



TAASA
2009

SEXUAL ASSAULT LEGISLATIVE UPDATE

Highlighting the New Texas Laws from the 81st Legislative Session

Texas Association Against Sexual Assault (TAASA)

6200 La Calma, Suite 110

Austin, TX 78752

512-474-7190

512-474-6490 (fax)

www.taasa.org

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This manual is meant to be a guide to the changes in Texas law made during the 81st Regular Legislative Session (2009) which might affect sexual assault survivors, advocates and rape crisis centers. It is not a collection of the word-for-word changes, but rather a synopsis to inform readers of new and amended laws affecting sexual assault survivors. Before acting on any new law outlined in this manual, the reader should consult the full text of the law.

All legislation passed during the 81st Regular Session is accessible through the Texas Legislature website: www.capitol.state.tx.us

To view and/or download a bill, go to the capitol website and type the bill number (e.g. "HB1985" or "SB83") in the "Search Legislation" box. Make sure to indicate that you are searching by "bill number" and select the correct legislative session, "81 (R) – 2009". Click "Go" and then look under the "Text" tab to view the text of the bill in various formats. The "Enrolled" version of the bill is the final version that became law.

CIVIL PRACTICE AND REMEDIES CODE

TITLE 2. TRIAL, JUDGMENT AND APPEAL

SUBTITLE B. TRIAL MATTERS

● CHAPTER 30. MISCELLANEOUS PROVISIONS

Sec. 30.013. CONFIDENTIAL IDENTITY IN ACTIONS INVOLVING SEXUAL ABUSE OF A MINOR

SB 1930 provides that a plaintiff under the age of 18 be allowed to have his/her identifying information kept confidential in a civil suit where the plaintiff is seeking relief, including damages, in regards to a sexual assault or aggravated sexual assault. The court is required to notify the plaintiff as early as possible of the right to have a confidential identity, however the plaintiff is not required to use a confidential identity. The only persons allowed to know the true identifying information of the plaintiff are the judge, a party to the action, the attorney representing a party to the action and a person specifically authorized by a written order of a court. The persons knowing the plaintiff's true identity may not divulge the information to anyone without a court order. Otherwise, they will be held in contempt.

Effective September 1, 2009, and applies only to causes of action that commence on or after this date.

SUBTITLE C. JUDGMENTS

● CHAPTER 41. DAMAGES

Sec. 41.008. LIMITATION ON AMOUNT OF RECOVERY

HB 533 adds human trafficking to the list of penal code offenses for which limits do not apply on the amount of damages that can be awarded in a civil suit.

Effective June 19, 2009, and applies only to causes of action that occur on or after this date.

CIVIL PRACTICE AND REMEDIES CODE

TITLE 3. EXTRAORDINARY REMEDIES

● CHAPTER 61. ATTACHMENT

SUBCHAPTER A. AVAILABILITY OF REMEDY

Sec. 61.0021. GROUNDS FOR ATTACHMENT IN SUIT FOR SEXUAL ASSAULT

Sec. 61.022. AFFIDAVIT

HB 3246 authorizes a court to issue a writ of attachment in a case relating to sexual assault of child, aggravated sexual assault of a child, continual sexual abuse of a child or indecency with a child to take property into custody that equals an appropriate amount to cover counseling and medical needs of the plaintiff while legal action is pending. A plaintiff requesting a writ of attachment must provide the court an affidavit that states both general and specific grounds for the issuance as well as the amount of the demand based on the estimated cost of counseling and medical needs of the plaintiff.

Effective September 1, 2009, and applies only to causes of action that occur on or after this date.

TITLE 4. LIABILITY IN TORT

● CHAPTER 98. LIABILITY FOR TRAFFICKING OF PERSONS

Sec. 98.001. DEFINITIONS

Sec. 98.002. LIABILITY

Sec. 98.003. DAMAGES

Sec. 98.004. CAUSE OF ACTION CUMULATIVE

Sec. 98.005. JOINT AND SEVERAL LIABILITY

Sec. 98.006. LIBERAL CONSTRUCTION AND APPLICATION

HB 533 Provides that a defendant who engages in the trafficking of persons or who intentionally or knowingly benefits from participating in a venture that trafficks is liable, to the person trafficked, for damages arising from the trafficking of that person. It is not a defense to liability that a defendant has been acquitted, not been prosecuted or convicted or was convicted of a different offense. Requires a claimant who prevails in a suit to be awarded actual damages, (including damages for mental anguish) court costs, exemplary damages and reasonable attorney's fees.

The bill also requires that this new chapter be liberally construed and applied to promote its underlying purpose to protect persons from human trafficking.

Effective June 19, 2009, and applies only to causes of action that occur on or after this date.

CODE OF CRIMINAL PROCEDURE

TITLE 1. CODE OF CRIMINAL PROCEDURE

● CHAPTER 2. GENERAL DUTIES OF OFFICERS

Art. 2.022. ASSISTANCE OF TEXAS RANGERS

HB 2130 authorizes a prosecutor to request the Texas Rangers assist a local law enforcement agency in an investigation of an offense that was allegedly committed by an elected officer of the political subdivision represented by the agency and would, upon conviction or adjudication require the elected official to register as a sex offender.

Effective June 19, 2009.

● CHAPTER 13. VENUE

Art. 13.31. FAILURE TO COMPLY WITH SEX OFFENDER REGISTRATION STATUTE

HB 2153 adds to the locations in which a sex offender who has not registered can be prosecuted the county in which the person indicated they would register, regardless of whether the person tried to establish residence there, and the county in which the person actually resides or was found by a peace officer, regardless of how long the person has been in the county or intends to stay.

Effective September 1, 2009, and applies only to offenses committed on or after this date.

Art. 13.34. CERTAIN OFFENSES COMMITTED AGAINST A CHILD COMMITTED TO THE TEXAS YOUTH COMMISSION

HB 3316 and HB 3689 enact duplicate versions to this new article which allows some offenses committed against a child in a TYC facility to be prosecuted in Travis County as well as any county in which an element of the offense occurred.

Effective June 19, 2009, and applies only to offenses committed on or after this date.

CODE OF CRIMINAL PROCEDURE

● CHAPTER 14. ARREST WITHOUT WARRANT

Art. 14.06. MUST TAKE OFFENDER BEFORE MAGISTRATE

SB 1236 requires the inclusion of a written admonishment on a citation for a Class C misdemeanor, except for public intoxication. The admonishment shall state: "If you are convicted of a misdemeanor offense involving violence where you are or were a spouse, intimate partner, parent, or guardian of the victim or are or were involved in another, similar relationship with the victim, it may be unlawful for you to possess or purchase a firearm, including a handgun or long gun, or ammunition, pursuant to federal law under 18 U.S.C. Section 922(g)(9) or Section 46.04(b), Texas Penal Code. If you have any questions whether these laws make it illegal for you to possess or purchase a firearm, you should consult an attorney."

