



# LAW LIBRARY NEWS

a publication of the Fort Bend County Law Library

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## Law Library Grand Opening

The **Fort Bend County Law Library** will be having it's **Grand Opening** on Wednesday, **November 14th** at the Law Library on the 2nd Floor of the Justice Center Room 20716 from **9 am to 5 pm**. We will be having refreshments, snacks, and tours. In addition, we will have two one hour CLE's on Lexis and Westlaw. Also, we have two tech training classes on Adobe Pro and Word. Programs start at 9:30 am. Registration for these classes and CLE's is required. Space is limited. Call 281-341-3718 to register and for more information.

## IN THIS ISSUE

<a href="#">Grand Opening</a>	1
<a href="#">New &amp; Updated Resources</a>	1
<a href="#">FBC Bar News</a>	1
<a href="#">Featured Resource</a>	2
<a href="#">Technology Corner</a>	2
<a href="#">Community News</a>	3
<a href="#">Texas Case Law Update</a>	4

## New & Updated Resources

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| <b><i>O'Connor's Texas Series</i></b>          | <b><i>Kinkeade &amp; McCullough</i></b>      |
| • <i>Estates Code Plus</i>                     | <b><i>Texas Penal Code</i></b>               |
| • <i>Crimes &amp; Consequences</i>             | <b><i>Annotated</i></b>                      |
| • <i>2018-2019 Editions</i>                    | • <i>2018-2019 Edition</i>                   |
| <b><i>Texas Criminal Lawyers Handbook</i></b>  | <b><i>U.S. Master Tax Guide</i></b>          |
| • <i>2018 Edition</i>                          | • <i>2018 Edition</i>                        |
| <b><i>Texas Practice Guide</i></b>             | <b><i>Employment in Texas</i></b>            |
| • <i>Civil Pretrial</i>                        | • <i>2018 Update</i>                         |
| • <i>Evidence</i>                              |  |
| • <i>Financial Transactions</i>                |  |
| • <i>2018-2019 Editions</i>                    |  |
| <b><i>Attorneys Dictionary of Medicine</i></b> | <b><i>Vernon's Texas Codes Annotated</i></b> |
| • <i>2018 Update</i>                           | • <i>2018 Update</i>                         |
| <b><i>Criminal Defense Techniques</i></b>      | <b><i>Federal Practice and Procedure</i></b> |
| • <i>2018 Update</i>                           | • <i>Vols. 23—23A</i>                        |
|  | • <i>Evidence</i>                            |
|  | • <i>2018 Editions</i>                       |

## FBC Bar News

The **October luncheon and meeting** of the Fort Bend County Bar Association will be held at **12:00 pm** on Thursday, **October 25th** at the [Pecan Grove Plantation Country Club](#) located at 3000 Plantation Drive, Richmond, Texas. The program topic is **Dram Shop Laws and Social Host Liability for Alcohol-Related Accidents in Texas**. The Speakers will be Maryalyce Cox with Mehaffy Weber. The program is approved for 1 hour CLE credit and .25 hours ethics credit. The luncheon cost is \$25 for members and \$30 for nonmembers. [Membership information](#) and the [RSVP Policy for Luncheons](#) are also on the website.

**Please RSVP** no later than 12:00 p.m. on Tuesday, **October 23rd** by using the form on the [Next CLE Luncheon](#) page.

## **Member Resources**

[Click here for Member Resources](#)

