

Presented:
18th Annual Advanced Texas Administrative Law Seminar

September 7-8, 2023
Austin, Texas

Changing the Makeup of the Courts, Why Now?

Presented by:
Darlene Byrne
Chief Justice, Third Court of Appeals

and

Amy Clark Meachum
Local Administrative Judge and
Judge of the 201st Judicial District Court, Austin, TX

Written by:
Jerry D. Bullard
Adams, Lynch & Loftin, P.C.

Author contact information:
Jerry D. Bullard
Adams, Lynch & Loftin, P.C.
3950 Highway 360
Grapevine, TX 76051

jdb@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.	Deceptive Trade Practices and Consumer Protection	5
	HB 18 – Protection of Minors from Harmful, Deceptive, or Unfair Trade Practices in Connection with the Use of Digital Services and Electronic Devices	5
E.	Entertainment	7
	SB 1639 – Prohibitions in Connection with Website Ticket Sales	7
F.	Healthcare Liability.....	8
	SB 2171/HB 1791 – Qualification of Experts in Certain Healthcare Liability Claims	8
	HB 3058 – Provision of Medical Treatment to a Pregnant Woman by a Doctor or Health Care Provider	9
G.	Judiciary	10
	SB 372/HB 1741 – Creating a Criminal Offense for the Unauthorized Disclosure of Judicial Opinions	10
	SB 1045/HJR 139 – Creation of the Fifteenth Court of Appeals	11
	SB 1603/HB 1561 – Relating to the Decision of a Court of Appeals Not to Accept Permissive Interlocutory Appeals	12
	SB 2275 – Authority of Texas Supreme Court to Adopt Rules.....	13

	HB 19/SB 27 – Creation of a Specialty Trial Court (Business Court Judicial Divisions)	14
	HB 367 – Powers and Duties of the State Commission on Judicial Conduct	17
	HB 841 – Gathering and Maintenance of Certain Judicial Statistics by the Texas Judicial Council.....	18
	HB 2384 – Court Administration/Knowledge, Efficiency, Training, and Transparency Requirements for Judicial Office Holders and Candidates.....	19
	HB 3474/SB 1462 – Omnibus Courts Bill	20
	HB 3929 – SCOTX Adoption of the Uniform Interstate Depositions and Discovery Act.....	22
H.	Oil & Gas	23
	HB 450 – Bad Faith Washout of an Overriding Royalty Interest in an Oil & Gas Lease.....	23
I.	Preemption/Local Regulations	24
	HB 2127 – Preemption and the Effect of Certain State or Federal Law on Certain Municipal and County Regulations.....	24
J.	Rideshare Liability.....	25
	HB 1745 – Civil Actions or Arbitration Proceedings Involving Transportation Network Companies.....	25
K.	Texas Citizens Participation Act.....	26
	HB 527 – Persons Considered to Exercise Certain Constitutional Rights for Purposes of a Motion to Dismiss under the TCPA	26
L.	Resolutions Sent to the Secretary of State.....	26
	HJR 107/SJR 40 – Proposing a Constitutional Amendment to Increase the Mandatory Retirement Age for Judges and Justices	26
III.	Legislation that Failed to Pass.....	27
A.	Administrative Law.....	27
	HB 1947 – De Novo Review and Interpretation of State Laws and Agency Rules by Reviewing Court Judges.....	27
B.	Attorneys/Practice of Law	28

