

# *in* CHAMBERS

THE OFFICIAL PUBLICATION OF TEXAS CENTER FOR THE JUDICIARY, INC. VOLUME 24, No. 1 WINTER 1997

## Learning to Take the Bench With Confidence

The state's newest judges learned the ins and outs of sitting the bench at the College for New Judges in Dallas last December. Newly elected and appointed judges were invited to the College as a way to learn the transition from advocate to impartial judge.

Fifty-nine attendees were taught on a variety of topics by experienced judges from around the state. The group of new judges ranked the overall conference a 4.84 on a scale of one to five. The new class resoundingly appreciated the time and input that faculty members devoted. One attendee commented about the "...outstanding faculty that was encouraging and 'inclusive' and tried hard to make you feel a part of the group."

The week-long College contained both an appellate program and a trial judges program, with the appellate program addressing judicial opinion writing, decision making, and fairness. Trial judges attended classes on caseflow management, evidence, trial management and courtroom technology. Overlapping topics concerning courts and the media, transition to the bench and judicial ethics were open to all attendees.

"The purpose of this class is to inform

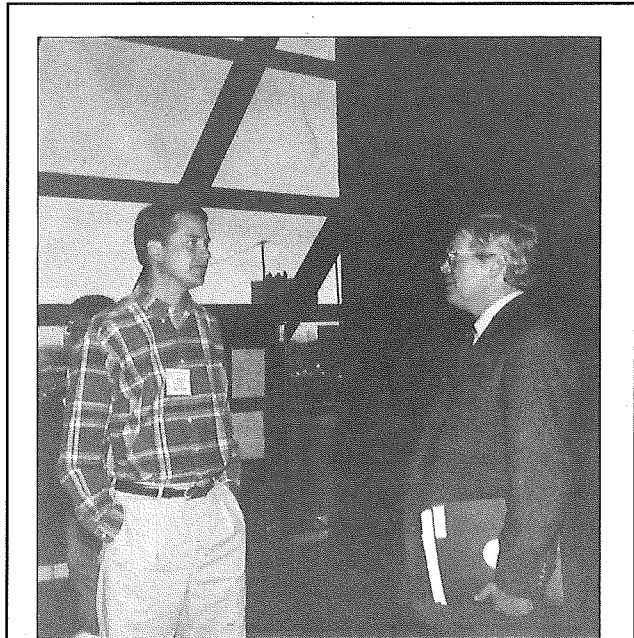
new judges about their new role, on a variety of levels, from writing opinions and handling jurors, to their own personal security," Mari Kay Bickett, executive director of the Texas Center for the Judiciary, said. "The week-long course is intense, but we try to pack it full of useful information."

Interspersed within class sessions were discussion groups, which allowed attendees

to debate and delve further into topics of interest or confusion within a small group. These sessions were lead by experienced judges who attended the classes along with the new judges.

The College gave these new officials an opportunity to take a step back from their law practice and examine in-depth their role as a judge. In addition, participants were able to develop

relationships with both new and experienced judges. "Forming connections with judges state-wide gives the new judges a variety of colleagues to exchange information with, and approach with questions during their tenure," Judge S. Kent Sims, dean of the college, said. "That aspect is one of the most valuable offered at the College for New Judges."



Judge Steve Ables, presiding judge of the sixth administrative region and faculty member at the College for New Judges, discusses the transition from attorney to judge with attendee Reed Leverton, judge of the 383rd District Court in El Paso.

<p>Judicial Excellence Through Education</p>	<p><i>inside</i> <b>THIS</b> <b>ISSUE</b></p>	<b>FEATURES</b>		<b>DEPARTMENTS</b>	
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judicial  
notes

Family Law Forms Available

In need of family law forms? Judge John D. Montgomery of Harris County has a collection of forms that he has drafted or accumulated, including forms to make the required reports to the Supreme Court regarding contempt/commitment orders for child support and access violations; and orders for the appointment of a mental health professional for a custody evaluation. Please contact Judge Montgomery at (713) 755-6234 if you are in need of any of these or other family law forms.

New Video Offer

The Texas Center is pleased to offer an instructional guide and videotape entitled *ABA's Model Rules for Judicial Disciplinary Enforcement*. These materials were produced by the National Judicial College. Please contact Angela at the Texas Center at (800) 252-9232 if you are interested in checking out these materials.

Judicial Immunity Bill Passes

On October 19, 1996, President Clinton signed a bill which included enhanced immunity for state trial judges. The

language is incorporated into the Federal Courts Improvement Act of 1996. This omnibus bill reversed the 1984 *Pulliam v. Allen* decision which held that a state court judge acting in her judicial capacity, did not have immunity from actions for injunctive relief arising out of federal civil rights actions under 42 USC §1988, or from attorney's fees awards under the Civil Rights Attorney's fees Award Act, 42 USC §1988. Soon after the decision, the American Bar Association adopted a policy to work to restore judicial immunity (by reversing the decision).

