LEGISLATIVE UPDATE 2015: LITIGATION

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David E. Chamberlain has been recognized as The Outstanding Defense Bar Leader in the nation by DRI, the largest association of defense trial lawyers in the country (Fred Sievert Award, 2006). He currently serves as the Chair of Board of Directors of the State Bar of Texas, and Chairs the Board of Trustees of the State Bar of Texas Insurance Trust. In 2014, he received the "Standing Ovation" Award from the State Bar of Texas for outstanding service as the course director or speaker on over 30 State Bar legal education courses in the last 15 years. He is currently President of the American Board of Trial Advocates, Texas Chapters (TEX-ABOTA). In 2011-12 he served as President of the Austin Bar Association, the year it was named the Outstanding Local Bar Association, Div. IV, by the State Bar of Texas. He formerly served on DRI's National Board of Directors. In 2008, he was named The Outstanding Board Director of the Austin Bar Association. He has served as President of the Texas Association of Defense Counsel (2004-2005) and in 2009 received the association's Founder's Award for outstanding leadership and service to the profession. He is named in the peer-selected BEST LAWYERS IN AMERICA and has been named a Texas Super Lawyer for eleven straight years in Texas Monthly Magazine (2004-2015) (limited to 5% of Texas attorneys) and has also been named National Super Lawyer, Corporate Counsel Edition for the past seven years (2008-2015). He is Board Certified in Personal Injury Trial Law by the Texas Board of Legal Specialization (less than 3% of Texas attorneys are board certified in this practice area). He is the senior partner in the Austin civil trial firm of Chamberlain♦McHaney and has had the highest peer review rating (A.V. – Pre-eminent) issued by Martindale-Hubbell for over 25 years. He has served as the Course Director of the State Bar of Texas Advanced Civil Trial Law Course (2014), State Bar of Texas Advanced Personal Injury Law Course (2006) and the State Bar of Texas Business Disputes Institute (2013 and 2014).

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BACKGROUND, EDUCATION AND PRACTICE

Brad Parker has an unwavering commitment to people who have been killed or seriously injured in major trucking and motor vehicle accidents, by dangerous drugs and medical devices, in aviation accidents and in industrial catastrophes. Parker Law Firm also provides comprehensive legal services for clients whose personal, business or property rights have been adversely affected by the denial of insurance benefits. Built on years of trial experience, a tradition of personal service and a well-deserved reputation for zealous representation of its clients, Parker Law Firm is dedicated to the timely delivery of outstanding results.

Mr. Parker earned his B.A. from the University of Texas at Austin and his J.D. from Texas Tech University School of Law in 1985. He has been board certified in Personal Injury Trial Law by the Texas Board of Legal Specialization since 1997 and has been named a Texas Super Lawyer (2003, 2006- present) by Thomson Reuters as published by *Texas Monthly* magazine as well as a lawyer worth knowing as published by *Fort Worth, Texas* (2002 – present). Mr. Parker has served as President of the Tarrant County Trial Lawyers Association, President of the Tarrant County Bar Association, Chair of the Texas Trial Lawyers Association Advocates. He is also a member of the American Board of Trial Advocates (ABOTA) and has served as Panel Chair for District 7A Grievance Committee.

Mr. Parker served as President of the Texas Trial Lawyers Association (2013) and served as Vice President of Legislative Issues for TTLA during the 82nd (2011) legislative session.

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I. INTRODUCTION

The 84th Legislature ended its regular session on June 1, 2015. According to the Texas Legislative Reference Library, a total of 6,476 bills and resolutions were introduced during the session.[1] As of June 1st, over 1,300 bills have been passed and sent to Governor Abbott,[2] some of which already have been signed into law.[3]

This paper summarizes selected legislative proposals that, if they became law, could have a noticeable impact on the practice of civil trial and appellate law in Texas. The bills summarized herein are based on the content of each bill at the time of submission. For the final status of each bill and additional background information about the same, please visit Texas Legislature Online at http://www.capitol.state.tx.us and/or subscribe to the author's e-newsletter by following the directions at the end of this article.

II. LEGISLATION THAT HAS PASSED

A. Attorneys – Practice of Law

SB 534 - Oath of Persons Admitted to Practice Law in Texas[4]

SB 534 amends section 82.037 of the Government Code and revises the oath taken by all attorneys admitted to practice law in Texas so as to require attorneys to conduct themselves "with integrity and civility in dealing and communicating with the court and all parties."

On May 15, 2015, Governor Abbott signed SB 534 into law. Because SB 534 was passed by a vote of at least two-thirds of all the members elected to both the House and Senate, the law took effect on May 15th.

HB 7 - Repeal of Occupation Tax[5]

HB 7 addresses the use of certain statutorily-dedicated revenue and includes provisions that repeal various occupation taxes, including the $200 annual attorney occupation tax.

HB 7 was sent to Governor Abbott on June 1, 2015. If the Governor signs the bill into law, the changes in the law addressed in HB 7 would become effective on September 1, 2015. The changes in the law made by HB 7 would not affect a surcharge, additional fee, additional charge, fee increase, tax, or late fee imposed before the effective date.

B. Damages

SB 735 - Availability and Use of Certain Evidence in Connection with an Award of Exemplary Damages[6]

SB 735 will amend section 41.011 of the Texas Civil Practice and Remedies Code (CPRC) to define "net worth" to mean "the total assets of a person minus the total liabilities of the person on a date determined appropriate by the trial court." SB 735 also adds section 41.0115 to the CPRC, which would provide as follows:

> *"Sec. 41.0115. DISCOVERY OF EVIDENCE OF NET WORTH FOR EXEMPLARY DAMAGES CLAIM. (a) On the motion of a party and after notice and a hearing, a trial court may authorize discovery of evidence of a defendant's net worth if the court finds in a written order that the claimant has demonstrated a substantial likelihood of success on the merits of a claim for exemplary damages. Evidence submitted by a party to the court in support of or in opposition to a motion made under this subsection may be in the form of an affidavit or a response to discovery. (b) If a trial court authorizes discovery under Subsection (a), the court's order may only authorize use of the least burdensome method available to obtain the net worth evidence. (c)*

[1] Legislative Reference Library of Texas, 84th Legislature Legislative Statistics (May 29, 2015).
[2] Id.
[3] As a general rule, the governor has ten (10) days upon receipt of a bill to sign it, veto it, or allow the bill to become law without a signature. However, if a bill is sent to the governor within ten (10) days of final adjournment, he has until twenty (20) days after adjournment to act on the bill. If the governor neither signs nor vetoes the bill within the allotted time, the bill becomes law.
[4] Act of May 5, 2015, 84th Leg., R.S., S.B. 534 (to be codified as an amendment of TEX. GOV'T CODE ANN. §82.037).
[5] Act of June 1, 2015, 84th Leg., R.S., H.B. 7 (2015).
[6] Act of May 30, 2015, 84th Leg., R.S., Tex. S.B. 735 (to be codified as an amendment of TEX. CIV. PRAC. & REM. CODE ANN. §41.001 and at §41.0115.

> *When reviewing an order authorizing or denying discovery of net worth evidence under this section, the reviewing court may consider only the evidence submitted by the parties to the trial court in support of or in opposition to the motion described by Subsection (a).”*

By way of floor amendment, the House amended SB 735 to include the following language: *“If a party requests net worth discovery under this section, the court shall presume that the requesting party has had adequate time for the discovery of facts relating to exemplary damages for purposes of allowing the party from whom net worth discovery is sought to move for summary judgment on the requesting party’s claim for exemplary damages under Rule 166a(i), Texas Rules of Civil Procedure.”*

On May 30, 2015, SB 735 was sent to Governor Abbott. If signed by the Governor, the changes in the law addressed in SB 735 would become effective on September 1, 2015. The changes in the law made by SB 735 would apply only to an action filed on or after the effective date.

C. Deceptive Trade Practices

HB 1265 - Deceptive Trade Act or Practice Involving a Solicitation in Connection with a Good or Service[7]

HB 1265 amends section 17.46(b) of the Business & Commerce Code to provide that the term “false, misleading, or deceptive acts or practices” will include the following:

> (28) delivering or distributing a solicitation in connection with a good or service that represents that the solicitation is sent on behalf of a governmental entity when it is not, or resembles a governmental notice or form that represents or implies that a criminal penalty may be imposed if the recipient does not remit payment for the good or service;
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> (29) delivering or distributing a solicitation in connection with a good or service that resembles a check or other negotiable instrument or invoice, unless the portion of the solicitation that resembles a check or other negotiable instrument or invoice includes the following notice, clearly and conspicuously printed in at least 18-point type: “SPECIMEN-NON-NEGOTIABLE;”
>
> (30) in the production, sale, distribution, or promotion of a synthetic substance that produces and is intended to produce an effect when consumed or ingested similar to, or in excess of, the effect of a controlled substance or controlled substance analogue, as those terms are defined by section 481.002 of the Health and Safety Code, making a deceptive representation or designation about the synthetic substance, or causing confusion or misunderstanding as to the effects the synthetic substance causes when consumed or ingested; or
>
> (31) a licensed public insurance adjuster directly or indirectly soliciting employment, as defined by section 38.01 of the Penal Code, for an attorney, or a licensed public insurance adjuster entering into a contract with an insured for the primary purpose of referring the insured to an attorney without the intent to actually perform the services customarily provided by a licensed public insurance adjuster, provided that this subdivision may not be construed to prohibit a licensed public insurance adjuster from recommending a particular attorney to an insured.

