

TMCCP Presents

# Legislative Update Seminar

August 17-18, 2017, San Marcos, Texas

HANDOUT FOR

## *“Public Safety”*

*with speaker Ryan Henry*

*Attorney, Law Offices of Ryan Henry, PLLC*

TEXAS MUNICIPAL CLERKS CERTIFICATION PROGRAM

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## Legislative Update: Police / Public Safety

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## Security, Cybersecurity, Security Confidentiality



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### S.B. 532 Cybersecurity

- Designed to force entities to evaluate computer security risks funnel them towards cloud computing
- AG previously asserted security reports were public, so entities would not perform the reports or reduce to writing.
- Tex. Gov't Code §552.139 amended to make routine efforts regarding computer security confidential.
- Makes state agencies perform specific security assessments

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### Confidentiality

- S.B. 564 – allows entity to go into executive session to discuss a security assessment, security deployment, use of security personnel and network security
- S.B. 256 – makes confidential (from PIA) for certain personal information relating to abuse, sexual abuse, and stalking
- S.B. 510 – confidentiality of employees and former employees of federal and state judges held by an entity
- S.B. 1304 – Additional confidentiality of juvenile information collected by LE and prosecutors (but excludes records of municipal court). Mainly focuses on juvenile probation

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### H.B. 681 Confidentiality of Court Records

1. For any fine only offense, after 5<sup>th</sup> anniversary of final conviction or deferred, all records held "by or for" a court are CONFIDENTIAL
2. Cannot be released to the public under PIA, Rule 12 or Constitution
3. Can still be given to judges, court staff, DPS, prosecutors, defense counsel, and insurance company (traffic only offense),
4. Does NOT apply if crime is sexual in nature

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### S.B. 42 – Municipal Court Security

- Presiding or municipal judge shall establish a court security committee.
- Committee creates procedures for court security
- Requires security personnel (bailiffs) to hold a court security certification from TCOLE. Different from LE license.
- Adds "municipal judge" to the definition of "state judge"

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## Police Field Legislation



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### S.B. 1187 Citation for Lack of Financial Responsibility (Amends Tex. Transp. Code)

- Before an officer can issue a citation (summons in lieu of arrest) for no financial responsibility, officer must:
  - Verify using TexasSure (Subchapter N) no insurance exists
  - Verify they attempted to use TexasSure but were unable
- Affirmative indication required
- Does NOT prevent complaint or mean complaint can be thrown out
- Meant to prevent surcharges

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### H.B. 3237 -Search Warrant Affidavits

- For search warrants under CCP art. 18.01 and 18.10, they must be accompanied by supporting affidavits.
- Once warrant is executed, the affidavit becomes public information.
- Bill also requires the officer executing the warrant to return the warrant no later than three whole days after execution
- Officer must provide inventory of any property seized
- Failure to timely return or provide inventory does not prevent admission of evidence at trial.

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### S.B. 920 – Direct Access to Former Residence (Amends Tex. Prop. Code Ch. 24A)

- Allows JP issue a temporary ex parte writ = entry and property retrieval if a clear and present danger of family violence exists.
- When individual is "suddenly dispossessed of access to their residence"
- Allows limited access for the purpose of retrieving personal property
- Medications, prescriptions, equipment, for individual or child.
- Applies to JP, NOT Muni Court

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### H.B. 62 Texting while Driving Ban

- Lots of parts
- Mainly, creates state law offense of texting while driving (unless its hands free)
- Allows City ordinances which compliment, but are not inconsistent with state law
- Fine is \$25-\$99 for first offense
- No points on license for conviction

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### H.B. 34 -Custodial Interrogations

- Requires LE make electronic recording of any custodial interrogation that occurs in a place of detention
- Requires LE performing eyewitness identification procedures have specialized TCOLE training
- PD policies must have safeguards for photographic evidence and identification of suspects
- Authorizes studies for use of certain field kits

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- SB 1253 - Requires electronic recording of any custodial interrogation of person charged with murder, capital murder, kidnapping, aggravated kidnapping, trafficking, sexual abuse of a child, indecency with a child, improper student/teacher relationship, sexual assault, aggravated sexual assault, or sexual performance by a child.

