:

37 (A) Section 19.02, Penal Code (Murder);

38 (B) Section 19.03, Penal Code (Capital murder);

39 (C) Section 21.11(a)(1), Penal Code (Indecency
40 with a child);

41 (D) Section 20.04, Penal Code (Aggravated
42 kidnapping);

43 (E) Section 22.021, Penal Code (Aggravated
44 sexual assault);

45 (F) Section 29.03, Penal Code (Aggravated
46 robbery);

47 (G) Chapter 481, Health and Safety Code, for

1 which punishment is increased under:

2 (i) Section 481.140, Health and Safety
3 Code; or

4 (ii) Section 481.134(c), (d), (e), or (f),
5 Health and Safety Code, if it is shown that the defendant has
6 been previously convicted of an offense for which punishment was
7 increased under any of those subsections;

8 (H) Section 22.011, Penal Code (Sexual assault);
9 [~~ex~~]

10 (I) Section 22.04(a)(1), Penal Code (Injury to a
11 child, elderly individual, or disabled individual), if the
12 offense is punishable as a felony of the first degree and the
13 victim of the offense is a child; [~~ex~~]

14 (J) [~~(I)~~] Section 43.25, Penal Code (Sexual
15 performance by a child); or

16 (K) Section 15.03, Penal Code, if the offense is
17 punishable as a felony of the first degree; or

18 (2) to a defendant when it is shown that a deadly
19 weapon as defined in Section 1.07, Penal Code, was used or
20 exhibited during the commission of a felony offense or during
21 immediate flight therefrom, and that the defendant used or
22 exhibited the deadly weapon or was a party to the offense and
23 knew that a deadly weapon would be used or exhibited. On an
24 affirmative finding under this subdivision, the trial court
25 shall enter the finding in the judgment of the court. On an
26 affirmative finding that the deadly weapon was a firearm, the
27 court shall enter that finding in its judgment.

28 SECTION 2. Subsection (d), Section 508.145, Government
29 Code, is amended to read as follows:

30 (d) An inmate serving a sentence for an offense described
31 by Section 3g(a)(1)(A), (C), (D), (E), (F), (G), (H), [~~ex~~] (I),
32 (J), or (K), Article 42.12, Code of Criminal Procedure, or for
33 an offense for which the judgment contains an affirmative
34 finding under Section 3g(a)(2) of that article, is not eligible
35 for release on parole until the inmate's actual calendar time
36 served, without consideration of good conduct time, equals one-
37 half of the sentence or 30 calendar years, whichever is less,
38 but in no event is the inmate eligible for release on parole in
39 less than two calendar years.

40 SECTION 3. Subsection (a), Section 508.149, Government
41 Code, is amended to read as follows:

42 (a) An inmate may not be released to mandatory supervision
43 if the inmate is serving a sentence for or has been previously
44 convicted of:

45 (1) an offense for which the judgment contains an
46 affirmative finding under Section 3g(a)(2), Article 42.12, Code
47 of Criminal Procedure;

- 1 (2) a first degree felony or a second degree felony
2 under Section 19.02, Penal Code;
3 (3) a capital felony under Section 19.03, Penal Code;
4 (4) a first degree felony or a second degree felony
5 under Section 20.04, Penal Code;
6 (5) an offense under Section 21.11, Penal Code;
7 (6) a felony under Section 22.011, Penal Code;
8 (7) a first degree felony or a second degree felony
9 under Section 22.02, Penal Code;
10 (8) a first degree felony under Section 22.021, Penal
11 Code;
12 (9) a first degree felony under Section 22.04, Penal
13 Code;
14 (10) a first degree felony under Section 28.02, Penal
15 Code;
16 (11) a second degree felony under Section 29.02,
17 Penal Code;
18 (12) a first degree felony under Section 29.03, Penal
19 Code;
20 (13) a first degree felony under Section 30.02, Penal
21 Code;
22 (14) a felony for which the punishment is increased
23 under Section 481.134 or Section 481.140, Health and Safety
24 Code;
25 (15) an offense under Section 43.25, Penal Code; [~~or~~]
26 (16) an offense under Section 21.02, Penal Code; or
27 (17) a first degree felony under Section 15.03, Penal
28 Code.

29 SECTION 4. The change in law made by this Act applies only
30 to an offense committed on or after the effective date of this
31 Act. An offense committed before the effective date of this Act
32 is covered by the law in effect when the offense was committed,
33 and the former law is continued in effect for that purpose. For
34 purposes of this section, an offense was committed before the
35 effective date of this Act if any element of the offense was
36 committed before that date.

37 SECTION 5. To the extent of any conflict, this Act
38 prevails over another Act of the 81st Legislature, Regular
39 Session, 2009, relating to nonsubstantive additions to and
40 corrections in enacted codes.

41 SECTION 6. This Act takes effect September 1, 2009.

42
43 S.B. No. 1838
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1 AN ACT

2 relating to involuntary termination of parental rights based on
3 attempted murder or solicitation of murder of the child's other
4 parent.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Section 161.001, Family Code, is amended to
7 read as follows:

8 Sec. 161.001. INVOLUNTARY TERMINATION OF PARENT-CHILD
9 RELATIONSHIP. The court may order termination of the parent-
10 child relationship if the court finds by clear and convincing
11 evidence:

12 (1) that the parent has:

13 (A) voluntarily left the child alone or in the
14 possession of another not the parent and expressed an intent not
15 to return;

16 (B) voluntarily left the child alone or in the
17 possession of another not the parent without expressing an
18 intent to return, without providing for the adequate support of
19 the child, and remained away for a period of at least three
20 months;

21 (C) voluntarily left the child alone or in the
22 possession of another without providing adequate support of the
23 child and remained away for a period of at least six months;

24 (D) knowingly placed or knowingly allowed the
25 child to remain in conditions or surroundings which endanger the
26 physical or emotional well-being of the child;

27 (E) engaged in conduct or knowingly placed the
28 child with persons who engaged in conduct which endangers the
29 physical or emotional well-being of the child;

30 (F) failed to support the child in accordance
31 with the parent's ability during a period of one year ending
32 within six months of the date of the filing of the petition;

33 (G) abandoned the child without identifying the
34 child or furnishing means of identification, and the child's
35 identity cannot be ascertained by the exercise of reasonable
36 diligence;

37 (H) voluntarily, and with knowledge of the
38 pregnancy, abandoned the mother of the child beginning at a time
39 during her pregnancy with the child and continuing through the
40 birth, failed to provide adequate support or medical care for
41 the mother during the period of abandonment before the birth of
42 the child, and remained apart from the child or failed to
43 support the child since the birth;

44 (I) contumaciously refused to submit to a
45 reasonable and lawful order of a court under Subchapter D,
46 Chapter 261;

47 (J) been the major cause of:

1 (i) the failure of the child to be enrolled
2 in school as required by the Education Code; or
3 (ii) the child's absence from the child's
4 home without the consent of the parents or guardian for a
5 substantial length of time or without the intent to return;
6 (K) executed before or after the suit is filed
7 an unrevoked or irrevocable affidavit of relinquishment of
8 parental rights as provided by this chapter;
9 (L) been convicted or has been placed on
10 community supervision, including deferred adjudication community
11 supervision, for being criminally responsible for the death or
12 serious injury of a child under the following sections of the
13 Penal Code or adjudicated under Title 3 for conduct that caused
14 the death or serious injury of a child and that would constitute
15 a violation of one of the following Penal Code sections:
16 (i) Section 19.02 (murder);
17 (ii) Section 19.03 (capital murder);
18 (iii) Section 19.04 (manslaughter);
19 (iv) Section 21.11 (indecent with a
20 child);
21 (v) Section 22.01 (assault);
22 (vi) Section 22.011 (sexual assault);
23 (vii) Section 22.02 (aggravated assault);
24 (viii) Section 22.021 (aggravated sexual
25 assault);
26 (ix) Section 22.04 (injury to a child,
27 elderly individual, or disabled individual);
28 (x) Section 22.041 (abandoning or
29 endangering child);
30 (xi) Section 25.02 (prohibited sexual
31 conduct);
32 (xii) Section 43.25 (sexual performance by
33 a child);
34 (xiii) Section 43.26 (possession or
35 promotion of child pornography); and
36 (xiv) Section 21.02 (continuous sexual
37 abuse of young child or children);
38 (M) had his or her parent-child relationship
39 terminated with respect to another child based on a finding that
40 the parent's conduct was in violation of Paragraph (D) or (E) or
41 substantially equivalent provisions of the law of another state;
42 (N) constructively abandoned the child who has
43 been in the permanent or temporary managing conservatorship of
44 the Department of Family and Protective Services or an
45 authorized agency for not less than six months, and:
46 (i) the department or authorized agency has
47 made reasonable efforts to return the child to the parent;

1 (ii) the parent has not regularly visited
2 or maintained significant contact with the child; and
3 (iii) the parent has demonstrated an
4 inability to provide the child with a safe environment;
5 (O) failed to comply with the provisions of a
6 court order that specifically established the actions necessary
7 for the parent to obtain the return of the child who has been in
8 the permanent or temporary managing conservatorship of the
9 Department of Family and Protective Services for not less than
10 nine months as a result of the child's removal from the parent
11 under Chapter 262 for the abuse or neglect of the child;
12 (P) used a controlled substance, as defined by
13 Chapter 481, Health and Safety Code, in a manner that endangered
14 the health or safety of the child, and:
15 (i) failed to complete a court-ordered
16 substance abuse treatment program; or
17 (ii) after completion of a court-ordered
18 substance abuse treatment program, continued to abuse a
19 controlled substance;
20 (Q) knowingly engaged in criminal conduct that
21 has resulted in the parent's:
22 (i) conviction of an offense; and
23 (ii) confinement or imprisonment and
24 inability to care for the child for not less than two years from
25 the date of filing the petition;
26 (R) been the cause of the child being born
27 addicted to alcohol or a controlled substance, other than a
28 controlled substance legally obtained by prescription, as
29 defined by Section 261.001;
30 (S) voluntarily delivered the child to a
31 designated emergency infant care provider under Section 262.302
32 without expressing an intent to return for the child; or
33 (T) been convicted of:
34 (i) the murder of the other parent of the
35 child under Section 19.02 or 19.03, Penal Code, or under a law
36 of another state, federal law, the law of a foreign country, or
37 the Uniform Code of Military Justice that contains elements that
38 are substantially similar to the elements of an offense under
39 Section 19.02 or 19.03, Penal Code;
40 (ii) criminal attempt under Section 15.01,
41 Penal Code, or under a law of another state, federal law, the
42 law of a foreign country, or the Uniform Code of Military
43 Justice that contains elements that are substantially similar to
44 the elements of an offense under Section 15.01, Penal Code, to
45 commit the offense described by Subparagraph (i); or
46 (iii) criminal solicitation under Section
47 15.03, Penal Code, or under a law of another state, federal law,

1 the law of a foreign country, or the Uniform Code of Military
2 Justice that contains elements that are substantially similar to
3 the elements of an offense under Section 15.03, Penal Code, of
4 the offense described by Subparagraph (i); and

5 (2) that termination is in the best interest of the
6 child.

7 SECTION 2. The change in law made by this Act applies only
8 to a suit affecting the parent-child relationship filed on or
9 after the effective date of this Act. A suit affecting the
10 parent-child relationship filed before the effective date of
11 this Act is governed by the law in effect on the date the suit
12 was filed, and the former law is continued in effect for that
13 purpose.

14 SECTION 3. This Act takes effect September 1, 2009.

15
16 S.B. No. 1844
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21 AN ACT

22 relating to revenue received from the provision of pay telephone
23 service to inmates confined in facilities operated by the Texas
24 Department of Criminal Justice.

25 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

26 SECTION 1. Subsection (c), Section 495.025, Government
27 Code, as added by Chapter 100 (S.B. 1580), Acts of the 80th
28 Legislature, Regular Session, 2007, is reenacted to read as
29 follows:

30 (c) The department shall transfer 50 percent of all
31 commissions paid to the department by a vendor under this
32 section to the compensation to victims of crime fund established
33 by Subchapter B, Chapter 56, Code of Criminal Procedure, and the
34 other 50 percent to the credit of the undedicated portion of the
35 general revenue fund, except that the department shall transfer
36 the first \$10 million of the commissions collected in any given
37 year under a contract awarded under this section to the
38 compensation to victims of crime fund established by Subchapter
39 B, Chapter 56, Code of Criminal Procedure. This section does
40 not reduce any appropriation to the department.

41 SECTION 2. Notwithstanding Chapter 1418 (H.B. 3107), Acts
42 of the 80th Legislature, Regular Session, 2007, money dedicated
43 by Subsection (c), Section 495.025, Government Code, as added by
44 Chapter 100 (S.B. 1580), Acts of the 80th Legislature, Regular
45 Session, 2007, to the compensation to victims of crime fund
46 established by Subchapter B, Chapter 56, Code of Criminal
47 Procedure, is rededicated by this Act.

1 SECTION 3. This Act takes effect immediately if it
2 receives a vote of two-thirds of all the members elected to each
3 house, as provided by Section 39, Article III, Texas
4 Constitution. If this Act does not receive the vote necessary
5 for immediate effect, this Act takes effect September 1, 2009.

6
7 S.B. No. 1847
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12 AN ACT

13 relating to the provision of services to a wrongfully imprisoned
14 person who is discharged from a correctional facility.

15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

16 SECTION 1. Subchapter C, Chapter 501, Government Code, is
17 amended by adding Section 501.091 to read as follows:

18 Sec. 501.091. PROGRAMS AND SERVICES FOR WRONGFULLY
19 IMPRISONED PERSONS WHO ARE DISCHARGED. (a) In this section,
20 "wrongfully imprisoned person" means a person who:

21 (1) has served in whole or in part a sentence in a
22 facility operated by or under contract with the department; and

23 (2) has:

24 (A) received a pardon for innocence for the
25 crime for which the person was sentenced; or

26 (B) otherwise been granted relief on the basis
27 of actual innocence of the crime for which the person was
28 sentenced.

29 (b) The department shall ensure that the same programs and
30 services that are available to or in which participation is
31 mandatory for an inmate released on parole or to mandatory
32 supervision, including programs and services offered or required
33 under Subchapter F or G of Chapter 508, are available to a
34 wrongfully imprisoned person when the person is discharged from
35 the department.

36 (c) The executive director of the department may:

37 (1) adopt rules as necessary to implement this
38 section; and

39 (2) direct the director of the Texas Correctional
40 Office on Offenders with Medical or Mental Impairments to take
41 any actions necessary to implement this section.

42 SECTION 2. This Act takes effect immediately if it
43 receives a vote of two-thirds of all the members elected to each
44 house, as provided by Section 39, Article III, Texas
45 Constitution. If this Act does not receive the vote necessary
46 for immediate effect, this Act takes effect September 1, 2009.

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6 AN ACT

7 relating to the employment of firefighters and police officers
8 and the provision of emergency medical services in certain
9 municipalities.

10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

11 SECTION 1. Subchapter A, Chapter 143, Local Government
12 Code, is amended by adding Section 143.0052 to read as follows:

13 Sec. 143.0052. FEE FOR EMERGENCY MEDICAL SERVICES.

14 (a) This section applies only to a municipality that:

15 (1) has a population of more than 200,000 and less
16 than 250,000;

17 (2) is located in a county in which another
18 municipality that has a population of more than one million is
19 predominately located; and

20 (3) whose emergency medical services are administered
21 by a fire department.

22 (b) By resolution of its governing body, a municipality
23 may establish a monthly fee for the costs of emergency medical
24 services, including salary and overtime related to medical
25 personnel. This fee is applicable to each and every customer
26 served by a municipal water account and may be collected in
27 conjunction with the bill for water services.

28 (c) A municipality acting under this section supersedes
29 any authority established under Chapter 286, Health and Safety
30 Code.

31 SECTION 2. Subsection (a), Section 143.127, Local
32 Government Code, is amended to read as follows:

33 (a) Except as otherwise provided by this subsection, a [A]
34 fire fighter or police officer may file a grievance as provided
35 by this subchapter[. ~~The fire fighter or police officer may~~
36 ~~file a grievance]~~ that relates to any aspect of the fire
37 fighter's or police officer's employment covered by this chapter
38 [~~the same aspects of the person's employment over which the~~
39 ~~civil service commission for the employees of the municipality~~
40 ~~who are not subject to this chapter would have lawful~~
41 ~~jurisdiction, including but not limited to a written or oral~~
42 ~~reprimand, transfers, job performance reviews, and job~~
43 ~~assignments].~~ The fire fighter or police officer may not file a
44 grievance relating to:

45 (1) a disciplinary suspension, indefinite suspension,
46 promotional pass over, or demotion or other action or decision
47 for which a hearing, review, or appeal is otherwise provided by

1 this chapter; or

2 (2) an allegation of discrimination based, in whole
3 or in part, on race, color, religion, sex, or national origin.

4 SECTION 3. Section 143.128, Local Government Code, is
5 amended by amending Subsection (a) and adding Subsection (f) to
6 read as follows:

7 (a) To begin a grievance action, a fire fighter or police
8 officer must file a completed written step I grievance form with
9 the person's department head or departmental grievance counselor
10 within 30 days after the date the fire fighter or police officer
11 knew or should have known of the action or inaction for which
12 the person feels aggrieved occurred. A step I grievance form
13 may be obtained from the departmental grievance counselor. If
14 the form is not timely filed, the grievance is waived.

15 (f) If the supervisor does not provide the response
16 required by Subsection (d) before the 16th day after the date
17 the meeting occurs, the department head shall sustain the fire
18 fighter's or police officer's grievance.

19 SECTION 4. Section 143.129, Local Government Code, is
20 amended by adding Subsection (e) to read as follows:

21 (e) If the department head or the department head's
22 representative does not provide the response required by
23 Subsection (c) before the 16th day after the date the meeting
24 occurs, the department head shall sustain the fire fighter's or
25 police officer's grievance.

26 SECTION 5. Section 147.002, Local Government Code, is
27 amended to read as follows:

28 Sec. 147.002. DEFINITIONS. In this chapter:

29 (1) "Firefighter" means a firefighter employed by the
30 municipality who is covered by the municipality's fire pension
31 plan and is classified by the municipality as nonexempt
32 [~~exempt~~]. The term does not include a firefighter with a rank
33 that is above that of battalion chief or section chief.

34 (2) "Firefighter employee group" means an
35 organization:

36 (A) in which, on or before September 1, 2007,
37 firefighters of the municipality have participated and paid dues
38 via automatic payroll deduction [~~for at least one year~~]; and

39 (B) that exists for the purpose, in whole or in
40 part, of dealing with the municipality concerning grievances,
41 labor disputes, wages, rates of pay, hours of employment, or
42 conditions of employment affecting firefighters.

43 (3) "Police officer" means a sworn police officer
44 employed by the municipality who is covered by the
45 municipality's police pension plan and is classified by the
46 municipality as nonexempt [~~exempt~~]. The term does not include a
47 police officer with a rank above that of captain, a civilian, or

1 a municipal marshal.