On June 1, 2015, HB 1265 was sent to Governor Abbott. If signed by the Governor, HB 1265 would become effective on September 1, 2015 and apply only to a cause of action that accrues on or after the effective date.

HB 2573 - Deceptive Trade Practice Related to the Use of Certain Words to Imply that a

[7] Act of May 30, 2015, 84th Leg., R.S., H.B. 1265 (to be codified as an amendment of TEX. BUS. & COM. CODE ANN. §17.46(b)).

Person who is not an Attorney is Authorized to Practice Law[8]

HB 2573 amends section 17.46(b) of the Business & Commerce Code to provide that the term "false, misleading, or deceptive acts or practices" will include the translation into a foreign language of a title or other word, including "attorney," "lawyer," "licensed," "notary," and "notary public," in any written or electronic material, including an advertisement, a business card, a letterhead, stationery, a website, or an online video, in reference to a person who is not an attorney in order to imply that the person is authorized to practice law.

On May 30, 2015, HB 2573 was sent to Governor Abbott. If signed by the Governor, HB 2573 would become effective on September 1, 2015 and apply only to a cause of action that accrues on or after the effective date.

D. Defamation

SB 627 - Relating to Certain Publications that are Privileged and Not Grounds for a Libel Action[9]

SB 627 amends section 73.005 of the CPRC (Defamation Mitigation Act) to add the "publication of allegations made by a third party regarding matters of public concern, regardless of the truth or falsity of the allegations" to the list of publications that are privileged and not grounds for a libel action. It also adds the following sections: "[t]his section does not abrogate or lessen any other defense, remedy, immunity, or privilege available under other constitutional, statutory, case, or common law or rule provisions."

On May 28, 2015, Governor Abbott signed SB 627 into law. Because SB 627 was passed by a vote of at least two-thirds of all the members elected to both the House and Senate, the law took effect on May 28th. The changes implemented by SB 627 will apply only to "accurate reporting by a newspaper or other periodical or broadcaster made on or after the effective date." The "accurate reporting by a newspaper or other periodical or broadcaster made before the effective date" will be governed by the law applicable to reporting immediately before the effective date.

E. Evictions

HB 3364 - Appeals of Eviction Suit Judgments[10]

HB 3364 would amend section 24.007 of the Property Code to prohibit appeals of county court judgments in eviction suits on the issue of possession unless the premises in question are being used for residential purposes only. HB 3364 would add back in to section 24.007(a) the same language that was removed from the statute in 2011. The bill would also repeal section 24.007(b), which was enacted in 2011 and authorizes appeals of final judgments of a county court, statutory county court, statutory probate court, or district court in an eviction suit.

On May 30, 2015, HB 3364 was sent to Governor Abbott. If signed into law by the Governor, the changes in the law addressed by HB 3364 will become effective on January 1, 2016. The changes in the law made by HB 3364 will apply to an appeal of a final judgment rendered on or after the effective date.

F. Health Care Liability

HB 1403 - Defining Health Care Liability Claim for Purposes of Certain Claims[11]

HB 1403 would amend the definition of "health care liability claim" in Chapter 74 of the CPRC to not include a personal injury claim filed against an employer by an employee not covered by worker's compensation insurance or the employee's surviving spouse or heir.

HB 1403 was sent to Governor Abbott on May 27, 2015. If signed by the Governor, the changes in the law addressed by HB 1403 will become effective on September 1, 2015. The change in law made by HB 1403 will apply only to a cause of action that accrues on or after the effective date.

[8] Act of May 30, 2015, 84th Leg., R.S., H.B. 2573 (to be codified as an amendment of TEX. BUS. & COM. CODE ANN. §§17.46(b) and 17.48).

[9] Act of May 20, 2015, 84th Leg., R.S., S.B. 627 (to be codified as an amendment of TEX. CIV. PRAC. & REM. CODE ANN. §73.005).

[10] Act of May 30, 2015, 84th Leg., R.S., Tex. H.B. 3364 (to be codified as an amendment of TEX. PROP. CODE ANN. §24.007).

[11] Act of May 27, 2015, 84th Leg., R.S., H.B. 1403 (to be codified as an amendment of TEX. CIV. PRAC. & REM. CODE ANN. §74.001(a)(13).

G. Internet Activity

SB 1135 - Creation of Civil and Criminal Liability for Disclosure or Promotion of Intimate Visual Material[12]

SB 1135 (a/k/a Relationship Privacy Act) adds Chapter 98B to the CPRC and section 21.16 to the Penal Code and creates a new criminal offense and civil cause of action for "revenge porn," a trend in which an ex-partner, seeking revenge, posts intimate sexual pictures of a former significant other on the Internet. In a civil case, a defendant would be liable for damages to a person depicted in intimate visual material if:

> (1) the defendant discloses intimate visual material without the effective consent of the depicted person;
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> (2) the intimate visual material was obtained by the defendant or created under circumstances in which the depicted person had a reasonable expectation that the material would remain private;
>
> (3) the disclosure of the intimate visual material causes harm to the depicted person; and
>
> (4) the disclosure of the intimate visual material reveals the identity of the depicted person in any manner, including through: (a) any accompanying or subsequent information or material related to the intimate visual material; or (b) information or material provided by a third party in response to the disclosure of the intimate visual material.

A defendant would also be liable for damages to a person depicted in intimate visual material under SB 1135 if the defendant, knowing the character and content of the material, promotes intimate visual material on a website or other forum for publication that is owned or operated by the defendant.

A person damaged by the disclosure or promotion of the intimate visual material could collect actual and exemplary damages, costs and attorney's fees.

Under SB 1135, the unlawful disclosure of the intimate visual material would be a Class A misdemeanor under section 21.16 of the Penal Code.

On May 29, 2015, SB 1135 was sent to Governor Abbott. If signed by the Governor, SB 1135 would become effective on September 1, 2015. The changes to the CPRC under SB 1135 will apply only to a cause of action that accrues on or after the effective date. Changes to the Penal Code will apply to visual material disclosed or promoted, or threatened to be disclosed, on or after the effective date, regardless of whether the visual material was created or transmitted to the actor before, on, or after the effective date.

H. Judiciary/Court Administration

HB 1 – General Appropriations Bill[13]

On May 29, 2015, the House and Senate voted to adopt the conference committee report for the state budget (i.e., HB 1), which appropriated $796.8 million for the judiciary during the next biennium and includes appropriations for many of the judiciary's initiatives. The $796.8 million for the judiciary, which represents only 0.38% of the entire state budget, is $32.8 more than the appropriations made by the Legislature in 2013 and a 4.3% increase over the last biennium. HB 1 includes funding for the following:

- Basic Civil Legal Services – The Supreme Court would receive $61.4 million over the next biennium for basic civil legal services, of which $10 million would be dedicated for legal aid for sexual assault victims and $1.5 million for veterans.
- EFileTexas.gov – HB 1 provides an estimated $45.5 million in General Revenue–Dedicated Funds, an increase of $17.0 million, for vendor payments to manage the eFiling system and assist courts in implementing the mandate requiring the electronic fi ling of cases by attorneys in appellate, district, county-level, and statutory probate courts.
- "Similar Funding for Same Size Courts" Block Grant – The intermediate appellate courts would receive the additional $6.4 million dollars needed to fund the

[12] Relationship Privacy Act, 84th Leg., R.S., S.B. 1135 (to be codified at TEX. CIV. PRAC. & REM. CODE ANN. §§98B.001 – 98B.007 and TEX. PENAL CODE ANN. §21.16).

[13] Tex. H.B. 1, 84th Leg., R.S. (2015).

remaining half of the "similar funding for same size courts" block grant.

HB 1 was sent to the Comptroller for review on June 1, 2015.

SB 455 - Creation of a Special Three-Judge District Court[14]

SB 455 amends the Texas Government Code to create a procedural mechanism that would allow the Attorney General to petition the Chief Justice of the Supreme Court for the formation of a special three-judge panel to hear certain types of cases in which the State of Texas or an officer or agency of the State is a defendant. Proceedings in front of a three-judge panel would be mandatory in cases involving a claim that either (1) challenges the finances or operations of the public school system; or (2) involves the apportionment of districts for the Texas House, Texas Senate, U.S. Congress, State Board of Education, or the apportionment of state judicial districts. Three-judge panel proceedings would be discretionary in other cases in which the Attorney General certifies that the outcome of the case either (1) significantly impacts the finances of the State; (2) significantly alters the operations of important statewide policies or programs; or (3) is otherwise of exceptional statewide importance such that the case should not be decided by a single district judge. Under SB 455, the Chief Justice's decision to either deny the Attorney General's petition or order that a discretionary proceeding be heard by a special three-judge district court would be considered final and not appealable; however, appeals "from an appealable interlocutory order of final judgment" of the three-judge court would be directly to the Supreme Court.

SB 455 also provides that the three-judge district court would consist of the district judge to whom the case was assigned at the time the petition to the Chief Justice was submitted, a district judge chosen by the Chief Justice who has been elected by the voters of a county other than the county in which the case was filed, and a justice of a court of appeals chosen by the Chief Justice who has been elected by the voters of a judicial district other than the district in which the case was filed or in which the district judge chosen by the Chief Justice sits. The three-judge court would be required to sit in the county in which the case was filed and would be subject to the Texas Rules of Civil Procedure; provided, however, that the Supreme Court may promulgate rules for the operation of the three-judge courts.

Governor Abbott signed SB 455 into law on May 28, 2015. It will be effective on September 1, 2015.