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### Nuisance Laws

- S.B. 1196 – declaration of nuisance for computer network or IP address. Authorizes City Attorney to bring suit to abate nuisance.
- H.B. 240 – allows regulation for massage establishments designated as nuisances if certain conditions are met
- H.B. 256 – Amends Alcoholic Beverage Code and allows a city attorney to sue, in the name of the City, for nuisances abatement for selling alcohol (no preemption).
- H.B. 2359 – Expands definition of “common” nuisance (where anyone can sue) to include abatement of additional Penal Code activities:
  - Criminal mischief
  - Disorderly conduct
  - Arson
  - graffiti

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### Police Support Legislation

- H.B. 2619 – Peace Officer Grant Programs: authorizes grants for programs to address (directly or indirectly) emotional harm suffered by law enforcement on the job.
- H.B. 3042 – Fallen Law Enforcement Officer Day: Designates July 7<sup>th</sup> as Fallen Law Enforcement Officer Day.
- S.B. 1138 Creates Blue Alert system to aid in apprehension of anyone suspected of killing or injuring LE (requires LE agencies to respond with certain info if notified).

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S.B. 1911 ( Zaffirini / Farrar)- Self Help Resources

- Requires the clerk of each court of the state to post certain information on self-help resources on the Court’s internet website

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S.B. 30 - Police Officer/Civilian Interaction Training

- State Board of Education and the Texas Commission on Law Enforcement shall enter into a memorandum of understanding that establishes each agency’s respective responsibilities in developing instruction, including curriculum and instructional modules, on proper interaction with peace officers during traffic stops and other in-person encounters

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Mental Illness

- S.B. 1849 (Sandra Bland Act) – requires LE to use diversion to treatment centers if mentally ill, homeless, or suffering substance abuse effects

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Not Anywhere Close to The End, but out of Time....



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# Legislative Update: Police/Public Safety

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### Ryan Scott Henry

Ryan Henry graduated with honors from New Mexico State University with dual bachelor's degrees in Criminal Justice and Psychology in 1995. He attended law school at Texas Tech School of Law and graduated in May of 1998.

While attending law school, Ryan began clerking for the Lubbock City Attorney's Office. He received his third-year practice card and began prosecuting municipal court complaints and appearing in justice of the peace court for the City. As a result, he began defending governmental entities even before he graduated from law school and so began his career supporting local governments. Upon graduation, Ryan began working in Brownsville, Texas, with the same focus. In June of 2002, Ryan moved to San Antonio and joined a local law firm doing the same type of law. In 2012, Ryan started the Law Offices of Ryan Henry, PLLC. In 2016 and 2017 Ryan was listed as one of the best lawyers in municipal law by S.A. Scene Magazine in the San Antonio area. Ryan is also on the board for the State Bar of Texas - Government Law Council.

**H.B. 3237 (Moody/Whitmire)- Search Warrant Affidavits**

The bill provides that a search warrant affidavit becomes public information when the search warrant for which the affidavit was presented is executed.

(Effective immediately.)

**H.B. 681 (Wu/Zaffirini) – Court Records**

It provides that:

(1) a municipal court must make all records and files of a final conviction or dismissal after deferral of a fine-only misdemeanor confidential after the fifth anniversary of the disposition; and

(2) the court may only allow inspection by:

- (a) judges or court staff,
- (b) a criminal justice agency,
- (c) the Department of Public Safety,
- (d) the attorney representing the state,
- (e) defendant’s counsel, or
- (f) a vehicle insurance company.

(Effective September 1, 2017.)

**H.B. 2065 (Phillips/Hancock) – Commercial Motor Vehicle Fines**

It requires a city to file an annual report with the comptroller detailing the amount of fines retained from the enforcement of commercial motor vehicle standards.

(Effective September 1, 2017.)

**H.B. 4147 (Kacal/Birdwell) – Municipal Court of Record**

It provides that, if a county does not have a county court at law, an appeal from a municipal court of record can be made to the county court.

(Effective September 1, 2017.)