Since then the bill had been repeatedly introduced pushing the ABA proposal, but was always blocked. In 1995 Senator Strom Thurmond (R-SC) became the primary sponsor of the legislation and on August 4, 1995, introduced S.1115, the ABA proposal to reverse *Pulliam* in the 104th Congress. Senator Thurmond's bill prohibits the awards of costs, including attorneys fees against a judicial officer for an act committed in his or her capacity as a judicial officer, and not clearly in excess of his or her jurisdiction, and prohibits the award of injunctive relief against a judicial officer unless a declaratory judgement was violated or declaratory relief was unavailable.

The legislation was caught up in the end of session legislative maneuvering and for a while it appeared doubtful that anything would pass. The ABA checked with the key players in the House and Senate and was assured that if a courts bill passed, judicial immunity would be included. A stripped-down "compromise" omnibus courts bill was worked out by House and Senate negotiators and passed by unanimous consent on the last day of the session.

Legislative Committees

The following judges serve on the Legislative Committees, and are working to ensure the judiciary gets a fair shake during the 75th Texas Legislative Session. These committee members have been meeting for the past several months to discuss and determine the primary issues the judiciary wants to take before the legislature.

The next scheduled meeting is March 2, in Houston, before the College of Advanced Judicial Studies. If you have any information that may assist these committee members, or feel you can be of some assistance, please contact one of the following judges:

**TRIAL JUDGES LEGISLATIVE COMMITTEE  
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- (210) 278-3913
- Kevin Henderson (512) 930-4346
- Weldon Kirk (915) 235-3133
- Marvin Marshall (806) 293-9394
- Rogelio Valdez (210) 544-0837
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- Richard Barajas (915) 546-2064
- John Cornyn (512) 463-1331
- Carlton Dodson (806) 342-2650
- Adele Hedges (713) 655-2765
- Ed Kinkeade (214) 653-6529
- Max Osborn (915) 581-0685

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## THANK YOU FOR YOUR CONTRIBUTIONS

(contributions received as of January 31, 1997)

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Law. These courses will be held Monday and Tuesday, March 3 and 4, from 8:30 a.m. to 4:30 p.m., and enrollment is limited to a first-come, first-served basis.

There is also a general session class Wednesday, March 5 from 8:30 a.m. to noon entitled *The Judge's Role as Gatekeeper: Responsibilities and Powers*. Using a moderated Socratic panel discussion, this program will explore the gatekeeping role of judges, particularly with respect to the admissibility of expert scientific testimony. The purpose is to open minds to the complexity and ambiguity of issues facing the judiciary in light of both the *Daubert* decision and the Texas *Robinson* decision.

Along with the education classes, there will also be a spouse/guest program, which includes a trip to the Houston Museum of Fine Arts *Splendors of Ancient Egypt* exhibit, as well as a chartered excursion to the Galleria.

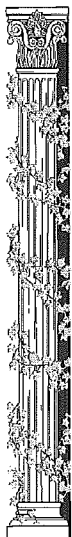
Please contact the Texas Center for the Judiciary with any questions.

### Spouse/Guest Program for College of Advanced Judicial Studies

The Spouse/Guest program for The College of Advanced Judicial Studies has been slightly altered since the publication of the invitation, due to museum rescheduling.

On Monday, charter buses will provide service from the hotel to the Galleria from 10 a.m. to 2 p.m.

On Tuesday an excursion to the Museum of Fine Arts Splendors of Ancient Egypt exhibit is planned. Following the tour, spouses and guests can enjoy lunch and shopping in the River Oaks area of Houston.

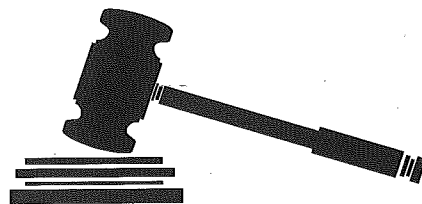


## College of Advanced Judicial Studies

The College of Advanced Judicial Studies is right around the corner, scheduled for March 2-5, 1997 in Houston at the Adam's Mark Hotel. The program offers judges the opportunity to stay updated on legal and judicial issues while earning Continuing Judicial Education (CJE) credit.

