

State Bar of Texas
Standing Committee Projects and Objectives
2021-2022

Administration of Rules of Evidence

The committee is working on the following this bar year:

- (1) considering whether a common law privilege should be recommended to supplement existing statutory privileges for domestic violence and sexual assault survivors,
- (2) considering whether TRE 803(16)'s ancient documents hearsay exception should be revised,
- (3) considering whether TRE 614 should be amended to ensure the disclosure of testimony to witnesses is prohibited during trial,
- (4) revisions to TRE 509 and 510 to ensure conformity with existing physician-patient and mental health statutory privileges and confidentiality provisions,
- (5) considering whether the TRE should be amended to permit authentication through unsworn declaration,
- (6) considering a potential Texas Lawyers' Assistance Program privilege,
- (7) liaising with the Court Rules committee concerning matters that overlap the TRE and TRCP, including a potential audit-letter work product privilege, and
- (8) monitoring the FRE and other states' rules to determine whether any amendments to the TRE should be recommended.

Advertising Review

- The ARC will have the challenge of revising all the Interpretive Comments to the old rules and creating new interpretive comments for the new Ad rules that were enacted as of July 2021.
- The ARC will also have the task of creating new CLE's that explain the new Ad rules.

Continuing Legal Education

- The Committee's goals for this year are to achieve the greatest possible educational outreach by continuing to provide high quality CLE and legal publications in a wide variety of formats, including webcasts and delivery through mobile electronic devices. Texas Bar Books will be working on creating an Online version of the Texas Criminal Pattern Jury Charges and developing a series of "Quick Guides" reference cards.
- The Committee faces unprecedented challenges during the 2021-2022 Bar year. Throughout 2020 and into the first half of 2021, COVID-19 Alpha caused our committee to work toward transitioning our courses entirely to online webcasts. With the administration of vaccines in the first half of 2021, COVID-19 Alpha subsided to the point where we held in-person courses in July and August, while others were done via webcast. However, with the current surge of the Delta variant of COVID-19 being both more transmissible and dangerous, we are assessing how or if to hold in-person courses this fall. If, and/or where possible, the Committee wants to include in-person programming because many State Bar members have called for it after 15 or so months of relative sequestration and seclusion. Thus, 2021-22 will be a bar year in which our committee seeks to balance the continuing needs of our registrants for quality CLE programming and publications while keeping all of the stakeholders involved in continuing legal education and their families as healthy and safe as possible under all circumstances.

Court Rules

- TRCP 193.7 Production of self-authenticating documents
- TRCP 194.2(c) Rules concerning required disclosures in family law cases
- TRCP 192.5 Work product
- TRAP 41.1(a) Panel and en banc decisions

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- TRAP 39.7 Oral argument
- TRAP 6.5 Withdrawal of counsel on appeal
- Other issues identified by members of the Committee and the Bar throughout the year

Disability Rights & Issues

- To inform current Texas law students on reasonable accommodations in the classroom and on examinations.
- To facilitate the creation of a coalition of lawyers to assist other lawyers who need reasonable accommodations in the courtroom.
- To inform lawyers on mental health and self-care.
- To inform members of the Texas general public on courtroom access.

Diversity in the Profession

- Conduct Texas Minority Attorney Program (“TMAP”) event in Houston
- Conduct Texas Minority Law Student Program (“TMLS”) events in two Texas cities
- Submit articles to the Texas Bar Journal
- Apply for the Texas Bar Foundation Grant, request Bar Prep Course Donations, and research other grants for the Bar Prep Scholarship program
- Increase participation in K-12 Outreach and partnership with local bar associations
- Create outreach partnership programs with colleges to focus on legal career opportunities

Jury Service

- Continue partnership with Law Focused Education Committee to complete educational curriculum project. Continue work on ongoing public education projects on the importance of jury duty and the dangers of juror scams. Assist counties throughout the state in celebrating Juror Appreciation Week in May.

Law Focused Education

1. Amendment Video Project- Committee and Non-Profit Board members will review this project.
2. Jury Service- Your Call of Duty Website page. Working with the Jury Service Committee we will create and review a webpage which includes two whiteboard videos to help educate students and the public about the role of jury service in our democracy.
3. Children’s Book- The Committee will promote Scrapy Explores his Community, a new children’s book on civic participation, through the use of a puppet Scrapy given to lawyers and teachers to use in the classroom.
4. Texas Citizen Bee Competition- Committee will promote the Texas Citizen Bee Competition in their communities. The Committee may serve as support personnel for the 2022 regional competitions starting in February 2022.
5. The Committee will serve as a welcome speaker at LRE workshops and institutes.