Effective September 1, 2009, and applies only to offenses committed on or after this date.

CODE OF CRIMINAL PROCEDURE

● CHAPTER 17. BAIL

Art. 17.153. DENIAL OF BAIL FOR VIOLATION OF CONDITION OF BOND WHERE CHILD ALLEGED VICTIM

HB 3751 allows a magistrate to revoke bond and deny future release of a defendant charged with an offense under Penal Code Chapter 21 (Sexual Offenses), Sec. 25.02 (Prohibited Sexual Conduct) or Sec. 43.25 (Sexual Performance by a Child) when the child is younger than 14 years of age and the defendant violated a bond condition set under Article 17.41 (no communication with the victim or going near the school, residence or other location frequented by the victim) related to the safety of the victim or the community.

Also sets forth provisions relating to the effects of the revocation on the sureties and future liability of the bond.

Effective September 1, 2009, and only pertains to offenses committed on or after this date.

Art. 17.292. MAGISTRATE'S ORDER FOR EMERGENCY PROTECTION

HB 1506 allows, in a family violence case, a magistrate to require the defendant to wear or carry a global positioning monitoring device and cover the costs of the device; plus, if the alleged victim decides to participate, the cost of a device that will notify the victim if the defendant is near or at a location the defendant has been ordered to stay away from.

Effective September 1, 2009, and pertains only to cases in which the offense occurred before this date.

HB 2730 requires a magistrate to suspend a defendant's concealed handgun license in an order for emergency protection.

Effective September 1, 2009, and applies only to a determination concerning the revocation or suspension of a license to carry a concealed handgun that is made on or after the effective date.

Art. 17.41. CONDITION WHERE CHILD ALLEGED VICTIM

HB 3751 requires, rather than authorizes, a magistrate to order as a condition of bond the defendant to not communicate with or go near a school, residence or other location frequented by the child victim. Applies to cases in which the child is younger than 14 years of age, rather than 12 years of age, and is a victim of an offense under Penal Code, Chapter 21 (Sexual Offenses), Chapter 22 (Assaultive Offenses), Sec. 25.02 (Prohibited Sexual Conduct) or Sec. 43.25 (Sexual Performance by a Child).

Effective September 1, 2009, and only pertains to offenses committed on or after this date.

CODE OF CRIMINAL PROCEDURE

Art. 17.49. CONDITIONS FOR DEFENDANT CHARGED WITH OFFENSE INVOLVING FAMILY VIOLENCE

HB 1506 allows a magistrate to require a defendant charged with family violence, as a condition of bond, to refrain from going to or near a residence, school, place of employment or other location frequented by an alleged victim of the offense. The magistrate may also require the defendant to wear or carry a global positioning monitoring device and cover the costs of the device and, if the alleged victim decides to participate, the cost of a device that will notify the victim if the defendant is near or at a location the defendant has been ordered to stay away from. The act requires the magistrate to give the victim the opportunity to provide a list of locations that the defendant will be ordered to refrain from going to or near.

Before imposing a global positioning monitoring system, the magistrate must provide the victim information pertaining to the victim's right to participate (or not); the procedure to terminate participation; the risks and limitations of GPS technology; the locations and minimum distances the defendant is ordered to refrain from going to or near; sanctions that the court may impose on the defendant for violation of a condition imposed under this article; procedure in the event the defendant violates a condition of bond or if the global positioning monitoring system equipment fails; community services available to assist the victim in obtaining shelter, counseling, education, child care, legal representation, and other assistance available related to family violence; and the fact that the victim's communications with the court concerning the GPS monitoring and any restrictions to be imposed on the defendant's movements are not confidential.

In determining whether to order a defendant's participation in GPS monitoring under this article, the magistrate shall consider the likelihood that the defendant's participation will deter the defendant from seeking to kill, physically injure, stalk or otherwise threaten the alleged victim.

HB 1506 also sets forth provisions relating to the payment of costs associated with operating the global positioning monitoring system and ordering the entity that operates the GPS monitoring device to notify the court of a defendant who violates the conditions of bond regarding the system.

Effective September 1, 2009, and only pertains to offenses committed on or after this date.

CODE OF CRIMINAL PROCEDURE

● CHAPTER 21. INDICTMENT AND INFORMATION

Art. 21.31. TESTING FOR AIDS AND CERTAIN OTHER DISEASES

HB 1985 requires, rather than authorizes, that a court, upon request of the victim, order a defendant who has been indicted or waived indictment for an offense under Penal Code Section 21.02 (continuous sexual abuse of young child or children), Sec. 21.11(a)(1) (indecent with a child by contact), Sec. 22.011 (sexual assault) or Sec. 22.021 (aggravated sexual assault) undergo testing for HIV and other sexual transmitted diseases within 48 hours. The 48-hour time frame does not begin until the defendant is located and present in the jurisdiction. If the results of the initial HIV test are positive, any necessary additional testing should be conducted in a “reasonable” period of time.

Effective September 1, 2009, and applies only to offenses that occurred on or after this date.

● CHAPTER 26. ARRAIGNMENT

Art. 26.13. PLEA OF GUILTY

SB 1236 deletes the provision that requires the court, prior to a guilty plea, to inform a defendant of the fact that it is unlawful for the defendant to possess or transfer a firearm or ammunition if the defendant is convicted of a misdemeanor involving family violence. However, a similar law is reinstated in Article 27.14 of the Code of Criminal Procedure.

Effective September 1, 2009, and applies only to offenses committed on or after this date.

● CHAPTER 27. THE PLEADING IN CRIMINAL ACTIONS

Art. 27.14. PLEA OF GUILTY OR NOLO CONTENDERE IN MISDEMEANOR

SB 1236 requires that a court, before accepting a plea of guilty or nolo contendere by a defendant charged with a misdemeanor involving family violence, must admonish the defendant by using the statement: "If you are convicted of a misdemeanor offense involving violence where you are or were a spouse, intimate partner, parent, or guardian of the victim or are or were involved in another, similar relationship with the victim, it may be unlawful for you to possess or purchase a firearm, including a handgun or long gun, or ammunition, pursuant to federal law under 18 U.S.C. Section 922(g)(9) or Section 46.04(b), Texas Penal Code. If you have any questions whether these laws make it illegal for you to possess or purchase a firearm, you should consult an attorney." The court can provide the admonishment orally or in writing. If the defendant is charged with a misdemeanor punishable by fine only, the statement printed on the citation in accordance with CCP Article 14.06 may serve as the court admonishment.

Effective September 1, 2009, and applies only to offenses committed on or after this date.