**S.B. 42 (Zaffirini/Smithee) – Municipal Court Security**

It provides that:

(1) the law enforcement agency that provides security for a court shall provide to the Office of Court Administration a written report regarding any security incident and must provide a copy to the presiding judge;

(2) the presiding or municipal judge shall establish a court security committee composed of:

- (a) the presiding municipal judge or judge’s designee;
- (b) a representative of a law enforcement agency or entity that provides security for the court;
- (c) a representative of the city; and
- (d) any person that the committee determines necessary to assist the committee;

(3) a court security committee shall establish the policies and procedures necessary to provide adequate security to the municipal court served by the presiding or municipal judge;

(4) the committee may recommend to the city uses of resources and expenditures for the courthouse security fund but may not direct the assignment or expenditure of those funds;

(5) a person may not serve as a court security officer for a municipal court unless the

person holds a court security certification issued by the Texas Commission on Law Enforcement; and

(6) a person has before the first anniversary of the date the officer begins providing security for the court to obtain court security certification.

(Effective September 1, 2017.)

**S.B. 1304 (Perry/White) – Juvenile Records**

It provides that:

(1) that law enforcement records concerning a child and information concerning a child that are stored by electronic means or otherwise, and from which a record could be generated, may not be disclosed to the public and shall be:

(a) if maintained on paper or microfilm, kept separate from adult records;

(b) if maintained electronically in the same computer system as adult records, accessible only under controls that are separate and distinct from the controls to access electronic data concerning adults; and

(c) maintained on a local basis only and not sent to a central state or federal depository, with certain exceptions;

(2) item (1) does not apply to records maintained by a municipal court or child required to register as a sex offender;

(3) that law enforcement records concerning a child may be inspected or copied by:

- (a) a juvenile justice agency,
- (b) a criminal justice agency;
- (c) the child; or

(d) the child's parent or guardian only after the custodian of the record redacts:

(i) any personally identifiable information about a juvenile suspect, offender, victim, or witness who is not the child; and

(ii) any information excepted from disclosure by the Public Information Act or other laws;

(4) for the creation of a detailed procedure for the sealing and destruction of juvenile records;

(5) for the repeal of the confidentiality of records relating to children charged with, convicted of, or receiving deferred disposition for fine only misdemeanors.

(Effective September 1, 2017)

**S.B. 1911 (Zaffirini/Farrar) – Self-Help Resources**

It requires a municipal court clerk to:

(1) post a link to self-help legal resources websites, as designated by the office of Court Administration, and the State Law Library, on the municipal court's internet website; and

(2) display a sign in the clerk's office with the same information.

(Effective September 1, 2017)

**S.B. 1913 (Zaffirini/Thompson) – Municipal Court Fines and Costs**

This is a large bill with many moving parts. It redefines fines and costs procedures and creates several new provisions related to the criminal consequences imposed on indigent defendants, including fines, fees, and costs in municipal court.

**H.B. 2619 (Giddings/Hughes) – Peace Officer Grant Programs**

It provides that the criminal justice division of the governor’s office shall establish and administer:

- (1) a grant program through which a law enforcement agency may apply for a grant to implement programs, practices, and services designed to address the direct or indirect emotional harm suffered by peace officers in the course of duty or as the result of the commission of crimes by other persons; and
- (2) a grant program to assist law enforcement agencies in providing critical incident stress debriefing to peace officers who experience critical incidents while performing official duties.

(Effective September 1, 2017)

**H.B. 3042 (Meyer/Huffines) – Fallen Law Enforcement Officer Day**

It provides that July 7 is Fallen Law Enforcement Officer Day in recognition of the ultimate sacrifice made by Texas law enforcement officers killed in the line of duty and the day shall be regularly observed by appropriate ceremonies.

(Effective Immediately.)

**H.B. 34 (Smithee/Perry) – Custodial Interrogations**

It provides that:

- (1) a law enforcement agency shall make an electronic recording of any custodial interrogation that occurs in a place of detention if it involves the commission of certain offenses, unless good cause as defined by the bill exists;

- (2) each peace officer that performs eyewitness identification procedures must complete education and training that is developed by the Texas Commission on Law Enforcement;

- (3) a model policy adopted by a law enforcement agency must include certain information regarding evidence-based practices for photograph and live lineup identification procedures;

- (4) certain conditions must be met concerning admissibility into evidence of those identifications; and

- (5) the Texas Forensic Science Commission shall conduct two studies and make legislative recommendations.

