

THE STATE OF TEXAS
(Plaintiff)

IN THE MUNICIPAL COURT

VS.

Richard Travis house of Martin
(Accused)

NUECES COUNTY, TEXAS

**Notice Challenging Constitutionality of the Entire Recodification of
the Texas "Transportation" Code via SB 971.**

**Unconstitutional Judicial Alteration of Well-Established Law on the Proper Meaning and
Use of Terms of Art, Thus, Unconstitutionally Affecting Legislative Purpose and Intent
While Unlawfully Expanding the Scope of Legislation.**

A.) The term "transportation"¹ is a legal "term of art" having a specific meaning within the specific context of "transportation" related professions and occupations, and is not directly related to the actions and activities of the general public acting in their private common law capacities and activities.

The online version of the Oxford English Dictionary defines "term of art" this way: A word or phrase that has a precise, specialized meaning within a particular field or profession. ² (Emphasis added).

While the online version of West's Encyclopedia of American Law, Edition 2, defines the phrase in this way: A word or phrase that has special meaning in a particular context. ³ (Emphasis added).

West's Encyclopedia of American Law then goes on to provide us with some clarity as to exactly why this differentiation of language is important to know and fully understand, as it is the precise avenue by which the perversion/corruption of our understanding of our common language use has taken place.

A term of art is a word or phrase that has a particular meaning. Terms of art abound in the law. For example, the phrase double jeopardy can be used in common parlance to describe any situation that poses two risks. In the law, Double Jeopardy refers specifically to an impermissible second trial of a defendant for the same offense that gave rise to the first trial.

The classification of a word or phrase as a term of art can have legal consequences. In *Molzof v. United States*, 502 U.S. 301, 112 S. Ct. 711, 116 L. Ed. 2d 731 (1992), Shirley M. Molzof brought suit against the federal government after her husband, Robert E. Molzof, suffered irreversible brain damage while under the care of government hospital workers. The federal government conceded liability, and the parties tried the issue of damages before the U.S. District Court for the Western District of Wisconsin. Molzof had brought the claim as executor of her husband's estate under the Federal Tort Claims Act (FTCA) (28 U.S.C.A. §§ 1346(b), 2671–2680 [1988]), which prohibits the assessment of Punitive Damages against the federal government. The court granted recovery to Molzof for her husband's injuries that resulted from the Negligence of federal employees, but it denied recovery for future medical expenses and for loss of enjoyment of life. According to the court, such damages were punitive damages, which could not be recovered against the federal government.

The U.S. Court of Appeals for the Seventh Circuit agreed with the trial court, but the U.S. Supreme Court disagreed. According to the Court, punitive damages is a legal term of art that has a widely accepted common-law meaning under state law. Congress was aware of this meaning at the time it passed the FTCA. Under traditional common-law principles, punitive damages are designed to punish a party. Since damages for future medical expenses and for loss of enjoyment of life were meant to compensate Molzof rather than punish the government, the Court reversed the decision and remanded the case to the Seventh Circuit.

When we are interacting with it in any way, the legal system constantly and subversively presumes and construes **our** every use of language as being the same as its own legal terms of art rather than the real common English meaning and usage. The primary reason that there is any misunderstanding at all about this fact is because those operating professionally within the system are constantly telling the rest of us that, unless the law creates a specific definition for a given term or phrase, then, they too are always using regular English words and sentences in their everyday common and ordinary meaning and context, rather than legal terms and phrases of art having an entirely legal meaning and context.

But this is a lie, because they have neither the authority nor any legitimate purpose for addressing or dealing with any one of we the People except in the context of, and in relationship to, some breach of law or legal duty and any related legal process associated therewith. This is the entire reason that the system of law has developed its own language, as well as law-related dictionaries containing the definitions of its legal terms and phrases. These legal dictionaries are positive proof that a term or phrase of art actually means something different when used in relation to law, which is the only way that our public servants and the courts can use it, than it does in the common English manner that we the People use that identical word or phrase every day.

Further proof of this point is found in the reading of Secs. 311.011, 311.016, 311.021, 312.001, 312.002, and 312.005, Texas Government Code

GOVERNMENT CODE

TITLE 3. LEGISLATIVE BRANCH

SUBTITLE B. LEGISLATION

CHAPTER 311. CODE CONSTRUCTION ACT

SUBCHAPTER B. CONSTRUCTION OF WORDS AND PHRASES

Sec. 311.011. COMMON AND TECHNICAL USAGE OF WORDS.

