

# JUVENILE CASE LAW UPDATE

## **NEW LEGISLATION CREATES ADDITIONAL WAYS TO IDENTIFY SUSPECTED GANG MEMBERS**

The legislature recognized the increasing use of the internet by gangs and gang members and has allowed law enforcement to use information found on the web for the gang database for the first time. Evidence that an individual has posted photos or other documents on the internet which indicate gang membership can now be used as a self admission. Any attempts to recruit individuals to join a gang using the internet would also qualify as a self admission. The length of time and individual is listed in the gang database will now be 5 years rather than 3 years.

**CODE SECTION: Texas Code of Criminal Procedure, Section 61.02 (i)(vii)(viii)**

## **NEW LEGISLATION ENHANCES THEFT OF IDENTIFYING MATERIAL TO A CLASS B MISDEMEANOR**

If the item stolen from an individual is a driver's license, commercial driver's license, or a personal identification certification from any state it is now a Class B Misdemeanor and can therefore be prose-

**CODE SECTION: Texas Code of Criminal Procedure, Section 31.03(e)(2)(C)**

## **PAROLE FOR JUVENILES CONVICTED OF A CAPITAL FELONY**

If the case is transferred from the Juvenile System, the sentence in a Capital Felony is life with eligibility for parole after 40 years. This applies in all cases where the Juvenile is certified and the case is sent to the Adult System under the Texas Family Code.

**CODE SECTION: Texas Penal Code, Section 12.31**

## **CASE LAW UPDATE**

### **VICTIM DOES NOT NEED TO BE IN FEAR OF IMMINENT SERIOUS BODILY INJURY FOR A TERRORISTIC THREAT TO HAVE OCCURRED**

In this case, the juvenile stood next to his co-actor who threatened to kill the victim with a gun. The juvenile was holding a tire iron but made no statements to the victim. The court held that it is not necessary for the victim to be in fear of imminent serious bodily injury or death. The law simply requires that the defendant desire that the victim be placed in fear for the threat to be completed. In addition it is irrelevant whether the defendant could actually complete the action threatened, instead the only requirement is that the threat is made to the victim.

**CASE LAW CITE: In the Matter of I.A.G., No. 09-08-00430-CV, \_\_\_ S.W.3d \_\_\_, 2009 WL 3126241 (Tex.App.-Beaumont, 10/01/09).**

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## **MANDATORY COMMUNITY SERVICE FOR GRAFFITI**

The legislature has now mandated minimum amounts of community service on Graffiti offenses. 15 hours are required for Class B misdemeanors and 30 hours for Class A misdemeanors.

**CODE SECTION: Texas Code of Criminal Procedure, Section 42.12(11)(k)(1)(2)**

## **CHANGING THE DEFINITION OF GRAFFITI**

The Texas Legislature also altered the definition of Graffiti. Graffiti is no longer limited to aerosol paint but includes any type of paint which creates a marking, inscription, slogan, drawing or paintings on property.

**CODE SECTION: Texas Penal Code, Section 28.08 (a)(1)**