The college is offering education courses in one and two-day combinations. These classes include: *Doing Justice: Parables for Judges; Judicial Writing; Family Violence; The Computer: The Basics; Family Law; Developing Cultural Sensitivity in the Courts; Building Leadership Excellence for Judges; Juvenile Law Issues; Evidence; Mediation; Death is Different: Handling Capital Cases; Appellate Issues; and Updates in the*

Texas' Newest  
Administrators of Justice



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**Hon. Karen Angelini**

*4th Court of Appeals, San Antonio*  
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*65th District, El Paso*  
Succeeding Judge Ed Marquez

**Hon. Wayne Christian**

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Succeeding Martina Barrera

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*140th District Court, Lubbock*  
Succeeding William Shaver

**Hon. John Donovan**

*61st District Court, Houston*  
Succeeding Shearn Smith

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*351st District Court, Houston*  
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*384th District Court, El Paso*  
Newly designated Court

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Succeeding Don Ross

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Succeeding Tom Price

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*123rd District Court, Center*  
Succeeding Steve Dowd

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*County Criminal Court at Law #7, Fort Worth*  
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*28th District Court, Corpus Christi*  
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Succeeding Kenneth Douglas

**Hon. Gil Jones**

*33rd District Court, Marble Falls*  
Succeeding Clayton Evans

**Hon. Ed King**

*Criminal District Court #2, Dallas*  
Succeeding Larry Baraka

**Hon. Reed Leverton**

*383rd District Court, El Paso*  
Succeeding Kathleen Cordone

**Hon. Carlos Lopez**

*County Court at Law #2, Dallas*  
Succeeding Martin Richter

**Hon. Jim Lovett**

*6th District Court, Paris*  
Succeeding Webb Biard

**Hon. Susan Lowery**

*County Court at Law #3, Richmond*  
Newly designated Court

**Hon. Mike Mayes**

*410th District Court, Conroe*  
Newly designated Court

**Hon. Eric Scott McPherson**

*County Court at Law, Carthage*  
Succeeding Leroy LaSalle

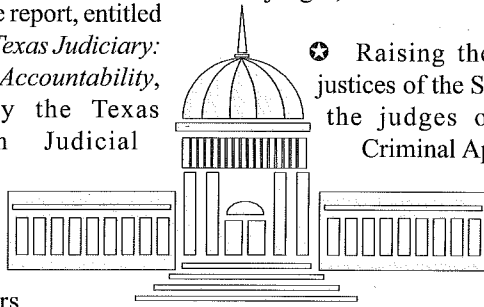
**Hon. Sally Montgomery**

*95th District Court, Dallas*  
Succeeding Joe Brown

*Continued on page 8*

# Legislative Update

The Texas Supreme Court appointed panel charged by the Legislature to improve court efficiency released a report in January calling for an increase in judicial salaries, grading court performance, upgrading court technology, and encouraging new lawyers to serve as judicial clerks among other solutions. The report, entitled *Governance of the Texas Judiciary: Independence and Accountability*, was prepared by the Texas Commission on Judicial Efficiency and is the result of one year of work by more than 150 task force members from across the state.



“We anticipate greater independence and accountability on the part of the Texas judiciary for the considerable benefit of all Texans,” Commission Chairman Dr. Herbert Reynolds said.

The report, which was presented to the Senate Finance Committee January 13, details the following goals and recommendations to the 75th Texas Legislature:

## FUNDING

To adequately staff and equip the courts to administer justice fairly and speedily, the Commission recommends:

- ★ Full and uniform funding of the 14 courts of appeals beginning in the 1998-1999 biennium.
- ★ Full and uniform funding of the district courts beginning in the 2000-2001 biennium.
- ★ Establishing an emergency fund to help courts pay the costs of capital murder cases and other inordinately expensive cases.

- ★ Directing the Texas Judicial Council to develop and oversee a plan to gradually implement these goals.

## JUDICIAL SALARIES

To attract the most qualified people as judges, the Commission recommends:

- ★ Raising the salaries of the justices of the Supreme Court and the judges of the Court of Criminal Appeals to equal the salary of U.S. magistrate judges, the lowest paid federal judges.

- ★ Establishing an independent judicial compensation commission to set future judicial salaries, unless its recommendation is rejected by either house of the Legislature.

## COURT PERFORMANCE

To account for court performance, the Commission recommends that the courts report uniform measures of timeliness of case processing.

## JUDICIAL CLERKSHIPS

To attract the most qualified law students and new lawyers to careers in public service with the courts, the Commission recommends that judges, attorneys, and law schools cooperate in implementing a judicial clerkship recruitment program.

## INFORMATION TECHNOLOGY

To make court services and information more accessible, the Commission recommends that the Supreme Court appoint a standing committee to develop a coordinated statewide computer com-

munication network and justice information system within the guidelines of the Commission’s detailed technology plan.

## LONG-RANGE PLANNING

To help the court system implement the Commission’s recommendations, provide research, plan for the future, and evaluate the court system’s performance, the Commission recommends that the Supreme Court establish a research and planning function within the Office of Court Administration.