Law Practice Management

- Covid-19: Vaccines and testing, the impact on employment and business; changes in the workplace, office or home; Covid issues specific to law practice
- Legal Ops, Artificial Intelligence, Alternative Service Providers; Radical change in the legal profession?

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- Transition or Sale of a Law Practice (e.g., preparing lawyers for transition from practice, facilitating linkage with lawyers ready to upgrade).
- Succession Planning: Retirement, new beginnings, template documents.

Lawyers' Assistance Program

- Continued improvement of outreach to minority and special population lawyers and law students
- Promote new suicide prevention campaign statewide through local programs
- Improve TLAP service for those suffering cognitive decline
- Focus on continuing to fight the stigma of getting help for mental health struggles

Legal Services to the Poor in Civil Matters

- Collaborate with legal aid organizations across the State to monitor issues and trends impacting the delivery of equal access to justice.
- Educate bar leaders across the State on access to justice (ATJ), by offering recommendations for the ATJ Track of the annual Bar Leaders Conference.
- Recognize the dedicated members of the legal profession who are committed to providing pro bono services in Texas through the Pro Bono Excellence Awards.
- Participate in the American Bar Association's 2020 National Celebration of Pro Bono, October 25 through 31st, by encouraging local bars to plan events to provide pro bono legal services.
- Collaborate with legal aid organizations to plan and host Ask-A-Lawyer and/or Wills Clinic in November, in honor of Veterans Day 2021.
- Examine self-represented kiosks throughout Texas and consider duplication in additional county courthouses.
- Collaborate with law school pro bono programs to plan and host name change and/or gender marker change clinics in June 2022.

Legal Services to the Poor in Criminal Matters

- Finalize the changes for the Performance Guidelines for Representation in Non-Capital Criminal Cases.
- Prepare guidelines for the State when dealing with pro se and indigent defendants.
- Plan on how best to have a symposium on the anniversary of the Fair Defense Act
- Work on issue of indigent defendants being charged court appointed attorney fees

Local Bar Services

- The Covid-19 Pandemic continues to impact all facets of the State Bar of Texas, including the Local Bar Services Committee. Despite these challenges, the objectives and goals for the Local Bar Services Committee remain as follows:
 - (1) to host a successful and informative Bar Leaders Conference;
 - (2) to improve and update the Stars of Texas Bars Awards process;
 - (3) to create a strong presence among local bar associations;
 - (4) to solicit more involvement by minority bar associations and TYLA;
 - (5) to reduce committee expenses; and

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(6) to increase local bar participation in Law Day.

The Local Bar Services Committee will continue to pursue these objectives so much as possible under the pandemic conditions.

Laws Relating to Immigration and Nationality

- Meet with Customs and Border Protection and Immigration and Customs Enforcement to obtain information regarding adjudication/enforcement trends and processes, particularly addressing travel restrictions, waivers, and requirements regarding covid19; asylum claims; border issues, etc.
- Meet with Dept of State consular officers and USCIS to obtain information regarding consular and adjustment practices, adjudication trends, and changed procedures addressing covid19 delays
- Communicate timely with entire State Bar membership regarding our findings or information learned from any trips or meeting with government agencies.

Minimum Continuing Legal Education

- We have an ongoing responsibility to review accreditation requests and appeals, as well as requests for reinstatement. This year we will address streamlining course formats and changes in regulations to allow individual attorneys apply for out of state online courses held live.

Pattern Jury Charges – Business, Consumer, Insurance, and Employment

- This will be a publication year for the committee and the committee will be working to finalize updates for the 2022 edition. This will include a comprehensive review and update of existing charges to reflect new statutory and case law and adding new charges where needed. Additionally, the committee will work with the other civil drafting committees and the Oversight Committee on updates that appear in multiple volumes.

Pattern Jury Charges – Criminal

- The Committee continues to focus on the transition of the Criminal Pattern Jury Charges from printed volumes to an online-only product. The Committee has revised the basic format for how charges for all crimes are presented to juries, who will in the future see streamlined instructions that are easier to understand. Members are applying the new format to existing charges, as well as revising the CPJCs for recent changes in the law. The group is also adding new charges for various crimes, including burglary of a vehicle and animal cruelty.

Pattern Jury Charges – Family and Probate

- The 2022 edition of the PJC - Family & Probate volume will be published in early 2022. Changes will reflect statutory revisions enacted during the 2021 legislative session, including new provisions for juries to place geographic restrictions on sole managing conservators. The Committee has completely revised the charge and instructions for reimbursement claims in divorce litigation and is drafting a new charge for contempt of court in cases where the defendant has a right to a jury.

