



The Supreme Court of Texas

CHIEF JUSTICE
NATHAN L. HECHT

201 West 14th Street Post Office Box 12248 Austin TX 78711
Telephone: 512/463-1312 Facsimile: 512/463-1365

CLERK
BLAKE A. HAWTHORNE

JUSTICES
EVA M. GUZMAN
DEBRA H. LEHRMANN
JEFFREY S. BOYD
JOHN P. DEVINE
JAMES D. BLACKLOCK
J. BRETT BUSBY
JANE N. BLAND
REBECA A. HUDDLE

GENERAL COUNSEL
NINA HESS HSU

EXECUTIVE ASSISTANT
NADINE SCHNEIDER

PUBLIC INFORMATION OFFICER
OSLER McCARTHY

June 2, 2021

Mr. Charles L. "Chip" Babcock
Chair, Supreme Court Advisory Committee
Jackson Walker L.L.P.
cbabcock@jw.com

Re: Referral of Rules Issues

Dear Chip:

The Supreme Court requests the Advisory Committee to study and make recommendations on the following matters. Some require immediate attention, while others are longer-range initiatives. I have provided a complete list for the Committee's information.

Several matters arise from legislation passed by the 87th Legislature, which, if signed by the Governor, takes effect immediately or on September 1, 2021. The Committee should conclude its work on them by its June 18, 2021, meeting. Many of the changes may be simple and straightforward. They are:

MDL Applicability. Government Code §§ 74.161-.201 create the Judicial Panel on Multidistrict Litigation, and Rule of Judicial Administration 13 governs its operation. HB 2950, § 2 amends § 74.1625(a) to prohibit the MDL panel from transferring a Texas Medicaid Fraud Prevention Act action "brought by the consumer protection division of the attorney general's office." The amendment does not direct that Rule 13 be changed, but the Committee should consider whether the text of Rule 13.1 should be changed to reference or restate the statute.

Family Violence Protective Orders. Rule of Civil Procedure 107(h) states: "No default judgment shall be granted in any case until proof of service . . . [has] been on file with the clerk of the court ten days" HB 39, § 2 amends Family Code § 85.006 to state: "Notwithstanding TRCP 107, a court may render a protective order that is binding on a respondent who does not attend a hearing if: (1) the respondent received service of the [protective order] application and notice of the hearing; and (2) proof of service was filed with the court before the time set for

hearing.” The Committee should consider whether Rule 107(h) should be changed or a comment added to reference or restate the statute.

Time Limits for Child Protection Cases. Rule of Judicial Administration 6 governs time standards for the disposition of cases. HB 567, § 10 adds Family Code § 263.4011 to require a 90-day period for rendering a final order in a child protection case after the date the trial commences. The Committee should consider whether Rule 6 should be changed or a comment added to reference or restate the statute.

Uri-Related Direct Appeals. Several bills add provisions to the Utilities Code to provide that certain district court judgments related to a Winter Storm Uri “may be reviewed only by direct appeal to the Supreme Court of Texas”: HB 1520, HB 4492, and SB 1580. The Committee should consider whether Rule of Appellate Procedure 57, governing direct appeals, should be changed or a comment added to reference or restate the statutes.

Protection of Sensitive Data. HB 1540 and HB 2669 add several statutes to protect sensitive data. HB 1540, § 4 adds Civil Practice and Remedies Code § 98.007 to permit a claimant in a trafficking suit to use a confidential identity and require a court use a confidential identity and maintain records in a confidential manner. § 98.007 also prohibits the Court from amending or adopting rules in conflict with § 98.007. HB 2669 amends Code of Criminal Procedure Art. 44.2811 and reenacts and amends Art. 45.0217 to make confidential a child’s criminal records related to certain misdemeanor offenses. The Committee should consider whether the sensitive data rules should be changed or a comment added to reference or restate the statutes.

Sexual Assault Survivor Privilege. SB 295, § 3 amends Gov’t Code § 420.071 to provide a sexual assault survivor with the privilege to refuse to disclose any communication with an advocate employed by or volunteering at a sexual assault program and related records. The Committee should consult with the State Bar of Texas Administration of Rules of Evidence Committee and consider whether Article V of the Texas Rules of Evidence, governing privileges, should be changed or a comment added to reference or restate the statute.

Oaths in Oral Depositions. HB 3774, § 17.07 adds Gov’t Code § 154.105 to allow court reporters to administer the oath to certain witnesses, even if they are not in the same location as the witness. The Committee should consider whether Rule of Civil Procedure 199.1(b), governing remote oral depositions, should be changed or a comment added to reference or restate the statute.

One other matter arising from legislation passed by the 87th Legislature requires rulemaking by May 1, 2022.

Seizure Exemption Rules and Form. HB 3774, § 15.01 adds Gov’t Code § 22.0042, which directs the Court to adopt rules that “establish a simple and expedited procedure for a judgment debtor to assert an exemption to the seizure of personal property by a judgment creditor or receiver” and a form for asserting such exemption. § 22.0042 also directs the Court to adopt rules that “require a court to stay a proceeding for a reasonable period, to allow for the assertion of [such] exemption” and “require a court to promptly set a hearing and stay proceedings until a

hearing is held, if a judgment debtor timely asserts [such] exemption.” The Committee should consult with justice court stakeholders and make recommendations.

Finally, there are several matters unrelated to recent legislation on which the Court requests the Committee’s recommendations.

Rule of Judicial Administration 7. In the attached report, the Remote Proceedings Task Force recommends updating Rule of Judicial Administration 7 to include remote proceedings. The Committee should make recommendations.

Rule of Civil Procedure 199.2. In the attached memorandum, the State Bar of Texas Court Rules Committee proposes amendments to Rule of Civil Procedure 199.2. The Committee should review the proposal and make recommendations.

Rule of Civil Procedure 226a. In the attached memorandum, the State Bar of Texas Rules Committee proposes adding implicit bias instructions to Rule of Civil Procedure 226a. The Committee should review the proposal and make recommendations.

As always, the Court is grateful for the Committee’s counsel and your leadership.

Sincerely,

A handwritten signature in black ink, appearing to read "Nathan L. Hecht", with a stylized flourish extending from the end.

Nathan L. Hecht
Chief Justice

Attachments

1 AN ACT
2 relating to the operation and administration of and practice and
3 procedure related to proceedings in the judicial branch of state
4 government.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 ARTICLE 1. DISTRICT COURTS

7 SECTION 1.01. (a) Effective January 1, 2022, Section
8 24.129(b), Government Code, is amended to read as follows:

9 (b) The 27th, 146th, 169th, 264th, ~~[and]~~ 426th, and 478th
10 judicial districts have concurrent jurisdiction in Bell County.

11 (b) Effective January 1, 2022, Subchapter C, Chapter 24,
12 Government Code, is amended by adding Section 24.60022 to read as
13 follows:

14 Sec. 24.60022. 478TH JUDICIAL DISTRICT (BELL COUNTY). (a)
15 The 478th Judicial District is composed of Bell County.

16 (b) The terms of the 478th District Court begin on the first
17 Mondays in January, April, July, and October.

18 (c) Section 24.129, relating to the 27th District Court,
19 contains provisions applicable to both that court and the 478th
20 District Court.

21 (c) The 478th Judicial District is created on January 1,
22 2022.

23 SECTION 1.02. (a) Subchapter C, Chapter 24, Government
24 Code, is amended by adding Section 24.60027 to read as follows:

1 Sec. 24.60027. 482ND JUDICIAL DISTRICT (HARRIS COUNTY).

2 The 482nd Judicial District is composed of Harris County.

3 (b) The 482nd Judicial District is created on the effective
4 date of this Act.

5 SECTION 1.03. (a) Effective January 1, 2022, Subchapter C,
6 Chapter 24, Government Code, is amended by adding Section 24.60030
7 to read as follows:

8 Sec. 24.60030. 485TH JUDICIAL DISTRICT (TARRANT COUNTY).

9 (a) The 485th Judicial District is composed of Tarrant County.

10 (b) The 485th District Court shall give preference to
11 criminal matters.

12 (b) The 485th Judicial District is created on January 1,
13 2022.

14 SECTION 1.04. (a) Effective October 1, 2022, Subchapter C,
15 Chapter 24, Government Code, is amended by adding Section 24.60025
16 to read as follows:

17 Sec. 24.60025. 480TH JUDICIAL DISTRICT (WILLIAMSON
18 COUNTY). The 480th Judicial District is composed of Williamson
19 County.

20 (b) The 480th Judicial District is created on October 1,
21 2022.

22 SECTION 1.05. (a) Effective January 1, 2022, Subchapter C,
23 Chapter 24, Government Code, is amended by adding Section 24.60026
24 to read as follows:

25 Sec. 24.60026. 481ST JUDICIAL DISTRICT (DENTON COUNTY).

26 The 481st Judicial District is composed of Denton County.

27 (b) The 481st Judicial District is created on January 1,

1 2022.

2 SECTION 1.06. (a) Effective September 1, 2022, Subchapter
3 C, Chapter 24, Government Code, is amended by adding Section
4 24.60028 to read as follows:

5 Sec. 24.60028. 483RD JUDICIAL DISTRICT (HAYS COUNTY). The
6 483rd Judicial District is composed of Hays County.

7 (b) The 483rd Judicial District is created on September 1,
8 2022.

9 SECTION 1.07. (a) Subchapter C, Chapter 24, Government
10 Code, is amended by adding Section 24.60029 to read as follows:

11 Sec. 24.60029. 484TH JUDICIAL DISTRICT (CAMERON COUNTY).
12 (a) The 484th Judicial District is composed of Cameron County.

13 (b) The 484th District Court shall give preference to
14 juvenile matters under Title 3, Family Code.

15 (b) The 484th Judicial District is created on the effective
16 date of this Act.

17 SECTION 1.08. (a) Effective October 1, 2022, Section
18 24.120(b), Government Code, is amended to read as follows:

19 (b) The 19th, 54th, 74th, 170th, ~~and~~ 414th, and 474th
20 district courts have concurrent jurisdiction in McLennan County.

21 (b) Effective October 1, 2022, Subchapter C, Chapter 24,
22 Government Code, is amended by adding Section 24.60097 to read as
23 follows:

24 Sec. 24.60097. 474TH JUDICIAL DISTRICT (MCLENNAN COUNTY).
25 The 474th Judicial District is composed of McLennan County.

26 (c) The 474th Judicial District is created on October 1,
27 2022.

6 (b) The 475th Judicial District is created January 1, 2023.

10 Sec. 24.60099. 476TH JUDICIAL DISTRICT (HIDALGO COUNTY).
11 The 476th Judicial District is composed of Hidalgo County.

14 ARTICLE 2. STATUTORY COUNTY COURTS AND CONSTITUTIONAL COUNTY

16 SECTION 2.01. Section 25.00211(a), Government Code, is
17 amended to read as follows:

25 SECTION 2.02. Section 25.0172(p), Government Code, is
26 amended to read as follows:

4

1 county court at law. The county clerk shall appoint a deputy clerk
2 for each county court at law. ~~[An appointment of a deputy clerk of~~
3 ~~County Court at Law No. 2 or 3 takes effect when it is confirmed in~~
4 ~~writing by the judge of the court to which the deputy clerk is~~
5 ~~assigned and the deputy clerk serves at the pleasure of the judge of~~
6 ~~the court to which he is assigned.]~~ A deputy clerk must take the
7 constitutional oath of office and may be required to furnish bond in
8 an amount, conditioned and payable, as required by the county
9 clerk. A deputy clerk must attend all sessions of the court to
10 which the deputy clerk ~~[he]~~ is assigned. A deputy clerk acts in the
11 name of the county clerk and may perform any official act or service
12 required of the county clerk and shall perform any other service
13 required by the judge of a county court at law. The deputy clerks
14 may act for one another in performing services for the county courts
15 at law, but a deputy is not entitled to receive additional
16 compensation for acting for another deputy. If a vacancy occurs,
17 the county clerk shall immediately appoint another deputy clerk as
18 provided by this subsection. ~~[A deputy clerk of a county court at~~
19 ~~law is entitled to the same amount of compensation as received by~~
20 ~~the deputy clerks of the other county courts at law in Bexar County.~~
21 ~~The commissioners court shall pay the salary of a deputy clerk in~~
22 ~~equal monthly installments from county funds.]~~

23 SECTION 2.03. Section 25.0173(g), Government Code, is
24 amended to read as follows:

25 (g) The county clerk shall appoint a deputy clerk for each
26 statutory probate court. ~~[An appointment takes effect when it is~~
27 ~~confirmed in writing by the judge of the court to which the deputy~~

1 ~~clerk is assigned.]~~ A deputy clerk serves at the pleasure of the
2 judge of the court to which the deputy clerk is assigned. A deputy
3 clerk must take the constitutional oath of office, and the county
4 clerk may require the deputy clerk to furnish a bond in an amount,
5 conditioned and payable, as required by law. A deputy clerk acts in
6 the name of the county clerk and may perform any official act or
7 service required of the county clerk and shall perform any other
8 service required by the judge of a statutory probate court. A
9 deputy clerk must attend all sessions of the court to which the
10 deputy clerk ~~[he]~~ is assigned. ~~[A deputy clerk is entitled to~~
11 ~~receive an annual salary set by the judge in an amount that does not~~
12 ~~exceed the amount paid the deputies of the county courts at law of~~
13 ~~Bexar County. The salary shall be paid in equal monthly~~
14 ~~installments as provided by law for the payment of salaries of~~
15 ~~deputy clerks.]~~

16 SECTION 2.04. (a) Effective January 1, 2022, Sections
17 25.0631(b) and (c), Government Code, are amended to read as
18 follows:

19 (b) Denton County has the following statutory probate
20 courts:

21 (1) ~~[one statutory probate court, the]~~ Probate Court
22 of Denton County; and

23 (2) Probate Court Number 2 of Denton County.

24 (c) The statutory county courts of Denton County sit in the
25 county seat or at another location in the county as assigned by the
26 local administrative statutory county court judge. The statutory
27 probate courts ~~[court]~~ of Denton County sit ~~[sits]~~ in the county

1 seat and may conduct docket matters at other locations in the county
2 as the statutory probate court judges consider [~~judge considers~~]
3 necessary for the protection of wards or mental health respondents
4 or as otherwise provided by law.

5 (b) Section 25.0632(i), Government Code, is amended to read
6 as follows:

7 (i) A judge of a statutory probate court is subject to
8 assignment as provided by Section 25.0022. On request by the judge
9 of a Denton County statutory county court, a judge of a statutory
10 probate court may be assigned by the regional presiding judge to the
11 requesting judge's court pursuant to Chapter 74. A statutory
12 probate court judge assigned to a statutory county court by the
13 regional presiding judge may hear any matter pending in the
14 requesting judge's court.

15 (c) Section 25.0633(e), Government Code, is amended to read
16 as follows:

17 (e) The County Court at Law No. 2 of Denton County has
18 jurisdiction:

19 (1) over all civil causes and proceedings, original
20 and appellate, prescribed by law for county courts; and

21 (2) regardless of the amount in controversy sought,
22 over:

23 (A) eminent domain cases as provided by Section
24 21.001, Property Code, for statutory county courts; and

25 (B) direct and inverse condemnation cases.

26 (d) The Probate Court Number 2 of Denton County is created
27 on January 1, 2022.

1 SECTION 2.05. (a) Effective October 1, 2022, Subchapter C,
2 Chapter 25, Government Code, is amended by adding Sections 25.1331
3 and 25.1332 to read as follows:

4 Sec. 25.1331. KENDALL COUNTY. Kendall County has one
5 statutory county court, the County Court at Law of Kendall County.

6 Sec. 25.1332. KENDALL COUNTY COURT AT LAW PROVISIONS. (a)
7 In addition to the jurisdiction provided by Section 25.0003 and
8 other law, a county court at law in Kendall County has:

9 (1) concurrent jurisdiction with the district court in
10 state jail, third degree, and second degree felony cases on
11 assignment from a district judge presiding in Kendall County and
12 acceptance of the assignment by the judge of the county court at law
13 to:

14 (A) conduct arraignments;
15 (B) conduct pretrial hearings;
16 (C) accept guilty pleas and conduct sentencing;
17 (D) conduct jury trials and nonjury trials;
18 (E) conduct probation revocation hearings;
19 (F) conduct post-trial proceedings; and
20 (G) conduct family law cases and proceedings; and

21 (2) jurisdiction in:
22 (A) Class A and Class B misdemeanor cases;
23 (B) probate proceedings;
24 (C) disputes ancillary to probate, eminent
25 domain, condemnation, or landlord and tenant matters relating to
26 the adjudication and determination of land titles and trusts,
27 whether testamentary, inter vivos, constructive, resulting, or any

1 other class or type of trust, regardless of the amount in
2 controversy or the remedy sought;

3 (D) eminent domain; and

4 (E) appeals from the justice and municipal
5 courts.

6 (b) A judge of a county court at law shall be paid a total
7 annual salary set by the commissioners court in an amount that is
8 not less than \$1,000 less than the annual salary received by a
9 district judge with equivalent years of service as a judge, as
10 provided under Section 25.0005, to be paid out of the county
11 treasury by the commissioners court.

