



TCJL Tracking

Friday, March 19, 2021

Pandemic liability

[SB 6](#) by Sen. Kelly Hancock (R-North Richland Hills) and [HB 3659](#) by Rep. Jeff Leach (R-Plano) was filed on Wednesday. The bill:

- Amends §51.014, CPRC, to authorize an interlocutory appeal if a trial court overrules an objection to or fails to grant relief to a defendant on account of the plaintiff's failure to file an expert report pursuant to Chapter 148, CPRC, as added by this Act.
- Adds §74.155, CPRC, to:
- define "disaster declaration," "first responder," "pandemic emergency";
- exempts a physician, health care provider, or first responder from liability for an injury or death arising from care, treatment, or failure to provide care or treatment related to or impacted by a pandemic disease, except in a case of reckless conduct, intentional, wilful, or wanton misconduct;
- enumerates nine specific examples of care, treatment, or failure to provide care or treatment;
- does not affect the scope of practice of a physician, health care provider, or first responder
- the limitation of liability provided by this section is in addition to any other immunity or limitations provided by law;
- applies only to a claim arising from care, treatment, or failure to provide care or treatment that occurred during the period beginning on the date the president or governor declared a pandemic-related disaster and ending 60 days after the termination of the declaration
- Amends §79.0031, CPRC, which limits liability of volunteer health care providers, to:
 - add a definition of "health care liability claim"
 - broaden the definition of [volunteer] health care provider to include the §74.001 definitions of "first responder," "health care provider," and "physician";
 - expand the limitation of liability to cover care, assistance, or advice provided in relation to a national or statewide health care emergency that results in a disaster declaration during the period beginning on the date the president or governor declared a pandemic-related disaster and ending 60 days after the termination of the declaration (and within the scope of the provider's practice);
 - grant the same immunity to a health care institution
- Adds Chapter 148, CPRC, to:
 - define "pandemic disease" and "pandemic emergency";

---limit liability of a person who designs, manufacturers, labels, sells, or donates enumerated products for personal injury, death, or property damages;
---impose liability only if the person had actual knowledge of a product defect when the product left the person's control or acted with actual malice *and* the product presents an unreasonable risk of substantial harm;
---provide immunity for a failure to warn or provide adequate instructions unless the person acted with actual malice *and* the failure to warn or provide adequate instructions presents an unreasonable risk of substantial harm;

- provide immunity for injury or death caused by exposing an individual to a pandemic disease during a pandemic emergency unless the claimant proves that the person:
 - knowingly failed to warn the claimant of or failed to remediate a condition that the person knew or should have known was likely to result in the exposure, provided that the person: (1) had actual control over the condition, (2) knew that the claimant was more likely than not to come into contact with the condition, and (3) had a reasonable opportunity and ability to remediate the condition or warn the claimant of the condition; or
 - knowingly failed to implement or comply with applicable government-promulgated standards, guidance, or protocols, provided the person: (1) had a reasonable opportunity or ability to comply with the standards, and (2) refused to implement or comply with or acted with reckless disregard of the standards
- require the claimant to produce reliable scientific evidence showing that the failure to warn of or remediate the condition, or implement or comply with government-promulgated standards was a cause-in-fact of the claimant contracting the disease, and as a result of contracting the disease the claimant suffered death or an injury;
- require the claimant to serve a complying expert report not later than the 120th day after the defendant files an original answer;
- provide immunity for an educational institution (defined as an institution or program that facilitates learning or the acquisition of knowledge, skills, values, beliefs, or habits) for damages arising from a cancellation or a modification of a course, program, or activity that arose during and was caused in whole or in part by the pandemic emergency;
- applies only to an action commenced on or after March 13, 2020.

SB 6 is set for hearing in Senate Business & Commerce on 3/23.

Trucking Litigation

[HB 19](#) by Chairman Leach was heard on 3/9 and left pending. We understand that Chairman Leach will lay out a committee substitute during the committee's next meeting on March 24, which will, among other changes, remove the periodic payment of future damages provision. The Senate companion, [SB 17](#) by Sen. Larry Taylor (R-Friendswood), has been referred to Senate Transportation. The bill does the following:

- Gives the defendant in an action involving a commercial vehicle the right to a bifurcated trial; defendant must move for bifurcation prior to voir dire or at a time specified by a pretrial court order under Rule 166;
- In the first phase of the trial, the trier of fact shall determine liability and compensatory damages; in the second phase, exemplary damages if the trier of fact found the defendant liable for compensatory damages on a claim that supports exemplary damages;
- Provides that if the trier of fact finds in the first phase that the defendant is liable for compensatory damages under respondeat superior for the employee's negligence, that

finding can support exemplary damages in a direct action against the defendant for the employee's negligence;

- Provides that a defendant's failure to comply with a standard or regulation is inadmissible and will not support a judgment for liability and damages unless: (1) the standard or regulation governs a specific aspect of the defendant's or defendant's employee's conduct or omission that is the subject of the action, or a specific aspect of the use or condition of the defendant's property or equipment that is the subject of the action; and (2) a reasonable jury could find that failure to comply was proximate cause of the claimant's injury;
- If the defendant's failure to comply is admissible, than other instances of non-compliance within a two-year period preceding the date of the accident are also admissible;
- Requires the claimant to obtain a trial court order for discovery of a defendant's failure to comply with a standard of regulation (absent agreement of the parties), which order must be limited to a reasonable period of time not to exceed two years preceding the date of the accident and require the least burdensome method available to obtain the evidence;
- Makes a discovery order reviewable in an original proceeding for an abuse of discretion in which the inadequacy of a remedy at law shall be presumed;
- Limits the reviewing court to the evidence submitted by the parties to the trial court;
- Provides that a defendant's liability for damages for an employee's negligence shall be based on respondeat superior and not on a direct action against the defendant if the defendant stipulates that the employee was employed at the time of the accident and that the employee was acting in the scope of employment;
- Provides that exemplary damages may only be awarded against the defendant for an employee's conduct if: (1) the employee's negligence is found to have contributed to the injury; (2) more than nominal damages are awarded to the claimant for the employee's conduct; and (3) the defendant is found to have been grossly negligent for its conduct or omissions;
- Limits pretrial discovery of the defendant's gross negligence to two years preceding the date of the accident;
- Requires the trial court to rule on a motion for summary judgment addressed to the defendant's gross negligence or a motion to dismiss the direct action against the defendant based on respondeat superior prior to calling for trial;
- Requires periodic payment of future damages of an award of at least \$100,000, if a party requests it;
- Requires the court to make specific findings of the dollar amount and recipient of each periodic payment and the date on which each payment will be made;
- Requires the judgment to provide that periodic payments will be funded by an annuity contract, an obligation of the United States, a commercial liability policy, or any other satisfactory form of payment proposed by the defendant;
- Provides that except for damages awarded for future loss of earnings, periodic payments terminate upon the death of the recipient;
- Bars the court from excluding a photograph or video taken at or near the time of the accident that is an accurate depiction of the vehicle or object being depicted, and standing alone or viewed with another photograph may provide evidence of the cause of the accident, the events occurring before, during, or after the accident that are related to the accident, and the extent of damage caused to the vehicle or object involved in the accident;

- Provides that the fact that a photograph or video tending to support or refute an allegation regarding the severity of the injury to a person or object is not a basis for excluding admission of the photograph or video.

Heard in House Judiciary on 3/9 and left pending.

Eminent Domain

The main focus continues to be on resolving the differences between the CCI bill ([HB 2730](#) by Deshotel) ([HB 902](#) by Burns) and the landowner proposal ([HB 901](#) by Burns). We understand that these bills will be heard on March 30 in House Land and Resource Management, along with all other eminent domain bills that have been filed in the House. We are tracking eminent domain legislation in both chambers, including the following:

SB 721 by Schwertner/HB 2041 by Leman

Adds §21.0111(a-1), Property Code, to require an entity seeking to acquire property by eminent domain to provide to the property owner, at least three business days before the special commissioners' hearing, all current and existing appraisal reports relating specifically to the owner's property and used in determining the entity's opinion of value, if the report is intended to be used at the hearing.

SB 722 by Schwertner

Amends §21.0111(a), Property Code, to make the entity liable for the property owner's attorney's fees if the entity fails to disclose all appraisal reports produced or acquired by the entity relating specifically to the owner's property in the 10 years preceding the date of the offer.

SB 723 by Schwertner/HB 2042 by Leman:

Amends §402.031, Government Code, to require the notice to a property owner of the owner's rights concerning the examination or survey by an entity with the power of eminent domain to include a statement that: (1) the entity is responsible for damages to the property arising from the survey; (2) the property owner has the right to refuse permission to enter the property to conduct a survey; (3) the property owner has the right to negotiate terms under which the survey may be conducted; and (4) the entity has the right to sue a property owner to obtain a court order authorizing the survey if the property owner refuses. The bill also requires that if the entity provides a form requesting permission to survey the property, the form must conspicuously make the same statements. The bill further amends §§21.0112(a) and 21.0113(b), Property Code, to require the entity to provide the LOBOR at the initial offer and to link provision of the LOBOR to the bona fide offer requirement. It likewise adds §21.0114, Property Code, to require the entity to separately identify in the initial offer real property that the entity does not seek to acquire by eminent domain and make a separate offer for that property. Finally, the bill requires the attorney general to update the landowner's bill of rights to reflect these changes and post to the website not later than January 1, 2022.

SB 724 by Schwertner:

Adds §21.047(a-1), Property Code, to mandate the award of costs to the property owner if either the commissioners' award or a court judgment exceeds the amount of the entity's final offer by at least 20 percent. Makes the award of attorney's fees and professional fees discretionary.

SB 725 by Schwertner/HB 2043 by Leman:

Amends §23.46, Tax Code, to provide that the penalty for a change of use of agricultural land as a result of condemnation is the personal obligation of the condemnor. Provides further that a portion of a parcel of land is not diverted to nonagricultural use because it is subject to a right-of-way less than 200 feet wide acquired by eminent domain, as long as the remaining land qualifies for agricultural use.

[SB 726](#) by Schwertner/[HB 2044](#) by Leman:

Amends §21.101, Property Code, to change the definition of “actual progress” by requiring three of the specified actions to be completed rather than two and by eliminating two actions from the list: the acquisition of a tract or parcel adjacent to the property for the same public use project for which the owner’s land was acquired from the list of actions and the adoption by a governing body of a development plan that indicates the entity will not complete more than one action before the 10th anniversary of the acquisition of the owner’s property. The bill also carves out navigation districts and port authorities, which are only required to complete one action, provided that the governing body adopts a development plan indicating that it will not complete more than one action within 10 years.

[HB 448](#) by Bailes

Amends §402.031(b), Government Code (landowner bill of rights), to add a provision stating that the property owner has the right to file a written complaint against an entity exercising eminent domain authority that is regulated by the Railroad Commission. Authorizes the RRC to impose administrative penalties on an entity that uses the LOBOR to harass, intimidate, or mislead a property owner.

[SB 423](#) by Hinojosa

Permits notice of a special commissioners’ hearing in an eminent domain proceeding to be served by any manner provided by the Texas Rules of Civil Procedure.

[HB 3312](#) by Harris

Adds §112.063, Transportation Code, to limit the use of property acquired by a private entity for a high speed rail project upon a representation that the entity has eminent domain authority for a high speed rail project.

[HB 3327](#) by Zwiener

Requires a common carrier pipeline that intends to acquire property by eminent domain to notify the county judge of each county in which the pipeline will be located (as well as the county judge of a county whose boundaries are within five miles of the proposed route), and the board of directors of each groundwater district located in the county or in a county whose boundaries are within five miles of the route. Requires the notice to state the entity’s intent to acquire property by eminent domain, specify that the public use is the construction and operation of an oil and gas pipeline, identify real property that the entity seeks to acquire and the property owners, and identify and provide contact information for all the persons to whom the notice is sent. Prohibits the entity from contacting property owners before the 7th day after notice is sent. Permits, not later than 60 days after the last recipient receives the notice, the county judges and affected water districts to confer and schedule a public meeting. Requires notice of the meeting not later than 30 days before the meeting. Requires a representative of the entity to attend and participate in the meeting. Bars an entity that does not attend the public meeting from making a bona fide offer.

[HB 3385](#) by Rogers

Amends §402.031, Property Code, to add a provision to the LOBOR notifying a property owner of the right to submit to the appraisal district office a report of decreased value for the owner's remaining property after the taking.

[HB 3633](#) by Leman

Establishes the High-Speed Rail Legislative Review Committee to conduct an assessment and make a recommendation to the Legislature regarding whether to approve or disapprove the recreation of the Texas High-Speed Rail Authority to approve a franchise for a high-speed rail project.

[HB 4107](#) by Burrows

Amends §111.019, Natural Resources Code, to make a good faith effort to negotiate the route of a common carrier pipeline with an affected landowner as part of the acquisition of property by eminent domain. Requires a common carrier pipeline, before entering property to perform a preliminary survey, to obtain the written authorization of the landowner (which may not be unreasonably withheld). Requires the entity to provide the property owner, at no charge, with all non-privileged information resulting from the survey.

[HJR 92](#) by Schofield

Amends Art. III, §52j, Texas Constitution, to require a governmental entity to offer for repurchase to a property owner or the owner's heirs, successors, or assigns if no actual progress is made toward the public use, the purpose for which the property was acquired is canceled, or the property is unnecessary for public use.

[HJR 93](#) by Schofield

Amends Art. I, §17(b), Texas Constitution, to exclude from the term "public use" the transfer of property acquired by eminent domain to a private entity (deletes currently language "for the primary purpose of economic development or enhancement of tax revenues").

[SB 838](#) by Blanco/[HB 3229](#) by Moody

Amends Chapter 253, Local Government Code, to require a municipality to offer the previous owner of property acquired by eminent domain for repurchase by the owner at the current market value if the municipality seeks to transfer the property to another owner under a Chapter 380 economic development agreement.

