

THE STATE BAR OF TEXAS  
AND THE TEXAS YOUNG LAWYERS ASSOCIATION

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2002-2003  
VOLUNTEER  
AND  
STAFF GUIDE



Guide

## SEXUAL ORIENTATION & GENDER IDENTIFICATION ISSUES

(www.sogitx.org)

Members: 261

Budget Code: 9372

Year Created: 1998

Dues: \$10.00

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(www.texastaxsection.org)

Members: 1,783

Budget Code: 9375

Year Created: 1943

Dues: \$25.00

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Members: 546

Budget Code: 9394

Year Created: 1980

Dues: \$20.00

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## 2002-2003 State Bar of Texas

# Section Reports

Section reports are included in the July issue of the *Texas Bar Journal* to keep Texas lawyers updated on State Bar section activities. The reports do not necessarily reflect the official policy of the State Bar of Texas. State bar policy is formulated by the State Bar Board of Directors or by the membership through referendum. For more information about sections or about joining a section, visit sections' websites or call (800)204-2222 or (512)463-1463, Ext. 1420.

### Administrative and Public Law

Dewey E. Helmcamp III *CHAIR*

**Website** ([www.adminlaw.org](http://www.adminlaw.org)) — The site contains contact information, links to research tools, CLE information, legislative updates, agency rules and amendments, section bylaws, and section minutes. The Directory of State Agency Attorneys, which was previously mailed, is posted on this site.

**Public Service** — The annual Moot Court competition, held in October, has become one of the most popular and well-received moot court competitions anywhere. The section continued to support Texas Tech University School of Law in publishing the *Texas Journal of Administrative Law*.

**Member Services** — The section sponsored one of the most popular and best-attended CLE programs, the Advanced Administrative Law Course. The section provided each member with a copy of the *Administrative Law Journal*,

updated the *Directory of State Agency Attorneys*, and encouraged continued pro bono activities by section members.

### Alternative Dispute Resolution

Deborah Heaton McElvaney *CHAIR*

**Newsletter** — Published four times a year, it contains information on continuing education and training, book reviews, the chair's corner, an ethical puzzler, legislative updates, and substantive articles regarding new trends in ADR.

**Website** ([www.texasadr.org](http://www.texasadr.org)) — The site has a members-only section, current guidelines, pertinent legislation, council minutes, the section newsletter, a place for asking questions that will be answered by knowledgeable section members, case law updates, and Internet links to other ADR organizations and research resources.

**Public Service** — The section's Cross-Cultural ADR Task Force conducted its first training of volunteer

mediators to address understanding between races and religions, hate crimes, and the needs of servicemen and women as a result of deployment and/or loss of employment.

**Member Services** — The section revised the committee structure to make it more streamlined and efficient. The legislative committee closely monitored pertinent legislation and kept the members informed. The section co-sponsored the ABA/Dispute Resolution Section's Fifth Annual Conference in San Antonio in March 2003.

### African-American Lawyers

T.A. Sneed *CHAIR*

**Public Service** — The section responded to more than 100 pieces of correspondence received from prison inmates and other indigent individuals.

**Member Services** — All section officers attended the annual Texas Minority Counsel Program. Chair T.A. Sneed attended a State Bar Diversity in the

was an active State Bar member and strong supporter of the section.

## Sexual Orientation & Gender Identification Issues (SOGII)

John A. Nechman *CHAIR*

**Newsletter** — *SO&GI Issues*, published three times a year, contains updates on gay, lesbian, bisexual, and transgender (GLBT) legal issues, section-related events, member news, and upcoming events.

**Website ([www.sogiitx.org](http://www.sogiitx.org))** — The site includes the purpose and history of the section, its bylaws, new laws, and contacts, plus a section for members-only.

**Public Service** — The section members appeared prominently at many schools, colleges, and community organizations, as well as town hall meetings in Dallas, Houston, and Austin (on immigration issues, the Supreme Court case of *Lawrence v. Texas*, HIV-related matters, and same-sex marriage issues), and the “Safe Spaces in Work Places” event in Dallas on workplace discrimination. The section’s proposed legislation codifying transgendered name changes, if passed, would benefit many transgendered Texans who now must work through a very difficult legal maze to obtain name changes.

**Member Services** — A book being prepared by the section and edited by Vinson & Elkins attorney Chris Bacon will provide the most complete information available on GLBT-legal issues in the state of Texas. The section co-hosted one of the largest GLBT CLE events ever held in Texas at South Texas College of Law on alternative family law issues and will hold similar CLE events this year in Dallas and Houston. Former section chair Phyllis Randolph Frye and member Katrina Rose wrote an article on representing transgender clients for the *Texas Bar Journal*. Frye worked on proposed legislation that would codify the process for transgendered name changes, and the proposal was filed with the State Bar’s legislative policy committee. The section also introduced a resolution that would expand the class of eligible insureds for health insurance offered through the State Bar

of Texas Insurance Trust. Ruth Harlow, one of the nation’s top GLBT/civil rights attorneys and the legal director of Lambda Legal, was the guest of honor at the section’s annual meeting.

