

**HOUSE OF REPRESENTATIVES
COMPILATION OF PUBLIC COMMENTS**

Submitted to the Committee on Judiciary & Civil Jurisprudence
For HB 2846

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Hearing Date: April 5, 2023 8:00 AM

Danielle Healey

Self

Houston, TX

In opposition to House Bill 2846 (Cain)

I am against House Bill 2846 because the State Bar Rules of Disciplinary Conduct already protect attorneys from having to accept representation of clients or causes that they find offensive or are repugnant to their values: Rule 6.01. Accepting Appointments by a Tribunal A lawyer shall not seek to avoid appointment by a tribunal to represent a person except for good cause, such as: (a) representing the client is likely to result in violation of law or rules of professional conduct; (b) representing the client is likely to result in an unreasonable financial burden on the lawyer; or (c) the client or the cause is so repugnant to the lawyer as to be likely to impair the client-lawyer relationship or the lawyer's ability to represent the client.

I have been licensed and practicing law since 1985 and have never heard of a lawyer who was forced to take a case they found violated their religious or moral code or ethical values. In the best tradition of the profession lawyers provide representation to people who need it, for example John Adams represented British Soldiers on trial for shooting into a crowd and killing civilians during a protest. He certainly was not in favor of British occupation of Boston, he was not an advocate for murder, he was one of the leaders of the American independence movement, but as an attorney he felt he could not turn down a case for people who needed representation, because in fact they were repugnant unpopular clients who no one else would represent. This bill also conflicts with the power vested in the Texas Supreme Court in Article 5, Section 1 of the Texas Constitution, which has authority over the judicial power in this state.

Lawyers are officers of the Court, Courts can and do regulate who practices before them, and this bill is not only unnecessary as it replicates existing Texas rules, but also it interferes with the separation of powers in the Texas Constitution. The Bill's intrusion into the judicial power is an ill-advised, illegal and unnecessary act.

Cece Cox, CEO
Resource Center
Dallas, TX

I serve as CEO of Resource Center, the primary LGBTQIA+ and HIV/AIDS service organization in North Texas. Our services reach more than 60,000 people in the community per year. We have been a voice and advocate for the LGBTQIA+ community in North Texas for four decades. I submit this testimony today to oppose HB 2846 which would give members of the State Bar of Texas a license to discriminate. Simply put, discrimination isn't a Texas value.

By granting members of the State Bar of Texas a sweeping religious exemption, the legislature would be codifying just that – discrimination. HB 2486 would give members of the State Bar of Texas broad discretion to refuse LGBTQIA+ clients, or treat them unequally, simply for being who they are. Attorneys and legal professionals would be able to refuse to serve same-sex clients or misgender them with no consequences from the state body that regulates such conduct. Beyond a client's LGBTQIA+ status, HB 2846 would open the door to discrimination based on many facets of an individual's identity. License holders could refuse service on a characteristic such as a person's religion or race. This is wrong and flies in the face of standards of professional and ethical legal conduct.

Religious freedom is indeed an honored and protected part of our nation's values. The First Amendment to the Constitution gives all Americans the right to practice a religion. But freedom does not give anyone the right- especially those who are most trusted in society such as legal professionals- the right to impose religious beliefs at the expense of other freedoms.

This legislation is entirely unnecessary. The Texas Religious Freedom Restoration Act already does a careful job to balance religious freedoms against the need for civil rights protections. HB 2846 would erode protections for LGBTQIA+ and many other Texans who are simply living authentically as themselves. As constructed in HB 2846 a "sincerely held religious belief" is a broad and ambiguous term. There is no method by which to verify a license holder's views. The language presented in the bill opens the door for confusion and litigation, as an uneven standard would be applied to license holders. Moreover, the bill undermines the very purpose of licensing requirements – public trust that a professional adheres to accepted standards of professional practice and treats all clients in a fair and equal manner.

Additionally, HB 2486 would place an additional burden on all Texas consumers. Patients and prospective clients would have to determine not only the qualifications of an attorney but whether the State Bar of Texas member's religious beliefs would interfere in their treatment or delivery of services.

No Texan should face discrimination or the denial of services based on who they are or who they love. On behalf of Resource Center, our clients and the LGBTQIA+ community in North Texas, I urge the committee to abandon this effort to legislate discrimination.