[SB 986](#) by Kolkhorst:

Makes a number of changes to the eminent domain process, as follows:

- Requires the attorney general to solicit public comment before making a change to the LOBOR;
- Establishes an ombudsman's office in the Texas Real Estate Commission to providing information to landowners;
- Require right-of-way agents to complete education requirements to obtain or renew a certificate of registration;
- Prohibits a right-of-way agent from accepting a financial incentive to make an initial offer the agent knows is less than adequate compensation;
- Requires a pipeline or electric transmission entity to include in a bona fide offer an offer of compensation at least equal to or greater than the market value of the property as

determined by: (1) an appraisal performed by an independent appraiser; (2) the sales price based on three comparable arms-length sales; (3) a comparative market analysis prepared by an independent real estate broker; (4) a broker price opinion prepared by an independent real estate broker; or (5) a market study prepared by an independent real estate broker;

- Requires the bona fide offer to include a written report of the basis of compensation, the notice of terms that the property owner may negotiate in the easement, notice that the property owner may receive a final offer based on a written appraisal; a copy of the notice of the property owner meeting; and the written appraisal report with the final offer unless previously provided;
- Requires the offer to separately state the market value of the property and damages to the remainder;
- Specifies required terms for the instrument of conveyance provided to the property owner by a pipeline or electric transmission entity;
- Requires a court to direct the entity to pay the property owner's costs and attorney's and professional fees if it determines the entity did not comply with the easement provision;
- Requires a court to appoint two disinterested real property owners in the county as alternate special commissioners
- Requires notices to be served in accordance with the Texas Rules of Civil Procedure for service of citation;
- Requires a pipeline or electric transmission entity to notify a property owner of the owner's right to attend an information meeting and the date, time, and location of the meeting;
- Requires notice of the meeting to be sent to the county judge;
- Requires the entity to hold one meeting for each contiguous 100-mile segment of the project route;
- Requires a central location for the meeting not more than a 50-mile distance from the majority of property owners;
- Prohibits a meeting prior to the time the entity has sent at least 25% of initial offers;
- Allows the owner to attend with a lawyer or appraiser, an employee or lessee of the owner with knowledge of the property, and employee of the owner who provides management services, and the county judge (limit of five people per tract);
- Specifies the information the entity must present at the meeting;
- Prohibits the entity from contacting a property owner within 3 days following the meeting;
- Requires the entity to hold another meeting following a re-route;
- Mandates the award of costs and fees to a property owner if the entity does not comply with the meeting provision and abates the proceeding.

[SB 1848](#) by Eckhardt/[HB 1506](#) by Zwiener: Amends 21.021, Property Code, to block a condemnor from taking possession of the property prior to 180 days after the date of the special commissioners' award, except the state, county, municipality, irrigation district, water improvement district, or water power control district may take possession immediately upon deposit with the court of damages and costs. Does not prevent the parties from agreeing to an earlier possession date.

Business Courts

A proposal to establish a statewide business court has been introduced for the fourth consecutive session. [HB 1875](#) by Rep. Brooks Landgraf (R-Odessa) establishes a business court with concurrent jurisdiction with a district court in: (1) a derivative action on behalf of a business organization; or (2) an action in which the amount in controversy exceeds \$10 million (exclusive of attorney's fees, costs, interest, penalties, statutory damages, or exemplary damages) that arises against, between, or among business organizations, governing authorities, governing persons, members, or owners relating to a contract transaction for business, commercial, investment, agriculture, or similar purposes. The bill:

- Gives the business court statewide jurisdiction of these actions and all matters related to or arising out of them;
- Exempts actions brought against a governmental entity, personal injury or death claims, claims under the DTPA, the Estates Code, the Family Code, or Title 9, Property Code, unless the parties agree to submit to the jurisdiction of the business court;
- Provides that claims within the jurisdiction of the business court may be directly filed there;
- Establishes a procedure for removing claims not within the jurisdiction of the business court to a county in which the claim could have originally been filed;
- Provides a process for removing an action from a district or county court to the business court on motion of a party;
- Provides an interlocutory appeal of a business court order to grant or refuse to remand an action to the court of business appeals;
- Requires a business court judge to be at least 35 years of age, a U.S. citizen, a Texas resident for two years preceding appointment, a Texas licensed attorney with at least 10 years of experience in Texas in practicing complex business litigation or business transaction law, teaching complex business litigation or business transaction law at an accredited Texas law school, or serving as a judge of a Texas civil court (or any combination of the above);
- Provides for gubernatorial appointment of seven judges with the advice and consent of the Senate, no more than three of whom may reside in the same county and no more than a majority of which may be affiliated with the same political party;
- Provides for two-year terms with the possibility of reappointment;
- Provides for filling vacancies, compensation, and removal;
- Bars a business court judge from private practice while in office;
- Provides for the appointment of visiting judges by the chief justice of the supreme court;
- Provides for a jury trial in the county in which venue is proper or, if the case was removed to the business court, in the county in which the case was originally filed, as chosen by the plaintiff;
- Provides for assigning cases to a business court judge on a rotating basis;
- Provides for the central administration of the business court in Travis County, with judges maintaining chambers in the county seat of their county of residence
- Provides for remote proceedings;
- Authorizes the business court to set filing fees;
- Establishes the Court of Business Appeals with mandatory jurisdiction over appeals from the business court;
- Provides for gubernatorial appointment of seven justices with the same qualifications as a business court judge for two-year terms, subject to reappointment; governor selects the chief justice; and

- Provides for hearings in randomly selected three-judge panels, with the possibility for en banc review. Referred to House Judiciary on 3/15.

Judicial selection:

The final report of the Commission on Judicial Selection was released on December 30. The Commission split on whether to recommend a nonpartisan appoint/ratification election plan. There was strong support, however, for raising minimum requirements to hold judicial office. This recommendation is reflected in [SJR 47](#).

Judicial redistricting: Court of appeals reorganization is one of Lt. Governor Abbott's top 31 legislative priorities, and the Governor has renewed an effort to get it done this session. As noted in our previous report, Rep. Phil King (R-Weatherford) and Sen. Joan Huffman (R-Houston) have filed a placeholder bill for this purpose. Rep. Andy Murr (R-Junction) has also filed a placeholder bill. [SB 11](#) has been referred to Senate Jurisprudence but has not yet been set for hearing.

Judicial Reform

[SJR 47](#) by Huffman: Senator Joan Huffman (R-Houston) has filed a proposed constitutional amendment enhancing the practice and residency requirements of candidates for the Texas Supreme Court and trial courts. SJR 47 would raise the eligibility standard for Chief Justice and Justice of the Supreme Court to a Texas resident licensed to practice law in Texas with at least ten years of practice experience in the state or a combined total of at least ten years of Texas law practice or judicial service on a state court or statutory county court. Any lawyer whose license has been suspended, revoked, or subject to a probated suspension during that ten-year period would be disqualified. To be eligible for a district bench, a candidate must have eight years of practice in Texas, rather than the current four. As in the case of the Supreme Court, any revocation, suspension, or probated suspension of the candidate's Texas law license would disqualify the candidate. SJR 47 would implement one of the recommendations of the Texas Commission on Judicial Selection. Senator Huffman, a former criminal district court judge, serves as chair of the Senate Jurisprudence Committee and Senate Redistricting Committee. Referred to Senate Jurisprudence on 3/18.

Tort Liability

[HB 3](#) by Burrows: This bill deals primarily with the governor's authority during a pandemic, but does contain a liability limitation for businesses or entities for exposing or potentially exposing an individual to the disease if the business or entity made a reasonable effort to comply with applicable federal, state, and local laws, rules, regulations, proclamations, or declarations, and the business or entity's act or omission giving rise to the exposure was not wilful, reckless, or grossly negligent. Extends the same protection to the provider of a good or service at the governor's request. Protects an officer or employee of a state or local agency, or a volunteer acting at the direction of such, by deeming them members of the Texas military forces ordered into active service if the person is performing an activity related to sheltering or housing individuals in connection with the evacuation of an area stricken or threatened by a pandemic disease. Heard in House State Affairs on 3/11 and left pending.

HB 44/HB 92 by Swanson: Imposes civil liability for damages, in addition to civil and criminal penalties, for a violation of restrictions on abortion. Authorizes a next friend to bring an action for damages. HB 44 referred to House Criminal Jurisprudence on 2/25. HB 92 referred to House Judiciary on 2/25.

HB 167 by Ortega/**SB 1066** by Blanco: Adds §125.0451, CPRC, to authorize a trial court to issue a temporary restraining order without a formal hearing in a suit for common or public nuisance if the person seeking the TRO shows in an ex parte hearing that the place is maintained in a manner that is or is about to become a common nuisance. Heard in House Judiciary on 3/17 and left pending. SB 1066 referred to Senate Jurisprudence on 3/18.

HB 188 by Bernal/**SB 233** by Whitmire/**SB 1309** by Creighton: Adds Chapter 100B, CPRC, to create a civil action against a person who commits a discriminatory practice based on the claimant's gender identity or expression. An aggrieved person may bring an action in district court not later than two years after the date of the occurrence of the termination of an alleged discriminatory practice. "Discriminatory practice" occurs if a person denies, on the basis of another person's gender identity or expression, full and equal accommodation in any place of public accommodation (unless the same treatment applies to everyone) or otherwise discriminates against the person based on gender identity or expression. Does not apply to a religious organization. If the court finds that the defendant has committed a discriminatory practice, it may award actual and punitive damages, reasonable attorney's fees, court costs, and injunctive relief. The bill further requires state agencies to prohibit state contractors from discriminating against a person based on the person's gender identity or expression. Establishes a complaint mechanism and administrative penalties for violations. The bill further makes a discriminatory practice based on gender identity or expression an unlawful employment practice under Chapter 21, Labor Code. Finally, the bill makes a number of conforming changes to add discrimination based on gender identity or expression to other anti-discrimination statutes, primarily in the Property Code. HB 188 referred to House State Affairs on 2/25. SB 1309 referred to Senate State Affairs on 3/18.

HB 365 by Murr: Limits civil liability for negligence of a farm animal activity sponsor, farm animal professional, farm owner or lessee livestock producer, livestock show participant, livestock show sponsor, or other persons arising from property damage, death, or injury resulting from dangers or conditions that are an inherent risk of farm animals or farm animal activities. Heard in House Judiciary on 3/9.

HB 459 by Shaheen: Bars filing a civil action against a person based on reporting of suspicious activity if the person acted as a reasonable person would in the same or similar circumstances or in reasonable belief that the activity constituted or was in furtherance of a crime. Referred to House Judiciary on 2/25.

HB 762 by Israel: Amends Chapter 92A, CPRC, to apply the same liability standard for removal of a domestic animal from a locked motor vehicle as currently applies to the removal of a vulnerable individual. Referred to House Judiciary on 3/1.

HB 903 by Oliverson: Adds Chapter 150D, CPRC, governing the settlement of claims involving minors. The bill:

- Authorizes a legal custodian of a minor to enter into a settlement agreement with a person against whom the minor has a claim if a guardian/guardian ad litem has not been appointed, the total amount of the claim (excluding medical expenses, liens, and attorney's fees/costs) is \$25,000 or less if paid in cash or by the payment of a premium to purchase an annuity, and the legal custodian makes an affidavit stating that the custodian has made a reasonable inquiry and verifies that the minor will be fully compensated by the settlement or there is no practical way to obtain additional amounts from the settling party.
- If the minor or settling party is represented by counsel, requires the cash payment to be paid into the attorney's trust account and then into a federally insured interest-bearing account in the sole name of the minor opened by the legal custodian.
- If no attorney is involved, the cash must be paid directly into a federally insured interest-bearing account in the sole name of the minor opened by the legal custodian (also has a procedure for payment if the minor is under the conservatorship of the Department of Family and Protective Services).
- If the payment is for purchase of an annuity, it must be paid by direct payment to the annuity provider with the minor as sole beneficiary.
- Withdrawal from the account can only be made pursuant to court order, when the minor turns 18, or upon the minor's death.
- Makes the signature of the legal custodian on the settlement binding without further court approval or review.
- Provides liability immunity for the legal custodian and settling party if the claim was settled in good faith.

Set for hearing in House Judiciary on 3/9.

HB 1078 by Landgraf: Amends Chapter 87, CPRC, regarding liability arising from farm animal activities.

- Adds to the definitions "engages in farm animal activities" and "farm animal activities" breeding, feeding, or working farm animals as a vocation;
- Adds to the definition of "participant (in farm animal activities)" a person who engages in the activity within the scope of the person's employment as a farm or ranch employee or as an independent contractor engaged by a farm or ranch owner or operator;
- Includes in the limitation of liability a farm or ranch owner or operator.

Heard in House Judiciary on 3/17.

HB 1089 by Reynolds: Amends the Tort Claims Act (Chapter 101, CPRC) to hold a local governmental entity liable for personal injury, death, or property damage proximately caused by the wrongful act or omission or negligence of an employee acting within the course and scope of employment if: (1) the employee is a county jailer, peace officer, public security officer, reserve law enforcement officer, telecommunicator, or school marshal; and (2) the employee would be personally liable to the claimant under Texas law. Raises the damages cap for all local governmental units (cities already have the higher caps) from \$100,000 to \$250,000 for money damages for each person, and from \$300,000 to \$500,000 for each single occurrence for bodily injury or death. Authorizes exemplary damages against a local governmental entity found liable under these provisions. Excludes from the definition of governmental functions exempt from liability: (1) a negligent act or omission committed during an emergency response or reacting to an emergency situation; and (2) a negligent failure to provide or method of providing police or

fire protection, or if such failure was consciously indifferent or committed with reckless disregard. Eliminates the exemption from liability based on a claim for injury or death connected with an act or omission arising from civil disobedience, riot, insurrection, or rebellion. Allows a claimant to discover the existence and amount of insurance held by the governmental unit. Referred to House Judiciary on 3/4.

HB 1130 by White: Adds 251.204, Utilities Code, to authorize an operator of an underground facility or an excavator to bring a civil action to enforce statutory provisions requiring an excavator to provide notice of excavation and an operator to mark the location of a facility at or near the excavation site. Authorizes a substantially prevailing party to recover attorney's fees, court costs, and other expenses incurred in the action. Venue for an action is in the county where all or part of the alleged violation occurred, the defendant's principal place of business, or the defendant's residence in this state. Referred to House Judiciary on 3/4.

HB 1478 by Cyrier: Adds Chapter 75B, CPRC, to limit the liability of a recreational vehicle park or campground for personal injury, death, or property damage of a participant in park or campground activities if the park posts a warning sign as prescribed by the statute. Does not limit liability if the park or campground's negligence evidences disregard for the participant's safety, the park or campground had actual knowledge of or reasonably should have known of a dangerous condition on the land, facilities, or equipment of the park or campground, failed to train or improperly trained an employee involved in the activity, or acted intentionally. Referred to House Judiciary on 3/5.