SB 1116 - Notices or Documents Sent by Mail or Email by a Court, Court Clerk, or Judge[15]

SB 1116 amends the Texas Government Code to authorize a "court, justice, judge, magistrate, or clerk" to send any notice or document using mail or electronic mail and applies to all civil and criminal statutes requiring delivery of a notice or document. However, authorized methods of delivery of electronic mail does not include facsimiles, instant messaging, messages on a social network website (including Facebook and Twitter), telegraphs, telephone messages, text messages, videoconferencing, voice messages, or webcams.

Governor Abbott signed SB 1116 into law on May 29, 2015. It will be effective on September 1, 2015.

SB 1139 - Operation and Administration of and Practice in Courts in the Judicial Branch and Increase of Filing Fees[16]

SB 1139 is an omnibus bill that does, among other things, creates several new district courts and county courts at law, addresses the composition of juvenile boards, and raises the statewide electronic filing system fund fee collected by various courts from $20 to $30.

SB 1139 was sent to Governor Abbott on June 1, 2015. If signed by the Governor, various changes to the law under SB 1139 will be effective on September 1, 2015, while others will be effective on January 1, 2016. The section related to the increase in filing fees would be effective September 1, 2015, and apply to fees that become payable on or after September 1st.

[14] Act of May 20, 2015, 84th Leg., R.S., S.B. 455 (to be codified at TEX. GOV'T CODE ANN. §§22A.001-22A.006).

[15] Act of May 20, 2015, 84th Leg., R.S., S.B. 1116 (to be codified at TEX. GOV'T CODE ANN. §§80.001-80.005).

[16] Act of June 1, 2015, 84th Leg., R.S., S.B. 1139 (to be codified as an amendment of numerous provisions of the Texas Family Code, Texas Government Code, Texas Human Resources Code, and Texas Code of Criminal Procedure). The section of S.B. 1139 providing for the increase in filing fees will be codified as an amendment of TEX. GOV'T CODE ANN. §51.851(b).

I. Patent Infringement Claims

SB 1457 - Bad Faith Patent Infringement Claims[17]

SB 1457 amends Chapter 17 of the Texas Business and Commerce Code by adding an additional subchapter to the Texas Deceptive Trade Practices Act (DTPA), entitled "Bad Faith Claims of Patent Infringement," that prohibits bad faith claims of patent infringement. SB 1457 defines a bad faith claim as one that includes an allegation of infringement and (a) falsely states that the sender has filed a lawsuit in connection with the claim; (b) the claim is objectively baseless; and (c) the communication is likely to materially mislead the recipient because it does not include the identity of the person asserting the claim, the patent that is alleged to have been infringed, and at least one product, service or activity that is alleged to infringe the patent. Under SB 1457, "objectively baseless" means that (a) the sender does not have a current right to license the patent or to enforce the patent; (b) the patent has been held invalid or unenforceable in a final judgment or administrative decision; or (c) the infringing activity occurred after the patent expired.

SB 1457 bill does not create a private cause of action for a violation of the prohibition against sending an end user a bad faith claim of patent infringement. Instead, SB 1457 authorizes the Attorney General to bring an action if it believes that the prohibition against bad faith claims of patent infringement has been violated. The Attorney General may also seek injunctive relief and a civil penalty not to exceed $50,000 for each violation as well as reimbursement to the State of Texas of the "reasonable value of investigating and prosecuting a violation" and restitution to the victim for "legal and professional expenses related to the violation."

SB 1457 specifically states that it does not prohibit a person with rights to license and enforce a patent from notifying others of their ownership, offering it for license, notifying any person of infringement under federal law, or seeking compensation for past or present infringement or for a license to the patent.

On May 25, 2015, SB 1457 was sent to Governor Abbott for signature. If signed by the Governor, SB 1457 will become effective on September 1, 2015.

J. Probate Court Filings

SB 512 - Promulgation of Forms for Use in Probate Matters[18]

SB 512 amends Chapter 22 of the Texas Government Code to require the Texas Supreme Court to promulgate appropriate forms and instructions for the use of certain forms by individuals representing themselves in certain probate matters or making certain wills, including forms for use in: (1) a small estate affidavit proceeding under the Estates Code; (2) the probate of a will as a muniment of title under the Estates Code; and (3) the making of a will for married and unmarried individuals.

On May 26, 2015, SB 512 was sent to Governor Abbott for signature. If signed by the Governor, SB 512 will become effective on September 1, 2015.

K. Trial Court Procedure

HB 1692 - Doctrine of Forum Non Conveniens[19]

HB 1692 amends sections 71.051(e) and (h) of the CPRC to provide that a court may not stay or dismiss a plaintiff's claim under the forum non conveniens provisions of the CPRC if the plaintiff is either a legal resident of Texas or a "derivative claimant" of a legal Texas resident. The determination of whether a claim may be stayed or dismissed must be made "with respect to each plaintiff without regard to whether the claim of any other plaintiff may be stayed or dismissed" and "without regard to a plaintiff's country of citizenship or national origin." If the case involves both plaintiffs who are legal Texas residents and plaintiffs who are not, the trial court must consider the factors provided by the forum non conveniens provisions of the CPRC and determine whether to deny the motion or to stay or dismiss the claim of any plaintiff who is not a legal Texas resident.

HB 1692 eliminates the "legal resident" definition from the CPRC and adds a definition for

[17] Act of May 25, 2015, 84th Leg., R.S., S.B. 1457 (to be codified at TEX. CIV. PRAC. & REM. CODE ANN. §§17.951-17.955).

[18] Act of May 25, 2015, 84th Leg., R.S., S.B. 512 (to be codified at TEX. GOV'T CODE ANN. §22.020).

[19] Act of May 26, 2015, 84th Leg., R.S., H.B. 1692 (to be codified as an amendment of TEX. CIV. PRAC. & REM. CODE ANN. §71.051(e) and (h)).

"derivative claimant," which means "a person whose damages were caused by personal injury to or the wrongful death of another." The bill also adds an exclusion to the definition of "plaintiff" stating that the term does not include "a representative, administrator, guardian, or next friend who is not otherwise a derivative claimant of a legal resident of this state."

On May 26, 2015, HB 1692 was sent to Governor Abbott for signature. Because HB 1692 was passed by a vote of at least two-thirds of all the members elected to both the House and Senate, it will become effective immediately if signed by the Governor. The change in the law implemented by HB 1692 will apply only to an action commenced on or after the effective date.

III. LEGISLATION THAT FAILED

A. Appellate Procedure

HB 1494 - Filing of the Reporter's Record[20]

HB 1494 would have amended section 52.047 of the Government Code to state that a court reporter would not be required to file an official transcript of a trial before the 60th day after the date a notice of appeal was filed. However, the amendment would not have applied to accelerated or interlocutory appeals.

B. Attorney's Fees/Fee Agreements

HB 230 - Recovery of Attorney's Fees in Certain Civil Cases[21]

HB 230 would have amended Chapter 38.001 of the CPRC to (1) add "other legal entity" to the list of those from whom attorney's fees can be recovered; and (2) expressly provide that Chapter 38.001 does not authorize the recovery of attorney's fees from the state, an agency or institution of the state, or a political subdivision. The bill would have further provided that the amendment to Chapter 38.001 does not affect any other statute that permits the recovery of attorney's fees from the governmental entities listed in the statute.

HB 247 - Limitations on Certain Actions Arising Out of Attorney's Fee Agreements[22]

HB 247 sought to place limitations on claims that could be brought under contingent fee agreements that comply with the statute (i.e., agreements that expressly state the method by which a fee is determined; that litigation and other expenses will be deducted from the recovery; and whether litigation expenses and other expenses are deducted before or after the contingent fee is calculated). The limitations in HB 247 would have applied to contingency fee agreements in which an attorney represented two or more clients and entered into an aggregate settlement agreement of the clients' claims if the agreement expressly disclosed: 1) the existence and nature of all claims or pleas involved; 2) the nature and extent of the participation of each client in the settlement; and 3) the amount of remittance to each client and the method by which the remittance will be determined.

HB 247 would have permitted a party to bring a claim arising out of an agreement subject to the statute only on the grounds that the agreement was obtained by corruption, coercion, force, fraud, or other undue means, or that the agreement was forged. Further, in a claim arising out of the settlement of matters involving multiple clients that is brought on grounds other than those permitted by HB 247, the settlement would be "irrebuttably presumed" to be: 1) fully disclosed, read, understood, and voluntarily entered into by all parties to the agreement; 2) fair, accepted, reasonable, and made in the best interests of the parties by the parties or through their attorneys; and 3) final and not subject to subsequent litigation. On the motion of a party, a court would have been required to dismiss with prejudice any action involving claims arising out of an agreement that was subject to HB 247 if the action was brought on grounds other than those permitted by HB 247.

HB 1531 - Referrals for Legal Services by Legislators and Executive Officers[23]

HB 1531 sought to add section 572.063 to the Government Code and prohibit a member of the legislature or an executive officer elected in a statewide election who was a member of the State Bar of Texas or who was licensed to practice law in another state or a United States territory from making or receiving any referral for legal services for monetary compensation or any other benefit unless the referral complied with State Bar rules and was evidenced by a written contract between the parties who were subject to the referral. A violation of this law would have been a Class A misdemeanor.

[20] Tex. H.B. 1494, 84th Leg., R.S. (2015).
[21] Tex. H.B. 230, 84th Leg., R.S. (2015).
[22] Tex. H.B. 247, 84th Leg., R.S. (2015).
[23] Tex. H.B. 1531, 84th Leg., R.S. (2015).