12 (c) The district clerk serves as clerk of a county court at
13 law in matters of concurrent jurisdiction with the district court,
14 and the county clerk serves as clerk of a county court at law in all
15 other matters. Each clerk shall establish a separate docket for a
16 county court at law.

17 (d) The official court reporter of a county court at law is
18 entitled to receive the same compensation and to be paid in the same
19 manner as the court reporters of the district court in Kendall
20 County.

21 (b) The County Court at Law of Kendall County is created on
22 October 1, 2022.

23 SECTION 2.06. (a) Section 25.1571, Government Code, is
24 amended to read as follows:

25 Sec. 25.1571. MCLENNAN COUNTY. McLennan County has the
26 following statutory county courts:

27 (1) County Court at Law of McLennan County; ~~and~~

1 (2) County Court at Law No. 2 of McLennan County; and
2 (3) County Court at Law No. 3 of McLennan County.

3 (b) Section 25.1572, Government Code, is amended by
4 amending Subsections (a), (d), and (i) and adding Subsections (b),
5 (c), and (e) to read as follows:

6 (a) In addition to the jurisdiction provided by Section
7 25.0003 and other law and except as limited by Subsection (b), a
8 county court at law in McLennan County has jurisdiction in third
9 degree felony cases and jurisdiction to conduct arraignments,
10 conduct pretrial hearings, accept guilty pleas, and conduct
11 probation revocation hearings in felony cases.

12 (b) On request of a district judge presiding in McLennan
13 County, the regional presiding judge may assign a judge of a county
14 court at law in McLennan County to the requesting judge's court
15 under Chapter 74. A county court at law judge assigned to a
16 district court may hear any matter pending in the requesting
17 judge's court.

18 (c) A county court at law does not have jurisdiction in:

19 (1) suits on behalf of the state to recover penalties
20 or escheated property;

21 (2) misdemeanors involving official misconduct; or
22 (3) contested elections.

23 (d) A judge of a county court at law shall be paid an annual
24 base salary set by the commissioners court in an amount not less
25 than \$1,000 less than the annual base salary the state pays to a
26 district judge as set by the General Appropriations Act in
27 accordance with Section 659.012 with equivalent years of service as

1 the judge ~~[of not more than \$20,000]~~. A county court at law judge's
2 and a district judge's annual base salaries do not include
3 contributions and supplements paid by the county ~~[Each judge~~
4 ~~receives the same amount as salary. The salary shall be paid out of~~
5 ~~the county treasury by the commissioners court]~~.

6 (e) The district clerk serves as clerk of a county court at
7 law in matters of concurrent jurisdiction with the district court.
8 The county clerk serves as the clerk of a county court at law in all
9 other matters. Each clerk shall establish a separate docket for a
10 county court at law.

11 (i) The official court reporter of a county court at law is
12 entitled to receive a salary set by the judge of a county court at
13 law with the approval of the commissioners court ~~[the same~~
14 ~~compensation and to be paid in the same manner as the court~~
15 ~~reporters of the district courts in McLennan County]~~.

16 (c) The County Court at Law No. 3 of McLennan County is
17 created on the effective date of this Act.

18 SECTION 2.07. (a) Section 25.1721, Government Code, is
19 amended to read as follows:

20 Sec. 25.1721. MONTGOMERY COUNTY. Montgomery County has the
21 following statutory county courts:

- 22 (1) County Court at Law No. 1 of Montgomery County;
23 (2) County Court at Law No. 2 of Montgomery County;
24 (3) County Court at Law No. 3 of Montgomery County;
25 (4) County Court at Law No. 4 of Montgomery County;
26 ~~[and]~~
27 (5) County Court at Law No. 5 of Montgomery County;

1 and

2 (6) County Court at Law No. 6 of Montgomery County.

3 (b) The County Court at Law No. 6 of Montgomery County is
4 created on the effective date of this Act.

5 SECTION 2.08. Sections 25.1972(a) and (b), Government Code,
6 are amended to read as follows:

7 (a) In addition to the jurisdiction provided by Section
8 25.0003 and other law, and except as limited by Subsection (b), a
9 county court at law in Reeves County has:

10 (1) concurrent jurisdiction with the district court:

11 (A) in disputes ancillary to probate, eminent
12 domain, condemnation, or landlord and tenant matters relating to
13 the adjudication and determination of land titles and trusts,
14 whether testamentary, inter vivos, constructive, resulting, or any
15 other class or type of trust, regardless of the amount in
16 controversy or the remedy sought;

17 (B) over civil forfeitures, including surety
18 bond forfeitures without minimum or maximum limitation as to the
19 amount in controversy or remedy sought;

20 (C) in all actions by or against a personal
21 representative, in all actions involving an inter vivos trust, in
22 all actions involving a charitable trust, and in all actions
23 involving a testamentary trust, whether the matter is appertaining
24 to or incident to an estate;

25 (D) in proceedings under Title 3, Family Code;

26 and

27 (E) in family law cases and proceedings ~~[any~~

1 ~~proceeding involving an order relating to a child in the possession~~
2 ~~or custody of the Department of Family and Protective Services or~~
3 ~~for whom the court has appointed a temporary or permanent managing~~
4 ~~conservator];~~

5 (2) jurisdiction in mental health matters, original or
6 appellate, provided by law for constitutional county courts,
7 statutory county courts, or district courts with mental health
8 jurisdiction, including proceedings under:

9 (A) Chapter 462, Health and Safety Code; and

10 (B) Subtitles C and D, Title 7, Health and Safety
11 Code;

12 (3) jurisdiction over the collection and management of
13 estates of minors, persons with a mental illness or intellectual
14 disability, and deceased persons; and

15 (4) jurisdiction in all cases assigned, transferred,
16 or heard under Sections 74.054, 74.059, and 74.094.

17 (b) A county court at law does not have jurisdiction of:

18 (1) felony cases, except as otherwise provided by law;

19 (2) misdemeanors involving official misconduct unless
20 assigned under Sections 74.054 and 74.059; or

21 (3) contested elections[~~or~~

22 [~~(4) except as provided by Subsections (a)(1)(D) and~~
23 ~~(E), family law cases].~~

24 SECTION 2.09. (a) Effective January 1, 2023, Section
25 25.2071(a), Government Code, is amended to read as follows:

26 (a) San Patricio County has the following [~~one~~] statutory
27 county courts:

1 (1) [court,] the County Court at Law of San Patricio
2 County; and

3 (2) the County Court at Law No. 2 of San Patricio
4 County.

5 (b) Effective January 1, 2023, Section 25.2072, Government
6 Code, is amended by amending Subsections (a), (d), and (m) and
7 adding Subsections (g-1) and (g-2) to read as follows:

8 (a) In addition to the jurisdiction provided by Section
9 25.0003 and other law, a county court at law in San Patricio County
10 has concurrent jurisdiction with the district court except that a
11 county court at law does not have jurisdiction of:

12 (1) felony criminal matters; and

13 (2) civil cases in which the matter in controversy
14 exceeds the maximum amount provided by Section 25.0003 [in matters
15 involving the juvenile and child welfare law of this state].

16 (d) ~~[The judge of a county court at law shall be paid an~~
17 ~~annual salary in an amount of not less than \$43,000.]~~ The judge of a
18 county court at law is entitled to receive travel and necessary
19 office expenses, including administrative and clerical assistance.

20 (g-1) The county clerk serves as clerk of a county court at
21 law except in family law cases. In family law cases, including
22 juvenile and child welfare cases, the district clerk serves as
23 clerk of a county court at law. The district clerk shall establish
24 a separate family law docket for each county court at law.

25 (g-2) The commissioners court shall provide the deputy
26 clerks, bailiffs, and other personnel necessary to operate the
27 county courts at law.

1 (m) The judge of the county court and the judges [~~judge~~] of
2 the [~~a~~] county courts [~~court~~] at law may agree on a plan governing
3 the filing, numbering, and docketing of cases within the concurrent
4 jurisdiction of their courts and the assignment of those cases for
5 trial. The plan may provide for the centralized institution and
6 filing of all such cases with one court, clerk, or coordinator
7 designated by the plan and for the systemized assignment of those
8 cases to the courts participating in the plan, and the provisions of
9 the plan for the centralized filing and assignment of cases shall
10 control notwithstanding any other provisions of this section. If
11 the judges of the county court and the county courts [~~court~~] at law
12 are unable to agree on a filing, docketing, and assignment of cases
13 plan, a board of judges composed of the district judges and the
14 county court at law judges for San Patricio County [~~the presiding~~
15 ~~judge of the 36th Judicial District~~] shall design a plan for the
16 [~~both~~] courts.

17 (c) The County Court at Law No. 2 of San Patricio County is
18 created January 1, 2023.

19 SECTION 2.10. Effective January 1, 2023, Section
20 25.2223(1), Government Code, is amended to read as follows:

21 (1) The County Criminal Court No. 5 of Tarrant County and
22 the County Criminal Court No. 6 of Tarrant County shall give
23 preference to cases brought under Title 5, Penal Code, involving
24 family violence as defined by Section 71.004, Family Code, and
25 cases brought under Sections 25.07, 25.072, and 42.072, Penal Code.

26 SECTION 2.11. (a) Effective October 1, 2022, Section
27 25.2481, Government Code, is amended to read as follows:

1 Sec. 25.2481. WILLIAMSON COUNTY. Williamson County has the
2 following statutory county courts:

- 3 (1) County Court at Law No. 1 of Williamson County;
4 (2) County Court at Law No. 2 of Williamson County;
5 (3) County Court at Law No. 3 of Williamson County;
6 ~~[and]~~
7 (4) County Court at Law No. 4 of Williamson County;
8 and
9 (5) County Court at Law No. 5 of Williamson County.

10 (b) The County Court at Law No. 5 of Williamson County is
11 created on October 1, 2022.

12 SECTION 2.12. (a) Sections 26.006(a) and (b), Government
13 Code, are amended to read as follows:

14 (a) A county judge is entitled to an annual salary
15 supplement from the state in an amount equal to 18 percent of the
16 state base salary paid to a district judge as set by the General
17 Appropriations Act in accordance with Section 659.012(a) if at
18 least 18 ~~[40]~~ percent of the:

- 19 (1) functions that the judge performs are judicial
20 functions; or
21 (2) total hours that the judge works are in the
22 performance of judicial functions.

23 (b) To receive a supplement under Subsection (a), a county
24 judge must file with the comptroller's judiciary section an
25 affidavit stating that at least 18 ~~[40]~~ percent of the:

- 26 (1) functions that the judge performs are judicial
27 functions; or

1 (2) total hours that the judge works are in the
2 performance of judicial functions.

3 (b) The changes in law made by this section take effect on
4 the effective date of this Act and apply only to a salary payment
5 for a pay period beginning on or after that date. A salary payment
6 for a pay period beginning before the effective date of this Act is
7 governed by the law in effect on the date the pay period began, and
8 that law is continued in effect for that purpose.

9 ARTICLE 3. JUSTICE AND MUNICIPAL COURTS

10 SECTION 3.01. Article 4.14(g), Code of Criminal Procedure,
11 is amended to read as follows:

12 (g) A municipality may enter into an agreement with a
13 contiguous municipality or a municipality with boundaries that are
14 within one-half mile of the municipality seeking to enter into the
15 agreement to establish concurrent jurisdiction of the municipal
16 courts in the municipalities and provide original jurisdiction to a
17 municipal court in which a case is brought as if the municipal court
18 were located in the municipality in which the case arose, for:

19 (1) all cases in which either municipality has
20 jurisdiction under Subsection (a) or (b); and

21 (2) cases that arise under Section 821.022, Health and
22 Safety Code.

23 SECTION 3.02. Subchapter B, Chapter 45, Code of Criminal
24 Procedure, is amended by adding Article 45.0241 to read as follows:

25 Art. 45.0241. ACCEPTANCE OF DEFENDANT'S PLEA. A justice or
26 judge may not accept a plea of guilty or plea of nolo contendere
27 from a defendant in open court unless it appears to the justice or

1 judge that the defendant is mentally competent and the plea is free
2 and voluntary.

3 SECTION 3.03. Article 103.003, Code of Criminal Procedure,
4 is amended by adding Subsection (a-1) to read as follows:

5 (a-1) The clerk of a municipal court may collect money
6 payable to the municipal court under this title.

7 SECTION 3.04. Article 103.0081, Code of Criminal Procedure,
8 is amended to read as follows:

9 Art. 103.0081. UNCOLLECTIBLE FINES AND FEES. (a) Any
10 officer authorized by this chapter to collect a fine, fee, or item
11 of cost may request the trial court in which a criminal action or
12 proceeding was held to make a finding that a fine, fee, or item of
13 cost imposed in the action or proceeding is uncollectible if the
14 officer believes:

15 (1) the defendant is deceased;

16 (2) the defendant is serving a sentence for
17 imprisonment for life or life without parole; or

18 (3) the fine, fee, or item of cost has been unpaid for
19 at least 15 years.

20 (b) On a finding by a court that any condition described by
21 Subsections (a)(1)-(3) is true, the court may order the officer to
22 designate the fine, fee, or item of cost as uncollectible in the fee
23 record. The officer shall attach a copy of the court's order to the
24 fee record.

25 SECTION 3.05. Section 29.003(i), Government Code, is
26 amended to read as follows:

27 (i) A municipality may enter into an agreement with a

1 contiguous municipality or a municipality with boundaries that are
2 within one-half mile of the municipality seeking to enter into the
3 agreement to establish concurrent jurisdiction of the municipal
4 courts in the municipalities and provide original jurisdiction to a
5 municipal court in which a case is brought as if the municipal court
6 were located in the municipality in which the case arose, for:

7 (1) all cases in which either municipality has
8 jurisdiction under Subsection (a) or (b); and

9 (2) cases that arise under Section 821.022, Health and
10 Safety Code, or Section 65.003(a), Family Code.

11 SECTION 3.06. Section 292.001(d), Local Government Code, is
12 amended to read as follows:

13 (d) A justice of the peace court may not be housed or
14 conducted in a building located outside the court's precinct except
15 as provided by Section 27.051(f) or 27.0515, Government Code, or
16 unless the justice of the peace court is situated in the county
17 courthouse in a county with a population of at least 305,000
18 [275,000] persons and the county seat of which is located in the
19 Llano Estacado region of this state ~~[but no more than 285,000~~
20 ~~persons]~~.

21 ARTICLE 4. JUVENILE JUSTICE AND FAMILY COURTS

22 SECTION 4.01. Subchapter H, Chapter 6, Family Code, is
23 amended by adding Section 6.712 to read as follows:

24 Sec. 6.712. DATE OF MARRIAGE REQUIREMENT IN FINAL DECREE.

25 (a) In a suit for dissolution of a marriage in which the court
26 grants a divorce, the court shall state the date of the marriage in
27 the decree of divorce.

1 (b) This section does not apply to a suit for dissolution of
2 a marriage described by Section 2.401(a)(2).

3 SECTION 4.02. Section 51.02, Family Code, is amended by
4 adding Subdivision (3-a) to read as follows:

5 (3-a) "Dual status child" means a child who has been
6 referred to the juvenile justice system and is:

7 (A) in the temporary or permanent managing
8 conservatorship of the Department of Family and Protective
9 Services;

10 (B) the subject of a case for which family-based
11 safety services have been offered or provided by the department;

12 (C) an alleged victim of abuse or neglect in an
13 open child protective investigation; or

14 (D) a victim in a case in which, after an
15 investigation, the department concluded there was reason to believe
16 the child was abused or neglected.

17 SECTION 4.03. Section 51.04(h), Family Code, is amended to
18 read as follows:

19 (h) A judge exercising jurisdiction over a child in a suit
20 instituted under Subtitle E, Title 5, may refer any aspect of a suit
21 involving a dual status ~~[the]~~ child that is instituted under this
22 title to the appropriate associate judge appointed under Subchapter
23 C, Chapter 201, serving in the county and exercising jurisdiction
24 over the child under Subtitle E, Title 5, if the associate judge
25 consents to the referral. The scope of an associate judge's
26 authority over a suit referred under this subsection is subject to
27 any limitations placed by the court judge in the order of referral.

1 SECTION 4.04. Section 51.0414(a), Family Code, is amended
2 to read as follows:

3 (a) The juvenile court may transfer a dual status child's
4 case, including transcripts of records and documents for the case,
5 to a district or statutory county court located in another county
6 that is exercising jurisdiction over the child in a suit instituted
7 under Subtitle E, Title 5. A case may only be transferred under this
8 section with the consent of the judge of the court to which the case
9 is being transferred.

10 SECTION 4.05. Sections 107.004(d) and (e), Family Code, are
11 amended to read as follows:

12 (d) Except as provided by Subsection (e), an attorney ad
13 litem appointed for a child in a proceeding under Chapter 262, ~~[or]~~
14 263, or 264 shall:

15 (1) meet before each court hearing with:

16 (A) the child, if the child is at least four years
17 of age; or

18 (B) the individual with whom the child ordinarily
19 resides, including the child's parent, conservator, guardian,
20 caretaker, or custodian, if the child is younger than four years of
21 age; and

22 (2) report to the court whether ~~[if the child or~~
23 ~~individual is not present at the court hearing, file a written~~
24 ~~statement with the court indicating that]~~ the attorney ad litem:

25 (A) complied with Subdivision (1); or

26 (B) requests that the court find good cause for
27 noncompliance because compliance was not feasible or in the best

1 interest of the child under Subsection (e).

