

# IN THE COURT OF CRIMINAL APPEALS OF TEXAS

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Misc. Docket No. 18-013

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## ORDER PROPOSING AMENDMENTS TO TEXAS RULES OF APPELLATE PROCEDURE 31.1 AND 31.2

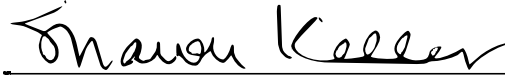
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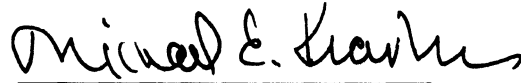
**ORDERED** that:

1. Pursuant to section 22.108 of the Texas Government Code, the Court of Criminal Appeals proposes amendments to Rules of Appellate Procedure 31.1 and 31.2.
2. These amendments may be changed in response to public comments received before October 30, 2018. Any interested party may submit written comments to the Court of Criminal Appeals at [txccarulescomments@txcourts.gov](mailto:txccarulescomments@txcourts.gov).
3. The Clerk is directed to:
  - a. file a copy of this order with the Secretary of State;
  - b. cause a copy of this order to be mailed to each registered member of the State Bar of Texas by publication in the *Texas Bar Journal*;
  - c. send a copy of this order to each elected member of the Legislature; and
  - d. submit a copy of the order for publication in the *Texas Register*.

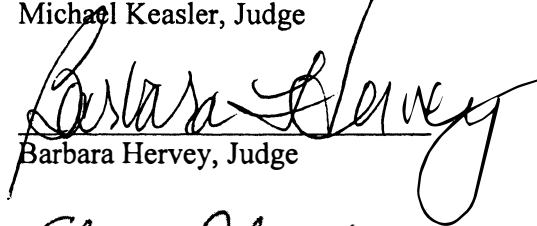
Dated: June 18, 2018.



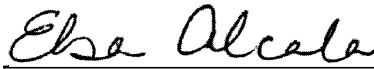
Sharon Keller, Presiding Judge



Michael Keasler, Judge




Barbara Hervey, Judge



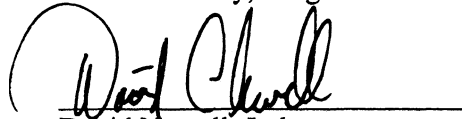
Elsa Alcala, Judge



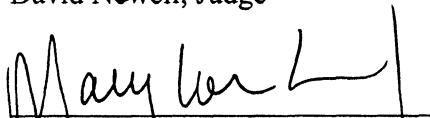
Bert Richardson, Judge



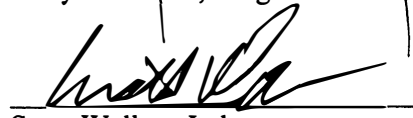
Kevin P. Yeary, Judge



David Newell, Judge



Mary Lou Keel, Judge



Scott Walker, Judge

### 31.1. Filing the Record and Briefs

When written notice of appeal from a judgment or order in a habeas corpus or bail proceeding is filed, the trial court clerk must prepare and certify the clerk's record and, if the appellant requests, the court reporter must prepare and certify a reporter's record. The clerk must send the clerk's record and the court reporter must send the reporter's record to the appellate court within 15 days after the notice of appeal is filed. On reasonable explanation, the appellate court may shorten or extend the time to file the records.

- (a) For an appeal from a habeas corpus proceeding challenging a conviction or an order placing the defendant on community supervision—but not challenging any particular condition of community supervision—the appellate court should use the same briefing rules, deadlines, and schedule that apply to direct appeals from criminal cases. On motion of any party, or on its own initiative, the appellate court may impose a more expedited timeline or submit the case without briefing, if necessary to do substantial justice to the parties.
- (b) For an appeal from a bail proceeding or any other habeas corpus proceeding, including one that challenges a particular condition of community supervision, the court will—if it desires briefs—set the time for filing briefs.

### 31.2. Submission; Hearing

The applicant need not personally appear. The appellate court will not review any incidental question that might have arisen on the hearing of the application before the trial court. The sole purpose of the appeal is to do substantial justice to the parties.

- (a) For an appeal from a habeas corpus proceeding challenging a conviction or an order placing the defendant on community supervision—but not challenging a particular condition of community supervision—the appellate court should use the same submission and hearing schedules that apply to direct appeals from criminal cases. On motion of any party, or on its own initiative, the appellate court may impose a more expedited timeline or submit the case without briefing, if necessary to do substantial justice to the parties.
- (b) An appeal in any other habeas corpus or bail proceeding, including a challenge to a particular condition of community supervision, shall be submitted and heard at the earliest practicable time.