## Featured Resource: O'Connor's Texas Crimes & Consequences

*By Jonathan Briggs*



The 2018-2019 edition of O'Connor's Texas Crimes & Consequences has recently arrived. It is physically the smallest book by O'Connor's in the Law Library's collection, but it is one of the most information-packed volumes in the entire series of O'Connor's practice guides. It is an excellent resource for criminal defense attorneys, prosecutors, defendants, Judges, and court personnel. Crimes & Consequences provides a breadth and depth of crucial and readily accessible information on key areas of criminal justice practice laid out in a user-friendly form with numerous charts, including: Penal Code punishment ranges for all levels of offenses and other associated issues; punishment ranges for all manner of drug offenses; and information on such issues as culpable mental states, limitations, community service, sex offender registration, parole, sealing records, and lesser included offenses. This resource is indispensable in providing comprehensive information on the key topic of possible punishment ranges and issues affecting them. And true to its title, it also provides an accurate picture of the consequences of pleas or convictions to defendants facing charges. This and the entire O'Connor's series of practice guides are available for use by our patrons and are kept on their own easily accessible bookshelf across from the reference desk in our new library on the second floor of the Justice Center, open 8-5 M-F. Many of the charts from this publication are also available on the O'Connor's online database via its Criminal Law page on several of our patron computers. Copies and prints may be made for \$.10 per page.

## Technology Corner

*By Andrew Bennett*

In this column, we examine technology in the Law Library that you can use in your practice.

**This Month's Featured Technology:** *Lexis Digital Library*

Have you ever needed a resource but the Law Library is closed? Well, now you no longer have to worry about not being able to get it! The Law Library has signed up for the LexisNexis Digital Library. This online resource has all of our Lexis products in eBook format including all of the Matthew Bender sets including *Dorsaneo's Texas Litigation Guide* and partner publishers such as James Publishing. Why is this convenient for you? You can access these resources at **ANY** Fort Bend County Library branch. We have 10 branches to choose from! You will have to sign up for a Library Card (which is still FREE) and be in one of our branches. Our branches have weekend hours. Once there, you can log in to our Digital Library through a public computer or through WiFi. Then you can download or print the portion of the book you need. Questions? Contact the Law Library.



## Community News

- **Fort Bend Lawyers Care** is hosting it's a **Justice for All Fundraiser** on Friday, **October 19th** from **7:00 to 10:30 pm** at the Houston Museum of Natural Science in Sugar Land. For more information, donations, and registration, visit their website at [www.fortbendlawyerscare.org](http://www.fortbendlawyerscare.org).
- The **Katy Bar Association** is holding its **October meeting and CLE** on Tuesday, **October 23rd** from **11:30 am to 1 pm** at Willow Fork Country Club in Katy. It is entitled "The Intersection of Law and Animals: The Good, the Bad and the Imprecise." For more information, visit the Katy Bar website at [www.katybar.org](http://www.katybar.org).
- The **Family Bar of Fort Bend** is hosting a **Amicus/ Ad Litem CLE** on Friday, **October 26th** in the Jury Assembly Room in the Justice Center starting at **8 am**. Visit <https://familybarfortbend.org/events> for more information.
- The **Fort Bend County Law Library** is starting it's **Pro Se Basics Series** on Tuesday, **November 6th** at **10 am**. The first class will be on **Beginners Legal Research**. Classes continue on Tuesday's. Contact the Library for dates and classes. Registration is required as space is limited. Contact the Law Library at 281-341-3718 to register.
- The **Fort Bend County Law Library** is also starting it's new **Express Classes** on Thursday, **November 8th** at **10 am**. This class will be on **Formatting Legal Documents in Microsoft Word**. Classes continue on Thursday. Contact the Library for dates and classes. Registration is required as space is limited. Contact the Law Library at 281-341-3718 to register.



## Texas Lawyers

### Assistance Program

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, call 1-800-343-8527.

### To Include Items in the Newsletter

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](mailto:abennett@fortbend.lib.tx.us) with "Newsletter" as the subject.

### To Unsubscribe from the Newsletter

If you do not want to receive the Law Library newsletter, please send an email to [abennett@fortbend.lib.tx.us](mailto:abennett@fortbend.lib.tx.us) with "Unsubscribe" as the subject and include the email address to be removed.