2 (e) An attorney ad litem appointed for a child in a
3 proceeding under Chapter 262, ~~or~~ 263, or 264 is not required to
4 comply with Subsection (d) before a hearing if the court finds at
5 that hearing that the attorney ad litem has shown good cause why the
6 attorney ad litem's compliance with that subsection is not feasible
7 or in the best interest of the child. Additionally, a court may, on
8 a showing of good cause, authorize an attorney ad litem to comply
9 with Subsection (d) by conferring with the child or other
10 individual, as appropriate, by telephone or video conference.

11 SECTION 4.06. The change in law made by Section 6.712,
12 Family Code, as added by this article, applies only to a suit for
13 dissolution of a marriage filed on or after the effective date of
14 this Act. A suit for dissolution of a marriage filed before the
15 effective date of this Act is governed by the law in effect on the
16 date the suit was filed, and the former law is continued in effect
17 for that purpose.

18 ARTICLE 5. MAGISTRATES AND MAGISTRATE COURTS

19 SECTION 5.01. Article 4.01, Code of Criminal Procedure, is
20 amended to read as follows:

21 Art. 4.01. WHAT COURTS HAVE CRIMINAL JURISDICTION. The
22 following courts have jurisdiction in criminal actions:

- 23 1. The Court of Criminal Appeals;
- 24 2. Courts of appeals;
- 25 3. The district courts;
- 26 4. The criminal district courts;
- 27 5. The magistrates appointed by the judges of the

1 district courts of Bexar County, Dallas County, Tarrant County, or
2 Travis County that give preference to criminal cases and the
3 magistrates appointed by the judges of the criminal district courts
4 of Dallas County or Tarrant County;

5 6. The county courts;

6 7. All county courts at law with criminal
7 jurisdiction;

8 8. County criminal courts;

9 9. Justice courts;

10 10. Municipal courts;

11 11. The magistrates appointed by the judges of the
12 district courts of Lubbock County; ~~and~~

13 12. The magistrates appointed by the El Paso Council
14 of Judges;

15 13. The magistrates appointed by the Collin County
16 Commissioners Court;

17 14. The magistrates appointed by the Brazoria County
18 Commissioners Court or the local administrative judge for Brazoria
19 County; and

20 15. The magistrates appointed by the judges of the
21 district courts of Tom Green County.

22 SECTION 5.02. Section 54.1502, Government Code, is amended
23 to read as follows:

24 Sec. 54.1502. JURISDICTION. A magistrate has concurrent
25 criminal jurisdiction with:

26 (1) the judges of the justice of the peace courts of
27 Burnet County; and

1 (2) a municipal court in Burnet County, if approved by
2 a memorandum of understanding between the municipality and Burnet
3 County.

4 SECTION 5.03. Chapter 54, Government Code, is amended by
5 adding Subchapter PP to read as follows:

6 SUBCHAPTER PP. BRAZORIA COUNTY CRIMINAL LAW MAGISTRATE COURT

7 Sec. 54.2501. CREATION. The Brazoria County Criminal Law
8 Magistrate Court is a court with the jurisdiction provided by this
9 subchapter.

10 Sec. 54.2502. APPOINTMENT. (a) On recommendation from the
11 local administrative judge, the commissioners court of Brazoria
12 County may appoint one or more full- or part-time judges to preside
13 over the criminal law magistrate court for the term determined by
14 the commissioners court. The local administrative judge shall
15 appoint one or more full- or part-time judges to preside over the
16 criminal law magistrate court if the commissioners court is
17 prohibited by law from appointing a judge.

18 (b) To be eligible for appointment as a judge of the
19 criminal law magistrate court, a person must meet all the
20 requirements and qualifications to serve as a district court judge.

21 (c) A judge of the criminal law magistrate court is entitled
22 to the salary set by the commissioners court. The salary may not be
23 less than the annual base salary paid to a district judge under
24 Chapter 659.

25 (d) A judge appointed under this section serves at the
26 pleasure of the commissioners court or the local administrative
27 judge, as applicable.

1 Sec. 54.2503. JURISDICTION. (a) Except as provided by this
2 subsection, the criminal law magistrate court has the criminal
3 jurisdiction provided by the constitution and laws of this state
4 for county courts at law. The criminal law magistrate court does
5 not have jurisdiction to:

6 (1) hear a trial of a misdemeanor offense, other than a
7 Class C misdemeanor, on the merits if a jury trial is demanded; or

8 (2) hear a trial of a misdemeanor, other than a Class C
9 misdemeanor, on the merits if a defendant pleads not guilty.

10 (b) The criminal law magistrate court has the jurisdiction
11 provided by the constitution and laws of this state for
12 magistrates. A judge of the criminal law magistrate court is a
13 magistrate as that term is defined by Article 2.09, Code of Criminal
14 Procedure.

15 (c) Except as provided by this subsection, the criminal law
16 magistrate court has the criminal jurisdiction provided by the
17 constitution and laws of this state for a district court. The
18 criminal law magistrate court does not have jurisdiction to:

19 (1) hear a trial of a felony offense on the merits if a
20 jury trial is demanded;

21 (2) hear a trial of a felony offense on the merits if a
22 defendant pleads not guilty;

23 (3) sentence in a felony case unless the judge in whose
24 court the case is pending assigned the case to the criminal law
25 magistrate court for a guilty plea and sentence; or

26 (4) hear any part of a capital murder case after
27 indictment.

1 (d) A criminal law magistrate court may not issue writs of
2 habeas corpus in felony cases but may hear and grant relief on a
3 writ of habeas corpus issued by a district court and assigned by the
4 district court to the criminal law magistrate court.

5 (e) A felony or misdemeanor indictment or information may
6 not be filed in or transferred to the criminal law magistrate court.

7 (f) A judge of the criminal law magistrate court shall
8 exercise jurisdiction granted by this subchapter over felony and
9 misdemeanor indictments and informations only as judge presiding
10 for the court in which the indictment or information is pending and
11 under the limitations set out in the assignment order by the
12 assigning court or as provided by local administrative rules.

13 (g) The criminal law magistrate court has concurrent
14 criminal jurisdiction with the justice courts located in Brazoria
15 County.

16 Sec. 54.2504. POWERS AND DUTIES. (a) The criminal law
17 magistrate court or a judge of the criminal law magistrate court may
18 issue writs of injunction and all other writs necessary for the
19 enforcement of the jurisdiction of the court and may issue
20 misdemeanor writs of habeas corpus in cases in which the offense
21 charged is within the jurisdiction of the court or of any other
22 court of inferior jurisdiction in the county. The court and the
23 judge may punish for contempt as provided by law for district
24 courts. A judge of the criminal law magistrate court has all other
25 powers, duties, immunities, and privileges provided by law for:

26 (1) justices of the peace when acting in a Class C
27 misdemeanor case;

1 (2) county court at law judges when acting in a Class A
2 or Class B misdemeanor case; and

3 (3) district court judges when acting in a felony
4 case.

5 (b) A judge of the criminal law magistrate court may hold an
6 indigency hearing and a capias pro fine hearing. When acting as the
7 judge who issued the capias pro fine, a judge of the criminal law
8 magistrate court may make all findings of fact and conclusions of
9 law required of the judge who issued the capias pro fine. In
10 conducting a hearing under this subsection, the judge of the
11 criminal law magistrate court is empowered to make all findings of
12 fact and conclusions of law and to issue all orders necessary to
13 properly dispose of the capias pro fine or indigency hearing in
14 accordance with the provisions of the Code of Criminal Procedure
15 applicable to a misdemeanor or felony case of the same type and
16 level.

17 (c) A judge of the magistrate court may accept a plea of
18 guilty or nolo contendere from a defendant charged with a
19 misdemeanor or felony offense.

20 Sec. 54.2505. TRANSFER AND ASSIGNMENT OF CASES. (a) Except
21 as provided by Subsection (b) or local administrative rules, the
22 local administrative judge or a judge of the criminal law
23 magistrate court may transfer between courts a case that is pending
24 in the court of any magistrate in the criminal law magistrate
25 court's jurisdiction if the case is:

26 (1) an unindicted felony case;

27 (2) a Class A or Class B misdemeanor case if an

1 information has not been filed; or

2 (3) a Class C misdemeanor case.

3 (b) A case may not be transferred from or to the magistrate
4 docket of a district court judge, county court at law judge, or
5 justice of the peace without the consent of the judge of the court
6 to which it is transferred.

7 (c) Except as provided by Subsection (d) or local
8 administrative rules, the local administrative judge may assign a
9 judge of the criminal law magistrate court to act as presiding judge
10 in a case that is pending in the court of any magistrate in the
11 criminal law magistrate court's jurisdiction if the case is:

12 (1) an unindicted felony case;

13 (2) a Class A or Class B misdemeanor case if an
14 information has not been filed; or

15 (3) a Class C misdemeanor case.

16 (d) A case may not be assigned to a district court judge,
17 county court at law judge, or justice of the peace without the
18 assigned judge's consent.

19 (e) This section applies only to the district courts, county
20 courts at law, and justice courts in the county.

21 Sec. 54.2506. PROCEEDING THAT MAY BE REFERRED. A district
22 judge, county court at law judge, or justice of the peace may refer
23 to a judge of the criminal law magistrate court any criminal case or
24 matter relating to a criminal case for any proceeding other than
25 presiding over a criminal trial on the merits, whether or not the
26 trial is before a jury.

27 Sec. 54.2507. OATH OF OFFICE. A judge of the criminal law

1 magistrate court must take the constitutional oath of office
2 prescribed for appointed officers.

3 Sec. 54.2508. JUDICIAL IMMUNITY. A judge of the criminal
4 law magistrate court has the same judicial immunity as a district
5 judge.

6 Sec. 54.2509. CLERK. The clerk of a district court or
7 county court at law that refers a proceeding to a magistrate under
8 this subchapter shall perform the statutory duties necessary for
9 the magistrate to perform the duties authorized by this subchapter.

10 Sec. 54.2510. SHERIFF. The county sheriff, either in
11 person or by deputy, shall attend the criminal law magistrate court
12 as required by the judge of that court.

13 Sec. 54.2511. WITNESSES. (a) A witness who is sworn and who
14 appears before a magistrate is subject to the penalties for perjury
15 and aggravated perjury provided by law.

16 (b) A referring court may fine or imprison a witness or
17 other court participant for failure to appear after being summoned,
18 refusal to answer questions, or other acts of direct contempt
19 before a magistrate.

20 SECTION 5.04. Chapter 54, Government Code, is amended by
21 adding Subchapter QQ to read as follows:

22 SUBCHAPTER QQ. CRIMINAL LAW MAGISTRATES IN TOM GREEN COUNTY

23 Sec. 54.2601. APPOINTMENT. (a) The judges of the district
24 courts of Tom Green County, with the consent and approval of the
25 commissioners court of Tom Green County, shall jointly appoint the
26 number of magistrates set by the commissioners court to perform the
27 duties authorized by this subchapter.

1 (b) Each magistrate's appointment must be made with the
2 approval of at least two-thirds of all the judges described in
3 Subsection (a).

4 (c) If the number of magistrates is less than the number of
5 district judges, each magistrate shall serve equally in the courts
6 of those judges.

7 Sec. 54.2602. QUALIFICATIONS. To be eligible for
8 appointment as a magistrate, a person must:

9 (1) be a resident of this state; and

10 (2) have been licensed to practice law in this state
11 for at least four years.

12 Sec. 54.2603. COMPENSATION. (a) A full-time magistrate is
13 entitled to the salary determined by the commissioners court of Tom
14 Green County. The salary may not be less than an amount equal to the
15 salary, supplements, and allowances paid to a justice of the peace
16 of Tom Green County as set by the annual budget of Tom Green County.

17 (b) A magistrate's salary is paid from the county fund
18 available for payment of officers' salaries.

19 (c) The salary of a part-time magistrate is equal to the
20 per-hour salary of a full-time magistrate. The per-hour salary is
21 determined by dividing the annual salary by a 2,080 work-hour year.
22 The judges of the courts trying criminal cases in Tom Green County
23 shall approve the number of hours for which a part-time magistrate
24 is to be paid.

25 Sec. 54.2604. JUDICIAL IMMUNITY. A magistrate has the same
26 judicial immunity as a district judge.

27 Sec. 54.2605. TERMINATION OF SERVICES. (a) A magistrate

1 who serves a single court serves at the will of the judge.

2 (b) The services of a magistrate who serves more than one
3 court may be terminated by a majority vote of all the judges whom
4 the magistrate serves.

5 Sec. 54.2606. PROCEEDING THAT MAY BE REFERRED. (a) A judge
6 may refer to a magistrate any criminal case or matter relating to a
7 criminal case for proceedings involving:

8 (1) a negotiated plea of guilty or no contest and
9 sentencing before the court;

10 (2) a bond forfeiture, remittitur, and related
11 proceedings;

12 (3) a pretrial motion;

13 (4) a writ of habeas corpus;

14 (5) an examining trial;

15 (6) an occupational driver's license;

16 (7) a petition for an order of expunction under
17 Chapter 55, Code of Criminal Procedure;

18 (8) an asset forfeiture hearing as provided by Chapter
19 59, Code of Criminal Procedure;

20 (9) a petition for an order of nondisclosure of
21 criminal history record information or an order of nondisclosure of
22 criminal history record information that does not require a
23 petition provided by Subchapter E-1, Chapter 411;

24 (10) a motion to modify or revoke community
25 supervision or to proceed with an adjudication of guilty;

26 (11) setting conditions, modifying, revoking, and
27 surrendering of bonds, including surety bonds;

1 (12) specialty court proceedings;
2 (13) a waiver of extradition; and
3 (14) any other matter the judge considers necessary
4 and proper.

5 (b) A judge may refer to a magistrate a civil case arising
6 out of Chapter 59, Code of Criminal Procedure, for any purpose
7 authorized by that chapter, including issuing orders, accepting
8 agreed judgments, enforcing judgments, and presiding over a case on
9 the merits if a party has not requested a jury trial.

10 (c) A magistrate may accept a plea of guilty from a
11 defendant charged with misdemeanor, felony, or both misdemeanor and
12 felony offenses.

13 (d) A magistrate may select a jury. A magistrate may not
14 preside over a criminal trial on the merits, whether or not the
15 trial is before a jury.

16 (e) A magistrate may not hear a jury trial on the merits of a
17 bond forfeiture.

18 (f) A judge of a designated juvenile court may refer to a
19 magistrate any proceeding over which a juvenile court has exclusive
20 original jurisdiction under Title 3, Family Code, including any
21 matter ancillary to the proceeding.

22 Sec. 54.2607. ORDER OF REFERRAL. (a) To refer one or more
23 cases to a magistrate, a judge must issue an order of referral
24 specifying the magistrate's duties.

25 (b) An order of referral may:

26 (1) limit the powers of the magistrate and direct the
27 magistrate to report only on specific issues, perform particular

1 acts, or only receive and report on evidence;
2 (2) set the time and place for the hearing;
3 (3) prescribe a closing date for the hearing;
4 (4) provide a date for filing the magistrate's
5 findings;
6 (5) designate proceedings for more than one case over
7 which the magistrate shall preside;
8 (6) direct the magistrate to call the court's docket;
9 and
10 (7) provide the general powers and limitations of
11 authority of the magistrate applicable to any case referred.
12 Sec. 54.2608. POWERS. (a) Except as limited by an order of
13 referral, a magistrate to whom a case is referred may:
14 (1) conduct hearings;
15 (2) hear evidence;
16 (3) compel production of relevant evidence;
17 (4) rule on admissibility of evidence;
18 (5) issue summons for the appearance of witnesses;
19 (6) examine witnesses;
20 (7) swear witnesses for hearings;
21 (8) make findings of fact on evidence;
22 (9) formulate conclusions of law;
23 (10) rule on a pretrial motion;
24 (11) recommend the rulings, orders, or judgment to be
25 made in a case;
26 (12) regulate proceedings in a hearing;
27 (13) accept a plea of guilty from a defendant charged

1 with misdemeanor, felony, or both misdemeanor and felony offenses;
2 (14) select a jury;
3 (15) accept a negotiated plea on probation revocation;
4 (16) conduct a contested probation revocation
5 hearing;
6 (17) sign a dismissal in a misdemeanor case;
7 (18) in any case referred under Section 54.656(a)(1),
8 accept a negotiated plea of guilty or no contest and:
9 (A) enter a finding of guilty and impose or
10 suspend the sentence; or
11 (B) defer adjudication of guilty; and
12 (19) perform any act and take any measure necessary
13 and proper for the efficient performance of the duties required by
14 the order of referral.
15 (b) A magistrate may sign a motion to dismiss submitted by
16 an attorney representing the state on cases referred to the
17 magistrate, or on dockets called by the magistrate, and may
18 consider adjudicated cases at sentencing under Section 12.45, Penal
19 Code.
20 (c) A magistrate has all the powers of a magistrate under
21 the laws of this state and may administer an oath for any purpose.
22 Sec. 54.2609. COURT REPORTER. At the request of a party in
23 a felony case, the court shall provide a court reporter to record
24 the proceedings before the magistrate.
25 Sec. 54.2610. WITNESS. (a) A witness who appears before a
26 magistrate and is sworn is subject to the penalties for perjury
27 provided by law.