HB 1539 by Martinez: Requires a food service establishment with a designed or designated place for eating and that prepares a food item containing peanuts or a peanut product to post a warning sign. Referred to House Public Health on 3/8.

HB 1548 by Bell: Adds Chapter 95A, CPRC, to grant immunity to an owner of a business from liability arising solely from the owner's permission for a license holder for a concealed handgun to carry on the business premises. Provides that the lack of the notice required by §30.06, Penal Code, is sufficient to constitute allowing entry on the premises by a license holder. Referred to House Judiciary on 3/8.

HB 1793 by Julie Johnson: Adds Chapter 1955, Insurance Code, to prohibit a claimant and a personal or commercial auto insurer to enter into an oral release for claims arising out of property damage or injury for which the insurer may be liable under the policy. A release made in exchange for money is not enforceable unless in writing. Referred to House Insurance on 3/10.

HB 1794 by Julie Johnson: Repeals §75.004(b), CPRC, which requires the owner, lessee, or occupant of agricultural land used for recreational purposes to carry liability insurance. Referred to House Judiciary on 3/10.

HB 1826 by Martinez Fischer: Amends §17.46(b), Business & Commerce Code, to add to the list of false, misleading, or deceptive acts or practices selling or leasing disinfectant cleaning supplies and personal protective equipment at an exorbitant or excessive price, or demanding an exorbitant or excessive price for them. Set for hearing in House Business & Industry on 3/23.

HB 1953 by Howard: Adds Chapter 89A, CPRC, to shield from liability a person who donates in good faith to a nonprofit organization a feminine hygiene product for distribution to individuals in need of the product, if the donated product meets all quality control and labeling standards at the time the product is donated. Likewise shields the nonprofit organization that distributes the products. Immunity does not apply if the person who donated the product or the nonprofit organization acted intentionally or with gross negligence resulting in injury or death of an individual to whom the product is distributed. Referred to House Judiciary on 3/15.

HB 2071 by A. Johnson: Amends §16.003(a), CPRC, to abolish the statute of limitations for an action for personal injury arising from the sexual assault of a child. Applies to certain pending claims.

HB 2144 by Harris: Abolishes the common law doctrine of public nuisance. Substitutes a new statutory cause of action embodied in Chapter 100F, CPRC. Provides that a person may only be held liable for a public nuisance if the person causes an unlawful condition and controls the condition at the time the condition violates an established public right (a right commonly held by all members of the public to the use of public land, air, or water). Provides that the aggregation of multiple individual injuries or private nuisances do not constitute violations of an established public right. Provides that only the state or a political subdivision can bring an action for public nuisance and may only do so by a government attorney for the relevant jurisdiction. Allows enforcement by a private citizen only if the private citizen can show a special injury by clear and convincing evidence. Provides that as a matter of law, the use of or damage to public land, air, or water with only personal, spiritual, cultural, or emotional significance to the individual is not a special injury. Remedies include injunctive relief and non-speculative monetary or non-monetary resources necessary to abate the nuisance (as shown by clear and convincing evidence). Referred to House Judiciary on 3/15.

HB 2174 by Shaheen: Adds Chapter 129B, CPRC, to hold the owner of an internet site, including a social media site, liable for damages for allowing a person under 18 years of age to access pornographic materials on the site. Holds a person personally liable for uploading pornographic material on an internet website if a person under 18 years of age accesses the material on the site. Referred to House Judiciary on 3/15.

HB 2188 by Shaheen/HB 2965 by Tinderholt: Makes a social media platform with more than one million users civilly liable for censoring, restricting, or suppressing information both to the information content provider and any person who might have seen the material if it had been posted. Provides for compensatory damages, treble damages, punitive damages, court costs, and attorney's fees. Excepts certain pornographic or obscene material or excessively violent or harassing material. Provides that if the social media platform states in its terms of service that it is a publisher and the claimant agrees to the terms, the claimant may not bring an action. Allows a social media platform to limit content to subject matter expressly states in its terms of service without liability. Referred to House State Affairs 3/15. HB 2965 referred to House State Affairs on 3/18.

HB 2520 by E. Thompson: Adds Chapter 644A, Transportation Code, to provide that the deployment, implementation, or use of a motor carrier safety improvement by or as required by a motor carrier or a related entity, including through contract, may not be considered when determining whether the operator of the motor vehicle is an employee or joint employee of the

carrier or an independent contractor for purposes of state law. Referred to House Transportation on 3/17.

HB 2549 by Dutton: Amends §101.106, CPRC (dismissal of suit against governmental employee), to provide that filing suit against a governmental entity does not prohibit the plaintiff from filing a direct action against a governmental employee for assault, battery, false imprisonment, or other intentional tort, including a tort involving disciplinary action by school authorities. Referred to House Judiciary on 3/17.

HB 2587 by Sanford/SB 12 by Hughes/HB 3001 by Cason: Adds Chapter 143A, CPRC, to create a cause of action against an interactive computer service for “censorship,” defined as the suppression of lawful speech. Applies to a service with more than 100 million active users in a calendar month. Provides for declaratory and injunctive relief and recovery of attorney’s fees and costs. Authorizes a court to impose sanctions for failure to comply with a court order. Authorizes the attorney general to bring suit and recover fees and costs. SB 12 was voted favorably as substituted from Senate State Affairs on 3/15. HB 2587 referred to House State Affairs on 3/17.

HB 2782 by Dean: Adds Chapter 100C, CPRC, to provide immunity to liability for injury or death caused by exposure to the 2019 novel coronavirus disease that occurred due to the entity’s activities or operations, unless a claimant provides that the exposure was caused by gross negligence or wilful misconduct. Applies prospectively only. Referred to House Judiciary on 3/17.

HB 2788 by Leach: Adds Chapter 150E, CPRC, to establish procedures for a civil action against a transportation network company (e.g., Uber, Lyft). Applies to an action or an arbitration proceeding in which the company is a defendant, the claimant seeks recovery for personal injury, death, or property damage, the claim arises out of the ownership, use, operation, or possession of a personal vehicle while the driver or passenger was logged on to the company’s digital network, and the theory of recovery against the company is based on the ownership, operation, design, manufacture, or maintenance of the digital network accessed by the driver or passenger, or the affiliation or interaction with the driver logged into the network. Requires a claimant who names the company as a defendant, at the time of initial complaint, to file an affidavit by the claimant’s counsel setting out each theory of recovery, the negligent act, error, or omission by the company, and the factual basis for each claim. Requires an additional affidavit signed by a qualified, competent third party that the claimant’s damages exceed the applicable insurance coverage limit. Requires a court or arbitration tribunal to dismiss with prejudice an action filed without the affidavits. Makes an order granting or denying a motion to dismiss immediately appealable. Prohibits a company from being held vicariously liable for damages if the company did not commit a crime under federal or Texas law and has fulfilled all of the company’s obligations with respect to the driver under Chapter 2402, Occupations Code.

HB 2850 by Kacal: Adds Chapter 91B, CPRC, to provide immunity from liability for a certified veterinary assistant, licensed veterinary technician, or veterinarian who in good faith and in a volunteer capacity provides veterinary care or treatment to an injured animal providing the care or treatment is provided: (1) during a man-made or natural disaster that injures or endangers the animal, (2) at the request of the owner or an authorized representative of a federal, state, or local agency; and (3) is within the scope of practice of the provider. Does not imply if the provider acted with gross negligence or intentional misconduct. Further waives veterinarian-client

privilege to the extent necessary to refute false information published by an owner or client in a public forum, or if a veterinarian provides information to an appropriate governmental entity regarding the prescribing of a controlled substance or cruelty to or an attack of an animal.

HB 2942 by Bernal: Amends §17.463, Business & Commerce Code, to authorize district and county attorneys to investigate claims under the DTPA of charging an excessive or exorbitant price for necessities during a declared disaster. Splits any recovery 50-50 between the state and the county. Referred to House Business & Industry on 3/18.

HB 3024 by Wu/SB 1691 by Miles: Adds Chapter 98C, CPRC, to impose civil liability on a person who engages in doxing for damages arising from the posting of private information by the defendant to the person whose information was posted. A prevailing claimant may recover actual damages, including mental anguish damages even though no other damages are shown, court costs, and attorney's fees. Injunctive relief may also be provided. Provides that a court has personal jurisdiction over a defendant if the defendant resides in Texas, the person whose information was posted resides in Texas, the private information posted is stored on a server located in Texas, or the private information is available for view in this state. Provides that person found liable is jointly and severally liable with any other defendant for the claimant's damages.

HB 3095 by J. Johnson: Adds Chapter 95, Property Code, to regulate senior living facilities and to impose civil liability for regulatory violations or a facility's failure to implement a safety policy or procedure that the resident reasonably believed was adopted by the facility. Excepts claims under Chapter 95 from Chapter 74, CPRC.

HB 3105 by Toth: Adds Chapter 113, Business & Commerce Code, to impose statutory duties on social media platforms regarding policies, rules, terms, and agreements pertaining to censorship, deplatforming, and shadow banning standards. Establishes a standard for journalistic enterprise and bars a social media platform for censoring such an enterprise. Establishes standards for political speech on social media platforms. Imposes civil penalties for violations. Provides civil liability through the DPTA, including up to \$100,000 in statutory damages, actual damages, punitive damages, equitable relief, and costs and attorney's fees.

HB 3440 by Schofield: Adds §90.0031, CPRC, to require a claimant asserting an asbestos-related injury on or after 9/1/21 to serve, together with the petition, on each defendant a sworn information form specifying the evidence that provides the basis for the claim against each defendant. Prescribes the content of the information form. Imposes a continuing duty to supplement the information form. Requires the court to dismiss with prejudice a claim against a defendant whose product or premises is not identified in the information form. Requires the court to dismiss without prejudice against all defendants for failure to comply.

HB 3836 by Hunter: Adds Chapter 642, Business & Commerce Code, requires the owner or operator of a website or online service that deals substantially in the electronic dissemination of third-party commercial recordings or audiovisual works, directly or indirectly, to consumers in this state to clearly and conspicuously disclose the owner or operator's true and correct name, physical address, telephone number, and email address. Creates a private cause of action to enforce this requirement and provides for injunctive relief and recovery of reasonable attorney's

fees by the prevailing party. Also makes a violation of this chapter a false, misleading, or deceptive act or practice under the DTPA.

HB 4126 by Vasut: Defines electricity and natural gas as a “necessity” during a declared disaster for purposes of the DTPA.

HB 4481 by Oliverson: Adds Chapter 100C, CPRC, to limit liability for ordinary negligence from COVID-19 exposure if a person acted in good faith in the course or during the performance or provision of the person’s business operations or on the premises owned or operated by the person if the person acted as an ordinary, reasonable, and prudent person would have acted under the same or similar circumstances, including the adoption of reasonable safety measures. Creates a rebuttable presumption that compliance with CDC guidelines is reasonable. Expires 9/1/23.

HB 4533 by Dominguez: Amends §98B.002(a), CPRC, to create a rebuttable presumption that a person does not consent to the dissemination of intimate visual material if the depicted person reports the dissemination to law enforcement within 48 hours of discovery.

SB 534 by Hughes/HB 1788 by Hefner: Adds §37.087, Education Code, to extend immunity from liability to a school district, open-enrollment charter school, or private school for any damages resulting from any reasonable action taken by security personnel to maintain the safety of a school campus, including action relating to the use or possession of a firearm. Extends the same immunity to a school employee who has written permission from the school’s governing body to carry a firearm on campus. Extends the same immunity to security personnel. Does not preempt common law doctrine of official and governmental immunity. Referred to House Judiciary on 3/10. SB 534 referred to Senate Education on 3/11.

SB 680 by Kolkhorst: Amends §17.46(b), Business & Commerce Code, to include in the term “false, misleading, or deceptive acts or practices” demanding an exorbitant or excessive price for electricity. Referred to Senate Business & Commerce on 3/17.

SB 1078 by Springer: Amends Chapter 87, CPRC, relating to liability arising from farm animals, to extend liability protections to a farm owner or lessee. Adds to the definition of “engages in a farm animal activity” to include feeding, vaccinating, exercising, weaning, transporting, producing, herding, corralling, branding, or dehorning of, or assisting in or providing health management activities. Adds to the same definition “engagement in routine or customary activities on a farm to handle or manage farm animals.” Adds a definition of “farm.” Adds to the definition of “farm animal activity” owning, raising, or pasturing a farm animal; transporting a farm animal; assisting in or providing animal health management activities, including vaccination; assisting in or conducting customary tasks on a farm concerning farm animals; and transporting or moving a farm animal. Makes similar changes to the definition of “farm animal professional.” Adds to the definition of “livestock producer” a person who handles, buys, or sells livestock. Adds to the definition of “participant” an independent contractor or employee. Adds to the limitation of liability the new categories of protected persons and activities, including the raising or handling of livestock on a farm. Referred to Senate State Affairs on 3/18.

Medical Liability

HB 501 by Wu: Amends §§74.301 and 74.302, CPRC, to index the caps on noneconomic damages and the amounts of required financial responsibility in health care liability claims.

HB 1221 by Campos: Requires long-term care facilities to designate a quality assessment and assurance committee to approve and monitor the facility's infection prevention and control program. Requires a facility to designate a primary and secondary infection preventionist with specialized training. The preventionist has a number of duties involving the investigation and evaluation of a disease outbreak; notification of local health authorities and staff, residents, and resident representatives within 12 hours of the verification of an infectious disease at the facility; implementation of enumerated control and prevention measures; monitoring of all treatment provided to a resident or staff member exposed to and as a result of the exposure infected with a disease at the facility; and report to the executive commissioner or local health authority accurate information regarding the number of cases at the facility. Imposes administrative penalties for violations. Referred to House Human Services on 3/4.

HB 1222 by Campos: Requires the Department of Health Services to compile, aggregate, and publish on its Internet website epidemiological reports of disease outbreaks that identify the disease, the date reported, and the probable source of infection. During a public health emergency, the reports must also include the number of deaths caused by or suspected of having been caused by the disease, the date of each death, total number of deaths, and the probable source of infection for each case of the disease. Referred to House Public Health on 3/4.

HB 1914 by Schofield: Provides immunity from civil liability for a children's isolation unit that treats children with highly contagious infectious diseases unless the act or omission that proximately causes personal injury or death constitutes gross negligence or wilful misconduct. Referred to House Public Health on 3/15.

