

Presented:33rd Annual Conference on State and Federal AppealsJune 8-9, 2023
Austin, Texas**88th Texas Legislature: What Happened and How it
Affects Your Practice****Jerry D. Bullard**
Adams, Lynch & Loftin, P.C.**Representative Jeff Leach**
Texas House of Representatives, District 67
Chair, House Committee on Judiciary & Civil JurisprudenceAuthor contact information:
Jerry D. Bullard
Adams, Lynch & Loftin, P.C.
3950 Highway 360
Grapevine, TX 76051jdb@all-lawfirm.com
(817) 552-7742

Table of Contents

I.	Introduction	1
II.	Legislation that Passed	1
A.	Arbitration	1
	HB 1255 – Limitation Periods in Arbitration Proceedings	1
B.	Attorneys/Practice of Law	2
	HB 5010/SB 2462 – Classification of a Grievance Filed with the State Bar of Texas	2
C.	Construction.....	3
	HB 2022/SB 873 – Residential Construction Liability	3
	HB 2024/SB 939 – Statutes of Limitations and Repose for Certain Claims Arising out of Residential Construction.....	4
D.	Healthcare Liability.....	5
	SB 2171/HB 1791 – Qualification of Experts in Certain Healthcare Liability Claims.....	5
E.	Judiciary	6
	SB 372/HB 1741 – Creating a Criminal Offense for the Unauthorized Disclosure of Judicial Opinions	6
	SB 1045/HJR 139 – Creation of the Fifteenth Court of Appeals	7
	SB 1603/HB 1561 – Relating to the Decision of a Court of Appeals Not to Accept Permissive Interlocutory Appeals.....	9
	SB 2275 – Authority of Texas Supreme Court to Adopt Rules.....	10
	HB 19/SB 27 – Creation of a Specialty Trial Court (Business Court Judicial Divisions)	10
	HB 367 – Powers and Duties of the State Commission on Judicial Conduct	13
	HB 841 – Gathering and Maintenance of Certain Judicial Statistics by the Texas Judicial Council.....	14
	HB 2384 – Court Administration/Knowledge, Efficiency, Training, and Transparency Requirements for Judicial Office Holders and Candidates.....	15

	HB 3474/SB 1462 – Omnibus Courts Bill	16
F.	Rideshare Liability.....	19
	HB 1745 – Civil Actions or Arbitrations Involving Transportation Network Companies.....	19
G.	Texas Citizens Participation Act.....	20
	HB 527 – Persons Considered to Exercise Certain Constitutional Rights for Purposes of a Motion to Dismiss under the TCPA	20
H.	Resolutions Sent to the Secretary of State.....	20
	HJR 107/SJR 40 – Proposing a Constitutional Amendment to Increase the Mandatory Retirement Age for Judges and Justices	20
III.	Legislation that Failed to Pass	21
A.	Administrative Law.....	21
	HB 1947 – De Novo Review and Interpretation of State Laws and Agency Rules by Reviewing Court Judges.....	21
B.	Attorneys/Practice of Law	22
	SB 559/HB 2846 – Discrimination Against or Burdening Constitutional Rights of Law License Holder or Applicant.....	22
	HB 1627 – Implicit Bias Training for Judges, Judicial Officers, Court Personnel, and Attorneys	23
	HB 5101/ SB 2461 – Procedures for a Complaint Filed with the State Bar of Texas.....	24
C.	Attorney’s Fees.....	24
	HB 5253 – Recovery of Attorney’s Fees for Statutory Causes of Action and Common Law Tort Claims.....	24
D.	Attorney General.....	25
	HB 1610 – Defense of the State of Texas or a State Agency in Actions Challenging the Constitutionality of a Texas Statute	25
E.	Civil Causes of Action Involving Injuries to Minors	25
	HB 206/ SB 751 – Elimination of Limitations Periods for Personal Injury Cases Arising from Certain Offenses Against a Child.....	25

