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Changing the Makeup of the Courts, Why Now?

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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).

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