2 (4) "Police officer employee group" means an
3 organization:

4 (A) in which, on or before September 1, 2007, at
5 least three percent of the police officers of the municipality
6 have participated and paid dues via automatic payroll deduction
7 [~~for at least one year~~]; and

8 (B) that exists for the purpose, in whole or in
9 part, of dealing with the municipality concerning grievances,
10 labor disputes, wages, rates of pay, hours of employment, or
11 conditions of employment affecting police officers.

12 SECTION 6. The changes in law made by this Act to Sections
13 143.127, 143.128, and 143.129, Local Government Code, apply only
14 to grievances filed on or after the effective date of this Act.
15 A grievance filed before the effective date of this Act is
16 governed by the law in effect on the date the grievance was
17 filed, and the former law is continued in effect for that
18 purpose.

19 SECTION 7. This Act takes effect September 1, 2009.

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21 S.B. No. 1930
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26 AN ACT

27 relating to the use of a confidential identity for the plaintiff
28 in a civil action involving sexual abuse of a minor.

29 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

30 SECTION 1. Chapter 30, Civil Practice and Remedies Code,
31 is amended by adding Section 30.013 to read as follows:

32 Sec. 30.013. CONFIDENTIAL IDENTITY IN ACTIONS INVOLVING
33 SEXUAL ABUSE OF A MINOR. (a) In this section:

34 (1) "Confidential identity" means:

35 (A) the use of a pseudonym; and

36 (B) the absence of any other identifying
37 information, including address, telephone number, and social
38 security number.

39 (2) "Plaintiff" means:

40 (A) an individual younger than 18 years of age
41 seeking recovery of damages or other relief; and

42 (B) the parents or legal guardian of the
43 individual.

44 (b) This section applies only to a civil action against a
45 defendant in which a plaintiff seeks recovery of damages or
46 other relief based on conduct described as a felony in the
47 following sections of the Penal Code:

1 (1) Section 22.011 (sexual assault); or

2 (2) Section 22.021 (aggravated sexual assault).

3 (c) Except as otherwise provided by this section, in an
4 action to which this section applies, the court shall:

5 (1) make it known to the plaintiff as early as
6 possible in the proceedings of the action that the plaintiff may
7 use a confidential identity in relation to the action;

8 (2) allow a plaintiff to use a confidential identity
9 in all petitions, filings, and other documents presented to the
10 court;

11 (3) use the confidential identity in all of the
12 court's proceedings and records relating to the action,
13 including any appellate proceedings; and

14 (4) maintain the records relating to the action in a
15 manner that protects the confidentiality of the plaintiff.

16 (d) In a suit to which this section applies, only the
17 following persons are entitled to know the true identifying
18 information about the plaintiff:

19 (1) the judge;

20 (2) a party to the action;

21 (3) the attorney representing a party to the action;

22 and

23 (4) a person authorized by a written order of a court
24 specific to that person.

25 (e) The court shall order that a person entitled to know
26 the true identifying information under Subsection (d) may not
27 divulge that information to anyone without a written order of
28 the court. A court shall hold a person who violates the order
29 in contempt.

30 (f) Notwithstanding Section 22.004, Government Code, the
31 supreme court may not amend or adopt rules in conflict with this
32 section.

33 (g) A plaintiff is not required to use a confidential
34 identity as provided by this section.

35 SECTION 2. This Act applies only to a cause of action
36 commenced on or after the effective date of this Act. An action
37 commenced before the effective date of this Act is governed by
38 the law applicable to the action as it existed immediately
39 before the effective date of this Act, and that law is continued
40 in effect for that purpose.

41 SECTION 3. This Act takes effect September 1, 2009.

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43 S.B. No. 1940
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1 AN ACT

2 relating to the fund for veterans' assistance and to the
3 establishment of pretrial veterans court programs.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Subsections (a), (c), and (e), Section 434.017,
6 Government Code, as redesignated and amended by Chapter 1418
7 (H.B. 3107), Acts of the 80th Legislature, Regular Session,
8 2007, are amended to read as follows:

9 (a) The fund for veterans' assistance is a special fund in
10 the state treasury outside the general revenue fund. The fund
11 is composed of:

12 (1) money transferred to the fund at the direction of
13 the legislature;

14 (2) money deposited to the credit of the fund under
15 Section 502.1746, Transportation Code;

16 (3) gifts and grants contributed to the fund; and

17 (4) ~~the~~ earnings of the fund.

18 (c) Money in the fund may be appropriated to the Texas
19 Veterans Commission to:

20 (1) enhance or improve veterans' assistance programs,
21 including veterans' representation and counseling; ~~and~~

22 (2) make grants to ~~local communities to~~ address
23 veterans' needs; and

24 (3) administer the fund.

25 (e) To carry out any purpose of this chapter, the Texas
26 Veterans Commission may solicit and accept a gift, grant,
27 devise, bequest of money, security, service, or property,
28 including money raised or a service provided by a volunteer or
29 volunteer group, to promote the work of the commission. The
30 commission may participate in the establishment and operation of
31 an affiliated nonprofit organization that is established for the
32 purpose of raising money for or providing services or other
33 benefits to the commission ~~[The comptroller may solicit and~~
34 ~~accept gifts and grants to the fund].~~ A gift, ~~or~~ grant,
35 devise, or bequest to the fund may be appropriated in the same
36 manner as other money in the fund, subject to any limitation or
37 requirement placed on the gift, ~~or~~ grant, devise, or bequest
38 by the donor or granting entity.

39 SECTION 2. Subchapter A, Chapter 434, Government Code, is
40 amended by adding Section 434.0171 to read as follows:

41 Sec. 434.0171. STATE EMPLOYEE CONTRIBUTIONS TO FUND FOR
42 VETERANS' ASSISTANCE. For purposes of Subchapter I, Chapter
43 659:

44 (1) the Texas Veterans Commission, for the sole
45 purpose of managing the fund for veterans' assistance, is
46 considered an eligible charitable organization entitled to
47 participate in the state employee charitable campaign; and

1 (2) a state employee is entitled to authorize a
2 deduction for contributions to the Texas Veterans Commission for
3 the purposes of managing the fund for veterans' assistance as a
4 charitable contribution under Section 659.132, and the Texas
5 Veterans Commission may use the contributions for the purposes
6 listed in Section 434.017(c), as redesignated and amended by
7 Chapter 1418 (H.B. 3107), Acts of the 80th Legislature, Regular
8 Session, 2007.

9 SECTION 3. Subchapter D, Chapter 502, Transportation Code,
10 is amended by adding Section 502.1746 to read as follows:

11 Sec. 502.1746. VOLUNTARY CONTRIBUTION TO VETERANS'
12 ASSISTANCE FUND. (a) When a person registers a motor vehicle
13 under this chapter, the person is entitled to make a voluntary
14 contribution in any amount to the fund for veterans' assistance
15 established by Section 434.017, Government Code, as redesignated
16 and amended by Chapter 1418 (H.B. 3107), Acts of the 80th
17 Legislature, Regular Session, 2007.

18 (b) The county assessor-collector shall send any
19 contribution made under this section to the comptroller for
20 deposit in the state treasury to the credit of the fund for
21 veterans' assistance before the 31st day after the date the
22 contribution is made.

23 SECTION 4. Subtitle E, Title 7, Health and Safety Code, is
24 amended by adding Chapter 617 to read as follows:

25 Sec. 617.001. VETERANS COURT PROGRAM DEFINED; PROCEDURES
26 FOR CERTAIN DEFENDANTS. (a) In this chapter, "veterans court
27 program" means a program that has the following essential
28 characteristics:

29 (1) the integration of services in the processing of
30 cases in the judicial system;

31 (2) the use of a nonadversarial approach involving
32 prosecutors and defense attorneys to promote public safety and
33 to protect the due process rights of program participants;

34 (3) early identification and prompt placement of
35 eligible participants in the program;

36 (4) access to a continuum of alcohol, controlled
37 substance, mental health, and other related treatment and
38 rehabilitative services;

39 (5) careful monitoring of treatment and services
40 provided to program participants;

41 (6) a coordinated strategy to govern program
42 responses to participants' compliance;

43 (7) ongoing judicial interaction with program
44 participants;

45 (8) monitoring and evaluation of program goals and
46 effectiveness;

47 (9) continuing interdisciplinary education to promote

1 effective program planning, implementation, and operations; and
2 (10) development of partnerships with public agencies
3 and community organizations, including the United States
4 Department of Veterans Affairs.

5 (b) If a defendant successfully completes a veterans court
6 program, as authorized under Section 76.011, Government Code,
7 after notice to the attorney representing the state and a
8 hearing in the veterans court at which that court determines
9 that a dismissal is in the best interest of justice, the court
10 in which the criminal case is pending shall dismiss the criminal
11 action against the defendant.

12 Sec. 617.002. AUTHORITY TO ESTABLISH PROGRAM; ELIGIBILITY.

13 (a) The commissioners court of a county may establish a
14 veterans court program for persons arrested for or charged with
15 any misdemeanor or felony offense. A defendant is eligible to
16 participate in a veterans court program established under this
17 chapter only if the attorney representing the state consents to
18 the defendant's participation in the program and if the court in
19 which the criminal case is pending finds that the defendant:

20 (1) is a veteran or current member of the United
21 States armed forces, including a member of the reserves,
22 national guard, or state guard; and

23 (2) suffers from a brain injury, mental illness, or
24 mental disorder, including post-traumatic stress disorder, that:

25 (A) resulted from the defendant's military
26 service in a combat zone or other similar hazardous duty area;
27 and

28 (B) materially affected the defendant's criminal
29 conduct at issue in the case.

30 (b) The court in which the criminal case is pending shall
31 allow an eligible defendant to choose whether to proceed through
32 the veterans court program or otherwise through the criminal
33 justice system.

34 (c) Proof of matters described by Subsection (a) may be
35 submitted to the court in which the criminal case is pending in
36 any form the court determines to be appropriate, including
37 military service and medical records, previous determinations of
38 a disability by a veteran's organization or by the United States
39 Department of Veterans Affairs, testimony or affidavits of other
40 veterans or service members, and prior determinations of
41 eligibility for benefits by any state or county veterans office.
42 The court's findings must accompany any docketed case.

43 Sec. 617.003. DUTIES OF VETERANS COURT. (a) A veterans
44 court program established under this chapter must:

45 (1) ensure a person eligible for the program is
46 provided legal counsel before volunteering to proceed through
47 the program and while participating in the program;

1 (2) allow a participant to withdraw from the program
2 at any time before a trial on the merits has been initiated;

3 (3) provide a participant with a court-ordered
4 individualized treatment plan indicating the services that will
5 be provided to the participant; and

6 (4) ensure that the jurisdiction of the veterans
7 court continues for a period of not less than six months but
8 does not continue beyond the period of community supervision for
9 the offense charged.

10 (b) A veterans court program established under this
11 chapter shall make, establish, and publish local procedures to
12 ensure maximum participation of eligible defendants in the
13 county or counties in which those defendants reside.

14 (c) This chapter does not prevent the initiation of
15 procedures under Chapter 46B, Code of Criminal Procedure.

16 Sec. 617.004. ESTABLISHMENT OF REGIONAL PROGRAM. The
17 commissioners courts of two or more counties may elect to
18 establish a regional veterans court program under this chapter
19 for the participating counties.

20 Sec. 617.005. OVERSIGHT. (a) The lieutenant governor and
21 the speaker of the house of representatives may assign to
22 appropriate legislative committees duties relating to the
23 oversight of veterans court programs established under this
24 chapter.

25 (b) A legislative committee or the governor may request
26 the state auditor to perform a management, operations, or
27 financial or accounting audit of a veterans court program
28 established under this chapter.

29 (c) A veterans court program established under this
30 chapter shall:

31 (1) notify the criminal justice division of the
32 governor's office before or on implementation of the program;
33 and

34 (2) provide information regarding the performance of
35 the program to that division on request.

36 Sec. 617.006. FEES. (a) A veterans court program
37 established under this chapter may collect from a participant in
38 the program:

39 (1) a reasonable program fee not to exceed \$1,000;
40 and

41 (2) a testing, counseling, and treatment fee in an
42 amount necessary to cover the costs of any testing, counseling,
43 or treatment performed or provided under the program.

44 (b) Fees collected under this section may be paid on a
45 periodic basis or on a deferred payment schedule at the
46 discretion of the judge, magistrate, or program director
47 administering the program. The fees must be:

- 1 (1) based on the participant's ability to pay; and
2 (2) used only for purposes specific to the program.

3 SECTION 5. Subsection (a), Article 55.01, Code of Criminal
4 Procedure, is amended to read as follows:

5 (a) A person who has been placed under a custodial or
6 noncustodial arrest for commission of either a felony or
7 misdemeanor is entitled to have all records and files relating
8 to the arrest expunged if:

9 (1) the person is tried for the offense for which the
10 person was arrested and is:

11 (A) acquitted by the trial court, except as
12 provided by Subsection (c) of this section; or

13 (B) convicted and subsequently pardoned; or

14 (2) each of the following conditions exist:

15 (A) an indictment or information charging the
16 person with commission of a felony has not been presented
17 against the person for an offense arising out of the transaction
18 for which the person was arrested or, if an indictment or
19 information charging the person with commission of a felony was
20 presented, the indictment or information has been dismissed or
21 quashed, and:

22 (i) the limitations period expired before
23 the date on which a petition for expunction was filed under
24 Article 55.02; or

25 (ii) the court finds that the indictment or
26 information was dismissed or quashed because the person
27 completed a pretrial intervention program authorized under
28 Section 76.011, Government Code, or because the presentment had
29 been made because of mistake, false information, or other
30 similar reason indicating absence of probable cause at the time
31 of the dismissal to believe the person committed the offense or
32 because it was void;

33 (B) the person has been released and the charge,
34 if any, has not resulted in a final conviction and is no longer
35 pending and there was no court ordered community supervision
36 under Article 42.12 for any offense other than a Class C
37 misdemeanor; and

38 (C) the person has not been convicted of a
39 felony in the five years preceding the date of the arrest.

40 SECTION 6. This Act takes effect immediately if it
41 receives a vote of two-thirds of all the members elected to each
42 house, as provided by Section 39, Article III, Texas
43 Constitution. If this Act does not receive the vote necessary
44 for immediate effect, this Act takes effect September 1, 2009.

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46 S.B. No. 1967
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AN ACT

relating to the safe operation of motorcycles and other vehicles in this state; providing penalties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter H, Chapter 201, Transportation Code, is amended by adding Section 201.621 to read as follows:

Sec. 201.621. MOTORCYCLIST SAFETY AND SHARE THE ROAD CAMPAIGN. From funds appropriated for that purpose, the department shall conduct a continuing public awareness campaign to promote motorcyclist safety and the concept of sharing the road with motorcyclists.

SECTION 2. Subsection (a), Section 521.001, Transportation Code, is amended by adding Subdivision (6-a) to read as follows:

(6-a) "Motorcycle" includes an enclosed three-wheeled passenger vehicle that:

(A) is designed to operate with three wheels in contact with the ground;

(B) has a minimum unladen weight of 900 pounds;

(C) has a single, completely enclosed, occupant compartment;

(D) at a minimum, is equipped with:

(i) seats that are certified by the vehicle manufacturer to meet the requirements of Federal Motor Vehicle Safety Standard No. 207, 49 C.F.R. Section 571.207;

(ii) a steering wheel used to maneuver the vehicle;

(iii) a propulsion unit located in front of or behind the enclosed occupant compartment;

(iv) a seat belt for each vehicle occupant certified by the manufacturer to meet the requirements of Federal Motor Vehicle Safety Standard No. 209, 49 C.F.R. Section 571.209;

(v) a windshield and one or more windshield wipers certified by the manufacturer to meet the requirements of Federal Motor Vehicle Safety Standard No. 205, 49 C.F.R. Section 571.205, and Federal Motor Vehicle Safety Standard No. 104, 49 C.F.R. Section 571.104; and

(vi) a vehicle structure certified by the vehicle manufacturer to meet the requirements of Federal Motor Vehicle Safety Standard No. 216, 49 C.F.R. Section 571.216; and

(E) is produced by its manufacturer in a minimum quantity of 300 in any calendar year.

SECTION 3. Section 521.085, Transportation Code, is amended to read as follows:

1 Sec. 521.085. TYPE OF VEHICLE AUTHORIZED. (a) Unless
2 prohibited by Chapter 522, and except as provided by Subsection
3 (b), the license holder may operate any vehicle of the type for
4 which that class of license is issued and any lesser type of
5 vehicle other than a motorcycle or moped.

6 (b) Subsection (a) does not prohibit a license holder from
7 operating a lesser type of vehicle that is a motorcycle
8 described by Section 521.001(a)(6-a).

9 SECTION 4. Subchapter G, Chapter 521, Transportation Code,
10 is amended by adding Section 521.148 to read as follows:

11 Sec. 521.148. APPLICATION FOR CLASS M LICENSE OR
12 AUTHORIZATION TO OPERATE MOTORCYCLE. (a) An applicant for an
13 original Class M license or Class A, B, or C driver's license
14 that includes an authorization to operate a motorcycle must
15 furnish to the department evidence satisfactory to the
16 department that the applicant has successfully completed a basic
17 motorcycle operator training course approved by the department
18 under Chapter 662.

19 (b) The department may not issue an original Class M
20 license or Class A, B, or C driver's license that includes an
21 authorization to operate a motorcycle to an applicant who fails
22 to comply with Subsection (a).

23 (c) When the department issues a license to which this
24 section applies, the department shall provide the person to whom
25 the license is issued with written information about the Glenda
26 Dawson Donate Life-Texas Registry program established under
27 Chapter 49, Health and Safety Code.

28 SECTION 5. Subchapter C, Chapter 522, Transportation Code,
29 is amended by adding Section 522.034 to read as follows:

30 Sec. 522.034. APPLICATION FOR AUTHORIZATION TO OPERATE
31 MOTORCYCLE. (a) An applicant for an original commercial
32 driver's license or commercial driver learner's permit that
33 includes an authorization to operate a motorcycle must furnish
34 to the department evidence satisfactory to the department that
35 the applicant has successfully completed a basic motorcycle
36 operator training course approved by the department under
37 Chapter 662.

38 (b) The department may not issue an original commercial
39 driver's license or commercial driver learner's permit that
40 includes an authorization to operate a motorcycle to an
41 applicant who fails to comply with Subsection (a).

42 (c) When the department issues a license or permit to
43 which this section applies, the department shall provide the
44 person to whom the license is issued with written information
45 about the Glenda Dawson Donate Life-Texas Registry program
46 established under Chapter 49, Health and Safety Code.