CODE OF CRIMINAL PROCEDURE

● CHAPTER 29. CONTINUANCE

Art. 29.14. CONSIDERATION OF IMPACT ON CERTAIN VICTIMS

HB 2236 provides victims of assault or sexual assault who are younger than 17 or whose case involves family violence the right to have the court consider the impact on the victim of a continuance requested by the defendant. The court is required to state on the record the reason for granting or denying the continuance if requested by an attorney representing the state or the defendant.

Effective September 1, 2009, and applies only to criminal proceedings that commence on or after this date.

● CHAPTER 38. EVIDENCE IN CRIMINAL ACTIONS

Art. 38.072. HEARSAY STATEMENT OF CERTAIN ABUSE VICTIMS

SB 643 amends the text of this Article to apply to cases involving persons with disabilities, rather than only children.

Effective June 11, 2009, and applies only to criminal proceedings that begin on or after this date.

HB 2846 changes the age of a victim for which hearsay statements are permitted in a trial from younger than 12 years of age to younger than 14 years of age. Adds Sec. 15.01, Penal Code (criminal attempt) to the list of offenses for which hearsay statements by child victims under the age of 14 are admissible. It also allows for hearsay statements during the sentencing phase offered by the first adult the victim told about the alleged offense or another offense committed by the defendant against the child, as long as the testimony does not amount to improper character evidence.

Effective September 1, 2009, and applies only to criminal proceedings that begin on or after this date.

Art. 38.43. PRESERVATION OF EVIDENCE CONTAINING BIOLOGICAL MATERIAL

HB 3594 requires prosecutors, clerks and other officers representing the state in a county with a population less than 100,000 to promptly turn over all evidence that contains biological material to the Department of Public Safety when the evidence was used to prosecute and convict a defendant of an offense under Penal Code Chapter 19 (Criminal Homicide), 21 (Sexual Offenses) or 22 (Assaultive Offenses) and the defendant was sentenced to 10 or more years in prison.

Effective January 1, 2010, and applies only to evidence from criminal proceedings that commence on or after this date.

Art. 38.45. EVIDENCE THAT CONSTITUTES CHILD PORNOGRAPHY

SB 595 prohibits a court, during the course of a criminal hearing or proceeding, from making available or allowing to be made available for copying or dissemination to the public material that constitutes child pornography by placing it under seal of the court. Requires that the material be made available to prosecutors. Access to the material by the defense is guided by CCP Art. 39.15. A court may lift the seal if it is in the best interest of the public.

Effective September 1, 2009, and applies only to offenses committed on or after this date.

CODE OF CRIMINAL PROCEDURE

● CHAPTER 39. DEPOSITIONS AND DISCOVERY

Art. 39.14. DISCOVERY

Art. 39.15. DISCOVERY OF EVIDENCE THAT CONSTITUTES CHILD PORNOGRAPHY.

SB 595 requires a court to allow discovery of material that constitutes child pornography and requires that the material remain in the control of the court or state. The legislation also requires that the court make the material reasonably available to the defendant, the defendant's attorney or expert witness hired by the defendant, but deny all requests to remove the material from the court's custody or duplicate it in any way.

Effective September 1, 2009, and applies only to offenses committed on or after this date.

● CHAPTER 42. JUDGMENT AND SENTENCE

Art. 42.01. JUDGMENT

HB 4464 changes the default position of including the victim's name and address in the judgment for restitution purposes to an alternative person or agency's name and address who will forward the restitution to the victim. However, if the court specifically elects to have payments made directly to the crime victim, the name and permanent address of the victim will be included in the judgment.

Effective September 1, 2009.

Art. 42.037. RESTITUTION

HB 4464 allows restitution payment(s) to be made directly to a person or agency that will accept and forward them to the victim, rather than only allowing payments to be made directly to the victim or community supervision and corrections department.

Effective September 1, 2009.

CODE OF CRIMINAL PROCEDURE

Art. 42.12. COMMUNITY SUPERVISION

SB 82 requires, rather than authorizes, a judge who grants community supervision to a person convicted of an offense involving family violence to pay 100 dollars to a family violence “center” that receives federal or state funds and serves the county in which the court is located, rather than a family violence “shelter.”

Effective September 1, 2009, and applies only to a person granted community supervision on or after this date.

SB 689 requires that a sex offender released on probation or deferred adjudication for an offense under Sec. 21.11 (indecent with a child), Sec 22.011(a)(2) (sexual assault of a child), Sec. 22.021(a)(1)(B) (aggravated sexual assault of a child), Sec 33.021 (online solicitation of a minor) or 43.25 (sexual performance by a child), Penal Code, who used the Internet to commit the offense for which s/he is required to register or was assigned a numeric risk level of three (the highest level) have certain prohibitions placed on them.

The sex offender shall be prohibited from using the Internet to: access material that is obscene, access commercial social networking sites, communicate with any individual concerning sexual relations with a child younger than 17 years of age, or communicate with any individual the releasee knows is younger than 17 years of age. The parole panel can modify the condition relating to the prohibition of communicating with another individual the releasee knows is under the age of 17 if it interferes with the releasee’s ability to attend school, remain employed, or if the releasee is the parent or guardian of the individual.

This bill also creates an identical provision for parolees in Government Code Sect. 508.1861.

Effective September 1, 2009, and only applies to a person who is placed on community supervision or released on parole or to mandatory supervision on or after this date.

CODE OF CRIMINAL PROCEDURE

● CHAPTER 56. RIGHTS OF CRIME VICTIMS SUBCHAPTER A. CRIME VICTIMS' RIGHTS

Art. 56.01. DEFINITIONS

HB 1372 amends the definition of victim to include a person who is the victim of human trafficking for the purposes of crime victims' rights.

Effective June 19, 2009.

Art. 56.02. CRIME VICTIMS' RIGHTS.

HB 2236 provides victims of assault or sexual assault younger than 17 or those whose case involves family violence the right to have the court consider the impact on the victim of a continuance requested by the defendant. The court is required to state on the record the reason for granting or denying the continuance if requested by an attorney representing either the state or the defendant. This right is provided by CCP Article 29.14.

Effective September 1, 2009, and only pertains to criminal proceedings that commence on or after this date.

HB 2626 provides that victims of sexual assault have the right to a forensic medical exam if the assault is reported to law enforcement or if the exam is conducted at a health care facility that provides diagnosis or treatment services for sexual assault victims - even if the sexual assault is not reported to law enforcement. This right is provided by CCP Article 56.065.

Effective June 19, 2009, and pertains to forensic exams requested on or after this date.

56.065. MEDICAL EXAMINATION FOR SEXUAL ASSAULT VICTIM WHO HAS NOT REPORTED ASSAULT; COSTS

HB 2626 requires that a health care facility that provides services to sexual assault victims provide a victim of sexual assault a forensic medical exam if the victim arrived at the facility within 96 hours after the assault occurred even if the victim has not reported the assault to law enforcement. The victim is expressly not required to pay for the costs of the forensic exam, nor is the victim required to cooperate with law enforcement in regards to the investigation or prosecution of the assault. The Department of Public Safety will store and preserve the kits until the earlier of: 2 years or the date the victim or a representative of the victim consents to have the evidence released. DPS will pay the costs associated with the collection of the evidence and may be reimbursed for those costs from the Crime Victims Compensation Fund.