1 (b) A referring court may issue attachment against and may
2 fine or imprison a witness whose failure to appear after being
3 summoned or whose refusal to answer questions has been certified to
4 the court.

5 Sec. 54.2611. PAPERS TRANSMITTED TO JUDGE. At the
6 conclusion of the proceedings, a magistrate shall transmit to the
7 referring court any papers relating to the case, including the
8 magistrate's findings, conclusions, orders, recommendations, or
9 other action taken.

10 Sec. 54.2612. JUDICIAL ACTION. (a) A referring court may
11 modify, correct, reject, reverse, or recommit for further
12 information any action taken by the magistrate.

13 (b) If the court does not modify, correct, reject, reverse,
14 or recommit an action of the magistrate, the action becomes the
15 decree of the court.

16 (c) At the conclusion of each term during which the services
17 of a magistrate are used, the referring court shall enter a decree
18 on the minutes adopting the actions of the magistrate of which the
19 court approves.

20 Sec. 54.2613. MAGISTRATE. (a) If a magistrate appointed
21 under this subchapter is absent or unable to serve, the judge
22 referring the case may appoint another magistrate to serve for the
23 absent magistrate.

24 (b) A magistrate serving for another magistrate under this
25 section has the powers and shall perform the duties of the
26 magistrate for whom the magistrate is serving.

27 Sec. 54.2614. CLERK. The clerk of a district court that

1 refers a proceeding to a magistrate under this subchapter shall
2 perform the statutory duties necessary for the magistrate to
3 perform the duties authorized by this subchapter.

4 SECTION 5.05. Section 54.653(b), Government Code, is
5 repealed.

6 ARTICLE 6. ELECTRONIC FILING SYSTEM

7 SECTION 6.01. Section 72.031(a), Government Code, is
8 amended by adding Subdivision (5) to read as follows:

9 (5) "State court document database" means a database
10 accessible by the public and established or authorized by the
11 supreme court for storing documents filed with a court in this
12 state.

13 SECTION 6.02. Section 72.031(b), Government Code, is
14 amended to read as follows:

15 (b) The office as authorized by supreme court rule or order
16 may:

17 (1) implement an electronic filing system for use in
18 the courts of this state;

19 (2) allow public access to view information or
20 documents in the state court document database; and

21 (3) charge a reasonable fee for additional optional
22 features in the state court document database.

23 ARTICLE 7. TRANSFER OF CASES

24 SECTION 7.01. Section 155.207, Family Code, is amended to
25 read as follows:

26 Sec. 155.207. TRANSFER OF COURT FILES. (a) Not later than
27 the 10th working day after the date an order of transfer is signed,

1 the clerk of the court transferring a proceeding shall send, using
2 the electronic filing system established under Section 72.031,
3 Government Code, to the proper court in the county to which transfer
4 is being made:

5 (1) a transfer certificate and index of transferred
6 documents ~~[the pleadings in the pending proceeding and any other~~
7 ~~document specifically requested by a party];~~

8 (2) ~~[certified copies of all entries in the minutes;~~
9 ~~(3)]~~ a ~~[certified]~~ copy of each final order;

10 (3) ~~[and~~

11 ~~(4)]~~ a ~~[certified]~~ copy of the order of transfer
12 signed by the transferring court;

13 (4) a copy of the original papers filed in the
14 transferring court;

15 (5) a copy of the transfer certificate and index of
16 transferred documents from each previous transfer; and

17 (6) a bill of any costs that have accrued in the
18 transferring court.

19 (a-1) The clerk of the transferring court shall use the
20 standardized transfer certificate and index of transferred
21 documents form created by the Office of Court Administration of the
22 Texas Judicial System under Section 72.037, Government Code, when
23 transferring a proceeding under this section.

24 (b) The clerk of the transferring court shall keep a copy of
25 ~~[the] transferred pleadings [and other requested documents. If the~~
26 ~~transferring court retains jurisdiction of another child who was~~
27 ~~the subject of the suit, the clerk shall send a copy of the~~

1 ~~pleadings and other requested documents to the court to which the~~
2 ~~transfer is made and shall keep the original pleadings and other~~
3 ~~requested documents~~].

4 (c) The ~~[On receipt of the pleadings, documents, and orders~~
5 ~~from the transferring court, the]~~ clerk of the transferee court
6 shall:

7 (1) accept documents transferred under Subsection
8 (a);

9 (2) docket the suit; and

10 (3) ~~shall~~ notify, using the electronic filing system
11 established under Section 72.031, Government Code ~~[the judge of the~~
12 ~~transferee court]~~, all parties, the clerk of the transferring
13 court, and, if appropriate, the transferring court's local registry
14 that the suit has been docketed.

15 (c-1) The clerk of the transferee court shall physically or
16 electronically mark or stamp the transfer certificate and index of
17 transferred documents to evidence the date and time of acceptance
18 under Subsection (c), but may not physically or electronically mark
19 or stamp any other document transferred under Subsection (a).

20 (d) The clerk of the transferring court shall send a
21 certified copy of the order directing payments to the transferee
22 court:

23 (1) ~~to~~ to any party ~~[or employer]~~ affected by the
24 [that] order, and, if appropriate, to the local registry of the
25 transferee court using the electronic filing system established
26 under Section 72.031, Government Code; and

27 (2) to an employer affected by the order

1 electronically or by first class mail.

2 (e) The clerks of both the transferee and transferring
3 courts may each produce under Chapter 51, Government Code,
4 certified or uncertified copies of documents filed in a case
5 transferred under this section, but shall also include a copy of the
6 transfer certificate and index of transferred documents with each
7 document produced.

8 (f) Sections 80.001 and 80.002, Government Code, do not
9 apply to the transfer of documents under this section.

10 SECTION 7.02. Section 51.3071, Government Code, is amended
11 to read as follows:

12 Sec. 51.3071. TRANSFER OF CASES. (a) If a case is
13 transferred from a district court to a county court, the clerk of
14 the district court shall ~~[may]~~ send to the county clerk using the
15 electronic filing system established under Section 72.031 ~~[in~~
16 ~~electronic or paper form]~~:

17 (1) a transfer certificate and index of transferred
18 documents ~~[certified transcript of the proceedings held in the~~
19 ~~district court]~~;

20 (2) a copy of the original papers filed in the
21 transferring ~~[district]~~ court; ~~[and]~~

22 (3) a copy of the order of transfer signed by the
23 transferring court;

24 (4) a copy of each final order;

25 (5) a copy of the transfer certificate and index of
26 transferred documents from each previous transfer; and

27 (6) a bill of any ~~[the]~~ costs that have accrued in the

1 transferring ~~[district]~~ court.

2 **(b)** The clerk of the transferring court shall use the
3 standardized transfer certificate and index of transferred
4 documents form created by the Office of Court Administration of the
5 Texas Judicial System under Section 72.037 when transferring a case
6 under this section.

7 **(c)** The clerk of the transferee court shall accept documents
8 transferred under Subsection (a) and docket the case.

9 **(d)** The clerk of the transferee court shall physically or
10 electronically mark or stamp the transfer certificate and index of
11 transferred documents to evidence the date and time of acceptance
12 under Subsection (c), but may not physically or electronically mark
13 or stamp any other document transferred under Subsection (a).

14 **(e)** Sections 80.001 and 80.002 do not apply to the transfer
15 of documents under this section.

16 SECTION 7.03. Section 51.403, Government Code, is amended
17 to read as follows:

18 Sec. 51.403. TRANSFER OF CASES. (a) If a case is
19 transferred from a county court to a district court, the clerk of
20 the county court shall send to the district clerk using the
21 electronic filing system established under Section 72.031 ~~[in~~
22 ~~electronic or paper form]~~:

23 **(1)** a transfer certificate and index of transferred
24 documents ~~[certified transcript of the proceedings held in the~~
25 ~~county court]~~;

26 **(2)** a copy of the original papers filed in the
27 transferring ~~[county]~~ court; ~~[and]~~

1 (3) a copy of the order of transfer signed by the
2 transferring court;

3 (4) a copy of each final order;

4 (5) a copy of the transfer certificate and index of
5 transferred documents from each previous transfer; and

6 (6) a bill of any [the] costs that have accrued in the
7 transferring [county] court.

8 (a-1) The clerk of the transferring court shall use the
9 standardized transfer certificate and index of transferred
10 documents form created by the Office of Court Administration of the
11 Texas Judicial System under Section 72.037 when transferring a case
12 under this section.

13 (a-2) The clerk of the transferee court shall accept
14 documents transferred under Subsection (a) and docket the case.

15 (a-3) The clerk of the transferee court shall physically or
16 electronically mark or stamp the transfer certificate and index of
17 transferred documents to evidence the date and time of acceptance
18 under Subsection (a-2), but may not physically or electronically
19 mark or stamp any other document transferred under Subsection (a).

20 (b) If civil or criminal jurisdiction of a county court is
21 transferred to a district court, the clerk of the county court shall
22 send using the electronic filing system established under Section
23 72.031 a certified copy of the judgments rendered in the county
24 court that remain unsatisfied[~~, in electronic or paper form,~~] to
25 the district clerks of the appropriate counties.

26 (c) Sections 80.001 and 80.002 do not apply to the transfer
27 of documents under this section.

1 SECTION 7.04. Subchapter C, Chapter 72, Government Code, is
2 amended by adding Section 72.037 to read as follows:

3 Sec. 72.037. TRANSFER CERTIFICATE AND INDEX OF TRANSFERRED
4 DOCUMENTS FORM. (a) The office shall develop and make available a
5 standardized transfer certificate and an index of transferred
6 documents form to be used for the transfer of cases and proceedings
7 under Section 155.207, Family Code, and Sections 51.3071 and 51.403
8 of this code.

9 (b) In developing a form under this section, the office
10 shall consult with representatives of county and district clerks.

11 SECTION 7.05. As soon as practicable after the effective
12 date of this Act, the Office of Court Administration of the Texas
13 Judicial System shall adopt rules and develop and make available
14 all forms and materials required by Section 72.037, Government
15 Code, as added by this Act.

16 ARTICLE 8. HABEAS CORPUS

17 SECTION 8.01. Section 3(b), Article 11.07, Code of Criminal
18 Procedure, is amended to read as follows:

19 (b) An application for writ of habeas corpus filed after
20 final conviction in a felony case, other than a case in which the
21 death penalty is imposed, must be filed with the clerk of the court
22 in which the conviction being challenged was obtained, and the
23 clerk shall assign the application to that court. When the
24 application is received by that court, a writ of habeas corpus,
25 returnable to the Court of Criminal Appeals, shall issue by
26 operation of law. The clerk of that court shall make appropriate
27 notation thereof, assign to the case a file number (ancillary to

1 that of the conviction being challenged), and forward a copy of the
2 application by certified mail, return receipt requested, by secure
3 electronic mail, or by personal service to the attorney
4 representing the state in that court, who shall answer the
5 application not later than the 30th ~~[15th]~~ day after the date the
6 copy of the application is received. Matters alleged in the
7 application not admitted by the state are deemed denied.

8 SECTION 8.02. Section 5(a), Article 11.072, Code of
9 Criminal Procedure, is amended to read as follows:

10 (a) Immediately on filing an application, the applicant
11 shall serve a copy of the application on the attorney representing
12 the state~~[-]~~ by:

13 (1) ~~[either]~~ certified mail, return receipt
14 requested;

15 (2) ~~[or]~~ personal service;

16 (3) electronic service through the electronic filing
17 manager authorized by Rule 21, Texas Rules of Civil Procedure; or

18 (4) a secure electronic transmission to the attorney's
19 e-mail address filed with the electronic filing system as required
20 under Section 80.003, Government Code.

21 SECTION 8.03. Section 3(b), Article 11.07, Code of Criminal
22 Procedure, as amended by this Act, applies only to an application
23 for a writ of habeas corpus filed on or after the effective date of
24 this Act. An application filed before the effective date of this
25 Act is governed by the law in effect on the date the application was
26 filed, and the former law is continued in effect for that purpose.

27 SECTION 8.04. Section 5(a), Article 11.072, Code of

1 Criminal Procedure, as amended by this Act, applies only to an
2 application for a writ of habeas corpus filed on or after the
3 effective date of this Act. An application filed before the
4 effective date of this Act is governed by the law in effect when the
5 application was filed, and the former law is continued in effect for
6 that purpose.

7 ARTICLE 9. PUBLICATION OF CITATION FOR RECEIVERSHIP

8 SECTION 9.01. Section 64.101(c), Civil Practice and
9 Remedies Code, is amended to read as follows:

10 (c) Except as provided by Section 17.032, the [The] citation
11 shall be published on the public information Internet website
12 maintained as required by Section 72.034, Government Code, as added
13 by Chapter 606 (S.B. 891), Acts of the 86th Legislature, Regular
14 Session, 2019, and in a newspaper of general circulation:

15 (1) once in the county in which the missing person
16 resides; and

17 (2) once in each county in which property of the
18 missing person's estate is located.

19 SECTION 9.02. Section 51.103(b), Estates Code, is amended
20 to read as follows:

21 (b) Proof of service consists of:

22 (1) if the service is made by a sheriff or constable,
23 the return of service;

24 (2) if the service is made by a private person, the
25 person's affidavit;

26 (3) if the service is made by mail:

27 (A) the certificate of the county clerk making

1 the service, or the affidavit of the personal representative or
2 other person making the service, stating that the citation or
3 notice was mailed and the date of the mailing; and

4 (B) the return receipt attached to the
5 certificate or affidavit, as applicable, if the mailing was by
6 registered or certified mail and a receipt has been returned; and

7 (4) if the service is made by publication:

8 (A) a statement ~~[an affidavit]~~:

9 (i) made by the Office of Court
10 Administration of the Texas Judicial System or an employee of the
11 office;

12 (ii) that contains or to which is attached a
13 copy of the published citation or notice; and

14 (iii) that states the date of publication
15 on the public information Internet website maintained as required
16 by Section [72.034](#), Government Code, as added by Chapter 606 (S.B.
17 891), Acts of the 86th Legislature, Regular Session, 2019; and

18 (B) an affidavit:

19 (i) made by the publisher of the newspaper
20 in which the citation or notice was published or an employee of the
21 publisher;

22 (ii) that contains or to which is attached a
23 copy of the published citation or notice; and

24 (iii) that states the date of publication
25 printed on the newspaper in which the citation or notice was
26 published.

27 SECTION 9.03. Section [1051.153](#)(b), Estates Code, is amended

1 to read as follows:

2 (b) Proof of service consists of:

3 (1) if the service is made by a sheriff or constable,
4 the return of service;

5 (2) if the service is made by a private person, the
6 person's affidavit;

7 (3) if the service is made by mail:

8 (A) the certificate of the county clerk making
9 the service, or the affidavit of the guardian or other person making
10 the service that states that the citation or notice was mailed and
11 the date of the mailing; and

12 (B) the return receipt attached to the
13 certificate, if the mailing was by registered or certified mail and
14 a receipt has been returned; and

15 (4) if the service is made by publication:

16 (A) a statement ~~[an affidavit]~~ that:

17 (i) is made by the Office of Court
18 Administration of the Texas Judicial System or an employee of the
19 office;

20 (ii) contains or to which is attached a copy
21 of the published citation or notice; and

22 (iii) states the date of publication on the
23 public information Internet website maintained as required by
24 Section 72.034, Government Code, as added by Chapter 606 (S.B.
25 891), Acts of the 86th Legislature, Regular Session, 2019; and

26 (B) an affidavit that:

27 (i) is made by the publisher of the

1 newspaper in which the citation or notice was published or an
2 employee of the publisher;

3 (ii) contains or to which is attached a copy
4 of the published citation or notice; and

5 (iii) states the date of publication
6 printed on the newspaper in which the citation or notice was
7 published.

8 ARTICLE 10. EVIDENCE

9 SECTION 10.01. Section 2, Article 38.01, Code of Criminal
10 Procedure, is amended by adding Subdivision (4-a) to read as
11 follows:

12 (4-a) "Forensic examination or test not subject to
13 accreditation" means an examination or test described by Article
14 38.35(a)(4)(A), (B), (C), or (D) that is exempt from accreditation.

15 SECTION 10.02. Article 38.01, Code of Criminal Procedure,
16 is amended by adding Section 3-b to read as follows:

17 Sec. 3-b. CODE OF PROFESSIONAL RESPONSIBILITY. (a) The
18 commission shall adopt a code of professional responsibility to
19 regulate the conduct of persons, laboratories, facilities, and
20 other entities regulated under this article.

21 (b) The commission shall publish the code of professional
22 responsibility adopted under Subsection (a).

23 (c) The commission shall adopt rules establishing sanctions
24 for code violations.

25 (d) The commission shall update the code of professional
26 responsibility as necessary to reflect changes in science,
27 technology, or other factors affecting the persons, laboratories,

1 facilities, and other entities regulated under this article.