47 SECTION 6. Subchapter D, Chapter 542, Transportation Code,

1 is amended by adding Section 542.4045 to read as follows:

2 Sec. 542.4045. PENALTIES FOR FAILURE TO YIELD RIGHT-OF-WAY
3 OFFENSE RESULTING IN ACCIDENT. If it is shown on the trial of
4 an offense under this subtitle in which an element is the
5 failure by the operator of a vehicle to yield the right-of-way
6 to another vehicle that an accident resulted from the operator's
7 failure to yield the right-of-way:

8 (1) the offense is punishable by a fine of not less
9 than \$500 or more than \$2,000, if a person other than the
10 operator of the vehicle suffered bodily injury, as defined by
11 Section 1.07, Penal Code, in the accident; and

12 (2) the offense is punishable by a fine of not less
13 than \$1,000 or more than \$4,000, if a person other than the
14 operator of the vehicle suffered serious bodily injury, as
15 defined by Section 1.07, Penal Code, in the accident.

16 SECTION 7. Subdivision (1), Section 661.001,
17 Transportation Code, is amended to read as follows:

18 (1) "Motorcycle" means a motor vehicle designed to
19 propel itself with not more than three wheels in contact with
20 the ground, and having a saddle for the use of the rider. The
21 term does not include a tractor or a three-wheeled vehicle
22 equipped with a cab or occupant compartment, seat, and seat belt
23 and designed to contain the operator in the cab or occupant
24 compartment.

25 SECTION 8. Section 661.003, Transportation Code, is
26 amended by amending Subsection (c) and adding Subsections (c-1)
27 and (c-2) to read as follows:

28 (c) It is an exception to the application of Subsection
29 (a) or (b) that at the time the offense was committed, the
30 person required to wear protective headgear was at least 21
31 years old and had successfully completed a motorcycle operator
32 training and safety course under Chapter 662 or was covered by a
33 health insurance plan providing the person with [~~at least~~
34 ~~\$10,000 in~~] medical benefits for injuries incurred as a result
35 of an accident while operating or riding on a motorcycle. A
36 peace officer may not arrest a person or issue a citation to a
37 person for a violation of Subsection (a) or (b) if the person
38 required to wear protective headgear is at least 21 years of age
39 and presents evidence sufficient to show that the person
40 required to wear protective headgear has successfully completed
41 a motorcycle operator training and safety course or is covered
42 by a health insurance plan as described by this subsection.

43 (c-1) A peace officer may not stop or detain a person who
44 is the operator of or a passenger on a motorcycle for the sole
45 purpose of determining whether the person has successfully
46 completed the motorcycle operator training and safety course or
47 is covered by a health insurance plan.

1 (c-2) The Texas Department of Insurance shall prescribe a
2 standard proof of health insurance for issuance to persons who
3 are at least 21 years of age and covered by a health insurance
4 plan described by Subsection (c).

5 SECTION 9. Subsection (a), Section 662.011, Transportation
6 Code, is amended to read as follows:

7 (a) Of each fee collected under Sections 521.421(b) and
8 (f) and~~[7]~~ Sections 522.029(f) and (g), [~~and—Section~~
9 ~~661.003(d),7]~~ the Department of Public Safety shall send \$5 to
10 the comptroller for deposit to the credit of the motorcycle
11 education fund account.

12 SECTION 10. Section 680.013, Transportation Code, is
13 amended to read as follows:

14 Sec. 680.013. USE OF PREFERENTIAL LANE BY MOTORCYCLE. A
15 motorcycle, including a motorcycle described by Section
16 521.001(a)(6-a), may be operated in a preferential lane that is
17 not closed to all vehicular traffic.

18 SECTION 11. Subchapter C, Chapter 1001, Education Code, is
19 amended by adding Section 1001.1025 to read as follows:

20 Sec. 1001.1025. MOTORCYCLE AWARENESS INFORMATION.
21 (a) The agency by rule shall require that information relating
22 to motorcycle awareness, the dangers of failing to yield the
23 right-of-way to a motorcyclist, and the need to share the road
24 with motorcyclists be included in the curriculum of any driver
25 education course or driving safety course.

26 (b) In developing rules under this section, the agency
27 shall consult with the department.

28 SECTION 12. Subsections (d), (e), (f), and (g), Section
29 661.003, Transportation Code, are repealed.

30 SECTION 13. The change in law made by this Act to Chapters
31 521 and 522, Transportation Code, apply only in connection with
32 an application for a driver's license, personal identification
33 certificate, commercial driver's license, or commercial driver
34 learner's permit filed on or after the effective date of this
35 Act. An application for a driver's license, personal
36 identification certificate, commercial driver's license, or
37 commercial driver learner's permit filed before the effective
38 date of this Act is covered by the law in effect when the
39 application was filed, and the former law is continued in effect
40 for that purpose.

41 SECTION 14. This Act takes effect September 1, 2009.

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43 S.B. No. 1992
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1 AN ACT

2 relating to the regulation of automotive wrecking and salvage
3 yards in certain counties; providing a civil penalty.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Chapter 397, Transportation Code, is amended by
6 adding Section 397.0125 to read as follows:

7 Sec. 397.0125. CIVIL PENALTY. (a) In addition to the
8 penalty provided by Section 397.012, a person who operates an
9 automotive wrecking and salvage yard in violation of this
10 chapter is liable for a civil penalty of not less than \$500 or
11 more than \$1,000 for each violation. A separate penalty may be
12 imposed for each day a continuing violation occurs.

13 (b) The district or county attorney for the county, or the
14 municipal attorney of the municipality, in which the violation
15 is alleged to have occurred may bring suit to collect the
16 penalty.

17 (c) A penalty collected under this section by a district
18 or county attorney shall be deposited in the county treasury. A
19 penalty collected under this section by a municipal attorney
20 shall be deposited in the municipal treasury.

21 SECTION 2. Subsection (a), Section 397.014, Transportation
22 Code, is amended to read as follows:

23 (a) A person, county, or municipality is entitled to an
24 injunction to prohibit a violation or threatened violation of
25 this chapter.

26 SECTION 3. The change in law made by this Act applies only
27 to a violation of Chapter 397, Transportation Code, that occurs
28 on or after the effective date of this Act. A violation of that
29 chapter that occurred before the effective date of this Act is
30 governed by the law in effect when the violation occurred, and
31 the former law is continued in effect for that purpose.

32 SECTION 4. This Act takes effect September 1, 2009.

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34 S.B. No. 2028
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40 AN ACT

41 relating to privately funded memorials honoring certain peace
42 officers killed in the line of duty.

43 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

44 SECTION 1. Subchapter K, Chapter 201, Transportation Code,
45 is amended by adding Section 201.910 to read as follows:

46 Sec. 201.910. MEMORIAL MARKERS FOR CERTAIN PEACE OFFICERS
47 KILLED IN LINE OF DUTY. (a) The commission by rule shall
authorize memorial markers honoring peace officers killed in the

1 line of duty who are not Department of Public Safety troopers.
2 The program established under this section shall be identical to
3 the commission's existing program for memorial markers for
4 honoring Department of Public Safety troopers.

5 (b) As used in this section, "peace officer" means a
6 person who was:

7 (1) a law enforcement officer or peace officer for
8 this state or a political subdivision of this state under
9 Article 2.12, Code of Criminal Procedure, or other law; or

10 (2) a federal law enforcement officer or special
11 agent performing duties in this state, including those officers
12 under Article 2.122, Code of Criminal Procedure.

13 SECTION 2. This Act takes effect September 1, 2009.

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15 S.B. No. 2041
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20 AN ACT

21 relating to requiring an applicant for a driver's license to
22 demonstrate knowledge of motorists' rights and responsibilities
23 in relation to bicyclists.

24 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

25 SECTION 1. Subsections (b) and (c), Section 521.161,
26 Transportation Code, are amended to read as follows:

27 (b) The examination must include:

28 (1) a test of the applicant's:

29 (A) vision;

30 (B) ability to identify and understand highway
31 signs in English that regulate, warn, or direct traffic; ~~and~~

32 (C) knowledge of the traffic laws of this state;

33 and

34 (D) knowledge of motorists' rights and
35 responsibilities in relation to bicyclists;

36 (2) a demonstration of the applicant's ability to
37 exercise ordinary and reasonable control in the operation of a
38 motor vehicle of the type that the applicant will be licensed to
39 operate; and

40 (3) any additional examination the department finds
41 necessary to determine the applicant's fitness to operate a
42 motor vehicle safely.

43 (c) The department shall give each applicant the option of
44 taking the parts [~~traffic law and highway sign part~~] of the
45 examination under Subsections (b)(1)(B), (C), and (D) in writing
46 in addition to or instead of through a mechanical, electronic,
47 or other testing method. If the applicant takes that part of

1 the examination in writing in addition to another testing
2 method, the applicant is considered to have passed that part of
3 the examination if the applicant passes either version of the
4 examination. The department shall inform each person taking the
5 examination of the person's rights under this subsection.

6 SECTION 2. A driver's license examination administered by
7 the Department of Public Safety is not required to include a
8 question required by Paragraph (D), Subdivision (1), Subsection
9 (b), Section 521.161, Transportation Code, as added by this Act,
10 if the examination is administered before February 1, 2010.

11 SECTION 3. This Act takes effect September 1, 2009.

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13 S.B. No. 2047
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18 AN ACT

19 relating to the interception or the collection of information
20 from certain communications in an investigation of criminal
21 conduct.

22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

23 SECTION 1. Subdivision (1), Section 1, Article 18.20, Code
24 of Criminal Procedure, is amended to read as follows:

25 (1) "Wire communication" means an aural transfer made
26 in whole or in part through the use of facilities for the
27 transmission of communications by the aid of wire, cable, or
28 other like connection between the point of origin and the point
29 of reception, including the use of such a connection in a
30 switching station, furnished or operated by a person authorized
31 to engage in providing or operating the facilities for the
32 transmission of communications as a communications common
33 carrier. [~~The term includes the electronic storage of a wire~~
34 ~~communication.~~]

35 SECTION 2. Subdivision (5), Section 1, Article 18.21, Code
36 of Criminal Procedure, is amended to read as follows:

37 (5) "Mobile tracking device" means an electronic or
38 mechanical device that permits tracking the movement of a
39 person, vehicle, container, item, or object. [~~The term does not~~
40 ~~include a device designed, made, adapted, or capable of:~~

41 [~~(A) intercepting the content of a~~
42 ~~communication; or~~

43 [~~(B) functioning as a pen register, ESN reader,~~
44 ~~trap and trace device, or similar equipment.]~~

45 SECTION 3. Subsections (a), (b), and (c), Section 4,
46 Article 18.21, Code of Criminal Procedure, are amended to read
47 as follows:

1 (a) An authorized peace officer may require a provider of
2 electronic communications service to disclose the contents of a
3 wire communication or an electronic communication that has been
4 in electronic storage for not longer than 180 days by obtaining
5 a warrant.

6 (b) An authorized peace officer may require a provider of
7 electronic communications service to disclose the contents of a
8 wire communication or an electronic communication that has been
9 in electronic storage for longer than 180 days:

10 (1) if notice is not being given to the subscriber or
11 customer, by obtaining a warrant;

12 (2) if notice is being given to the subscriber or
13 customer, by obtaining:

14 (A) an administrative subpoena authorized by
15 statute;

16 (B) a grand jury subpoena; or

17 (C) a court order issued under Section 5 of this
18 article; or

19 (3) as otherwise permitted by applicable federal law.

20 (c)(1) An authorized peace officer may require a provider
21 of a remote computing service to disclose the contents of a wire
22 communication or an electronic communication as described in
23 Subdivision (2) of this subsection:

24 (A) if notice is not being given to the
25 subscriber or customer, by obtaining a warrant issued under this
26 code;

27 (B) if notice is being given to the subscriber
28 or customer, by:

29 (i) an administrative subpoena authorized
30 by statute;

31 (ii) a grand jury subpoena; or

32 (iii) a court order issued under Section 5
33 of this article; or

34 (C) as otherwise permitted by applicable federal
35 law.

36 (2) Subdivision (1) of this subsection applies only
37 to a wire communication or an electronic communication that is
38 in electronic storage:

39 (A) on behalf of a subscriber or customer of the
40 service and is received by means of electronic transmission from
41 or created by means of computer processing of communications
42 received by means of electronic transmission from the subscriber
43 or customer; and

44 (B) solely for the purpose of providing storage
45 or computer processing services to the subscriber or customer if
46 the provider of the service is not authorized to obtain access
47 to the contents of those communications for purposes of

1 providing any service other than storage or computer processing.

2 SECTION 4. Subsections (a) and (b), Section 7, Article
3 18.21, Code of Criminal Procedure, are amended to read as
4 follows:

5 (a) An authorized peace officer seeking a court order to
6 obtain information under Section 4 [4(e)] of this article may
7 include a request for an order delaying the notification
8 required under Section 4 [4(e)] of this article for a period not
9 to exceed 90 days. The court shall grant the request if the
10 court determines that there is reason to believe that
11 notification of the existence of the court order may have an
12 adverse result, as described in Subsection (c) of this section.

13 (b) An authorized peace officer who has obtained a
14 subpoena authorized by statute or a grand jury subpoena to seek
15 information under Section 4 [4(e)] of this article may delay the
16 notification required under that section for a period not to
17 exceed 90 days on the execution of a written certification of a
18 supervisory official that there is reason to believe that
19 notification of the existence of the subpoena may have an
20 adverse result as described in Subsection (c) of this section.
21 The peace officer shall maintain a true copy of the
22 certification.

23 SECTION 5. Subsection (a), Section 14, Article 18.21, Code
24 of Criminal Procedure, is amended to read as follows:

25 (a) A district judge may issue an order for the
26 installation and use [~~within the judge's judicial district~~] of a
27 mobile tracking device in the same judicial district as the site
28 of:

29 (1) the investigation; or

30 (2) the person, vehicle, container, item, or object
31 the movement of which will be tracked by the mobile tracking
32 device.

33 SECTION 6. (a) The changes in law made by this Act in
34 amending Sections 4 and 7, Article 18.21, Code of Criminal
35 Procedure, apply only to a warrant, subpoena, or court order
36 regarding disclosure of a wire communication or electronic
37 communication obtained or issued on or after the effective date
38 of this Act. A warrant, subpoena, or court order obtained or
39 issued before the effective date of this Act is governed by the
40 law in effect on the date the warrant, subpoena, or court order
41 was obtained or issued, and the former law is continued in
42 effect for that purpose.

43 (b) The changes in law made by this Act in amending
44 Section 14, Article 18.21, Code of Criminal Procedure, apply
45 only to a court order issued on or after the effective date of
46 this Act. A court order issued before the effective date of
47 this Act is governed by the law in effect on the date the court

1 order was issued, and the former law is continued in effect for
2 that purpose.

3 SECTION 7. This Act takes effect September 1, 2009.

4
5 S.B. No. 2073

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9
10 AN ACT

11 relating to eligibility to hold the office of notary public.

12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

13 SECTION 1. Subsection (e), Section 406.009, Government
14 Code, is amended to read as follows:

15 (e) The following may [~~dismissal and discharge of~~
16 ~~proceedings under either the misdemeanor adult probation and~~
17 ~~supervision law or the adult probation, parole, and mandatory~~
18 ~~supervision law shall~~] not be considered a conviction for the
19 purposes of determining eligibility and good cause:

20 (1) a dismissal of a proceeding against the defendant
21 and discharge of the defendant before an adjudication of guilt;
22 and

23 (2) a finding of guilt that has been set aside.

24 SECTION 2. This Act takes effect September 1, 2009.

25
26 S.B. No. 2085

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31 AN ACT

32 relating to the offense of unlawful use of public funds for
33 political advertising by a political subdivision.

34 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

35 SECTION 1. Section 255.003, Election Code, is amended by
36 amending Subsection (a) and adding Subsections (d), (e), and (f)
37 to read as follows:

38 (a) An officer or employee of a political subdivision may
39 not knowingly spend or authorize the spending of public funds
40 for political advertising.

41 (d) It is an affirmative defense to prosecution for an
42 offense under this section or the imposition of a civil penalty
43 for conduct under this section that an officer or employee of a
44 political subdivision reasonably relied on a court order or an
45 interpretation of this section in a written opinion issued by:

46 (1) a court of record;

47 (2) the attorney general; or

1 installs or removes a boot on or from a vehicle.

2 SECTION 4. Subchapter A, Chapter 2308, Occupations Code,
3 is amended by adding Section 2308.004 to read as follows:

4 Sec. 2308.004. EXEMPTION. (a) This chapter does not
5 apply to a person who, while exercising a statutory or
6 contractual lien right with regard to a vehicle:

7 (1) installs or removes a boot; or

8 (2) controls, installs, or directs the installation
9 and removal of one or more boots.

10 (b) This chapter does not apply to a commercial office
11 building owner or manager who installs or removes a boot in the
12 building's parking facility.

13 SECTION 5. The heading to Section 2308.051, Occupations
14 Code, is amended to read as follows:

15 Sec. 2308.051. TOWING, ~~AND~~ STORAGE, AND BOOTING ADVISORY
16 BOARD.

17 SECTION 6. Subsection (a), Section 2308.051, Occupations
18 Code, is amended to read as follows:

19 (a) The advisory board consists of the following members
20 appointed by the presiding officer of the commission with the
21 approval of the commission:

22 (1) one representative of a towing company operating
23 in a county with a population of less than one million;

24 (2) one representative of a towing company operating
25 in a county with a population of one million or more;

26 (3) one owner of a vehicle storage facility located
27 in a county with a population of less than one million;

28 (4) one owner of a vehicle storage facility located
29 in a county with a population of one million or more;

30 (5) one parking facility owner;

31 (6) one law enforcement officer from a county with a
32 population of less than one million;

33 (7) one law enforcement officer from a county with a
34 population of one million or more; ~~and~~

35 (8) one representative of property and casualty
36 insurers who write automobile insurance in this state; and

37 (9) one representative of a booting company.

38 SECTION 7. Subsection (a), Section 2308.057, Occupations
39 Code, is amended to read as follows:

40 (a) The commission shall adopt rules for permitting tow
41 trucks and licensing towing operators, ~~and~~ towing companies,
42 booting companies, and boot operators.

43 SECTION 8. Section 2308.151, Occupations Code, is amended
44 to read as follows:

45 Sec. 2308.151. LICENSE REQUIRED. Unless the person holds
46 an appropriate license under this subchapter, a person may not:

47 (1) perform towing operations; ~~or~~

- 1 (2) operate a towing company;
- 2 (3) perform booting operations; or
- 3 (4) operate a booting company.

4 SECTION 9. Subchapter D, Chapter 2308, Occupations Code,
5 is amended by adding Sections 2308.1555 and 2308.1556 to read as
6 follows:

7 Sec. 2308.1555. BOOT OPERATOR'S LICENSE. (a) A boot
8 operator's license is required to install or remove a boot from
9 a vehicle.

10 (b) An applicant for a boot operator's license must be at
11 least 18 years of age.