These recommendations have been presented to the legislature and are the topic of certain bills that have already been filed. Following is a list of current bills filed as of January 27 that affect the judiciary:

### **HB71**

Relating to fees collected in certain civil suits

**Author:** Longoria

**Last Action:** Nov. 12, 1996 Filed

### **HB215**

Relating to the qualifications of a district court judge

**Author:** Zbranek

**Last Action:** Nov. 25, 1996 Filed

### **HB216**

Relating to the qualifications of office for appellate judges and justices

**Author:** Zbranek

**Last Action:** Nov. 25, 1996 Filed

### **HB245**

Relating to eligibility for service retirement from the Judicial Retirement System of Texas Plan One or the Judicial Retirement System of Texas Plan Two

**Author:** Longoria

**Last Action:** Dec. 3, 1996 Filed

*Continued on page 9*

# Don't Ask, Don't Tell

## 10 Possibilities for Reforming Voir Dire

By Judge Scott Brister



Judicial Mentality is an *In Chambers* guest column, which is written by a judge.

Opinions presented in the column are not necessarily the opinions of the Texas Center for the Judiciary, Inc.

Please call Angela Womack, 800-252-9232, if you want to submit a column or a letter to the editor in response to a column.

We are losing a huge number of people in the process of selecting juries. In Harris County, no shows, bad addresses, and exemptions require us to summon almost four times as many citizens as we intend to use.

But that's not the end of it. Even after releasing those disqualified and exempt, only about 20 percent of those present, able, and willing (more-or-less) to serve actually become jurors. On average, Harris County district judges have to request more than 50 jurors to seat 12 in a criminal case, and three times as many as they will actually use in a civil case.

Several factors contribute to this situation. Long trials make service impossible for many. Peremptory strikes allow litigants to strike a dozen jurors in a civil case, and forty in a criminal

case (both numbers higher than in most states). But the primary reason such large venires are necessary is because of potential strikes for cause.

### THE "RULES" OF VOIR DIRE

This is not merely a matter of efficiency. Consider these recent quotes from well-known Texas lawyers and commentators:

"Jury selection is the most

important part of the trial."

"Jury selection is the place where cases are won or lost. I promise you."

"Jury selection is the most significant stage of any personal injury case."

Isn't there a problem if everyone believes a case is over before one shred of evidence is introduced? Has Texas justice decayed to the point that we can skip the trial?

It's hard to blame attorneys for trying to win cases during voir dire. If the rules allow them to do so, they probably have to try. But if the rules allow this, perhaps we ought to reconsider the rules.

Part of the problem may be that there are no rules. The Texas rules of civil and criminal procedure contemplate voir dire, but don't specifically define, restrict, or even require it. Thus, voir dire is left to the discretion of judges and the imagination of lawyers. Not surprisingly, it varies wildly from case to case and place to place.

Perhaps it's time to consider clarifying the "rules" of voir dire. As a start, we might consider the voir dire practices listed below.

### #10 LEADING

We limit leading questions during trial because we want to hear what the witnesses have to say, not the lawyers.

Why shouldn't this apply to jurors? Lawyers often use leading questions only to convert a peremptory strike

into a strike for cause, stuffing appalling mischaracterizations into the mouth of a juror they've already decided they don't want. Potential jurors are not adverse parties. If we want them to speak the truth, we should consider barring leading questions.

### #9 LEANING

Nobody thinks it's proper during voir dire to state the facts and ask potential jurors how they will vote. Yet many think it's proper to ask jurors if they are "leaning" toward either side, or if one side is "starting behind" the other. Aren't these questions the same? They all just ask jurors for their initial reaction to the facts. Is impartiality the complete absence of initial impressions, or is it the willingness to keep an open mind despite them?

### #8 HEAVY EVIDENCE

A related practice asks jurors whether they will consider (or what weight they will give to) particular pieces of evidence. Such questions are impossible to answer without all the facts. But if they are based on all the facts, they are nothing more than asking jurors how they'll vote. Giving different weight to evidence is not bias, it's why we have a jury in the first place. If we disqualify jurors because they may choose to give some evidence little or no weight, aren't we invading the province of the jury?

### #7 NO REHABILITATION

Several cases state that jurors cannot be rehabilitated once they admit bias. Others

# JUDICIAL MENTALITY

allow rehabilitation if the original statement was due to misunderstanding or a misleading question. A prophylactic agreement to "follow the court's instructions" should not magically qualify a biased juror. But if rehabilitation means jurors can change their answers based on a better understanding of the law, the facts, or the question, there's no reason to suppress the truth.

