

## The Texas Constitution's Bill of Rights (1876 plus amendments)

*One of the distinguishing features of the Texas Constitution is a lengthy Bill of Rights. Here the Texas Constitution protects Texans from the actions of state government. Unlike the U.S. Constitution where the Bill of Rights comprising the first ten amendments is located at the end of the document, the Texas Bill of Rights is placed at the beginning as Article 1.*

*The Texas Bill of Rights articulates a distinctive governing philosophy about the "principles of liberty and free government" that underlies the Texas Constitution. Power comes from the people and Republican government is guaranteed. The people reserve "at all times the inalienable right to alter, reform or abolish their government in such a manner as they may think expedient." Texas is a free and independent state, "subject only to the Constitution of the United States." But the Texas Bill of Rights also declares that the "perpetuity of the Union" depends upon the preservation of unimpaired local self-government. Today such a statement might seem to be uncontroversial. Put in the proper historical context, however, this philosophy signals a rejection of the 1869 Constitution's explicit affirmation of the supremacy of the U.S. Constitution in matters of federalism. Such a philosophy reflects the return to power of traditional secessionist political elites in Texas. This philosophy would dominate (and haunt) Texas politics and government from 1876 until the 1960s when federal civil rights legislation would redefine what local self-government would mean, particularly in regard to the protections afforded minorities by the U.S. Constitution.*

*Some of the rights in Article 1 echo the protections provided by the U.S. Bill of Rights. Freedom of worship is guaranteed (Sec. 6), as is freedom of speech (Sec. 8), freedom of the press (Sec. 8), freedom of assembly and petition (Sec. 27), and freedom from the quartering of soldiers (Sec. 25). Texans are protected in the Bill of Rights from unreasonable searches and seizures (Sec. 9), and the accused has certain due process rights (for example, Secs. 10, 12, 13, 14, 15, and 19). The Texas Bill of Rights explicitly bans religious tests for public office or appropriations for sectarian purposes (Sec. 7).*

*Some protections provided by the Texas Bill of Rights seem strange to the modern ear. Monopolies are outlawed (Sec. 26). Primogeniture (limiting the inheritance of land to the first born) and entails (conditions put on the inheritance of land) are forbidden. No one can be found guilty due to corruption of blood (guilt by family association) or be punished in their inheritance by the suicide of a family member.*

*The Texas Bill of Rights most sharply diverges from the U.S. Bill of Rights in the amendments that have been added over the years. Many of these reflect the ebb and flow of political and cultural concerns in the state. In contrast to the federal government, Texas added an Equal Rights Amendment to the Bill of Rights in 1972, protecting people from discrimination because of sex, race, color, creed, or national origin (Sec. 31). Between 1956 and 2007, complicated provisions were added to the Bill of Rights allowing the denial of bail for multiple convictions (Secs. 11a, 11b, and 11c). Lengthy provisions were added to the Bill of Rights granting rights to crime victims in 1989 (Sec. 30) and providing for compensation for crime victims in 1997 (Sec. 31). Provisions protecting traditional marriage were added in 2005 in Section 32, although these are now inoperable due to a recent Supreme Court ruling. Access to public beaches is guaranteed to individuals in 2009 (Sec. 33) as is the right to hunt, fish, and harvest wildlife by traditional methods such as guns (Sec. 34). In 2009, an amendment was added to the Bill of Rights clarifying when property could be seized by the state under eminent domain. These protections were added to the Bill of Rights largely in response to the furor created by cities taking land from individuals and giving it to others for development projects, like the building of modern sports stadiums.*

*The extensive list of rights contained in Article 1 of the Texas Constitution shows the ongoing concerns of people and politicians in Texas to limit what government does through constitutional mandate. These rights will likely be expanded in the future.*

### ARTICLE 1. BILL OF RIGHTS

That the general, great and essential principles of liberty and free government may be recognized and established, we declare:

**Sec. 1. FREEDOM AND SOVEREIGNTY OF STATE.** Texas is a free and independent State, subject only to the Constitution of the United States, and the maintenance of our free institutions and the perpetuity of the Union depend upon the preservation of the right of local self-government, unimpaired to all the States.