12 Sec. 2308.1556. BOOTING COMPANY LICENSE. (a) A booting
13 company license is required for a person to operate a booting
14 company.

15 (b) To be eligible for a booting company license, an
16 applicant must submit evidence that the applicant is covered by:

17 (1) a general liability insurance policy on a broad
18 form with:

19 (A) a combined single limit for bodily injury
20 and property damage for each occurrence of at least \$500,000;
21 and

22 (B) an aggregate limit for all occurrences for
23 each policy year of at least \$500,000; and

24 (2) an automobile liability insurance policy covering
25 the applicant and the applicant's employees for vehicles owned,
26 hired, or otherwise used in the applicant's business, with a
27 combined single limit for each occurrence of at least \$500,000.

28 SECTION 10. The heading to Subchapter E, Chapter 2308,
29 Occupations Code, is amended to read as follows:

30 SUBCHAPTER E. LOCAL REGULATION OF TOWING AND BOOTING

31 SECTION 11. Subchapter E, Chapter 2308, Occupations Code,
32 is amended by adding Section 2308.2085 to read as follows:

33 Sec. 2308.2085. MUNICIPAL ORDINANCE REGULATING BOOTING
34 COMPANIES AND OPERATORS. (a) A municipality may adopt an
35 ordinance that is identical to the booting provisions in this
36 chapter or that imposes additional requirements that exceed the
37 minimum standards of the booting provisions in this chapter but
38 may not adopt an ordinance that conflicts with the booting
39 provisions in this chapter.

40 (b) A municipality may regulate the fees that may be
41 charged in connection with the booting of a vehicle, including
42 associated parking fees.

43 (c) A municipality may require booting companies to obtain
44 a permit to operate in the municipality.

45 SECTION 12. Subchapter F, Chapter 2308, Occupations Code,
46 is amended by adding Section 2308.257 to read as follows:

47 Sec. 2308.257. BOOTING OF UNAUTHORIZED VEHICLE. (a) A

1 parking facility owner may, without the consent of the owner or
2 operator of an unauthorized vehicle, cause a boot to be
3 installed on the vehicle in the parking facility if signs that
4 comply with Subchapter G prohibiting unauthorized vehicles are
5 located on the parking facility at the time of the booting and
6 for the preceding 24 hours and remain installed at the time of
7 the booting.

8 (b) A boot operator that installs a boot on a vehicle must
9 affix a conspicuous notice to the vehicle's front windshield or
10 driver's side window stating:

11 (1) that the vehicle has been booted and damage may
12 occur if the vehicle is moved;

13 (2) the date and time the boot was installed;

14 (3) the name, address, and telephone number of the
15 booting company;

16 (4) a telephone number that is answered 24 hours a
17 day to enable the owner or operator of the vehicle to arrange
18 for removal of the boot;

19 (5) the amount of the fee for removal of the boot and
20 any associated parking fees; and

21 (6) notice of the right of a vehicle owner or vehicle
22 operator to a hearing under Subchapter J.

23 (c) On removal of a boot, the boot operator shall provide
24 a receipt to the vehicle owner or operator stating:

25 (1) the name of the person who removed the boot;

26 (2) the date and time the boot was removed;

27 (3) the name of the person to whom the vehicle was
28 released;

29 (4) the amount of fees paid for removal of the boot
30 and any associated parking fees; and

31 (5) the right of the vehicle owner or operator to a
32 hearing under Subchapter J.

33 (d) The booting company shall maintain a copy of the
34 receipt at its place of business for a period of three years. A
35 peace officer has the right, on request, to inspect and copy the
36 records to determine compliance with the requirements of this
37 section.

38 (e) A booting company shall accept payment by an
39 electronic check, debit card, or credit card for any fee or
40 charge associated with the removal of a boot. A booting company
41 may not collect a fee for any charge associated with the removal
42 of a boot from a person who offers to pay the charge with an
43 electronic check, debit card, or credit card form of payment
44 that the booting company is not equipped to accept.

45 SECTION 13. Section 2308.301, Occupations Code, is amended
46 to read as follows:

47 Sec. 2308.301. GENERAL REQUIREMENTS FOR SIGN PROHIBITING

1 UNAUTHORIZED VEHICLES. (a) Except as provided by Subsection
2 (a)(2)(B) and Section 2308.304 or 2308.305, an unauthorized
3 vehicle may not be towed under Section 2308.252(a)(1) or booted
4 under Section 2308.257 unless a sign prohibiting unauthorized
5 vehicles on a parking facility is:

6 (1) facing and conspicuously visible to the driver of
7 a vehicle that enters the facility;

8 (2) located:

9 (A) on the right or left side of each driveway
10 or curb-cut through which a vehicle can enter the facility,
11 including an entry from an alley abutting the facility; or

12 (B) at intervals along the entrance so that no
13 entrance is farther than 25 feet from a sign if:

14 (i) curbs, access barriers, landscaping, or
15 driveways do not establish definite vehicle entrances onto a
16 parking facility from a public roadway other than an alley; and

17 (ii) the width of an entrance exceeds 35
18 feet;

19 (3) permanently mounted on a pole, post, permanent
20 wall, or permanent barrier;

21 (4) installed on the parking facility; and

22 (5) installed so that the bottom edge of the sign is
23 no lower than five feet and no higher than eight feet above
24 ground level.

25 (b) Except as provided by Section 2308.305, an
26 unauthorized vehicle may be towed under Section 2308.252(a)(1)
27 or booted under Section 2308.257 only if each sign prohibiting
28 unauthorized vehicles:

29 (1) is made of weather-resistant material;

30 (2) is at least 18 inches wide and 24 inches tall;

31 (3) contains the international symbol for towing
32 vehicles;

33 (4) contains a statement describing who may park in
34 the parking facility and prohibiting all others;

35 (5) bears the words "Unauthorized Vehicles Will Be
36 Towed or Booted at Owner's or Operator's Expense";

37 (6) contains a statement of the days and hours of
38 towing and booting enforcement; and

39 (7) contains a number, including the area code, of a
40 telephone that is answered 24 hours a day to enable an owner or
41 operator of a vehicle to locate a towed [~~the~~] vehicle or to
42 arrange for removal of a boot from a vehicle.

43 SECTION 14. Subsections (c) and (e), Section 2308.302,
44 Occupations Code, are amended to read as follows:

45 (c) The portion of the sign immediately below the
46 international towing symbol must contain the words "Towing And
47 Booting Enforced" [~~or the information provided by Section~~

1 ~~2308.301(b)(4)]~~ in lettering at least two inches in height. The
2 lettering on this portion of the sign must consist of white
3 letters on a bright red background.

4 (e) The bottommost portion of the sign must contain the
5 telephone numbers [~~number~~] required by Section 2308.301(b), in
6 lettering at least one inch in height and may, if the facility
7 owner chooses or if an applicable municipal ordinance requires,
8 include the name and address of the storage facility to which an
9 unauthorized vehicle will be removed. The lettering on this
10 portion of the sign must consist of white letters on a bright
11 red background.

12 SECTION 15. The heading to Subchapter I, Chapter 2308,
13 Occupations Code, is amended to read as follows:

14 SUBCHAPTER I. REGULATION OF TOWING COMPANIES, BOOTING
15 COMPANIES, AND PARKING FACILITY OWNERS

16 SECTION 16. Section 2308.401, Occupations Code, is amended
17 to read as follows:

18 Sec. 2308.401. PARKING FACILITY OWNER PROHIBITED FROM
19 RECEIVING FINANCIAL GAIN FROM TOWING COMPANY OR BOOTING COMPANY.

20 (a) A parking facility owner may not directly or indirectly
21 accept anything of value from:

22 (1) a towing company in connection with the removal
23 of a vehicle from a parking facility; or

24 (2) a booting company in connection with booting a
25 vehicle in a parking facility.

26 (b) A parking facility owner may not have a direct or
27 indirect monetary interest in:

28 (1) a towing company that for compensation removes
29 unauthorized vehicles from a parking facility in which the
30 parking facility owner has an interest; or

31 (2) a booting company that for compensation boots
32 vehicles in a parking facility in which the parking facility
33 owner has an interest.

34 SECTION 17. Section 2308.402, Occupations Code, is amended
35 to read as follows:

36 Sec. 2308.402. TOWING COMPANY AND BOOTING COMPANY
37 PROHIBITED FROM FINANCIAL INVOLVEMENT WITH PARKING FACILITY
38 OWNER. (a) A towing company or booting company may not
39 directly or indirectly give anything of value to a parking
40 facility owner in connection with:

41 (1) the removal of a vehicle from a parking facility;
42 or

43 (2) the booting of a vehicle in a parking facility.

44 (b) A towing company or booting company may not have a
45 direct or indirect monetary interest in a parking facility:

46 (1) from which the towing company for compensation
47 removes unauthorized vehicles; or

1 (2) in which the booting company for compensation
2 installs boots on unauthorized vehicles.

3 SECTION 18. The heading to Section 2308.404, Occupations
4 Code, is amended to read as follows:

5 Sec. 2308.404. CIVIL LIABILITY OF TOWING COMPANY, BOOTING
6 COMPANY, OR PARKING FACILITY OWNER FOR VIOLATION OF CHAPTER.

7 SECTION 19. Subsections (a), (b), and (c), Section
8 2308.404, Occupations Code, are amended to read as follows:

9 (a) A towing company, booting company, or parking facility
10 owner who violates this chapter is liable to the owner or
11 operator of the vehicle that is the subject of the violation
12 for:

13 (1) damages arising from the removal, [~~or~~] storage,
14 or booting of the vehicle; and

15 (2) towing, [~~or~~] storage, or booting fees assessed in
16 connection with the vehicle's removal, [~~or~~] storage, or booting.

17 (b) A vehicle's owner or operator is not required to prove
18 negligence of a parking facility owner, [~~or~~] towing company, or
19 booting company to recover under Subsection (a).

20 (c) A towing company, booting company, or parking facility
21 owner who intentionally, knowingly, or recklessly violates this
22 chapter is liable to the owner or operator of the vehicle that
23 is the subject of the violation for \$300 plus three times the
24 amount of fees assessed in the vehicle's removal, towing, [~~or~~]
25 storage, or booting.

26 SECTION 20. The heading to Subchapter J, Chapter 2308,
27 Occupations Code, is amended to read as follows:

28 SUBCHAPTER J. RIGHTS OF OWNERS AND OPERATORS OF STORED OR
29 BOOTED VEHICLES

30 SECTION 21. The heading to Section 2308.451, Occupations
31 Code, is amended to read as follows:

32 Sec. 2308.451. PAYMENT OF COST OF REMOVAL, [~~AND~~] STORAGE,
33 AND BOOTING OF VEHICLE.

34 SECTION 22. Section 2308.451, Occupations Code, is amended
35 by adding Subsections (c) and (d) to read as follows:

36 (c) If in a hearing held under this chapter the court
37 finds that a person authorized, with probable cause, the booting
38 of a vehicle in a parking facility, the person who requested the
39 hearing shall pay the costs of the booting.

40 (d) If in a hearing held under this chapter the court does
41 not find that a person authorized, with probable cause, the
42 booting of a vehicle, the person that authorized the booting
43 shall:

44 (1) pay the costs of the booting and any related
45 parking fees; or

46 (2) reimburse the owner or operator for the cost of
47 the booting and any related parking fees paid by the owner or

1 operator.

2 SECTION 23. Section 2308.452, Occupations Code, is amended
3 to read as follows:

4 Sec. 2308.452. RIGHT OF OWNER OR OPERATOR OF VEHICLE TO
5 HEARING. The owner or operator of a vehicle that has been
6 removed and placed in a vehicle storage facility or booted
7 without the consent of the owner or operator of the vehicle is
8 entitled to a hearing on whether probable cause existed for the
9 removal and placement or booting.

10 SECTION 24. Section 2308.453, Occupations Code, is amended
11 to read as follows:

12 Sec. 2308.453. JURISDICTION. A hearing under this chapter
13 shall be in the justice court having jurisdiction in:

14 (1) the precinct in which the vehicle storage
15 facility is located; or

16 (2) for booted vehicles, the precinct in which the
17 parking facility is located.

18 SECTION 25. Section 2308.454, Occupations Code, is amended
19 by adding Subsections (c) and (d) to read as follows:

20 (c) If before a hearing held under this chapter the owner
21 or operator of a vehicle pays the costs for removal of a boot,
22 the booting company shall at the time of payment give the owner
23 or operator written notice of the person's rights under this
24 chapter.

25 (d) The booting operator that places a notice on a booted
26 vehicle under Section 2308.257 shall include with that notice a
27 notice of the person's rights under this chapter.

28 SECTION 26. Section 2308.455, Occupations Code, is amended
29 to read as follows:

30 Sec. 2308.455. CONTENTS OF NOTICE. The notice under
31 Section 2308.454 must include:

32 (1) a statement of:

33 (A) the person's right to submit a request
34 within 14 days for a court hearing to determine whether probable
35 cause existed to remove, or install a boot on, the vehicle;

36 (B) the information that a request for a hearing
37 must contain; and

38 (C) any filing fee for the hearing;

39 (2) the name, address, and telephone number of the
40 towing company that removed the vehicle or the booting company
41 that booted the vehicle;

42 (3) the name, address, and telephone number of the
43 vehicle storage facility in which the vehicle was placed;

44 (4) the name, address, and telephone number of the
45 person, property owner, or law enforcement agency that
46 authorized the removal of the vehicle; and

47 (5) the name, address, and telephone number of the

1 justice court having jurisdiction in the precinct in which the
2 vehicle storage facility is located or, for booted vehicles, the
3 name, address, and telephone number of the justice court having
4 jurisdiction in the precinct in which the parking facility is
5 located.

6 SECTION 27. Subsections (a) and (b), Section 2308.456,
7 Occupations Code, are amended to read as follows:

8 (a) Except as provided by Subsection (c), a person
9 entitled to a hearing under this chapter must deliver a written
10 request for the hearing to the court before the 14th day after
11 the date the vehicle was removed and placed in the vehicle
12 storage facility or booted, excluding Saturdays, Sundays, and
13 legal holidays.

14 (b) A request for a hearing must contain:

15 (1) the name, address, and telephone number of the
16 owner or operator of the vehicle;

17 (2) the location from which the vehicle was removed
18 or in which the vehicle was booted;

19 (3) the date when the vehicle was removed or booted;

20 (4) the name, address, and telephone number of the
21 person or law enforcement agency that authorized the removal or
22 booting;

23 (5) the name, address, and telephone number of the
24 vehicle storage facility in which the vehicle was placed;

25 (6) the name, address, and telephone number of the
26 towing company that removed the vehicle or of the booting
27 company that installed a boot on the vehicle;

28 (7) a copy of any receipt or notification that the
29 owner or operator received from the towing company, the booting
30 company, or the vehicle storage facility; and

31 (8) if the vehicle was removed from or booted in a
32 parking facility:

33 (A) one or more photographs that show the
34 location and text of any sign posted at the facility restricting
35 parking of vehicles; or

36 (B) a statement that no sign restricting parking
37 was posted at the parking facility.

38 SECTION 28. Section 2308.458, Occupations Code, is amended
39 by amending Subsections (b), (c), and (e) and adding Subsections
40 (b-2) and (c-1) to read as follows:

41 (b) The court shall notify the person who requested the
42 hearing for a towed vehicle, the person or law enforcement
43 agency that authorized the removal of the vehicle, and the
44 vehicle storage facility in which the vehicle was placed of the
45 date, time, and place of the hearing in a manner provided by
46 Rule 21a, Texas Rules of Civil Procedure. The notice of the
47 hearing to the person or law enforcement agency that authorized

1 the removal of the vehicle must [~~shall~~] include a copy of the
2 request for hearing.

3 (b-2) The court shall notify the person who requested the
4 hearing for a booted vehicle, the parking facility in which the
5 vehicle was booted, and the booting company of the date, time,
6 and place of the hearing in a manner provided by Rule 21a, Texas
7 Rules of Civil Procedure. The notice of hearing to the person
8 that authorized the booting of the vehicle must include a copy
9 of the request for hearing.

10 (c) The issues in a hearing regarding a towed vehicle
11 under this chapter are:

12 (1) whether probable cause existed for the removal
13 and placement of the vehicle;

14 (2) whether a towing charge imposed or collected in
15 connection with the removal or placement of the vehicle was
16 greater than the amount authorized by the political subdivision
17 under Section 2308.201 or 2308.202;

18 (3) whether a towing charge imposed or collected in
19 connection with the removal or placement of the vehicle was
20 greater than the amount authorized under Section 2308.203 or
21 2308.204; or

22 (4) whether a towing charge imposed or collected in
23 connection with the removal or placement of the vehicle was
24 greater than the amount filed with the department under Section
25 2308.206.

26 (c-1) The issues in a hearing regarding a booted vehicle
27 under this chapter are:

28 (1) whether probable cause existed for the booting of
29 the vehicle; and

30 (2) whether a boot removal charge imposed or
31 collected in connection with the removal of the boot from the
32 vehicle was greater than the amount authorized by the political
33 subdivision under Section 2308.2085.

34 (e) The court may award:

35 (1) court costs to the prevailing party;

36 (2) the reasonable cost of photographs submitted
37 under Section 2308.456(b)(8) to a vehicle owner or operator who
38 is the prevailing party;

39 (3) an amount equal to the amount that the towing
40 charge or booting removal charge and associated parking fees
41 exceeded fees regulated by a political subdivision or authorized
42 by this code or by Chapter 2303; and

43 (4) reimbursement of fees paid for vehicle towing,
44 [~~and~~] storage, or removal of a boot.

45 SECTION 29. Subsection (a), Section 2308.505, Occupations
46 Code, is amended to read as follows:

47 (a) A person commits an offense if the person:

1 (1) violates an ordinance, resolution, order, rule,
2 or regulation of a political subdivision adopted under Section
3 2308.201, ~~[or]~~ 2308.202, or 2308.2085 for which the political
4 subdivision does not prescribe the penalty;

5 (2) charges or collects a fee in a political
6 subdivision that regulates the operation of tow trucks under
7 Section 2308.201 or 2308.202 or booting under Section 2308.2085
8 that is not authorized or is greater than the authorized amount
9 of the fee;

10 (3) charges or collects a fee greater than the amount
11 authorized under Section 2308.204;

12 (4) charges or collects a fee in excess of the amount
13 filed with the department under Section 2308.206;

14 (5) violates Section 2308.205; or

15 (6) violates a rule of the department applicable to a
16 tow truck, ~~[and]~~ towing company, or booting company.

17 SECTION 30. Section 2303.058, Occupations Code, is amended
18 to read as follows:

19 Sec. 2303.058. ADVISORY BOARD. The Towing, ~~[and]~~ Storage,
20 and Booting Advisory Board under Chapter 2308 shall advise the
21 commission in adopting vehicle storage rules under this chapter.