## #6 TRADING PLACES

A surprising number of lawyers throw open the floor to jurors during voir dire with something like "Do you have any questions for me?" Sure they do. They want to know about insurance coverage, prior convictions, suppressed evidence, and other things we go to some lengths to exclude. A talk show format may be entertaining, but it is not necessarily designed to seek the truth. If lawyers run out of questions, perhaps we ought to make them sit down.

## #5 EXPERTS

Prejudice based on personal experience is not the same as prejudice based on professional expertise. If one side hires the world's best heart surgeon or forensic pathologist, a juror who will tend to believe them shows brains, not bias. If we strike all jurors except the ones who are not impressed by the world's foremost authority, we will have a perverse jury indeed. Aren't we penalizing a party for hiring an outstanding expert if we disqualify jurors on this basis?

## #4 HYPOTHETICAL DAMAGE AWARDS

Because the Legislature sets criminal punishment ranges, jurors have to agree to abide by them. The same is not true for the range of civil damages. Some cases suggest it is proper to ask jurors if they can consider a verdict of a particular size "if the evidence supports it." But suppose the verdict suggested is several billion dollars in a case with minor injuries. Do we really want a jury constituted of people who (1) are crazy, or (2) weren't paying attention? If a civil verdict is going to seem reasonable to the community, can we pre-qualify (and disqualify) jurors who tend toward either end of the range?

## #3 SHUFFLES

Most counties spend a great deal of money ensuring that the

panel coming into the courtroom is in random order. Any statistician will tell you that if you then allow one side (and only one) to shuffle this arrangement, the result is no longer random. Also, a shuffle request is based merely on what the jurors look like. There are very few things you can tell about people from just looking at them, and most of them are suspect.

## #2 QUESTIONNAIRES

Many people swear by questionnaires, but none of them are jurors. Jury questionnaires almost always broaden the scope of voir dire, allowing attorneys to ask things they would never ask out loud. Many of these questions aren't relevant to the case; they are designed instead to fit jurors into a particular psychological profile. That may have something to do with winning, but little to do with either bias or justice. Is this invasion of jurors' privacy justified by the demands of justice, or just the demands of the litigants?

## #1 UNLIMITED TIME

Although the Ten Commandments are engraved over the bench of the United States Supreme Court, another object suspended over the bench probably receives more attention from attorneys — a large clock. Litigants arguing the most important cases in the country get thirty minutes. Why then should voir dire last for hours? Time is precious to jurors no less than appellate judges. Jurors are basically volunteers. When it becomes clear that no one cares about their time, they start looking for a way out.

Much time and money is currently spent on gathering and selecting jurors. We owe it to those summoned and those who pay the taxes to make sure these resources are well spent. It's one thing if litigants use practices like those listed above to get an

impartial jury, but quite another if they only use them to try to get a favorable one.

The Supreme Court's Jury Task Force has begun considering possible reforms to improve the operation of the jury system. Now is the time for judges to speak up regarding improving jury selection.

Part of the problem may be that there are no rules. The Texas rules of civil and criminal procedure contemplate voir dire, but don't specifically define, restrict, or even require it. Thus, voir dire is left to the discretion of judges and the imagination of lawyers. Not surprisingly, it varies wildly from case to case and place to place.

**No. 200** Issued November 7, 1996

**Q** *May a master who is appointed by the county judge but serves at the will of the probate judge and hears mental health proceedings in the absence of the probate judge, practice in that probate court? The Mental Health and Retardation Code statute authorizing the appointment of the master (§ 574.0085) specifically states that the master shall comply with the Code of Judicial Conduct in the same manner as the county judge.*

**A** No. Since the master is actually sitting for the probate judge, Canon 6B(3) clearly states that such person may not practice law in the court in which he or she serves.

**No. 203** Issued November 1, 1996

**Q** *May a judge permit brochures in his/her courtroom and other public areas in the courthouse that announce the availability of a county bar sponsored lawyer referral service? The referral service is a non-profit organization open to all qualified lawyers and complies with American Bar Association guidelines, State Bar guidelines, and state statutory requirements. The referral service in question screens questions to determine if legal representation is needed, informs callers if they qualify for pro bono legal services, makes a referral to the next name on a rotating list of attorneys who have agreed to provide an initial consultation for a nominal fee in their given areas of expertise, and maintains a list of attorneys available to provide legal services at a reduced fee in certain legal matters.*

**A** Yes. Canon 4-B permits a judge to participate in extra-judicial activities concerning the law, the legal system, and the administration of justice. Access to our courts is usually not meaningful without the assistance of lawyers. Many members of the public do not know how to find a

ETHICS  
**Q & A**  
OPINIONS

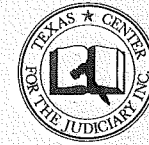
lawyer, especially one they can afford. A judge who advertises the existence of a lawyer referral service is promoting meaningful access to our legal system for all persons regardless of their economic condition.