- (a) regarding the use of drug field test kits; and

- (b) regarding the manner in which crime scene investigations are conducted.

(Effective September 1, 2017)

**H.B. 62 (Craddick/Zaffirini) – Texting While Driving Ban**

It provides that:

- (1) with certain exceptions, a juvenile driver is prohibited from using a wireless communication device while driving a motor vehicle, motorcycle, or moped;

- (2) a city or other political subdivision that by ordinance or rule adopts a city-wide prohibition against the use of a wireless communication, including a prohibition with an exception for the use of a hands-free devices, is not required to post special signage at school crossing zones if certain other signage is posted;

(3) a motor vehicle operator is prohibited from using a portable wireless communication device to read, write, or send an electronic message while operating a motor vehicle unless the vehicle is stopped;

(4) it is an affirmative defense to prosecution of an offense in (3) that the wireless communication device is used:

(a) in conjunction with a hands-free device;

(b) to navigate using a global positioning system or navigation system;

(c) to report illegal activity, summon emergency help, or obtain information about road conditions;

(d) to read an electronic message that the operator believed concerned an emergency; or

(e) as part of certain occupational duties;

(5) excepts from the prohibition in (3):

(a) the operator of an authorized emergency or law enforcement vehicle acting in an official capacity; and

(b) an operator licensed by the Federal Communications Commission while operating a radio frequency device;

(6) a peace officer who stops a motor vehicle for an alleged violation of (3) may not take possession of or otherwise

**H.B. 478 (Israel/Uresti) – Vulnerable Individuals in Vehicles**

It provides that a person who, by force or otherwise, enters a motor vehicle for the purpose of removing a vulnerable individual

from the vehicle is immune from civil liability for damages resulting from that entry or removal if the person:

(1) determines that the motor vehicle is locked or there is no reasonable method for the individual to exit the motor vehicle without assistance;

(2) has a good faith and reasonable belief, based on known circumstances, that entry into the motor vehicle is necessary to avoid imminent harm to the individual;

(3) before entering the motor vehicle, ensures that law enforcement is notified or 911 is called if the person is not a law enforcement officer or other first responder;

(4) uses no more force to enter the motor vehicle and remove the individual than is necessary; and

(5) remains with the individual in a safe location that is in reasonable proximity to the motor vehicle until a law enforcement officer or other first responder arrives.

(Effective September 1, 2017)

**H.B. 1249 (Goldman/Hinojosa) – Emergency Medical Service Vehicles**

It provides that:

(1) it is a class C misdemeanor for a person to operate a motor vehicle that resembles an emergency medical service (EMS) vehicle, unless the person uses the vehicle as an EMS vehicle or for other legitimate governmental functions;

(2) a motor vehicle resembles an EMS vehicle if it has the following on the exterior of the vehicle: the word “ambulance” or a derivation of that word; a star of life; a Maltese cross; forward-facing flashing red, white, or blue lights; a siren; the words

“critical care transport,” “emergency medical service” or “mobile intensive care unit;” or the acronym “EMS” or “MICU;” and

(3) the bill does not apply to motor vehicles that have a “Classic,” “Custom Vehicle,” or “Street Rod” specialty license plate or an “Antique Auto,” “Antique Truck,” “Antique Motorcycle,” “Antique Bus,” or “Military Vehicle,” specialty license plate.

(Effective September 1, 2017)

### **H.B. 1424 (Murphy/Birdwell) – Drones**

With certain exceptions, it makes it a criminal offense to operate a drone over a correctional facility (including a municipal jail), an immigration detention facility, and certain sports venues in certain circumstances.

(Effective September 1, 2017.)