	SB 559/HB 2846 – Discrimination Against or Burdening Constitutional Rights of Law License Holder or Applicant.....	28
	HB 1627 – Implicit Bias Training for Judges, Judicial Officers, Court Personnel, and Attorneys	29
	HB 5101/ SB 2461 – Procedures for a Complaint Filed with the State Bar of Texas.....	29
C.	Attorney’s Fees.....	30
	HB 5253 – Recovery of Attorney’s Fees for Statutory Causes of Action and Common Law Tort Claims.....	30
D.	Attorney General.....	30
	HB 1610 – Defense of the State of Texas or a State Agency in Actions Challenging the Constitutionality of a Texas Statute	30
E.	Civil Causes of Action Involving Injuries to Minors	31
	HB 206/ SB 751 – Elimination of Limitations Periods for Personal Injury Cases Arising from Certain Offenses Against a Child.....	31
	HB 4601 – Personal Injury Suits Arising from Conduct that Violates Penal Code Provisions Concerning Sexual Offenses Against a Child	31
F.	Damages	32
	HB 955 – Relating to Affidavits Concerning Costs and Necessity of Services.....	32
G.	Education/Civil Remedy.....	32
	SB 393 – Public Schools, Grievance Process, and Civil Remedy	32
H.	Employment.....	33
	HB 1999/ SB 1041 – Unlawful Employment Practices Based on Sexual Harassment, Including Related Complaints and Civil Actions	33
I.	Healthcare Liability.....	33
	HB 536 – Liability Limits in a Health Care Liability Claim.....	33
J.	Insurance.....	34
	HB 1320 – Recovery under Uninsured and Underinsured Motorist Insurance Coverage.....	34

	HB 3391 – Disclosure of Liability Insurers and Policyholders to Third Party Claimants	34
K.	Judiciary	35
	SB 802/ HB 2779 – Annual Base Salary of a District Judge	35
	SB 900 – Reimbursement of Certain Expenses of Appellate Court Justices and Judges	36
	SB 930/SJR 54 – Prohibition of Per Curiam Opinions.....	36
	SB 1092/ HB 4178 – Jurisdiction of the Texas Supreme Court and Court of Criminal Appeals.....	37
	SB 1196/ HB 2930 – Jurisdiction of the Texas Supreme Court and Court of Criminal Appeals.....	37
	SB 2299 – Identification of Constitutional or Statutory Provisions Invalidated or Limited by a State Appellate Court.....	38
	HB 437 – Annual Base Salaries of State Judges and Justices.....	39
	HB 525 – Delivery of Court Orders Through Electronic Filing System	39
	HB 556 – Sealing of Documents Containing Trade Secrets	40
	HB 2014 – Reimbursement for Jury Service	40
	HB 2139 – Construction of Code, Laws, and Statutes.....	41
	HB 2383 – Court Deposition and Transcription Services.....	41
	HB 2431 – Preparation of Appellate Records in Civil Cases	42
	HB 3952 – Jurisdiction of Courts in Forcible Entry and Detainer and Forcible Detainer Cases.....	43
	HJR 39 – Proposing a Constitutional Amendment to Repeal the Mandatory Retirement Age for Judges and Justices.....	43
L.	Nuisance.....	44
	HB 1372 – Tort of Public Nuisance	44
M.	Qualified Immunity	45
	SB 575 – Creation of Cause of Action for Deprivation of Rights and Waiver of Immunity	45

N.	Texas Citizens Participation Act.....	45
	SB 896/ HB 2781 – Automatic Stay of Proceedings During Interlocutory Appeals of TCPA Motions to Dismiss.....	45
O.	Texas Deceptive Trade Practices Act	46
	HB 515 – Relating to the Diagnosis, Maintenance, and Repair of Electronics-Enabled Heavy Equipment	46
P.	Texas Sovereignty Act.....	47
	HB 384/ SB 313 – Texas Sovereignty Act.....	47
Q.	Texas Tort Claims Act.....	49
	HB 1309 – Suits Against Certain Governmental Employees	49
IV.	Note	49

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, 76 were vetoed.³ The remainder were either be signed by the Governor or allowed to become law.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 (July 28, 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 at 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 grievances based on whether the grievance 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: Changing the Makeup of the Courts, Why Now?

Also available as part of the eCourse

[2023 Texas Administrative Law Legislative and Operational Updates](#)

First appeared as part of the conference materials for the
18th Annual Advanced Texas Administrative Law Seminar session
"Changing the Makeup of the Courts"