## Taxation

Robert V. Gibson *CHAIR*

**Newsletter** — *The Texas Tax Lawyer*, published three times a year, contains articles on federal, state, and local taxation. Each of the section’s standing committees submitted a current development column for each issue, and at least one significant article relating to the field of taxation.

**Website ([www.texastaxsection.org](http://www.texastaxsection.org))** — The site contains a mission statement, descriptions of standing committees, important news, dates and events, online resources including related links, and a members-only area providing archived newsletters and CLE materials.

**Member Services** — The section’s website and CLE committees have made significant progress in gathering and cataloguing CLE materials and course books from past and current seminars and symposiums sponsored by the section. These CLE materials will soon be published in the members-only area of the website to provide added benefits to section members.

## Women and the Law

Misty M. Ventura *CHAIR*

**Newsletter** — *The Women’s Advocate* is published three times yearly and mailed to the section’s more than 500 members. It has been expanded by newsletter editor Lisa Smith to include an “Around the State” section that highlights achievements and events which feature or address women and legal issues. The newsletter also includes a legislative update and feature articles of interest.

**Website ([www.txwomenlawsection.org](http://www.txwomenlawsection.org))** — The site has been updated to include the section’s newsletter, meeting minutes, and links to websites of interest to section members.

**Public Service** — The section continues its support of the Women’s Advocacy Project which operates a family violence hotline and provides other services for victims of family violence

throughout the state. The Women’s Advocacy Project was selected as the recipient of the 2003 State Bar Pro Bono Award.

**Member Services** — The section’s annual meeting ended the year’s activities with a CLE program, “Images of Women Lawyers in the Media,” presented by Nancy B. Rapoport, dean of the University of Houston Law Center. The annual Sarah T. Hughes Award, honoring a woman attorney who has achieved excellence in her field and who has opened doors and advanced opportunities for women in the profession, was presented to the Honorable Alma Lopez of the Fourth Court of Appeals in San Antonio. Carolyn F. Moore of Lubbock received the Ma’at Justice Award, which honors an individual who is actively addressing the needs and issues affecting women both in the legal profession and in the community.

Ongoing section projects include participation in the National Conference of Women’s Bar Associations (giving Texas women a national voice) and organization of a conference for Texas women’s bar organizations that is expected to be held during the next bar year.

WHEREAS, the State Bar of Texas has gone on record as opposing the expansion of the Texas sales tax base to include services of attorneys as impinging upon open access to courts as guaranteed by Article I, section 13 of the Constitution of the State of Texas of 1876, which taxes could be used as additional means of public school financing; and

WHEREAS, until a fair and equitable system for funding public school financing — geared to achieving excellence for all Texas school children — is adopted in place of “Robin Hood,” now therefore be it

RESOLVED, that the State Bar of Texas go on record as officially opposing the repeal of the present system of public school financing colloquially known as “Robin Hood,” and make known to the State Legislature its official position on this issue.

*Maria Luisa Flores, Chair*  
Hispanic Issues Section



#### Proposed Resolutions of the **Individual Rights and Responsibilities Section**

RESOLVED, that the State Bar of Texas and the Individual Rights and Responsibilities Section adopt the following recommended resolution.

RESOLVED, that the State Bar of Texas and the Individual Rights and Responsibilities Section call upon the Texas Legislature to create the Texas Capital Punishment Commission.

The duties of the commission shall be to study capital punishment in this state, concentrating particularly on issues relating to the legal representation of indigent inmates in capital cases, the certainty of the guilt of individuals convicted in capital cases and the ability of new technologies such as DNA testing to increase that certainty, race as a factor in decision-making in capital cases, and the sufficiency of appellate review of convictions in capital cases.

After completing the study, the commission shall propose legislation to correct inequities in the capital punishment process in this state.

FURTHER RESOLVED that the Individual Rights and Responsibilities Section Council and its delegate to the Resolutions Committee of the State Bar of Texas shall have the discretion and authority to accept amendments and/or changes to the wording of this resolution consistent with the original intent.

This resolution was adopted by the Individual Rights and Responsibilities Section March, 2003.

*Sheldon Weisfeld, Chair*  
*Sheila Enid Cheaney, Secretary/Treasurer*  
Individual Rights and Responsibilities Section

RESOLVED, that the State Bar of Texas calls upon the State of Texas not to carry out the death penalty until the State of Texas implements policies and procedures that (1) ensure that the death penalty cases are administered fairly and impartially, in accordance with due process, and (2) minimize the risk that innocent persons may be executed, by

1. Implementing guidelines for the appointment and performance of counsel in death penalty cases and policies intended to encourage competency of counsel in capital cases;

2. Preserving, enhancing, and streamlining state and federal courts' authority and responsibility to exercise independent judgment on the merits of constitutional claims in state post-conviction and federal habeas corpus proceedings;

3. Striving to eliminate discrimination in capital sentencing on the basis of the race or ethnicity of either the victim or the defendant; and

4. Preventing execution of mentally retarded persons and persons who were under the age of 18 at the time of their offenses.

