



Don't Wait, **DESIGNATE!**

EVEN BEFORE THE COVID-19 PANDEMIC, the Texas legal community had identified a growing problem of lawyers dying, becoming disabled, or disappearing without a succession plan. When this happens to a solo practitioner, unless clients have consented to someone else seeing their files, the office or possibly their family is left in limbo.

In 2018-2019, Dallas attorney Greg Sampson and I co-chaired a succession task force for the State Bar of Texas. Our goal was to enable solo practitioners to easily designate a custodian who could step in if necessary to take possession of the lawyer's files and contact his or her clients—not to take over the client's work, but to return files to the clients or to send them to the clients' chosen lawyer.

The first step toward that goal came in 2021 with the approval by referendum and adoption by the Texas Supreme Court of Texas Rule of Disciplinary Procedure 13.04, which authorizes a lawyer to voluntarily designate a custodian attorney to assist with the cessation of practice. The new rule offers designated custodians the same statutory protections as court-appointed custodians are afforded, which protects them from liability except for intentional misconduct or gross negligence.

The second step was to create an easy system to educate lawyers about what they need to do and help them to do it. That system now exists. Now we need our lawyers to take advantage of this simple process.

If you are a solo practitioner and you have not planned for succession, don't wait to designate a custodian. Simply go to texasbar.com/succession, choose "Advance Designation of a Custodian Attorney-Instructions" from the drop-down menu, and follow the instructions to fill out a form designating one or more custodians.

The designation automatically prompts an email to your designee, and they can accept or decline the designation. The State Bar retains a record of the designation, which also will be available to you through your My Bar Page at texasbar.com. If you want to change your designation later, you can easily do so.

Also, be sure to update your engagement letters to obtain your clients' consent that, if something were to happen to you, your custodian may take possession of your clients' files.

While no one likes to think of their own death or disability, your family will thank you for taking care of your business so they don't have to. Leaving them to sort out your law firm is not the legacy you want to leave. With a little advance work to designate a custodian attorney, you can provide them with the peace of mind that comes from good planning.

For more information about designating a custodian attorney, go to texasbar.com/succession. Additional law practice management materials are available from the State Bar at texasbarpractice.com.

I hope that you will join me in spreading the news about this important resource and encourage solo practitioner friends to designate a custodian attorney. Thank you for your time, attention, and most of all, your support.

LAURA GIBSON

President, 2022-2023
State Bar of Texas