2 SECTION 10.03. Sections 4(a), (a-1), (b-1), and (c),
3 Article 38.01, Code of Criminal Procedure, are amended to read as
4 follows:

5 (a) The commission shall:

6 (1) develop and implement a reporting system through
7 which a crime laboratory may report professional negligence or
8 professional misconduct;

9 (2) require a crime laboratory that conducts forensic
10 analyses to report professional negligence or professional
11 misconduct to the commission; and

12 (3) investigate, in a timely manner, any allegation of
13 professional negligence or professional misconduct that would
14 substantially affect the integrity of:

15 (A) the results of a forensic analysis conducted
16 by a crime laboratory;

17 (B) an examination or test that is conducted by a
18 crime laboratory and that is a forensic examination or test not
19 subject to accreditation; or

20 (C) testimony related to an analysis,
21 examination, or test described by Paragraph (A) or (B).

22 (a-1) The commission may initiate ~~[for educational~~
23 ~~purposes]~~ an investigation of a forensic analysis or a forensic
24 examination or test not subject to accreditation, without receiving
25 a complaint~~[7]~~ submitted through the reporting system implemented
26 under Subsection (a)(1), ~~[that contains an allegation of~~
27 ~~professional negligence or professional misconduct involving the~~

1 ~~forensic analysis conducted~~] if the commission determines by a
2 majority vote of a quorum of the members of the commission that an
3 investigation of the [~~forensic~~] analysis, examination, or test
4 would advance the integrity and reliability of forensic science in
5 this state.

6 (b-1) If the commission conducts an investigation under
7 Subsection (a)(3) of a crime laboratory that is not accredited
8 under this article or the investigation involves a forensic
9 examination or test not subject to accreditation [~~is conducted~~
10 ~~pursuant to an allegation involving a forensic method or~~
11 ~~methodology that is not an accredited field of forensic science~~],
12 the investigation may include the preparation of a written report
13 that contains:

14 (1) observations of the commission regarding the
15 integrity and reliability of the applicable [~~forensic~~] analysis,
16 examination, or test conducted;

17 (2) best practices identified by the commission during
18 the course of the investigation; or

19 (3) other recommendations that are relevant, as
20 determined by the commission.

21 (c) The commission by contract may delegate the duties
22 described by Subsections (a)(1) and (3) and Sections 4-d(b)(1),
23 (b-1), and (d) to any person the commission determines to be
24 qualified to assume those duties.

25 SECTION 10.04. Section 4-a(c), Article 38.01, Code of
26 Criminal Procedure, is amended to read as follows:

27 (c) The commission by rule may establish voluntary

1 licensing programs for forensic examinations or tests [~~disciplines~~
2 ~~that are~~] not subject to accreditation [~~under this article~~].

3 SECTION 10.05. Section 4-d(b-1), Article 38.01, Code of
4 Criminal Procedure, is amended to read as follows:

5 (b-1) As part of the accreditation process established and
6 implemented under Subsection (b), the commission may:

7 (1) establish minimum standards that relate to the
8 timely production of a forensic analysis to the agency requesting
9 the analysis and that are consistent with this article and
10 applicable laws;

11 (2) validate or approve specific forensic methods or
12 methodologies; and

13 (3) establish procedures, policies, standards, and
14 practices to improve the quality of forensic analyses conducted in
15 this state.

16 SECTION 10.06. Article 38.01, Code of Criminal Procedure,
17 is amended by adding Section 14 to read as follows:

18 Sec. 14. FUNDING FOR TRAINING AND EDUCATION. The
19 commission may use appropriated funds for the training and
20 education of forensic analysts.

21 SECTION 10.07. Section 2254.002(2), Government Code, is
22 amended to read as follows:

23 (2) "Professional services" means services:

24 (A) within the scope of the practice, as defined
25 by state law, of:

26 (i) accounting;

27 (ii) architecture;

- 1 (iii) landscape architecture;
- 2 (iv) land surveying;
- 3 (v) medicine;
- 4 (vi) optometry;
- 5 (vii) professional engineering;
- 6 (viii) real estate appraising; ~~[or]~~
- 7 (ix) professional nursing; or
- 8 (x) forensic science;

9 (B) provided in connection with the professional
10 employment or practice of a person who is licensed or registered as:

- 11 (i) a certified public accountant;
- 12 (ii) an architect;
- 13 (iii) a landscape architect;
- 14 (iv) a land surveyor;
- 15 (v) a physician, including a surgeon;
- 16 (vi) an optometrist;
- 17 (vii) a professional engineer;
- 18 (viii) a state certified or state licensed
19 real estate appraiser; ~~[or]~~
- 20 (ix) a registered nurse; or
- 21 (x) a forensic analyst or forensic science
22 expert; or

23 (C) provided by a person lawfully engaged in
24 interior design, regardless of whether the person is registered as
25 an interior designer under Chapter 1053, Occupations Code.

26 ARTICLE 11. JURY SERVICE

27 SECTION 11.01. Sections 61.003(a) and (c), Government Code,

1 are amended to read as follows:

2 (a) Each person who reports for jury service shall be
3 personally provided a form letter that when signed by the person
4 directs the county treasurer to donate all, or a specific amount
5 designated by the person, of the person's daily reimbursement under
6 this chapter to:

7 (1) the compensation to victims of crime fund
8 established under Subchapter J, Chapter 56B, Code of Criminal
9 Procedure;

10 (2) the child welfare, child protective services, or
11 child services board of the county appointed under Section 264.005,
12 Family Code, that serves abused and neglected children;

13 (3) any program selected by the commissioners court
14 that is operated by a public or private nonprofit organization and
15 that provides shelter and services to victims of family violence;

16 (4) any other program approved by the commissioners
17 court of the county, including a program established under Article
18 56A.205, Code of Criminal Procedure, that offers psychological
19 counseling in criminal cases involving graphic evidence or
20 testimony; ~~or~~

21 (5) a veterans treatment court program established by
22 the commissioners court as provided by Chapter 124; or

23 (6) a veterans county service office established by
24 the commissioners court as provided by Subchapter B, Chapter 434.

25 (c) The county treasurer shall:

26 (1) send all donations made under Subsection (a)(1) to
27 the comptroller, at the time and in the manner prescribed by the

1 attorney general, for deposit to the credit of the compensation to
2 victims of crime fund;

3 (2) deposit donations made to the county child welfare
4 board under Subsection (a)(2) in a fund established by the county to
5 be used by the child welfare board in a manner authorized by the
6 commissioners court of the county; and

7 (3) send all donations made under Subsection (a)(3),
8 ~~[or]~~ (a)(4), or (a)(6) directly to the program or office, as
9 applicable, specified on the form letter signed by the person who
10 reported for jury service.

11 SECTION 11.02. Section 62.202(b), Government Code, is
12 amended to read as follows:

13 (b) The district judge may draw a warrant on the jury fund or
14 other appropriate fund of the county in which the civil case is
15 tried to cover the cost of buying and transporting the meals to the
16 jury room. The judge may spend a reasonable amount ~~[Not more than~~
17 ~~\$2]~~ per meal ~~[may be spent]~~ for a juror serving on a jury in a civil
18 case.

19 SECTION 11.03. Section 434.032, Government Code, is amended
20 by adding Subsection (c) to read as follows:

21 (c) The commissioners court of a county that maintains an
22 office:

23 (1) may not consider a juror's donation to the office
24 of the juror's daily reimbursement under Section 61.003 for
25 purposes of determining the county's budget for the office; and

26 (2) may use donations described by Subdivision (1)
27 only to supplement, rather than supplant, amounts budgeted by the

1 county for the office.

2 ARTICLE 12. SPECIALTY COURT PROGRAMS

3 SECTION 12.01. Chapter 121, Government Code, is amended by
4 adding Sections 121.003 and 121.004 to read as follows:

5 Sec. 121.003. APPOINTMENT OF PRESIDING JUDGE OR MAGISTRATE
6 FOR REGIONAL SPECIALTY COURT PROGRAM. A judge or magistrate of a
7 district court or statutory county court who is authorized by law to
8 hear criminal cases may be appointed to preside over a regional
9 specialty court program recognized under this subtitle only if:

10 (1) the local administrative district and statutory
11 county court judges of each county participating in the program
12 approve the appointment by majority vote or another approval method
13 selected by the judges; and

14 (2) the presiding judges of each of the administrative
15 judicial regions in which the participating counties are located
16 sign an order granting the appointment.

17 Sec. 121.004. JURISDICTION AND AUTHORITY OF JUDGE OR
18 MAGISTRATE IN REGIONAL SPECIALTY COURT PROGRAM. (a) A judge or
19 magistrate appointed to preside over a regional specialty court
20 program may hear any misdemeanor or felony case properly
21 transferred to the program by an originating trial court
22 participating in the program, regardless of whether the originating
23 trial court and specialty court program are in the same county. The
24 appointed judge or magistrate may exercise only the authority
25 granted under this subtitle.

26 (b) The judge or magistrate of a regional specialty court
27 program may for a case properly transferred to the program:

- 1 (1) enter orders, judgments, and decrees for the case;
2 (2) sign orders of detention, order community service,
3 or impose other reasonable and necessary sanctions;
4 (3) send recommendations for dismissal and expunction
5 to the originating trial court for a defendant who successfully
6 completes the program; and
7 (4) return the case and documentation required by this
8 subtitle to the originating trial court for final disposition on a
9 defendant's successful completion of or removal from the program.

10 (c) A visiting judge assigned to preside over a regional
11 specialty court program has the same authority as the judge or
12 magistrate appointed to preside over the program.

13 SECTION 12.02. Section 124.003(b), Government Code, is
14 amended to read as follows:

15 (b) A veterans treatment court program established under
16 this chapter shall make, establish, and publish local procedures to
17 ensure maximum participation of eligible defendants in the program
18 ~~[county or counties in which those defendants reside]~~.

19 SECTION 12.03. Sections 124.006(a) and (d), Government
20 Code, are amended to read as follows:

21 (a) A veterans treatment court program that accepts
22 placement of a defendant may transfer responsibility for
23 supervising the defendant's participation in the program to another
24 veterans treatment court program that is located in the county
25 where the defendant works or resides or in a county adjacent to the
26 county where the defendant works or resides. The defendant's
27 supervision may be transferred under this section only with the

1 consent of both veterans treatment court programs and the
2 defendant.

3 (d) If a defendant is charged with an offense in a county
4 that does not operate a veterans treatment court program, the court
5 in which the criminal case is pending may place the defendant in a
6 veterans treatment court program located in the county where the
7 defendant works or resides or in a county adjacent to the county
8 where the defendant works or resides, provided that a program is
9 operated in that county and the defendant agrees to the placement.
10 A defendant placed in a veterans treatment court program in
11 accordance with this subsection must agree to abide by all rules,
12 requirements, and instructions of the program.

13 SECTION 12.04. (a) Section 121.003, Government Code, as
14 added by this Act, applies only to the appointment of a judge or
15 magistrate to preside over a regional specialty court program that
16 occurs on or after the effective date of this Act.

17 (b) Section 121.004, Government Code, as added by this Act,
18 applies to a case pending in a regional specialty court program on
19 or after the effective date of this Act.

20 ARTICLE 13. PROTECTIVE ORDERS

21 SECTION 13.01. Section 72.151(3), Government Code, is
22 amended to read as follows:

23 (3) "Protective order" means:

24 (A) an order issued by a court in this state under
25 Chapter 83 or 85, Family Code, to prevent family violence, as
26 defined by Section 71.004, Family Code;

27 (B) an order issued by a court in this state under

1 Subchapter A, Chapter 7B, Code of Criminal Procedure, to prevent
2 sexual assault or abuse, stalking, trafficking, or other harm to
3 the applicant; or

4 (C) [~~—The term includes~~] a magistrate's order
5 for emergency protection issued under Article 17.292, Code of
6 Criminal Procedure, with respect to a person who is arrested for an
7 offense involving family violence.

8 SECTION 13.02. Section 72.152, Government Code, is amended
9 to read as follows:

10 Sec. 72.152. APPLICABILITY. This subchapter applies only
11 to:

12 (1) an application for a protective order filed under:

13 (A) Chapter 82, Family Code;

14 (B) Subchapter A, Chapter 7B, Code of Criminal
15 Procedure; or

16 (C) [~~(B)~~] Article 17.292, Code of Criminal
17 Procedure, with respect to a person who is arrested for an offense
18 involving family violence; and

19 (2) a protective order issued under:

20 (A) Chapter 83 or 85, Family Code;

21 (B) Subchapter A, Chapter 7B, Code of Criminal
22 Procedure; or

23 (C) [~~(B)~~] Article 17.292, Code of Criminal
24 Procedure, with respect to a person who is arrested for an offense
25 involving family violence.

26 SECTION 13.03. Sections 72.154(b) and (d), Government Code,
27 are amended to read as follows:

1 (b) Publicly accessible information regarding each
2 protective order must consist of the following:

3 (1) the court that issued the protective order;
4 (2) the case number;
5 (3) the full name, county of residence, birth year,
6 and race or ethnicity of the person who is the subject of the
7 protective order;

8 (4) the dates the protective order was issued and
9 served; and

10 (5) ~~[the date the protective order was vacated, if~~
11 ~~applicable; and~~

12 ~~[(6)]~~ the date the protective order expired or will
13 expire, as applicable.

14 (d) The office may not allow a member of the public to access
15 through the registry any information related to:

16 (1) a protective order issued under Article 7B.002 or
17 17.292, Code of Criminal Procedure, or Chapter 83, Family Code; or

18 (2) a protective order that was vacated.

19 SECTION 13.04. Section 72.155(a), Government Code, is
20 amended to read as follows:

21 (a) The registry must include a copy of each application for
22 a protective order filed in this state and a copy of each protective
23 order issued in this state, including an ~~[a vacated or]~~ expired
24 order, or a vacated order other than an order that was vacated as
25 the result of an appeal or bill of review from a district or county
26 court. Only an authorized user, the attorney general, a district
27 attorney, a criminal district attorney, a county attorney, a

1 municipal attorney, or a peace officer may access that information
2 under the registry.

3 SECTION 13.05. Section 72.157, Government Code, is amended
4 by amending Subsection (b) and adding Subsection (b-1) to read as
5 follows:

6 (b) Except as provided by Subsection (b-1), for [For] a
7 protective order that is vacated or that has expired, the clerk of
8 the applicable court shall modify the record of the order in the
9 registry to reflect the order's status as vacated or expired. The
10 clerk shall ensure that a record of a vacated order is not
11 accessible by the public.

12 (b-1) For a protective order that is vacated as the result
13 of an appeal or bill of review from a district or county court, the
14 clerk of the applicable court shall notify the office not later than
15 the end of the next business day after the date the protective order
16 was vacated. The office shall remove the record of the order from
17 the registry not later than the third business day after the date
18 the notice from the clerk was received.

19 SECTION 13.06. Section 72.158(a), Government Code, is
20 amended to read as follows:

21 (a) The office shall ensure that the public may access
22 information about protective orders, other than information about
23 vacated orders or orders under Article 7B.002 or 17.292, Code of
24 Criminal Procedure, or Chapter 83, Family Code, through the
25 registry, only if:

26 (1) a protected person requests that the office grant
27 the public the ability to access the information described by

1 Section 72.154(b) for the order protecting the person; and

2 (2) the office approves the request.

3 SECTION 13.07. Section 72.152, Government Code, as amended
4 by this Act, applies only to an application for a protective order
5 filed or a protective order issued on or after the effective date of
6 this Act.

7 SECTION 13.08. As soon as practicable after the effective
8 date of this Act, the Office of Court Administration of the Texas
9 Judicial System shall:

10 (1) remove the record of any protective orders that
11 have been vacated as the result of an appeal or bill of review from a
12 district or county court from the protective order registry
13 established under Subchapter F, Chapter 72, Government Code, as
14 amended by this Act; and

15 (2) ensure that the records of vacated orders, other
16 than orders described by Subdivision (1) of this section that are
17 removed from the registry, are not accessible by the public.

18 ARTICLE 14. DISTRICT AND COUNTY ATTORNEYS

19 SECTION 14.01. Section 43.137, Government Code, is amended
20 by adding Subsections (c) and (d) to read as follows:

21 (c) In addition to exercising the duties and authority
22 conferred on district attorneys by general law, the district
23 attorney represents the state in the district and inferior courts
24 in Ector County in all criminal cases, juvenile matters under Title
25 3, Family Code, and matters involving children's protective
26 services.

27 (d) The district attorney has no power, duty, or privilege

1 in any civil matter, other than civil asset forfeiture and civil
2 bond forfeiture matters.

3 SECTION 14.02. Subchapter B, Chapter 45, Government Code,
4 is amended by adding Section 45.168 to read as follows:

5 Sec. 45.168. ECTOR COUNTY. (a) It is the primary duty of
6 the county attorney in Ector County to represent the state, Ector
7 County, and the officials of the county in all civil matters, other
8 than asset forfeiture and bond forfeiture matters for which the
9 district attorney is responsible, pending before the courts of
10 Ector County and any other court in which the state, Ector County,
11 or the county officials have matters pending.

12 (b) The county attorney has no power, duty, or privilege in
13 Ector County relating to criminal matters, juvenile matters under
14 Title 3, Family Code, or matters involving children's protective
15 services.