C. Attorneys – Practice of Law

SB 1430/HB 2045 – Eligibility of Attorneys Licensed Outside of State to Take Bar Exam[24]

SB 1430 and HB 2045 would have amended Chapter 82 of the Texas Government Code by adding section 82.025 so as to permit an attorney licensed to practice law in another state to take the Texas bar examination regardless of whether the attorney has completed the study of law in an approved law school if the attorney: (1) is a United States citizen; and (2) satisfies all other requirements to be licensed in Texas.

HB 2624 - Effects of Default on a Student Loan Administered by Higher Education Coordinating Board on License Renewals[25]

HB 2624 would have amended Chapter 52 of the Education Code to prevent licensed professionals (including licensed attorneys) who are in default on student loans administered by the Texas Higher Education Coordinating Board (THECB) from having their professional licenses renewed. Under the bill, THECB would have received a list of licensees from the applicable licensing board/agency to determine if any of the licensees are in default on their loans and then send a default list back to the licensing board/agency. A person who was in default could enter a repayment plan with the THECB, at which time the licensing board/agency could still renew the license as long as the licensee was current on repayments. The licensing agency would have to provide a hearing before non-renewing a license. Under HB 2624, the licensing board/agency would have created its own rules to carry out the bill's provisions. The bill specifically required the Supreme Court to create the rules for non-renewing law licenses.

D. Certificate of Merit

HB 1353 - Certificates of Merit for Certain Professionals[26]

HB 1353 sought to add a definition of "claimant" to section 150.001 of the CPRC, which is the statute that requires a person to file an affidavit of a third-party licensed architect, engineer, landscape architect, or land surveyor with a claim for damages arising out of the provision of professional services by a licensed or registered professional. For purposes of the statute, "claimant" would mean a party, including a plaintiff, counter-claimant, cross-claimant, or third-party plaintiff, seeking recovery of damages. The current statute uses only the undefined term "plaintiff."

E. Collaborative Law

HB 2512 - Adoption of the Uniform Collaborative Law Act[27]

HB 2512 would have added Chapter 160 to the CPRC and adopted the Uniform Collaborative Law Act in order to clarify rules about the mechanics of collaborative law. Collaborative law is a voluntary process that is intended to provide for a form of limited scope representation in which an attorney is retained solely for the purpose of reaching a settlement, and expressly not for the purpose of litigation.

F. Constitutional Challenges to Texas Statutes

SJR 8 - Constitutional Amendment Authorizing Legislature to Require a Court to Provide Notice to the Attorney General of a Constitutional Challenge to State Statutes[28]

SJR 8 sought to amend the Texas Constitution to specifically authorize the Legislature to (1) require a court to notify the Attorney General of a challenge to the constitutionality of a Texas statute, and (2) prescribe a reasonable period after notice was provided during which the court may not enter a judgment holding a statute unconstitutional. [**Note**: SJR 8 was the legislative response to the 2013 decision by the Texas Court of Criminal Appeals (CCA) holding that section 402.010(a)-(b) of the Government Code, which prevents a court from entering a final judgment until the Attorney General is notified of a constitutional challenge to a statute, violated the separation-of-powers principles set forth in the Texas Constitution[29]]. The Legislature passed legislation in 2011 (HB 2425) amending the Government Code to require courts to notify the Attorney General when constitutional challenges to

[24] Tex. H.B. 2045, 84th Leg., R.S. (2015); Tex. S.B. 1430, 84th Leg. R.S. (2015).
[25] Tex. H.B. 2624, 84th Leg., R.S. (2015).
[26] Tex. H.B. 1353, 84th Leg., R.S. (2015).
[27] Tex. H.B. 2512, 84th Leg., R.S. (2015).
[28] Tex. S.J.R. 8, 84th Leg., R.S. (2015).
[29] *Ex parte Lo*, 424 S.W.3d 10, 29-30 (Tex. Crim. App. 2014).

state statutes were raised. The law was amended in 2013 to place the burden of notifying the court of the pleading that should be served on the Attorney General on the party raising the constitutional challenge (SB 392).

G. Construction Defect Claims

HB 1784 - Construction Defect Claims[30]

HB 1784 sought to amend section 41.015 of the CPRC to establish a 10-year statute of repose for construction defect claims against the person who actually designed, administered, constructed, or repaired an improvement to real property. The statute of repose would have applied only to the actual costs incurred in curing a construction defect and the amount of damages for cost to cure would be reduced by 10% on each anniversary date of substantial completion of the construction of repair that occurred before the date the action was filed. An award of exemplary damages, multiplied damages, or other damages computed on the basis of the amount of damages for the cost to cure the defect would have reflected any reduction made under section 41.015.

H. Damages

HB 419 - Federal Income Tax Liability for Damages Awarded in Civil Actions[31]

HB 419 would have amended Chapter 41 of the CPRC to require a defendant to compensate a claimant for federal income tax liability arising out of a damages award.

HB 820 - Liability for Damages Arising from Certain Motor Vehicle Accidents[32]

HB 820 sought to amend the CPRC by adding Chapter 72A, which would have prevented an uninsured driver who was in a car accident from recovering exemplary and noneconomic damages in a lawsuit for bodily injury, death or property damage. The same prohibition would have applied to derivative claims arising out of the accident, such as claims for wrongful death or loss of consortium or companionship. However, the prohibition would not have applied to claims brought by the uninsured driver in a representative capacity (e.g., as next friend if the uninsured driver's minor child was injured) or if the at-fault driver was driving drunk, acted willfully or was grossly negligent, had fled the scene, or was committing a felony when the accident happened.

I. Deceptive Trade Practices Act

HB 2898 - Relating to Certain DTPA Procedures, Civil Penalties, and Remedies[33]

HB 2898 would have amended sections 17.45(9) and (13) of the Business & Commerce Code in order to modify the definitions of "intentionally" and "knowingly" and certain portions of the provisions related to the consumer protection division of the Attorney General's office (i.e., sections 17.47, 17.60, and 17.61). More specifically, HB 2898 would have (a) substituted the phrase "misleading nature" for the word "unfairness" in the "knowingly" definition in section 17.45(9); and (b) changed the definition of "intentionally" to read as follows:

> *(13) "Intentionally" means actual awareness, at the time of the act or practice complained of, of the falsity, deception, or misleading nature [~~unfairness~~] of the act or practice giving rise to the consumer 's claim [,] or the condition, defect, or failure constituting a breach of warranty giving rise to the consumer's claim, coupled with the specific intent that the consumer act in detrimental reliance on the act, practice, condition, defect, or failure [~~falsity or deception or in detrimental ignorance of the unfairness~~]. Intention may be inferred from objective manifestations that indicate that the person acted intentionally or from facts showing that a defendant acted with flagrant disregard of prudent and fair business practices to the extent that the defendant should be treated as having acted intentionally.*
>
> The remaining changes specifically related to the enforcement provisions applicable to the Attorney General's office.

[30] Tex. H.B. 1784, 84th Leg., R.S. (2015).
[31] Tex. H.B. 419, 84th Leg., R.S. (2015).
[32] Tex. H.B. 820, 84th Leg., R.S. (2015).
[33] Tex. H.B. 2898, 84th Leg., R.S. (2015).

J. Decisions Based on Foreign Laws (Non-Family Law Proceedings)

HB 670 - Application of Foreign Laws and Foreign Forum Selection in Texas (Related Constitutional Amendment: HJR 32)[34]

HB 670 and HJR 32 were similar to bills and related resolutions filed in 2011 and 2013 that failed to pass. HB 670 and HJR 32 would have prohibited a court, arbitrator, or administrative adjudicator from basing "a ruling or decision" on "a foreign law," or otherwise enforcing contract provisions that either required the application of a foreign law to a dispute or required the parties to litigate their dispute in a forum outside of the United States if such provisions violated a right guaranteed by the United States Constitution or the Texas Constitution.

HB 828 - Application of Foreign or International Laws or Doctrines[35]

HB 828 would have prohibited a court, arbitrator, or administrative adjudicator from basing "a ruling or decision" on either "a foreign or international law or doctrine" or "a prior ruling or decision that was based on a foreign or international law or doctrine." HB 828 would have also required a court to "uphold and apply the Constitution of the United States, the constitution of this state, federal laws, and the laws of this state, including the doctrine that is derived from the First Amendment to the United States Constitution and known as the church autonomy doctrine."

K. Defamation/Libel Actions

HB 4116 - Defense to Libel Actions[36]

HB 4116 sought to amend section 73.005 of the CPRC by adding subsections (b) and (c), which would have resulted in section 73.005 reading as follows:

> ***Sec. 73.005. TRUTH A DEFENSE***. ***(a)*** *The truth of the statement in a publication on which a libel action is based is a defense to the action.* ***(b)*** *Subject to subsection (c), it is a defense to a libel action that the publication accurately reported the allegations of a third party regarding a matter of public concern.* ***(c)*** *Subsection (b) does not apply if: (i) the publication was made with actual malice; and (ii) the fact that the allegation was made is not itself a matter of public concern.*

L. Elections

HB 25/SB 1702 - Elimination of Straight Ticket Voting for Judicial Offices[37]

HB 25 and SB 1702 would have eliminated straight ticket voting for judicial offices. HB 25 and SB 1702 were virtually identical to SB 103 filed in 2013, which was voted out of committee but never was put to a vote before the full Senate.

HB 1444 - Elimination of Straight-Party Voting in Certain Counties[38]

HB 1444 would have amended section 52.071 of the Election Code to eliminate straight ticket voting for judicial offices and local executive offices in counties with a population over 1,000,000.