HB 2064 by Leach: Amends §55.004(b), Property Code (hospital lien statute), to add a third option for attachment of the lien: the amount awarded by the trier of fact for the services provided to an injured individual by the hospital less the pro rata share of attorney's fees and expenses incurred by the individual in pursuing the claim. Referred to House Judiciary on 3/15.

HB 2151 by Thierry/HB 2325 by E. Thompson: Requires a licensed nursing facility or an assisted living facility to maintain an operational emergency generator or other power source with a sufficient amount of fuel to operate and maintain air temperature at no more than 81 degrees Fahrenheit for at least 72 hours.

HB 2185 by Parker: Adds Chapter 444, Health & Safety Code, to allow a pharmaceutical manufacturer or its representative to promote a product for off-label use a medically truthful and accurate off-label use of a drug, biological product, or device. Allows a physician or health care provider to communicate that information to a patient. Blocks a state regulatory authority of the manufacturer, physician, or provider from taking disciplinary action based on marketing an off-label use as permitted by this statute. Prohibits the state or a local governmental entity from using public money to cooperate with the federal government against a manufacturer who promotes an off-label use. Applies to pending disciplinary actions. Referred to House Public Health on 3/15.

HB 2406 by Y. Davis/SB 1106 by Hughes: Amends §74.351(r)(5), CPRC, to add a chiropractor or physician to the definition of “expert” for the purpose of giving opinion testimony about the causal relationship between the injury, harm, or damages claimed and the alleged departure from the standard of care for a chiropractor. Adds §74.403(c-1), CPRC, to permit a chiropractor to give opinion testimony in a health care liability claim against a chiropractor. Referred to House Judiciary on 3/16. SB 1106 referred to House State Affairs on 3/18.

HB 3031 by Klick: Amends §311.025(a), Health & Safety Code, to prohibit a hospital, treatment facility, mental health facility, or health care professional from flagrantly overcharging a patient or third party for a treatment provided to the patient.

HB 3747 by Smith: Amends §79.0031, CPRC, which limits liability of volunteer health care providers, to:

- add a definition of “health care liability claim”
- broaden the definition of [volunteer] health care provider to include the §74.001 definitions of “first responder,” “health care provider,” and “physician”;
- expand the limitation of liability to cover care, assistance, or advice provided in relation to a national or statewide health care emergency that results in a disaster declaration during the period beginning on the date the president or governor declared a pandemic-related disaster and ending 60 days after the termination of the declaration (and within the scope of the provider’s practice);
- grant the same immunity to a health care institution.

HB 3748 by Smith: Adds §74.155, CPRC, to:

- define “disaster declaration,” “first responder,” “pandemic emergency”;
- exempts a physician, health care provider, or first responder from liability for an injury or death arising from care, treatment, or failure to provide care or treatment related to or impacted by a pandemic disease, except in a case of reckless conduct, intentional, wilful, or wanton misconduct;
- enumerates nine specific examples of care, treatment, or failure to provide care or treatment;
- does not affect the scope of practice of a physician, health care provider, or first responder
- the limitation of liability provided by this section is in addition to any other immunity or limitations provided by law;
- applies only to a claim arising from care, treatment, or failure to provide care or treatment that occurred during the period beginning on the date the president or governor declared a pandemic-related disaster and ending 60 days after the termination of the declaration.

SB 232 by Johnson: Adds §74.353, CPRC, to authorize a court, on motion of a claimant filed not later than 30 days after the date the defendant’s original answer is filed, to make a preliminary determination of whether the claim is a health care liability claim for purposes of the expert report requirement of §74.351. If the court determines that the claim is a health care liability claim, the claimant must serve an expert report not later than the later of: (1) 120 days after the date the defendant’s original answer is filed; (2) 60 days after the court makes the determination that the claim is a health care liability claim; or (3) the date agreed to in writing by

the affected parties. The court's determination only applies for purposes of §74.351 and is not subject to an interlocutory appeal. Referred to Senate Jurisprudence on 3/3.

SB 350 by Miles: Adds §101.030, CPRC, to impose liability on the Texas Department of Criminal Justice for personal injury or death proximately caused by a physician's or health care provider's treatment, lack of treatment, or other claimed departure from accepted standards of medical care, health care, safety or professional or administrative services directly related to health care if the physician or provider was an employee or the department or performing services under contract with the department when the conduct occurred. Referred to Senate State Affairs on 3/9.

SB 493 by Johnson: Requires a licensed nursing facility to maintain professional liability insurance against the liability of the facility or the facility's employees for a health care liability claim. The coverage must provide minimum annual limits of \$300,000 per occurrence and \$1 million aggregate, be written on an occurrence basis, and issued by an authorized insurer. The coverage may not include the cost of defense in the liability limit. A nursing facility owned and operated by a governmental unit must maintain sufficient coverage to meet the unit's liability under the Tort Claims Act. A management company that manages a governmental unit-owned facility must maintain professional liability coverage in the amounts specified above. To the maximum extent allowed by law, the cost of the required insurance coverage is an allowable cost for reimbursement under the state Medicaid program. Referred to Senate Health and Human Services on 3/9.

SB 1988 by Miles: Amends §75.0022, CPRC, to extend liability protection for an electric transmission utility that has an agreement with a political subdivision to allow use of an easement or land for certain public purposes to include a transportation use.

Product Liability

HB 74 by Gervin-Hawkins: Requires a manufacturer selling a cosmetic to disclose on the manufacturer's website: a list of each ingredient in the cosmetic and the chemical abstract service number for each ingredient. The manufacturer is not required to list the concentration of each ingredient. Referred to House Business and Industry on 2/25.

HB 90 by Gervin-Hawkins: Directs the Executive Commissioner of the Health and Human Services Commission by rule to require a manufacturer that sells a lipstick or lip gloss cosmetic to disclose on the manufacturer's website and on the product label: any toxic metal, regardless of concentration, and each ingredient in the cosmetic. Referred to House Business & Industry on 2/25.

HB 847 by Thierry: Prohibits a pharmacist from dispensing or delivering an opioid if it does not bear a warning label in the manner prescribed by the Board of Pharmacy. Requires the Board to adopt a rule mandating a warning label to be affixed to the prescription. Referred to House Public Health on 3/1.

HB 848 by Thierry: Prohibits a pharmacist from dispensing or delivering an opioid if not packaged in the manner prescribed by the Board of Pharmacy. Requires the Board to adopt a rule

mandating that the bottle or container have a distinctive red top or label. Referred to House Public Health on 3/1.

[HB 849](#) by Thierry: Prohibits a pharmacist from dispensing or delivering an opioid unless the person taking possession of the opioid signs an acknowledgement of the risks in the manner prescribed by the Board of Pharmacy. The pharmacist must retain the signed acknowledgment on file. Requires the Board to adopt a rule prescribing the form of acknowledgement Referred to House Public Health on 3/1.

Commercial Litigation

[SB 1247](#) by Creighton/[HB 4267](#) by Oliverson: Makes changes to §15.03, Business & Commerce Code, regarding the attorney general's civil investigation authority and the subject's right to demand and make objections to demands for document production. Referred to Senate State Affairs on 3/18.

[SB 1259](#) by Birdwell/[HB 3262](#) by Smith: Provides that the payee of a royalty does not have a cause of action against the payor for withholding royalty payments in the event of a title dispute, unless the contract requiring payment requires otherwise.

Employment Law

[HB 21](#) by Neave: Amends §21.201(g) and §21.202(a), Labor Code, to extend the limitations period for filing a complaint alleging sexual harassment with the Texas Workforce Commission from 180 to 300 days. Referred to House International Relations and Economic Development on 2/25. Heard in House Economic Development on 3/10 and left pending.

[HB 38](#) by Reynolds/[HB 392](#) by Bowers/[SB 77](#) by Miles: Adds §21.0195, Labor Code, to make it an unlawful employment practice for an employer, labor union, or employment agency to adopt or enforce a dress or grooming policy that discriminates against a hair texture or protective hair style commonly or historically associated with race. HB 38 and HB 392 referred to House State Affairs on 2/25. SB 77 referred to Senate State Affairs on 3/3.

[HB 48](#) by Zwiener/[SB 45](#) by Zaffirini: Adds Subchapter C-1, Chapter 21, Labor Code, to make it an unlawful employment practice if sexual harassment of an employee occurs and the employer or the employer's agents or supervisors knows or should have known that the conduct constituting sexual harassment was occurring and fail to take immediate and appropriate corrective action. Referred to House International Relations and Economic Development on 2/25. SB 45 reported favorably from Senate State Affairs on 3/15.

[HB 318](#) by VanDeaver: Prohibits employment discrimination against an employee who is a volunteer emergency responder for an emergency service organization. Referred to House Business & Industry on 2/25.

[HB 360](#) by Sherman: Adds Chapter 24, Labor Code, to make it an unlawful employment practice for an employer to inquire into or consider an applicant's wage history information in hiring, unless the employee voluntarily discloses the information. Makes it an unlawful employment practice for an employer to rely on an applicant's or employee's wage history for

hiring, compensation, or promotion. Prohibits retaliation against a person who takes action on a violation of this chapter. Enforcement is by civil lawsuit in district court. Authorizes injunctive relief, damages, and reasonable attorney's fees and costs. Referred to House International Relations and Economic Development on 2/25.

HB 405 by Hernandez/SB 57 by Zaffirini: Extends the deadline for filing a wage claim with the Texas Work Force Commission from 180 days to the first anniversary date of the date the wages became due for payment. HB 405 referred to House International Relations and Economic Development on 2/25. SB 57 referred to Senate Natural Resources on 3/3.

HB 419 by Sherman: Adds Chapter 24, Labor Code, to make it an unlawful employment practice for an employer to inquire into or consider an applicant's wage history information in hiring, unless the employee voluntarily discloses the information. Prohibits retaliation against a person who takes action on a violation of this chapter. Enforcement is by complaint under Chapter 21, Labor Code. Referred to House International Relations and Economic Development on 2/25.

HB 455 by Deshotel: Except as otherwise required by law, prohibits an employer from including a question regarding an applicant's criminal history information on an initial employment application form. Allows the employer to inquire after determining that the applicant is otherwise qualified for employment and has either offered employment or invited the applicant for an interview. Heard in House Business & Industry on 3/9 and left pending.

HB 698 by Rosenthal/SB 578 by Eckhardt: Adds §21.1068, Labor Code, to define employment discrimination to include discrimination on the basis of an employee's marital status at the time of a pregnancy, the use of assisted reproduction to become pregnant, the use of contraception or a specific form of contraception, or the use of any other health care drug, device, or service related to reproductive health. Covers discrimination because of a reproductive decision of the employee, the employee's spouse or partner, the employee's dependent, or any other member of the employee's family or household. Bars mandatory arbitration agreements to the extent the agreement limits the reproductive decisions of the employee or the other covered persons. Referred to House International Relations on 3/1. SB 578 referred to Senate Natural Resources on 3/11.

HB 1687 by Noble: Adds Subchapter H-1, Chapter 21, Labor Code, to prohibit employment discrimination based on an employee's failure to receive a COVID-19 vaccine.

HB 1980 by Neave: Adds Chapter 25, Labor Code, to void a confidentiality or non-disclosure agreement to the extent that the agreement that prohibits or limits an employee's ability to report sexual assault or harassment committed by another employee or other person at the workplace, or that prohibits an employee from disclosing the assault or harassment to another person. Applies to existing agreements, not just those entered into on or after the effective date. Referred to House International Relations on 3/15.

HB 2002 by Sanford: Adds Chapter 786, Health & Safety Code, to prohibit an employer of a first responder to take any adverse employment action against the responder because the employer knows or believes the responder has a mental illness. An aggrieved first responder may

claim a violation of this section and seek compensatory damages, attorney's fees and costs, and any other appropriate relief. Referred to House State Affairs on 3/15.

HB 2507 by S. Thompson/HB 2972 by Morales Shaw: Amends §21.202, Labor Code, to provide that with respect to an allegation of discrimination in payment of compensation, an unlawful employment practice occurs each time: (1) a discriminatory compensation decision or other discriminatory practice affecting compensation is adopted; (2) an individual becomes subject to a discriminatory compensation decision or other discriminatory practice affecting compensation; or (3) an individual is adversely affected by application of a discriminatory compensation decision or other discriminatory practice affecting compensation, including each time wages affected wholly or in part by such decision or practice are paid. Provides that liability may accrue and an aggrieved person may obtain relief, including recovery of back pay, for practices that occurred outside the 180-day period for filing a complaint if there is a pattern of the same or similar practices. Adds Chapter 24, Labor Code, to create an unlawful employment practice if an employer inquires into an employee's or applicant's prior wage history or requires an employee or applicant to disclose it. HB 2507 referred to House International Relations on 3/17.

HB 2542 by Rose: Adds Chapter 106, Labor Code, to prohibit an employer from inquiring about an applicant's past criminal history or posting a job announcement implying that persons with criminal histories should not apply. Allows an employer who has made a conditional offer solicit criminal history information and may not take adverse action unless the employer determines that the applicant is unsuitable for the position based on the employer's assessment. Requires the employer to inform the applicant in writing of the adverse action based on criminal history. Allows an employment agency or labor organization to solicit criminal history information about a person only after it has determined to classify or refer the person. Authorizes a \$500 administrative penalty for each violation. Referred to House Business & Industry on 3/17.

HB 3796 by Morales: Amends Chapter 21, Labor Code, to add sexual orientation and gender identity or expression to actionable discriminatory employment practices.

HB 4122 by Rose: Amends §544.002, Insurance Code, to prohibit an insurer from discriminating against a person on account of sexual orientation or gender identity or expression. Amends §21.051, Labor Code, to make such discrimination by an employer an unlawful employment practice.

HB 4195 by Ellzey: Amends §21.055, Labor Code, to prohibit an employer, labor union, or employment agency from retaliating or discriminating against a person who engages in lawful conduct involving the exercise of constitutionally guaranteed civil rights during the employee's off hours away from the worksite.

HB 4445 by Hinojosa: Requires an employer to provide written notice to employees and the employee of any subcontractor present in the same area of a worksite of any infected employee of potential exposure to COVID-19 on the next day after the employer receives notice that an infectious person was in the same area of the worksite. Prescribes the content of the notice. Requires the employer to report a worksite outbreak to the local health authority, as well as subsequent cases. Prohibits an employer from retaliating or discriminating against an employee because the employee discloses a positive test, diagnosis of illness, or quarantine order.