22 SECTION 31. Promptly after this Act takes effect, the
23 presiding officer of the Texas Commission of Licensing and
24 Regulation shall appoint to the Towing, Storage, and Booting
25 Advisory Board one representative of a booting company as
26 required by Subsection (a), Section 2308.051, Occupations Code,
27 as amended by this Act.

28 SECTION 32. This Act takes effect September 1, 2009.

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30 S.B. No. 2163
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35 AN ACT

36 relating to access to criminal history record information by the
37 Texas Veterans Commission.

38 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

39 SECTION 1. Subchapter F, Chapter 411, Government Code, is
40 amended by adding Section 411.1211 to read as follows:

41 Sec. 411.1211. ACCESS TO CRIMINAL HISTORY RECORD
42 INFORMATION: TEXAS VETERANS COMMISSION. (a) The Texas
43 Veterans Commission is entitled to obtain from the department,
44 the Federal Bureau of Investigation Criminal Justice Information
45 Services Division, or another law enforcement agency criminal
46 history record information maintained by the department,
47 division, or agency that relates to a person who:

1 (1) is an employee or an applicant for employment
2 with the commission;

3 (2) is a consultant, intern, or volunteer for the
4 commission or an applicant to serve as a consultant, intern, or
5 volunteer;

6 (3) proposes to enter into a contract with or has a
7 contract with the commission to perform services for or supply
8 goods to the commission; or

9 (4) is an employee or subcontractor, or an applicant
10 to be an employee or subcontractor, of a contractor that
11 provides services to the commission.

12 (b) Criminal history record information obtained by the
13 Texas Veterans Commission under Subsection (a) may not be
14 released or disclosed to any person except:

15 (1) on court order;

16 (2) with the consent of the person who is the subject
17 of the criminal history record information; or

18 (3) to a federal agency as required by federal law or
19 executive order.

20 (c) The Texas Veterans Commission shall destroy criminal
21 history record information obtained under this section after the
22 information is used for the purposes authorized by this section.

23 (d) The Texas Veterans Commission may provide a copy of
24 the criminal history record information obtained from the
25 department, the Federal Bureau of Investigation Criminal Justice
26 Information Services Division, or other law enforcement agency
27 to the individual who is the subject of the information.

28 (e) The failure or refusal to provide the following on
29 request constitutes good cause for dismissal or refusal to hire:

30 (1) a complete set of fingerprints;

31 (2) a true and complete name; or

32 (3) other information necessary for a law enforcement
33 entity to provide a criminal history record.

34 SECTION 2. This Act takes effect immediately if it
35 receives a vote of two-thirds of all the members elected to each
36 house, as provided by Section 39, Article III, Texas
37 Constitution. If this Act does not receive the vote necessary
38 for immediate effect, this Act takes effect September 1, 2009.

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40 S.B. No. 2197

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45 AN ACT

46 relating to fees paid to a constable for serving civil process.

47 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1 SECTION 1. Subsection (d), Section 86.021, Local
2 Government Code, is amended to read as follows:

3 (d) Regardless of the Texas Rules of Civil Procedure, all
4 civil process may be served by a constable in the constable's
5 county or in a county contiguous to the constable's county,
6 except that a constable who is a party to or interested in the
7 outcome of a suit may not serve any process related to the suit.
8 All civil process served by a constable at any time or place is
9 presumed to be served in the constable's official capacity if
10 under the law the constable may serve that process in the
11 constable's official capacity. A constable may not under any
12 circumstances retain a fee paid for serving civil process in the
13 constable's official capacity other than the constable's regular
14 salary or compensation. Any fee paid to a constable for serving
15 civil process in the constable's official capacity shall be
16 deposited with the county treasurer of the constable's county.

17 SECTION 2. The change in law made by this Act applies only
18 to civil process served by a constable on or after the effective
19 date of this Act. Civil process served by a constable before
20 the effective date of this Act is governed by the law in effect
21 immediately before that date, and that law is continued in
22 effect for that purpose.

23 SECTION 3. This Act takes effect September 1, 2009.

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25 S.B. No. 2225
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30 AN ACT

31 relating to the civil and criminal consequences of engaging in
32 certain conduct involving the transporting or transferring of a
33 firearm and to creating the offense of firearm smuggling.

34 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

35 SECTION 1. Chapter 46, Penal Code, is amended by adding
36 Section 46.14 to read as follows:

37 Sec. 46.14. FIREARM SMUGGLING. (a) A person commits an
38 offense if the person knowingly engages in the business of
39 transporting or transferring a firearm that the person knows was
40 acquired in violation of the laws of any state or of the United
41 States. For purposes of this subsection, a person is considered
42 to engage in the business of transporting or transferring a
43 firearm if the person engages in that conduct:

44 (1) on more than one occasion; or

45 (2) for profit or any other form of remuneration.

46 (b) An offense under this section is a felony of the third
47 degree, unless it is shown on the trial of the offense that the

1 offense was committed with respect to three or more firearms in
2 a single criminal episode, in which event the offense is a
3 felony of the second degree.

4 (c) This section does not apply to a peace officer who is
5 engaged in the actual discharge of an official duty.

6 (d) If conduct that constitutes an offense under this
7 section also constitutes an offense under any other law, the
8 actor may be prosecuted under this section, the other law, or
9 both.

10 SECTION 2. Subsection (a), Section 71.02, Penal Code, is
11 amended to read as follows:

12 (a) A person commits an offense if, with the intent to
13 establish, maintain, or participate in a combination or in the
14 profits of a combination or as a member of a criminal street
15 gang, the person [he] commits or conspires to commit one or more
16 of the following:

17 (1) murder, capital murder, arson, aggravated
18 robbery, robbery, burglary, theft, aggravated kidnapping,
19 kidnapping, aggravated assault, aggravated sexual assault,
20 sexual assault, forgery, deadly conduct, assault punishable as a
21 Class A misdemeanor, burglary of a motor vehicle, or
22 unauthorized use of a motor vehicle;

23 (2) any gambling offense punishable as a Class A
24 misdemeanor;

25 (3) promotion of prostitution, aggravated promotion
26 of prostitution, or compelling prostitution;

27 (4) unlawful manufacture, transportation, repair, or
28 sale of firearms or prohibited weapons;

29 (5) unlawful manufacture, delivery, dispensation, or
30 distribution of a controlled substance or dangerous drug, or
31 unlawful possession of a controlled substance or dangerous drug
32 through forgery, fraud, misrepresentation, or deception;

33 (6) any unlawful wholesale promotion or possession of
34 any obscene material or obscene device with the intent to
35 wholesale promote the same;

36 (7) any offense under Subchapter B, Chapter 43,
37 depicting or involving conduct by or directed toward a child
38 younger than 18 years of age;

39 (8) any felony offense under Chapter 32;

40 (9) any offense under Chapter 36;

41 (10) any offense under Chapter 34 or 35;

42 (11) any offense under Section 37.11(a);

43 (12) any offense under Chapter 20A; [~~or~~]

44 (13) any offense under Section 37.10; or

45 (14) any offense under Section 46.06(a)(1) or 46.14.

46 SECTION 3. Subdivision (2), Article 59.01, Code of
47 Criminal Procedure, as amended by Chapters 127 (S.B. 1694), 822

1 (H.B. 73), and 885 (H.B. 2278), Acts of the 80th Legislature,
2 Regular Session, 2007, is reenacted and amended to read as
3 follows:

4 (2) "Contraband" means property of any nature,
5 including real, personal, tangible, or intangible, that is:

6 (A) used in the commission of:

7 (i) any first or second degree felony under
8 the Penal Code;

9 (ii) any felony under Section 15.031(b),
10 20.05, 21.11, 38.04, Subchapter B of Chapter 43, or Chapter 29,
11 30, 31, 32, 33, 33A, or 35, Penal Code;

12 (iii) any felony under The Securities Act
13 (Article 581-1 et seq., Vernon's Texas Civil Statutes); or

14 (iv) any offense under Chapter 49, Penal
15 Code, that is punishable as a felony of the third degree or
16 state jail felony, if the defendant has been previously
17 convicted three times of an offense under that chapter;

18 (B) used or intended to be used in the
19 commission of:

20 (i) any felony under Chapter 481, Health
21 and Safety Code (Texas Controlled Substances Act);

22 (ii) any felony under Chapter 483, Health
23 and Safety Code;

24 (iii) a felony under Chapter 153, Finance
25 Code;

26 (iv) any felony under Chapter 34, Penal
27 Code;

28 (v) a Class A misdemeanor under Subchapter
29 B, Chapter 365, Health and Safety Code, if the defendant has
30 been previously convicted twice of an offense under that
31 subchapter;

32 (vi) any felony under Chapter 152, Finance
33 Code;

34 (vii) any felony under Chapter 32, Human
35 Resources Code, or Chapter 31, 32, 35A, or 37, Penal Code, that
36 involves the state Medicaid program;

37 (viii) a Class B misdemeanor under Chapter
38 522, Business & Commerce Code; [~~or~~]

39 (ix) a Class A misdemeanor under Section
40 35.153, Business & Commerce Code; or

41 (x) any offense under Section 46.06(a)(1)
42 or 46.14, Penal Code;

43 (C) the proceeds gained from the commission of a
44 felony listed in Paragraph (A) or (B) of this subdivision, a
45 misdemeanor listed in Paragraph (B)(viii) or (x) of this
46 subdivision, or a crime of violence;

47 (D) acquired with proceeds gained from the

1 commission of a felony listed in Paragraph (A) or (B) of this
2 subdivision, a misdemeanor listed in Paragraph (B)(viii) or (x)
3 of this subdivision, or a crime of violence; or

4 (E) used to facilitate or intended to be used to
5 facilitate the commission of a felony under Section 15.031 or
6 43.25, Penal Code.

7 SECTION 4. Chapter 59, Code of Criminal Procedure, is
8 amended by adding Article 59.011 to read as follows:

9 Art. 59.011. ELECTION OF FORFEITURE PROCEEDING. If
10 property described by Article 59.01(2)(B)(x) is subject to
11 forfeiture under this chapter and Article 18.18, the attorney
12 representing the state may proceed under either this chapter or
13 that article.

14 SECTION 5. The change in law made by this Act in amending
15 Subsection (a), Section 71.02, Penal Code, applies only to an
16 offense committed on or after the effective date of this Act.
17 An offense committed before the effective date of this Act is
18 governed by the law in effect when the offense was committed,
19 and the former law is continued in effect for that purpose. For
20 purposes of this section, an offense was committed before the
21 effective date of this Act if any element of the offense
22 occurred before that date.

23 SECTION 6. Subdivision (2), Article 59.01, Code of
24 Criminal Procedure, as amended by this Act, and Article 59.011,
25 Code of Criminal Procedure, as added by this Act, apply only to
26 the forfeiture of property used in the commission of an offense
27 committed on or after the effective date of this Act.
28 Forfeiture of property used in the commission of an offense
29 committed before the effective date of this Act is governed by
30 the law in effect when the offense was committed, and the former
31 law is continued in effect for that purpose. For purposes of
32 this section, an offense was committed before the effective date
33 of this Act if any element of the offense occurred before that
34 date.

35 SECTION 7. This Act takes effect September 1, 2009.

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37 S.B. No. 2298
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42 AN ACT

43 relating to compensation of certain state employees.

44 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

45 SECTION 1. Section 51.962, Education Code, is amended by
46 adding Subsection (f) to read as follows:

47 (f) This subsection applies to an employee employed by the

1 institution of higher education for more than six months. The
2 requirement that six months elapse between merit salary
3 increases prescribed by Subsection (e) does not apply to a one-
4 time merit payment if the chief administrative officer of the
5 institution of higher education determines in writing that the
6 one-time merit payment is made in relation to the employee's
7 performance during a natural disaster or other extraordinary
8 circumstance.

9 SECTION 2. The heading to Section 659.0125, Government
10 Code, is amended to read as follows:

11 Sec. 659.0125. SALARY FOR DISTRICT JUDGE OR RETIRED JUDGE
12 PRESIDING OVER MULTIDISTRICT LITIGATION.

13 SECTION 3. Section 659.0125, Government Code, is amended
14 by adding Subsection (c) to read as follows:

15 (c) A retired judge appointed to an MDL pretrial court, as
16 defined by Section 90.001, Civil Practice and Remedies Code, is
17 entitled to receive the same compensation and benefits to which
18 a district judge is entitled.

19 SECTION 4. Section 659.015, Government Code, is amended by
20 amending Subsection (g) and adding Subsections (i) and (j) to
21 read as follows:

22 (g) Compensatory time off to which an employee is entitled
23 under Subsection (f) must be taken during the 12-month period
24 following the end of the workweek in which the compensatory time
25 was accrued or it lapses. An employee may not be paid for that
26 compensatory time, except as provided by this subsection and
27 Subsections (i) and (j). An [~~However, an~~] employee of an
28 institution of higher education as defined by Section 61.003,
29 Education Code, or an employee engaged in a public safety
30 activity, including highway construction and maintenance or an
31 emergency response activity, may be paid at the employee's
32 regular rate of pay for that compensatory time if the employer
33 determines that taking the compensatory time off would disrupt
34 normal teaching, research, or other critical functions.

35 (i) With authorization from the administrative head of the
36 agency for which an employee works, or that person's designee,
37 an employee may be paid for the hours of compensatory time the
38 employee earns for work directly related to a disaster or
39 emergency declared by the appropriate officer of the state or
40 federal government.

41 (j) With authorization from the administrative head of the
42 agency for which an employee works, or that person's designee,
43 an employee employed by a state mental health or mental
44 retardation facility may be paid for any unused compensatory
45 time if the employing agency determines that taking the
46 compensatory time off would disrupt the normal business
47 functions of the agency.

1 SECTION 5. Section 659.016, Government Code, is amended by
2 amending Subsection (i) and adding Subsection (j) to read as
3 follows:

4 (i) Except as provided by this subsection and Subsection
5 (j), an [An] employee covered by this section may not be paid
6 for any unused compensatory time. With authorization from the
7 administrative head of the agency for which a state employee
8 works, or that person's designee, an employee may be paid for
9 the hours of compensatory time the employee earns for work
10 directly related to a disaster or emergency declared by the
11 appropriate officer of the state or federal government.

12 (j) With authorization from the administrative head of the
13 agency for which an employee works, or that person's designee,
14 an employee employed by a state mental health or mental
15 retardation facility may be paid for any unused compensatory
16 time if the employing agency determines that taking the
17 compensatory time off would disrupt the normal business
18 functions of the agency.

19 SECTION 6. Section 659.018, Government Code, is amended to
20 read as follows:

21 Sec. 659.018. COMPENSATORY TIME: PLACE WHERE WORK
22 PERFORMED. (a) Except under circumstances specified in the
23 General Appropriations Act or as provided by Subsection (b), an
24 employee of a state agency as defined by Section 658.001 may
25 not, for hours worked during any calendar week, accumulate
26 compensatory time off under Section 659.015(f) or 659.016 to the
27 extent that the hours are attributable to work performed at a
28 location other than the employee's regular or temporarily
29 assigned place of employment.

30 (b) An employee may accumulate compensatory time off for
31 hours worked during any calendar week at the [The] employee's
32 personal residence if the employee obtains the advance approval
33 of the administrative head of the agency for which the employee
34 works or that person's designee [may not be considered the
35 employee's regular or temporarily assigned place of employment].

36 SECTION 7. Section 659.255, Government Code, is amended by
37 adding Subsection (g) to read as follows:

38 (g) The six-month limitations prescribed by Subsections
39 (f)(2) and (5) do not apply if the administrative head of the
40 agency determines in writing that the merit payment is made in
41 relation to the employee's performance during a natural disaster
42 or other extraordinary circumstance.

43 SECTION 8. This Act takes effect immediately if it
44 receives a vote of two-thirds of all the members elected to each
45 house, as provided by Section 39, Article III, Texas
46 Constitution. If this Act does not receive the vote necessary
47 for immediate effect, this Act takes effect September 1, 2009.

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6 AN ACT

7 relating to electronic monitoring and other alternative means
8 for certain defendants to discharge a fine or costs or satisfy a
9 term of confinement in county jail.

10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

11 SECTION 1. Article 42.035, Code of Criminal Procedure, is
12 amended by amending Subsections (a) and (d) and adding
13 Subsection (e) to read as follows:

14 (a) A court ~~[in a county served by a community supervision~~
15 ~~and corrections department that has an electronic monitoring~~
16 ~~program approved by the community justice assistance division of~~
17 ~~the Texas Department of Criminal Justice]~~ may require a
18 defendant to serve all or part of a sentence of confinement in
19 county jail by participating in an [submitting to] electronic
20 monitoring program rather than being confined in the county
21 jail, if the program:

22 (1) is operated by a community supervision and
23 corrections department that serves the county in which the court
24 is located and has been approved by the community justice
25 assistance division of the Texas Department of Criminal Justice;
26 or

27 (2) is operated by the commissioners court of the
28 county, or by a private vendor under contract with the
29 commissioners court, under Section 351.904, Local Government
30 Code, if the defendant has not been placed on community
31 supervision.

32 (d) A defendant who submits to electronic monitoring or
33 participates in the house arrest program under this article
34 [section] discharges a sentence of confinement in the same
35 manner as if the defendant were confined in county jail [without
36 deductions, good conduct time credits, or commutations].

37 (e) A court may revoke a defendant's participation in an
38 electronic monitoring program and require the defendant to serve
39 the remainder of the defendant's sentence of confinement in
40 county jail if the defendant violates a condition imposed by a
41 court under this article, including a condition requiring the
42 defendant to pay for participating in the program under
43 Subsection (c).

44 SECTION 2. Subsection (e), Article 43.09, Code of Criminal
45 Procedure, is amended to read as follows:

46 (e) A court in a county that operates an electronic
47 monitoring program or contracts with a private vendor to operate

1 an electronic monitoring program under Section 351.904, Local
2 Government Code, or that is served by a community supervision
3 and corrections department that operates [~~has~~] an electronic
4 monitoring program approved by the community justice assistance
5 division of the Texas Department of Criminal Justice, may
6 require a defendant who is unable to pay a fine or costs to
7 discharge all or part of the fine or costs by participating in
8 the program [~~submitting to electronic monitoring~~]. A defendant
9 who participates in an [~~that submits to~~] electronic monitoring
10 program under this subsection discharges fines and costs in the
11 same manner as if the defendant were confined in county jail.