HB 3880 - Filing Requirements for Candidates for Certain Judicial Offices[39]

HB 3880 would have repealed sections 172.021(e) and (g) of the Elections Code, which would have eliminated the petition requirement for certain judicial candidates. Specifically, under HB 3880, candidates for the following judicial offices would no longer have to include a petition with their application and fee to get on the general primary election ballot:

- Chief Justice or justice of the Supreme Court;
- Presiding Judge or judge of the CCA;
- Chief justice or justice of a court of appeals in an appellate district in which a county with a population of more than one million is wholly or partly situated;
- district or criminal district judge of a court in a judicial district wholly

[34] Tex. H.B. 670, 84th Leg., R.S. (2015); Tex. H.J.R. 32, 84th Leg., R.S. (2015).
[35] Tex. H.B .828, 84th Leg., R.S. (2015).
[36] Tex. H.B. 4116, 84th Leg., R.S. (2015).
[37] Tex. H.B. 25, 84th Leg., R.S. (2015); Tex. S.B. 1702, 84th Leg., R.S. (2015).
[38] Tex. H.B. 1444, 84th Leg., R.S. (2015).
[39] Tex. H.B. 3880, 84th Leg., R.S. (2015).

contained in a county with a population of more than 1.5 million;

- judge of a statutory county court in a county with a population of more than 1.5 million; and

- justice of the peace in a county with a population of more than 1.5 million.

M. Family Law

SB 531 - Application of Foreign Laws and Foreign Forum Selection in Proceeding involving Marriage, a Suit for Dissolution of a Marriage/Affecting Parent-Child Relationship[40]

SB 531 would have amended the Texas Family Code by adding Chapter 1A to Subtitle A, Title 1, which would have prohibited a court or arbitrator in a family law matter from making a ruling or decision based on a foreign law if the application of that law would be "contrary to the public policy of [Texas]." Under the bill, the application of a law would be contrary to public policy if it: (1) violated a fundamental right guaranteed by the United States Constitution; (2) violated a fundamental right guaranteed by the Texas constitution; (3) violated good morals or natural justice; or (4) be prejudicial to the general interests of the citizens of Texas.

SB 531 also sought to amend the Texas Family Code by adding Chapter 112 to Subtitle A, Title 5, which would have provided that a contract provision involving the marriage relationship or the parent-child relationship providing that a foreign law was to govern a dispute arising under the contract was void to the extent that the application of the foreign law to the dispute was contrary to Texas public policy. The bill also sought to establish that a contract provision involving the marriage relationship or the parent-child relationship and providing that the forum to resolve a dispute arising under the contract was located outside the states and territories of the United States was void if the foreign law that would have been applied to the dispute in that forum was, as applied, contrary to Texas public policy.

Further, SB 531 prohibited a Texas court with jurisdiction to adjudicate a suit affecting the marriage relationship or a suit affecting the parent-child relationship from declining jurisdiction because a foreign court was a more convenient forum if the foreign court would have applied foreign law to the dispute that, if applied, was contrary to Texas public policy.

SB 1090/HB 3943 - Application of Foreign Laws and Foreign Forum Selection in a Marriage/Divorce Proceeding or a Suit Affecting the Parent-Child Relationship[41]

SB 1090 and HB 3943 sought to amend the Texas Family Code to strictly prohibit a court, arbitrator, or administrative adjudicator from basing a decision on a foreign law and from enforcing a contract provision involving a marriage or parent-child relationship that was based on a foreign law, regardless of whether the provision is substantive or procedural (i.e., forum selection or governing law clauses). SB 1090 and HB 3943 would not have limited the prohibition to only those instances in which the application of the foreign law violates a fundamental right guaranteed by the United States Constitution, the Texas Constitution, or a Texas statute.

HB 899 - Application of Foreign Laws and Foreign Forum Selection in Certain Family Law Proceedings[42]

HB 899 was similar to failed bills filed in prior sessions that would have prohibited a court or arbitrator in suits involving the dissolution of a marriage from making a ruling or decision based on a foreign law if the application of that law would violate a right guaranteed by the United States Constitution, the Texas Constitution, or a Texas statute.

HB 1195 - Disclosure by an Attorney before Accepting Representation in a Marriage Dissolution Proceeding[43]

HB 1195 would have required an attorney to disclose certain information to a prospective client before agreeing to represent that client in a divorce proceeding. More specifically, HB 1195 sought to amend the Family Code to require: (1) the attorney to provide a prospective client with a disclosure form promulgated by the State Bar of Texas (SBOT); and (2) the client to acknowledge in writing that the client has received and understands the disclosure. The disclosure would have included information about

[40] Tex. S.B. 531, 84th Leg., R.S. (2015).

[41] Tex. H.B. 3943, 84th Leg., R.S. (2015); Tex. S.B. 1090, 84th Leg., R.S. (2015).

[42] Tex. H.B. 899, 84th Leg., R.S. (2015).

[43] Tex. H.B. 1195, 84th Leg., R.S. (2015).

arbitration, mediation, collaborative law, and alternatives to retaining an attorney for the dissolution of a marriage, as well as any other information that the SBOT may require.

N. Governmental Immunity

SB 1600/HB 3641 - Limit on Award of Attorney's Fees in Certain Proceedings against the State or State Agency[44]

SB 1600 and HB 3641 sought to amend the Texas Uniform Declaratory Judgments Act and limit the amount of attorney's fees awarded in cases seeking declaratory relief against the state or a state agency to an amount "not to exceed $250,000."

HB 2375 - Liability of a Governmental Unit for Personal Injury and Death Caused by the Governmental Unit's Negligence[45]

HB 2375 would have amended section 101.021(2) of the CPRC and waived immunity under the Texas Tort Claims Act (TTCA) for acts of employees that caused personal injury or death due to "the negligence of the governmental unit" if the governmental unit would otherwise be liable if it were a private person. Under HB 2375, negligence arising from "a condition or use of tangible personal or real property" would be eliminated from the TTCA.

O. Government Settlement Agreements

HB 1630 - Limitations on Settlement Agreements with Governmental Units[46]

HB 1630 would have prohibited a state or local governmental unit from entering into a settlement of a claim or action against the governmental unit in which: (1) the amount of the settlement was equal to or greater than $30,000; and (2) a condition of the settlement required the party seeking affirmative relief against the governmental unit to agree not to disclose any fact, allegation, evidence, or other matter to any other person, including a journalist or other member of the media. HB 1630 also:

- Prohibited a governmental unit from disclosing the personal information of a party seeking affirmative relief unless the party agreed to the disclosure.
- Provided that a provision in a settlement agreement that was in violation of the non-disclosure prohibition was void and unenforceable.
- Provided that the bill did not affect information that was privileged or confidential under other law.
- Provided that evidence of furnishing (or offering or promising to furnish) or accepting (or offering or promising to accept) a valuable consideration in compromising or attempting to compromise a disputed claim against a governmental unit was not admissible to prove liability for (or the invalidity of) the claim or its amount.
- Provided that evidence of conduct or statements made in settlement negotiations was likewise not admissible; that such prohibitions did not require the exclusion of any evidence otherwise discoverable merely because it was presented during settlement negotiations, or when the evidence was offered for another purpose, such as proving bias or prejudice or interest of a witness or a party, negating a contention of undue delay, or proving an effort to obstruct a criminal investigation or prosecution.

P. Health Care Liability

HB 956 - Scope of a Health Care Liability Claim[47]

HB 956 was similar to a bill that also failed to pass in 2013 (i.e., HB 2644) and was the legislative response to a series of Supreme Court cases addressing the scope of "health care liability claims" under the Texas Medical Liability Act, including *Texas West Oaks Hospital, L.P. v. Williams*. Specifically, HB 956 sought to amend the terms "claimant" and "health care liability claim" in Chapter 74 of the CPRC in an effort to "clarify" the meaning of those terms. Specifically, the term "claimant" would have meant a "patient, including a deceased patient's estate", instead of "person, including a

[44] Tex. S.B. 1600, 84th Leg., R.S. (2015); Tex. H.B. 3641, 84th Leg., R.S. (2015).
[45] Tex. H.B. 2375, 84th Leg., R.S. (2015).
[46] Tex. H.B. 1630, 84th Leg., R.S. (2015).
[47] Tex. H.B. 956, 84th Leg., R.S. (2015).

decedent's estate." The term "claimant" would have included "both the patient and the party seeking recovery of damages" in cases in which "a party seeks recovery of damages related to injury of another person who is a patient, or other harm to the patient." The bill also sought to amend the definition of "health care liability claim" to specify that such claims arise from "treatment, lack of treatment, or other claimed departure from accepted standards of medical care, or health care, or safety *directly related to health care*…" [emphasis added] and that the term "does not include claims arising from an injury to or death of a person who is not a patient, including employment and premises liability claims."

Q. Insurance Claims

SB 1166 - Recovery of Damages for Delayed Payment of Certain Insurance Claims[48]

SB 1166 would have amended the "Prompt Payment of Claims" section of the Insurance Code to provide additional instances in which an insurer would not be liable for damages due to a delay in paying on a first party claim. Under SB 1166, the damages-for-delay provisions would not apply if: (1) the amount of damages awarded as a result of arbitration or litigation was less than 80 percent of a settlement offer (as defined by section 42.001 of the CPRC) made by an insurer and rejected by the claimant; (2) a claimant failed to provide an affidavit of damages as defined by SB 1166; or (3) the insurer paid to the claimant the amount of damages awarded as a result of an appraisal no later than the 15th business day after the date the damages were awarded in the appraisal.