16 SECTION 14.03. Section 43.137, Government Code, as amended
17 by this Act, and Section 45.168, Government Code, as added by this
18 Act, apply only to a proceeding commenced on or after the effective
19 date of this Act. A proceeding commenced before the effective date
20 of this Act is governed by the law in effect on the date the
21 proceeding was commenced, and the former law is continued in effect
22 for that purpose.

23 ARTICLE 15. APPELLATE COURTS

24 SECTION 15.01. Subchapter A, Chapter 22, Government Code,
25 is amended by adding Section 22.0042 to read as follows:

26 Sec. 22.0042. RULES REGARDING EXEMPTIONS FROM SEIZURE OF
27 PROPERTY; FORM. (a) The supreme court shall adopt rules that:

1 (1) establish a simple and expedited procedure for a
2 judgment debtor to assert an exemption to the seizure of personal
3 property by a judgment creditor or a receiver appointed under
4 Section 31.002, Civil Practice and Remedies Code;

5 (2) require a court to stay a proceeding, for a
6 reasonable period, to allow for the assertion of an exemption under
7 Subdivision (1); and

8 (3) require a court to promptly set a hearing and stay
9 proceedings until a hearing is held, if a judgment debtor timely
10 asserts an exemption under Subdivision (1).

11 (b) Rules adopted under this section shall require the
12 provision of a notice in plain language to a judgment debtor
13 regarding the right of the judgment debtor to assert one or more
14 exemptions under Subsection (a)(1). The notice must:

15 (1) be in English with an integrated Spanish
16 translation that can be readily understood by the public and the
17 court;

18 (2) include the form promulgated under Subsection (c);

19 (3) list all exemptions under state and federal law to
20 the seizure of personal property; and

21 (4) provide information for accessing free or low-cost
22 legal assistance.

23 (c) Rules adopted under this section shall include the
24 promulgation of a form in plain language for asserting an exemption
25 under Subsection (a)(1). A form promulgated under this subsection
26 must:

27 (1) be in English with an integrated Spanish

1 translation that can be readily understood by the public and the
2 court; and

3 (2) include instructions for the use of the form.

4 (d) A court shall accept a form promulgated under Subsection
5 (c) unless the form has been completed in a manner that causes a
6 substantive defect that cannot be cured.

7 SECTION 15.02. Not later than May 1, 2022, the Supreme Court
8 of Texas shall adopt rules and promulgate forms under Section
9 22.0042, Government Code, as added by this article.

10 ARTICLE 16. MISDEMEANOR CASES

11 SECTION 16.01. The heading to Article 45.0445, Code of
12 Criminal Procedure, is amended to read as follows:

13 Art. 45.0445. RECONSIDERATION OF SATISFACTION OF FINE OR
14 COSTS.

15 SECTION 16.02. Article 66.252, Code of Criminal Procedure,
16 is amended by adding Subsection (b-1) to read as follows:

17 (b-1) At any time before final disposition of the case, the
18 justice or judge of a court having jurisdiction of the case of a
19 misdemeanor described by Subsection (b)(3) may order a law
20 enforcement officer to use the uniform incident fingerprint card to
21 take the fingerprints of an offender who is charged with the
22 misdemeanor, but was not placed under custodial arrest at the time
23 of the offense.

24 SECTION 16.03. The changes in law made by this article apply
25 only to a misdemeanor case that is initially filed in a justice or
26 municipal court on or after the effective date of this Act,
27 regardless of whether the offense for which the case is filed

1 occurred before, on, or after the effective date of this Act.

2 ARTICLE 17. COURT REPORTERS

3 SECTION 17.01. Chapter 42, Code of Criminal Procedure, is
4 amended by adding Article 42.25 to read as follows:

5 Art. 42.25. FILING OF REPORTER NOTES. A court reporter may
6 comply with Rule 13.6, Texas Rules of Appellate Procedure, by
7 electronically filing with the trial court clerk not later than the
8 20th day after the expiration of the time the defendant is allotted
9 to perfect the appeal the untranscribed notes created by the court
10 reporter using computer-aided software.

11 SECTION 17.02. Section 52.001(a)(4), Government Code, is
12 amended to read as follows:

13 (4) "Shorthand reporter" and "court reporter" mean a
14 person who is certified as a court reporter, apprentice court
15 reporter, or provisional court reporter under Chapter 154 to engage
16 [engages] in shorthand reporting.

17 SECTION 17.03. Section 52.011, Government Code, is amended
18 to read as follows:

19 Sec. 52.011. PROVISION OF SIGNED DEPOSITION CERTIFICATE;
20 CERTIFICATE REQUIREMENTS [CERTIFICATION]. (a) A court reporting
21 firm representative or a court reporter who reported a deposition
22 for a case shall complete and sign a deposition certificate, known
23 as the further certification.

24 (b) On request of a court reporter who reported a deposition
25 for a case, a court reporting firm shall provide the reporter with a
26 copy of the deposition certificate [~~document related to the~~
27 ~~deposition, known as the further certification,~~] that the reporter

1 has signed or to which the reporter's signature has been applied.

2 (c) The deposition certificate must include:

3 (1) a statement that the deposition transcript was
4 submitted to the deponent or the deponent's attorney for
5 examination and signature;

6 (2) the date the transcript was submitted to the
7 deponent or the deponent's attorney;

8 (3) the date the deponent returned the transcript, if
9 returned, or a statement that the deponent did not return the
10 transcript;

11 (4) a statement that any changes the deponent made to
12 the transcript are reflected in a separate document attached to the
13 transcript;

14 (5) a statement that the transcript was delivered in
15 accordance with Rule 203.3, Texas Rules of Civil Procedure;

16 (6) the amount charged for preparing the original
17 deposition transcript;

18 (7) a statement that a copy of the certificate was
19 served on all parties to the case; and

20 (8) the date the copy of the certificate was served on
21 the parties to the case.

22 SECTION 17.04. Section 52.046(d), Government Code, is
23 amended to read as follows:

24 (d) A judge of a county court or county court at law shall
25 appoint a ~~[certified]~~ shorthand reporter to report the oral
26 testimony given in any contested probate matter in that judge's
27 court.

1 SECTION 17.05. Section 154.001(a)(4), Government Code, is
2 amended to read as follows:

3 (4) "Shorthand reporter" and "court reporter" mean a
4 person who is certified as a court reporter, apprentice court
5 reporter, or provisional court reporter under this chapter to
6 engage [~~engages~~] in shorthand reporting.

7 SECTION 17.06. Section 154.101(e), Government Code, is
8 amended to read as follows:

9 (e) A person may not assume or use the title or designation
10 "court recorder," "court reporter," or "shorthand reporter," or any
11 abbreviation, title, designation, words, letters, sign, card, or
12 device tending to indicate that the person is a court reporter or
13 shorthand reporter, unless the person is certified as a shorthand
14 reporter or provisional court reporter by the supreme court.
15 Nothing in this subsection shall be construed to either sanction or
16 prohibit the use of electronic court recording equipment operated
17 [~~by a noncertified court reporter pursuant and~~] according to rules
18 adopted or approved by the supreme court.

19 SECTION 17.07. Section 154.105, Government Code, is amended
20 by amending Subsection (b) and adding Subsections (c), (d), and (e)
21 to read as follows:

22 (b) A [~~certified~~] shorthand reporter may administer oaths
23 to witnesses:

24 (1) anywhere in this state;

25 (2) in a jurisdiction outside this state if:

26 (A) the reporter is at the same location as the
27 witness; and

1 (B) the witness is or may be a witness in a case
2 filed in this state; and

3 (3) at any location authorized in a reciprocity
4 agreement between this state and another jurisdiction under Section
5 152.202(b).

6 (c) Notwithstanding Subsection (b), a shorthand reporter
7 may administer an oath as provided under this subsection to a person
8 who is or may be a witness in a case filed in this state without
9 being at the same location as the witness:

10 (1) if the reporter is physically located in this
11 state at the time the oath is administered; or

12 (2) as authorized in a reciprocity agreement between
13 this state and another jurisdiction under Section 152.202(b) if:

14 (A) the witness is at a location in the other
15 jurisdiction; and

16 (B) the reporter is at a location in the same
17 jurisdiction as the witness.

18 (d) The identity of a witness who is not in the physical
19 presence of a shorthand reporter may be proven by:

20 (1) a statement under oath on the record by a party to
21 the case stating that the party has actual knowledge of the
22 witness's identity;

23 (2) a statement on the record by an attorney for a
24 party to the case, or an attorney for the witness, verifying the
25 witness's identity;

26 (3) a statement on the record by a notary who is in the
27 presence of the witness verifying the witness's identity; or

1 (4) the witness's presentation for inspection by the
2 court reporter of an official document issued by this state,
3 another state, a federal agency, or another jurisdiction that
4 verifies the witness's identity.

5 (e) A shorthand reporter to which this section applies shall
6 state on the record and certify in each transcript of the deposition
7 the physical location of:

8 (1) the witness; and

9 (2) the reporter.

10 SECTION 17.08. Section 154.112, Government Code, is amended
11 to read as follows:

12 Sec. 154.112. EMPLOYMENT OF NONCERTIFIED PERSON FOR
13 SHORTHAND REPORTING ~~[REPORTERS]~~. (a) A person who is not certified
14 as a court ~~[noncertified shorthand]~~ reporter may be employed to
15 engage in shorthand reporting until a certified shorthand reporter
16 is available.

17 (b) A person who is not certified as a court ~~[noncertified~~
18 ~~shorthand]~~ reporter may engage in shorthand reporting to report an
19 oral deposition only if:

20 (1) the person ~~[noncertified shorthand reporter]~~
21 delivers an affidavit to the parties or to their counsel present at
22 the deposition stating that a certified shorthand reporter is not
23 available; or

24 (2) the parties or their counsel stipulate on the
25 record at the beginning of the deposition that a certified
26 shorthand reporter is not available.

27 (c) This section does not apply to a deposition taken

1 outside this state for use in this state.

2 SECTION 17.09. The changes in law made by this article apply
3 only to a deposition taken on or after the effective date of this
4 Act. A deposition taken before that date is governed by the law in
5 effect on the date the deposition was taken, and the former law is
6 continued in effect for that purpose.

7 ARTICLE 18. TRANSITION

8 SECTION 18.01. A state agency subject to this Act is
9 required to implement a provision of this Act only if the
10 legislature appropriates money specifically for that purpose. If
11 the legislature does not appropriate money specifically for that
12 purpose, the state agency may, but is not required to, implement a
13 provision of this Act using other appropriations available for that
14 purpose.

15 ARTICLE 19. EFFECTIVE DATE

16 SECTION 19.01. Except as otherwise provided by this Act,
17 this Act takes effect September 1, 2021.

H.B. No. 3774

President of the Senate

Speaker of the House

I certify that H.B. No. 3774 was passed by the House on May 7, 2021, by the following vote: Yeas 141, Nays 0, 1 present, not voting; that the House refused to concur in Senate amendments to H.B. No. 3774 on May 28, 2021, and requested the appointment of a conference committee to consider the differences between the two houses; and that the House adopted the conference committee report on H.B. No. 3774 on May 30, 2021, by the following vote: Yeas 134, Nays 3, 2 present, not voting; and that the House adopted H.C.R. No. 118 authorizing certain corrections in H.B. No. 3774 on May 31, 2021, by the following vote: Yeas 134, Nays 0, 1 present, not voting.

Chief Clerk of the House

H.B. No. 3774

I certify that H.B. No. 3774 was passed by the Senate, with amendments, on May 26, 2021, by the following vote: Yeas 31, Nays 0; at the request of the House, the Senate appointed a conference committee to consider the differences between the two houses; and that the Senate adopted the conference committee report on H.B. No. 3774 on May 30, 2021, by the following vote: Yeas 31, Nays 0; and that the Senate adopted H.C.R. No. 118 authorizing certain corrections in H.B. No. 3774 on May 31, 2021, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: -----

Date

Governor

Justices
KEN WISE
KEVIN D. JEWELL
FRANCES BOURLIOT
JERRY ZIMMERER
CHARLES A. SPAIN
MEAGAN HASSAN
MARGARET "MEG" POISSANT
RANDY WILSON



Fourteenth Court of Appeals

301 Fannin Room 245
Houston, Texas 77002

Chief Justice
TRACY CHRISTOPHER

Clerk
CHRISTOPHER A. PRINE
Phone: 713/274-2800

www.txcourts.gov/14thcoa

May 4, 2021

Chief Justice Nathan Hecht
Justice Jane Bland
Justice Brett Busby
Supreme Court of Texas
P.O. Box 12248
Austin, TX 78711

Sent via email and not mail

Dear Chief Justice Hecht and Justices Bland and Busby,

The Task Force on Remote Proceedings provides the Court with this status report. The Task Force split into four subcommittees to review the constitution and laws of the State to see if any legislation was needed to remove barriers to continuing remote proceedings after the pandemic. We previously provided the court with four subcommittee interim reports for your review, along with our suggestions for potential language for legislation.

Our four subcommittees and chairs were: Juvenile/Child Welfare Subcommittee—Judge Hofmann chair; Civil/Family/Probate Committee—Judge Miskel chair; Criminal Subcommittee—Judge Westfall chair; Courtroom Access/Government Code Subcommittee—Judge Ferguson chair. These four trial judges used remote proceedings successfully during the pandemic and provide a wealth of experience to draw on.

In addition to judges on the Task Force, we had lawyers from various practice areas, clerks and court reporters. Our Task Force reached out to bar groups for their comments and concerns.

We also understand that there may be legislation from this session about remote proceedings. The Task Force has not been asked to support this legislation although some members of our committee have been resources for the legislation.

In reviewing the statutes, we noted first that each statute uses slightly different

terminology for appearing in court. Second, some statutes require consent before allowing a virtual hearing or impose other limits such as maintaining a copy of the video conference. Third, current statutes define remote proceedings differently. Fourth, for some statutes, we may want “in person” to mean in person. And fifth, we may need to address jurisdictional complications from appearing by virtual means.

We have also noted in our interim report some existing caselaw that may impact remote proceedings. Since the date of that report, we have had at least one criminal case that limited remote proceedings without the consent of the parties, even during the pandemic. *See Lira v. State*, No. 11-20-00148-CR, ___ S.W.3d ___, 2021 WL 1134801 (Tex. App.—Eastland Mar. 25, 2021, pet. filed)

Even without new legislation, the Supreme Court can amend the Rules of Civil Procedure to allow for more remote proceedings. Some older caselaw is instructive. In 1998, the Texas Supreme Court held: “unless required by the express language or the context of the particular rule, the term “hearing” does not necessarily contemplate either a personal appearance before the court or an oral presentation to the court.” *Martin v. Martin, Martin & Richards, Inc.*, 989 S.W.2d 357, 359 (Tex. 1998) (per curiam) (motion for summary judgment hearing). *Contra Gulf Coast Inv. Corp. Nasa 1 Business Center*, 754 S.W.2d 152 (Tex. 1988) (per curiam) (language of rule 165a requires an oral hearing rather than submission).

As noted in the Civil Subcommittee Report, Rule 7 of the Rules of Judicial Administration encourage district court judges to use telephone and mail in lieu of personal appearance by attorneys for motion hearings, pretrial conferences, scheduling and the setting of trial dates. This rule can be easily updated to include remote proceedings.

All members of the Task Force believe that remote proceedings should be encouraged in the future. Based on our research, most members of the bar want to see remote hearings continue. Remote proceedings save attorney time, making the judicial system more affordable. They also allow litigants to attend a short hearing more easily, without having to take an entire day off work. Many judges have found that defaults decrease with remote proceedings. Judges who have cases in multiple districts can also save travel time and expense. When a defendant is incarcerated, a remote proceeding saves the expense of transporting the defendant to the courthouse and can allow a defendant to see more hearings in his case. In juvenile cases, the judge can more easily interact with the child remotely, saving the foster families time and expense.

Our Task Force stands ready to assist the court in the future on whatever the court needs us to do. Thank you for allowing us to be of assistance to the court.

Sincerely,
Tracy Christopher

STATE BAR OF TEXAS COURT RULES COMMITTEE

PROPOSED AMENDMENT TO

TEXAS RULE OF CIVIL PROCEDURE 199.2(b)(1)

I. Exact Language of Existing Rule

199.2 Procedure for Noticing Oral Deposition

(a) Time to notice deposition. A notice of intent to take an oral deposition must be served on the witness and all parties a reasonable time before the deposition is taken. An oral deposition may be taken outside the discovery period only by agreement of the parties or with leave of court.

(b) Content of notice.

(1) Identity of witness; organizations. The notice must state the name of the witness, which may be either an individual or a public or private corporation, partnership, association, governmental agency, or other organization. If an organization is named as the witness, the notice must describe with reasonable particularity the matters on which examination is requested. In response, the organization named in the notice must - a reasonable time before the deposition - designate one or more individuals to testify on its behalf and set forth, for each individual designated, the matters on which the individual will testify. Each individual designated must testify as to matters that are known or reasonably available to the organization. This subdivision does not preclude taking a deposition by any other procedure authorized by these rules.

(2) Time and place. The notice must state a reasonable time and place for the oral deposition. The place may be in:

- (A) the county of the witness's residence;
- (B) the county where the witness is employed or regularly transacts business in person;
- (C) the county of suit, if the witness is a party or a person designated by a party under Rule 199.2(b)(1);
- (D) the county where the witness was served with the subpoena, or within 150 miles of the place of service, if the witness is not a resident of Texas or is a transient person; or
- (E) subject to the foregoing, at any other convenient place directed by the court in which the cause is pending.