Pattern Jury Charges – General Negligence, Intentional Personal Torts & Workers Compensation

- Complete the 2022 volume for publication: "Shepardize all Chapters; Add/revise charges on Proximate Cause, Inferential Rebuttal, Cap-busting, Trespass and Nuisance, Personal Property

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- Damages, Physical Impairment, Pecuniary Loss, and Subsequent Injury.
- Monitor case law developments;
- Develop and draft jury questions and instructions for the new laws passed under 2021 (R) Tex. HB 19 (Relating to civil liability of a commercial motor vehicle owner or operator, including the effect that changes to that liability have on commercial automobile insurance) which becomes effective September 1, 2021.

Pattern Jury Charges – Malpractice, Premises, & Products

- The Committee is updating the volume to reflect changes enacted by the 2021 legislature and recent case law. Changes also will be made to the charges and instructions for the Emergency Treatment and Active Labor Act, the definition of "design defect," the basic damages question to clarify when damages were caused by an injury or by an occurrence, cases where plaintiff seek to exceed normal limits on exemplary damages, and others. In addition, the committee is updating the comments to the proximate cause instruction, actions against attorneys, inferential rebuttals, premises liability actions, and other PJs.

Pattern Jury Charges – Oil and Gas

- The committee will spend this year finalizing materials to be included in the 2022 edition. The committee will complete a comprehensive review of the current charges and consider what changes or additions should be made to reflect new cases and statutory law. The committee will also continue to work closely with the other drafting volumes on new materials impacting more than one volume. This includes working with the General Negligence volume to develop updated materials on nuisance and working with the Business volume to update contracts materials included in both volumes.

Pattern Jury Charges – Oversight

- The PJC Oversight Committee will work with each of the individual civil PJC volumes (General Negligence, Intentional Personal Torts & Workers' Compensation; Oil & Gas; Business, Consumer, Insurance & Employment; Family & Probate; and Malpractice, Premises & Products) to complete work for the 2022 editions. The PJC Oversight Committee will review new materials and updates and work with appointed cross-volume subcommittees to complete work impacting multiple volumes. The Oversight Committee will also continue to support the work of the Criminal PJC Committee as it updates its materials and transitions its volumes on-line.

Professionalism

- Our main project this year has been in the works since last year: the Statewide Day of Civility Program which will air virtually September 17. We are also working on updating the State Bar Mentorship program, the ethics directory, outreach to law schools, and CLE for judges. Covid has had an impact on our ability to operate in person, but we are hopeful we can do more in-person outreach in the latter part of 2021 into 2022.

Public Affairs

1. Plan, promote, and host the Open Government Seminar at Annual Meeting, which is free and open to the public and members of the media.
2. Consider creating a separate educational program that fosters public understanding of the legal system and assists relationships between the media, lawyers, and judges.

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Real Estate Forms

- The committee's task this year is to prepare materials for a supplement to the Texas Real Estate Forms Manual for publication in the spring of 2022. The focus of the 2021-2022 Real Estate Forms Committee will be to review each chapter for accuracy, revise forms based upon changes to the law enacted by the 87th Legislature or recent appellate court decisions, update Additional Resources with new CLE articles, and add new forms. The Committee is also considering the possibility of enhancing the electronic version of the manual with 10-15 minute video presentations using key documents or concepts in the manual.

Texas Bar Journal Board of Editors

1. Continue to provide members with valuable information about the legal profession and trends, including rules changes—expected completion date is May 31, 2022;
2. Continue to inform members of the State Bar and public that the Texas Bar Journal is available in print, on the State Bar's website, and in a digital format—expected completion date is May 31, 2022; and
3. Explore options to provide more diverse content—expected completion date is May 31, 2022.

Women in the Profession

- The theme of this Bar year's Women in the Profession Committee is Embracing Change: Extraordinary Women, Exceptional Circumstances. With our Covid Impact Survey results in hand, we aim to publicize our findings to bring awareness to the issues facing Texas women attorneys as well as reach out to those attorneys affected by the pandemic in the most meaningful and productive ways possible. This includes opportunities for networking (virtual and/or in-person, where possible) and mentorship; advocating for more flexible workplace policies; and linking attorneys with resources for support including caregiving, mental health, and re-entry into the legal profession. We envision this Bar year as a rebuilding year to reconnect women attorneys with each other and with their professional goals, despite the pandemic's obstacles.