SB 209 by Eckhardt: Amends Chapter 21 and adds Chapter 25, Labor Code, to void a nondisclosure or confidentiality agreement between an employer and employee to the extent the agreement prohibits or limits the employee's ability to: (1) notify law enforcement or a state or federal regulatory agency of sexual assault or sexual harassment committed by an employee of the employer or at the employee's place of employment; and (2) prohibits an employee from disclosing to any person facts surrounding any sexual assault or sexual harassment committed by an employee of the employer or at the employee's place of employment. Likewise prohibits mandatory arbitration agreements that impose arbitration of a dispute involving an allegation of sexual assault or sexual harassment. Finally, the bill makes it an unlawful employment practice for an employer to fail or refuse to hire, discharge, harass, or discriminate against an individual who refuses to sign any of the above agreements. Prohibits an employer from requiring an employee to sign a mandatory arbitration agreement as a condition of employment. Referred to Senate State Affairs on 3/3.

SB 1835 by Eckhardt: Amends §21.201(g), Labor Code, to extend the limitations period for perfecting a claim for an alleged unlawful employment practice from 180 to 300 days.

SB 2045 by Menendez: Amends §21.202(a), Labor Code, to provide that an unlawful employment practice occurs each time a discriminatory compensation decision or other practice is adopted, an individual becomes subject to the decision or practice, or an individual is adversely affected by the decision or practice each time wages are paid. Provides that liability may accrue for discriminatory compensation practices that occurred outside the period for filing a complaint of the practices are related or similar to practices that occurred during the period for filing the complaint.

Construction Law

HB 2116 by Krause: Amends §130.002, CPRC, to void a provision in a contract for engineering or architectural services that requires a licensed engineer or architect to defend another party. Provides that a covenant in such a contract may provide for the reimbursement of the owner's reasonable attorney's fees in proportion to the engineer or architect's liability. Provides that the owner may require in the contract that the engineer or architect name the owner as an additional insured on the engineer or architect's commercial general liability insurance policy and provide any defense to the owner provided by the policy to the named insured. Exempts contracts for design-build services in which the owner contracts with a single entity to provide both design and construction services. Adds §130.0021, CPRC, to prohibit a contract for engineering or architectural services from requiring an engineer or architect to perform professional services to a level of professional skill and care beyond that which would be provided by an ordinarily prudent engineer or architect with the same professional license under the same or similar circumstances. Referred to House Judiciary on 3/15.

HB 2621 by Murr: Amends §53.024, Property Code, regarding the limitation of a subcontractor's lien, to limit the lien to the lesser of the proportion of the total subcontract price already performed minus payments received (existing limit) *or the contract price minus previous payments received by the original contractor and the claimant on the subcontract (new language)*. Referred to House Business & Industry on 3/17.

HB 3069 by Holland: Amends §16.008, CPRC, to require a governmental entity to bring suit for a design defect against a registered or licensed engineer, architect, interior designer, or landscape architect who designs, plans, or inspects the construction of an improvement to real property or equipment attached to real property not later than five years (current law is ten years) after the substantial completion of the improvement or the beginning of the operation of the equipment arising out of a contract entered into by TXDOT, a project that receives funds from state or federal highway funds and mass transit spending, or a civil works project. Extends limitations one year if the claimant presents a request for indemnity before the expiration of limitations. Makes the same change in §16.009, CPRC.

HB 3162 by Martinez: Amends §150.002, CPRC (certificates of merit), to exempt from the certificate of merit requirement a design-build project in which a governmental entity contracts with a single entity to provide both construction and design services.

HB 3221 by Leach/HB 1781 by Creighton: Adds §2272.010, Government Code, to specify that a cause of action against a contractor by a governmental entity under Chapter 2272 accrues on the date the report required by §2272.03 (notice of specific construction defect) is postmarked by USPS.

HB 3293 by Schofield: Adds §150.002(b-1), CPRC, regarding the certificate of merit for suit against a licensed engineer or architect, to require the affidavit to set forth specifically facts sufficient to establish the affiant's familiarity or experience with the relevant practice area showing the affiant's qualifications to render an opinion. Requires the affiant to attach to the affidavit as an exhibit the affiant's CV or similar document.

HB 3355 by Schofield: Adds §53.027, Property Code, to require a person who performs labor, furnishes labor or materials, or specially fabricates materials for construction or repair who does not have a contract with the owner, original contractor, or subcontractor to recover payment only through enforcement of a lien or other statutory remedy and not under contract or quasi-contract theories such as quantum meruit or unjust enrichment.

HB 3595 by Leach: Amends §27.01, Property Code, to specify that an "appurtenance" means a garage, outbuilding, retaining wall, landscaping improvement, or other improvement constructed by a contractor in connection with the construction of a new residence whether or not attached to the dwelling unit. Conforms other definitions to the repeal of the Residential Construction Commission. Modifies the definition of "economic damages" to exclude speculative damages or damages for bodily or personal injury. Clarifies that "structural failure" includes a foundation or framing system. Amends §27.003(a) to clarify that a contractor is not liable for normal cracking of a settling foundation within the tolerance of building standards, reliance on outdated information from an official government record, any condition (including noncompliance with an applicable code, standard, warranty, manufacturer's recommendation, or contractual plan or specification) that does not result in actual physical damage to the residence or the failure of a building component to perform its intended function or purpose at the time notice of a defect is sent. Amends §27.004 to give the contractor, at the contractor's request, the opportunity to conduct multiple inspections during the 35-day period after the date the contractor receives notice or during the extension of the inspection period. Specifies that the contractor's offer to repair must include the estimated time for completion, and, if the offer is accepted, the estimated time of completion shall be considered reasonable. Directs a court of arbitration tribunal to

dismiss (rather than abate) a claim if the claimant failed to provide notice or give the contractor a reasonable opportunity to inspect. Bars the claimant from recovering attorney's fees, costs, or expert fees if the claimant rejects a reasonable offer or refuses to permit the contractor to inspect or repair the defect, or if the contractor elects to purchase the residence. Amends §27.005 to impose a five-year statute of repose dated from the earlier of: (1) the date construction of the residence was completed; (2) the date of the final inspection or certificate of occupancy; (3) the date of transfer of title to the first purchaser of the residence; (4) the date of first occupancy of the residence; (5) the date of final payment to the contractor; or (6) the date an affidavit of completion is filed in the county in which the residence is located. Amends §27.006 to limit the claimant's recovery under Chapter 27 solely to economic damages. Repeals §27.004(f), which provides that the limitation on damages recoverable by the claimant does not apply if the contractor fails to make a reasonable offer.

SB 219 by Hughes/HB 1418 by Leach: Provides that a contractor is not civilly liable or otherwise responsible for the consequences of defects in and may not warranty the adequacy, sufficiency, or suitability of plans, specifications, or other design or bid documents provided to the contractor by the person with whom the contractor entered into the contract or another person on behalf of the person with whom the contractor entered into the contract. Prohibits waiver of this provision. Exempts a contract entered into by a person for the construction or repair of a critical infrastructure facility owned or operated by the person or any improvement to real property owned or operated by the person that is necessary to the critical infrastructure facility. "Critical infrastructure" has the meaning assigned by §423.0045, Government Code. Adds §2254.0041, Government Code, to prohibit a governmental entity, in contract for architectural or engineering services, from requiring a licensed engineer or registered architect to perform services at a level beyond the professional skill and care ordinarily provided by competent engineers or architects practicing under the same or similar circumstances and professional license. SB 219 was heard in Senate State Affairs on 3/8 and left pending. HB 1418 set for hearing in House Judiciary on 3/17.

SB 1599 by Lucio/HB 3416 by Darby: Amends Chapter 127, CPRC, relating to indemnity provisions in mineral agreements, to make it apply to agreements pertaining to oil, gas, or water wells or a mine for a mineral that requires a subcontractor to provide any part of a contractor's services required under a separate contract with a third party or for a mutual or unilateral indemnity obligation between the contractor, subcontractor, and third party, unless the contractor before entering into the agreement provides written notice to the subcontractor that: (1) describes the subcontractor's indemnification obligations to the contractor and third party; (2) is provided as a separate document from the agreement; and (3) is written in plain English. Also requires a statement to the third party of the subcontractor's insurance coverage and dollar limits.

SB 1938 by Creighton/HB 3503 by Lambert: Adds §27.007, Government Code, to specify that a person in justice court may be represented by itself or a non-attorney employee, owner, officer, partner or other authorized agent. Allows the court for good cause to permit an individual to be assisted by a family member or other non-compensated individual. Amends various sections of Chapter 27, Property Code, to make conforming changes reflecting the repeal of the Texas Residential Construction Commission and other conforming changes pertaining to the Texas Business Organizations Code.

Procedure/Discovery/Privileges

HB 549 by S. Thompson/SB 1143 by Zaffirini: Authorizes a professional to disclose a patient's confidential information to mental health personnel (in addition to medical personnel or law enforcement) if the professional determines that there is a probability of imminent physical injury by the patient to the patient or another person or there is a probability of immediate mental or emotional injury to the patient. No cause of action exists against a person for disclosing confidential information under these circumstances. HB 549 set for hearing in House Public Health on 3/24. SB 1143 referred to Senate Health & Human Services on 3/18.

HB 1737 by Moody: Adds Subchapter C, Chapter 52, Government Code, to provide that a deponent and the attorneys of record and parties to a case in which a deposition is taken are entitled to obtain a copy of the deposition transcript from the court reporter or court reporting firm. Authorizes the reporter or firm to charge a reasonable fee for a copy of the transcript. On request of a deponent or the deponent's attorney, the reporter or firm to notify the deponent or attorney when the transcript is available for review and allow the deponent at least 20 days to review a secure digital copy of the transcript and provide a separate signed document listing any changes in form and substance the deponent desires to make to the transcript and the reasons for the changes. On the earlier of the expiration of the review period or receipt of the signed document, the court reporter or firm shall promptly deliver the original deposition transcript to the custodial attorney responsible for preserving the integrity of the transcript. Adds the original deposition transcript and first copy, as well as each additional copy, to the list of documents for which the attorney who takes the deposition and the attorney's firm are jointly and severally liable for payment. Amends §154.112(b), Government Code, to permit a noncertified shorthand reporter to report an oral deposition if a certified reporter is not available *in person or by remote technology*. Heard in House Judiciary on 3/17.

HB 1939 by Smith: Adds §16.013, CPRC, to require a person to bring suit for damages or other relief arising from an appraisal or appraisal review conducted by a real estate appraiser or appraisal firm not later than the earlier of: (1) two years after the day the person knew or should have known the facts on which the action is based; or (2) five years after the date the appraisal or review was completed. Does not apply to a suit based on fraud or breach of contract. Referred to House Judiciary on 3/15.

HB 2086 by Morales: Amends §51.014(a), CPRC, to authorize an interlocutory appeal from the denial of a motion for summary judgment under §97.002(b), CPRC (immunity of TXDOT highway contractors who are in compliance with contract documents material to the condition or defect giving rise to a claim for personal injury, death, or property damage). Referred to House Judiciary on 3/15.

HB 2173 by Krause: Amends §730.011, Transportation Code, to prohibit the Department of Motor Vehicles from charging a fee for the disclosure of personal information allowed under §§730.005 (information for certain government purchases) and 730.006 (information disclosed with the consent of the subject of the information). Referred to House Transportation on 3/15.

HB 2184 by Parker: Amends §730.007(b), Transportation Code, which authorizes personal information in connection with motor vehicle records to be disclosed for certain purposes (including civil actions) to allow disclosure of only the last four digits of the subject's driver's license number. Amends §730.013, which allows reselling or redisclosing personal information

disclosed under this chapter, to prohibit resale or redisclosure of the information. Referred to House Transportation on 3/15.

HB 2380 by Smith: Allows a physician to appear at an Informal Show Compliance hearing or settlement conference at the Texas Medical Board by videoconference or teleconference. Referred to House Public Health on 3/15.

HB 2487 by Oliverson/SB 914 by Hancock/SB 1137 by Kolkhorst: Requires a hospital to make public: (1) a digital file containing a list of standard charges for all hospital services and items; and (2) a consumer-friendly list of shoppable charges. The list must contain a description of each service or item, the gross charge, the de-identified minimum negotiated charge, the de-identified maximum negotiated charge, the discounted cash price, the payer-specific negotiated charge by the name of the payer and plan associated with the charge, and any code used by the hospital for purposes of accounting or billing the service or item. The list must be posted in a prominent place on the hospital's website, be free to use, and searchable. Gives the Health and Human Services Commission enforcement authority, including auditing and imposing administrative penalties for non-compliance. HB 2487 referred to House Public Health on 3/16. SB 914 referred to Senate Business & Commerce on 3/11. SB 1137 referred to Senate Health & Human Services on 3/18.

HB 2579 by Leach: Amends §52.001(a), Government Code, to change the definition of shorthand reporter and court reporter to require certification by the Texas Supreme Court of a court reporter, apprentice court reporter, or provisional court reporter. Amends §52.011, Government Code, to require a court reporting firm representative or court reporter to complete and sign a further certification stating that the deposition transcript was submitted to the witness or the witness's attorney for examination and signature, the date of submission, whether the witness returned it and date of return, that any changes by the witness are attached to the transcript, that the transcript was delivered in accordance with Rule 203.3, TRCP, the amount of the charges for preparing the transcript, and that a copy of the certificate was served on all parties and the date of service. Amends §52.046(b), Government Code, to eliminate a court reporter's scope of practice to the judicial district and to give a court reporter statewide scope of practice. Amends 154.001, Government Code, to conform the prior change in the definition of shorthand reporter or court reporter. Amends §154.105, Government Code, to authorize a shorthand reporter to administer oaths and witnesses in a jurisdiction outside of Texas and to administer an oath to a person who is or may be a witness in a case filed in Texas without being located with a party or the witness if the reporter is physically located in this state at the time the oath is administered or the witness is located in a state with which Texas has a reciprocity agreement and the reporter is located in the same state as the witness. Further specifies the ways to prove the identity of a deposition witness who is not in the presence of a certified shorthand reporter. Referred to House Judiciary on 3/17.

HB 2925 by Dutton: Adds §18.001(a-1), CPRC, to provide that if a claimant offers medical or health care bills into evidence totaling \$50,000 or less, no affidavit is necessary to support a finding of fact by a judge or jury that the amount charged was reasonable or that the service was necessary. Referred to House Judiciary on 3/18.

