

THE BRIEF



Information for Texas Municipalities about Texas Municipal Courts (September 2019)

86th Legislature Recap: Big Issues and the Road Ahead for Municipal Courts

The August issue of *The Brief* focused on bills that went into effect prior to September 1, 2019. The majority of changes affecting Texas cities and municipal courts went into effect September 1st. TMCEC summarized 125 bills for the 2019 Legislative Update. Course materials are archived at <http://tmcec.com/course-m/legislative-update/>. Here is a summary of eight key bills.

1. [SB 346](#): Consolidation of Court Costs and Related Court Procedures

Certain criminal court costs and procedures are recalibrated to address issues related to recent court decisions and to improve the collection and audit of costs by local and state government. The bill:

- Defines “cost” to include any fee imposed on a defendant by the justice of the peace or municipal judge at the time the judgment is entered;
- In limited circumstances, allows defendants to request a hearing to determine whether a judgment imposes undue hardship on the defendant and, if so, whether there are alternative options to satisfy the judgment;
- Allows municipal court judges the discretion to allow a defendant to appear by telephone or videoconference if requiring the defendant to make a person appearance would impose an undue hardship on the defendant;
- Requires the court to hold a hearing on whether the judgment is an undue hardship on the defendant before issuing a *capias pro fine*; and
- Provides criteria for determining “undue hardship” but ensures that a determination of undue hardship is ultimately at the court’s discretion.

2. [SB 891](#): Repeal of the Collection Improvement Program

The Office of Court Administration's (OCA) Collection improvement Program (CIP) will be repealed September 1, 2019. The CIP required cities with a population of 100,000 or more and counties with a population of 50,000 or more to implement a program designed to improve collections of court costs, fees, and fines assessed against persons not prepared to pay all court costs, fees, and fines at the time of assessment. Key elements of CIP included requiring an application for an extension of the payment due date, verifying extension application information, monitoring defendant compliance with a payment plan, and offering alternative enforcement options (e.g., community service).

3. [HB 2048](#): Repeal of the Driver Responsibility Program

The Driver Responsibility Program (DRP) required DPS to assess surcharges on drivers for certain traffic offenses in addition to any other penalties and court fees. A driver’s failure to pay the surcharge would often result in suspension of their driver’s license. The DRP will be repealed on September 1, 2019. The repeal is retroactive and applicable to any surcharge pending at

the date of appeal. DPS must also reinstate any driver's license that is suspended under the program if the only reason for the suspension is a failure to pay such a surcharge.

4. [HB 162](#): Maximum DPS License Suspension of 90 Days

DPS mandatory administrative driver's license suspensions for a person convicted of driving without a valid license is reduced and capped at a maximum of 90 days. This 90-day maximum suspension also extends to suspensions given from an inferred violation of driving without a valid license. For example, an inferred violation could occur when a person receives a traffic citation for failure to signal, and during the time of the offense the person did not have a valid license.

5. [HB 1528](#): Open Pleas: Class C Misdemeanor Family Violence

A defendant's plea for Class C misdemeanor assault must be taken in open court if their offense involved family violence. H.B. 1528 also requires courts to indicate whether the offense involved family violence when entering information into the computerized criminal history system. Upon the case's disposition, the court clerk must submit the defendant's fingerprints to DPS.

6. [SB 325](#): Protective Order Registry (Not to be confused with the one vetoed in SB 1804)

The Office of Court Administration must establish a statewide online database for protective orders. The public will have free access to certain information within the database, such as the court of issuance, case number, status of the order, and identification of the person subject to the order. Authorized individuals and court personnel will have full access to information within the database, including all applications for protective orders. Court clerks will be required to enter the applicable information in the registry within 24 hours.

7. [SB 21](#): Raising the Age for Tobacco Purchase to 21

An individual must be 21 years old to possess, consume, or purchase cigarettes, e-cigarettes, or tobacco products. Anyone under the age of 30 must present a valid ID at the time of purchase. Military personnel and persons born on or before August 31, 2001 are exempt from these new age requirements.

8. [HB 435](#): Uncollectible Judgments

The clerk of a court may request the court to find that the cost or fee is uncollectible if the cost or fee was imposed on a party in a civil case and has been unpaid for at least 15 years. If found uncollectible, the cost or fee may be designated as uncollectible in the fee record.

The Brief is a periodic briefing for Texas mayors, city council members, and other local officials highlighting issues and increasing awareness and understanding of municipal courts in the Lone Star State. For more information visit: www.tmcec.com.