

IN THE COURT OF CRIMINAL APPEALS OF TEXAS

Misc. Docket No. 22-002

Preliminary Approval of Amendments to Rule 3a of the Texas Rules of Civil Procedure, Rule 1.2 of the Texas Rules of Appellate Procedure, and Rule 10 of the Texas Rules of Judicial Administration

ORDERED that:

1. The Court invites public comments on the proposed amendments to Texas Rule of Civil Procedure 3a, Texas Rule of Appellate Procedure 1.2, and Texas Rule of Judicial Administration 10 set forth in this Order.
2. The Court requests that comments be submitted in writing to txccarulescomments@txcourts.gov by September 1, 2022.
3. The Court will issue an order finalizing the amendments after the close of the comment period. The Court may change the amendments in response to public comments. The Court expects the final amendments to take effect on January 1, 2023.
4. 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: March 30, 2022.

Sharon Keller

Sharon Keller, Presiding Judge

Barbara Hervey

Barbara Hervey, Judge

Bert Richardson

Bert Richardson, Judge

Kevin Patrick Yeary

Kevin P. Yeary, Judge

David Newell

David Newell, Judge

Mary Lou Keel

Mary Lou Keel, Judge

Scott Walker

Scott Walker, Judge

Michelle M. Slaughter

Michelle M. Slaughter, Judge

Jesse McClure III

Jesse McClure, Judge

Supreme Court of Texas

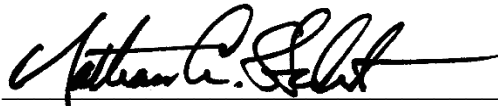
Misc. Docket No. 22-9026

Preliminary Approval of Amendments to Rule 3a of the Texas Rules of Civil Procedure, Rule 1.2 of the Texas Rules of Appellate Procedure, and Rule 10 of the Texas Rules of Judicial Administration

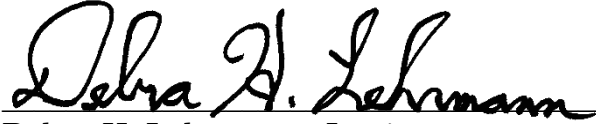
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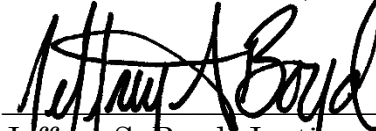
Dated: March 30, 2022.



Nathan L. Hecht, Chief Justice



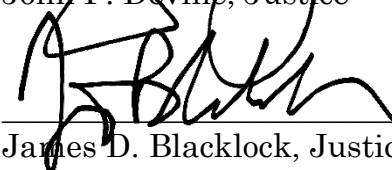
Debra H. Lehrmann, Justice



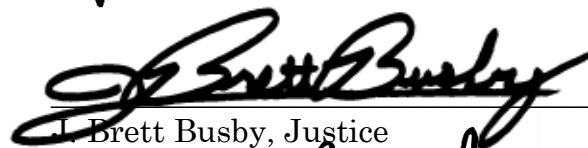
Jeffrey S. Boyd, Justice



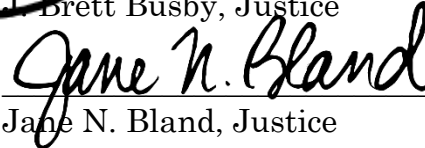
John P. Devine, Justice



James D. Blacklock, Justice



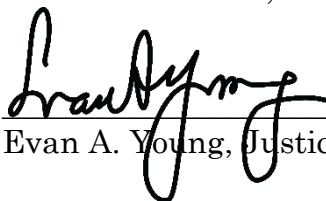
L. Brett Busby, Justice



Jane N. Bland, Justice



Rebeca A. Huddle, Justice



Evan A. Young, Justice

Texas Rules of Civil Procedure (REDLINE VERSION)

RULE 3a. LOCAL RULES, FORMS, AND STANDING ORDERS

- (a) General Rule. ~~Each~~An administrative judicial region, ~~district court, county court, county court at law, and probate or a court, governed by these rules~~ may ~~make and amend~~promulgate local rules, forms, and standing orders that ~~governing local practice before such courts, provided:~~
- (b) Relationship with Other Authorities. Local rules, forms, and standing orders
- (1) ~~that any proposed rule or amendment shall~~must not be inconsistent with ~~thesestate or federal law, or rules or~~adopted by the Supreme Court of Texas. This requirement extends to any time period provided by these rules. If adopted by a court, local rules, forms, and standing orders must not be inconsistent with any rule of the administrative judicial region in which the court is located~~;~~.
 - (2) ~~no time period provided by these rules may be altered by local rules;~~
 - (3) ~~any proposed local rule or amendment shall not become effective until it is submitted and approved by the Supreme Court of Texas;~~
 - (4) ~~any proposed local rule or amendment shall not become effective until at least thirty days after its publication in a manner reasonably calculated to bring it to the attention of attorneys practicing before the court or courts for which it is made;~~
 - (5) ~~all local rules or amendments adopted and approved in accordance herewith are made available upon request to members of the bar;~~
 - (6) ~~no local rule, order, or practice of any court, other than local rules and amendments which fully comply with all requirements of this Rule 3a, shall ever be applied to determine the merits of any matter.~~
- (c) Publication Required. To be effective, local rules, forms, and standing orders must be published on the Office of Court Administration's website.