(a) Words and phrases shall be read in context and construed according to the rules of grammar and common usage.

(b) **Words and phrases that have acquired a technical or particular meaning**, whether **by legislative definition** or **otherwise, shall be construed accordingly.**

Sec. 311.016. “MAY,” “SHALL,” “MUST,” ETC. The following constructions apply unless the context in which the word or phrase appears necessarily requires a different construction or unless a different construction is expressly provided by statute:

- (1) “May” creates discretionary authority or grants permission or a power.
- (2) **“Shall” imposes a duty.**
- (3) **“Must” creates or recognizes a condition precedent.**
- (4) **“Is entitled to” creates or recognizes a right.**
- (5) “May not” imposes a prohibition and is synonymous with “shall not.”
- (6) “Is not entitled to” negates a right.
- (7) “Is not required to” negates a duty or condition precedent.

Sec. 311.021. INTENTION IN ENACTMENT OF STATUTES. In enacting a statute, it is presumed that:

- (1) **compliance with the constitutions of this state and the United States is intended;**
- (2) **the entire statute is intended to be effective;**
- (3) **a just and reasonable result is intended;**
- (4) a result feasible of execution is intended; and
- (5) public interest is favored over any private interest.

GOVERNMENT CODE

TITLE 3. LEGISLATIVE BRANCH

SUBTITLE B. LEGISLATION

CHAPTER 312. CONSTRUCTION OF LAWS

SUBCHAPTER A. CONSTRUCTION RULES FOR CIVIL STATUTES

Sec. 312.001. APPLICATION. This **subchapter applies to the construction of all civil statutes.**

Sec. 312.002. MEANING OF WORDS.

(a) Except as provided by Subsection (b), words shall be given their ordinary meaning.

(b) If a word is connected with and used with reference to a particular trade or subject matter or is used as a word of art, the word shall have the meaning given by experts in the particular trade, subject matter, or art.

Sec. 312.005. LEGISLATIVE INTENT. **In interpreting a statute, a court shall diligently attempt to ascertain legislative intent and shall consider at all times the old law, the evil, and the remedy.**

(Emphasis added).

B.) Section 311.011(a) is neither vague nor ambiguous when it places a **legal duty upon all branches of government** to read and apply every statute in every code in its proper context, which, in the case of the Texas “Transportation” Code, is the context of “transportation” and its legal meaning and usage as term of art related solely to a profession or occupation. So sayeth the Legislature in the Caption/Title of SB 971(“SB 971”), the legislative Bill responsible for the alleged recodification of Vernon’s statutory scheme into the current Texas “Transportation” Code scheme.

C.) Sections 311.011(b) and 312.002(b) make it very clear that Texas courts cannot lawfully refuse to recognize that the Legislature of the State of Texas **must** be presumed to have **already known and understood** the proper historical legal meaning of “transportation” as a legal “term of art.” And that, when the legislature allegedly recodified Vernon’s pre-existing statutes relating to “transportation” into a singular regulatory code having the same specific name as the legislative subject matter, **they both knew and intended to regulate the activities and use of objects relating to a particular class of profession or occupation and not the general public.**

For any Texas court at any level to try and use judicial interpretation to disingenuously conclude and rule otherwise, which would be a direct violation of the court’s legal duties as imposed by Secs. 311.011(b) and 312.002(b), is **nothing short of judicial hubris** and an **unconstitutional usurpation of legislative authority** in violation of the separation of powers clause of Article 2, Texas Constitution.

D.) Sections 311.011(b) and 312.002(b) also make it very clear that Texas courts are not free to use judicial interpretation to simply alter the historical and legal meaning of the term “transportation” to suit their own desired agenda or some predisposed outcome to one or more particular cases involving particular facts that are inherently legally dependent upon the term’s common historical legal meaning and usage. Thus, any judicial alteration by interpretation would unconstitutionally and unlawfully result in the fundamental alteration of the intent and purpose of such legislation in lieu of that specifically stated and intended by the Legislature.

II. Unconstitutional Enactment Through Multiple Facets of Legislative Fraud.

A.) The Caption/Title of Senate Bill 971 contains an unconstitutional and fraudulent Caption/Title declaration. The Caption/Title reads, “AN ACT relating to the adoption of a **nonsubstantive revision** of statutes **relating to transportation**, including conforming amendments, repeals, and penalties”. (Emphasis added).