Even though the lawyers selected through this referral program will charge a fee to their clients, the judge is not promoting the individual lawyer but is assisting the public to locate a lawyer who professes familiarity with the legal issues, maintains malpractice insurance and agrees to charge only a modest consultation fee, and perhaps a reduced fee to clients of modest means. By informing the public of this bar sponsored service, the judge is improving the administration of justice, as permitted under the Code, not misusing the influence of his/her office.

**Q** *May a judge appear in a televised public service announcement and recommend that unrepresented parties contact the county bar sponsored lawyer referral service to find a lawyer before going to court?*

**A** Yes. Canon 4-B would allow the judge to inform the public that it is wise to have legal representation in court. Because the judge is not recommending any individual lawyer, but a lawyer referral service that is open to all lawyers who maintain malpractice insurance, announce their areas of expertise, and agree to a nominal consultation fee, the judge is not lending the influence of his/her office to specific lawyers, but is using the influence to advise the public of the desirability of obtaining a lawyer before appearing in court and informing those without other

resources of one service that might help them find appropriate legal representation. Because a lawyer selected through such a referral service is never identified, there is no danger that lawyers on such a list would be in a position to influence the judge who endorses the lawyer referral service.



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Texas' Newest  
Administrators of Justice  
*Continued*

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Succeeding Lloyd Perkins

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*8th District Court, Sulphur Springs*  
Succeeding Chad Cable

**Hon. Sam Nuchia**  
*1st Court of Appeals, Houston*  
Succeeding Camille Dunn

*Continued on page 9*



# JUDICIAL NEWS

## Hon. Jim Parsons

3rd District Court, Palestine  
Succeeding Dan Moore

## Hon. Sue Pirtle

382nd District Court, Rockwall  
Newly designated Court

## Hon. Tom Price

Court of Criminal Appeals, Austin  
Succeeding Frank Maloney

## Hon. Don Reavis

7th Court of Appeals, Amarillo  
Succeeding John Boyd

## Hon. Donald Ross

6th Court of Appeals, Texarkana  
Succeeding Larry Starr

## Hon. Mark Rusch

County Court at Law #4, McKinney  
Newly designated Court

## Hon. Charles Sandoval

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Newly designated court

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## Hon. Earl Stover

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Succeeding William Beggs

## Hon. Norma Venso

56th District Court, Galveston  
Succeeding Allan Lerner

## Hon. Dana Womack

348th Distict Court, Fort Worth  
Succeeding Michael Schattman

## Hon. Paul Womack

Court of Criminal Appeals, Austin  
Succeeding Sam Houston Clinton

## LEGISLATIVE UPDATE

Continued from page 4

### HB284

Relating to notification of assignment  
of a visiting judge

**Author:** Nixon

**Last Action:** Dec. 11, 1996 Filed

### HB356

Relating to certain judicial salaries

**Author:** Goodman

**Last Action:** Dec. 23, 1996 Filed

### HB367

Relating to fees collected by a judge or  
justice for certain services

**Author:** Moreno

**Last Action:** Jan. 2, 1997 Filed

### HJR15

Proposing a constitutional amendment  
relating to involuntary retirement of  
judges

**Author:** Longoria

**Last Action:** Nov. 12, 1996 Filed

### HJR22

Proposing a constitutional amendment  
relating to the composition of judicial  
districts and to the selection of district  
judges

**Author:** Zbranek

**Last Action:** Nov. 25, 1996 Filed

### HJR30

Proposing a constitutional amendment  
changing the requirements for persons  
serving as district judges

**Author:** Nixon

**Last Action:** Dec. 11, 1996 Filed

### HJR33

Proposing a constitutional amendment  
providing for supreme court authority  
regarding funding and operation of  
certain programs

**Author:** Madden

**Last Action:** Dec. 12, 1996 Filed

### SB73

Relating to financial statements filed by  
judges of statutory county courts and  
statutory probate courts

**Author:** Haywood

**Last Action:** Nov. 12, 1996 Filed

## IN MEMORIAM

For those who served  
our state courts

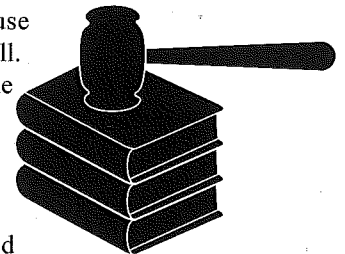
### *Judge Joe Kegans*

Judge Joe Kegans, of the 230th  
District Court, passed away  
Monday, January 7, 1997.

Kegans was known as a pioneer  
for women in the field of law, by  
becoming one of the few female  
criminal lawyers during the late  
1950s. She was appointed as  
Harris County's first female  
criminal district judge in 1977.  
Friends and colleagues remember  
Judge Kegans as a no-nonsense,  
honest, outspoken Texan.