William Pritchett
Self
Houston, TX

I'm opposed to House Bill 2846 (Cain) and any legislation that would give license to professionals to discriminate against Texans. HB 2846 is unnecessary legislation and purports to solve a problem that does not exist. Texas has one of the strongest Religious Freedom Restoration Acts in the country which protects the free exercise of religion and speech associated with religion. What HB 2846 does is attempt to provide one specific group of license holders (attorneys and bar license holders) with special rights above all other professionals - allowing them the ability to use their religious beliefs as a weapon. No other profession in the state of Texas is given special privileges and allowing attorneys this power circumvents the Texas RFRA. Legislation like HB 2846 does not solve any existing problem in the state of Texas and is a waste of time for a legislature that has precious little time to work for the people of Texas. I urge the committee to oppose this legislation and leave it pending in committee.

Rich Robins, Volunteer Editor, TexasBarSunset.com

TexasBarSunset.com

Houston, TX

Many Texans are grateful to you for proposing this bill. It can help make the Texas Bar's grievance, attorney discipline & punishment endeavors a little less unfair to that bar's still compulsory members. It is not possible for such members to reform such matters internally at that bar. Video coverage linked from the first paragraph of the following page of proposed reforms helps show a recent example of how bureaucratic gamespersonship is readily used by that bar's elite leadership to sidetrack and ultimately derail such reform proposals before they can even get a vote by that bar's elected board:

<http://www.TexasBarSunset.com/reforms>

As a result, at least 80% of the membership of the Texas Bar refrains from voting in month-long, internet-enabled annual elections:

<http://www.TexasBarSunset.com/voter-abstention> .

Why would they bother voting when they know that bar's elites ultimately get what they want, regardless? And let's not forget about retaliation risks.

Presently adversaries in court (and elsewhere) still "weaponize" the Texas Bar against their opponents, in hopes of surmounting their foes more easily. Meanwhile that bar presently still profits from the resulting culture of regulatory uncertainty & intimidation. It rakes in over \$12 million dollars annually while peddling continuing legal education (CLE) packages to member attorneys at over \$100 per hour. Such CLE purports to help reduce the confusing nature of how that bar deems certain conduct as being misleading, frivolous and / or time-wasting and thereby justifying of punishment. Simultaneously, salaries at that bar grow substantially:

<http://www.TexasBarSunset.com/salaries>

Even the Texas Bar's ethics enforcement actions have major profit motives, as the attorneys fee awards that they demand show. Bar prosecutors object to nearly every defense question or exhibit, while prudent judges are eager to appease them. They also flood the evidence pool with unnecessary documents that are prohibitively costly to include in an appeal, but nevertheless required for completeness.

This scenario costs ALL Texans. According to the National Center for State Courts and the Bureau of Justice Statistics, in 1992 reportedly nearly all civil defendants in the U.S. had legal counsel. Nowadays that figure is reportedly merely around 25%. The emergence of cyberspace has made it easy for people to entice the Texas Bar with opportunities to resolve fee disputes by further creating a culture of intimidation among attorneys. Precautious lawyers therefore need to increase their prices and decline otherwise viable (but still unproven) clientele. Consequently more Texans have to take the law into their own hands, without lawyers from the private sector. Many business ventures languish in Texas for lack of a lawyer's affordable assistance, resulting in greater unemployment, reduced efficiency and stifled economic growth. So thanks again for this bill.

Chris Donofrio

Self

The Woodlands, TX

I oppose HB 2846.

I urge you to let it die in committee.

This bill provides cover for lawyers who should be disciplined.

Lawyers hold a special position in society. They provide fair legal representation to those who need it.

As such, their religious beliefs, political ideology, and societal view are irrelevant.

If their views shall prevent them from providing fair legal representation, they shouldn't take on clients that cause this problem to them.

The law has no place to retroactively excuse a lawyer for not acting responsibly or ethically at the time they agreed to represent someone.

HB 2846 gives cover to those lawyers who are sanctioned or being considered for disbarment. Off the top of my head, Sydney Powell comes to mind. HB 2846 appears, to me, as legislation specifically designed to protect her.

This has no place in Texas' legal system.

I urge you to let HB 2846 die in committee.

Respectfully,

Chris J Donofrio

Katie Hallberg

Katie Hallberg - Arbonne International

Austin, TX

I OPPOSE this bill. It is never okay to discriminate. It is less okay to discriminate as an attorney who is to represent the best interest of their clients. Discrimination is hate.