**Sec. 2. INHERENT POLITICAL POWER; REPUBLICAN FORM OF GOVERNMENT.** All political power is inherent

in the people, and all free governments are founded on their authority, and instituted for their benefit. The faith of the people of Texas stands pledged to the preservation of a republican form of government, and, subject to this limitation only, they have at all times the inalienable right to alter, reform or abolish their government in such manner as they may think expedient.

Sec. 3. EQUAL RIGHTS. All free men, when they form a social compact, have equal rights, and no man, or set of men, is entitled to exclusive separate public emoluments, or privileges, but in consideration of public services.

Sec. 3a. EQUALITY UNDER THE LAW. Equality under the law shall not be denied or abridged because of sex, race, color, creed, or national origin. This amendment is self-operative.

(Added Nov. 7, 1972.)

Sec. 4. RELIGIOUS TESTS. No religious test shall ever be required as a qualification to any office, or public trust, in this State; nor shall any one be excluded from holding office on account of his religious sentiments, provided he acknowledge the existence of a Supreme Being.

Sec. 5. WITNESSES NOT DISQUALIFIED BY RELIGIOUS BELIEFS; OATHS AND AFFIRMATIONS. No person shall be disqualified to give evidence in any of the Courts of this State on account of his religious opinions, or for the want of any religious belief, but all oaths or affirmations shall be administered in the mode most binding upon the conscience, and shall be taken subject to the pains and penalties of perjury.

Sec. 6. FREEDOM OF WORSHIP. All men have a natural and indefeasible right to worship Almighty God according to the dictates of their own consciences. No man shall be compelled to attend, erect or support any place of worship, or to maintain any ministry against his consent. No human authority ought, in any case whatever, to control or interfere with the rights of conscience in matters of religion, and no preference shall ever be given by law to any religious society or mode of worship. But it shall be the duty of the Legislature to pass such laws as may be necessary to protect equally every religious denomination in the peaceable enjoyment of its own mode of public worship.

Sec. 7. APPROPRIATIONS FOR SECTARIAN PURPOSES. No money shall be appropriated, or drawn from the Treasury for the benefit of any sect, or religious society, theological or

religious seminary; nor shall property belonging to the State be appropriated for any such purposes.

Sec. 8. FREEDOM OF SPEECH AND PRESS; LIBEL. Every person shall be at liberty to speak, write or publish his opinions on any subject, being responsible for the abuse of that privilege; and no law shall ever be passed curtailing the liberty of speech or of the press. In prosecutions for the publication of papers, investigating the conduct of officers, or men in public capacity, or when the matter published is proper for public information, the truth thereof may be given in evidence. And in all indictments for libels, the jury shall have the right to determine the law and the facts, under the direction of the court, as in other cases.

Sec. 9. SEARCHES AND SEIZURES. The people shall be secure in their persons, houses, papers and possessions, from all unreasonable seizures or searches, and no warrant to search any place, or to seize any person or thing, shall issue without describing them as near as may be, nor without probable cause, supported by oath or affirmation.

Sec. 10. RIGHTS OF ACCUSED IN CRIMINAL PROSECUTIONS. In all criminal prosecutions the accused shall have a speedy public trial by an impartial jury. He shall have the right to demand the nature and cause of the accusation against him, and to have a copy thereof. He shall not be compelled to give evidence against himself, and shall have the right of being heard by himself or counsel, or both, shall be confronted by the witnesses against him and shall have compulsory process for obtaining witnesses in his favor, except that when the witness resides out of the State and the offense charged is a violation of any of the anti-trust laws of this State, the defendant and the State shall have the right to produce and have the evidence admitted by deposition, under such rules and laws as the Legislature may hereafter provide; and no person shall be held to answer for a criminal offense, unless on an indictment of a grand jury, except in cases in which the punishment is by fine or imprisonment, otherwise than in the penitentiary, in cases of impeachment, and in cases arising in the army or navy, or in the militia, when in actual service in time of war or public danger.