FURTHER RESOLVED that the Individual Rights and Responsibilities Section Council and its delegate to the Resolutions Committee of the State Bar of Texas shall have the discretion and authority to accept amendments and/or changes to the wording of this resolution consistent with the original intent.

ADOPTED by the Council of the Individual Rights and Responsibilities Section of the State Bar of Texas, March 2003.

A resolution on this same subject was submitted to and defeated in the Resolutions Committee in June 2002. The Section intends to seek the support of other sections and local bar associations.

*Sheldon Weisfeld, Chair*  
*Sheila Enid Cheaney, Secretary/Treasurer*  
Individual Rights and Responsibilities Section



#### Proposed Resolution of the **Sexual Orientation and Gender Identification Issues Section**

WHEREAS the current health insurance plans offered by the State Bar of Texas Insurance Trust do not allow a member of the State Bar of Texas to purchase health insurance for a person, other than the member's spouse or child, who resides in the same household as a member of the Bar; and

WHEREAS many members of the Bar have a domestic partner or take care of elderly parents, grandparents, or other relatives who need health insurance; and

WHEREAS group health insurance plans exist that allow a plan participant to cover as insureds persons who reside in the same household with the plan participant; and

WHEREAS access to affordable health insurance is of the utmost importance to members of the State Bar of Texas; now, therefore, be it

RESOLVED by the council of the Sexual Orientation and Gender Identification Issues Section of the State Bar of Texas (1) that the Board of Trustees of the State Bar of Texas Insurance Trust is strongly urged to expand the class of eligible insureds for health insurance to include any person who resides in the same household with a member of the State Bar of Texas and (2) that copies of this resolution be delivered to the members of the Supreme Court of Texas, the officers and directors of the State Bar of Texas, and the section chairs of the State Bar of Texas. In making this resolution, the council takes no position on whether the State Bar of Texas Insurance Trust should require proof of insurability to the expanded class of eligible insureds.

Adopted by the section council on Feb. 20, 2003, by a unanimous vote.

**John A. Nechman, Chair**  
Sexual Orientation and Gender  
Identification Issues Section



#### Proposed Resolution of the

#### **Texas Women Lawyers Association**

WHEREAS, the relationship between lawyer and client is a fiduciary one in which the lawyer occupies the highest position of trust and confidence; and

WHEREAS, the relationship is almost always unequal, so that a sexual relationship between lawyer and client can involve unfair exploitation of the lawyer's fiduciary role, in violation of the lawyer's basic ethical obligation not to use the trust of the client to the client's disadvantage; and

WHEREAS, such a sexual relationship also presents a significant danger that, because of the lawyer's emotional involvement, the lawyer will be unable to represent the client without impairment of the exercise of independent professional judgment; and

WHEREAS, the significant danger of harm to client interests and the client's own emotional involvement renders it unlikely that the client could give adequate informed consent; and

WHEREAS, complaints of lawyer sexual misconduct suggest that lawyers do not perceive that such conduct is prohibited by the existing rules; and

WHEREAS, a specific rule regulating lawyer-client sexual conduct has the advantage not only of alerting lawyers more effectively to the dangers of sexual relationships with clients, but also of alerting clients that the lawyer may have violated ethical obligations in engaging in such conduct; and

WHEREAS, the American Bar Association's Ethics 2000 Commission on the Evaluation of the Rule of Professional Conduct has proposed a specific rule regulation lawyer-client sexual conduct; and

WHEREAS, a significant number of jurisdictions have adopted specific rules, comments or ethics opinions regulating sexual relations between lawyer and client; and

WHEREAS, other learned professions (including doctors, psychotherapists, ministers, chiropractors and social workers) prohibit sexual relationships with clients or patients as "Unprofessional Conduct," and

WHEREAS, the Texas Disciplinary Rules of Professional Conduct do not specifically address, let alone prohibit, sexual relationships between lawyer and client; and

WHEREAS, the Texas State Bar leadership has been discussing this matter for over four years and has yet to adopt a rule prohibiting sexual relationships between lawyer and client, even though the adoption of such a rule was proposed and supported by the State Bar Minorities in the Profession Committee, Women and the Law Section and Women and the Profession Committee; now, therefore, be it

RESOLVED that the Board of Directors of the State Bar of Texas shall recommend to the Supreme Court of Texas, pursuant to Section 81.024 of the State Bar Act, for submission to the membership of the State Bar of Texas, the following amendment to the Texas Disciplinary Rules of Professional Conduct:

A lawyer shall not engage in a sexual relationship with a client during the period of active representation, unless the lawyer and client are married to each other or already had a consensual relationship before the lawyer-client relationship commenced.

A lawyer shall not condition or threaten to condition representation of a client or the quality of legal services on the agreement of a client or prospective client to engage in sexual relationship with the lawyer.

Approved by the Board of Directors, Texas Women Lawyers Association on 21st day of March, 2003.

**Susan G. Morrison, President**  
Texas Women Lawyers Association