Effective June 19, 2009, and pertains to forensic exams requested on or after this date.

Art. 56.11. NOTIFICATION TO VICTIM OR WITNESS OF RELEASE OR ESCAPE OF DEFENDANT

HB 1003 requires the Texas Department of Criminal Justice (TDCJ) or a probation department to notify a victim or witness whenever a defendant ceases to be electronically monitored. The legislation makes it the responsibility of a victim or witness desiring notification of the defendant's end of electronic monitoring to provide the TDCJ, the sheriff or the probation department supervising the defendant with contact information. The appropriate department will make a reasonable attempt to notify the victim or witness 30 days before the defendant will end electronic monitoring.

Effective September 1, 2009, and pertains only to a defendant who is ordered to submit to electronic monitoring as a condition of release on or after this date.

CODE OF CRIMINAL PROCEDURE

SUBCHAPTER B. CRIME VICTIMS' COMPENSATION

Art. 56.37. TIME FOR FILING

HB 2916 and **SB 808** both provide that with regard to applications for crime victims' compensation arising from criminal homicide claims, claimants must file applications within three years after the date the identity of the victim is established by a law enforcement agency.

Effective June 19, 2009. This change is retroactive and applies to criminal homicide committed against a victim whose identity is established by a law enforcement agency on or after January 1, 2009.

Art. 56.54. FUNDS

SB 1377 requires that the attorney general, after consulting with the comptroller and no later than September 15 of each year, certify the amount of money remaining in the crime victims auxiliary compensation fund at the end of the preceding fiscal year. If the amount in the fund is greater than 5 million dollars, the attorney general is authorized to transfer no more than 50 percent of the excess amount to the crime victims' compensation fund for the purposes of making compensation payments during the fiscal year of the transfer.

The attorney general may not transfer money under this act before the 2011 fiscal year.

Art. 56.541. APPROPRIATION OF EXCESS MONEY FOR OTHER CRIME VICTIM ASSISTANCE

SB 1377 changes the calculation that the attorney general uses when determining the amount of funds that will be transferred from the crime victims' compensation fund to state agencies that deliver or fund victim-related services or assistance. The new formula will allow for a five percent reserve based on the funds expected to be obligated for the next biennium. The reserve cannot be appropriated and will be set aside exclusively for crime victim compensation payments.

Effective September 1, 2009.

Art. 56.61. COMPENSATION FOR CERTAIN CRIMINALLY INJURIOUS CONDUCT PROHIBITED; EXCEPTION

HB 2916 allows the attorney general to award crime victims' compensation when a crime occurred before January 1, 1980 when four conditions are satisfied: (1) if the conduct was criminal homicide, (2) if the expenses are for victims' funeral or burial, (3) if the identity of the victim is established by a law enforcement agency on or after January 1, 2009, and (4) if the claimant files the application for crime victims' compensation within three years after the identification of the victim by law enforcement (as established by CCP Art 56.37(e)).

Effective June 19, 2009. This change is retroactive and applies to criminally injurious conduct committed against a victim whose identity is established by a law enforcement agency on or after January 1, 2009.

SB 808 does the same thing as **HB 2916**, except it does not require that the expenses are for the victims' funeral or burial and instead requires that the victim's identity be established by law enforcement on or after September 1, 2009.

CODE OF CRIMINAL PROCEDURE

● CHAPTER 57C. SEALING OF COURT RECORDS CONTAINING MEDICAL INFORMATION FOR CERTAIN CHILD VICTIMS

Art. 57C.01. DEFINITIONS

Art. 57C.02. SEALING OF RECORDS

HB 4136 requires, upon motion and absent good cause to deny such motion, a court to seal the medical records of a child 13 years or younger who is a victim of murder, capital murder, manslaughter, aggravated kidnapping, indecency with a child, sexual assault, aggravated assault, aggravated sexual assault, injury to a child, prohibited sexual conduct, aggravated robbery, sexual performance by a child or continuous sexual abuse of a young child. A motion may be filed by the court, an attorney representing the state, the defendant, parent or guardian of the victim, or the victim if the victim is no longer a child.

Effective June 19, 2009. A motion to seal medical records that is made before this date is governed by previous law.

● CHAPTER 62. SEX OFFENDER REGISTRATION PROGRAM

SUBCHAPTER A. GENERAL PROVISIONS

Art. 62.001. DEFINITIONS

SB 689 defines an “online identifier” as electronic mail address information or a name used by a person when sending or receiving an instant message, social networking communication or similar Internet communication, or when participating in an Internet chat. The term includes an assumed name, nickname, pseudonym, moniker or username established by a person for use in connection with an electronic mail address, chat or instant chat room platform, commercial social networking site or online picture-sharing service.

Art. 62.004. DETERMINATION REGARDING PRIMARY REGISTRATION AUTHORITY

Art. 62.0045. CENTRALIZED REGISTRATION AUTHORITY

SB 2048 authorizes the commissioner’s court in a county with a population of 100,000 or more to designate the office of the sheriff or the office of a chief of police of a municipality in that county to serve as a countywide sex offender registration location (“centralized registration authority”). Requires registered sex offenders who live in a county with a centralized registration authority to register with the centralized registration authority.

Effective June 19, 2009.

CODE OF CRIMINAL PROCEDURE

Art. 62.005. CENTRAL DATABASE; PUBLIC INFORMATION

SB 689 restricts public access to telephone numbers or online identifiers of a registered sex offender, but requires the Department of Public Safety to provide, for law enforcement purposes, all pertinent information in the sex offender registry database, including private information, at the request of a peace officer, an employee of a local law enforcement authority or the attorney general.

The Department of Public Safety will implement the preceding article as soon as practicable after September 1, 2009, but no later than January 1, 2010. The change applies to any person who, on or after January 1, 2010, is subject to registration under that chapter, regardless of whether the offense or conduct for which the person is subject to registration occurred before, on, or after that date.

Art. 62.0061. REQUEST FOR ONLINE IDENTIFIERS BY SOCIAL NETWORKING SITES

SB 689 allows the Department of Public Safety, at the request of a commercial social networking site, to provide all public information in the sex offender database (not private information such as social security number, phone number or information that can identify the victim) including any online identifier established or used by an offender. The social networking site is allowed to use the information to prescreen persons seeking to use the site or preclude persons in the database from using the site for no other reason. If the site uses the information for any other purpose they are subject to a 1,000 dollar civil fee and costs related to investigating and collecting the fee. The civil penalty will be deposited into the crime victims' compensation fund.