B.) The Caption/Title of SB 971 is fraudulent because the recodification does, in fact, contain numerous substantive changes throughout the Bill that completely alters or eliminates one or more pre-SB 971 legislative objects that existed at the time of the recodification, thus, substantially altering the pre-existing statutes in ways that creates entirely new legislative objects while eliminating others. How are such alterations to the pre-existing statutes not the exact opposite of nonsubstantive?

C.) This fraudulent Caption/Title violates both the Public’s right to have not only proper notice of the subject matter of any proposed legislation, but also the legislations specific purpose and intent, and, therefore, is a direct violation of the specific prohibitions, spirit, and intent, of the provisions of Art. 3, Secs. 32 and 35, Texas Constitution.

D.) One example of a substantive change is SB 971’s complete removal of all references to the pre-existing standard forms of “transportation” related licenses, which are the “commercial operator’s,” “operator’s,” and “chauffer’s” licenses.⁴ There are no other forms of license in the original Vernon’s defined for the purpose of “operating” a “commercial/ motor/ vehicle”. Each of these original forms of license was completely removed from SB 971 without benefit of any legislative act repealing them. The ‘nonsubstantive’ revision of SB 971 then completely replaced those original forms of license with several entirely new overbroad and vaguely defined forms of license under the singular reference of “driver’s license.”

The major issue with the newly formed “transportation” related “driver’s license” defined by Sec. 521.003 of SB 971, is that the license forms it identifies as its component parts were originally the temporary versions of the original types of licenses that SB 971 actually deleted all mention of.⁵ A person could receive a “temporary license” form of a “commercial operator’s” or “operator’s” license, but not just a “temporary license”. The same thing applies to the “instruction permit.” It is commonly called the “learner’s permit,” and it is the temporary predecessor to obtaining either an actual “commercial operator’s,” “operator’s,” or “chauffer’s” license once the actual written and “driving” test has been completed and passed.

Thus, the “new” forms of license unconstitutionally created by SB 971 under the singular reference of “driver’s license,” are not and cannot be standalone permanent forms of a valid license, and there is no other form of license identified in the entirety of SB 971 as being a statutorily defined and recognized form of “driver’s license”.

However, there are several Texas court rulings on this specific point that have never been overturned, and that make it abundantly clear that Texas law does not recognize any form of license defined as a “driver’s license,” but, rather, only the three original forms of license⁶. The court addressed the fact that a person could not be charged with not having a form of license that that law did not officially recognize within its language.

The removal of those previously existing and statutorily separate forms of license, and the substitution of three very different and unrelated forms of “temporary” licenses under the new singular reference of (“driver’s license”), each with completely different statutory requirements for obtaining its particular form, would most certainly have to be viewed as a substantive change.

E.) Another example of substantive change to original legislative intent and purpose is the knowing and willful removal of previously existing statutory language specifically limiting mandatory “vehicle registration” to only those “vehicles” owned by the State. Thus, presenting to the general public an entirely fraudulent and previously non-existent impression of the actual legal application and intent of the legislation, which is, that the statutes now require the registration of all privately owned automobiles as “vehicles” for regulated use as “motor vehicles” within the subject matter context of “transportation”.

F.) Yet another example of substantive change to original legislative intent and purpose is the knowing and willful removal of previously existing statutory language that clearly identified the commercial nature of specific statutory objects by explicit reference or definition, making yet another substantive change. A specific example being the alteration of the definition of “light truck,” in the 2011 version of Sec. 502.001(9), Texas “Transportation” Code, when originally read, ““Light truck” means a commercial motor vehicle that has a manufacturer’s rated carrying capacity of one ton or less,” but now reads, “

G.) Unconstitutional judicial expansion of subject matter applicability beyond the limited scope of “transportation” and its historical commercial nature and meaning as being an occupation involving the commercial use of the highways as a place of business for private profit or gain, would also constitute a substantive change.

H.) Unconstitutional alteration and expansion of original subject matter and legislative purpose of the original enactment by the constitutionally prohibited method of mere statutory amendment and/or revision pursuant Art. 3, Sec. 36, Texas Constitution, would further constitute substantive change.