The "affidavit of damages" provisions in SB 1166 would have required a claimant to provide an insurer with an affidavit containing the dollar amount of all damages the claimant intended to seek in a suit no later than the 30th day before the date the claimant commenced the suit against the insurer. However, if a claimant ultimately sought damages that exceeded the amount in the claimant's affidavit, the claimant would have been required to provide the insurer with written notice of the excess amount by affidavit no later than the 15th day before the date the claimant filed a pleading seeking the excess amount.

Under SB 1166, a claimant could have filed a claim seeking damages as a "small claims case" (as provided by section 27.060 of the Government Code) if the disputed amount of the insurance claim did not exceed the maximum amount allowed for a small claims case as determined by the Texas Rules of Civil Procedure. However, the total amount awarded in an action filed as a small claims case could not exceed two times the disputed amount of the claim. If a suit seeking damages was filed as a small claims case as provided by the Government Code, an insurer could elect to waive the insurer's right to appeal no later than the 15th day after the date the suit is filed against the insurer.

Finally, SB 1166 also would have amended section 542.060 of the Insurance Code to modify the damages provisions of that section. In addition to paying the amount of the claim, an insurer would have been liable for interest only on the "disputed amount" of the claim, for reasonable and necessary attorney's fees, and, in small claims cases, for court costs if the insurer did not waive its right to appeal any judgment entered in the small claims case. SB 1166 also would have added the following to the damages section of the "Prompt Payment of Claims" section of the Insurance Code: (1) the court would determine the amount of attorney's fees awarded, but the amount of attorney's fees had to bear a reasonable relationship to the damages awarded by the trier of fact based on the disputed amount of the claim; (2) any interest awarded would begin to accrue on the date the claimant provided the affidavit of damages; and (3) an attorney could not share attorney's fees awarded with the claimant.

SB 1628 - Insurance Claims and Certain Prohibited Acts and Practices Relating to the Business of Insurance[49]

SB 1628 sought to amend various sections of the Insurance Code to do, among other things, the following:

- The definition of "person" would no longer include an adjuster or any third-party individual or entity "engaged by an insurer to provide adjusting, estimating, consulting, engineering, or other services related to the insurer's adjustment of a claim."

- An insurer would be "solely responsible" for any "unfair method of competition or an unfair or deceptive act or practice in the business of insurance" committed by an individual employed by the insurer as

[48] Tex. H.B. 1166, 84th Leg., R.S. (2015).

[49] Tex. S.B. 1628, 84th Leg., R.S. (2015).

an adjuster or a third-party individual or entity engaged by the insurer to provide adjusting, estimating, consulting, engineering, or other services related to the insurer's adjustment of a claim.

- An insured seeking damages in an action against an insurer would be required to provide written notice to the insurer at least 61 days prior to filing suit that includes a sworn statement containing the following information: (1) the specific damage items and the amount alleged to be owed by the insurer; (2) the amount of attorney's fees the insured reasonably incurred in asserting the claim against the insurer; and (3) the amount that the insured will accept in full and final satisfaction of the claim. If the sworn statement included damage amounts sought by the insured not previously submitted to the insurer, the notice must contain: (1) a sworn statement signed by the insured stating the specific damage items, the amount alleged to be owed by the insured, and the reason the damage items were not previously submitted to the insurer; (2) copies of reports, estimates, photographs, and other items reasonably supporting the insured 's additional damage items; (3) a statement that the insured will cooperate in allowing the insurer to inspect the insured property for purposes of investigating the additional damage items; (4) the amount of attorney's fees the insured reasonably incurred in asserting the claim against the insurer; and (5) a stated amount that the insured will accept in full and final satisfaction of the claim.

- Establish a requirement in which a failure to provide requisite notice prior to filing suit would, in certain circumstances, be subject to dismissal or abatement.

- Establish a 2-year statute of limitations for providing notice to an insurer of certain claims for damages to or loss of real property or tangible personal property.

HB 3697 - Texas Department of Insurance Study of Claims Data and Recovery of Attorney's Fees in First Party Claims[50]

HB 3697 would have amended section 542.062 of the Insurance Code to limit the recovery of attorney's fees in first party insurance claims to an amount equal to the recoverable economic damages. Under HB 3697, the Department of Insurance would have been required to research and evaluate claims data made in the past five years to compare and establish an understanding between first party claims made, legal actions filed by claimants to recover damages, and complaints made by claimants to the Department, if any.

HB 3822/HB 3533 - Recovery under Uninsured/Underinsured Insurance Coverage[51]

HB 3822 and HB 3533 sought to amend the Insurance Code by adding provisions that prohibit an insurer from requiring, as a prerequisite to asserting an uninsured/underinsured motorist claim, a judgment or other legal determination establishing the other motorist's liability or uninsured/underinsured status. Further, a judgment or other legal determination would not be a prerequisite to asserting a claim for unfair/deceptive acts or practices or for violations of the prompt payment of claims provisions of the Insurance Code. Under HB 3822 and HB 3533, an insurer would have been required to attempt in good faith to effectuate a prompt, fair, and equitable settlement of a claim once liability and damages have become reasonably clear.

Also, under HB 3822 and HB 3533, prejudgment interest would have started to accrue on the earlier of: (1) the 180th day after the date the claimant notified the insurer of the claim; or (2) the date on which suit was filed against the insurer to recover uninsured/underinsured motorist benefits. Further, for purposes of recovering attorney's fees under section 38.002 of the CPRC, a claim for uninsured/underinsured motorist coverage would have been considered presented when the insurer received notice of the claim.

R. Judicial Selection

[50] Tex. H.B. 3697, 84th Leg., R.S. (2015).
[51] Tex. H.B. 3533, 84th Leg., R.S. (2015); Tex. H.B. 3822, 84th Leg., R.S. (2015).

HB 2088 - Interim Study Regarding the Method by Which Judges and Justices are Selected[52]

HB 2088 would have created a joint interim committee on judicial selection (consisting of five (5) members from both the House and Senate) to study and review the method by which statutory county court, district and appellate justices/judges are selected for office. The joint committee would have been required to report its findings and recommendation to the governor, lieutenant governor, and speaker of the House by January 6, 2017. [**Note**: HB 2088 is similar to HB 2772 that passed last session and was signed by Governor Perry; however, the joint committee never met and a report was never generated.]

S. Judiciary/Court Administration

SB 64 - Appellate Court Procedures and Deadlines in Civil Actions[53]

SB 64 (also known as the "Appellate Court Accountability Act") sought to establish deadlines for the Supreme Court and intermediate courts of appeals to act on civil appeals.

Supreme Court Deadlines

SB 64 would have given the Supreme Court ninety (90) days from the date of filing to deny a petition for review if the court does not request a response and one hundred eighty (180) days if it does not request briefing. The Court would have been required to grant or deny the petition no later than three hundred (300) days after the petition is filed if the Court requests briefing. If the Court determined that the issues presented in a petition were related to issues in another case for which a petition has been granted and a decision pending, it could have placed the petition on hold until the Court decided the prior case. At such time, the Court would have been required to publish the names of the parties to the petitions and the issues the Court has determined to be related. Once a decision was issued in the case for which a petition was placed on hold, the Court would have thirty (30) days to grant or deny the petition.

The bill also required the Supreme Court to issue a decision for all cases in which the Court grants a petition during the "term of court" (i.e., the State's fiscal year) in which the petition for review was granted. If a petition was granted in June or later, the Court could carry the case into the next term under "extraordinary circumstances" but must explain the nature of the "extraordinary circumstances" in the order granting the petition. Any case carried over had to be decided no later than December 31st of the next term.

SB 64 would have also required the Court to adopt written procedures that allocated responsibilities to individual justices. The chief justice would have been required to enforce the procedures and deadlines against individual justices. Such enforcement options included prohibiting a justice from participating in future oral arguments, reassigning opinions, prohibiting a justice from participating in a new case, and referring a justice to the State Commission on Judicial Conduct.

Intermediate Appellate Court Deadlines

SB 64 sought to require the courts of appeals to announce whether oral argument had been granted in a civil appeal no later than sixty (60) days after the "final brief" was filed. Under the bill, oral argument had to be held no later than one hundred twenty (120) days after the date the final brief was filed, and the court must have issued its decision no later than ninety (90) days after oral argument (if granted) or the date the court announced that oral argument was denied.

The chief justice of each court of appeals was required to enforce the deadlines in the same manner as the Chief Justice of the Supreme Court, as well as submit a quarterly report to the Chief Justice of the Supreme Court regarding the court's compliance with the deadlines. If a court of appeals failed to comply, the Chief Justice could prohibit the filing of additional appeals in that court and order the transfer of appeals to other courts. If a court of appeals was prohibited from accepting new appeals, justices of that court would not be credited with state service for the time period during which the court would be prohibited from accepting appeals, and the Legislative Budget Board and Governor would be required to reduce the non-complying court's budget and shift money to courts receiving transfers. By January 31st of each year, the Chief Justice of the Supreme Court would have been required to submit a compliance report with the Governor, Lieutenant Governor, and Speaker of the House.

[52] Tex. H.B. 2088, 84th Leg., R.S. (2015).
[53] Tex. S.B. 64, 84th Leg., R.S. (2015).

SB 443 - Study and Recommendations on Consolidating the Court of Criminal Appeals and the Texas Supreme Court[54]

SB 443 sought to require the Judicial Council to study and make recommendations as to whether the CCA and the Supreme Court should be consolidated or whether one court should be abolished and its functions and jurisdiction transferred to the other court.

