



LAW LIBRARY NEWS



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Attorney Lecture Series

The Law Library is hosting another **Attorney Lecture Series** on **October 22 at 2 pm**. Attorney James Stevens will be speaking about getting **Criminal Appointments in the Courts**. His discussion will include how to get on the appointment list, dealing with the courts, and how to get paid. Registration is required. Visit our website to register. For more information, contact the Law Library.

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New & Updated Resources

O'Connor's Texas Series

- *Crimes & Consequences*
- *Estates Code Plus*
- *Business Org. Code Plus*
- *Property Code Plus*
- *2021 Editions*

State Bar CLE Course Guides

- *Adv. Family Law*
- *Adv. Civil Trial*
- *2021 Editions*

Texas Practice Guide

- *Business Entities*
- *2021 Edition*

Texas Probate Forms & Procedures

- *2021 Edition*

Texas Insurance Coverage Litigation

- *2021 Edition*

Criminal Defense Techniques

- *2021 Update*

Texas Intellectual Property Law

- *2021 Edition*

Collier on Bankruptcy

- *2021 Update*

FBC Bar News

Fort Bend County Bar Association

The **Fort Bend County Bar Association** is having their monthly meeting and CLE on Thursday, **October 28 at noon**. This month's topic is **Overview of the Texas Public Mental Health System**. The speaker will be **Pam Beach** from Texas Council Risk Management Fund.

Family Bar of Fort Bend County

The **Family Bar of Fort Bend** will have their monthly luncheon and CLE on Thursday, **November 4 at noon**. The topic is.

Fort Bend County Criminal Defense Attorneys Association

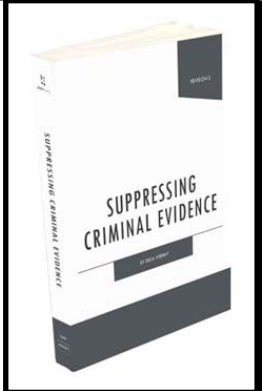
The **Fort Bend County Criminal Defense Attorneys Association** has a CLE on **October 21 at noon**. This month's topic is **New Handgun Laws in Texas and What it means**.



Featured Resource: Spotlight on Criminal Law Resources

By Jonathan Briggs

A significant amount of the cases going on in the Courts here at the Justice Center are criminal prosecutions. Criminal defense attorneys make up a substantial part of the patrons here at the Law Library. It is a major area of the law. In recognition of these and other factors, the Fort Bend County Law Library has substantial criminal law resources both in our print collection and via our public computers. There is no way in this short column to list the entirety of our criminal resources but this will give you a good idea of what we have in our collection. Of course the foundation is the case law and statutes...and the depth and breadth of our holdings on this is complete as far as anything in the U.S. is concerned....every federal case from the U.S. Supreme Court, all the opinions from the federal circuits, and all reported district court opinions, along with the U.S. Code and the Code of Federal Regulations. Of course we have all of the Texas Cases and Vernon's Texas Code Annotated....but we also have the case law and statutes from the other 49 states as well! These are all available online via **Westlaw** and **Lexis** and our print holdings of case law are substantial. The *Texas Pattern Criminal Jury Charges* are available in print or online via Lexis. Our secondary resources are excellent providing a breadth and depth online and/or in print formats providing indispensable resources such as practice guides and forms. From Westlaw and Thomson-Reuters the materials include *West's Texas Forms*, the *Texas Practice Series*, *Texas Jurisprudence*, *Corpus Juris Secundum*, the complete *O'Connor's* series, and many others. From Lexis, Matthew Bender, and James Publishing's our collection includes *Texas Drunk Driving Law*, *Defense of Drunk Driving Cases*, the *Texas Criminal Practice Guide*, *Criminal Law Advocacy*, *Criminal Defense Techniques*, *Suppressing Criminal Evidence*, the *Texas Criminal Lawyer's Handbook*, and *Texas Criminal Forms*. Juris Publishing's print offerings include *Texas Search & Seizure*, *Plea Bargaining*, and *Texas Sentencing*. *Texas Juvenile Law* is a definitive resource we have in print and on the desktop of all our computers. And among the State Bar of Texas CLE materials we have several volumes of *Advanced Criminal Law*. From Westlaw and Lexis these materials can be either downloaded to your thumbdrive or e-mailed to you in Word, Word Perfect, or PDF for free or printed in black and white for 10 cents per page. Copies of the bound books can be also made at 10 cents per page. Let the Fort Bend County Law Library be your resource for criminal law materials! Come by and see us on the 2nd floor of the Justice Center or contact us via phone at 281-341-3718 or by e-mail at: llpublic@fortbend.lib.tx.us.