I.) The 1986 constitutional amendment of Art. 3, Sec. 35(c), is unconstitutional in itself, and is mentioned solely because it potentially bears direct application to the issue of SB 971’s constitutionally insufficient and fraudulent title. The 1986 amendment of Art. 3, Sec. 35(c), added subsections (b) and (c). Subsection (c) contains language purporting to declare the amendment itself to be unconstitutionally retroactive in its effect, which it does by declaring that

any prior or later enactments that might be found to have constitutionally insufficient or invalid captions are to simply be retroactively declared to be constitutionally valid, which is in direct violation of both Art. 1, Sec. 16, Bill of Rights, Texas Constitution, and Art. 3, Sec. 35(a), Texas Constitution.

J.) Respondent has not and does not knowingly and willingly waive the fundamental protections afforded by the provisions of Art. 1, Sec. 16, Bill of Rights, Texas Constitution, or any other provision therein. Especially those where the People of Texas specifically prohibited the enactment of retroactive laws, much less retroactive constitutional amendments that propose to provide otherwise unconstitutional and conflicting powers to any department of government that would presumptively authorize any such deprivation of protected individual rights. As the Texas Constitution is merely the watchful arbiter, and not the originating source of Respondent's ability to fully exercise his fundamental and protected rights, a constitutional amendment may not be presumed to have the authority to violate any one or more of them simply because it was enacted. Especially when it was enacted in violation of other constitutional provisions and prohibitions, and, most likely, without the required full Public disclosure of the true legislative purpose and intent in seeking the amendment in the first place.

III. Improper Emergency Clause.

A.) Article 3, Sec. 32, Texas Constitution, requires that every legislative bill be read on the floor of each house and open discussion held thereon before the enactment can have any valid force and effect of law.

B.) Allowances for the Legislative suspension of the procedural rules is provided for in only two specific provisions of the Texas Constitution.

C.) Constitutionally authorized circumstances and conditions for seeking suspension of procedural rules pertaining to appropriation bills.

1.) The language of the declared emergency clause within SB 971 is consistent only with the suspension of the otherwise mandatory procedural rules relating to appropriations bills enacted under provisions within specific sections of Art. 3, Sec. 49 (all inclusive), Texas Constitution, and for reasons explained in subsection D(3) of this section, is not applicable in any way to the proper suspension of procedural rules for the purpose of enacting general legislative bills.

D.) Constitutionally authorized circumstances and conditions for seeking suspension of procedural rules, and the required procedure for actual suspension in relation to any general legislative bills.

1.) Amended language of Art. 3, Sec. 32, Texas Constitution, is not an authorization unto itself to suspend procedural rules, but only adds a specific ratio requirement to any vote relating to the suspension provisions found in Art. 3, Sec. 62, Texas Constitution, which is titled “CONTINUITY OF STATE AND LOCAL GOVERNMENTAL OPERATIONS; **SUSPENSION OF CONSTITUTIONAL PROCEDURAL RULES.**” (“Emphasis added”).

2.) The provisions of Art. 3, Sec. 62, Texas Constitution, is the only section of the Texas Constitution that makes specific reference to the constitutionally required pre-suspension circumstances and conditions, and also the specific procedure required to be followed by the Governor, the Speakers of each House of the Texas Legislature, and the respective members thereof, before there can be any constitutionally proper suspension of any of the specifically identified and listed procedural rules when enacting general legislation.

3.) Any judicial reading or interpretation ruling that the legislature may declare an emergency suspension of procedural rules for any reason they may deem necessary would render the provisions of Art. 3, Sec. 62, Texas Constitution completely void and meaningless surplusage having no force and effect upon the required method of suspension of said rules, thus creating an entirely unconstitutional repeal of portions of the Texas Constitution by oligarchical judicial fiat.

4.) Therefore, any arguments put forth by the state or the courts asserting that the legislature may use any reason it chooses to invoke an emergency suspension of the constitutionally required procedural rules governing the enacting of legislation, or may use just any form of emergency clause they choose to declare said emergency, is itself invalid and unconstitutional.

IV. Unconstitutional Executive and Judicial Expansion of Legislative Intent, Purpose and Scope of the Legislation.

A.) Unconstitutional expansion of legislative subject matter.

B.) Unconstitutional Judicial Expansion of Legislative Intent

C.) Unconstitutional interpretation of statutes as being completely independent of the subject matter context of the legislation as a whole, thus furthering the unconstitutionality of the executive and judicial department’s reading and interpretation by converting the object of the statute into isolated legislative subjects unto themselves.