SB 524/HB 1427 - Review of State Laws Requiring an Action or Proceeding to be brought in Travis County or a Travis County Court[55]

SB 524 and HB 1427 would have created a commission to review Texas laws to identify each statute and state agency rule that required an action or proceeding to be brought or considered in Travis County, a Travis County district or statutory county court, or the Third Court of Appeals. The commission would have been required to make recommendations on whether the location of the action or proceeding in each statute or state agency rule served a legitimate state purpose, other than the convenience of the state agency, that superseded the interests of persons required to travel to Travis County to attend or participate in the action or proceeding or whether the identified statute or state agency rule should be revised to authorize an action or proceeding to be brought or considered in another Texas county.

SB 824 - Number of Jurors Required in Certain Civil Cases Pending in Statutory County Court[56]

SB 824 would have amended section 25.0001 of the Texas Government Code to require that civil cases pending in a statutory county court in which the amount in controversy was $200,000 or more be tried before a jury of twelve (12) members. The bill also required that the drawing of jury panels, the selection of jurors, and the related practice and procedure conform to that prescribed by law for district courts in the county where the statutory county court was located.

SB 824 also sought to authorize a commissioners court to reduce the jurisdiction of the county court to $200,000 in those counties in which the county court had concurrent jurisdiction with the district court in civil cases in which the amount in controversy exceeded $200,000, thus negating the need to use a twelve-person jury.

SB 967 - Authority of a District Clerk to Collect Fees for Providing Electronic Copies of Certain Court Records[57]

SB 967 would have amended section 51.318 of the Texas Government Code to prohibit a district clerk from charging a fee for noncertified electronic copies of any electronic document on file or of record in the clerk's office, unless the copy was provided in a bulk distribution.

SB 1970 - Increase of Statewide Electronic Filing Fees[58]

SB 1970 sought to raise the statewide electronic filing system fund fee collected by various courts from $20 to $30.

HB 427/HJR 49 - Creation of Texas Redistricting Commission[59]

HB 427 and HJR 49 would have created the Texas Redistricting Commission ("TRC"), which would be responsible for adopting redistricting plans for the election of the Texas House of Representatives, the Texas Senate, and the members of the United States House of Representatives elected from the state of Texas following each federal census. The TRC would have also been responsible for reapportioning judicial districts in the event the Judicial Districts Board fails to reapportion the districts.

HB 1416 - Judicial Recusal Based on Political Contributions[60]

HB 1416 would have required justices on the Supreme Court and judges on the CCA (but apparently not intermediate appellate court justices) to "recuse himself or herself from any case in which the justice or judge has in the preceding four years accepted political contributions…in a total amount of $2,500 or more" from "(1) a party to the case, (2) attorney of record in the case, (3) the law firm of an attorney of record in the case, (4) the managing agent

[54] Tex. S.B. 443, 84th Leg., R.S. (2015).
[55] Tex. S.B. 524, 84th Leg., R.S. (2015); Tex. H.B. 1427, 84th Leg., R.S. (2015).
[56] Tex. S.B. 824, 84th Leg., R.S. (2015).
[57] Tex. S.B. 967, 84th Leg., R.S. (2015).
[58] Tex. S.B. 1970, 84th Leg., R.S. (2015).
[59] Tex. H.B. 427, 84th Leg., R.S. (2015); Tex. H.J.R. 49, 84th Leg., R.S. (2015).
[60] Tex. H.B. 1416, 84th Leg., R.S. (2015).

of a party to the case, (5) a member of the board of directors of a party to the case, or (6) a general-purpose committee…that is established or administered by a person who is a party to the case." Similar legislation was filed in 2009, 2011, and 2013, all of which died in committee.

HB 1603 - Creation of the Chancery Court and Court of Chancery Appeals to Hear Certain Cases[61]

HB 1603 sought to create a statewide specialized civil trial court and an appellate court to hear certain business-related litigation cases, such as actions against businesses, accusations of wrongdoing by businesses or their members, disputes between businesses, violations of Business Organizations Code, Finance Code, and Business & Commerce Code. This court would have had no jurisdiction over governmental entities (absent the government entity invoking or consenting to jurisdiction) or personal injury cases unless agreed to by the parties and the court. Some of the other notable components of the bill were:

- The chancery court would be composed of seven (7) judges who were appointed by the governor for staggered six (6) year terms. The judges would be selected from a list of qualified candidates compiled by a bipartisan advisory council (Chancery Court Nominations Advisory Council) and would be required to have at least 10 years of experience in complex business law.

- The court clerk would be located in Travis County, but individual judges would be based in the county seat of their respective counties.

- Current venue rules would apply, but cases could be heard in an agreed-upon county or where the court may decide to be more convenient or necessary.

- There would be a removal procedure for cases filed in a district court.

- The Courts of Chancery Appeals, which would have handled appeals from the chancery trial court, would be composed of seven (7) justices from current court of appeals justices that were appointed by the governor based on a list of qualified candidates compiled by the advisory council. Justices would serve six (6) year terms and would hear cases in panels of three (3) randomly-selected justices. Appeals from the CCA would have gone to the Supreme Court.

HB 1656 - Public Financing of Campaigns for Appellate Judicial Offices[62]

HB 1656 was essentially the same bill that Rep. Anchia filed in 2013 (HB 1126) and died in committee. HB 1656 would have affected the manner in which appellate justice/judge campaigns are financed by providing a public financing option for eligible candidates. Specifically, under HB 1656, a candidate would request public financing by filing a petition signed by a specific number of qualified voters who also made a minimum contribution to the candidate's campaign. Once the Texas Ethics Commission (TEC) declared that a candidate met the eligibility standards, the candidate could begin receiving distributions from the fund and could no longer accept contributions from private contributors or benefit from the direct campaign expenditures on the candidate's behalf. The fund would be composed of any amounts appropriated or gifted, as well as by civil penalties levied by the TEC.

HB 2730 - Creation of Fifteenth District Court of Appeals[63]

HB 2370 would have created the Fifteenth District Court of Appeals, which would have sat in Edinburg and been composed of Cameron, Hidalgo, and Willacy counties. The court would have consisted of three (3) justices. Under HB 2370, the number of justices on the Thirteenth District Court of Appeals would have been reduced to three (3) justices.

HB 3426 - Jurisdiction of Statutory County Courts at Law[64]

HB 3426 sought to amend section 25.0003(c)(1) of the Government Code and modify the jurisdiction of statutory county courts at law in the following manner:

"civil cases in which the matter in controversy exceeds $500 but does not exceed $200,000,

[61] Tex. H.B. 1603, 84th Leg., R.S. (2015).

[62] Tex. H.B. 1656, 84th Leg., R.S. (2015).

[63] Tex. H.B. 2370, 84th Leg., R.S. (2015).

[64] Tex. H.B. 3426, 84th Leg., R.S. (2015).

> excluding interest [~~, statutory or punitive damages and penalties, and attorney 's fees and costs, as alleged on the face of the petition~~]."

In other words, under HB 3426, statutory or punitive damages, attorney's fees, and costs would have been included in determining the amount in controversy for purposes of determining jurisdiction.

HB 3430 - Jurisdiction of Supreme Court and Court of Criminal Appeals[65]

HB 3430 would have amended Chapter 22 of the Texas Government Code and essentially required that the Supreme Court be given an opportunity to review any constitutional rulings by the CCA before the rulings became final and effective. More specifically, HB 3430 would have added the following sections 22.1025 and 22.002(f) to the Government Code:

> *Sec. 22.1025:* "(a) Any ruling by the court of criminal appeals that any statute, rule, or procedure violates either the state or federal constitutions shall not be final and shall have no effect until the later of: (1) 60 days following the ruling; or (2) The denial or dismissal of a petition filed in the supreme court pursuant to Section 22.002(f) of the Government Code."
>
> *Section 22.002(f)*: "Whenever the court of criminal appeals determines that a statute, rule, or procedure is unconstitutional, the supreme court, on the petition of the attorney general or a district or county attorney, has original civil jurisdiction to issue writs of quo warranto and mandamus to correct any error in the court of criminal appeals' determination." Section 22.002(f) would have applied regardless of whether (1) the CCA ruled under the Texas Constitution, U.S. Constitution, or both; (2) the constitutional ruling by the CCA was characterized as criminal or civil; or (3) the ruling by the CCA was characterized as final or non-final.

HJR 62 - Constitutional Amendment Regarding the Recording and Publication of Certain Supreme Court and Court of Criminal Appeals Proceedings[66]

HJR 62 would have amended the Texas Constitution and required the Supreme Court and CCA to make a video recording (or other electronic visual and audio recording) of each oral argument, proceeding, and open meeting of each court and post the recording on each court's website.

HJR 81 - Constitutional Amendment to Change the Terms of District Court Judges to Six Years[67]

HJR 81 would have increased the terms of district court judges from four years to six years. A similar bill was filed in 2013, but failed to get out of committee.

HJR 90 - Constitutional Amendment to Abolish the Court of Criminal Appeals[68]

HJR 90 sought to abolish the CCA and give jurisdiction of criminal appeals to the Supreme Court. Similar legislation was filed in 2009, 2011, and 2013, each of which died in committee. Under HJR 90, death penalty cases would have been appealed directly to the Supreme Court, while all other criminal cases would go through the court of appeals. In non-death penalty cases that make it to the Supreme Court, the justices would sit in panels of three. The Supreme Court would hear death penalty cases en banc.