(3) Alternative means of conducting and recording. The notice must state whether the deposition is to be taken by telephone or other remote electronic means and identify the means. If the deposition is to be recorded by nonstenographic means, the notice may include the notice required by Rule 199.1(c).

(4) Additional attendees. The notice may include the notice concerning additional attendees required by Rule 199.5(a)(3).

(5) Request for production of documents. A notice may include a request that the witness produce at the deposition documents or tangible things within the scope of discovery and within the witness's possession, custody, or control. If the witness is a nonparty, the request must comply with Rule 205 and the designation of materials required to be identified in the subpoena must be attached to, or included in, the notice. The nonparty's response to the request is governed by Rules 176 and 205. When the witness is a party or subject to the control of a party, document requests under this subdivision are governed by Rules 193 and 196.

II. Proposed Amendment to Existing Rule

199.2 Procedure for Noticing Oral Deposition

(a) Time to notice deposition. A notice of intent to take an oral deposition must be served on the witness and all parties a reasonable time before the deposition is taken. An oral deposition may be taken outside the discovery period only by agreement of the parties or with leave of court.

(b) Content of notice.

(1) Identity of witness; organizations. The notice must state the name of the witness, which may be either an individual or a public or private corporation, partnership, association, governmental agency, or other organization. If an organization is named as the witness, the notice must describe with reasonable particularity the matters on which examination is requested. In response, the organization named in the notice must - a reasonable time before the deposition - designate one or more individuals to testify on its behalf and set forth, for each individual designated, the matters on which the individual will testify. Before or promptly after the notice or subpoena is served, the serving party and the organization must confer in good faith about the matters for examination and documents requested to be produced, if any. Each individual designated must testify as to matters that are known or reasonably available to the organization. This subdivision does not preclude taking a deposition by any other procedure authorized by these rules.

(2) Time and place. The notice must state a reasonable time and place for the oral deposition. The place may be in:

- (A) the county of the witness's residence;
- (B) the county where the witness is employed or regularly transacts business in person;
- (C) the county of suit, if the witness is a party or a person designated by a party under Rule 199.2(b)(1);
- (D) the county where the witness was served with the subpoena, or within 150 miles of the place of service, if the witness is not a resident of Texas or is a transient person; or
- (E) subject to the foregoing, at any other convenient place directed by the court in which the cause is pending.

(3) Alternative means of conducting and recording. The notice must state whether the deposition is to be taken by telephone or other remote electronic means and identify the means. If the deposition is to be recorded by nonstenographic means, the notice may include the notice required by Rule 199.1(c).

(4) Additional attendees. The notice may include the notice concerning additional attendees required by Rule 199.5(a)(3).

(5) Request for production of documents. A notice may include a request that the witness produce at the deposition documents or tangible things within the scope of discovery and within the witness's possession, custody, or control. If the witness is a nonparty, the request must comply with Rule 205 and the designation of materials required to be identified in the subpoena must be attached to, or included in, the notice. The nonparty's response to the request is governed by Rules 176 and 205. When the witness is a party or subject to the control of a party, document requests under this subdivision are governed by Rules 193 and 196.

III. Brief Statement of Reasons for Requested Amendments and Advantages Served by Them

The purpose of the proposed change is for parties to discuss issues regarding the scope of the examination of the corporate representative and documents being requested in advance of the deposition and thereby reduce discovery disputes and avoid the need to file motions requiring court intervention. Requiring this conference to occur before the deposition will also help define the scope of the examination so that the organization can identify the proper witness(es) to be designated. Requiring this conference to occur before the deposition will help the parties identify issues which cannot be resolved and while those issues may require motions and court intervention, it can be done prior to the deposition and thereby avoid the necessity of re-deposing a corporate witness. Lastly, the revision would follow FRCP 30(b)(6) requiring the parties to confer with the addition that the parties also confer regarding documents requested, if any.

STATE BAR OF TEXAS COURT RULES COMMITTEE
PROPOSED AMENDMENT TO
TEXAS RULE OF CIVIL PROCEDURE 226a, §§2 AND 3

I. Exact Language of Existing Rule

Tex. R. Civ. P. 226a, §§ 2 and 3

II.

That the following oral and written instructions, with such modifications as the circumstances of the particular case may require, shall be given by the court to the jury immediately after the jurors are selected for the case:

Members of the Jury [or Ladies and Gentlemen]:

You have been chosen to serve on this jury. Because of the oath you have taken and your selection for the jury, you become officials of this court and active participants in our justice system.

[Hand out the written instructions.]

You have each received a set of written instructions. I am going to read them with you now. Some of them you have heard before and some are new.

1. Turn off all phones and other electronic devices. While you are in the courtroom and while you are deliberating, do not communicate with anyone through any electronic device. [For example, do not communicate by phone, text message, email message, chat room, blog, or social networking websites such as Facebook, Twitter, or Myspace.] [I will give you a number where others may contact you in case of an emergency.] Do not post information about the case on the Internet before these court proceedings end and you are released from jury duty. Do not record or photograph any part of these court proceedings, because it is prohibited by law.

2. To avoid looking like you are friendly with one side of the case, do not mingle or talk with the lawyers, witnesses, parties, or anyone else involved in the case. You may exchange casual greetings like “hello” and “good morning.” Other than that, do not talk with them at all. They have to follow these instructions too, so you should not be offended when they follow the instructions.

3. Do not accept any favors from the lawyers, witnesses, parties, or anyone else involved in the case, and do not do any favors for them. This includes favors such as giving rides and food.

4. Do not discuss this case with anyone, even your spouse or a friend, either in person or by any other means [including by phone, text message, email message, chat room, blog, or social

networking websites such as Facebook, Twitter, or Myspace]. Do not allow anyone to discuss the case with you or in your hearing. If anyone tries to discuss the case with you or in your hearing, tell me immediately. We do not want you to be influenced by something other than the evidence admitted in court.

5. Do not discuss this case with anyone during the trial, not even with the other jurors, until the end of the trial. You should not discuss the case with your fellow jurors until the end of the trial so that you do not form opinions about the case before you have heard everything.

After you have heard all the evidence, received all of my instructions, and heard all of the lawyers' arguments, you will then go to the jury room to discuss the case with the other jurors and reach a verdict.

6. Do not investigate this case on your own. For example, do not:

- a. try to get information about the case, lawyers, witnesses, or issues from outside this courtroom;
- b. go to places mentioned in the case to inspect the places;
- c. inspect items mentioned in this case unless they are presented as evidence in court;
- d. look anything up in a law book, dictionary, or public record to try to learn more about the case;
- e. look anything up on the Internet to try to learn more about the case; or
- f. let anyone else do any of these things for you.

This rule is very important because we want a trial based only on evidence admitted in open court. Your conclusions about this case must be based only on what you see and hear in this courtroom because the law does not permit you to base your conclusions on information that has not been presented to you in open court. All the information must be presented in open court so the parties and their lawyers can test it and object to it. Information from other sources, like the Internet, will not go through this important process in the courtroom. In addition, information from other sources could be completely unreliable. As a result, if you investigate this case on your own, you could compromise the fairness to all parties in this case and jeopardize the results of this trial.

7. Do not tell other jurors about your own experiences or other people's experiences. For example, you may have special knowledge of something in the case, such as business, technical, or professional information. You may even have expert knowledge or opinions, or you may know what happened in this case or another similar case. Do not tell the other jurors about it. Telling other jurors about it is wrong because it means the jury will be considering things that were not admitted in court.

8. Do not consider attorneys' fees unless I tell you to. Do not guess about attorneys' fees.

9. Do not consider or guess whether any party is covered by insurance unless I tell you to.

10. During the trial, if taking notes will help focus your attention on the evidence, you may take notes using the materials the court has provided. Do not use any personal electronic devices to take notes. If taking notes will distract your attention from the evidence, you should not take notes. Your notes are for your own personal use. They are not evidence. Do not show or read your notes to anyone, including other jurors.

You must leave your notes in the jury room or with the bailiff. The bailiff is instructed not to read your notes and to give your notes to me promptly after collecting them from you. I will make sure your notes are kept in a safe, secure location and not disclosed to anyone.

[You may take your notes back into the jury room and consult them during deliberations. But keep in mind that your notes are not evidence. When you deliberate, each of you should rely on your independent recollection of the evidence and not be influenced by the fact that another juror has or has not taken notes. After you complete your deliberations, the bailiff will collect your notes.]

When you are released from jury duty, the bailiff will promptly destroy your notes so that nobody can read what you wrote.

11. I will decide matters of law in this case. It is your duty to listen to and consider the evidence and to determine fact issues that I may submit to you at the end of the trial. After you have heard all the evidence, I will give you instructions to follow as you make your decision. The instructions also will have questions for you to answer. You will not be asked and you should not consider which side will win. Instead, you will need to answer the specific questions I give you.

Every juror must obey my instructions. If you do not follow these instructions, you will be guilty of juror misconduct, and I may have to order a new trial and start this process over again. This would waste your time and the parties' money, and would require the taxpayers of this county to pay for another trial.

Do you understand these instructions? If you do not, please tell me now.

Please keep these instructions and review them as we go through this case. If anyone does not follow these instructions, tell me.

III.

COURT'S CHARGE

Before closing arguments begin, the court must give to each member of the jury a copy of the charge, which must include the following written instructions, with such modifications as the circumstances of the particular case may require:

Members of the Jury [or Ladies & Gentlemen of the Jury]:

After the closing arguments, you will go to the jury room to decide the case, answer the questions that are attached, and reach a verdict. You may discuss the case with other jurors only when you are all together in the jury room.

Remember my previous instructions: Do not discuss the case with anyone else, either in person or by any other means. Do not do any independent investigation about the case or conduct any research. Do not look up any words in dictionaries or on the Internet. Do not post information about the case on the Internet. Do not share any special knowledge or experiences with the other jurors. Do not use your phone or any other electronic device during your deliberations for any reason. [I will give you a number where others may contact you in case of an emergency.]

[Any notes you have taken are for your own personal use. You may take your notes back into the jury room and consult them during deliberations, but do not show or read your notes to your fellow jurors during your deliberations. Your notes are not evidence. Each of you should rely on your independent recollection of the evidence and not be influenced by the fact that another juror has or has not taken notes.]

[You must leave your notes with the bailiff when you are not deliberating. The bailiff will give your notes to me promptly after collecting them from you. I will make sure your notes are kept in a safe, secure location and not disclosed to anyone. After you complete your deliberations, the bailiff will collect your notes. When you are released from jury duty, the bailiff will promptly destroy your notes so that nobody can read what you wrote.]

Here are the instructions for answering the questions.

1. Do not let bias, prejudice, or sympathy play any part in your decision.
2. Base your answers only on the evidence admitted in court and on the law that is in these instructions and questions. Do not consider or discuss any evidence that was not admitted in the courtroom.
3. You are to make up your own minds about the facts. You are the sole judges of the credibility of the witnesses and the weight to give their testimony. But on matters of law, you must follow all of my instructions.
4. If my instructions use a word in a way that is different from its ordinary meaning, use the meaning I give you, which will be a proper legal definition.
5. All the questions and answers are important. No one should say that any question or answer is not important.
6. Answer “yes” or “no” to all questions unless you are told otherwise. A “yes” answer must be based on a preponderance of the evidence [unless you are told otherwise]. Whenever a question

requires an answer other than “yes” or “no,” your answer must be based on a preponderance of the evidence [unless you are told otherwise].

The term “preponderance of the evidence” means the greater weight of credible evidence presented in this case. If you do not find that a preponderance of the evidence supports a “yes” answer, then answer “no.” A preponderance of the evidence is not measured by the number of witnesses or by the number of documents admitted in evidence. For a fact to be proved by a preponderance of the evidence, you must find that the fact is more likely true than not true.

7. Do not decide who you think should win before you answer the questions and then just answer the questions to match your decision. Answer each question carefully without considering who will win. Do not discuss or consider the effect your answers will have.

8. Do not answer questions by drawing straws or by any method of chance.

9. Some questions might ask you for a dollar amount. Do not agree in advance to decide on a dollar amount by adding up each juror's amount and then figuring the average.

10. Do not trade your answers. For example, do not say, “I will answer this question your way if you answer another question my way.”

11. [Unless otherwise instructed] The answers to the questions must be based on the decision of at least 10 of the 12 [5 of the 6] jurors. The same 10 [5] jurors must agree on every answer. Do not agree to be bound by a vote of anything less than 10 [5] jurors, even if it would be a majority. As I have said before, if you do not follow these instructions, you will be guilty of juror misconduct, and I might have to order a new trial and start this process over again. This would waste your time and the parties' money, and would require the taxpayers of this county to pay for another trial. If a juror breaks any of these rules, tell that person to stop and report it to me immediately.

[Definitions, questions, and special instructions given to the jury will be transcribed here. If exemplary damages are sought against a defendant, the jury must unanimously find, with respect to that defendant, (i) liability on at least one claim for actual damages that will support an award of exemplary damages, (ii) any additional conduct, such as malice or gross negligence, required for an award of exemplary damages, and (iii) the amount of exemplary damages to be awarded. The jury's answers to questions regarding (ii) and (iii) must be conditioned on a unanimous finding regarding (i), except in an extraordinary circumstance when the conditioning instruction would be erroneous. The jury need not be unanimous in finding the amount of actual damages. Thus, if questions regarding (ii) and (iii) are submitted to the jury for defendants D1 and D2, instructions in substantially the following form must immediately precede such questions:

Preceding question (ii):

Answer Question (ii) for D1 only if you unanimously answered “Yes” to Question[s] (i) regarding D1. Otherwise, do not answer Question (ii) for D1. [Repeat for D2.]

You are instructed that in order to answer “Yes” to [any part of] Question (ii), your answer must be unanimous. You may answer “No” to [any part of] Question (ii) only upon a vote of 10 [5] or more jurors. Otherwise, you must not answer [that part of] Question (ii).

Preceding question (iii):

Answer Question (iii) for D1 only if you answered “Yes” to Question (ii) for D1. Otherwise, do not answer Question (iii) for D1. [Repeat for D2.]

You are instructed that you must unanimously agree on the amount of any award of exemplary damages.

These examples are given by way of illustration.]

Presiding Juror:

1. When you go into the jury room to answer the questions, the first thing you will need to do is choose a presiding juror.
2. The presiding juror has these duties:
 - a. have the complete charge read aloud if it will be helpful to your deliberations;
 - b. preside over your deliberations, meaning manage the discussions, and see that you follow these instructions;
 - c. give written questions or comments to the bailiff who will give them to the judge;
 - d. write down the answers you agree on;
 - e. get the signatures for the verdict certificate; and
 - f. notify the bailiff that you have reached a verdict.

Do you understand the duties of the presiding juror? If you do not, please tell me now.

Instructions for Signing the Verdict Certificate:

1. [Unless otherwise instructed] You may answer the questions on a vote of 10 [5] jurors. The same 10 [5] jurors must agree on every answer in the charge. This means you may not have one group of 10 [5] jurors agree on one answer and a different group of 10 [5] jurors agree on another answer.
2. If 10 [5] jurors agree on every answer, those 10 [5] jurors sign the verdict.

If 11 jurors agree on every answer, those 11 jurors sign the verdict.

If all 12 [6] of you agree on every answer, you are unanimous and only the presiding juror signs the verdict.

3. All jurors should deliberate on every question. You may end up with all 12 [6] of you agreeing on some answers, while only 10 [5] or 11 of you agree on other answers. But when you sign the verdict, only those 10 [5] who agree on every answer will sign the verdict.

4. [Added if the charge requires some unanimity] There are some special instructions before Questions ___ explaining how to answer those questions. Please follow the instructions. If all 12 [6] of you answer those questions, you will need to complete a second verdict certificate for those questions.

Do you understand these instructions? If you do not, please tell me now.

Judge Presiding

Verdict Certificate

Check one:

___ Our verdict is unanimous. All 12 [6] of us have agreed to each and every answer. The presiding juror has signed the certificate for all 12 [6] of us.

Signature of Presiding Juror

Printed Name of Presiding Juror

___ Our verdict is not unanimous. Eleven of us have agreed to each and every answer and have signed the certificate below.

___ Our verdict is not unanimous. Ten [Five] of us have agreed to each and every answer and have signed the certificate below.

SIGNATURE

NAME PRINTED

1. _____
2. _____
3. _____
4. _____
5. _____
6. _____
7. _____
8. _____
9. _____
10. _____

11. _____

If you have answered Question No. ____ [the exemplary damages amount], then you must sign this certificate also.

Additional Certificate

[Used when some questions require unanimous answers]

I certify that the jury was unanimous in answering the following questions. All 12 [6] of us agreed to each of the answers. The presiding juror has signed the certificate for all 12 [6] of us.

[Judge to list questions that require a unanimous answer, including the predicate liability question.]

Signature of Presiding Juror

Printed Name of Presiding Juror

II. Proposed Amendment to Existing Rule

Tex. R. Civ. P. 226a, §§ 2 and 3

II.