Members of the judiciary can track the  
status of bills via the internet at the Texas  
Legislature Online web site at <http://www.capitol.state.tx.us>. This site also  
has a wealth of information concerning  
legislative committees and their  
schedules, and the  
Senate and House  
schedules as well.

It also enables one  
to search for  
bills by various  
techniques,  
including  
author and  
subject, and from there one can  
determine their status. If that technology  
is not available, the Legislative  
Reference Library maintains the status  
of all bills and they can be reached at  
(512) 463-1252.



## Court Improvement Project Addresses Child Abuse Cases

*Submitted by Justice Greg Abbott and Judge John Specia*

Courts play a vital role in child abuse and neglect cases. However, the current system is not working for many children in Texas.

Judges are ultimately responsible for monitoring and controlling the handling of foster care cases and must take personal responsibility for the children in foster care in order for change to happen effectively. Establishing accountability requires changes not only in attitudes, but strategic and operational changes in laws, policies, training and technology.

These are the findings of a survey conducted by the Supreme Court Task Force on Foster Care. The survey is part of the Court Improvement Project, a federally funded initiative reviewing internal court operations and implementing court reforms in the area of foster care and adoption. The goal of the project is to shorten the time it takes to place children in a permanent home. Texas will receive approximately \$1.7 million over the four year project period.

The Texas Department of Protective and Regulatory Services (PRS) becomes legally responsible for children through court proceedings designating the state agency as the temporary or permanent managing conservator. After a child comes into conservatorship, PRS workers design a service plan and a permanency plan identifying a goal for establishing a permanent home for the child. Permanency is reached when PRS places the child in a permanent living arrangement such as returning the child to the family or a relative, placing the child in long-term substitute care or placing the child in an adoptive home.

PRS has legal responsibility for 17,973 children. Of those children, 11,700 are in foster care with an average of 3.1 placements by the time PRS services have been completed.

To give an example of how the system fails our children, PRS statistics show

that children who cannot return home safely whose goal is adoption wait an average of 15.3 months from the time they are first placed in substitute care until parental rights have been terminated. They then wait another 18.1 months from termination of parental rights to being placed for adoption. An additional 7.4 months pass before the adoption becomes final. In the approximately three year period it takes from removal of the home to adoption, the child is placed in approximately four different temporary foster homes. In cases where the child is to be reunified with the family, it takes approximately 17.3 months before services are completed, with an average of 2.2 placements in temporary care before the child is returned to his or her family. Studies show that delays and multiple placements are extremely detrimental to abused and neglected children causing long-term emotional and behavioral problems. Clearly, the system is not serving children in foster care.

The Court Improvement Project found the following obstacles to the timely and effective handling of CPS cases include:

- ❖ crowded dockets, excessive judicial caseloads, multiple continuances of cases, and lack of judicial training.
- ❖ lack of updated and appropriate technology to support effective court operations.
- ❖ lack of clearly defined procedures for handling CPS cases. 80 percent of courts reported having no local rules for handling CPS cases.
- ❖ inability to monitor compliance with statutory time frames or evaluate court performance, and inefficient case management procedures.
- ❖ inadequate and ineffective legal representation of TDPRS by prosecuting attorneys, and inefficient caseworkers.
- ❖ insufficient utilization of visiting and/or associate judges, particularly

in rural courts, although effective in improving judicial focus on CPS cases in some jurisdictions.

- ❖ insufficient use of methods to encourage settlement without litigation such as alternative dispute resolution or mandated pretrial settlement conferences.
- ❖ frequent communication breakdowns between caseworkers, prosecuting attorneys, and the court.

The Task Force identified a number of recommendations and will be implementing the recommendations over the next three years. These include statutorily limiting temporary managing conservatorship to 12 months; increasing the use of technology; implementing performance measures; promoting alternative dispute resolution procedures; promoting "best practices" in case-flow management and local rules; and creating judicial training programs.

For a copy of the Task Force Report, contact the Court Improvement Coordinator at (512) 438-5541.

### How efficient is your court in handling child abuse cases?

Assessment instruments used in the Court Improvement project can be used to evaluate your court's handling of child protective services cases. Questionnaires for CPS workers, attorneys ad litem, prosecutors, judges, children, and CASA volunteers are available from Sherrie Dollison, Court Improvement Project coordinator, 512/438-5541. The project can also provide technical assistance with the evaluation.

### Court Improvement Project

For final reports from the Court Improvement Project as well as information on mediation programs ins CPS cases, please contact Sherrie Dollison at 512/438-5541.