HB 2818 by Schofield: Amends §31.002, CPRC, to insert the word "sales" before "proceeds" with respect to the prohibition of an order requiring the turnover of proceeds from exempt

property. Further provides that if a judgment creditor has attempted to satisfy a judgment and the final money judgment remains unsatisfied, the judgment creditor is entitled to a hearing on the creditor's application. If notice of the hearing is provided to the judgment debtor, the court shall appoint a receiver to enforce the judgment unless the debtor appears and asserts an exemption. Authorizes a court to issue an order without requiring the judgment creditor to prove the existence of certain property. Referred to House Judiciary on 3/18.

HB 2919 by Schofield: Amends §34.001, CPRC, to change current law regarding dormancy of a judgment to provide that the failure to appoint a turnover receiver within 10 years after rendition of the judgment triggers dormancy (in addition to failure to issue a writ). Same change applies to a subsequent writ or appointment of a receiver issued within 10 years of the previous writ. Referred to House Judiciary on 3/18.

HB 3333 by Smithee: Adds §16.073, CPRC, to bar a party from asserting a claim in an arbitration proceeding if the party could not have asserted the claim in court due to expiration of limitations. Permits a party to assert that claim if the party brought suit in court before the expiration of limitations and the parties either agreed to arbitrate the claim or the court ordered arbitration.

HB 3692 by Julie Johnson: Adds §51.018, CPRC, to allow a party that files a notice of appeal to file an appendix that replaces the clerk's record for the appeal. Requires the party to notify the court of appeals that it will file an appendix not later than the 10th day after the notice of appeal is filed. Requires the appendix to be filed with the party's appellant brief. Requires the brief and appendix to be filed not later than the 30th day after the later of: (1) the date the party provided notice to the court of appeals; or (2) the date that a reporter's record, if any, is filed with the court of appeals (except by order of the court or in an expedited proceeding). Requires the appendix to contain a file-stamped copy of each document required by Rule 34.5, TRAP, for civil actions and any other item the appellant refers to in its brief. Does not allow the appendix to include any document not filed with the trial court, absent agreement of the parties. Provides that the appendix becomes part of the appellate record and does not allow the appellate clerk to charge a fee for a clerk's record if the appendix is filed. Provides a parallel procedure for criminal cases.

SB 207 by Schwertner/HB 1617 by Bonnen: Amends §41.0105, CPRC, to allow the defendant to introduce evidence of the reasonableness of the amount charged by a medical or health care service provided to a claimant, including: the amount actually paid to the provider for the service (unless there is a formal or informal agreement that the provider will wholly or partly refund, rebate, or remit the amount paid to the payer or another person); the amount billed by the provider; the amount paid, would have been paid, or likely to be paid for the services by a health benefit plan, workers' compensation insurance, an employer-provided plan, Medicaid, Medicare, or other similar source; the average amount typically paid or allowed by health benefit plans or government payers to providers located in the same geographic area as the provider and who offer the same type of services as provided to the claimant; or the average amounts actually accepted in the 12 previous months by the provider for the same services provided to the claimant to patients other than the claimant. SB 207 referred to House State Affairs on 3/3. HB 1617 was referred to House Judiciary on 3/9.

SB 1135 by Kolkhorst/HB 1907 by Walle: Establishes a statewide all payor claims database at the University of Texas Health Science Center at Houston to collect, process, and store health

care claims information. The information must include the name of the provider paid by the payor, the type of health care benefits provided by the provider, the amount paid by the payor for the benefits, the estimated copayment paid by the patient. Requires public access to the database. Requires the Department of Health Services, Department of Insurance, and the Texas Higher Education Coordinating Board to enter into an MOU assigning duties and responsibilities for each agency. SB 1135 referred to Senate Business & Commerce on 3/18. HB 1907 referred to House Insurance on 3/15.

SB 1684 by Powell/HB 4045 by Martinez: Requires a health care facility to post its gross charges and Medicare reimbursement rate for each service on a public site. Limits interest on a medical debt. Provides that a spouse or other person is not liable for the medical debt of a person 18 years of age or older. Bars a medical debt collector from taking certain extraordinary measures to collect a debt. Bars a medical debt collector from reporting a medical debt for one year after the debtor first received the bill. Prohibits collection of a medical debt while a benefit review is ongoing. Makes violations actionable under the DTPA.

SB 2014 by Buckingham: Requires a health care provider to maintain and make available on its public website a charge list. Authorizes the relevant regulatory authority for the provider to assess administrative penalties for violations.

SB 2112 by Hughes/SB 1845 by Schwertner: Requires a health care provider to provide to the patient an itemized list of all charges prior to pursuing collection of a debt against the patient.

Insurance

HB 359 by Geren/SB 1935 by Hughes: Overrules the Brainard decision. Provides that an insured may provide notice of a claim for uninsured or underinsured coverage by giving written notification to the insurer that reasonably informs the insurer of the facts of the claim. Provides that a judgment or legal determination of the other motorist's liability or the extent of the insured's damages is not a prerequisite to recovery in an action under §541.151, Insurance Code, for a violation of §541.060. Provides that the insured's only extra-contractual cause of action with respect to a UM or UIM claim is provided by §541,151 for damages under §541.152 for a violation of §541.060. Referred to House Insurance on 2/25.

HB 429 by K. King: Expands the Texas Windstorm Insurance Association to cover tornado insurance and wildfire insurance. Referred to House Insurance on 2/25.

HB 431 by K. King: Prohibits an insurer from considering loss and expense experience caused by a disaster declared by the governor to set rates outside the designated area of the disaster. Referred to House Insurance on 2/25.

HB 552 by E. Thompson: Effective January 1, 2022, requires minimum amounts of motor vehicle liability coverage to cover diminution of value as the result of an accident. Referred to House Insurance on 3/1.

HB 804 by Ju. Johnson: Amends §1952.159, Insurance Code, to disallow an offset, credit, or deduction if the insurer has not paid, in relation to the accident, the full amount of the applicable liability policy limit under the owner's or operator's policy. Referred to House Insurance on 3/1.

HB 1110 by Ju. Johnson: Adds §2002.007, Insurance Code, to require a residential property insurance policy that includes replacement cost coverage to provide that in a valid claim for damage to the insured property, the policy will pay full replacement cost regardless of whether the policyholder has repaired or replaced the property. Set for hearing in House Insurance on 3/23.

HB 1111 by Ju. Johnson: Amends §554.002, Insurance Code, to prohibit an insurer from discriminating against an individual based on sexual orientation or gender identity or expression. Referred to House Insurance on 3/4.

HB 1131 by Clardy: Amends §1952.301, Insurance Code, to prohibit an insurer from (1) requiring that a vehicle be repaired with a part or product on the basis that it is the least expensive available, or (2) that the beneficiary of the policy purchase a part of product from any vendor or supplier on the basis that it is the least expensive available. Further prohibits an insurer from considering any part of product of like kind and quality as an original equipment manufacturer of a part or product for any purpose unless the insurer or manufacturer has conclusively demonstrated that the part or product (1) meets the original manufacturer's fit, finish, and quality criteria, (2) is the same weight or metal hardness of the original manufacturer's part or product, and (3) has been tested using the same crash and safety test criteria as the original manufacturer's part of product. Further prohibits an employee or agent of an insurer or adjuster from (1) limiting the beneficiary's selection of a repair person or facility in order to obtain repair with any out-of-pocket costs other than the deductible, (2) intimidating, coercing, or threatening the beneficiary to use a certain repair person or facility, or (3) offering an incentive or inducement to the beneficiary for using a certain repair person or facility, other than a warranty issued by the repair person or facility. Extends the same prohibitions to claims for property damage of a vehicle to third party claims and broadens the applicability to agents and employees of the insurer, an adjuster, or an entity that employs an adjuster. Amends §1952.302, Insurance Code, to prohibit an insurer, employee or agent of an insurer, adjuster, or entity that employs and adjuster from (1) restricting a beneficiary to travel at a distance considered inconvenient by the beneficiary to obtain repairs (current standard is "unreasonable"), (2) offering, communicating, or suggesting in any manner that a particular repair person or facility will provide faster repair times, faster service, or faster and more efficient claims handling, or (3) disregarding a repair operation or cost identified by an estimating system, including the system's procedural pages and any repair, process, or procedure recommended by the original manufacturer. Referred to House Insurance on 3/4.

HB 1145 by Ju. Johnson: Adds §843.355, Insurance Code, to prohibit an HMO from requiring utilization review, including a preauthorization determination that a health care service is medically necessary or appropriate, of a service provided to an enrollee by a participating physician or provider. Adds §1301.1345, Insurance Code, to prohibit a health insurer from requiring utilization review of a medical care or health care service provided to an insured by preferred physician or provider. Makes conforming changes to limit preauthorization to services provided by a nonpreferred physician or provider. Referred to House Insurance on 3/4.

HB 1682 by Krause: Requires an insurer, upon the request of a claimant asserting a claim that might be covered under a liability insurance policy between the insurer and policyholder, to provide specified information by sworn statement to the claimant, including the name of the

insurer, the name of each insured, the coverage limits, and any policy or coverage defense the insurer reasonably believes is available to the insurer. The insurer must further provide a copy of the policy. Imposes a \$500 administrative penalty for non-compliance. A claimant may also request the information from the policyholder. The insurer must provide the requested information within 30 days after receiving the request. Requires the insurer to amend the sworn statement or a policyholder to disclose a material change within two days of becoming aware of the change. Referred to House Insurance on 3/9.

HB 1787 by Lambert/SB 1170 by Menendez: Amends §1952.060(d), Transportation Code, to require liability coverage under a personal automobile insurance policy for a temporary vehicle provided to the insured by a repair facility to specifically name a person excluded in a named driver exclusion. Heard in House Insurance on 3/16. SB 1170 referred to Senate Business & Commerce on 3/18.

HB 2118 by Lucio: Adds Chapter 564, Insurance Code, to prohibit certain health plans, programs, or arrangements from deceptive marketing practices, including: (1) representing a plan as providing benefits it does not provide; (2) sell or offer multiple plans to an individual in a single transaction in a false, misleading, or deceptive manner; (3) use terms associated with health care coverage under Obamacare in a false, misleading, or deceptive manner; (4) use terms associated with major medical coverage in a false, misleading, or deceptive manner; (5) represent that the federal open enrollment period applies to an excepted benefit plan or discount health care program; (6) misrepresent that the rate will change if the individual does not make an immediate decision; (7) fail to explain the difference between an excepted benefit plan and major medical coverage; (8) solicit the sale of an insurance product in any medium that does not the agent's name and national producer number in a visible manner; (9) contact a prospective purchaser or participant without identifying the agent's name and national producer number at the beginning of the contact; (10) try to contact a prospective purchaser or participant by phone and fail to leave a voicemail if it is possible to do so; or (11) use marketing media that has not been filed with TDI. Imposes a duty to record and retain marketing calls. Imposes a duty to submit certain information to TDI when requested. Imposes a duty to file with TDI copies of any sales or marketing materials for products sold in Texas. Makes violations enforceable by administrative penalties if the issuer is certified to do business in Texas. Makes violations committed by non-certified issuers a violation of the DTPA. Referred to House Insurance on 3/15.

HB 2330 by E. Thompson: Adds §1952.061, Insurance Code, to require an insurer authorized to write automobile insurance in this state to include a provision in a personal automobile insurance policy requiring the insurer to: (1) attempt to communicate with the named insured at least five times until the insured responds within the 45-day period following the date a liability claim is made against the insured by a third party; and (2) if the insurer is unable to communicate with the insured during that period, pay the claim to the third party in accordance with the policy and decline to renew the policy. Referred to House Insurance on 3/15.

HB 2534 by Clardy/SB 1706 by Blanco: Adds Subchapter I, Chapter 1952, Insurance Code, to require a personal automobile insurance policy to contain an appraisal procedure as specified by this chapter. Allows the insurer or named insured to demand appraisal not later than the 90th day after proof of loss is filed with the insurer if the insurer and insured do not agree on the amount of the loss. Requires each party to appoint a qualified appraiser and give notice to the other

within 15 days of the demand. Requires the two appraisers to determine the loss and seek agreement. In the event of disagreement, requires the appraisers to select a qualified umpire, whose decision is binding. Establishes a procedure for a court to appoint the umpire if the appraisers cannot agree on one. Makes each party responsible for the party's appraiser's fees and expenses. Requires the insurer to refund the amount of the insured's out-of-pocket costs for appraisal if the final determination is more than \$1 greater than the insurer's proposed undisputed loss statement. If the process upholds the insurer's determination, the insured shall refund the insurer's expenses. HB 2534 referred to House Insurance on 3/17.

HB 3433 by Smithee: Prohibits an insurer from discriminating against a person because of the person's political affiliation. Provides enforcement authority by the commissioner of insurance.

SB 249 by Schwertner: Adds §2002.007, Insurance Code, to require a policy of business interruption insurance issued for delivery, delivered, or renewed on or after January 1, 2022, to cover loss caused by a pandemic, including loss caused by the order of a civil authority to mitigate the spread of the pandemic, without regard to whether the pandemic caused direct physical loss to the policy owner's property. Referred to Senate Business & Commerce on 3/3.

SB 459 by Johnson/HB 1529 by Martinez Fischer/HB 1541 by J. Johnson: Adds Chapter 1511, Insurance Code, to prohibit a health benefit plan issuer from denying coverage or refusing to enroll an individual in a plan on the basis of a preexisting condition, limiting, excluding or requiring a waiting period for coverage of the individual's treatment for the condition, or charging the individual more for coverage than the issuer charges an individual without the condition. Prohibits discrimination, through the design of the plan, against an enrollee on the basis of race, color, national origin, sex, expected length of life, present or predicted disability, degree of medical dependency, quality of life, or other health condition. Prohibits the plan issuer from designing a plan with the effect of discouraging the enrollment of a person with significant health needs. Prohibits discriminatory marketing practices. Requires individual and small employer health plans to provide essential health benefits as designated by federal law as of January 1, 2017. Prohibits limits on annual or lifetime benefits for essential health needs. Prohibits cost-sharing for essential health needs that exceed the limits established by federal law.