V. Unlawful Suspension of Multiple Constitutional Protections, Prohibitions and

Provisions.

A.) Constitutional requirements and prohibitions cannot be waived, violated, or presumed ineffective simply by making an application for some benefit or privilege, or by contracting or consenting to waive such requirements.

B.) Neither creation nor acceptance of any “Certificate of Title” or “License” instrument can create a nexus where any of the provisions of the Texas Constitution, or the Bill of Rights contained therein, becomes void and of no effect.

C.) Voluntary registration of an automobile for the purpose of enrolling in state provided services relating to “theft prevention and recovery” cannot create a nexus where any of the provisions of the Texas Constitution, or the Bill of Rights contained therein, becomes void and of no effect.

D.) An opinion by any court that purports to remove the subject matter context of “transportation” from the adjudication of the facts and evidence of a “transportation” related offense is not simply harmless error or an innocent misinterpretation of the statutes in general. It is a knowing and willful unconstitutional attempt to judicially legislate from the bench. This is plainly evidenced by the content of the opinion wherever it repeatedly goes so far as to completely ignore or fundamentally recharacterize and/or alter the original legislative subject matter context, purpose, and intent of SB 971’s recodification of previously existing enactments. Which is, as SB 971 clearly infers within its caption, that all of the previously existing legislation as found within Vernon’s Annotated Civil Statutes (“Vernon’s”), and the intended result of the recodification of Vernon’s into a singular reorganized and renumbered code, relates solely to the subject matter context of “transportation”.

E.) Such an opinion by a court would further act unconstitutionally by judicially altering the contextual character and nature of the original legislation, changing it from a collection of statutes applicable to a specific subject and context designed and intended to regulate a specific class of legal “persons” that are engaging in a specific contextually related activity, into a constitutionally and legislatively unintended collection of general laws applicable to every individual member of the public at large.

F.) Such an opinion would also serve to fundamentally alter and/or totally ignore and discard long-standing legal interpretations, subject matter expert opinions, and all relevant recognized professional and occupational standards of usage and meaning relating to the particularized subject matter context that defines “transportation” as a legal term of art encompassing only that specific class of activities involving the use of “commercial/ motor/ vehicles” upon the highways for commercial purposes intended to generate private profit or gain.

G.) To apply any title, definition, section, or provision of the Texas “Transportation” Code to any activity or individual that is acting in their private common law capacity, outside of the specific

subject matter context of “transportation,” is an unconstitutional executive and judicial expansion and misapplication of the legislative intent and purpose of the statutes codified within the “Transportation” Code.

H.) The failure of a trial court to make it mandatory that the State must allege the element of “transportation” within the charging instrument relating to any alleged offense codified within the Texas “Transportation” Code, and then prove that specific primary element at trial by showing admissible substantive evidence that the accused individual was actively engaging in “transportation” at the time of the alleged offense, invariably creates multiple unconstitutional instances where the accused individual’s right to due process are directly violated. To wit:

1.) In the first instance, due process is denied because the investigating/arresting officer neither reasonably has nor can reasonably develop any form of reasonable suspicion or probable cause to believe that a private non-commercial automobile is actively engaged in any activity encompassed within the subject matter context of “transportation” simply by looking at it alongside one or two other statutory elements pertinent to some perceived or concocted offense that is itself completely dependent upon that primary fact element already demonstrably existing.

In which case, if there is no specific set of articulable facts known to an officer that would lead him/her to believe first and foremost that “transportation” is actually being engaged in, then no reasonable suspicion or probable exists to believe that any contextually related “transportation” offense was or is being committed, making the initial warrantless stop completely unconstitutional and illegal.

2.) In the second instance, due process is denied by multiple agents of the State whose unconstitutional and wholly presumptive and unsubstantiated presumption and allegation that in personam jurisdiction over the accused individual actually exists under the jurisdictional umbrella of the Texas “Transportation” Code, and that s/he breached some known legal duty codified therein.

The unconstitutional un rebuttable presumption being that, an individual who was acting entirely within their private common law capacity, and who did not violate any common law requirement to exercise due care so as to avoid causing an unjust harm to another person or private property, and who was not and is not acting in the legal capacity of any legal “person” defined within and regulated by the Texas “Transportation” Code, is actually subject to, and could actually breach a legal duty associated with, the specific subject matter context of “transportation” as encompassed by said Code.