T. Lawsuit Financing/Lending

HB 3218 - Litigation Finance Agreements[69]

HB 3218 would have added Chapter 354 to the Finance Code and established statutory requirements for "litigation financing agreements." Under HB 3218, a litigation financing agreement would have been defined as an agreement under which "money is provided to or on behalf of a consumer by a litigation financing company for a purpose other than prosecuting the consumer's legal claim" and "the repayment of the money is in accordance with a litigation financing transaction the terms of which are included as part of the litigation financing agreement."

[65] Tex. H.B. 3430, 84th Leg., R.S. (2015).

[66] Tex. H.J.R. 62, 84th Leg., R.S. (2015).
[67] Tex. H.J.R. 81, 84th Leg., R.S. (2015).
[68] Tex. H.J.R. 90, 84th Leg., R.S. (2015).
[69] Tex. H.B. 3218, 84th Leg., R.S. (2015).

HB 3218 would have required litigation financing agreements to: (1) be in writing; (2) contain the initials of the consumer on each page; and (3) be "otherwise complete" when presented to the consumer for signature. Other required terms and disclosures would have included the following: (1) the funded amount to be paid to the consumer by the litigation financing company; (2) an itemization of one-time charges; (3) the total amount to be assigned by the consumer to the company, including the funded amount and all charges; and (4) a payment schedule that: (a) included the funded amount and charges; and (b) listed all dates and the amount due at the end of each 180-day period from the funding date until the due date of the maximum amount due to the company by the consumer to satisfy the amount owed under the agreement.

A similar bill (HB 1595) was voted out of committee in 2013, but was never voted on by the entire House.

HB 3454 - Assignment of Rights in an Individual's Legal Claim[70]

HB 3454 sought to regulate "civil justice funding" transactions and "civil justice funding companies," and would have permitted a civil justice funding company to enter into a "non-recourse transaction in which [the] civil justice funding company purchases, and a consumer assigns to the company, a contingent right to receive an amount of the potential proceeds of a settlement, judgment, award, or verdict obtained in the consumer's legal claim" provided that the transaction was documented via a written contract that complied with the requirements set forth in the statute. The bill specified that a civil justice funding transaction would not be considered a loan or subject to state laws governing loans (including limits on interest rates). A similar bill (HB 1254) was filed in 2013, but it died in committee.

U. Patent Infringement Claims

SB 1187/HB 3176 - Patent Infringement Claims[71]

SB 1187 and HB 3176 would have added Chapter 2005 to the Business & Commerce Code so as to prohibit bad faith patent infringement claims. More specifically, SB 1187 and HB 3176 sought to prohibit a person from sending a demand letter that makes, in bad faith, a claim of patent infringement against a Texas resident, and in connection with the claim: (1) filed a lawsuit alleging patent infringement; (2) threatened to file a lawsuit if the alleged patent infringement was not resolved; or (3) made a demand for compensation or damages or payment of a license fee based on the alleged patent infringement. For purposes of SB 1187 and HB 3176, a person would be making a claim of patent infringement in bad faith if: (1) the claim was objectively baseless, meaning that no reasonable litigant could reasonably expect success on the merits; and (2) the person making the claim knew or should have known that the claim was objectively baseless. However, a claim of patent infringement would have been presumed to be made in good faith if the claim was made by a person who held a certificate of authority issued by the Attorney General under Chapter 2005 or was a claim for relief arising under federal law.

SB 1187 and HB 3176 would not have created a private cause of action, but authorized the Attorney General to enforce any violations of Chapter 2005. The bill would have also created two information databases-- one for persons sending demand letters and another for the demand letters themselves, both of which would be maintained by the Secretary of State.

V. Product Liability Claims

HB 1988 - Liability of Manufacturers and Sellers for Misuse of Products[72]

HB 1988 sought to amend Chapter 82 of the CPRC to address the liability of a product manufacturer or seller for the subsequent misuse of a product. More specifically, the bill would have added section 82.0045 to the CPRC and provided that, in a product liability action, a manufacturer or seller would not be liable "for any claim arising out of harm caused by misuse of a product by a person other than the manufacturer or seller." HB 1988 also would have allowed the court to, on its own motion and after reasonable notice to the parties, dismiss a claim filed after September 1, 2015, "if the court finds by a preponderance of the evidence that the claim was caused by misuse of a product by a person other than the manufacturer or the seller."

W. Qualifications for Public Office and Term Limits

[70] Tex. H.B. 3454, 84th Leg., R.S. (2015).
[71] Tex. S.B. 1187, 84th Leg., R.S. (2015); Tex. H.B. 3176, 84th Leg., R.S. (2015).
[72] Tex. H.B. 1988, 84th Leg., R.S. (2015).

SJR 6 - Constitutional Amendment to Provide Qualifications for and Limit the Time that a Person May Serve in Certain Offices[73]

SJR 6 proposed a constitutional amendment that would have placed terms limits on legislators (12 years) and would have limited the amount of time that a legislator could serve as Speaker of the House of Representatives or as a committee chair. SJR 6 also sought to impose term limits on almost the entire Texas judiciary. For example, SJR 6 would have barred Supreme Court justices and CCA judges from re-election if they had previously been elected to two full terms; however, the intermediate appellate court justices would not have been subject to the term limits. SJR 6 also would have applied to "every district office or office of a political subdivision of this state that is filled by popular election," which included district judges, county court-at-law judges, justices of the peace and county and district attorneys. All would have been ineligible for re-election if they had served eight years or more.

SJR 24/HJR 38 - Constitutional Amendment Limiting to Two the Number of Consecutive Terms for Which a Person may be Elected or Appointed to Hold Certain State Offices[74]

SJR 24 and HJR 38 would have prohibited a person who has been elected or appointed to serve two consecutive terms in an office listed in Article IV, Section 1 of the Texas Constitution (i.e., Governor, Lieutenant Governor, Secretary of State, Comptroller of Public Accounts, Commissioner of the General Land Office, and Attorney General), as well as "any other statewide elective office, other than a statewide judicial office," from serving for a third consecutive term. However, SJR 24 and HJR 38 would not have limited a person's eligibility for election or appointment to serve nonconsecutive terms.

X. Survival Actions

HB 3416 - Authority of Certain Persons to Bring a Survival Action[75]

HB 3416 sought to amend section 71.021 of the CPRC by adding the following section (b-1): "A legal representative of the estate of the injured person may bring the action or, if no action is filed by a legal representative of the estate, one or more heirs may bring the action for the benefit of all heirs and the estate of the injured person."

Y. Trial Court Procedure

SB 1534 – Venue in Lawsuits Filed Against the State of Texas or State Agency[76]

SB 1534 would have amended the CPRC to add section 15.021, which provided that a lawsuit against the State of Texas or a state agency may be brought in either Travis County or "a county in which the court of appeals is held for a court of appeals district that includes the county in which the plaintiff: (a) resided at the time of the accrual of the cause of action; or (b) resides at the time the suit is brought."

HB 241 - Substituted Service of Citation through Social Media[77]

HB 241 sought to add section 17.302 to the CPRC so as to permit a court to authorize service of process via electronic communication through a "social media presence" if substituted service was authorized under the Texas Rules of Civil Procedure. HB 241 also would have required the Supreme Court to promulgate rules to provide for substituted service through social media. A similar bill was filed in 2013 (HB 1989), but died in committee.

HB 2211 - Agreed Venue Selection in Civil Actions[78]

HB 2211 would have amended CPRC section 15.020 and required a court to transfer an action to another county if the parties consented to the transfer and the motion to transfer was filed before trial begins.

Z. Wrongful Life/Birth Causes of Action

HB 1367 - Elimination of Wrongful Life/Birth Causes of Action[79]

HB 1367 would have amended Chapter 74 of the CPRC by adding Subchapter L, which would have expressly eliminated "wrongful life" and "wrongful birth" causes of action.

[73] Tex. S.J.R. 6, 84th Leg., R.S. (2015).
[74] Tex. S.J.R. 24, 84th Leg., R.S. (2015); Tex. H.J.R. 38, 84th Leg., R.S. (2015).
[75] Tex. H.B. 3416, 84th Leg., R.S. (2015).
[76] Tex. S.B. 1534, 84th Leg., R.S. (2015).
[77] Tex. H.B. 241, 84th Leg., R.S. (2015).
[78] Tex. H.B. 2211, 84th Leg., R.S. (2015).
[79] Tex. H.B. 1367, 84th Leg., R.S. (2015).

HB 3008 - Elimination of Wrongful Birth Cause of Action[80]

HB 3008 would have amended Title 4 of the CPRC by adding Chapter 71A, which would have expressly prohibited a cause of action and damages arising on a claim that "but for the act or omission of another, a person would not have been permitted to have been born alive but would have been aborted."

IV. SUMMARY

In summary, the 84th Legislature considered numerous bills that, if passed and signed into law, would have a noticeable impact on the judicial branch and the practice of law as a whole. Some of the passed bills will become law; others will not. Either way, practitioners should be aware of such legislation and the forces at work behind them because some, if not all, of the unsuccessful measures may be addressed via interim charges (i.e., between-session studies), resurrected during the 2016 legislative session, or both.

Note: As a service to interested members of the bench and bar, during each legislative session, the author produces an e-newsletter that includes summarized information and links to relevant bills in order to keep recipients up to date on what is happening at the Capitol and how proposed legislation might affect the practice of civil trial and appellate lawyers and the judiciary. For those interested in receiving the e-newsletter, please contact Jerry D. Bullard at either of the following addresses: jdb@all-lawfirm.com or j.bullard1@verizon.net.

[80] Tex. H.B. 3008, 84th Leg., R.S. (2015).