12 SECTION 3. Article 43.10, Code of Criminal Procedure, is
13 amended to read as follows:

14 Art. 43.10. MANUAL LABOR. Where the punishment assessed
15 in a conviction for a misdemeanor is confinement in jail for
16 more than one day[~~7~~] or [~~where in such conviction the~~
17 ~~punishment~~] is [~~assessed~~] only [~~at~~] a pecuniary fine and the
18 defendant [~~party so convicted~~] is unable to pay the fine and
19 costs adjudged against the defendant [~~him~~], or where the
20 defendant [~~party~~] is sentenced to jail for a felony or is
21 confined in jail after conviction of a felony, the defendant
22 [~~party convicted~~] shall be required to work in the county jail
23 industries program or shall be required to do manual labor in
24 accordance with [~~the provisions of this article under~~] the
25 following rules and regulations:

26 1. Each commissioners court may provide for the
27 erection of a workhouse and the establishment of a county farm
28 in connection therewith for the purpose of utilizing the labor
29 of defendants under this article [~~said parties so convicted~~];

30 2. Such farms and workhouses shall be under the
31 control and management of the sheriff, and the sheriff may adopt
32 such rules and regulations not inconsistent with the rules and
33 regulations of the Commission on Jail Standards and with the
34 laws as the sheriff deems necessary;

35 3. Such overseers and guards may be employed by the
36 sheriff under the authority of the commissioners court as may be
37 necessary to prevent escapes and to enforce such labor, and they
38 shall be paid out of the county treasury such compensation as
39 the commissioners court may prescribe;

40 4. They shall be put to labor upon public works and
41 maintenance projects, including public works and maintenance
42 projects for a political subdivision located in whole or in part
43 in the county. They may be put to labor upon maintenance
44 projects for a cemetery that the commissioners court uses public
45 funds, county employees, or county equipment to maintain under
46 Section 713.028, Health and Safety Code. They may also be put
47 to labor providing maintenance and related services to a

1 nonprofit organization that qualifies for a tax exemption under
2 Section 501(a), Internal Revenue Code of 1986, as an
3 organization described by Section 501(c)(3) of that code, and is
4 organized as a nonprofit corporation under the Texas Non-Profit
5 Corporation Act (Article 1396-1.01 et seq., Vernon's Texas Civil
6 Statutes), provided that, at the sheriff's request, the
7 commissioners court determines that the nonprofit organization
8 provides a public service to the county or to a political
9 subdivision located in whole or in part in the county;

10 5. A defendant [One] who from age, disease, or other
11 physical or mental disability is unable to do manual labor shall
12 not be required to work. The defendant's [His] inability to do
13 manual labor may be determined by a physician appointed for that
14 purpose by the county judge or the commissioners court, who
15 shall be paid for such service such compensation as said court
16 may allow; and

17 6. For each day of manual labor, in addition to any
18 other credits allowed by law, a defendant is entitled to have
19 one day deducted from each sentence the defendant [he] is
20 serving. ~~[The deduction authorized by this article, when~~
21 ~~combined with the deduction required by Article 42.10 of this~~
22 ~~code, may not exceed two thirds (2/3) of the sentence.]~~

23 SECTION 4. Article 43.101, Code of Criminal Procedure, is
24 amended by amending Subsections (a) and (b) and adding
25 Subsection (d) to read as follows:

26 (a) A defendant who is confined in county jail before
27 [awaiting] trial, after conviction of a misdemeanor, or [a
28 ~~defendant confined in county jail]~~ after conviction of a felony
29 or revocation of community supervision, parole, or mandatory
30 supervision and awaiting transfer to the ~~[institutional division~~
31 ~~of the]~~ Texas Department of Criminal Justice may volunteer to
32 participate in any work program operated by the sheriff that
33 uses the labor of convicted defendants.

34 (b) The sheriff may accept a defendant as a volunteer
35 under Subsection (a) ~~[of this section]~~ if the defendant is not
36 awaiting trial for an offense involving violence or is not
37 awaiting transfer to the ~~[institutional division of the]~~ Texas
38 Department of Criminal Justice after conviction of a felony
39 involving violence, and if the sheriff determines that the
40 inmate has not engaged previously in violent conduct and does
41 not pose a security risk to the general public if allowed to
42 participate in the work program.

43 (d) For each day of volunteer work, in addition to any
44 other credits allowed by law, the court or sheriff may deduct
45 one day from each sentence imposed on the defendant in relation
46 to the offense or violation of the terms of release for which
47 the defendant was confined in county jail.

1 SECTION 5. Subsection (b), Article 44.041, Code of
2 Criminal Procedure, is amended to read as follows:

3 (b) A court that releases a defendant under this article
4 must require the defendant to participate in a program under
5 Article 42.033, 42.034, 42.035, or 42.036 [~~of this code~~] during
6 the pendency of the appeal. A [The] defendant required to
7 participate in a program may [not] receive credit toward
8 completion of the defendant's sentence while participating in
9 the [a] program in the same manner and to the same extent
10 provided by Article 42.033, 42.034, 42.035, or 42.036, as
11 applicable [~~required by this subsection~~].

12 SECTION 6. Subchapter Z, Chapter 351, Local Government
13 Code, is amended by adding Section 351.904 to read as follows:

14 Sec. 351.904. ELECTRONIC MONITORING PROGRAM. (a) A
15 commissioners court of a county may establish and operate an
16 electronic monitoring program for the purpose of monitoring
17 defendants required by a court of the county to participate in
18 an electronic monitoring program under:

19 (1) Article 43.09, Code of Criminal Procedure, to
20 discharge a fine or costs; or

21 (2) Article 42.035, Code of Criminal Procedure, as an
22 alternative to serving all or part of a sentence of confinement
23 in county jail.

24 (b) The commissioners court shall provide for the sheriff
25 or the community supervision and corrections department serving
26 the county, under an agreement with the commissioners court, to
27 oversee and operate, or, if the program is operated by a private
28 vendor under Subsection (c), oversee the operation of, an
29 electronic monitoring program established under this section.

30 (c) A commissioners court may contract with a private
31 vendor to operate an electronic monitoring program under this
32 section, including by enrolling and tracking participants in the
33 program and performing periodic reviews with participants
34 regarding compliance with the program.

35 (d) A commissioners court may use money that a defendant
36 is ordered to pay to a county under Article 42.035(c), Code of
37 Criminal Procedure, to pay for the services of a private vendor
38 that operates an electronic monitoring program under Subsection
39 (c).

40 (e) A commissioners court may subsidize all or part of the
41 cost of a defendant's participation in an electronic monitoring
42 program under this section if the defendant is indigent.

43 (f) A commissioners court may contract for any available
44 electronic monitoring technology, including a technology that
45 provides continuous positional tracking of the participant, that
46 meets the approval of the commissioners court and either the
47 sheriff or the community supervision and corrections department,

1 as appropriate.

2 SECTION 7. Section 6, Article 42.032, Code of Criminal
3 Procedure, is repealed.

4 SECTION 8. Subsection (e), Article 42.035, Code of
5 Criminal Procedure, as added by this Act, applies only to a
6 defendant who is sentenced to a term of confinement in county
7 jail for an offense committed on or after September 1, 2009. A
8 defendant who is sentenced to a term of confinement in county
9 jail for an offense committed before September 1, 2009, is
10 governed by the law in effect when the offense was committed,
11 and the former law is continued in effect for that purpose. For
12 purposes of this section, an offense was committed before
13 September 1, 2009, if any element of the offense occurred before
14 that date.

15 SECTION 9. The changes in law made by this Act in amending
16 Article 43.10 and Subsection (b), Article 44.041, Code of
17 Criminal Procedure, and in repealing Section 6, Article 42.032,
18 Code of Criminal Procedure, apply only to credit that is earned
19 by a defendant as a result of participation in a program or work
20 performed on or after the effective date of this Act. The
21 accrual of credit by a defendant as a result of participation in
22 a program or work performed before the effective date of this
23 Act is governed by the law in effect when the participation
24 occurred or work was performed, and the former law remains in
25 effect for that purpose.

26 SECTION 10. This Act takes effect immediately if it
27 receives a vote of two-thirds of all the members elected to each
28 house, as provided by Section 39, Article III, Texas
29 Constitution. If this Act does not receive the vote necessary
30 for immediate effect, this Act takes effect September 1, 2009.

31
32 S.B. No. 2438

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AN ACT

38 relating to imposing a duty on a sheriff to report certain
39 warrant or capias information to a national database.

40 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

41 SECTION 1. Chapter 2, Code of Criminal Procedure, is
42 amended by adding Article 2.195 to read as follows:

43 Art. 2.195. DUTY TO REPORT WARRANT OR CAPIAS INFORMATION.
44 Within 30 days of the day the court clerk issues the warrant,
45 the sheriff shall report to the national crime information
46 center each warrant or capias issued for a defendant charged
47 with an offense other than a Class C misdemeanor who fails to

1 appear in court when summoned.

2 SECTION 2. This Act takes effect immediately if it
3 receives a vote of two-thirds of all the members elected to each
4 house, as provided by Section 39, Article III, Texas
5 Constitution. If this Act does not receive the vote necessary
6 for immediate effect, this Act takes effect September 1, 2009.

7
8 S.B. No. 2438
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12
13 AN ACT

14 relating to imposing a duty on a sheriff to report certain
15 warrant or capias information to a national database.

16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

17 SECTION 1. Chapter 2, Code of Criminal Procedure, is
18 amended by adding Article 2.195 to read as follows:

19 Art. 2.195. DUTY TO REPORT WARRANT OR CAPIAS INFORMATION.
20 Within 30 days of the day the court clerk issues the warrant,
21 the sheriff shall report to the national crime information
22 center each warrant or capias issued for a defendant charged
23 with an offense other than a Class C misdemeanor who fails to
24 appear in court when summoned.

25 SECTION 2. This Act takes effect immediately if it
26 receives a vote of two-thirds of all the members elected to each
27 house, as provided by Section 39, Article III, Texas
28 Constitution. If this Act does not receive the vote necessary
29 for immediate effect, this Act takes effect September 1, 2009.

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31 S.B. No. 2552
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36 AN ACT

37 relating to the powers and duties of Harris County Improvement
38 District No. 1; providing authority to impose a tax and issue
39 bonds.

40 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

41 SECTION 1. Section 3818.002, Special District Local Laws
42 Code, is amended to read as follows:

43 Sec. 3818.002. HARRIS COUNTY IMPROVEMENT DISTRICT NO. 1.
44 A special district known as the "Harris County Improvement
45 District No. 1" is a political subdivision of this state created
46 under Section 59, Article XVI, Texas Constitution.

47 SECTION 2. Section 3818.051, Special District Local Laws

1 Code, is amended by amending Subsection (d) and adding
2 Subsection (e) to read as follows:

3 (d) The commission shall [attempt to] appoint directors
4 from persons recommended by the board [to represent all
5 geographical areas and business interests in the district and
6 shall solicit input from the existing board concerning persons
7 who would be eligible to represent the various interests in the
8 district].

9 (e) The board by resolution may change the number of
10 directors on the board, but only if the board determines that
11 the change is in the best interest of the district. The board
12 may not consist of fewer than 9 or more than 15 directors.

13 SECTION 3. Subsections (a) and (d), Section 3818.052,
14 Special District Local Laws Code, are amended to read as
15 follows:

16 (a) A [Except as provided by Subsection (b), a] director
17 must meet the requirements provided by Section 375.063, Local
18 Government Code.

19 (d) A person who qualifies to serve on the board [under
20 Subsection (a) or (b)] is qualified to serve as a director and
21 participate in all votes pertaining to the business of the
22 district.

23 SECTION 4. Section 3818.054, Special District Local Laws
24 Code, is amended to read as follows:

25 Sec. 3818.054. VACANCY. The board [commission] by
26 appointment shall fill a vacancy on the board.

27 SECTION 5. Subchapter C, Chapter 3818, Special District
28 Local Laws Code, is amended by adding Sections 3818.110,
29 3818.111, and 3818.112 to read as follows:

30 Sec. 3818.110. AUTHORITY TO CONTRACT FOR LAW ENFORCEMENT.
31 To protect the public interest, the district may contract with a
32 qualified party, including Harris County, the City of Houston,
33 or any licensed peace officer, for the provision of law
34 enforcement services in the district for a fee.

35 Sec. 3818.111. MEMBERSHIP IN CHARITABLE ORGANIZATIONS.
36 The district may join and pay dues to a charitable or nonprofit
37 organization that performs a service or provides an activity
38 consistent with the furtherance of a district purpose.

39 Sec. 3818.112. ECONOMIC DEVELOPMENT PROGRAMS. (a) The
40 district may establish and provide for the administration of one
41 or more programs to promote state or local economic development
42 and to stimulate business and commercial activity in the
43 district, including programs to:

44 (1) make loans and grants of public money; and

45 (2) provide district personnel and services.

46 (b) The district has all of the powers of a municipality
47 under Chapter 380, Local Government Code.

1 SECTION 6. Section 3818.201, Special District Local Laws
2 Code, is amended to read as follows:

3 Sec. 3818.201. NOTICE AND HEARING REQUIRED. The board may
4 finance a service or improvement project under this chapter with
5 assessments after:

6 (1) notice of a hearing has been given as required by
7 Section 3818.202; and

8 (2) the board holds a public hearing on the
9 advisability of the service or improvement and the proposed
10 assessments.

11 SECTION 7. Section 3818.202, Special District Local Laws
12 Code, is amended by adding Subsection (d) to read as follows:

13 (d) The district may mail the notice required by Section
14 375.115(c), Local Government Code, by certified or first class
15 United States mail. The board shall determine the method of
16 notice.

17 SECTION 8. Section 3818.204, Special District Local Laws
18 Code, is amended to read as follows:

19 Sec. 3818.204. PETITION REQUIRED FOR FINANCING SERVICES
20 AND IMPROVEMENT PROJECTS. (a) The board may not finance a
21 service or improvement project under this chapter with
22 assessments unless a written petition requesting that service or
23 improvement has been filed with the board.

24 (b) The petition must be signed by:

25 (1) the owners of 50 percent of the assessed value of
26 the property in the district subject to assessment based on the
27 most recent certified county tax appraisal roll; or

28 (2) the owners of 50 percent or more of the surface
29 area of the district subject to assessment, excluding roads,
30 streets, highways, and utility rights-of-way, based on the most
31 recent certified county tax appraisal roll.

32 SECTION 9. Subsection (a), Section 3818.205, Special
33 District Local Laws Code, is amended to read as follows:

34 (a) The district may impose an ad valorem tax, assessment,
35 or impact fee in accordance with Chapter 375, Local Government
36 Code, to provide an improvement or service for a project or
37 activity the district may acquire, construct, improve, or
38 provide under this chapter [~~if a written petition requesting~~
39 ~~that improvement or service has been filed with the board~~].

40 SECTION 10. Subchapter E, Chapter 3818, Special District
41 Local Laws Code, is amended by adding Sections 3818.212,
42 3818.213, 3818.214, 3818.215, 3818.216, 3818.217, 3818.218, and
43 3818.219 to read as follows:

44 Sec. 3818.212. DISBURSEMENTS AND TRANSFERS OF MONEY. The
45 board by resolution shall establish the number of directors'
46 signatures and the procedure required for a disbursement or
47 transfer of the district's money.

1 Sec. 3818.213. MONEY USED FOR IMPROVEMENTS OR SERVICES.
2 The district may acquire, construct, finance, operate, or
3 maintain any improvement or service authorized under this
4 chapter or Chapter 375, Local Government Code, using any money
5 available to the district.

6 Sec. 3818.214. OPERATION AND MAINTENANCE TAX. (a) If
7 authorized at an election held in accordance with Section
8 3818.217, the district may impose an operation and maintenance
9 tax on taxable property in the district in accordance with
10 Section 49.107, Water Code, for any district purpose, including
11 to:

- 12 (1) maintain and operate the district;
- 13 (2) construct or acquire improvements; or
- 14 (3) provide a service.

15 (b) The board shall determine the tax rate. The rate may
16 not exceed the rate approved at the election.

17 (c) Section 49.107(h), Water Code, does not apply to the
18 district.

19 Sec. 3818.215. AUTHORITY TO BORROW MONEY AND TO ISSUE
20 BONDS. (a) The district may borrow money on terms and
21 conditions as determined by the board. Section 375.205, Local
22 Government Code, does not apply to a loan, line of credit, or
23 other borrowing from a bank or financial institution secured by
24 revenue other than ad valorem taxes.

25 (b) The district may issue by competitive bid or
26 negotiated sale bonds, notes, or other obligations payable
27 wholly or partly from ad valorem taxes, assessments, impact
28 fees, revenue, contract payments, grants, or other district
29 money, or any combination of those sources of money, to pay for
30 any authorized district purpose.

31 (c) The limitation on the outstanding principal amount of
32 bonds, notes, and other obligations provided by Section 49.4645,
33 Water Code, does not apply to the district.

34 Sec. 3818.216. TAXES FOR BONDS. At the time the district
35 issues bonds payable wholly or partly from ad valorem taxes, the
36 board shall provide for the annual imposition of a continuing
37 direct ad valorem tax, without limit as to the rate or amount,
38 while all or part of the bonds are outstanding as required and
39 in the manner provided by Sections 54.601 and 54.602, Water
40 Code.

41 Sec. 3818.217. ELECTIONS REGARDING TAXES AND BONDS.
42 (a) The district may issue, without an election, bonds, notes,
43 and other obligations secured by revenue other than ad valorem
44 taxes.

45 (b) The district must hold an election in the manner
46 provided by Subchapter L, Chapter 375, Local Government Code, to
47 obtain voter approval before the district may impose an ad

1 valorem tax or issue bonds payable from ad valorem taxes.

2 (c) Section 375.243, Local Government Code, does not apply
3 to the district.

4 (d) All or part of any facilities or improvements that the
5 district may acquire by the issuance of district bonds may be
6 submitted as a single proposition or as several propositions to
7 be voted on at the election.

8 Sec. 3818.218. COMPETITIVE BIDDING. Subchapter I, Chapter
9 49, Water Code, applies to the district. Sections 375.221 and
10 375.223, Local Government Code, do not apply to the district.

11 Sec. 3818.219. TAX AND ASSESSMENT ABATEMENTS. The
12 district may grant in the manner authorized by Chapter 312, Tax
13 Code, an abatement for a tax or assessment owed to the district.

14 SECTION 11. The following provisions of the Special
15 District Local Laws Code are repealed:

16 (1) Subsection (b), Section 3818.052;

17 (2) Section 3818.053;

18 (3) Subsection (b), Section 3818.151;

19 (4) Subsection (b), Section 3818.205; and

20 (5) Section 3818.208.

21 SECTION 12. (a) The legislature validates and confirms
22 all governmental acts and proceedings of the board of directors
23 of the Harris County Improvement District No. 1 that were taken
24 before the effective date of this Act.

25 (b) Subsection (a) of this section does not apply to any
26 matter that on the effective date of this Act:

27 (1) is involved in litigation if the litigation
28 ultimately results in the matter being held invalid by a final
29 judgment of a court; or

30 (2) has been held invalid by a final judgment of a
31 court.

32 SECTION 13. (a) The legal notice of the intention to
33 introduce this Act, setting forth the general substance of this
34 Act, has been published as provided by law, and the notice and a
35 copy of this Act has been furnished to all persons, agencies,
36 officials, or entities to which they are required to be
37 furnished under Section 59, Article XVI, Texas Constitution, and
38 Chapter 313, Government Code.