3.) In the third instance, due process is denied by the prosecution’s failure to both allege and prove the existence of “transportation” as the primary element of any “transportation”

related offense, as this invariably creates an unconstitutional un rebuttable presumption of guilt of the primary essential element of any 'criminal' allegation involving "transportation".

Every accused individual is simply presumed guilty of that relevant and essential primary fact element when accused of any "transportation" related offense. An offense that is entirely dependent upon both the subject matter context of "transportation," and proof that the individual was actually engaged in some specifically identifiable act within the subject matter context of "transportation" at the time of the alleged offense.

This unconstitutional presumption of guilt in relation to the primary fact element of the allegation is then used to fraudulently reinforce the State's equally false and unsubstantiated presumption and assertion that in personam jurisdiction over the accused individual actually exists.

4.) In the fourth instance, an un rebuttable presumption of this nature denies the fundamental requirement that an accused individual is entitled to be presumed innocent of every single element of an alleged offense, not just those that the State cares to allege or considers the easiest to offer evidentiary proof in support of.

The constitutionally protected right of substantive and procedural due process requires that the State be made to prove every single fact element of the allegation being made against an individual. These un rebuttable presumptions of legal and substantive fact are unconstitutional precisely because they act in direct contradiction of these rights.

5.) In the fifth instance, an un rebuttable presumption of this nature fails to provide proper, sufficient, and timely notice of every specific element of the charge being made against the individual, thus depriving them of an affirmative defense that is naturally inherent in the statutes and their controlling subject matter context. Specifically, that accused individual was not engaged in the regulated subject matter activity of "transportation" at the time of the alleged offense, and, therefore, could not have breached any known legal duty associated therewith and codified within the Texas "Transportation" Code.

6.) In the sixth instance, an un rebuttable presumption of this nature unconstitutionally relieves the prosecution of having to submit lawfully obtained admissible evidence proving every individual element of the allegation to a jury or to a magistrate in a bench trial, of which "transportation" is the primary essential element, with all other elements being subjectively and contextually dependent thereon.

7.) In the seventh instance, an un rebuttable presumption of this nature unconstitutionally relieves the prosecution of having to prove that the warrantless seizure of any evidence proving the individual was actually engaged in "transportation" at the time of the alleged offense was constitutionally proper by being based upon articulable facts that would serve to establish probable cause to believe that the accused individual was actually engaged in "transportation"

at the time of the alleged offense.

Absent any specific articulable facts that would provide probable cause to believe the contextual existence of “transportation” at the time of the alleged offense and the officer’s initial contact, the warrantless seizure and arrest of the individual by the officer is inherently unconstitutional, and any ‘evidence’ found or seized under the auspices of such an arrest is to be considered inadmissible under the “fruit of the poison tree” doctrine.

8.) In the eighth instance, an un rebuttable presumption of this nature unconstitutionally relieves the State of its burden to prove probable cause and obtain an appealable probable cause determination order stating that the facts and evidence provided to the issuing magistrate supported the judicial determination that the accused individual actually was engaged in “transportation” at the time of the alleged offense and was also most likely guilty of all other essential elements of the alleged offense.

The facts and evidence supporting a finding of probable cause to believe that the accused individual was actively engaged in some “transportation” related activity is imperative to establishing the necessary belief that any and all of the other essential elements of some specific “transportation” related offense could even possibly be true, as there is no other legal subject matter context in which offenses relating to “transportation” may be read, understood, and applied. Therefore, if there is no “transportation” context, there can be no “transportation” related offense, which means that there are no factual elements of such an offense upon which to base a finding of probable cause.

9.) In the ninth instance, an un rebuttable presumption of this nature unconstitutionally shifts the burden of proof to the individual by requiring him/her to prove that s/he is not guilty of that specific primary element because s/he was not engaged in the regulated subject matter activity of “transportation” at the time of the alleged offense, and, thus, could not have breached any known legal duty so as to result in the commission of an offense under the context of the Texas “Transportation” Code.

10.) In the tenth instance, an un rebuttable presumption of this nature unconstitutionally separates the underlying statutes and objects within the “transportation” code into individual subjects that are then treated by the executive and judicial branches of government as being completely independent of the subject matter context of the enacting legislation.