Technology Corner: Logging in using Lexis Digital Library

By Andrew Bennett

Recently, it came to our attention that using Lexis Digital Library through the app or the direct website requires a library login associated with our account before you enter your library barcode and PIN. The three ways you can access the Digital Library are, using our website link. You can get to this by going to the Law Library branch page or by going to "Research" and then "Digital Resources and Databases." Then select "Legal" and scroll down to Lexis Digital Library (all databases are in alphabetical order). Once that's done, you will be asked to type in your barcode and PIN. The other two options you will need an additional passcode. You will be prompted for it before you enter your barcode and PIN. The passcode is "fortbendco." Using the app, it will be as you open the app once you've downloaded it. If you enter the direct link, <https://lexisdigital.com>, it will prompt you immediately as well. For more information or a demonstration, visit the Law Library or call us at 281-341-3718.





Community News

- The **Fort Bend County Law Library** will host an **Westlaw Training and CLE** on Wednesday, **October 27 at 2 pm**. The program topic is on Litigation and Using Practical Law. For more information and registration, visit our website. CLE credit will be given to those attorneys in attendance.
- The **Texas State Law Library** has a lot of **digital resources** at your disposal. Please **create a digital library account** for access. For more information, visit their website at <https://www.sll.texas.gov/about-us/get-a-library-account/>.
- **Re:search TX** allows you to research case law from all 254 Texas counties. Some documents do require payment to access. Account set up is free. Go to <https://research.txcourts.gov/CourtRecordsSearch/Home>. Or you can check out Google Scholar for case law research at <http://scholar.google.com>.
- **Harris County Law Library** is again closed to the public. They are continuing their virtual programs. To sign up or find more information, visit their website here: <https://www.harriscountylawlibrary.org/>

Texas Lawyers

The State Bar of Texas offers confidential assistance to attorneys, judges, and law students who are facing substance abuse and mental health issues through its

[Lawyers Assistance Program](#).

Professional staff members are available 24/7 by phone to help with crisis counseling and referrals to local professionals and support groups. For assistance,

Contact

If you have any information on upcoming CLEs, conferences, etc. that you think would be useful to include in the newsletter, please send an email to abennett@fortbend.lib.tx.us with "Newsletter" as the subject. To unsubscribe, write "unsubscribe."

Useful Articles and Links

- ***Pets in Family Law***. Texas Bar Journal. October 2021. <https://www.texasbar.com/AM/Template.cfm?Section=articles&Template=/CM/HTMLDisplay.cfm&ContentID=54791>.
- ***Automated Certificates of Service Are Here***. Texas Bar Journal. October 2021. <https://www.texasbar.com/AM/Template.cfm?Section=articles&Template=/CM/HTMLDisplay.cfm&ContentID=54793>.
- ***Ethics and the Law (Texas AG Grievance Process)***. Voice for the Defense. October 2021. <https://www.voiceforthedefenseonline.com/ethics-and-the-law-a-peek-behind-the-curtain-the-tx-attorney-grievance-process-in-a-nutshell/>.



Texas Case Law Update

Local Cases

- [In Re Jason David Sheedy](#), No. 01-21-00476-CV (September 21, 2021): Pet. Writ Mand. Dism'd. (458th)
- [June Ok and Minor Child v. Amy J. Queen](#), No. 01-19-00472 (September 23, 2021): Aff'd. TC Judgment. (CCL#2)
- [Darlene Jarrett v. Angel Baby, Inc.](#), No. 01-21-00043-CV (September 23, 2021): Appeal Dism'd. (CCL#1)
- [Radwan A. Balbisi](#), No. 14-19-00798-CR (September 30, 2021): Aff'd. TC Judgment. (268th)
- [Radwan A. Balbisi](#), No. 14-19-00799-CR (September 30, 2021): Aff'd. TC Judgment. (268th)
- [Radwan A. Balbisi](#), No. 14-19-00800-CR (September 30, 2021): Aff'd. TC Judgment. (268th)
- [Jacobe D. Payton v. The State of Texas](#), No. 14-20-00175-CR (September 30, 2021): Aff'd. TC Judgment. (400th)
- [Kay Madore, et al., v. Joshua Strader, et al.](#), No. 14-20-00147-CV (Oct. 7, 2021): Aff'd. TC Judgment. (328th)