39 (b) The governor, one of the required recipients, has
40 submitted the notice and Act to the Texas Commission on
41 Environmental Quality.

42 (c) The Texas Commission on Environmental Quality has
43 filed its recommendations relating to this Act with the
44 governor, lieutenant governor, and speaker of the house of
45 representatives within the required time.

46 (d) All requirements of the constitution and laws of this
47 state and the rules and procedures of the legislature with

1 respect to notice, introduction, and passage of this Act have
2 been fulfilled and accomplished.

3 SECTION 14. This Act takes effect immediately if it
4 receives a vote of two-thirds of all the members elected to each
5 house, as provided by Section 39, Article III, Texas
6 Constitution. If this Act does not receive the vote necessary
7 for immediate effect, this Act takes effect September 1, 2009.

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9 S.B. No. 2577

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AN ACT

relating to bariatric surgery coverage for state employees.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter E, Chapter 1551, Insurance Code, is amended by adding Section 1551.225 to read as follows:

Sec. 1551.225. BARIATRIC SURGERY COVERAGE. (a) The board of trustees shall develop a cost-neutral or cost-positive plan for providing under the group benefits program bariatric surgery coverage for employees eligible to participate in the program under Section 1551.101.

(b) The board of trustees may adopt rules as necessary to implement this section.

SECTION 2. The board of trustees of the Employees Retirement System of Texas shall implement the plan required by Section 1551.225, Insurance Code, as added by this Act, as soon as practicable, but not later than September 1, 2010.

SECTION 3. This Act takes effect September 1, 2009.

Index

House Bills

- H. B. No. 55** – relating to an offense of using a wireless communication device while operating a motor vehicle. **Page 5**
- H. B. No. 93** – relating to the reinstatement of good conduct time suspended during term of imprisonment. **Page 6**
- H. B. No. 107** – relating to allowing for certain criminal proceedings in the absence of certain defendants. **Page 7**
- H. B. No. 148** – relating to the prosecution of the offense of barratry and solicitation of professional employment. **Page 10**
- H. B. No. 176** – relating to the punishment for the offense of aggravated assault. **Page 11**
- H. B. No. 221** – relating to delaying parole eligibility for an individual convicted of certain violent offenses who evades arrest and to the punishment prescribed for the offense of evading arrest or detention. **Page 12**
- H. B. No. 348** – relating to the punishment for theft of certain aluminum, bronze, or copper materials. **Page 14**
- H. B. No. 358** – relating to the seizure of the circuit board of a gambling device or equipment, altered gambling equipment, or gambling paraphernalia. **Page 16**
- H. B. No. 396** – relating to expunction of a notice of lis pendens. **Page 16**
- H. B. No. 400** – relating to the dismissal of a charge of unlawfully parking a vehicle in a space designated specifically for persons with disabilities. **Page 18**
- H. B. No. 405** – relating to the authority of an animal control officer to carry a bite prevention stick in the performance of official duties. **Page 19**
- H. B. No. 453** – relating to the use of auction proceeds from the sell of certain abandoned motor vehicles to compensate certain property owners. **Page 20**
- H. B. No. 498** – relating to the establishment of an advisory panel to assist with a study regarding the prevention of wrongful convictions. **Page 21**
- H. B. No. 523** – relating to the contents of a receipt issued for payment of a good or service; providing a civil penalty. **Page 23**
- H. B. No. 533** – relating to civil liability for the trafficking of persons. **Page 23**

- H. B. No. 537** – relating to the transportation of children in motor vehicles; creating an offense. **Page 25**
- H. B. No. 548** – relating to the impoundment of certain motor vehicles involved in the commission of the offense of racing on the highway. **Page 27**
- H. B. No. 549** – relating to an affirmative defense to prosecution for certain sex offenses. **Page 28**
- H. B. No. 558** – relating to law enforcement and judicial procedures for, and the prosecution of, children who engage in conduct constituting public intoxication. **Page 30**
- H. B. No. 559** – relating to the nondisclosure of certain personal information in voter registration records, concealed handgun license records, and tax appraisal records that relates to a justice of the peace. **Page 33**
- H. B. No. 586** – relating to the evidence required for the release of a motor vehicle after impoundment of the vehicle for failure to maintain evidence of financial responsibility. **Page 35**
- H. B. No. 590** – relating to the name of the Crime Stoppers Advisory Council. **Page 35**
- H. B. No. 598** – relating to the information displayed on certain licenses. **Page 38**
- H. B. No. 605** – relating to mileage reimbursement for state employees. **Page 41**
- H. B. No. 608** – relating to post trial psychological counseling for jurors in a criminal trial or juvenile adjudication hearing involving graphic evidence or testimony. **Page 42**
- H. B. No. 618** – relating to privileged parking for certain veterans and military award recipients. **Page 43**
- H. B. No. 666** – relating to certain costs used to fund drug court programs. **Page 44**
- H. B. No. 670** – relating to a qualified privilege of a journalist not to testify. **Page 47**
- H. B. No. 671** – relating to the penalty for theft from a nonprofit organization or by Medicare providers. **Page 55**
- H. B. No. 715** – relating to motor vehicle inspection stations that perform emissions inspections using only the onboard diagnostic system of inspected vehicles. **Page 56**

- H. B. No. 772** – relating to Internet broadcasts of opened meetings held by the State Board of Education. **Page 57**
- H. B. No. 780** – relating to eligibility requirements for a beginning police department position in certain municipalities under municipal civil service. **Page 57**
- H. B. No. 782** – relating to registration exemptions for certain foreign commercial motor vehicles. **Page 58**
- H. B. No. 796** – relating to the disposition of property alleged to have been illegally acquired and to the use of photographic evidence of that property in a criminal action. **Page 59**
- H. B. No. 846** – relating to the license of certification renewal process for emergency medical services personnel and certain law enforcement officers. **Page 61**
- H. B. No. 960** – relating to providing municipalities and counties access to criminal history record information for sexually oriented business license applicants. **Page 63**
- H. B. No. 963** – relating to the eligibility of certain applicants for occupational licenses. **Page 63**
- H. B. No. 965** – relating to the issuance of specialty license plates for disabled veterans. **Page 66**
- H. B. No. 978** – relating to the employment rights of certain individuals with disabilities. **Page 67**
- H. B. No. 1003** – relating to notice provided to certain victims or witnesses regarding certain inmates or defendants who are electronically monitored. **Page 70**
- H. B. No. 1020** – relating to the use, exhibition, or possession of a firearm by public school students participating in certain school – sponsored programs and activities sponsored or supported by the Parks and Wildlife Department. **Page 71**
- H. B. No. 1041** – relating to school district policies addressing sexual abuse of children and establishment of state strategy to reduce child abuse and neglect and improve child welfare. **Page 73**
- H. B. No. 1043** – relating to the creation of business opportunities for certain former foster children. **Page 75**
- H. B. No. 1060** – relating to certain procedures for forwarding a warrant of arrest or a complaint in a criminal case. **Page 77**

- H. B. No. 1063** – relating to emergency vehicle access to certain gated communities and multiunit housing projects. **Page 78**
- H. B. No. 1067** – relating to a memorandum of understanding between certain authorized entities to share suicide data that does not identify a deceased individual. **Page 78**
- H. B. No. 1084** – relating to shipment of wine to ultimate consumers. **Page 79**
- H. B. No. 1146** – relating to the hours worked during a week by firefighters in certain municipalities. **Page 80**
- H. B. No. 1233** – relating to the court-ordered administration of psychoactive medication to certain criminal defendants. **Page 81**
- H. B. No. 1282** – relating to the penalty for theft of a driver’s license, commercial driver’s license, or personal identification certificate. **Page 84**
- H. B. No. 1286** – relating to the issuance of Save Our Beaches specialty license plates. **Page 86**
- H. B. No. 1310** – relating to the use of a tanning facility device by a minor. **Page 86**
- H. B. No. 1321** – relating to the discharge of a jury under certain circumstances in a criminal case. **Page 88**
- H. B. No. 1343** – relating to blind and disabled pedestrians and failure of the operator of a motor vehicle to yield the right-of-way. **Page 88**
- H. B. No. 1360** – relating to the effect under the public information law of the disclosure of certain information by a prosecutor to defense counsel. **Page 90**
- H. B. No. 1372** – relating to the definition of victim in relation to certain crime victims’ rights. **Page 91**
- H. B. No. 1465** – relating to the joiner of a tax lien transferee in a suit to collect a delinquent ad valorem tax. **Page 91**
- H. B. No. 1466** – relating to theft of military grave marker. **Page 93**
- H. B. No. 1474** – relating to the operation and regulation of charitable bingo and the use of bingo proceeds. **Page 94**
- H. B. No. 1492** – relating to achievement awards presented by the commission on Law Enforcement Officer Standards and Education. **Page 115**

- H. B. No. 1544** – relating to court proceedings for a plea of guilty or nolo contendere for a misdemeanor punishable by fine only. **Page 116**
- H. B. No. 1614** - relating to the punishment for the offense of criminal mischief. **Page 118**
- H. B. No. 1633** – relating to the prosecution and punishment of the offense of graffiti and to certain conditions imposed on defendants convicted of that offense or on juvenile adjudicated as having engaged in conduct and violation of that offense. **Page 120**
- H. B. No. 1659** – relating to creating an exception to the offense of unlawful installation of a tracking device. **Page 123**
- H. B. No. 1665** – relating to the penalty imposed on defaulting jurors. **Page 124**
- H. B. No. 1711** – relating to requiring the Texas Department of Criminal Justice to establish a comprehensive reentry and reintegration plan for offenders released or discharged from a correctional facility. **Page 125**
- H. B. No. 1721** – relating to taking or attempting to take a weapon from an employee or official of a correctional facility. **Page 128**
- H. B. No. 1736** – relating to compensation of and services to persons wrongfully imprisoned. **Page 130**
- H. B. No. 1749** – relating to the issuance of marine conservation specialty license plates. **Page 135**
- H. B. No. 1750** – relating to the creation of criminal law magistrates for Brazoria County. **Page 136**
- H. B. No. 1793** – relating to judicial instruction for judges who hear complaints against children alleging violations of certain misdemeanor offenses. **Page 138**
- H. B. No. 1805** – relating to the use of laser sighting devices by hunters who have certain documented disabilities. **Page 139**
- H. B. No. 1813** – relating to the punishment for tampering with certain governmental records concerning forensic analysis. **Page 140**
- H. B. No. 1830** – relating to information technology security practices of state agencies. **Page 141**
- H. B. No. 1831** – relating to disaster preparedness and emergency management and to certain vehicles used in emergencies; providing a penalty. **Page 145**

- H. B. No. 1843** – relating to disposition of cash in possession of a deceased pauper.
Page 178
- H. B. No. 1871** – relating to the use of Texas Department of Transportation facilities or property to serve a project aiding security in a ship channel security district.
Page 179
- H. B. No. 1914** – relating to abolishing the Private Sector Prison Industries Oversight Authority and to the certification and operation of a private sector prison industries program. **Page 180**
- H. B. No. 1960** – relating to the payment for an appearance as a witness for certain officers and firefighters. **Page 190**
- H. B. No. 1985** – relating to the requirement that certain defendants in a criminal case undergo testing for HIV infection and other diseases. **Page 191**
- H. B. No. 1998** – relating to temporary housing and emergency shelters provided by a political subdivision for disaster victims. **Page 193**
- H. B. No. 2002** – relating to a right to close relative to seek expunction of arrest records and files on behalf of a deceased person. **Page 194**
- H. B. No. 2003** – relating to the creation of the offense of online harassment.
Page 195
- H. B. No. 2004** – relating to a breach of computer security involving sensitive personal information and to the protection of sensitive personal information and protected health information. **Page 196**
- H. B. No. 2012** – relating to the criminal consequences of operating without a valid driver’s license a motor vehicle for which financial responsibility is not established. **Page 198**
- H. B. No. 2020** – relating to parking privileges for veterans with disabilities. **Page 199**
- H. B. No. 2027** – relating to adoption of the Revised Uniform Anatomical Gift Act; providing criminal penalties. **Page 200**
- H. B. No. 2031** – relating to the definition of sight order for purposes of prosecuting certain criminal offenses. **Page 224**
- H. B. No. 2058** – relating to the standards for attorneys representing indigent defendants in capital cases. **Page 224**

- H. B. No. 2062** – relating to the distribution of proceeds from the sale of forfeited property in a criminal case. **Page 226**
- H. B. No. 2066** – relating to enhancing penalties for assaulting a family member by strangulation or suffocation. **Page 227**
- H. B. No. 2068** – relating to an identification card for certain retired peach officers. **Page 229**
- H. B. No. 2086** – relating to the prevention, investigation, prosecution, and punishment for certain gang-related and other criminal offenses, including engaging in organized criminal activity, and to the consequences and costs of engaging in certain activities of a criminal street gang or certain other criminal activity; providing penalties. **Page 229**
- H. B. No. 2093** – relating to persons certified as peach officers. **Page 251**
- H. B. No. 2113** – relating to the holidays for members of fire and police departments in certain municipalities. **Page 252**
- H. B. No. 2130** – relating to the assistance of the Texas Rangers in the investigation of certain sex offenses. **Page 252**
- H. B. No. 2153** – relating to certain registration requirements imposed on sex offenders. **Page 253**
- H. B. No. 2161** – relating to a personal identification certificate or driver's license issued to present or former inmates of the Texas Department of Criminal Justice. **Page 257**
- H. B. No. 2168** – relating to the powers of a sheriff's department civil service commission in certain counties regarding an appeal of a disciplinary action. **Page 260**
- H. B. No. 2187** – relating to the prosecution and punishment of offenses involving coercing, inducing, or soliciting membership in a criminal street gang. **Page 261**
- H. B. No. 2236** – relating to the right of certain crime victims to be considered with respect to a defendant's motion for continuance, **Page 262**
- H. B. No. 2237** – relating to possession by certain alcoholic beverage permit holders of certain alcoholic beverages for cooking purposes. **Page 265**
- H. B. No. 2240** – relating to creating the offense of continuous violence against the family. **Page 265**

- H. B. No. 2283** – relating to increasing state employee participation in the TexaSaver program. **Page 267**
- H. B. No. 2289** – relating to discharging or releasing inmates from the Texas Department of Criminal Justice at or near certain department facilities. **Page 268**
- H. B. No. 2307** – relating to coverage under a meet and confer agreement for certain municipal firefighters and police officers. **Page 269**
- H. B. No. 2328** – relating to the punishment for certain fraud offenses committed against elderly individuals. **Page 270**
- H. B. No. 2346** – relating to the removal of illegally parked vehicles from residential parking permit areas in certain municipalities. **Page 271**
- H. B. No. 2347** – relating to tuition and fee exemptions at public institutions of higher education for certain peace officers enrolled in criminal justice or law enforcement course work and for certain educational aides. **Page 271**
- H. B. No. 2385** – relating to the punishment for the offense of prohibited sexual conduct. **Page 274**
- H. B. No. 2386** – relating to the sealing of juvenile records. **Page 274**
- H. B. No. 2465** – relating to taking a deposition of an elderly or disabled victim of or witness to an offense. **Page 275**
- H. B. No. 2467** – relating to the definition of playgrounds and to including those playgrounds in the designation of certain places as drug-free zones for purposes of criminal penalties. **Page 277**
- H. B. No. 2553** – relating to the registration and operation of certain motor vehicles. **Page 278**
- H. B. No. 2571** – relating to the licensing and regulation of towing companies and vehicle storage facilities; providing penalties. **Page 290**
- H. B. No. 2580** – relating to the establishment of a peace officer employment opportunity internet website by the Texas Workforce Commission **Page 299**
- H. B. No. 2609** – relating to the prosecution and punishment of the offense of criminal trespass. **Page 300**
- H. B. No. 2626** – relating to the forensic medical examination of a sexual assault victim who has not reported the assault to a law enforcement agency. **Page 303**

- H. B. No. 2664** – relating to creating a defense to prosecution for the offense of unlawful carrying of a handgun by a license holder on the premises of certain businesses. **Page 308**
- H. B. No. 2730** – relating to the continuation and functions of the Department of Public Safety of the State of Texas and the Texas Private Security Board; providing a penalty. **Page 308**
- H. B. No. 2799** – relating to the responsibilities of a person who qualifies for a peace officer license but has not yet been appointed as a peace officer. **Page 432**
- H. B. No. 2806** – relating to the reinstatement of a firefighter or police officer to a previously held position based on seniority on the return of another firefighter or police officer from a military leave of absence. **Page 433**
- H. B. No. 2808** – relating to the power of a licensing authority to revoke, suspend, or deny a license on the basis of certain criminal proceedings. **Page 434**
- H. B. No. 2846** – relating to the admissibility of certain hearsay statements made by a child abuse victim. **Page 435**
- H. B. No. 2854** – relating to license plates created by the Texas Department of Transportation for professional firefighters. **Page 436**
- H. B. No. 2876** – relating to the authority of an administrative law judge to order the release of certain information relating to a child abuse and neglect investigation. **Page 436**
- H. B. No. 2916** – relating to allowing certain claimants to file an application under the Crime Victims’ Compensation Act. **Page 437**
- H. B. No. 2917** – relating to authorizing the Department of State Health Services to obtain criminal history record information for certain applicants for employment. **Page 438**
- H. B. No. 2932** – relating to including in the law enforcement information system information indicating that criminal defendants have committed certain additional offenses. **Page 440**
- H. B. No. 2991** – relating to the exemption of certain honorably retired special rangers and special Texas Rangers from certain required law enforcement education and training programs regarding persons with mental impairments. **Page 442**
- H. B. No. 3001** – relating to the consideration of longevity and cost of living in setting the salaries for certain municipal employees. **Page 442**

- H. B. No. 3005** – relating to the mandatory testing of persons suspected of exposing employees of a juvenile probation department to certain diseases. **Page 443**
- H. B. No. 3082** – relating to the obstruction of streets by certain municipalities. **Page 444**
- H. B. No. 3094** – relating to the regulation of massage parlors by counties; providing penalties. **Page 445**
- H. B. No. 3095** – relating to the use of a parking space or areas designated specifically for persons with disabilities. **Page 446**
- H. B. No. 3097** – relating to the creation, organization, governance, duties, and functions of the Texas Department of Motor Vehicles, including the transfer of certain duties to the Texas Department of Motor Vehicles and the Texas Department of Licensing and Regulation, and to the regulation of certain franchised motor vehicle dealers; providing a penalty. **Page 449**
- H. B. No. 3147** - relating to taking or attempting to take a weapon from a commissioned security officer. **Page 502**
- H. B. No. 3186** – relating to the collection and use of biometric identifiers. **Page 503**
- H. B. No. 3201** – relating to the designation of certain fire marshals and related officers, inspectors, and investigators as peace officers. **Page 504**
- H. B. No. 3224** – relating to the prosecution and punishment of the offense of arson. **Page 507**
- H. B. No. 3226** - relating to the payment of temporary housing costs for certain Individuals who are released or are eligible for release on parole or to mandatory supervision. **Page 508**
- H. B. No. 3228** – relating to the offense of prohibited substance and items in correctional facilities. **Page 509**
- H. B. No. 3246** – relating to the issuance of a writ of attachment in a civil suit for certain sexual assaults. **Page 516**
- H. B. No. 3303** – relating to the use of information and records acquired during a fatality review and investigation. **Page 518**
- H. B. No. 3316** – relating to venue for certain offenses committed at Texas Youth Commission facilities. **Page 518**
- H. B. No. 3385** – relating to the activation of the statewide alert system for abducted children. **Page 519**

