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6 Pivotal Texas Bills To Watch In 2025

By **Catherine Marfin**

Law360 (January 1, 2025, 8:01 AM EST) -- Texas lawmakers have filed a litany of bills to debate in the new year that would expand access to the state bar, emulate the end of the Chevron doctrine for state agencies and add new layers to the judicial complaint process.

Here are six bills Texas attorneys should watch closely during the state Legislature's 89th session, which begins Jan. 14.

Greater Access to the State Bar

Introduced by Republican Rep. Wesley Virdell, a first-time member of the Texas House of Representatives, House Bill 1387 would expand eligibility requirements for those wishing to sit for the Texas bar.

The state's government code currently limits bar eligibility to those who have "completed the prescribed study in an approved law school." Under Virdell's bill, those who have completed a two-year apprenticeship supervised by a licensed attorney and those who have worked at least two years as a full-time paralegal would be able to sit for the bar as well.

"There are 30 million Texans now and population keeps going up," said Christopher D. Kratovil of Dykema Gossett. "The population of lawyers needs to keep up. Not for high-end legal services. Exxon Mobil and Amazon are always going to be able to find great lawyers. But people with family law matters, whether it's divorce or adoption or trust and estates matters, probating grandma's will — meat and potatoes legal stuff. … We need more lawyers for that sort of thing."

H.B. 1387 would create a system **similar to California's**, where applicants can take the bar exam without having attended law school, Kratovil said.

A Texas Version of Loper Bright

Rep. Brian Harrison, R-Midlothian, filed H.B. 606, which would require judges to interpret state laws, rules and other guidelines de novo, or without deference to an agency's interpretation.

The law would also require judges to resolve "ambiguity" in state laws "in favor of limiting state agency authority."

Experts told Law360 that Harrison's bill seems intended to mimic the U.S. Supreme Court's June **decision** in Loper Bright Enterprises et al. v. Gina Raimondo, which overturned the decades-old Chevron doctrine that allowed courts to defer to agency interpretation of law in rulemaking.

"If it were to pass, we will see a lot of agency determinations getting challenged all over the state because it opens that back up, kind of gives us a second arbiter who's no longer bound deferentially to the state agency," said Tommy Haskins, Dallas managing partner of Barnes & Thornburg.

Similar versions of the bill have been filed in past sessions, and its reintroduction now following the Loper Bright decision could get more lawmakers' support, Haskins said.

More Venues for State Challenges

Rep. Jared Patterson, R-Frisco, filed H.B. 1494, a bill that aims to expand the venues available to

plaintiffs challenging administrative rules adopted by a state agency.

The law would allow such challenges filed against the state, state agency or state official to be filed in the county of the plaintiff's residence, the county of the plaintiff's principal office, the county in which the headquarters of the defendant agency is located, or in Travis County. Currently, such lawsuits can only be filed in Travis County.

The law would also bar state agencies from adopting rules that limit venues.

John Sepehri of Foley & Lardner said that the bill is likely an attempt to build off lawmakers' creation of the **statewide Fifteenth Court of Appeals** in 2023.

"Obviously Travis County has a bent that's a bit different politically than the state as a whole," Sepehri said. "I think the Legislature was concerned that the Third Court was hearing all these very important matters of administrative law and state constitutional issues."

Patterson, Sepehri said, is likely "trying to take that same philosophy to the lower court level."

"There's a perception, rightly or wrongly, at least among some members of the Legislature, that if you have everything in Travis County, it may tilt things in a certain direction just because we do elect our judges," he said.

A Push for Texas Supreme Court Primacy

Sen. Bryan Hughes, R-Mineloa, has introduced a bill that would remove several restrictions on the Texas Supreme Court's writ power.

The Texas Government Code currently bars the court from issuing writs against the governor, the Court of Criminal Appeals, or a judge of the Court of Criminal Appeals.

Senate Bill 311 would remove all those restrictions except the bar on writs against the governor.

David G. Cabrales, an attorney and lobbyist in the Austin and Dallas offices of Foley & Lardner, said the bill is part of a well-known effort by Hughes to make the Texas Supreme Court the higher of the state's two courts of last resort.

"It could be a continuation of his effort to try to have the Supreme Court be the greater of equals whenever there's something that needs to be resolved between the two of them," Cabrales said.

Or, Cabrales said, the bill could be in response to the Texas Supreme Court's **decision** that lawmakers couldn't use a subpoena to halt the execution of Robert Leslie Roberson III, who was convicted of fatally shaking his baby in 2002.

Additions to Judicial Complaint Process

Members of both chambers of the Texas Legislature have submitted bills ahead of the 2025 session that seem aimed at creating more steps in the judicial complaint process.

Under H.B. 797, authored by Rep. Jeff Leach, R-Plano, violations of certain bail provisions of the Texas criminal code would be added to the list of the types of conduct that could result in the discipline or removal of judges. Those provisions include a requirement that judges release defendants on personal bonds or lower their bail if the state is not ready for trial within certain timeframes.

The bill would also require staff of the State Commission on Judicial Conduct to conduct a preliminary investigation into filed complaints "as soon as practicable after a complaint is filed." Commission staff would then be required to draft recommendations for commission actions.

The more formalized complaint process also includes shortened timeframes for the resolution of judicial complaints. For those publicly reprimanded for violations of the bail provision, notifications will be sent to the governor, lieutenant governor, and the chief justice of the Texas Supreme Court.

S.B. 293 by Sen. Joan Huffman, R-Houston, includes similar provisions, like those on bail violations in Leach's bill and notifications for public reprimands of such violations.

Unlike Leach's bill, however, Huffman's proposal includes administrative penalties for those who knowingly file false judicial complaints and allows commission staff to recommend dismissal of a complaint following the results of a preliminary investigation. Huffman's bill also includes "failure to meet deadlines set by statute or binding court order" among the reasons that a judge can be reprimanded.

Cabrales said the bills are likely a response to frustration regarding bail provisions from certain members of the Legislature.

"Those bills are designed to address that and also to sort of speed up and bolster and require some back-end reporting from the judicial commission when they go and investigate a judge for the laundry list of things that people can complain about," Cabrales said. "I think that [lawmakers] felt like there are limited tools in the toolbox because [judges] are elected officials, and even those limited tools weren't being used to maximum effect."

Stays on Attorney Complaints

In a similar vein as Leach and Huffman, Sen. Bob Hall, R-Edgewood, filed S.B. 133 in an apparent attempt to formalize the process for complaints against members of the state bar.

Hall's bill would allow the Texas Supreme Court to stay a complaint against an attorney and reconsider disciplinary findings. The bill would give the Supreme Court 45 days to grant or deny a motion for a stay of a complaint before it would be considered denied.

The bill, according to Kratovil, of Dykema, is "a natural expansion of the Supreme Court's jurisdiction."

--Editing by Robert Rudinger.