By unconstitutionally converting the subordinate objects of the Texas “Transportation” Code in completely legislation independent subjects, the State, via local prosecutors and every level of court, are completely free to prosecute and adjudicate them as isolated offenses with no legal context beyond themselves and having no relevant relationship or dependency upon the specific legislatively defined subject matter context of “transportation,” which is not only a direct violation of the clearly stated subject matter within the caption of SB 971, but also of Art. 3, Sec. 35(a), Texas Constitution.

VI. The Executive and Judicial Branches of Texas Government Are Guilty of Knowingly and Willingly Conspiring and Colluding to Engage in an Ongoing Criminal Enterprise for the Specific Purpose of Perpetrating Fraud Through Numerous and Constitutionally Egregious Deprivations of Individual Rights Under Color of Law.

A.) The Executive Departments Criminal and Civil Liability Exposed.

1.) The officers and employees of the executive department of Texas government knowingly and willfully fail or intentionally miseducate and misinform local and state law enforcement personnel on the specific legal meaning and limitations of “transportation” that would serve to establish the necessary legal parameters for properly applying and enforcing the Texas “Transportation” Code.

2.) Demonstrative evidence of this fact can be easily verified, and the assertion thus proven, by even the most superficial reading of any police incident report involving the allegation of virtually any “transportation” related offense.

3.) No documentation proving that the arrested individual was ever notified of their fundamentally protected right to counsel and to remain silent, or was ever given any meaningful opportunity to exercise those rights in every possible self-protective manner without threat, duress, or coercion perpetrated by any officer on the scene.

4.) No documentation proving that the right of the arrested individual to be free from any unreasonable search and seizure was ever recognized or considered by the arresting officer, despite the officer’s complete lack of any facts or evidence providing probable cause to believe that the arrested individual was ever engaged in “transportation” at the time of the alleged offense.

5.) No documentation proving that the arrested individual was ever notified or given any meaningful opportunity to exercise their fundamentally protected right to counsel and remain silent in every relevant and self-protective manner.

6.) Invariably, you will find the following legal deficiencies and due process violations contained within the police records:

a.) No mention of any investigative questions intended toward discovering whether or not the accused individual was ever actually engaging in “transportation” at the time of the alleged offense.

b.) No mention of any evidence having been discovered proving the accused individual was ever actually engaging in “transportation” at the time of the alleged offense. Admissible forms of evidence proving the existence of the context of “transportation” can exist in only one or more of four specific forms:

i. Commercial log book showing that the accused individual was “on the clock” at the time of the alleged offense.

ii. Passenger manifest proving a business related activity, and the actual presence of some other individual named therein as having engaged the accused individual for the purpose of being “transported” from one place to another by him/her for compensation or hire.

iii. Bill of lading proving a business related activity, and the actual presence of some property or goods named therein as being in the custody and possession of the accused individual for the purpose of being “transported” from one place to another by him/her for compensation or hire.

iv. A voluntarily signed confession that the accused individual was actively engaged in “transportation” at the time of the alleged offense.

c.) Even if such evidence is shown to have been presented at trial, there will be no evidence admitted into the record proving that the search and seizure of that evidence was lawfully valid as it would be the fruit of a presumptively unlawful warrantless arrest. Which means that the evidence is inherently inadmissible absent supporting evidence of a lawful arrest, search, and seizure of same, which can be proven only by a properly issued warrant or signed order of probable cause.

B.) The Judicial Departments Criminal and Civil Liability Exposed.

1.) The officers and employees of the judicial department of Texas government knowingly and willfully fail or intentionally miseducate and misinform local and state executive law enforcement officers, judicial personnel, prosecutors, and defense attorneys, on the specific legal meaning and limitations of “transportation” that would otherwise serve to establish the necessary legal parameters for properly applying and adjudicating all Texas “Transportation” Code offenses.

2.) Demonstrative evidence of this fact can be easily verified, and the assertion thus proven, by even the most superficial reading of any court record involving the prosecution and adjudication of virtually any “transportation” related offense.

3.) No documentation proving that the arrested individual was ever notified of their fundamentally protected right to counsel and to remain silent, or was ever given any meaningful opportunity to exercise those rights in every possible self-protective manner without threat, duress, or coercion perpetrated by any officer on the scene.

4.) No documentation proving that the right of the arrested individual to be free from any unreasonable search and seizure was ever recognized or considered by the arresting officer, despite the officer's complete lack of any facts or evidence providing probable cause to believe that the arrested individual was ever engaged in "transportation" at the time of the alleged offense.