The article does not create cause for a civil action where the site, based on good faith, mistakenly affected a person's registration with the site or where the site failed to identify a person who is a registered sex offender.

In regards to this article a "social networking site" is a website that allows users, through the creation of Internet web pages or profiles, to provide personal information to the public or other users of the site, offers a mechanism for communication with other users and has the primary purpose of facilitating online social interactions. An Internet service provider is not to be considered a social networking site.

The Department of Public Safety will implement the preceding article as soon as practicable after September 1, 2009, but no later than January 1, 2010. The change applies to any person who, on or after January 1, 2010, is subject to registration regardless of whether the offense or conduct for which the person is subject to registration occurred before, on, or after that date.

CODE OF CRIMINAL PROCEDURE

SUBCHAPTER B. REGISTRATION AND VERIFICATION REQUIREMENTS; RELATED NOTICE

Art. 62.051. REGISTRATION: GENERAL

HB 689 requires the sex offender registration form to include each alias or online identifier used by the person and any home, work or cellular telephone number(s) of the person.

The Department of Public Safety will implement the preceding article as soon as practicable after September 1, 2009, but no later than January 1, 2010.

HB 2153 requires the sex offender registration form to include the address or physical geographic location of the registrant's current or intended future residence (rather than his or her "home address"). HB 2153 also requires that a registrant report to local law enforcement within seven days of release to verify the information in the registration form. It also requires a registrant who is released from a penal institution but is not on parole or another form of supervision and does not move immediately to his or her permanent address to report to local law enforcement authorities within seven days of release to provide their temporary physical address or geographic location. Requires a registrant to report his or her temporary address or geographic location every 30 days until the location is the intended permanent location. No one can refuse or fail to provide a location on their registration form.

Effective September 1, 2009. Applies to any person who on or after the effective date is required to register as a sex offender regardless of when the offense took place.

Art. 62.053 PRERELEASE NOTIFICATION

HB 689 adds the newly collected home, work or cell phone numbers of a registered sex offender to the list of information which local law enforcement should not provide to schools when a sex offender moves to the area.

Effective September 1, 2009.

HB 2153 adds language to ensure that before their release sex offenders are informed of the appropriate entities to report their location to in case they do not ultimately move to their intended locations.

Effective September 1, 2009. Applies to any person who on or after the effective date is required to register as a sex offender regardless of when the offense took place.

CODE OF CRIMINAL PROCEDURE

Art. 62.055 CHANGE OF ADDRESS; LACK OF ADDRESS

HB 689 adds the newly collected home, work or cell phone numbers of the registered sex offender to the list of information which local law enforcement should not provide to schools when a sex offender changes their address to move to the area.

Effective September 1, 2009.

HB2153 changes the title of the article to “Change of Address; Lack of Address” (rather than only “Change of Address”). If the registrant resides at a location that does not have a physical address the registrant is required to report his/her temporary or geographic location every 30 days.

Effective September 1, 2009. Applies to any person who on or after the effective date is required to register as a sex offender, regardless of when the offense took place.

Art. 62.0551 CHANGE IN ONLINE IDENTIFIERS

HB 689 requires sex offenders who change or add any online identifiers to report the changed or newly added online identifier to the person’s primary registration authority within seven days.

Effective January 1, 2010 and applies to any person subject to registration on or after the effective date.

Art. 62.057. STATUS REPORT BY SUPERVISING OFFICER OR LOCAL LAW ENFORCEMENT AUTHORITY

SB 689 again requires that registered sex offenders report their online identifiers or change in online identifiers to the local law enforcement authority. Also adds online identifiers to the list of information for which a supervising officer (parole or probation officer) should report to the local law enforcement authority if they become aware that the information has changed.

The change applies to any person who, on or after January 1, 2010, is subject to registration, regardless of whether the offense or conduct for which the person is subject to registration occurred before, on, or after that date.

EDUCATION CODE

TITLE 2. PUBLIC EDUCATION

SUBTITLE G. SAFE SCHOOLS

● CHAPTER 38. HEALTH AND SAFETY

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 38.0041. POLICIES ADDRESSING SEXUAL ABUSE OF CHILDREN

HB 1041, known as Jenna's law, requires school districts to adopt and implement policies that address sexual abuse of children to be included in the district improvement plan and any information handbook provided to students and parents. The policies must address methods for increasing teacher, student and parent awareness of issues regarding sexual abuse of children, including knowledge of warning signs indicating that a child may be a victim of sexual abuse, actions a child victim of sexual abuse should take to obtain assistance, and counseling options available to students affected by sexual abuse.

HB 1041 also requires the creation of a task force to establish a strategy for reducing child abuse and neglect and for improving child welfare in Texas. The nine-member task force (five members appointed by the Governor, two members appointed by the Lieutenant Governor, and two members appointed by the Speaker of the House) will be representative of the geographic diversity of the state and will be made up of individuals actively involved in the prevention of child abuse and neglect.

The task force representatives must be appointed no later than October 1, 2009. No later than November 1, 2010 the task force must submit their strategic plan to the Governor, Lieutenant Governor, and Speaker of the House. The task force will be abolished on September 1, 2011.

Effective June 19, 2009.

FAMILY CODE

TITLE 1. THE MARRIAGE RELATIONSHIP

SUBTITLE C. DISSOLUTION OF MARRIAGE

● CHAPTER 6. SUIT FOR DISSOLUTION OF MARRIAGE

Sec. 6.702. WAITING PERIOD

HB 72 creates an exception to the 60 day waiting period for a divorce if the petitioner has an active protective order or a magistrate's order for emergency protection against the respondent because of family violence committed during the marriage or the respondent has been convicted of or received deferred adjudication for an offense involving family violence against the petitioner or another member of the household.

Effective June 19, 2009. All divorces filed before this date are governed by previous law.

TITLE 5. THE PARENT-CHILD RELATIONSHIP AND THE SUIT AFFECTING THE PARENT-CHILD RELATIONSHIP

SUBTITLE B. SUITS AFFECTING THE PARENT-CHILD RELATIONSHIP

● CHAPTER 153. CONSERVATORSHIP, POSSESSION, AND ACCESS

SUBCHAPTER I. PREVENTION OF INTERNATIONAL PARENTAL CHILD ABDUCTION

Sec. 153.502. ABDUCTION RISK FACTORS

HB 1012 requires judges, when considering evidence that a parent has recently engaged in planning activities that could facilitate a move out of the United States, to consider evidence that the parent was engaging in those activities as a part of a safety plan to flee from family violence.

Effective September 1, 2009, and applies to suits pending in a trial court on or after the effective date and suits filed on or after the effective date.

