

The Texas Rules of Appellate Procedure: Current Issues

2017 Robert O. Dawson Conference
on Criminal Appeals
Speaker: Holly Taylor

Rulemaking Authority



Texas High Court Rulemaking

- Tex. Const. Art. V, §31(a): the SCOT “shall promulgate rules of administration not inconsistent with the laws of the state as may be necessary for the efficient and uniform administration of justice in the various courts”
- Tex. Gov’t Code §74.024 Tex. Gov’t Code §74.024(c): SCOT “shall request the advice of [the CCA] before adopting rules affecting the administration of criminal justice.”

Delegating Rulemaking

- Tex. Const. Art. V, §31(c) - Legislature may delegate to SCOT & CCA the power “to promulgate such other rules as may be prescribed by law...”

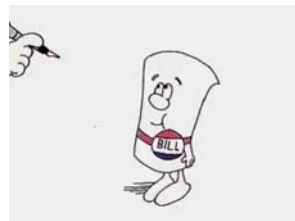


Legislature has delegated specific rulemaking authority to the CCA

1. Rules of post-trial, appellate, & review procedure in criminal cases (Tex. Gov't Code §22.108)
2. Rules of evidence in criminal cases (Tex. Gov't Code §22.109)
3. Electronic filing rules for capital cases (Tex. Gov't Code §22.1095)

The Leg's Rules About the CCA's Rules

- “[M]ay not abridge, enlarge, or modify the substantive rights of a litigant”
- “[R]emain in effect unless and until disapproved, modified, or changed by the legislature”
- Published in Texas Register & Texas Bar Journal
- Filed with Secretary of State



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