That the following oral and written instructions, with such modifications as the circumstances of the particular case may require, shall be given by the court to the jury immediately after the jurors are selected for the case:

Members of the Jury [or Ladies and Gentlemen]:

You have been chosen to serve on this jury. Because of the oath you have taken and your selection for the jury, you become officials of this court and active participants in our justice system.

[Hand out the written instructions.]

You have each received a set of written instructions. I am going to read them with you now. Some of them you have heard before and some are new.

1. Turn off all phones and other electronic devices. While you are in the courtroom and while you are deliberating, do not communicate with anyone through any electronic device. [For example, do not communicate by phone, text message, email message, chat room, blog, or social networking websites such as Facebook, Twitter, or Myspace.] [I will give you a number where others may contact you in case of an emergency.] Do not post information about the case on the

Internet before these court proceedings end and you are released from jury duty. Do not record or photograph any part of these court proceedings, because it is prohibited by law.

2. To avoid looking like you are friendly with one side of the case, do not mingle or talk with the lawyers, witnesses, parties, or anyone else involved in the case. You may exchange casual greetings like “hello” and “good morning.” Other than that, do not talk with them at all. They have to follow these instructions too, so you should not be offended when they follow the instructions.

3. Do not accept any favors from the lawyers, witnesses, parties, or anyone else involved in the case, and do not do any favors for them. This includes favors such as giving rides and food.

4. Do not discuss this case with anyone, even your spouse or a friend, either in person or by any other means [including by phone, text message, email message, chat room, blog, or social networking websites such as Facebook, Twitter, or Myspace]. Do not allow anyone to discuss the case with you or in your hearing. If anyone tries to discuss the case with you or in your hearing, tell me immediately. We do not want you to be influenced by something other than the evidence admitted in court.

5. Do not discuss this case with anyone during the trial, not even with the other jurors, until the end of the trial. You should not discuss the case with your fellow jurors until the end of the trial so that you do not form opinions about the case before you have heard everything.

After you have heard all the evidence, received all of my instructions, and heard all of the lawyers' arguments, you will then go to the jury room to discuss the case with the other jurors and reach a verdict.

6. Do not investigate this case on your own. For example, do not:

- a. try to get information about the case, lawyers, witnesses, or issues from outside this courtroom;
- b. go to places mentioned in the case to inspect the places;
- c. inspect items mentioned in this case unless they are presented as evidence in court;
- d. look anything up in a law book, dictionary, or public record to try to learn more about the case;
- e. look anything up on the Internet to try to learn more about the case; or
- f. let anyone else do any of these things for you.

This rule is very important because we want a trial based only on evidence admitted in open court. Your conclusions about this case must be based only on what you see and hear in this courtroom because the law does not permit you to base your conclusions on information that has not been presented to you in open court. All the information must be presented in open court so

the parties and their lawyers can test it and object to it. Information from other sources, like the Internet, will not go through this important process in the courtroom. In addition, information from other sources could be completely unreliable. As a result, if you investigate this case on your own, you could compromise the fairness to all parties in this case and jeopardize the results of this trial.

7. Do not let bias, prejudice, or sympathy play any part in your evaluation of the evidence admitted or testimony heard in this case. [As we discussed in jury selection,] [E]veryone, including me, has feelings, assumptions, perceptions, fears, and stereotypes that we may not be aware of but that can affect what we see and hear, how we remember what we see and hear, and how we make decisions. Because you are making important decisions as the jurors in this case, you must evaluate the evidence carefully, and you must not jump to conclusions based on personal likes or dislikes, generalizations, prejudices, sympathies, stereotypes, or biases. Our system of justice is counting on you to render a just verdict based on the evidence, not on biases.

8. 7. Do not tell other jurors about your own experiences or other people's experiences. For example, you may have special knowledge of something in the case, such as business, technical, or professional information. You may even have expert knowledge or opinions, or you may know what happened in this case or another similar case. Do not tell the other jurors about it. Telling other jurors about it is wrong because it means the jury will be considering things that were not admitted in court.

9. 8. Do not consider attorneys' fees unless I tell you to. Do not guess about attorneys' fees.

10. 9. Do not consider or guess whether any party is covered by insurance unless I tell you to.

11. 10. During the trial, if taking notes will help focus your attention on the evidence, you may take notes using the materials the court has provided. Do not use any personal electronic devices to take notes. If taking notes will distract your attention from the evidence, you should not take notes. Your notes are for your own personal use. They are not evidence. Do not show or read your notes to anyone, including other jurors.

You must leave your notes in the jury room or with the bailiff. The bailiff is instructed not to read your notes and to give your notes to me promptly after collecting them from you. I will make sure your notes are kept in a safe, secure location and not disclosed to anyone.

[You may take your notes back into the jury room and consult them during deliberations. But keep in mind that your notes are not evidence. When you deliberate, each of you should rely on your independent recollection of the evidence and not be influenced by the fact that another juror has or has not taken notes. After you complete your deliberations, the bailiff will collect your notes.]

When you are released from jury duty, the bailiff will promptly destroy your notes so that nobody can read what you wrote.

~~12. 11.~~ I will decide matters of law in this case. It is your duty to listen to and consider the evidence and to determine fact issues that I may submit to you at the end of the trial. After you have heard all the evidence, I will give you instructions to follow as you make your decision. The instructions also will have questions for you to answer. You will not be asked and you should not consider which side will win. Instead, you will need to answer the specific questions I give you.

Every juror must obey my instructions. If you do not follow these instructions, you will be guilty of juror misconduct, and I may have to order a new trial and start this process over again. This would waste your time and the parties' money, and would require the taxpayers of this county to pay for another trial.

Do you understand these instructions? If you do not, please tell me now.

Please keep these instructions and review them as we go through this case. If anyone does not follow these instructions, tell me.

III.

COURT'S CHARGE

Before closing arguments begin, the court must give to each member of the jury a copy of the charge, which must include the following written instructions, with such modifications as the circumstances of the particular case may require:

Members of the Jury [or Ladies & Gentlemen of the Jury]:

After the closing arguments, you will go to the jury room to decide the case, answer the questions that are attached, and reach a verdict. You may discuss the case with other jurors only when you are all together in the jury room.

Remember my previous instructions: Do not discuss the case with anyone else, either in person or by any other means. Do not do any independent investigation about the case or conduct any research. Do not look up any words in dictionaries or on the Internet. Do not post information about the case on the Internet. Do not share any special knowledge or experiences with the other jurors. Do not use your phone or any other electronic device during your deliberations for any reason. [I will give you a number where others may contact you in case of an emergency.]

[Any notes you have taken are for your own personal use. You may take your notes back into the jury room and consult them during deliberations, but do not show or read your notes to your fellow jurors during your deliberations. Your notes are not evidence. Each of you should rely on your independent recollection of the evidence and not be influenced by the fact that another juror has or has not taken notes.]

[You must leave your notes with the bailiff when you are not deliberating. The bailiff will give your notes to me promptly after collecting them from you. I will make sure your notes are kept in

a safe, secure location and not disclosed to anyone. After you complete your deliberations, the bailiff will collect your notes. When you are released from jury duty, the bailiff will promptly destroy your notes so that nobody can read what you wrote.]

Here are the instructions for answering the questions.

1. Do not let bias, prejudice, or sympathy play any part in your decision. As we discussed at the beginning of your jury service, everyone, including me, has feelings, assumptions, perceptions, fears, and stereotypes that we may not be aware of but that can affect what we see and hear, how we remember what we see and hear, and how we make decisions. Because you are making important decisions as the jurors in this case, you must evaluate the evidence carefully, and you must not jump to conclusions based on personal likes or dislikes, generalizations, prejudices, sympathies, stereotypes, or biases. Our system of justice is counting on you to render a just verdict based on the evidence, not on biases.

2. Base your answers only on the evidence admitted in court and on the law that is in these instructions and questions. Do not consider or discuss any evidence that was not admitted in the courtroom.

3. You are to make up your own minds about the facts. You are the sole judges of the credibility of the witnesses and the weight to give their testimony. But on matters of law, you must follow all of my instructions.

4. If my instructions use a word in a way that is different from its ordinary meaning, use the meaning I give you, which will be a proper legal definition.

5. All the questions and answers are important. No one should say that any question or answer is not important.

6. Answer “yes” or “no” to all questions unless you are told otherwise. A “yes” answer must be based on a preponderance of the evidence [unless you are told otherwise]. Whenever a question requires an answer other than “yes” or “no,” your answer must be based on a preponderance of the evidence [unless you are told otherwise].

The term “preponderance of the evidence” means the greater weight of credible evidence presented in this case. If you do not find that a preponderance of the evidence supports a “yes” answer, then answer “no.” A preponderance of the evidence is not measured by the number of witnesses or by the number of documents admitted in evidence. For a fact to be proved by a preponderance of the evidence, you must find that the fact is more likely true than not true.

7. Do not decide who you think should win before you answer the questions and then just answer the questions to match your decision. Answer each question carefully without considering who will win. Do not discuss or consider the effect your answers will have.

8. Do not answer questions by drawing straws or by any method of chance.

9. Some questions might ask you for a dollar amount. Do not agree in advance to decide on a dollar amount by adding up each juror's amount and then figuring the average.

10. Do not trade your answers. For example, do not say, "I will answer this question your way if you answer another question my way."

11. [Unless otherwise instructed] The answers to the questions must be based on the decision of at least 10 of the 12 [5 of the 6] jurors. The same 10 [5] jurors must agree on every answer. Do not agree to be bound by a vote of anything less than 10 [5] jurors, even if it would be a majority. As I have said before, if you do not follow these instructions, you will be guilty of juror misconduct, and I might have to order a new trial and start this process over again. This would waste your time and the parties' money, and would require the taxpayers of this county to pay for another trial. If a juror breaks any of these rules, tell that person to stop and report it to me immediately.

[Definitions, questions, and special instructions given to the jury will be transcribed here. If exemplary damages are sought against a defendant, the jury must unanimously find, with respect to that defendant, (i) liability on at least one claim for actual damages that will support an award of exemplary damages, (ii) any additional conduct, such as malice or gross negligence, required for an award of exemplary damages, and (iii) the amount of exemplary damages to be awarded. The jury's answers to questions regarding (ii) and (iii) must be conditioned on a unanimous finding regarding (i), except in an extraordinary circumstance when the conditioning instruction would be erroneous. The jury need not be unanimous in finding the amount of actual damages. Thus, if questions regarding (ii) and (iii) are submitted to the jury for defendants D1 and D2, instructions in substantially the following form must immediately precede such questions:

Preceding question (ii):

Answer Question (ii) for D1 only if you unanimously answered "Yes" to Question[s] (i) regarding D1. Otherwise, do not answer Question (ii) for D1. [Repeat for D2.]

You are instructed that in order to answer "Yes" to [any part of] Question (ii), your answer must be unanimous. You may answer "No" to [any part of] Question (ii) only upon a vote of 10 [5] or more jurors. Otherwise, you must not answer [that part of] Question (ii).

Preceding question (iii):

Answer Question (iii) for D1 only if you answered "Yes" to Question (ii) for D1. Otherwise, do not answer Question (iii) for D1. [Repeat for D2.]

You are instructed that you must unanimously agree on the amount of any award of exemplary damages.

These examples are given by way of illustration.]

Presiding Juror:

1. When you go into the jury room to answer the questions, the first thing you will need to do is choose a presiding juror.

2. The presiding juror has these duties:

- a. have the complete charge read aloud if it will be helpful to your deliberations;
- b. preside over your deliberations, meaning manage the discussions, and see that you follow these instructions;
- c. give written questions or comments to the bailiff who will give them to the judge;
- d. write down the answers you agree on;
- e. get the signatures for the verdict certificate; and
- f. notify the bailiff that you have reached a verdict.

Do you understand the duties of the presiding juror? If you do not, please tell me now.

Instructions for Signing the Verdict Certificate:

1. [Unless otherwise instructed] You may answer the questions on a vote of 10 [5] jurors. The same 10 [5] jurors must agree on every answer in the charge. This means you may not have one group of 10 [5] jurors agree on one answer and a different group of 10 [5] jurors agree on another answer.

2. If 10 [5] jurors agree on every answer, those 10 [5] jurors sign the verdict.

If 11 jurors agree on every answer, those 11 jurors sign the verdict.

If all 12 [6] of you agree on every answer, you are unanimous and only the presiding juror signs the verdict.

3. All jurors should deliberate on every question. You may end up with all 12 [6] of you agreeing on some answers, while only 10 [5] or 11 of you agree on other answers. But when you sign the verdict, only those 10 [5] who agree on every answer will sign the verdict.

4. [Added if the charge requires some unanimity] There are some special instructions before Questions ____ explaining how to answer those questions. Please follow the instructions. If all 12 [6] of you answer those questions, you will need to complete a second verdict certificate for those questions.

Do you understand these instructions? If you do not, please tell me now.

Judge Presiding

Verdict Certificate

Check one:

___ Our verdict is unanimous. All 12 [6] of us have agreed to each and every answer. The presiding juror has signed the certificate for all 12 [6] of us.

Signature of Presiding Juror

Printed Name of Presiding Juror

___ Our verdict is not unanimous. Eleven of us have agreed to each and every answer and have signed the certificate below.

___ Our verdict is not unanimous. Ten [Five] of us have agreed to each and every answer and have signed the certificate below.

SIGNATURE

NAME PRINTED

1. _____
2. _____
3. _____
4. _____
5. _____
6. _____
7. _____
8. _____
9. _____
10. _____
11. _____

If you have answered Question No. ___ [the exemplary damages amount], then you must sign this certificate also.

Additional Certificate

[Used when some questions require unanimous answers]

I certify that the jury was unanimous in answering the following questions. All 12 [6] of us agreed to each of the answers. The presiding juror has signed the certificate for all 12 [6] of us.

[Judge to list questions that require a unanimous answer, including the predicate liability question.]

Signature of Presiding Juror

Printed Name of Presiding Juror

III. Brief Statement of Reasons for Requested Amendments to Tex. R. Civ. P. 226a §§ 2 and 3 and Advantages Served by Them

Implicit bias is an important issue that needs to be, but is not, addressed in Tex. R. Civ. P. 226a. This proposed instruction is intended to address implicit bias through instructions given to jurors. The proposed instruction is designed to instruct jurors on the appropriate basis to weigh the evidence presented to them and the importance of making an unbiased and just decision through their verdict. The proposed addition is designed to help jurors better understand bias and provide trial judges and advocates a basis to better discuss biases and prejudices in voir dire should they desire or think it appropriate. The Committee chose not to use “implicit” in the proposed instruction to avoid alienation of potential jurors or imply any current public or political interpretation of the term. The Committee also sought to avoid language that may lead to a politically or emotionally charged interpretation of the overall instruction.

The Committee spent considerable time over the past year reviewing other examples of “implicit bias” instructions from other jurisdictions including federal, state, and various Texas counties. The Committee also actively solicited, received, and considered suggestions from various stakeholders with an interest in the proposed instruction. These stakeholders included local bar associations and judges, as well as State Bar of Texas committees, sections, and members. Critical focus was paid to removing surplus or duplicative words that impacted the clarity and length of the instruction. The Committee limited the use of words or terms that might imply to a juror that they could not use their personal judgment or common sense.

Further, the proposed addition is based on efforts by the Travis County Bar Association and members of the Dallas Bar Association to implement such instructions in civil cases. The Dallas Civil District Courts engaged in a pilot program where a similar instruction was given in smaller civil matters by agreement of the parties. Ninety-four percent of the jurors surveyed following the trials in which this instruction was used indicated that they considered the instruction in their deliberations. Fifty-four percent of the jurors surveyed following the trials in which this instruction was used reported that the instruction influenced the way in which they processed evidence and deliberated. Strong evidence, through this Dallas pilot program, shows that an instruction on implicit bias, as the one the committee now proposes, increases juror self-awareness during trial about how they processed the evidence and motivated them to be fair in their deliberations.

The proposed instruction is consistent with the September 2020 charge from the Public Trust & Confidence Committee of the Texas Judicial Council (chaired by Chief Justice Hecht) that “implicit bias” be addressed in the Texas legal system, including through annual training for judges on that topic.

This proposed instruction is consistent with many such instructions given across the United States, including those provided in the United States District Court for the Northern District of the State of Iowa,¹ the United States District Court for the Northern

¹ Judge Mark W. Bennett, *Unraveling the Gordian Knot of Implicit Bias in Jury Selection: The*

District of the State of California² the State of Missouri, the State of Washington, and the United States Court of Appeals for the Ninth Circuit.

The proposed instruction is consistent with the 2019 ABA resolution calling on all states to implement an “implicit bias” instruction in their jury instructions.

The proposed instruction is calculated to be impartial and applicable to all cases without comment on the evidence.

Problems of Judge-Dominated Voir Dire, The Failed Promise of Batson, and Proposed Solutions, 4 Harv. L. & Pol’y Rev. 149 (2010). See also, www.perception.org (Emphasis added) (Last visited 03/18/2018) (defining implicit bias as “an *attitude* toward, preference for, aversion against or the phenomena of associating *stereotypes* with people *without conscious knowledge*.”)

² <https://www.cand.uscourts.gov/attorneys/unconscious-bias-video-for-potential-jurors/>