- H. B. No. 3389** – relating to the continuation and functions of the Texas Commission on Law Enforcement Officer Standards and Education. **Page 520**
- H. B. No. 3517** – relating to the provision of social security numbers by applicants for motor vehicle certificates of title. **Page 541**
- H. B. No. 3593** – relating to the issuance of license plates to disabled veterans. **Page 542**
- H. B. No. 3594** – relating to the preservation of evidence that contains biological material
Page 542
- H. B. No. 3599** – relating to the operation of certain three-wheeled vehicles in this state
Page 544
- H. B. No. 3638** – relating to the use of safety belts by the operator of or a passenger in a Motor vehicle used exclusively to transport solid waste. **Page 545**
- H. B. No. 3649** – relating to a policy regarding the receipt of books by mail by an inmate in the Texas Department of Criminal Justice. **Page 546**
- H. B. No. 3653** – relating to the use of restraints to control the movement of pregnant women and female children confined in certain correctional facilities in this state
Page 547
- H. B. No. 3671** – relating to the documents that are required for the transfer of a defendant from a county to the Texas Department of Criminal Justice. **Page 548**
- H. B. No. 3689** – relating to the functions and continuation of the Texas Youth Commission and the Texas Juvenile Probation Commission and to the functions of the Office of Independent Ombudsman for the Texas Youth Commission.
Page 550
- H. B. No. 3737** – relating to criminal history checks for employees of, and applicants for employment at, special care facilities. **Page 581**
- H. B. No. 3751** – relating to the conditions of bond for a defendant charged with committing certain offenses against a child and to the denial of bail pending trial with respect to certain defendants who violate those conditions. **Page 582**
- H. B. No. 3851** – relating to the authority of the governor or a political subdivision to suspend statutory or local deadlines during a disaster. **Page 583**
- H. B. No. 4009** – relating to the provision of services to certain persons involved in, and the prosecution, punishment, and prevention of, offenses. **Page 585**

- H. B. No. 4064** – relating to the issuance of specialty license plates for cancer of unknown primary origin awareness. **Page 593**
- H. B. No. 4136** – relating to sealing court records containing medical information for children who are victims of certain offenses. **Page 593**
- H. B. No. 4314** – relating to the electronic filing of documents for capital cases in the court of criminal appeals. **Page 595**
- H. B. No. 4343** – relating to access to certain criminal history record information maintained by the Department of Public Safety. **Page 595**
- H. B. No. 4456** – relating to the definition of a switchblade knife for purposes of the offense of prohibited weapons. **Page 597**
- H. B. No. 4461** – relating to confidentiality of certain information maintained by the Texas Department of Insurance. **Page 597**
- H. B. 4464** – relating to crime victim information in a criminal judgment **Page 598**
- H. B. No. 4498** – relating to the sale and consumption of alcoholic beverages. **Page 601**
- H. B. No. 4577** – relating to the seizure and destruction of certain plants. **Page 603**
- H. B. No. 4594** – relating to permits for the movement of oversize and overweight vehicles in a certain county. **Page 605**

Senate Bills

- S. B. No. 28** – relating to the use of a computer for an unauthorized purpose; providing a civil penalty. **Page 608**
- S. B. No. 52** – relating to the penalties for the illegal use of a parking space or area designated specifically for persons with disabilities and to the unauthorized use of a disabled parking placard. **Page 610**
- S. B. No. 58** – relating to the administration of the Juvenile Justice Case Management System. **Page 612**
- S. B. No. 82** – relating to a fee imposed as a condition of community supervision for an Offense involving family violence and to certain nonsubstantive revisions involving court fees. **Page 613**
- S. B. No. 83** – relating to a right to vacate and avoid residential lease Liability following the occurrence of certain sex offenses or domestic violence; providing a penalty. **Page 616**

- S. B. No. 129** – relating to the maximum speed limit for a neighborhood electric vehicle being operated on a street or highway and to the operation of a motorcycle. **Page 619**
- S. B. No. 161** – relating to specialty license plates supporting the Safe Routes to School Program. **Page 621**
- S. B. No. 281** – relating to the confidentiality of the home address information of the spouses of certain federal judges and certain state judges. **Page 622**
- S. B. No. 328** – relating to operating a motor vehicle or a watercraft while intoxicated or under the influence of alcohol. **Page 624**
- S. B. No. 333** – relating to the retention by a county or municipality of certain court costs for maintaining and supporting a certified breath alcohol testing program. **Page 634**
- S. B. No. 359** – relating to punishment for certain offenses committed in a disaster area or an evacuated area. **Page 635**
- S. B. No. 375** – relating to the release of certain motor vehicle accident report information. **Page 636**
- S. B. No. 376** – relating to the powers and duties of the Texas Department of Transportation related to county traffic officers. **Page 638**
- S. B. No. 379** – relating to the duties of the Texas Fusion Center, including an annual report by the center regarding criminal street gangs. **Page 639**
- S. B. No. 390** – relating to confidentiality of certain information under the public information law and in local tax appraisal records regarding federal law enforcement officers. **Page 641**
- S. B. No. 409** – relating to fees charged by a justice of the peace for certain documents in a criminal case. **Page 643**
- S. B. No. 410** – relating to the statute of limitations for a misdemeanor. **Page 644**
- S. B. No. 413** – relating to the prosecution of a Class c misdemeanor offense for which the dependant does not appeal. **Page 645**
- S. B. No. 414** – relating to conducting by electronic means a hearing to determine a defendant’s ability to discharge certain fines and court costs. **Page 645**

- S. B. No. 415** – relating to the court in which certain persons charged with misdemeanors punishable by fine only may be arraigned. **Page 646**
- S. B. No. 417** – relating to the purchase of a retired firearm from the Parks and Wildlife Department by a game warden. **Page 647**
- S. B. No. 418** – relating to the compilation, maintenance, and release of information in a criminal street gang intelligence database by law enforcement agencies and criminal justice agencies. **Page 648**
- S. B. No. 446** – relating to the use of certain court costs in a criminal case for municipal programs enhancing public safety and security. **Page 650**
- S. B. No. 449** – relating to the penalty group classification of certain controlled substances. **Page 650**
- S. B. No. 461** – relating to eligibility to take the entrance examination for a beginning position in the fire department. **Page 662**
- S. B. No. 481** – relating to safety regulations for certain contract carriers. **Page 663**
- S. B. No. 518** – relating to providing access to certain information relating to the discretionary transfer of a child from a juvenile court to a criminal court. **Page 664**
- S. B. No. 530** – relating to the disposition of cash in possession of a deceased pauper. **Page 665**
- S. B. No. 537** – relating to the emergency installation and use of a device to intercept wire, oral, or electronic communications. **Page 665**
- S. B. No. 554** – relating to conduct constituting the offense of dog fighting and to the criminal and civil consequences of committing that offense. **Page 666**
- S. B. No. 575** – relating to the time for dissolution of crime control and prevention districts and to certain taxes imposed by such districts or by fire control, prevention, and emergency medical services districts. **Page 669**
- S. B. No. 589** – relating to certain requirements for suncreening devices that are placed on or attached to a motor vehicle; providing a penalty. **Page 671**
- S. B. No. 595** – relating to the sealing of and discovery procedures relating to evidence that constitutes child pornography in a criminal hearing or proceeding. **Page 674**
- S. B. No. 633** – relating to the number of counties or municipalities necessary to establish a regional drug court program. **Page 675**

- S. B. No. 643** – relating to the protection and care of individuals with mental retardation and to certain legal protections for individuals with disabilities; providing criminal penalties. **Page 676**
- S. B. No. 650** – relating to certain peace officers commissioned by the Texas State Board of Pharmacy. **Page 719**
- S. B. No. 652** – relating to the maintenance of emergency contact and medical information databases by the Department of Public Safety of the State of Texas. **Page 719**
- S. B. No. 671** – relating to information requested by a member, committee, or agency of the legislature under the public information law. **Page 721**
- S. B. No. 689** – relating to restrictions on the use of the Internet by sex offenders and to the reporting, collection, and exchange of information regarding those offenders; providing a civil penalty. **Page 722**
- S. B. No. 693** – relating to proof of identification to purchase an alcoholic beverage **Page 729**
- S. B. No. 702** – relating to the regulation of the towing and storage of vehicles. **Page 729**
- S. B. No. 707** – relating to requiring a sexually oriented business to maintain certain photographic identification records; providing a criminal penalty. **Page 735**
- S. B. No. 727** – relating to the creation of DNA records for the DNS database system. **Page 736**
- S. B. No. 743** – relating to the time allowed for execution of a search warrant issued to obtain a specimen for DNS analysis **Page 745**
- S. B. No. 745** – relating to state travel policies and procedures for the reimbursement or payment of travel expenses. **Page 745**
- S. B. No. 808** – relating to allowing certain claimants to file an application under the Crime Victims; Compensation Act. **Page 748**
- S. B. No. 828** – relating to a determination of value for purposes of punishment of the offense of abuse of official capacity. **Page 749**
- S. B. No. 833** – relating to the accrual of vacation and sick leave for certain state employees during a military leave of absence and to the eligibility of military service members to hold state office. **Page 749**

- S. B. No. 839** – relating to the punishment for a capital felony committed by a juvenile whose case is transferred to criminal court. **Page 750**
- S. B. No. 858** – relating to offering the classroom portion of a driver education course through an alternative method of instruction. **Page 751**
- S. B. No. 872** – relating to continued health insurance coverage and financial assistance for eligible survivors of certain public servants killed in the line of duty. **Page 752**
- S. B. No. 904** – relating to the classification of and prescriptions issued for certain controlled substances. **Page 756**
- S. B. No. 926** – relating to the imposition of a civil penalty against the owner of an authorized emergency vehicle for a violation recorded by a photographic traffic signal enforcement system. **Page 759**
- S. B. No. 969** – relating to a length exemption for a vehicle or combination of vehicles used to transport a combine used in farm custom harvesting operations. **Page 760**
- S. B. No. 1005** – relating to the regulation of polygraph examiners by the Texas Department of Licensing and Regulation and the abolition of the Polygraph Examiners Board. **Page 761**
- S. B. No. 1050** – relating to the release of certain information relating to child fatalities resulting from abuse or neglect. **Page 771**
- S. B. No. 1056** – relating to authorizing a criminal justice agency to disclose certain criminal history record information and to orders of disclosure regarding such information. **Page 774**
- S. B. No. 1057** – relating to criminal history record information relating to persons who are certified to provide guardianship services. **Page 777**
- S. B. No. 1068** – relating to allowing a governmental body to redact certain personal information under the public information law without the necessity of requesting a decision from the attorney general and allowing information about a public officer or public employee to be withheld if disclosure would pose a substantial risk of physical harm. **Page 780**
- S. B. No. 1071** – relating to the required disclosure under the public information law of information pertaining to an employee or trustee of a public employee pension system. **Page 784**
- S. B. No. 1081** – relating to access to criminal history record information by the office of the attorney general. **Page 785**

- S. B. No. 1091** – relating to the establishment of the capital writs committee and the office of capital writs and to the appointment and compensation of certain counsel for indigent defendants in a capital case. **Page 786**
- S. B. No. 1093** – relating to the operation of commercial motor vehicles and vehicles used exclusively to transport waste. **Page 793**
- S. B. No. 1095** – relating to the licensing and regulation of used automotive parts recyclers; proving penalties. **Page 794**
- S. B. No. 1107** – relating to the requirement that driver education curriculum include information regarding distractions while driving. **Page 806**
- S. B. No. 1127** – relating to the confidentiality of test results of samples of compounded products. **Page 806**
- S. B. No. 1145** – relating to protocol for folding the state flag. **Page 808**
- S. B. No. 1153** – relating to the liability of a landowner for an act or omission of a firefighter or peace officer on the property of the landowner. **Page 808**
- S. B. 1163** – relating to the penalties for theft of cattle, horses, exotic livestock, exotic fowl, sheep, swine, or goats. **Page 809**
- S. B. No. 1182** – relating to public information and open government **Page 811**
- S. B. No. 1188** – relating to the interstate purchase of certain firearms. **Page 818**
- S. B. No. 1218** – relating to the collection of data by the Texas Department of Transportation regarding bridge collapses. **Page 818**
- S. B. No. 1224** – relating to a waiver of fees imposed for certain expunctions. **Page 820**
- S. B. No. 1235** – relating to the sale and use of unregistered vehicles, including the issuance and use of temporary tags on vehicles. **Page 821**
- S. B. No. 1236** – relating to admonishments given to a person charged with a misdemeanor. **Page 827**
- S. B. No. 1237** – relating to the authority of certain juvenile probation officers to carry firearms. **Page 829**
- S. B. No. 1263** – relating to certain mass transit entities. **Page 832**
- S. B. No. 1273** – relating to creating an offense for interference with certain radio frequencies. **Page 840**

- S. B. No. 1303** – relating to the requirement that certain state and local governmental entities designate a firearms proficiency officer and require weapons proficiency. **Page 841**
- S. B. No. 1317** – relating to education and examination requirements for the issuance of a driver’s license to certain persons. **Page 841**
- S. B. No. 1356** – relating to a fee associated with the assignment of a vehicle identification number by the Texas Department of Transportation. **Page 843**
- S. B. No. 1367** – relating to parking placard or specialty license plate applications by persons with a mobility problem caused by an impairment of vision. **Page 844**
- S. B. No. 1377** – relating to the administration of the compensation to victims of crime fund and the compensation to victims of crime auxiliary fund. **Page 845**
- S. B. No. 1409** – relating to the definition of first responder for purposes of the immunization registry. **Page 846**
- S. B. No. 1474** – relating to compensation for certain emergency services personnel. **Page 847**
- S. B. No. 1485** – relating to the sale of surplus or salvage property and firefighting equipment by an emergency services district. **Page 848**
- S. B. No. 1495** – relating to the taxation of motor fuels; providing penalties. **Page 849**
- S. B. No. 1504** – relating to the concurrent jurisdiction of certain municipal courts in certain criminal cases punishable by fine only. **Page 873**
- S. B. No. 1506** – relating to the payment of the costs associated with certain conditions of bond. **Page 874**
- S. B. No. 1557** – relating to the early identification of criminal defendants who are or may be persons with mental illness or mental retardation. **Page 874**
- S. B. No. 1589** – relating to the reporting and handling of unclaimed property. **Page 878**
- S. B. No. 1599** – relating to the disclosure of criminal history record information to the Court Reporters Certification Board. **Page 881**
- S. B. No. 1616** – relating to the fees for and issuance of certain license plates. **Page 883**

- S. B. No. 1629** – relating to the persons exempted from the required prepayment of the personnel costs incurred by a governmental body in responding to requests from a requestor under the public information law that require large amounts of personnel time. **Page 890**
- S. B. No. 1675** – relating to donations of juror reimbursements. **Page 890**
- S. B. No. 1681** – relating to requiring the corroboration of certain testimony to support a criminal conviction. **Page 891**
- S. B. No. 1735** – relating to providing police and security services for certain post-secondary educational institutions. **Page 892**
- S. B. No. 1742** – relating to the regulation of the discharge of firearms and certain other weapons by certain municipalities. **Page 894**
- S. B. No. 1774** – relating to the disposal of certain exhibits used in criminal proceedings in certain counties. **Page 895**
- S. B. No. 1803** – relating to the Glenda Dawson Donate Life-Texas Registry. **Page 896**
- S. B. No. 1832** – relating to the eligibility for judge-ordered community supervision or for release on parole or to mandatory supervision of a defendant convicted of criminal solicitation of capital murder. **Page 899**
- S. B. No. 1838** – relating to involuntary termination of parental rights based on attempted murder or solicitation of murder of the child’s other parent. **Page 901**
- S. B. No. 1844** – relating to revenue received from the provision of pay telephone service to inmates confined in facilities operated by the Texas Department of Criminal Justice. **Page 905**
- S. B. No. 1847** – relating to the provision of services to a wrongfully imprisoned person who is discharged from a correctional facility. **Page 906**
- S. B. No. 1896** – relating to the employment of firefighters and police officers and the provision of emergency medical services in certain municipalities. **Page 907**
- S. B. No. 1930** – relating to the use of a confidential identity for the plaintiff in a civil action involving sexual abuse of a minor. **Page 909**
- S. B. No. 1940** – relating to the fund for veterans’ assistance and to the establishment of pretrial veterans court programs. **Page 910**
- S. B. No. 1967** – relating to the safe operation of motorcycles and other vehicles in this state; providing penalties. **Page 915**

- S. B. No. 1992** – relating to the regulation of automotive wrecking and salvage yards in certain counties; providing a civil penalty. **Page 919**
- S. B. No. 2028** – relating to privately funded memorials honoring certain peace officers killed in the line of duty. **Page 920**
- S. B. No. 2041** – relating to requiring an applicant for a driver’s license to demonstrate knowledge of motorists’ rights and responsibilities in relation to bicyclists. **Page 921**
- S. B. No. 2047** – relating to interception or the collection of information from certain communications in an investigation of criminal conduct. **Page 922**
- S. B. No. 2073** – relating to eligibility to hold the office of notary public. **Page 925**
- S. B. No. 2085** – relating to the offense of unlawful use of public funds for political advertising by a political subdivision. **Page 925**
- S. B. No. 2153** – relating to the booting of vehicles by private entities in parking facilities; providing penalties. **Page 926**
- S. B. No. 2163** – relating to access to criminal history record information by the Texas Veterans Commission. **Page 936**
- S. B. No. 2197** – relating to fees paid to a constable for serving civil process. **Page 937**
- S. B. No. 2225** – relating to the civil and criminal consequences of engaging in certain conduct involving the transporting or transferring of a firearm and to creating the offense of firearm smuggling. **Page 938**
- S. B. No. 2298** – relating to compensation of certain state employees. **Page 941**
- S. B. No. 2340** – relating to electronic monitoring and other alternative means for certain defendants to discharge a fine or costs or satisfy a term of confinement in county jail. **Page 944**
- S. B. No. 2438** – relating to imposing a duty on a sheriff to report certain warrant or capias information to a national database. **Page 948**
- S. B. No. 2552** – relating to the powers and duties of Harris County Improvement District No. 1; providing authority to impose a tax and issue bonds. **Page 949**
- S. B. No. 2577** – relating to bariatric surgery coverage for state employees. **Page 954**