HB 1538 by Menendez/HB 3960 by Lambert: Amends §1952.301, Insurance Code, to prohibit an insurer limiting an insured's coverage for damage to a motor vehicle that has an unexpired manufacturer's warranty. Prohibits an insurer from specifying a repair process unless it's the manufacturer's warranted part, product, or service for a vehicle with an unexpired manufacturer's warranty.

HB 4419 by Middleton: Requires an insured under TWIA only to make a single claim per event to claim all losses from the event. Requires TWIA to give a detailed explanation of its notice of coverage to the policyholder. Imposes 18% interest on the amount of an unpaid claim. Requires an appraisal to be completed within 180 days after the date of demand. Requires TWIA to adequately detail the scope of appraisal, including a list of any portions of the claim that have been accepted. Provides that if the claimant and TWIA fail to reach a settlement within 180 days after appraisal, interest accrues at 10% on the higher amount. Provides that the appraisal becomes binding once signed by the umpire and either the claimant's or TWIA's appraiser. Gives either side 30 days to notify the other of dispute, and allows either to file an action in district court 30 days after that. Dates the the deadline to provide notice of intent to file an action

to the last notice from TWIA. Entitles a prevailing claimant to prejudgment interest, court costs, and reasonable attorney's fees. Allows a claimant to recover consequential damages if TWIA unreasonably delays paying a claim once its liability is reasonably clear or offering to pay an amount of loss less than the appraisal or as determined by a finder of fact.

SB 1602 by Taylor: Requires an insurer to notify a policyholder of cancellation for failure or refusal to cooperate and may cancel the policy on the 10th day following the policyholder's receipt of the notice.

SB 1756 by Johnson/HB 1433 by Capriglione: Amends §707.004, Insurance Code, to require an insurer to refuse to pay a claim for withheld recoverable depreciation or a replacement cost holdback until the insurer receives reasonable proof of payment by the policyholder of any deductible applicable to the claim. Prohibits the insurer from waiving a deductible owed by the policyholder in exchange for the policyholder's use of the insurer's preferred or recommended contractor for the claim.

Workers Compensation

HB 34 by Canales: Amends §607.054, Government Code, to extend the presumption that a firefighter, peace officer, or EMT who contracts tuberculosis or a respiratory disease contracted the disease in the course and scope of employment to SARS-CoV-2 and COVID-19. Referred to House Business & Industry on 2/25.

HB 310 by Springer: Creates a presumption that a firefighter, peace officer, or EMT contracted a disease that is the basis of a gubernatorial disaster declaration contracted the disease during the course and scope of employment. Creates an assumption that such a disease is a line-of-duty disease.

HB 396 by Moody/SB 433 by Zaffirini/SB 439 by Blanco: Creates a presumption under workers' compensation law that a nurse who treated or came into contact with a patient contracted COVID-19 in the course and scope of employment. Referred to House Business & Industry on 2/25. SB 433 and 439 referred to Senate Business & Commerce on 3/9.

HB 776 by Walle/SB 305 by Eckhardt: Requires building contractors and subcontractors to provide workers' compensation insurance for their employees. HB 776 referred to House Business & Industry on 3/1. SB 305 referred to Senate Business & Commerce on 3/9.

HB 1752 by Oliverson: Amends §410.005, Labor Code, to permit the Workers' Compensation Division to conduct a benefit review conference telephonically, by video conference, or in person on good cause as determined by the division. Referred to House Business & Industry on 3/10.

HB 2502 by Patterson: Provides that for a claim of lifetime benefits income by an employee who is a first responder, the maximum weekly income benefit in effect on the date the claim for LBI is finally adjudicated and is applicable for the entire time LIB is paid. Provides that LIB may be paid for a substantial paralysis to the extent that the employee must use a wheelchair for mobility, regardless of whether minimal movement of an affected limb is possible. Entitles a first

responder to LIB in the amount of 100% of the employees AWW. Referred to House Business & Industry on 3/17.

HB 2598 by Patterson: Amends §504.019(c), Labor Code, to fix the date of injury for PTSD of a first responder on the 30th day after the date of first diagnosis (current standard is the date on which the responder knew or should have known the disorder may be related to his or her employment). Referred to House Business & Industry on 3/17.

HB 3158 by S. Thompson: Amends §408.001, Labor Code, to permit the parents of a deceased employee to recover exemplary damages in a gross negligence action against the employer. Authorizes one or more of the surviving spouse, parents, or heirs to bring the action. “Parent” includes an adoptive parent or stepparent.

SB 107 by Powell/HB 637 by Canales/HB 1498 by Martinez: Creates a presumption that a detention officer, firefighter, peace officer, or EMT contracted a disease that is the basis of a gubernatorial disaster declaration contracted the disease during the course and scope of employment. Creates an assumption that such a disease is a line-of-duty disease. SB 107 referred to Senate State Affairs on 3/3. HB 637 and HB 1490 referred to House Business & Industry on 3/1, 3/5.

SB 612 by Zaffirini: Amends §408.009, Labor Code, to establish a presumption of compensability for public school employees who contract COVID-19 and suffer disability or death. on or after February 1, 2020. The presumption may be rebutted through showing by a preponderance of the evidence that a risk factor or other cause not associated with the individual’s service as a school employee was a substantial factor in bringing about the disease, without which the disease could not have occurred. Requires the administrative law judge to make findings of fact and conclusions of law that consider whether a qualified expert provided the rebuttal evidence. Referred to Senate Business & Commerce on 3/17.

SB 1450 by Birdwell/HB 3120 by Capriglione: Extends lifetime income benefits to an employee who sustains a traumatic injury to the brain that results in permanent cognitive deficits that prevent further employment. Extends LIBs to first responders or political subdivision employees who suffer certain permanent and total disabilities under the Public Safety Officers’ Benefits Act.

Civil Rights

HB 188 by Bernal/HB 2524 by Reynolds: Adds Chapter 100B, Civil Practice and Remedies Code, to create a cause of action for denying a person full and equal accommodations in any place of public accommodation based on a person’s sexual orientation or gender identity or expression. Authorizes a court to award actual and punitive damages, reasonable attorney’s fees and court costs, and injunctive relief. Requires state contracts to require a contractor to adopt employment policies under which the contractor or its subcontractors may not discriminate against an employee or applicant based on sexual orientation or gender identity or expression. Imposes an administrative penalty of \$100 per day for violation of an employment policy. Adds sexual orientation or gender identity or expression to the list of prohibited employment practices under Chapter 21, Labor Code. Adds sexual orientation or gender identity or expression to the

list of prohibited practices in the sale or rental of a dwelling under Chapter 301, Property Code. HB 2524 referred to House State Affairs on 3/17.

HB 173 by Rosenthal: Adds Chapter 100B, Civil Practice & Remedies Code, to impose liability of up to \$250 on a person who makes a false report to a law enforcement agent or emergency services provider if the report submitted was due to bias or prejudice on account of the falsely accused person's race, color, disability, religion, national origin or ancestry, age, gender, sexual orientation, or gender identity. Awards a falsely accused person attorney's fees and costs if the person prevails in an action under this section. Referred to House Judiciary on 2/25.

HB 2069 by Coleman: Adds Chapter 100E, CPRC, to create a new cause of action against a person for a discriminatory practice based on an individual's sexual orientation or gender identity or expression in any place of public accommodation in the state or otherwise discriminates against or segregates or separates an individual based on sexual orientation or gender identity or expression. Prohibits housing discrimination based on sexual orientation or gender identity or expression. Prohibits a person engaged in real estate-related transactions from discrimination against an individual based on sexual orientation or gender identity or expression. Prohibits a person from coercing, threatening, intimidating, or interfering with an individual in the exercise or enjoyment of a protected right based on sexual orientation or gender identity or expression. Prohibits real estate listings from indicating a preference, limitation, or restriction based on sexual orientation or gender identity or expression. Prohibits steering or, for profit, attempting to influence an individual's entry into a neighborhood based on sexual orientation or gender identity or expression. Exempts religious organizations. Authorizes recovery of actual and punitive damages, attorney's fees, court costs, and injunctive relief. Makes changes to various laws relating to marriage to include same sex marriage. Referred to House State Affairs on 3/15.

HB 4166 by Wu: Amends §27.003, CPRC (TCPA), to provide that only a party to a legal action is considered to exercise the right of speech, association, or petition in bringing or defending the legal action, and not a person hired by the party to assist in the action.

SB 1540 by Menendez/HB 3860 by Gonzalez: Adds Chapter 113, Business & Commerce Code, to prohibit a person from discriminating against any person because of race, color, disability, religion, sex, national origin, age, sexual orientation, or gender identity (or status as a military veteran) to full and equal accommodation in any place of public accommodation in the state. Establishes a complaint procedure at the Texas Workforce Commission. Allows a complainant to file a civil suit if the commission denies a complaint. Authorizes compensatory and punitive damages. Authorizes award of attorney's fees to a prevailing party other than the commission. Provides trial de novo for a judicial proceeding. Provides for enforcement by the attorney general. Adds discrimination based on sexual orientation, gender identity, and status as a military veteran to unlawful employment practices parts of the Labor Code.

Court Records, Filing Fees, and Costs

SB 41 by Zaffirini: Amends §133.151, Local Government Code, to consolidate the collection of filing fees. Does not appear to increase existing filing fees or impose new fees. Requires the commissioners court of each county in the 10th Court of Appeals district to establish an appellate judicial system. Referred to Senate State Affairs on 3/3.

Judicial Matters

HB 228 by Murr: Allows a county commissioners court to exempt a court from the requirement to appoint an official court reporter by authorizing an electronic recording device to report the court's proceedings. The judge of a statutory county court or county court may claim the exemption and provide for proceedings to be recorded using a good quality recording device. Further allows the commissioners courts within a judicial district to agree to authorize the same for a district court. Provides for the preparation of a transcript and establishment of fees for transcription and delivery of the record. Does not affect a person's rights under other law to request a court reporter. Heard in House Judiciary on 3/17.

HB 339 by P. King/HB 2613 by Murr/SB 11 by Huffman: Shell bill for redistricting the courts of appeals districts. HB 339 referred to House Redistricting on 2/25. SB 11 referred to Senate Jurisprudence on 3/3. HB 2613 referred to House Redistricting on 3/17.

HB 1159 by Murr: Amends §92.0563, Property Code, to increase the amount a justice court may award a tenant for damages for the landlord's refusal to make repairs from \$10,000 to \$20,000. Referred to House Judiciary on 3/4.

HJR 66 by Vasut: Amends Art. V, §1-a(1), Texas Constitution, to repeal the mandatory retirement age for appellate and district court judges.

HB 419 by Miles: Raises the jurisdictional limit for justice courts and county courts from \$20,000 to \$50,000. Referred to Senate Jurisprudence on 3/17.

HB 1839 by Stephenson: Amends §24.001, Government Code, to disqualify a person from serving as a district judge if on the date of election or appointment the person is 75 or older. Referred to House Judiciary on 3/11.

HB 1876 by Schofield: Changes the annual base salary of a district judge from \$140,000 to 82.5% of the state base salary of a supreme court justice other than the chief justice. Changes the annual base salary of an appellate court justice other than the chief justice from 110% of the state base salary of a district court judge to 91% of the state base salary of a supreme court justice other than the chief justice. Requires the LBB to biennially calculate for the succeeding fiscal biennium: (1) the annual base salary from the state of supreme court justices other than the chief justice and judges of the court of criminal appeals other than the chief judge; (2) all other annual salaries to paid by the state based on (1). The amount of (1) shall be calculated by adding the annual base salary of (1) for the current fiscal year and the percentage change in the CPI during the preceding two state fiscal years. Authorizes the legislature to make pro rata reductions to meet available revenue. Heard in House Judiciary on 3/17.

HB 1880 by Schofield: Indexes the annual base salary of a district judge by the rate of inflation. Heard in House Judiciary on 3/17.

HB 2101 by Anderson/SB 1285 by Birdwell: Creates an additional general jurisdiction district court in McLennan County. The court would also have concurrent jurisdiction with the county

court and statutory county courts of McLennan County in misdemeanor cases. Referred to House Judiciary on 3/15. SB 1285 referred to Senate Jurisprudence on 3/18.

HB 2714 by Hernandez: Requires judges and court personnel to take implicit bias training. Requires each licensed attorney to take one hour per year of CLE in implicit bias training. Referred to House Judiciary on 3/17.

HB 3053 by Rodriguez: Amends §24.001, Government Code, to disqualify a person from serving as a district judge if the person has been found to be a vexatious litigant under Chapter 11, CPRC. Amends §§25.0014 and 25.0033, Government Code, to disqualify a person from serving as a statutory county court or probate judge if the person has been found to be a vexatious litigant under Chapter 11, CPRC.

HB 3208 by Wilson: Creates the 480th District Court in Williamson County.

HB 3511 by Canales: Creates the 476th District Court in Hidalgo County.

HB 3513 by Canales: Creates the 477th and 476th District Courts in Hidalgo County.

HB 3822 by Schaefer: Creates the 475th District Court in Smith County.

HB 3966 by Morales: Makes a retired or former judge eligible to serve as a visiting judge if the judge certifies under oath that during the 12 years preceding assignment as a visiting judge the judge has not been publicly reprimanded or censured by the Judicial Conduct Commission and the judge: (1) did not resign or retire from office after the Commission notified the judge of commencement of a full investigation into an allegation or appearance of misconduct or disability and before the final disposition of that investigation; or (2) if the judge did resign from office, was not publicly reprimanded or censured as a result of that investigation. Provides that a former or retired district judge is ineligible for assignment if during the preceding 12 years the judge is identified in a public statement by the Commission that the judge resigned or retired in lieu of discipline.

HB 4213 by Murr: Provides that if a party files a motion to recuse and is ordered to pay fees or expenses, the movant is entitled to a de novo appeal of the order upon notice to the court no more than 30 days following the order. Makes the determination of the appeal of the sanctions appealable to the court of appeals.

HB 4235 by Craddick: Eliminates the requirement that the Eleventh Court of Appeals District conduct its business in Eastland.

HB 4280 by Morales: Creates the 479th District Court in Maverick County.

HB 4292 by Kacal: Creates the 463rd District Court in Brazos County (including with concurrent jurisdiction with the statutory county court in misdemeanor cases).

HB 4344 by Jetton: Requires the Judicial Conduct Commission to dismiss a complaint on the first Monday after 455 days from the date the complaint was received if it has not commenced an

informal hearing or formal proceedings (with the possibility of a 120-day extension on recommendation of the executive director).

