

THE BRIEF



Information for Texas Municipalities about Texas Municipal Courts (February 2022)

87th Legislative Session Recap: Changes for Municipal Courts that City Hall Needs to Know

After multiple special sessions, the 87th Legislative Session seemed like a carnival ride that would not stop. While most statutory changes from the 87th Legislature affecting Texas cities and municipal courts went into effect September 1, 2021, some went into effect earlier and others just went effect in the last month. TMCEC summarized 159 bills for the 2021 Legislative Update. (The summaries were published in a [legislative issue](#) of TMCEC's journal, *The Recorder*, in August 2021.)

Now that the smoke has finally cleared, and the 87th Legislature is now safely in our rearview mirror, it is a good time to take a final inventory of the most notable legislation from the session. Here is a summary of 10 key bills pertaining to municipal courts that city officials need to know. (The effective date is September 1, 2021 unless otherwise noted.)

1. [H.B. 3774](#): Court Omnibus Bill

This bill contains 19 articles and is over 125 pages long. Several articles apply to municipal courts. The following changes are most noteworthy.

- Municipalities may enter into an agreement with a contiguous municipality or one with boundaries within half a mile to establish concurrent jurisdiction for *all* criminal cases arising under state law that are punishable by fine only. Prior law only allowed this for cases involving ordinances, cruelly treated animals, or truant conduct.
- A municipal judge is prohibited from accepting a plea of guilty or nolo contendere in open court unless the defendant appears mentally competent and the plea is free and voluntary.
- Municipal courts are authorized to make a finding that a fine is uncollectible if the defendant is deceased, serving a life sentence, or has left the fine unpaid for at least 15 years. Prior law only allowed this for fees and items of cost.

2. [H.B. 569](#): Jail Credit

Though defendants are never sentenced to jail for a fine-only offense, they may be eligible for credit for serving time in jail to satisfy a judgment in a fine-only case (for example, time served in jail pursuant to a warrant or capias pro fine for a fine-only offense or time served for higher charges). Prior to this bill, many municipal judges allowed credit for time served on unrelated charges. Now, in many instances, judges must grant this credit at a rate of not less than \$150 per day. The amount in existing jail credit provisions also increased to at least \$150 per day. Courts must also now provide notice regarding jail credit prior to issuing an arrest warrant for failure to appear at the initial court setting.

3. [H.B. 3340](#): Dangerous Dog Appeals

Any order to destroy a dangerous dog is stayed for 10 calendar days so that the dog's owner may file a notice of appeal. This prohibits a court from ordering destruction during the time the owner may appeal the order.

4. [S.B. 5](#): Dog Tethering (Effective January 18, 2022)

This legislative session, the Governor called three special sessions. This bill passed in the third special session creating new Class C misdemeanors related to restraining a dog (punishable as a Class B misdemeanor if the owner has previously been convicted). Local regulation is not preempted as long as it is compatible or more stringent or relates to an unaddressed issue.

5. [H.B. 1693](#): Court Access to TexasSure (Effective June 4, 2021)

Municipal courts have access to the state insurance verification program, known as TexasSure, for the purpose of court proceedings. This potentially will streamline Failure to Maintain Financial Responsibility cases by providing an easier avenue to accurately ascertain a defendant's motor vehicle insurance status. Any costs associated with access must be paid out of the municipal treasury.

6. [H.B. 2669](#): Confidentiality of a Child’s Criminal Records

All records and files relating to a child who is charged with, is convicted of, is found not guilty of, had a charge dismissed for, or is granted deferred disposition for a fine-only misdemeanor offense, other than a traffic offense, are confidential and may not be disclosed to the public. Prior to this change, two statutes existed addressing such confidentiality—one giving broader confidentiality than the other. This bill codifies the broader confidentiality.

7. [H.B. 1925](#): Camping Ban

This bill creates a Class C misdemeanor for camping in a public place without appropriate consent. Local regulation prohibiting camping is not preempted if it is compatible with or more stringent than the state offense or relates to an unaddressed issue. The bill also addresses the approval process for political subdivisions to designate property for use by homeless individuals for camping. Public parks are prohibited from such designation. The bill forbids a local entity from adopting a policy that prohibits or discourages peace officers or prosecutors from enforcing any public camping ban.

8. [H.B. 4293](#): Court Reminder Program

No later than September 1, 2022, the Office of Court Administration (OCA) must develop and make available a court reminder program that allows courts to send text messages to notify defendants of scheduled court appearances. The program must be made available to counties at no cost, but municipalities that want to participate must pay all associated costs.

9. [S.B. 1168](#): Fines in a City’s Extraterritorial Jurisdiction (Effective June 7, 2021)

With some exceptions, municipalities are prohibited from imposing fines and fees by ordinance in their extraterritorial jurisdiction where voters have rejected annexation, or the area has been disannexed.

10. [S.B. 6](#): Bail Reform (Generally Effective January 1, 2022 with Some Sections Effective December 2, 2021)

S.B. 6 (The Damon Allen Act) addresses release practices surrounding habitual and violent offenders to better protect the safety of victims, law enforcement, and communities. Municipal judges in their capacity as magistrates for the county have new duties and procedures related to bail. Below are highlighted changes.

- OCA must develop a public safety report system by April 1, 2022 to provide information to magistrates and collect data. Magistrates considering release on bail of a defendant charged with a Class B misdemeanor or higher must order preparation of a public safety report. The report must be considered before setting bail. For Class C misdemeanor charges, magistrates are permitted but not required to order or consider a public safety report prior to setting bail.
- Defendants charged with a felony or misdemeanor punishable by confinement may only be released by a magistrate who is a Texas resident (or serving as a justice of the peace, judge, or justice under certain statutory provisions) and is in compliance with new training requirements. OCA must develop or approve training courses regarding a magistrate’s duties, which must include an eight-hour training course and a two-hour continuing education course. Magistrates are in compliance with training requirements if they successfully complete the eight-hour course not later than the 90th day after the magistrate takes office and the two-hour course in each subsequent state fiscal biennium in which the magistrate serves. The magistrate must also demonstrate competency. Note that magistrates serving on April 1, 2022 have until December 1, 2022 to complete the eight-hour course.
- After individualized consideration of all the circumstances and required factors provided by statute (which now include criminal history record information and citizenship status), magistrates must make a bail decision without unnecessary delay but not later than 48 hours after arrest. Magistrates are required to impose the least restrictive conditions, if any, and the personal bond or cash or surety bond necessary to reasonably ensure the defendant’s appearance in court and the safety of the community.
- The bill also restricts personal bonds for defendants charged with an offense involving violence or charged with a felony or certain misdemeanors while released on bail or community supervision for an offense involving violence.
- S.B. 6 creates new notice and reporting requirements for magistrates and clerks.

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. *The Brief* is part of TMCEC’s public information and education campaign, *Councils, Courts, and Cities* (C3). For more information about TMCEC, visit: www.tmcec.com. Follow C3 on Twitter: @C3ofTexas.

SAVE THE DATE:

The focus of this year’s C3 Seminar is Ordinances and Municipal Courts
July 7-8, 2022 at the Sheraton Austin Georgetown Hotel & Conference Center

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