GOVERNMENT CODE

TITLE 4. EXECUTIVE BRANCH

SUBTITLE A: EXECUTIVE OFFICERS

● CHAPTER 402. ATTORNEY GENERAL

SUBCHAPTER B. DUTIES

Sec. 402.035. HUMAN TRAFFICKING PREVENTION TASK FORCE

HB 4009 requires the Attorney General to establish a human trafficking prevention task force to develop policies and procedures to assist in the prevention and prosecution of human trafficking. Some duties of the task force will include collecting, organizing and publishing statistical data on the nature and extent of human trafficking in the state; soliciting cooperation and assistance from local and state government agencies, nongovernmental organizations and other appropriate entities; ensuring government agencies and political subdivisions of the state are assisting in the prevention of human trafficking and collecting statistical data; and developing recommendations on how to strengthen efforts to prevent human trafficking and protect and assist trafficking victims. The task force will submit a report on its activities, findings and recommendations no later than December 1 of each even-numbered year. The task force shall be established by December 1, 2009, and expires September 1, 2013.

Subtitle B: LAW ENFORCEMENT AND PUBLIC PROTECTION

● Chapter 411: Department of Public Safety of the State of Texas

SUBCHAPTER D: ADMINISTRATIVE DIVISION

Sec. 411.052. PRESERVATION OF EVIDENCE CONTAINING BIOLOGICAL MATERIAL

HB 3594 requires the Department of Public Safety to maintain a storage space for biological evidence from counties with less than 100,000 residents and authorizes, but does not require, the Department to preserve evidence connected to sex offenses. Evidence will be delivered to the department under new CCP Article 38.43(f).

DPS will adopt rules to carry out the requirements and will begin storage of evidence in the possession of the state during a criminal proceeding that commences on or after January 1, 2010.

GOVERNMENT CODE

SUBCHAPTER D-1. CENTRAL INDEX OF CERTAIN ADDITIONAL OFFENSES SUSPECTED TO HAVE BEEN COMMITTED BY CRIMINAL DEFENDANTS

Sec. 411.0601. DEFINITIONS

Sec. 411.0602. ESTABLISHMENT OF CENTRAL INDEX; ENTRY OF INFORMATION

Sec. 411.0603. CONFIDENTIALITY AND DISSEMINATION OF INFORMATION IN CENTRAL INDEX

Sec. 411.0604. RULES

Sec. 411.0605. RIGHT TO REQUEST NOTICE OF ENTRY IN CENTRAL INDEX

Sec. 411.0606. RIGHT TO REQUEST REVIEW OF ENTRY IN CENTRAL INDEX

Continued advances in DNA technology have resulted in the positive identification of the true offenders of many crimes. In some instances this has resulted in the identification of an offender who was never prosecuted. Unfortunately, some of these individuals cannot be prosecuted because the statute of limitations has expired. The result is that an offender's identity is known, but there is no way to hold him/her accountable or share that information with other law enforcement agencies. **HB 2932** allows the true offender's criminal history to include information indicating that the individual most likely committed an offense for which he/she can no longer be prosecuted.

HB 2932 creates Subchapter D-1, requiring the bureau of identification and records to establish and maintain a database to collect and disseminate information regarding DNA test results that may indicate additional crimes committed by a defendant who has been arrested or charged with a felony or misdemeanor. Subchapter D-1 requires that all information in the database be kept confidential and only made available when a criminal justice agency makes a proper request. However, it also allows defendants the opportunity to submit a request to determine if information about himself/herself is in the database, and allows for the opportunity to correct inaccurate information if it is deemed necessary.

Effective September 1, 2009. However, forensic evidence can be included in the central database regardless of whether the test results were obtained before, on, or after the effective date.

GOVERNMENT CODE

SUBTITLE G: CORRECTIONS

● CHAPTER 508: PAROLE AND MANDATORY SUPERVISION

Sec. 508.1861. PROHIBITIONS ON INTERNET ACCESS FOR CERTAIN SEX OFFENDERS

SB 689 requires that a sex offender released on parole or mandatory supervision after serving a sentence for an offense under Sec. 21.11 (indecenty with a child), Sec 22.011(a)(2) (sexual assault of a child), Sec. 22.021(a)(1)(B) (aggravated sexual assault of a child), Sec 33.021 (online solicitation of a minor) or 43.25 (sexual performance by a child), Penal Code, who used the Internet to commit the offense for which they are required to register or who was assigned a numeric risk level of three (the highest level) have certain prohibitions placed on them.

They shall be prohibited from using the Internet to access material that is obscene, access commercial social networking sites, communicate with any individual concerning sexual relations with a child younger than 17 years of age, or communicate with any individual the releasee knows is younger than 17 years of age. The parole panel can modify the condition relating to the prohibition of communicating with another individual the releasee knows is under the age of 17 if it interferes with the releasee's ability to attend school, remain employed or if the releasee is the parent or guardian of the individual.

This bill also creates an identical provision for probationers in the new CCP Article 42.12.

Effective September 1, 2009, and only applies to a person who is placed on community supervision or released on parole or to mandatory supervision on or after this date.

GOVERNMENT CODE

SUBTITLE I. HEALTH AND HUMAN SERVICES

● CHAPTER 531. HEALTH AND HUMAN SERVICES COMMISSION

SUBCHAPTER J-1. ASSISTANCE PROGRAM FOR DOMESTIC VICTIMS OF TRAFFICKING

Sec. 531.381. DEFINITIONS

Sec. 531.382. VICTIM ASSISTANCE PROGRAM ESTABLISHED

Sec. 531.383. GRANT PROGRAM

Sec. 531.384. TRAINING PROGRAMS

Sec. 531.385. FUNDING

HB 4009 establishes an assistance program for domestic victims of human trafficking. The Health and Human Services Commission (HHSC) is required to develop and implement the program to assist domestic victims in accessing services. The program must consist of at least the following components: a searchable database of assistance programs for domestic victims that may be used to match victims with appropriate resources; recommended training programs for judges, prosecutors and law enforcement personnel; an outreach initiative to ensure that victims, judges, prosecutors and law enforcement personnel are aware of the availability of services through the program; and a grant program. Subject to available funds, the program will award grants to public and nonprofit organizations that provide assistance to domestic victims. HHSC will submit a report to the legislature by December 1 of each even-numbered year summarizing the activities, funding and outcomes of programs awarded a grant and providing recommendations regarding the grant program. The program can accept funding from outside sources.

In addition, HHSC must conduct a study regarding additional funding strategies to identify appropriate revenue streams. The commission will submit a report regarding the results of the study to the 82nd legislature no later than December 1, 2010.

Effective September 1, 2009.

TITLE 7. INTERGOVERNMENTAL RELATIONS

● CHAPTER 772. GOVERNMENTAL PLANNING

Sec. 772.006. GOVERNOR'S CRIMINAL JUSTICE DIVISION

HB 4009 creates a trafficking of persons investigation and prosecution account in the general revenue fund. The money will be composed of legislative appropriations and other funds. The legislature may designate money from this account to the criminal justice division for distribution either to counties that apply for grants and have full- or part-time staff dedicated to identifying, preventing or prosecuting human trafficking or to nongovernmental organizations that apply for grants and offer comprehensive services to human trafficking victims.