HB 4345 by Jetton: Gives the Judicial Conduct Commission the authority to enforce the Judicial Code of Conduct and administer discipline as it relates to candidates for judicial office.

HB 4422 by T. King/SB 1339 by Zaffirini: Authorizes a county employee who serves as the head of county's civil legal department to request the attorney general's advice regarding a matter in which the state is interested.

SB 690 by Zaffirini/HB 3611 by Leach/HB 4081 by Crockett: Adds §21.013, Government Code, to authorize a court of this state, either on its own motion or on motion of a party, to (1) conduct a hearing or other proceeding remotely without consent of the parties (except where consent is constitutionally required), and (2) allow a judge, party, attorney, witness, court reporter, juror, or any other individual to participate in a remote proceeding, including a deposition, hearing, trial, or other proceeding. If a jury trial is to be conducted remotely, the court shall consider on the record any motion or objection related to proceeding with the trial not later than 7 days before trial, or if a motion or objection is made within 7 days before trial, as soon as practicable. Requires the court to ensure that prospective jurors have access to the necessary technology. Requires the court to provide reasonable notice to the public if the court will hold a proceeding away from the court's usual location. Repeals §30.012(b), CPRC, which permits a witness deposition by electronic means only if it is conducted before the commencement of trial. Referred to Senate State Affairs on 3/17.

HB 2950 by Smith: Amends §74.161(a), Government Code, regarding the judicial panel on multidistrict litigation, to change the appointment authority from the chief justice of the supreme court to the court as a whole, and to permit the appointment of former or retired court of appeals justices. Amends §74.162 to allow the panel to transfer cases that have a common basis in law as well as fact. Amends §74.1625 to prohibit the panel from transferring a case brought by the consumer protection division of the attorney general's office under Subchapter E, §17.50, Business & Commerce Code. Referred to House Judiciary on 3/18.

SB 898 by Zaffirini: Adds §§33.02114, 33.02115, and 33.02116, Government Code, to direct the Judicial Conduct Commission to: (1) maintain on its website that a complainant is not required to maintain the confidentiality of the complaint; (2) establish guidelines for the imposition of a sanction to ensure that each sanction is proportional to the violation; and (3) establish a schedule outlining times for commission action on a complaint. Referred to Senate Jurisprudence on 3/11.

SB 1007 by Hinojosa/HB 3840 by Dominguez: Amends §72.031, Government Code, to permit any court to accept electronic payments for using the electronic filing system, not just appellate courts. Authorizes Cameron, Hidalgo, and Webb counties to charge an additional \$2 per filing for operating costs of electronic payment, communicate with other technology information systems, or improve or maintain cybersecurity systems. SB 1007 referred to Senate Jurisprudence on 3/18.

SB 1147 by Perry/HB 3354 by Burrows: Allows a justice of the peace court in Lubbock County to be housed or conduct proceedings in a location outside the court's precinct. SB 1147 referred to Senate Jurisprudence on 3/18.

SB 1530 by Huffman/HB 3774 by Leach: This is the biennial court administration omnibus bill. The filed version:

- Adds new civil district courts in Bell, Williamson, and Denton Counties, a criminal district court in Tarrant County, a statutory county court in Williamson County, and a statutory probate court in Denton County;
- Expands the jurisdiction of County Court at Law No. 2 in Denton County to include, regardless of the amount in controversy, eminent domain cases and direct and inverse condemnation cases;
- Procedures for the electronic transfer of cases between courts;
- Various changes to criminal law procedures;
- Changes regarding the appointment of judges or magistrates to a regional specialty court program for certain criminal cases;
- Changes pertaining to veteran's court.

SB 1286 by Birdwell: Adds a new statutory county court in McLennan County with concurrent jurisdiction with the district court. Referred to Senate Jurisprudence on 3/18.

SB 1506 by Springer: Requires the presiding judge of the Court of Criminal Appeals to approve any change in rule, procedure, or practice before it may be applicable in a criminal case.

SB 1529 by Huffman: Creates a statewide court of appeals district for the Texas Court of Appeals with exclusive jurisdiction over civil cases brought by or against the state or a state agency, board, or commission. Composed of six judges elected statewide. Sits in Austin.

SB 1548 by Nelson/HB 3569 by Parker: Creates a new district court in Denton County.

SB 1638 by Miles: Gives justice courts jurisdiction over offenses related to fraudulent conveyances of interests in real property.

SB 1940 by Gutierrez: Expands the jurisdiction of certain statutory county courts, including in McLennan County and Reeves County.

SB 2027 by Creighton/HB 1365 by Clardy: Directs the Office of Court Administration to create a uniform standardized system for transferring cases between courts via the electronic filing system. HB 1365 referred to House Judiciary on 3/5.

Jury Matters

HB 2485 by Herrero: Exempts firefighters and police officers from jury service, if they are permanent paid employees of a city, county, or special district or authority that provides firefighting services. Referred to House Judiciary on 3/16.

HB 3763 by Guillen: Bars an employer who pays an employee wages or salary during the employee's jury service from requiring the employee to remit to the employer any

reimbursement for travel, other expenses, or compensation received by the employee for jury service, or withhold or divert any part of the employee's wages or salary to offset the amount of reimbursement or compensation the employee received for jury service.

Attorney's Fees

HB 1162 by Murr: Amends §38.001, CPRC, to require a party to prevail in order to recover attorney's fees for the enumerated actions. Referred to House Judiciary on 3/4.

HB 1358 by Vasut: Amends §38.001, CPRC, to expand the persons from whom attorney's fees may be recovered in the enumerated actions to include a (business) organization as defined by §1.002, Business Organization Code, the state, or an agency or institution of the state. Referred to House Jurisprudence on 3/4.

HB 1428 by Huberty/SB 515 by Huffman: Amends §2254.102(e), Government Code, which limits the ability of the state or state agency to enter into a contingency fee contract for legal services, to exempt contracts to collect a delinquent obligation to the state agency or for services on behalf of an issuer of a public security. HB 1428 was heard in House County Affairs on 3/18. SB 515 referred to Senate Jurisprudence on 3/9.

HB 1495 by Dutton: Adds Chapter 38A, CPRC, to require a court to award court costs and reasonable and necessary attorney's fees to a party who prevails in an action challenging an order, ordinance, or similar measure of a political subdivision as preempted by the Texas Constitution or state statute. Also applies to an action challenging an officer of a political subdivision for failure to perform an act of the office required by the constitution or a statute. Heard in House Judiciary on 3/17.

HB 1578 by Landgraf: Amends §38.01, CPRC, to add "limited liability company" to the list of persons from whom a party may recover attorney's fees in an enumerated action. Heard in House Judiciary on 3/17.

HB 1974 by Canales/SB 1821 by Huffman: Amends §2254.102, Government Code, which limits the ability of the state or state agency to enter into a contingency fee contract for legal services, to add to the definition of a "contingent fee contract" an amendment to the contract if the amendment changes the scope of representation or may result in the filing of a lawsuit or the amending of a petition in an existing lawsuit. Referred to House State Affairs on 3/15.

SB 484 by Hinojosa: Allows a member of the state military forces who is ordered to state active duty, training, or other duties by the governor or another appropriate authority to hire a private attorney to bring a civil action in district court for the same benefits and protections afforded to federal military service members. A court may award to a prevailing service member equitable and injunctive relief, other relief, including monetary damages, reasonable attorney's fees and costs of the action. Referred to Senate State Affairs on 3/9.

HB 2809 by Murphy: Amends §2254.102(b), Government Code, to exempt certain contingent fee contracts entered into by a political subdivision to enforce provisions of the Alcoholic Beverage Code from getting approval from the Comptroller's office. Referred to House Licensing and Administrative Procedures on 3/18.

HB 2817 by C. Turner: Adds §402.022, Government Code, to require attorneys contracting with the attorney general to provide legal services to document and retain a record of hours worked on the matter and to provide a report to the attorney general of total hours worked at the conclusion of the matter. Provides that the information is public information. Referred to House Judiciary on 3/18.

HB 2917 by Schofield: Amends §38.001, CPRC, to expand the persons from whom attorney's fees may be recovered in the enumerated actions to include a (business) organization as defined by §1.002, Business Organization Code. Referred to House Judiciary on 3/18.

HB 3150 by Meyer: Amends §§38.01 and 38.02, CPRC, to provide that a court may award reasonable and necessary attorney's fees to a prevailing party in the enumerated actions (eliminates limitation to an individual or corporation). Provides that to recover fees, the prevailing party must be represented by an attorney, but is not required to bring a claim for attorney's fees in the action covered by §38.01.

HB 3349 by Rosenthal: Amends §38.01, CPRC, to expand the the persons from whom attorney's fees may be recovered in the enumerated actions to include any "legal entity." Specifies that §38.01(a) does not authorize recovery of attorney's fees from the state, an institution or agency of the state, or a political subdivision of the state.

HB 3695 by J. Johnson: Amends 38.01, CPRC, to expand the person from whom attorney's fees may be recovered in the enumerated actions to include a limited liability company, limited partnership, or any other type of corporate entity.

SB 808 by Hughes/HB 3377 by Krause: Amends §38.001, CPRC, to expand the persons from whom attorney's fees may be recovered in the enumerated actions to any person. SB 808 was heard in Senate State Affairs on 3/15 and left pending.

SB 1370 by Huffman: Requires the comptroller to approve any contract between the attorney general and an attorney for the performance of services required of the attorney general. Requires an attorney to submit an invoice to the comptroller for determination of whether the billed charges are within the contract and eligible for payment. Referred to Senate Jurisprudence on 3/18.

Practice of Law

SB 247 by Perry: Prohibits the State Bar of Texas from adopting a rule or policy that burdens a license holder's free exercise of religion, speech, association, or membership in a religious organization. Prohibits a rule, policy, or penalty that limits an applicant's ability to obtain or renew a law license based on a sincerely held religious belief. Does not apply to a rule or policy essential to enforcing a compelling governmental purpose and narrowly tailored to accomplish that purpose. Allows an aggrieved person to obtain injunctive relief. Creates a defense to an administrative hearing or declaratory judgment, unless based on sexual misconduct or the prosecution of an offense. Set for hearing in Senate State Affairs on 3/3.

[SB 418](#) by Miles: Authorizes a member of the legislature to request information related to an attorney grievance filed with the ombudsman if the complainant consents to the disclosure. Referred to Senate State Affairs on 3/9.

[SB 755](#) by Miles: Adds §82.0625, Government Code, to require an attorney who receives for a client represented by the attorney money or other property paid to settle a claim in which the client has an interest to: (1) immediately notify the client of the receipt of the money or property; and (2) obtain the client's consent to payment owed by the client to a third party unless other law requires the attorney to pay the third party. Penalty for a violation is suspension from the practice of law for six months. Authorizes a client to sue an attorney for a violation and recover the amount received by the attorney, interest at the judgment rate, and reasonable attorney's fees. Referred to Senate Jurisprudence on 3/17.

[HB 2393](#) by Davis/[SB 891](#) by Eckhardt: Prohibits voting discrimination based on age, sex, religion, race, color, creed, or national origin in state bar elections. Permits a person to bring an action for injunctive relief in Travis County district court against a member of the state bar for a violation, with recovery of court costs and attorney's fees. Lowers the requirement of a petition to place a candidate for president-elect to 500 signatures, rather than the current requirement of 5% of the membership. Allows electronic signatures on a petition. HB 2393 referred to House Judiciary on 3/15. SB 891 referred to Senate State Affairs on 3/11.

[HB 4543](#) by Cain: Prohibits an attorney from using a deceptive, false, or misleading law firm name, letterhead, or other professional designation. Allows an attorney to practice under a trade name that is not deceptive, false, or misleading; imply a connection with a governmental agency or public or charitable legal services organization; or does not imply the firm is something other than a law firm.

Landlord-Tenant

[HB 900](#) by Huberty: Adds §24.0061(i), Property Code, to exempt a landlord from liability for damages to a tenant resulting from the execution of a writ of possession. Heard in House Judiciary on 3/17.

Probate Matters

[HB 1447](#) by Minjarez/[SB 759](#) by Menendez: Provides that a probate or guardianship proceeding conducted by remote technology is considered conducted in open court. Likewise validates a decision, order, decree, or judgment rendered by remote technology. Requires the court to ensure that the public maintains access to the proceedings and to establish and make available to parties and the public guidelines regarding the conduct of the proceedings by remote means. Referred to House Judiciary on 3/5. SB 759 referred to Senate State Affairs on 3/11.

Administrative Procedures

[HB 2580](#) by Leach: Amends Chapter 2003, Government Code (Texas Administrative Procedures Act), as follows:

- Adds §2003.0401 to direct the chief administrative law judge to appoint a deputy to act in the event the chief judge is absent or unable to act, to supervise the ALJs (including

senior or master ALJs), and to perform other services as directed by the chief ALJ; the deputy serves at the pleasure of the chief ALJ; makes conforming changes throughout the statute to reflect addition of a deputy chief ALJ

- Adds §2003.0501 to authorize the chief ALJ to modify or suspend a procedure governing an administrative hearing or alternative dispute resolution procedure affected by a disaster during the period the governor's disaster declaration is in effect; limits the emergency order to 30 days, unless renewed; requires the order to conform as nearly as practicable to a SCOTX emergency order
- Adds §§2003.0551 and 2003.0552 to authorize an ALJ to conduct a proceeding by videoconference and to authorize the State Office of Administrative Hearings to deliver decisions or orders by electronic means
- Repeals §2003.021(c) and (d) to eliminate the requirement that SOAH conduct workers' compensation hearings under Title 5, Labor Code, and hearings under the Agriculture Code
- Repeals §2003.024(a-2), which directs SOAH, if operating under an interagency agreement for quarterly payments, to track hours and estimate future hours for the fiscal year
- Repeals §2003.050(c), which requires SOAH rules to provide for certifying the identity of a witness appearing by telephone
- Repeals §2003.108, which requires SOAH to conduct quarterly review of the status of tax cases with the Comptroller
- Repeals §40.004, Insurance Code, which requires the insurance commissioner and SOAH to execute an MOU governing SOAH hearings under the Insurance Code
- Adds §411.1411, Government Code, to authorize SOAH to obtain criminal history information from DPS for SOAH employees, applicants, contractors, subcontractors, volunteers, interns, consultants, or contract employees. Referred to House Judiciary on 3/17.