### **H.B. 1643 (Springer/Seliger) – Drones**

It provides that:

(1) the prohibition against flying a drone over certain critical infrastructure facilities includes wireless telecommunications and certain oil and gas structures; and

(2) a political subdivision, including a city, may only adopt or enforce an ordinance regarding the operation of a drone in the following circumstances:

(a) the drone is used during a special event that involves use of the political subdivision’s public property and requires use or coordination of the political subdivision’s services;

(b) the drone is used by the political subdivision; or

(c) the drone is used near a facility or infrastructure owned by the political subdivision, if the political subdivision applies for and receives authorization from the Federal Aviation Administration to adopt the regulation after holding a public hearing regarding the intent to apply for the authorization.

(Effective September 1, 2017)

### **H.B. 1935 (Frullo/Whitmire) – Illegal Knives**

This bill:

(1) changes the Penal Code definition of an “illegal knife” to instead be a “location-restricted knife;”

(2) defines such a knife to be one with a blade over five and one-half inches;

(3) provides that a person commits a class C misdemeanor offense if the person:

(a) intentionally, knowingly, or recklessly carries on or about his or her person a location-restricted knife;

(b) is younger than 18 years of age at the time of the offense; and

(c) is not on the person’s own premises or premises under the person’s control, inside of or directly en route to a motor vehicle or watercraft that is owned by the person or under the person’s control, or under the direct supervision of a parent or legal guardian of the person; and

(4) provides that a person commits an offense if he carries a location-restricted knife in certain locations.

(Effective September 1, 2017.)

**H.B. 2908 (Hunter/Huffman) – Offenses against Peace Officers or Judges**

It provides that:

(1) an increase of the punishment for an offense committed against a person because of bias or prejudice on the basis of the person’s service as a peace officer or judge; and

(2) an increase of the punishment for certain unlawful restraint, assault, terroristic threat, and intoxication assault offenses committed against a peace officer or judge.

(Effective September 1, 2017.)

**H.B. 3223 (Goldman/Zaffirini) – Law Enforcement Vehicles**

It makes a political subdivision liable for damages proximately caused by the use of a vehicle during the commission of a crime and to the state for a \$1,000 civil penalty if the political subdivision violates the prohibition against selling or transferring a marked patrol car or other law enforcement vehicle to:

(1) the public without first removing any equipment or insignia that could mislead a reasonable person to believe the vehicle is a law enforcement vehicle; and

(2) a security services contractor without removing each emblem or insignia that identifies the vehicle as a law enforcement motor vehicle.

(Effective September 1, 2017.)

**S.B. 4 (Perry/Geren) – Immigration**

Another large bill which creates several new provisions related to the enforcement of federal and state immigration laws. By way of example, the bill prohibits certain city actions by providing that:

1. a “local entity” is defined to include, among others, a city, its officers, its employees, and other bodies that are part of a city, including the city police department and city attorney (but would exempt schools and hospitals and hospital peace officers, the public health department of a local entity, and a peace officer employed or contracted by a religious organization during service to the religious organization);

2. a local entity shall not adopt, enforce, or endorse a policy that prohibits or discourages the enforcement of immigration laws;

3. a local entity may not by demonstrable pattern or practice prohibit the enforcement of immigration laws;

4. a local entity shall not prohibit or materially limit a peace officer from doing any of the following:

(a) inquiring into the immigration status of a lawfully detained or an arrested person;

(b) with respect to information relating to the immigration status, lawful or unlawful, of any person under a lawful detention or under arrest:

(i) sending the information to or requesting or receiving the information from Citizenship and Immigration Services or ICE, including information regarding a person’s place of birth;

(ii) maintaining the information; or

(iii) exchanging the information with another local entity or a federal or state governmental entity;

(c) assisting or cooperating with a federal immigration officer as reasonable or necessary, including providing enforcement assistance; or

(d) permitting a federal immigration officer to enter and conduct enforcement activities at a municipal or county jail to enforce federal immigration laws;

The bill also creates a state-level complaint and enforcement process by allowing any citizen residing in the area of a local entity may file a complaint with the attorney general if the person offers a sworn affidavit to support an allegation that a local entity has adopted, enforced, or endorsed a policy prohibiting or discouraging the enforcement of immigration laws.

