



Legislative Musings

by Cate Wollam

It was the best of times, it was the worst of times (I always steal from the best). The ballot measures 66 and 67 passed and the courts will not be closed on Fridays for the remainder of the biennium. It looks like Ballot Measure 57 is going to be suspended for at least a temporary period of time, which will give the legislators time to figure out just how many new prisons they want to build. The more mandatory minimums they require

the more cases go to trial and the more prison beds we need at a time when school funding is at a critically low level. And, with mandatory minimums the prosecutors choose what the sentence will be by choosing what and how many charges to file. Elected judges are superfluous.

The bail bonds bill has been withdrawn for a year. That's another bullet dodged! Of all the things we don't need it is bail bondsmen and bounty hunters working for them in our state. They remove the money from our system that clients currently pay in bail, a system that doesn't seem to be broken. Bail bondsmen are deprived of income they would like to have, and bounty hunters become unnecessary in our state, which all sounds good to me!

Then there is HB 3601. For those of you who have not followed this battle, this bill (in an early incarnation) would have allowed the state to charge \$200 for a DMV hearing where the issue is the client's license. After a client is accused of either failing or refusing a breath test he is entitled to a hearing regarding the validity of DMV suspending his driver's license. The attorney shows up and gets the officer's reports at an early stage of the proceeding and then gets to cross-examine the officer. What a great discovery tool!

This bill would have forced clients to pay for the privilege unless they qualify for food stamps, and allowed the officers to testify by phone. The hearings officer would not be able to see such things as damage to the client from an accident that might show he was the passenger and therefore shouldn't lose his license. It could make getting a clean record a serious problem—at phone conferences people often talk over each other. Passing reports and photos back and forth is time-consuming, and the possibility of not getting everything exchanged may cost the client his

license. And, what should be most important to the prosecutors, if the client has a chance to see the officer, view the video, look at the pictures and hear the relatively unemotional story (no jury so no need) from the cop, often he tells counsel that, after all, maybe this is a diversion case, or a plea. What a savings to the system in time and energy!

This won't happen on the phone. One of the legislators couldn't be at the committee hearing, and one of the others noted that he had a deposition to attend and did not choose to do it by phone. After that comment, I had high hopes that the bill would die in committee. It didn't. The \$200 fee did, but the House Judiciary Committee passed the remainder of the bill and referred it to Ways and Means. More than 60 of us emailed our representatives to "Just say no." By the time you read this, battles and compromises will have been made in the Senate. Thanks to everyone who worked on this issue. This bill was a case in point why members need to know and contact their respective state representatives and senators. Those of you who have not yet told Gail Meyer who your senator and representative are, please get off the stick and do so.

For a brief period of time we had *Machuca*. Now the Supremes have even disavowed *Moylett*, so there will be no future controversy. Telling someone that if they don't give evidence against themselves they will be punished is not coercive. A patient in a hospital room with a door and a lock on it has no expectation of privacy (all things argued by Spencer Hahn in *Machuca*). And green is red and black is white and I'll see you all at the next OCDLA conference. ♦

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