## Texas Case Law Update

### Local Cases

- [Isaac S. Achobe v. North Mission Glen HOA, Inc.](#), No. 01-17-00787-CV (October 2, 2018): Aff'd. TC Judgment. (240th)
- [In Re Anthony Welch](#), No. 14-18-00766-CV (September 13, 2018): Pet. Writ Mandamus Denied (458th)
- [Carole Bentley, Ind. And Executrix of Estate of Leigh S. Bentley v. Duane Bentley Peck, Ind. And as Trustee of Bentley Family Trust, Et Al.](#), No. 14-17-00561-CV (October 9, 2018): Aff'd. TC Judgment. (434th)

### Criminal Law/ Constitutional Law

- *Billy Hawkins v. The State of Texas*, 551 S.W.3d 764 (Tex.App.-Fort Worth 2018, Pet. Ref'd.): Defendant was convicted of possession of less than a gram of methamphetamine and was sentenced to 6 months in state jail. In addition to the sentence of confinement defendant was also assessed \$349 in court costs, including a consolidated fee of \$133. On appeal Defendant argued that the fees pursuant to Local Government Code § 133.102(a)(1)(e.) violate the Separation of Powers Clause of the Texas Constitution, Art. II, § 1. Defendant took issue with the allocation of these fees to accounts and funds for “abused children’s counseling”, “law enforcement officers standards and education”, and “comprehensive rehabilitation” contending that it is unlawful taxation as the funds allow spending on things other than “legitimate criminal justice purposes.” He argued that the fees violated the Separation of Powers Clause by making the courts a tax collector, which is the function of the executive branch, not the judicial branch. Applying *Salinas v. State*, a recent Court of Criminal Appeals opinion, the Court of Appeals partly sustained Defendant’s point of error because the allocation of the fee to abused children’s counseling and comprehensive rehabilitation do not serve “a legitimate criminal justice purpose.” However, the Court of Appeals citing *Salinas* refused to apply its holding retroactively. Further, it upheld the fee in its funding of “law enforcement standards and education” as a legitimate criminal justice purpose. Thus the trial court’s judgment was affirmed. Defendant won a battle, but lost the war.
- *Alma Anderson v. The State of Texas*, 552 S.W.3d 321 (Tex.App.-Corpus Christi 2018, Pet. for Disc. Rev. filed July 2, 2018): Defendant was convicted of possession of less than 28 grams of Clonazepam (a medication that is often abused), a Class A Misdemeanor, and sentenced to 30 days of service in a work-release program. She appealed claiming that the trial court erred in admitting hearsay evidence, to wit, the arresting officer’s testimony that he utilized outside sources to identify the pills in question (the “Drugs.com” website and a book entitled “Drug Identification Bible 2014 to 2015”). The pills were found while doing an inventory of her vehicle following her arrest for DWI/alcohol. No actual testing of the pills was done. The Court of Appeals agreed that the evidence was hearsay and that the state failed to show that the arresting officer was an expert on drug identification, thus he could not sponsor excerpts from a learned treatise, an exception to the hearsay rule. This was found to be harmful error, thus the judgment of the trial court was reversed and remanded.

### Litigation/Health

- *Texas Health Resources v. Coming Attractions Bridal and Formal, Inc.*, 552 S.W.3d 335 (Tex.App.-Dallas 2018, Pet. for Disc. Rev. filed June 27, 2018): a nurse at Presbyterian Hospital in Dallas (owned/operated by Texas Health Resources “THR”) was among those exposed to a patient who died of the Ebola virus. The hospital assured the nurse and others that they were not at risk of contracting the virus and were free to intermingle with family, friends, and the public. The nurse subsequently visited the Coming Attractions bridal shop to select a dress for her upcoming wedding. She later came down with the Ebola virus. Health authorities ordered the bridal shop to be closed for cleaning due to her past presence there. The attendant publicity and stigma caused the store to lose customers and go out of business. The bridal store sued THR for negligence. THR brought a motion to dismiss based on plaintiff’s failure to produce the required expert report pursuant to Chapter 74 of the Civil Practice & Remedies Code when bringing a health care liability claim alleging the provider’s departure from accepted standards of safety as causative of claimant’s injury. Trial court sided with plaintiff but the Court of Appeals vacated the trial court’s order denying the motion, dismissed plaintiff’s case with prejudice, and remanded for a determination on THR’s attorney’s fees.

For more information, visit the Law Library