Sovereign/ governmental immunity is waived and abolished to the extent of liability created by the bill;

(Effective September 1, 2017.)

**S.B. 30 (West/Thompson) – Police Officer/Civilian Interaction Training**

It provides that:

1. the State Board of Education and the Texas Commission on Law Enforcement shall enter into a memorandum of understanding that establishes each agency's respective responsibilities in developing instruction, including curriculum and instructional modules, on proper interaction with peace officers during traffic stops and other in-person encounters.

2. the instruction must include information regarding:

(a) the role of law enforcement and the duties and responsibilities of peace officers;

(b) a person's rights concerning interactions with peace officers;

(c) proper behavior for civilians and peace officers during interactions;

(d) laws regarding questioning and detention by peace officers, including any law requiring a person to present proof of identity to a peace officer, and the consequences for a person's or officer's failure to comply with those laws; and

(e) how and where to file a complaint against or a compliment on behalf of a peace officer.

3. in developing the instruction under the bill, the board and the commission may consult with any interested party, including a volunteer work group convened for the purpose of making recommendations

**S.B. 920 (Whitmire/Lucio III) – Recovery of Personal Property**

It provides:

(1) an amendment to state law that allows a person access to a residence or former residence to retrieve personal property on the basis of danger caused by family violence; and

(2) that if a justice of the peace finds that application for a writ of entry to property establishes that the current occupant poses a clear and present danger of family violence to the applicant or the applicant's dependent, the justice of the peace may waive the requirements for a bond, notice, and hearing, and grant the applicant a temporary ex parte writ authorizing the applicant to enter the

residence accompanied by a peace officer to retrieve the property listed in the application.

(Effective September 1, 2017.)

**S.B. 1096 (Zaffrini/Smithee) – Wards**

It provides that, as soon as practicable, but not later than the first working day after the date a peace officer who arrests a ward (defined as a person for whom a guardian has been appointed), takes a ward into custody for proceedings before or including a referral to a court, or takes a ward into custody to an emergency detention, shall notify the court having jurisdiction over the ward's guardianship of the ward's detention or arrest or transportation to an emergency detention facility.

(Effective September 1, 2017.)

**S.B. 1138 (Whitmire/Krause) – Blue Alert System**

It requires the Department of Public Safety, with the cooperation of the Texas Department of Transportation, the office of the governor, and other appropriate law enforcement agencies in Texas, to develop and implement a statewide blue alert system to be activated to aid in the apprehension of an individual suspected of killing or causing serious bodily injury to a law enforcement officer.

(Effective September 1, 2017.)

**S.B. 1187 (West/Phillips) – No Insurance Citations**

It prohibits a police officer from issuing a citation for operating a motor vehicle without financial responsibility, unless:

(1) the officer attempts to verify through the verification program that financial

responsibility has been established for the vehicle; or

(2) the citation includes an affirmative indication that the officer was unable to verify financial responsibility.

(Effective immediately.)

**S.B. 1253 (West/Smithee) – Custodial Interrogations**

It provides that:

(1) unless good cause exists that makes electronic recording infeasible, a law enforcement agency must make a complete and contemporaneous electronic recording of any custodial interrogation that occurs in a place of detention and is of a person suspected of committing or charged with murder, capital murder, kidnapping, aggravated kidnapping, trafficking, sexual abuse of a child, indecency with a child, improper student/teacher relationship, sexual assault, aggravated sexual assault, or sexual performance by a child;

(2) a recording in (1) is complete only if the recording begins at or before the time the interrogated person enters the area in which the interrogation will take place or receives a Miranda warning, whichever is earlier, and continues until the interrogation ceases;

(3) good cause for not recording an interrogation described in (1) includes:

(a) the interrogated person refuses to respond or cooperate;

(b) a statement is made outside of a custodial interrogation;

(c) the recording equipment did not function or the equipment is inadvertently operated incorrectly;

(d) exigent public safety concerns prevent or render infeasible the making of a recording; or

(e) a peace officer or agent of the law enforcement agency reasonably believed the person interrogated was not taken into custody for an offense described in (1);

(4) a recording described in (1) is exempt from public disclosure; and

(5) a statement by a person accused of an offense in (1) is not admissible in a criminal proceeding unless an electronic recording is made of the statement or the attorney representing the state offers proof that good cause existed that made recording infeasible.