	HB 4601 – Personal Injury Suits Arising from Conduct that Violates Penal Code Provisions Concerning Sexual Offenses Against a Child	26
F.	Damages	26
	HB 955 – Relating to Affidavits Concerning Costs and Necessity of Services	26
G.	Education/Civil Remedy	27
	SB 393 – Public Schools, Grievance Process, and Civil Remedy	27
H.	Employment.....	27
	HB 1999/ SB 1041 – Unlawful Employment Practices Based on Sexual Harassment, Including Related Complaints and Civil Actions	27
I.	Healthcare Liability.....	28
	HB 536 – Liability Limits in a Health Care Liability Claim.....	28
J.	Insurance.....	28
	HB 1320 – Recovery under Uninsured and Underinsured Motorist Insurance Coverage.....	28
	HB 3391 – Disclosure of Liability Insurers and Policyholders to Third Party Claimants	29
K.	Judiciary	29
	SB 802/ HB 2779 – Annual Base Salary of a District Judge	30
	SB 900 – Reimbursement of Certain Expenses of Appellate Court Justices and Judges	30
	SB 930/SJR 54 – Prohibition of Per Curiam Opinions.....	31
	SB 1092/ HB 4178 – Jurisdiction of the Texas Supreme Court and Court of Criminal Appeals.....	32
	SB 1196/ HB 2930 – Jurisdiction of the Texas Supreme Court and Court of Criminal Appeals.....	32
	SB 2299 – Identification of Constitutional or Statutory Provisions Invalidated or Limited by a State Appellate Court.....	33
	HB 437 – Annual Base Salaries of State Judges and Justices.....	34
	HB 525 – Delivery of Court Orders Through Electronic Filing System	35

	HB 556 – Sealing of Documents Containing Trade Secrets	35
	HB 2014 – Reimbursement for Jury Service	36
	HB 2139 – Construction of Code, Laws, and Statutes.....	36
	HB 2383 – Court Deposition and Transcription Services.....	37
	HB 2431 – Preparation of Appellate Records in Civil Cases	37
	HB 3952 – Jurisdiction of Courts in Forcible Entry and Detainer and Forcible Detainer Cases.....	38
	HJR 39 – Proposing a Constitutional Amendment to Repeal the Mandatory Retirement Age for Judges and Justices.....	39
L.	Nuisance.....	39
	HB 1372 – Tort of Public Nuisance	39
M.	Qualified Immunity	40
	SB 575 – Creation of Cause of Action for Deprivation of Rights and Waiver of Immunity	40
N.	Texas Citizens Participation Act.....	41
	SB 896/ HB 2781 – Automatic Stay of Proceedings During Interlocutory Appeals of TCPA Motions to Dismiss.....	41
O.	Texas Deceptive Trade Practices Act	42
	HB 515 – Relating to the Diagnosis, Maintenance, and Repair of Electronics-Enabled Heavy Equipment	42
P.	Texas Sovereignty Act.....	42
	HB 384/ SB 313 – Texas Sovereignty Act.....	42
Q.	Texas Tort Claims Act.....	44
	HB 1309 – Suits Against Certain Governmental Employees	44
IV.	Note	45

I. INTRODUCTION

The 88th Legislature ended its regular session on May 29, 2023. According to the Texas Legislative Reference Library, a total of 8,046 bills were introduced during the session.¹ 1,246 bills were passed and sent to Governor Abbott.² Of that total, two have been vetoed as of May 31, 2023.³ The remainder will either be signed by the Governor, allowed to become law, or vetoed.⁴

This paper summarizes legislative proposals that could have a noticeable impact on the practice of civil trial and appellate law in Texas. For more detailed information about each bill and additional background information about the same, please visit Texas Legislature Online at <http://www.capitol.state.tx.us> and/or subscribe to Jerry Bullard's e-newsletter by following the directions at the end of this article.

II. LEGISLATION THAT PASSED

A. Arbitration

[HB 1255 – Limitation Periods in Arbitration Proceedings](#)⁵

- **Summary:** HB 1255, filed by [Rep. John Smithee \(R – Amarillo\)](#), amends Chapter 16 of the Civil Practice and Remedies Code (CPRC) by adding section 16.073, which provides that “a party may not assert a claim in an arbitration proceeding if the party could not bring suit for the claim in court due to the expiration of the applicable limitations period.” However, under the proposed section 16.073, the party “may assert a claim in an arbitration proceeding after expiration of the applicable limitations period if: (1) the party brought suit for the claim in court before the expiration of the applicable limitations period; and (2) a court ordered the parties to arbitrate the claim.”