Notes and Comments

Comment to 1990 change: To make Texas Rules of Civil Procedure timetables mandatory and to preclude use of unpublished local rules or other “standing” orders to local practices to determine issues of substantive merit.

Comment to 2022 change: Rule 3a is amended to remove the requirement that the Supreme Court of Texas approve local rules and to expressly address local forms and standing orders. The amended rule provides that local rules, forms, and standing orders must not conflict with other laws or rules and that they are not effective unless published on the Office of Court Administration's website. Section 74.093(b) of the Texas Government Code imposes additional requirements for local rules.

Texas Rules of Civil Procedure (CLEAN VERSION)

RULE 3A. LOCAL RULES, FORMS, AND STANDING ORDERS

- (a) *General Rule.* An administrative judicial region or a court governed by these rules may make local rules, forms, and standing orders that govern local practice.
- (b) *Relationship with Other Authorities.* Local rules, forms, and standing orders must not be inconsistent with state or federal law, or rules adopted by the Supreme Court of Texas. This requirement extends to any time period provided by these rules. If adopted by a court, local rules, forms, and standing orders must not be inconsistent with any rule of the administrative judicial region in which the court is located.
- (c) *Publication Required.* To be effective, local rules, forms, and standing orders must be published on the Office of Court Administration's website.

Notes and Comments

Comment to 1990 change: To make Texas Rules of Civil Procedure timetables mandatory and to preclude use of unpublished local rules or other "standing" orders to local practices to determine issues of substantive merit.

Comment to 2022 change: Rule 3a is amended to remove the requirement that the Supreme Court of Texas approve local rules and to expressly address local forms and standing orders. The amended rule provides that local rules, forms, and standing orders must not conflict with other laws or rules and that they are not effective unless published on the Office of Court Administration's website. Section 74.093(b) of the Texas Government Code imposes additional requirements for local rules.

Texas Rules of Appellate Procedure (REDLINE VERSION)

Rule 1. Scope of Rule; Local Rules of Courts of Appeals

1.1. Scope

These rules govern procedure in appellate courts and before appellate judges and post-trial procedure in trial courts in criminal cases.

1.2. Local Rules and Forms

- (a) *Promulgation.* A court of appeals may promulgate rules and forms governing its practice that are not inconsistent with ~~these state or federal law, or~~ rules adopted by the Supreme Court or the Court of Criminal Appeals. ~~Local rules governing civil cases must first be approved by the Supreme Court. Local rules governing criminal cases must first be approved by the Court of Criminal Appeals.~~ To be effective, local rules and forms must be published on the Office of Court Administration's website.
- ~~(b) *Copies.* The clerk must provide a copy of the court's local rules to anyone who requests it.~~
- ~~(c) *Party's Noncompliance.* A court must not dismiss an appeal ~~for noncompliance~~ due to a party's failure to comply with a local rule or form without giving the noncomplying party notice and a reasonable opportunity to cure the noncompliance.~~

Notes and Comments

Comment to 1997 change: Subdivision 1.1 is simplified without substantive change. Subdivision 1.2 is amended to make clear that any person is entitled to a copy of local rules. Paragraph 1.2(c), restricting dismissal of a case for noncompliance with a local rule, is added.

Comment to 2022 change: Rule 1.2 is amended to remove the requirement that the Supreme Court of Texas and Court of Criminal Appeals approve local rules and to expressly address local forms. The amended rule provides that local rules and forms must not conflict with other laws or rules and that they are not effective unless published on the Office of Court Administration's website.

Texas Rules of Appellate Procedure (CLEAN VERSION)

Rule 1. Scope of Rule; Local Rules of Courts of Appeals

1.1. Scope

These rules govern procedure in appellate courts and before appellate judges and post-trial procedure in trial courts in criminal cases.

1.2. Local Rules and Forms

- (a) *Promulgation.* A court of appeals may promulgate rules and forms governing its practice that are not inconsistent with state or federal law, or rules adopted by the Supreme Court or the Court of Criminal Appeals. To be effective, local rules and forms must be published on the Office of Court Administration's website.
- (b) *Party's Noncompliance.* A court must not dismiss an appeal due to a party's failure to comply with a local rule or form without giving the noncomplying party notice and a reasonable opportunity to cure the noncompliance.