(Effective September 1, 20

**S.B. 1849 (Whitmire/Coleman) – Sandra Bland Act**

This bill:

(1) provides that law enforcement agencies under certain circumstances shall make a good faith effort to divert persons to proper treatment centers if they are accused of misdemeanors and suffering a mental health crisis;

(2) provides that counties shall develop plans for community collaboratives to provide services for person experiencing homelessness, substance abuse or mental illness;

(3) creates a prisoner safety fund for capital improvements to county jails;

(4) requires training for peace officers on de-escalation techniques for interaction with members of the public;

(5) requires racial profiling policies to provide the telephone number, mailing address and email address for a compliment or complaint with respect to tickets, citations or warnings issued by a peace officer and to report whether physical force resulting in bodily injury was used during the stop; and

(6) requires law enforcement agencies to examine the feasibility of equipping peace officers who regularly detain or stop motor vehicles with a body worn camera.

(Effective September 1, 2017.)

**H.B. 100 (Paddie/Schwertner) – Transportation Network Companies**

Preempts a city's authority to regulate transportation network companies (TNCs). It provides for various regulations by the state of TNC's but also prohibits municipalities from creating any regulations or enforcing any regulations which deal with them. TNC drivers are not common, contract, or motor carriers. the regulation of TNCs is an exclusive power and function of the State of Texas;

(Effective immediately)

**S.B. 312 (Nichols/L. Gonzales) – Texas Department of Transportation**

This is the Texas Department of Transportation sunset bill. Of interest to cities, the bill – among other things – continues the department until September 1, 2029, and provides various new provisions regarding sign and billboard regulation.

**S.B. 2006 (Watson/Morrison) – Texas Highway Beautification Act**

It provides that:

(1) the Texas Highway Beautification Act, under which the Texas Department of Transportation regulates signs along state highways, essentially applies only to a “commercial sign” (as opposed to all “outdoor advertising”); and

(2) commercial sign means a sign that is:

(a) intended to be leased, or for which payment of any type is intended to be or is received, for the display of any good, service, brand, slogan, message, product, or company, except that the term does not include a sign that is leased to a business entity and located on the same property on which the business is located; or

(b) located on property owned or leased for the primary purpose of displaying a sign. (Note: This bill is meant to address the appeals court holding in *Auspro Enterprises v. Texas Department of Transportation*, which held most of the Highway Beautification Act unconstitutional because it impermissibly regulated political and other signs based on the content of the sign.)

(Effective immediately.)

**S.B. 2205 (Hancock/Geren) – Automated Driving Systems**

It provides, among other things:

1. for a definition of automated driving system and automated motor vehicle;
2. that a city may not impose a fee, registration, franchise, or regulation related to the operation of an automated motor vehicle or driving system;

3. that the owner of an automated driving system is considered the operator for purposes of enforcement; and

4. various other regulations specific to an Automated Driving System

**S.B. 1196 (Kolkhorst/Smithee) – Internet Nuisance Abatement**

It provides that a suit to declare, enjoin, and abate a common nuisance may be brought by an individual, the attorney general, a district attorney, a county attorney, or a city attorney against a person who operates a web address or computer network in connection with certain criminal activity, including prostitution and human trafficking.

(Effective September 1, 2017.)

**H.B. 9 (Capriglione/V. Taylor) – Texas Cybercrime Act**

It creates:

(1) a third degree felony for a person who intentionally interrupts or suspends access to a computer system or computer network without the effective consent of the owner;

(2) an offense for a person who intentionally alters data as it transmits between two computers in a computer network or computer system through deception and without a legitimate business purpose;

(3) an offense for a person who intentionally introduces ransomware onto a computer, computer network, or computer system through deception and without a legitimate business purpose; and

(4) an offense for a person who intentionally decrypts encrypted private information

through deception and without a legitimate business purpose.

(Effective September 1, 2017.)