Effective September 1, 2009.

HEALTH AND SAFETY CODE

TITLE 4. HEALTH FACILITIES

SUBTITLE G. PROVISION OF SERVICES IN CERTAIN FACILITIES

● CHAPTER 323. EMERGENCY SERVICES FOR SURVIVORS OF SEXUAL ASSAULT

Sec. 323.004. MINIMUM STANDARDS FOR EMERGENCY SERVICES

HB 2626 requires a health care facility that provides care to sexual assault survivors to provide a forensic medical exam if the victim was assaulted within the past 96 hours, regardless of whether the victim makes a report to law enforcement.

Effective June 19, 2009, and pertains to all forensic exams that are requested on or after this date.

Sec. 323.005. INFORMATION FORM

HB 2626 requires that the current information sheet provided to sexual assault victims before a forensic medical exam include a statement informing the victim that the Department of Public Safety will pay for the cost of the forensic exam and the evidence collection kit, or if the exam was requested by a law enforcement agency that the law enforcement agency will pay those costs.

Effective June 19, 2009, and pertains to all forensic exams that are requested on or after this date.

TITLE 8. DEATH AND DISPOSITION OF THE BODY

SUBTITLE A. DEATH

● CHAPTER 672. ADULT FATALITY REVIEW AND INVESTIGATION

Sec. 672.009. USE OF INFORMATION AND RECORDS; CONFIDENTIALITY

HB 3303 establishes immunity from subpoena, discovery or admission at trial of information gathered and utilized in an adult fatality review and investigation, including domestic violence fatality reviews.

Effective September 1, 2009, and applies only to civil or criminal proceeding that that commence on or after this date.

HUMAN RESOURCES CODE

TITLE 10. JUVENILE BOARDS, JUVENILE PROBATION DEPARTMENTS AND FAMILY SERVICES OFFICES

SUBTITLE A. JUVENILE PROBATION SERVICES

● CHAPTER 141. TEXAS JUVENILE PROBATION COMMISSION

SUBCHAPTER C. POWERS AND DUTIES OF COMMISSION

Sec. 141.056. STUDY OF ALTERNATIVES TO JUVENILE JUSTICE SYSTEM FOR CHILDREN WHO ENGAGE IN ACTS OF PROSTITUTION

HB 4009 requires the director of the Texas Juvenile Probation Commission to establish a committee to evaluate alternatives to the juvenile justice system, such as government programs, faith-based programs and programs offered by nonprofit organizations, for children who are accused of engaging in acts of prostitution. The committee, at a minimum consisting of representatives from the Texas Juvenile Probation Commission, Texas Youth Commission, nonprofit and non-governmental organizations, and members of the legislature, will report back with recommendations to the legislature no later than January 1, 2011.

The committee shall be established by October 1, 2009, and expires June 1, 2011.

OCCUPATIONS CODE

TITLE 10. OCCUPATIONS RELATED TO LAW ENFORCEMENT AND SECURITY

● CHAPTER 1701. LAW ENFORCEMENT OFFICERS

SUBCHAPTER F. TRAINING PROGRAMS AND SCHOOLS

Sec. 1701.258. EDUCATION AND TRAINING PROGRAMS ON TRAFFICKING OF PERSONS

HB 4009 requires that officers first licensed by the Texas Commission on Law Enforcement Officer Standards and Education (TCLEOSE) on or after January 1, 2011, complete a one-time basic education and training program on the trafficking of persons. The program must consist of at least four hours of training and must include a review of the compelling prostitution and human trafficking sections of the Penal Code. HB 4009 also requires that TCLEOSE make available a voluntary advanced education, instruction and training program on the trafficking of persons.

TCLEOSE must begin offering the basic and advanced programs established under this section no later than January 1, 2011.

SUBCHAPTER I. PROFESSIONAL TRAINING AND RECOGNITION

Sec. 1701.402. PROFICIENCY CERTIFICATES

HB 3389 requires an officer seeking intermediate proficiency certification to complete an education and training program that includes the investigation of child abuse or neglect, family violence, sexual assault, crime victims' rights, etc., as well as the topics of civil rights, racial sensitivity and cultural diversity.

Effective September 1, 2009.

HB 4009 requires that a law enforcement officer complete the basic education and training program on the trafficking of persons described by Section 1701.258(a) as a requirement for an intermediate or advanced proficiency certificate issued by Texas Commission on Law Enforcement Officer Standards and Education.

Officers issued certificates on or after January 1, 2011 must complete the training program on trafficking of persons.

PENAL CODE

TITLE 5. OFFENSES AGAINST THE PERSON

● CHAPTER 20A. TRAFFICKING OF PERSONS

Sec. 20A.02. TRAFFICKING OF PERSONS

HB 4009 changes the mental state requirement for offenders who illegally benefit from human trafficking from “intentionally or knowingly” to “knowingly.” Enhances the offenses of compelling prostitution and sexual performance by a child, rather than prostitution, from second degree felonies to first degree felonies when the victim is a child under 18 years of age, regardless of whether the offender knew that the victim was child at the time of the offense.

Effective September 1, 2009. Offenses occurring before this date are governed by previous law.

● CHAPTER 21. SEXUAL OFFENSES

Sec. 21.11. INDECENCY WITH A CHILD

Sec. 21.12. IMPROPER RELATIONSHIP BETWEEN EDUCATOR AND STUDENT

HB 549 Creates an affirmative defense to prosecution for an offense of indecency with a child, improper relationship between an educator or student, sexual assault of a child under 17, and improper sexual activity with a person in custody if the actor was the spouse of the victim at the time of the offense. Formerly, these offenses required the prosecution to prove that the victim was “not the person’s spouse.” Now the burden is on the defendant to prove that a spousal relationship existed.

Effective September 1, 2009. Offenses occurring before this date are governed by previous law.

PENAL CODE

● CHAPTER 22. ASSAULTIVE OFFENSES

Sec. 22.01. ASSAULT

HB 2066 enhances the penalty for the offense of assault from a Class A misdemeanor to a third degree felony when the offense constitutes strangulation or suffocation of a person who is in a dating relationship with the defendant or is a member of the defendant's family or household. If the same offense is committed by a defendant previously convicted of an assaultive offense, criminal homicide offense, kidnapping or indecency with a child, the penalty is increased to a second degree felony.

Effective September 1, 2009. Offenses occurring before this date are governed by previous law.

Sec. 22.011. SEXUAL ASSAULT

HB 549 Creates an affirmative defense to prosecution for an offense of indecency with a child, improper relationship between an educator or student, sexual assault of a child under 17, and improper sexual activity with a person in custody if the actor was the spouse of the victim at the time of the offense. Formerly, these offenses required the prosecution to prove that the victim was "not the person's spouse." Now the burden is on the defendant to prove that a spousal relationship existed.