Notes and Comments

Comment to 1997 change: Subdivision 1.1 is simplified without substantive change. Subdivision 1.2 is amended to make clear that any person is entitled to a copy of local rules. Paragraph 1.2(c), restricting dismissal of a case for noncompliance with a local rule, is added.

Comment to 2022 change: Rule 1.2 is amended to remove the requirement that the Supreme Court of Texas and Court of Criminal Appeals approve local rules and to expressly address local forms. The amended rule provides that local rules and forms must not conflict with other laws or rules and that they are not effective unless published on the Office of Court Administration's website.

Texas Rules of Judicial Administration (REDLINE VERSION)

Rule 10. Local Rules, Forms, and Standing Orders.

~~The local rules adopted by the courts of each county shall conform to all provisions of state and administrative region rules. If approved by the Supreme Court pursuant to Rule 3a, T.R.C.P., the local rules shall be published and available to the Bar and public, and shall include the following:~~

~~(a) *General Rule.* Local rules, forms, and standing orders must not be inconsistent with other laws or rules and must be published on the Office of Court Administration's website, as required by Rule 3a of the Texas Rules of Civil Procedure and Rule 1.2 of the Texas Rules of Appellate Procedure.~~

~~a.(b) *Multi-Court Counties.* In multi-court counties having two or more court divisions, each division must adopt a single set of local rules, forms, and standing orders ~~which shall~~that govern all courts in the division.~~

~~(c) *Local Rule Contents.* Local rules must include:~~

~~b. (1) Provisions for fair distribution of the caseload among the judges in the county;~~

~~e. Provisions to ensure uniformity of forms to be used by the courts under Rules 165a and 166, T.R.C.P.~~

~~d. (2) Designation of the responsibility for emergency and special matters;~~

~~e. (3) Plans for judicial vacation, sick leave, attendance at educational programs, and similar matters; and~~

~~(4) any other content required by Section 74.093(b) of the Government Code.~~

~~(d) *Format.* Local rules, forms, and standing orders must be submitted in a format specified by the Office of Court Administration.~~

~~(e) *Presiding Judge Authority.* The presiding judge of an administrative judicial region may direct a court in the region to amend or withdraw a local rule, form, or standing order if the presiding judge determines that the rule fails to comply with Rule 3a of the Texas Rules of Civil Procedure or that it is unfair or unduly burdensome.~~

(f) *Supreme Court Authority.* The Supreme Court may direct a court to amend or withdraw a local rule, form, or standing order if the Supreme Court determines that the rule fails to comply with Rule 3a of the Texas Rules of Civil Procedure or Rule 1.2 of the Texas Rules of Appellate Procedure or that it is unfair or unduly burdensome.

Comment to 2022 change: Rule 10 is amended to implement the changes to Texas Rule of Civil Procedure 3a and Texas Rule of Appellate Procedure 1.2. Paragraphs (e) and (f) expressly authorize the regional presiding judges and the Supreme Court to direct changes to or the repeal of local rules, forms, and standing orders.

Texas Rules of Judicial Administration (CLEAN VERSION)

Rule 10. Local Rules, Forms, and Standing Orders.

(a) *General Rule.* Local rules, forms, and standing orders must not be inconsistent with other laws or rules and must be published on the Office of Court Administration's website, as required by Rule 3a of the Texas Rules of Civil Procedure and Rule 1.2 of the Texas Rules of Appellate Procedure.

(b) *Multi-Court Counties.* In multi-court counties having two or more court divisions, each division must adopt a single set of local rules, forms, and standing orders that govern all courts in the division.

(c) *Local Rule Contents.* Local rules must include:

- (1) provisions for fair distribution of the caseload among the judges in the county;
- (2) designation of the responsibility for emergency and special matters;
- (3) plans for judicial vacation, sick leave, attendance at educational programs, and similar matters; and
- (4) any other content required by Section 74.093(b) of the Government Code.

(d) *Format.* Local rules, forms, and standing orders must be submitted in a format specified by the Office of Court Administration.

(e) *Presiding Judge Authority.* The presiding judge of an administrative judicial region may direct a court in the region to amend or withdraw a local rule, form, or standing order if the presiding judge determines that the rule fails to comply with Rule 3a of the Texas Rules of Civil Procedure or that it is unfair or unduly burdensome.

(f) *Supreme Court Authority.* The Supreme Court may direct a court to amend or withdraw a local rule, form, or standing order if the Supreme Court determines that the rule fails to comply with Rule 3a of the Texas Rules of Civil Procedure or Rule 1.2 of the Texas Rules of Appellate Procedure or that it is unfair or unduly burdensome.

Comment to 2022 change: Rule 10 is amended to implement the changes to Texas Rule of Civil Procedure 3a and Texas Rule of Appellate Procedure 1.2. Paragraphs (e) and (f) expressly authorize the regional presiding judges and the Supreme Court to direct changes to or the repeal of local rules, forms, and standing orders.