**H.B. 240 (Hernandez/Huffman) – Nuisance Abatement**

It provides that, in regard to a suit to abate a common nuisance:

(1) proof that law enforcement gave notice of certain arrests to a person maintaining property operated as a massage establishment is prima facie evidence that the defendant knowingly tolerated the nuisance and did not make a reasonable attempt to abate the nuisance; and

(2) evidence of a previous suit filed to abate a common nuisance that resulted in a judgment against a landowner with respect to certain activities at the landowner’s property is admissible in a subsequent nuisance suit to demonstrate that the landowner knowingly tolerated the activity and did not make a reasonable attempt to abate the activity.

(Effective September 1, 2017.)

**H.B. 256 (Hernandez/Whitmire) – Nuisance Abatement**

It authorizes a city attorney to sue in the name of the city for an injunction to abate and temporarily and permanently enjoin the common nuisance of selling, bartering, manufacturing, storing, possessing, or consuming an alcoholic beverage in a room, building, boat, structure, or other place in violation of the Texas Alcoholic Beverage Code.

(Effective September 1, 2017.)

**H.B. 2359 (Ortega/Rodriguez) – Nuisance Abatement**

It provides that:

(1) the following are added to the common nuisance statute:

(a) delivery, possession, manufacture, or use of a substance or other item in violation of the Texas Substance Control Act;

(b) criminal trespass;

(c) disorderly conduct;

(d) arson;

(e) criminal mischief that causes a pecuniary loss of \$500 or more; and (e) a graffiti offense; and

(2) if, in a judicial proceeding to abate a common nuisance, a court determines that a person is maintaining a vacant lot, vacant or abandoned building or multiunit residential property that is a common nuisance, the court may order the appointment of a receiver to manage the property or render any other order allowed by law as necessary to abate the nuisance.

(Effective September 1, 2017.)

**S.B. 79 (Nelson/Capriglione) – Public Information**

It provides that an officer for public information for a governmental body complies with production of public information by referring a requestor to an exact Internet location or URL address on the governmental body’s website if the requested information is identifiable and readily available on that website.

(Effective September 1, 2017.)

**S.B. 256 (V. Taylor/Hunter) – Address Confidentiality Program**

It provides that:

(1) victims of sexual assault, sexual abuse, or stalking are eligible participants in the address confidentiality program administered by the attorney general, and the attorney general may disclose a program participant's true residential, business, or school address to a law enforcement agency only for the purpose of conducting an investigation;

(2) the residence address of an applicant for voter registration is confidential if the applicant, applicant's child, or another person in the applicant's household is a victim of family violence and the applicant provides certain information to the voter registrar; and

(3) a participant in the attorney general's address confidentiality program or an individual who shows that they, their child, or another person in the individual's household is a victim of domestic violence, sexual assault, sexual abuse, stalking, or trafficking could elect to have their home address information be kept confidential in appraisal records.

(Effective immediately.)

**S.B. 510 (Zaffirini/Smithee) – Property Tax Records**

It provides that the home address information of a current or former employee of a state judge contained in a property tax record is confidential.

(Effective immediately.) 17

**S.B. 532 (Nelson/Capriglione) – Cybersecurity**

It provides, in relation to the Public Information Act, that:

(1) information directly arising from a governmental body's routine efforts to prevent, detect, investigate, or mitigate a computer security incident, including information contained in or derived from an information security log is confidential;

(2) confidentiality provided by (1) does not relieve a governmental body from consumer notification that is required by other law; and

(3) each state agency must prepare and submit to the Texas Department of Information Resources a detailed information technology infrastructure report related to cybersecurity vulnerabilities.

(Effective September 1, 2017.)

**S.B. 564 (Campbell/Capriglione) – Executive Sessions**

It provides that a governmental body may conduct an executive session to deliberate:

(1) security assessments or deployments relating to information resources technology;

(2) network security information; or

(3) the deployment or specific occasions for implementations of security personnel, critical infrastructure, or security devices.

(Effective September 1, 2017.)

\*\* These summaries taken largely from the work of the Texas Municipal League and the legal team working on legislative updates.