

**Presented:**  
18<sup>th</sup> 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 201<sup>st</sup> 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](mailto: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<br>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<br>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<br>Trade Practices in Connection with the Use of Digital Services and<br>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<br>Liability Claims .....  | 8  |
|     | HB 3058 – Provision of Medical Treatment to a Pregnant Woman by<br>a Doctor or Health Care Provider .....   | 9  |
| G.  | Judiciary .....   | 10 |
|     | SB 372/HB 1741 – Creating a Criminal Offense for the Unauthorized<br>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<br>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<br>Judicial Divisions) .....  | 14 |
|      | HB 367 – Powers and Duties of the State Commission on Judicial<br>Conduct .....   | 17 |
|      | HB 841 – Gathering and Maintenance of Certain Judicial Statistics<br>by the Texas Judicial Council.....   | 18 |
|      | HB 2384 – Court Administration/Knowledge, Efficiency, Training,<br>and Transparency Requirements for Judicial Office Holders and<br>Candidates..... | 19 |
|      | HB 3474/SB 1462 – Omnibus Courts Bill .....   | 20 |
|      | HB 3929 – SCOTX Adoption of the Uniform Interstate Depositions and<br>Discovery Act.....  | 22 |
| H.   | Oil & Gas .....   | 23 |
|      | HB 450 – Bad Faith Washout of an Overriding Royalty Interest in an<br>Oil & Gas Lease.....  | 23 |
| I.   | Preemption/Local Regulations .....  | 24 |
|      | HB 2127 – Preemption and the Effect of Certain State or Federal Law<br>on Certain Municipal and County Regulations.....                             | 24 |
| J.   | Rideshare Liability.....  | 25 |
|      | HB 1745 – Civil Actions or Arbitration Proceedings Involving Transportation<br>Network Companies.....   | 25 |
| K.   | Texas Citizens Participation Act.....   | 26 |
|      | HB 527 – Persons Considered to Exercise Certain Constitutional Rights<br>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<br>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<br>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 88<sup>th</sup> 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.<sup>1</sup> 1,246 bills were passed and sent to Governor Abbott.<sup>2</sup> Of that total, 76 were vetoed.<sup>3</sup> The remainder were either be signed by the Governor or allowed to become law.<sup>4</sup>

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](#)<sup>5</sup>

- **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

---

<sup>1</sup> Legislative Reference Library of Texas, 88<sup>th</sup> Legislature Bill Statistics (July 28, 2023).

<sup>2</sup> Id.

<sup>3</sup> Id.

<sup>4</sup> 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.

<sup>5</sup> Act of May 15, 2023, 88<sup>th</sup> 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](#) <sup>6</sup> (Companion: [SB 2462](#) <sup>7</sup>)

- **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

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

<sup>7</sup> Tex. S.B. 2462, 88<sup>th</sup> 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 \(utcle.org/elibrary\)](http://utcle.org/elibrary)

## Title search: Changing the Makeup of the Courts, Why Now?

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