5.) No documentation proving that the arrested individual was ever notified or given any meaningful opportunity to exercise their fundamentally protected right to counsel and remain silent in every relevant and self-protective manner.

6.) Invariably, you will find the following legal deficiencies in admissible and substantive evidence and numerous un/related due process violations contained within the court record:

a.) No mention of any investigative questions intended toward discovering whether or not the accused individual was ever actually engaging in "transportation" at the time of the alleged offense.

b.) No mention of any evidence having been discovered proving the accused individual was ever actually engaging in "transportation" at the time of the alleged offense.

Admissible forms of evidence proving the existence of the context of "transportation" can exist in only one or more of four specific forms:

i. Commercial log book showing that the accused individual was "on the clock" at the time of the alleged offense.

ii. Passenger manifest proving a business related activity, and the actual presence of some other individual named therein as having engaged the accused individual for the purpose of being "transported" from one place to another by him/her for compensation or hire.

iii. Bill of lading proving a business related activity, and the actual presence of some property or goods named therein as being in the custody and possession of the accused individual for the purpose of being "transported" from one place to another by him/her for compensation or hire.

iv. A voluntarily signed confession that the accused individual was actively engaged

in “transportation” at the time of the alleged offense.

c.) Even if such evidence is shown to have been presented at trial, there will be no evidence admitted into the record proving that the search and seizure of that evidence was lawfully valid as it would be the fruit of a presumptively unlawful warrantless arrest. Which means that the evidence is inherently inadmissible absent supporting evidence of a lawful arrest, search, and seizure of same, which can be proven only by a properly issued warrant or signed order of probable cause.

d.) No appealable determination of probable cause or supporting order, which, if existing, would then serve to prove that an unlawful ex parte evidentiary proceeding took place where someone presented facts and evidence relevant to the material facts of the case without notice and opportunity of any kind being provided to the accused individual to present and oppose any facts or evidence being submitted against them.

e.) No order of appointed counsel despite there also being no knowing and voluntary signed waiver of counsel.

f.) No signed waiver of a verified complaint as required by Art. 27.14(d), Code of Criminal Procedure.

g.) Documents with dates and time that prove there were numerous proceedings in the prosecution despite there being no verified complaint and/or proper charging instrument in the form of an indictment or information having ever been filed with the court prior to such proceedings.

h.) Failure to file a proper criminal complaint and charging instrument prevents the starting of the speedy trial clock and, thus, allows the preliminary procedures of the prosecution to be completed without speedy trial protections being afforded to the Accused, which violates the rights of the accused to a speedy trial determination.

Which also means that, each and every one of those proceedings was conducted entirely without the court having even the prima facie appearance of proper jurisdiction.

i.) A factually and facially insufficient criminal complaint.

j.) No proper charging instrument in the form of an indictment or information properly invoking the subject matter and in personam jurisdiction of the court.

k.) No actual evidence of either the subject matter or in personam jurisdiction of the court having ever been constitutionally and legally invoked.

l.) No actual admissible evidence proving every element of the alleged offense.

m.) Affiant on criminal complaint against the accused is a clerk of the court adjudicating the case, and as such, is for all intents and purposes, an acting agent of the judge adjudicating the case, creating an agency problem where the court is both the accuser and the trier of fact.

n.) The clerk of the court is also an official custodian of the court record, within the same court, and in the same case, where the clerk is also acting as the criminal accuser and affiant, an employee of the adjudicating court, and as an agent of the judge adjudicating the case.

1 See Interstate Commerce Com'n v. Brimson, 154 U.S. 447, 14 S.Ct. 1125, 38 L.Ed. 1047; Also Black's Law Dictionary, 6th Edition (1996), Page 1469.

2 Oxford Living Dictionaries, English "Term of Art." Retrieved February 4 2017 from https://en.oxforddictionaries.com/definition/term_of_art.

3 West's Encyclopedia of American Law, edition 2. S.v. "Term of Art." Retrieved February 4 2017 from <http://legal-dictionary.thefreedictionary.com/Term+of+Art>.

4 The only forms of license defined in Vernon's for the "operation of a "commercial/ motor/ vehicle" are the "commercial operator's," "operator's," and "chauffer's" licenses.

5 The only forms of license defined in SB 971's recodification are the "temporary," "instruction permit," and "occupational" licenses, which were originally nothing more than the temporary forms of the original types of licenses previously mentioned.

6 See Footnote 3 for these forms of licenses.