Effective September 1, 2009. Offenses occurring before this date are governed by previous law.

Sec. 22.01 ASSAULT

HB 2240 adds Sec 25.11, Penal Code (the new continuous violence against the family offense) to the list of offenses for which a previous conviction enhances the penalty of assault from a Class A misdemeanor to a third degree felony.

Effective September 1, 2009. An offense committed before this date is governed by previous law.

Sec. 22.04 INJURY TO A CHILD, ELDERLY INDIVIDUAL OR DISABLED INDIVIDUAL

SB 643 enhances the penalty from a third degree felony to a second degree felony when an employee of a supported living center or intermediate care facility intentionally or knowingly causes bodily injury to a disabled person in his/her care.

Effective June 11, 2009. An offense committed before this date is governed by previous law.

PENAL CODE

Sec. 25.02 PROHIBITED SEXUAL CONDUCT.

HB 2385 reorganizes the punishment ranges associated with incestuous conduct. All conduct prohibited under this section is punishable as a third degree felony, except for that between a person and that person's ancestor (i.e., parent, grandparent) or descendant (i.e. child, grandchild), which is now a second degree felony.

Effective September 1, 2009. An offense committed before this date is governed by previous law.

Sec. 25.11. CONTINUOUS VIOLENCE AGAINST THE FAMILY

HB 2240 creates an offense of continuous violence against the family. A person commits an offense, if during a period of 12 months or less engages two or more times in conduct that constitutes an offense under Penal Code, Chapter 22.01(a)(1) (assault) against another person or persons whose relationship with the defendant is defined as a family or dating relationship. In order to convict, a jury need only unanimously agree that the defendant engaged in assaultive conduct on a family or household member or on a person with whom the defendant is in a dating relationship two or more times during a 12 month period. The jury does not need to agree on the specific conduct in which the defendant engaged nor do they need to agree on the exact dates the conduct occurred. The offense of continuous violence against the family is a third degree felony.

Effective September 1, 2009. An offense committed before this date is governed by previous law.

Sec. 31.03 THEFT

HB 671 enhances the penalty to the next highest level if the stolen property was owned by a nonprofit organization at the time of the theft.

Effective September 1, 2009. An offense committed before this date is governed by previous law.

PENAL CODE

TITLE 8. OFFENSES AGAINST PUBLIC ADMINISTRATION

● CHAPTER 39. ABUSE OF OFFICE

Sec. 39.04. VIOLATIONS OF THE CIVIL RIGHTS OF PERSON IN CUSTODY; IMPROPER SEXUAL ACTIVITY WITH PERSON IN CUSTODY

HB 549 Creates an affirmative defense to prosecution for an offense of indecency with a child, improper relationship between an educator or student, sexual assault of a child under 17, and improper sexual activity with a person in custody if the actor was the spouse of the victim at the time of the offense. Formerly, these offenses required the prosecution to prove that the victim was “not the person’s spouse.” Now the burden is on the defendant to prove that a spousal relationship existed.

Effective September 1, 2009. Offenses occurring before this date are governed by previous law.

TITLE 9. OFFENSES AGAINST PUBLIC ORDER AND DECENCY

● CHAPTER 43. PUBLIC INDECENCY

SUBCHAPTER A. PROSTITUTION

Sec. 43.02. PROSTITUTION

HB 4009 creates a defense to prosecution for the offense of prostitution if the person engaged in the prostitution was a victim of human trafficking.

Effective September 1, 2009, and applies only to an offense committed on or after this date.

Sec. 43.05. COMPELLING PROSTITUTION

HB 4009 increases the definition of “child” from under 17 to under 18 years of age for purposes of the offense of compelling prostitution. It also clarifies that a person can be prosecuted under this section regardless of whether they knew the victim was a child at the time of the offense.

Effective September 1, 2009, applies only to an offense committed on or after this date.

PROPERTY CODE

TITLE 8. LANDLORD AND TENANT

● CHAPTER 92. RESIDENTIAL TENANCIES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 92.016. RIGHT TO VACATE AND AVOID LIABILITY FOLLOWING FAMILY VIOLENCE

SB 83 adds temporary ex parte orders to the list of sufficient documentation to provide a landlord for the purposes of a tenant's right to terminate a lease, vacate a dwelling and avoid liability for future rent and any other sums due under the lease because of family violence. Requires the tenant provide 30 days written notice before terminating the lease. However, if the family violence is committed by a co-tenant or co-occupant of the dwelling, the tenant does not need to provide notice to the landlord, but an ex parte order is insufficient documentation (temporary injunction or protective order required).

Sec. 92.0161. RIGHT TO VACATE AND AVOID LIABILITY FOLLOWING CERTAIN SEX OFFENSES

SB 83 allows a tenant to terminate a lease, vacate the dwelling and avoid liability for future rent and any other sums if the tenant is the victim, or a parent or guardian of a victim, of sexual assault, aggravated sexual assault or continuous sexual abuse of a child, and the offense took place during the preceding six-month period on the premises or any dwelling of the premises. Tenants wishing to terminate their lease must provide documentation of the sexual assault or sexual abuse from a licensed health care services provider who examined the victim, a licensed mental health services provider who evaluated the victim, a rape crisis center advocate who provided services to the victim or a copy of a sexual assault protective order.

A tenant may exercise the right to terminate the lease after all of the following events have occurred: the tenant provides documentation to the landlord, the tenant provides 30 days written notice and the tenant vacates the dwelling. This legislation does not affect tenant's liability for delinquent or unpaid rent or fees accrued before the notice to terminate was provided. A landlord who violates such provisions is liable to a tenant for actual damages, a civil penalty equal to the amount of one month's rent plus 500 dollars and attorney's fees.

A tenant who terminates a lease under these provisions is released from all liability for any delinquent, unpaid rent owed to the landlord on the effective date of the lease termination if the lease does not contain language substantially similar to "tenants may have special statutory rights to terminate the lease early in certain situations involving sexual assault or sexual abuse."

A tenant may not waive the tenant's right to terminate a lease.

Effective January 1, 2010, and applies only to leases executed on or renewed after this date.

TRANSPORTATION CODE

TITLE 7. VEHICLES AND TRAFFIC

SUBTITLE A. CERTIFICATES OF TITLE AND REGISTRATION OF VEHICLES

● CHAPTER 504. SPECIALTY LICENSE PLATES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 504.660. SEXUAL ASSAULT AWARENESS LICENSE PLATES

SB 1616 requires the Texas Department of Transportation to offer sexual assault awareness specialty license plates that read “Speak Up. Speak Out.” The specialty license plates will cost 30 dollars, of which eight dollars will go to the Department for administrative fees, and the balance will be deposited into the sexual assault program fund.

Effective September 1, 2009.

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