- *Effective date:* May 24, 2023.

[**Note:** In 2019, Rep. Smithee filed a similar bill ([HB 1744](#)), which was voted out of committee but died without receiving a vote on the House floor.]

- **Bill Analysis:** House Research Organization
- **Fiscal Note:** Legislative Budget Board

¹ Legislative Reference Library of Texas, 88th Legislature Bill Statistics (June 2, 2023).

² Id.

³ Id.

⁴ As a general rule, the governor has ten (10) days upon receipt of a bill to sign it, veto it, or allow the bill to become law without a signature. However, if a bill is sent to the governor within ten (10) days of final adjournment, he has until twenty (20) days after adjournment to act on the bill. If the governor neither signs nor vetoes the bill within the allotted time, the bill becomes law. TEXAS CONST. ART. IV, § 14.

⁵ Act of May 15, 2023, 88th Leg., R.S., H.B. 1255 (to be codified as TEX. CIV. PRAC. & REM. CODE ANN. §16.073).

- **Status:** On March 15, the [Judiciary & Civil Jurisprudence](#) committee conducted a hearing on the bill: [Notice](#). Those who are interested can watch the proceedings [here](#). Testimony begins around the 31:35 mark. Witnesses who registered a position or testified in favor of, on, or against HB 1255 are listed [here](#). On March 22, the bill was unanimously voted out of committee without any amendments. On April 19, the House unanimously [voted](#) to approve HB 1255. The bill was forwarded to the Senate, referred to [State Affairs](#), and then was unanimously voted out of committee on May 4. The full Senate passed HB 1255, without amendments, on May 11.

B. Attorneys/Practice of Law

[HB 5010 – Classification of a Grievance Filed with the State Bar of Texas](#) ⁶ (Companion: [SB 2462](#) ⁷)

- **Summary:** HB 5010, filed by [Rep. Mike Schofield \(R – Katy\)](#), amends section 81.073 of the Government Code and require the chief disciplinary counsel’s office to classify complaints based on whether the complaint is submitted by a person who has a cognizable individual interest in or connection to the legal matter or facts alleged in the grievance. HB 5010 also allows an attorney against whom the complaint is filed to appeal the classification of the grievance.

- *Effective date:* September 1, 2023.

[**Note:** [Sen. Bob Hall \(R – Edgewood\)](#) filed the Senate companion.]

- [Bill Analysis for HB 5010:](#) Senate Research Center
- [Fiscal Note for HB 5010:](#) Legislative Budget Board
- **Status of HB 5010:** On April 5, the [Judiciary & Civil Jurisprudence](#) committee conducted a hearing on the bill: [Notice](#). Those who are interested can watch the proceedings [here](#). Testimony on the bill begins around the 2:55:30 mark. Witnesses who registered a position or testified in favor of, on, or against HB 5010 are listed here: [Witness List](#) (page 13). On April 17, by a 5-3 vote, HB 5010 was voted out of committee without amendments. By a 93-49 vote, the House passed the bill, as amended, on May 3. HB 5010 was forwarded to the Senate and referred to [State Affairs](#). On May 11, the committee conducted a hearing on the bill: [Notice](#). Those who are interested can watch the proceedings [here](#). Testimony on the bill begins around the 32:0 mark. On May 15, HB 5010 was voted out of committee without amendments. On May 19, the full Senate passed the bill, as amended.

The Senate amendments provided more specificity with respect to those who can submit grievances. The list now expressly includes (1) a family member of a ward in a guardianship proceeding that is the subject of the grievance; (2) a family

⁶ Act of May 26, 2023, 88th Leg., R.S., H.B. 5010 (to be codified as an amendment to TEX. GOV’T CODE ANN. §§81.073-.074).

⁷ Tex. S.B. 2462, 88th Leg., R.S. (2023).

Find the full text of this and thousands of other resources from leading experts in dozens of legal practice areas in the [UT Law CLE eLibrary \(utcle.org/elibrary\)](https://utcle.org/elibrary)

Title search: 88th Legislature: What Happened and How it Affects Your Practice

Also available as part of the eCourse

[2023 eConference on State and Federal Appeals](#)

First appeared as part of the conference materials for the 33rd Annual Conference on State and Federal Appeals session "88th Legislature: What Happened and How it Affects Your Practice"