Criminal Law—Arrest—Evidence discovered during protective sweep

Ramon Rios, III v. The State of Texas, 625 S.W.3d 488 (Tex.App.-Houston [14th Dist.] 2021, reh'g. denied.). Defendant/Appellant was convicted of possession of a controlled substance (to wit, 44 kilograms of cocaine) with a deadly-weapon enhancement and was sentenced to 18 years in the TDCJ. Harris County SWAT arrested the Appellant at the home on two murder warrants. During a protective sweep of the interior and exterior of the home illegal drugs were found. Police obtained a search warrant and during the search found and seized drugs and extensive weaponry. Pretrial and during trial Appellant moved to suppress the evidence obtained via the warrant as it was the product of an unlawful protective sweep. Motions were denied. Appellant appealed these rulings which are reviewed under an abuse of discretion standard. The Court of Appeals described the essence of the “protective sweep” as a limited search generally incident to arrest done to protect the safety of the officers when there exists an objectively reasonable belief based on specific and articulable facts that a person in the area poses a danger. The sweep is to be “narrowly confined to a cursory visual inspection of those places in which a person might be hiding.” Appellant contended that the sweep was unlawful because he was not arrested in his home but was outside, that the record fails to show the specific articulable facts needed to support a protective sweep, and that the duration of the sweep was too long to be cursory. The Court went through a long discussion before ultimately concluding that the trial court did not err in denying the motion to suppress and thus affirmed the conviction. If this is an area of law of interest to your practice it is definitely worth a detailed read. There was a dissenting vote but that justice declined to draft an opinion.

Civil Litigation—Taxpayer suit against public official—Employee benefits for same-sex spouses

Jack Pidgeon, et al., v. Sylvester Turner, Mayor of Houston, et al., 625 S.W.3d 583 (Tex.App.-Houston [14th Dist.] 2021, pet. filed). Taxpayers brought action against the City and the Mayor of Houston seeking injunction prohibiting the City from providing benefits to the same-sex spouses to employees legally married in other states. This case has a long procedural history going back to the administration of former Mayor Parker. Defendants initially filed a plea to the jurisdiction asserting Plaintiffs' lack of standing and Defendants' governmental immunity. While this case was pending the *Obergefell* case in the U.S. Supreme Court held that same-sex couples have a constitutional right to marry, which led to rulings by both Texas courts and the 5th Circuit. Ultimately the case ended up back in the 14th which held that: 1) taxpayers were barred from seeking injunctive relief against city to extent any part was ultra vires claims (an ultra vires claim asserts that they acted outside their legal authority); 2) taxpayers assertion of claims against city under Uniform Declaratory Judgments Act did not waive city's immunity against ultra vires claims; 3) taxpayers failed to both plead and establish waiver of governmental immunity based on mayor's alleged failure to perform purely ministerial act; 4) taxpayers failed to plead and prove that mayor's actions were outside of legal authority; 5) mayor had legal authority to interpret extrinsic law to conclude that providing same-sex spouses with benefits was legally required; 6) taxpayers failed to plead they would suffer probable, irreparable injury or any imminent harm, a requirement for injunction; and, 7) taxpayers failed to show preservation of status quo, as element required to obtain injunction. Thus the trial court's granting of Defendants' plea to the jurisdiction was affirmed. A very lengthy but interesting opinion.

Family Law—Conservatorship—Visitation

In the Interest of J.J.R.S. and L.J.R.S., Children, 627 S.W.3d 211 (Tex. 2021, reh'g. denied.). Mother of children had multiple indicators of parental unfitness such as being left unattended, her drug use and prostitution, and unsafe weapons handling all in the presence of or in the vicinity of the children. Department of Family and Protective Services petitioned for temporary conservatorship and ultimately the children's aunt and uncle were named as managing conservators and mother was named possessory conservator with her visitation contingent on aunt and uncle's approval. Mother appealed this somewhat unique arrangement. Key holdings: 1) trial court has statutory authority to issue nonspecific “as agreed” visitation order giving managing conservator sole discretion on access; and, 2) it acted within its discretion in ordering a possessory conservatorship instead of terminating mother's parental rights. An important case for family law practitioners to read.