

COMMITTEE ON DISCIPLINARY RULES AND REFERENDA

Texas Disciplinary Rules of Professional Conduct

Rule 3.09. Special Responsibilities of a Prosecutor

Below is the timeline for proposed changes to Rule 3.09 of the Texas Disciplinary Rules of Professional Conduct, relating to the special responsibilities of a prosecutor. (Note: A previous version of proposed Rule 3.09 was published in March 2022. This version includes changes to the previously published proposal.)

INITIATED – November 3, 2022

The Committee voted to initiate proposed changes to Rule 3.09.

PUBLICATION – A proposed rule is withdrawn if it is not published in (1) the Texas Register and (2) the Texas Bar Journal within six months of initiation of the rule proposal process.

- **Texas Register – January 13, 2023 (Complete)**
- **Texas Bar Journal – January 2023 (Complete)**

NOTE: Publications include details on dates and participation methods for the comment period and the public hearing(s).

COMMENT PERIOD – The Committee shall give interested parties at least 30 days from the date a proposed rule is published to submit comments on the rule to the Committee.

The Committee accepted public comments through **April 13, 2023**.

PUBLIC HEARING – The Committee held a public hearing by teleconference on **April 12, 2023**.

FINAL VOTE BY COMMITTEE – The Committee shall vote on whether to recommend a proposed rule to the Board of Directors not later than the 60th day after the final day of the comment period. This vote must be held at a meeting open to the public and with notice to the public.

At its **May 3, 2023**, meeting, the Committee voted to recommend the proposed rule to the Board of Directors.

SUBMISSION TO BOARD OF DIRECTORS – The Committee shall submit a proposed disciplinary rule that is recommended by the Committee to the Board of Directors for review and consideration.

The proposed rule was submitted to the Chair of the Board of Directors on **July 14, 2023**.

VOTE BY BOARD OF DIRECTORS – The Board of Directors shall vote on each proposed disciplinary rule recommended by the Committee not later than the 120th day after the date

the rule is received from the Committee. The Board shall vote for or against the rule or return the rule to the Committee for additional consideration.

At its **September 29, 2023**, meeting, the Board voted to approve the proposed rule.

VOTE BY BAR MEMBERSHIP – On September 29, 2023, the Board of Directors approved the submission of a petition to the Supreme Court of Texas for a rules vote by Bar membership. On October 6, 2023, the Supreme Court ordered a membership vote to take place from **April 1 to April 30, 2024**, on this and other rule proposals. Texas Bar members approved all of the rule proposals included in the 2024 rules vote pursuant to Section 81.0878 of the Texas Government Code.

SUPREME COURT APPROVAL OR REJECTION – Section 81.0879 of the Texas Government Code provides as follows: The supreme court by majority vote may approve or reject a proposed disciplinary rule in its entirety but may not approve or reject only part of the rule. If the supreme court does not vote on the rule on or before the 120th day after the date the rule is approved by bar members under Section 81.0878, the rule is considered approved by the supreme court.

Pursuant to Texas Government Code Section 81.08791, on April 16, 2024, the Court provided notice of deliberations and public comment period.

On **May 6, 2024**, the Supreme Court of Texas deliberated on the proposed rule amendments approved by Texas Bar members during the 2024 rules vote.

By an order dated **August 27, 2024**, the Supreme Court of Texas announced its approval and adoption of the proposed rule amendment included in the 2024 rules vote, as well as interpretive comments, as set forth in the order, effective **October 1, 2024**. The order is available at <https://www.txcourts.gov/media/1459056/249054.pdf>.