## Meet the Texas Center Staff

**Angela Womack**  
*Communications Director*



A relatively new face to the Texas Center staff is that of Angela Womack, communications director. In this capacity, Angela is responsible for producing the *In Chambers* newsletter, all conference brochures and promotional materials, as well as handling public relations and media aspects of the Center. Angela also coordinates the printing of all conference course material.

Originally from Houston, Angela has a degree in journalism from the University of Texas at Austin, and came to the Texas Center from St. Michael's

Academy, a Catholic high school in Austin, where she served as their Public Relations Coordinator. Angela says she chose public relations initially because she enjoyed writing and working with people, but since then has worked to develop her skills as a graphic designer. "I also really appreciate the variety that public relations offers. No two days are ever the same," Angela said.

"I take my responsibilities at the Texas Center very seriously since so many eyes see our publications and promotional materials," Angela said. "That makes my work one of the primary sources that keep judges informed about what's happening with the Texas Center and the rest of the judiciary."

When she's not working Angela enjoys reading, music, and the wealth of outdoor activities around central Texas, including camping, hiking, water-skiing as well as several other sports. "I want to try rock climbing, but I need to build up my nerve first, and get over my slight fear of heights," Angela said.

negotiating contracts with hotels, to arranging the mechanics of the seminars, developing spouse programs and planning extracurricular activities.

With a background in project management specifically tailored toward adult vocational training and school-to-work programs, Tana enjoys the change of pace that comes with her new position.

"Working with the judicial system is like a breath of fresh air. Its a very positive working environment," Tana said.

Conference coordination gives Tana particular satisfaction. "Its rewarding to see all your hard work come together into a successful conference," Tana said.

Tana has a bachelor's of business administration with an emphasis in human resources from the University of Illinois, and has taken advanced classes in industrial relations at Loyola University.

Although Tana enjoys the mild Texas winters, her heart is still in Illinois where her two children and one grandchild live. Tana maintains strict allegiance to the Chicago Bears and Chicago Bulls, and desperately misses Greek food and Chicago-style pizza.

When not planning conferences Tana is learning to kayak and row and hopes to someday sky dive. And all her extra change goes toward her Harley Davidson fund.

Adjusting to Texas is coming along for Tana, but for her, one question remains, "Where are all the cowboys?"

**Tana Petrich**  
*Associate Director*



A newcomer to both the Texas Center and the state of Texas, Associate Director Tana Petrich is adjusting to all the novelty in her life. Originally from Joliet, Illinois, (about 40 miles outside of Chicago), Tana came to the Texas two and a half years ago and started at the Texas Center in July of 1996.

As associate director, Tana handles every detail of the coordination of all educational programs and conferences put on by the Texas Center, from

*In Chambers* Editorial Board: Justice Marilyn Aboussie, Third Court of Appeals (Austin); Judge Manuel Banales, 105th District Court (Corpus Christi); Judge Scott Brister, 234th District Court (Houston); Senior District Judge Sam W. Callan (El Paso); Judge John R. Carter, 277th District Court (Georgetown) and Judge Molly Francis, 283rd District Court (Dallas).

# LOOKING AHEAD

## JUDICIAL CALENDAR

1997

**COLLEGE OF ADVANCED JUDICIAL STUDIES**

March 2-5, 1997  
Adam's Mark Hotel  
Houston

**CRIMINAL JUSTICE CONFERENCE**

May 7-9, 1997  
Hyatt Regency Austin  
Austin

**PROFESSIONAL DEVELOPMENT PROGRAM**

June 16-20, 1997  
Huntsville

**JUDICIAL SECTION ANNUAL CONFERENCE**

September 23-26, 1997  
Worthington & Radisson Hotels

Fort Worth

**COLLEGE FOR NEW JUDGES**

December 7-12, 1997  
Dallas

1998

**JUDICIAL SECTION ANNUAL CONFERENCE**

September 15-18, 1998  
Adam's Mark Hotel  
Houston



### GET ON-LINE

With the Texas Center at [www.yourhonor.com](http://www.yourhonor.com) Access information about the Texas Center and its conferences, offer suggestions, link to the Texas Commission on Judicial Efficiency and send any staff member e-mail.



## *in* CHAMBERS

*In Chambers* is the official publication of the Texas Center for the Judiciary, Inc. The quarterly newsletter is funded by a grant from the Texas Court of Criminal Appeals. The staff of *In Chambers* strives to provide current information about national and local judicial education issues and course opportunities for Texas judges. Readers are encouraged to write letters to the editor and submit questions, comments, suggestions and story ideas for the newsletter. Contact the editor, Angela Womack, by calling 512-463-1530, faxing 512-469-7664, or e-mailing at [angela.tcj@netrange.com](mailto:angela.tcj@netrange.com). The Texas Center's address is 1414 Colorado, Suite 502, Austin, TX 78701-1627.

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