(Amended Nov. 5, 1918.)

Sec. 11. BAIL. All prisoners shall be bailable by sufficient sureties, unless for capital offenses, when the proof is evident; but this provision shall not be so construed as to prevent bail after indictment found upon examination of the evidence, in such manner as may be prescribed by law.

**Sec. 11a. MULTIPLE CONVICTIONS; DENIAL OF BAIL.**

(a) Any person (1) accused of a felony less than capital in this State, who has been theretofore twice convicted of a felony, the second conviction being subsequent to the first, both in point of time of commission of the offense and conviction therefor, (2) accused of a felony less than capital in this State, committed while on bail for a prior felony for which he has been indicted, (3) accused of a felony less than capital in this State involving the use of a deadly weapon after being convicted of a prior felony, or (4) accused of a violent or sexual offense committed while under the supervision of a criminal justice agency of the State or a political subdivision of the State for a prior felony, after a hearing, and upon evidence substantially showing the guilt of the accused of the offense in (1) or (3) above, of the offense committed while on bail in (2) above, or of the offense in (4) above committed while under the supervision of a criminal justice agency of the State or a political subdivision of the State for a prior felony, may be denied bail pending trial, by a district judge in this State, if said order denying bail pending trial is issued within seven calendar days subsequent to the time of incarceration of the accused; provided, however, that if the accused is not accorded a trial upon the accusation under (1) or (3) above, the accusation and indictment used under (2) above, or the accusation or indictment used under (4) above within sixty (60) days from the time of his incarceration upon the accusation, the order denying bail shall be automatically set aside, unless a continuance is obtained upon the motion or request of the accused; provided, further, that the right of appeal to the Court of Criminal Appeals of this State is expressly accorded the accused for a review of any judgment or order made hereunder, and said appeal shall be given preference by the Court of Criminal Appeals.

(b) In this section:

(1) "Violent offense" means:

- (A) murder;
- (B) aggravated assault, if the accused used or exhibited a deadly weapon during the commission of the assault;
- (C) aggravated kidnapping; or
- (D) aggravated robbery.

(2) "Sexual offense" means:

- (A) aggravated sexual assault;
- (B) sexual assault; or
- (C) indecency with a child.

(Added Nov. 6, 1956; amended Nov. 8, 1977; Subsec. (a) amended and (b) added Nov. 2, 1993.)

**Sec. 11b. VIOLATION OF CONDITION OF RELEASE PENDING TRIAL; DENIAL OF BAIL.** Any person who is accused in this state of a felony or an offense involving family violence, who is released on bail pending trial, and whose bail is subsequently revoked or forfeited for a violation of a condition of release may be denied bail pending trial if a judge or magistrate in this state determines by a preponderance of the evidence at a subsequent hearing that the person violated a condition of release related to the safety of a victim of the alleged offense or to the safety of the community.

(Added Nov. 8, 2005; amended Nov. 6, 2007.)

**Sec. 11c. VIOLATION OF AN ORDER FOR EMERGENCY PROTECTION INVOLVING FAMILY VIOLENCE.** The legislature by general law may provide that any person who violates an order for emergency protection issued by a judge or magistrate after an arrest for an offense involving family violence or who violates an active protective order rendered by a court in a family violence case, including a temporary ex parte order that has been served on the person, or who engages in conduct that constitutes an offense involving the violation of an order described by this section may be taken into custody and, pending trial or other court proceedings, denied release on bail if following a hearing a judge or magistrate in this state determines by a preponderance of the evidence that the person violated the order or engaged in the conduct constituting the offense.

**Sec. 12. HABEAS CORPUS.** The writ of habeas corpus is a writ of right, and shall never be suspended. The Legislature shall enact laws to render the remedy speedy and effectual.

**Sec. 13. EXCESSIVE BAIL OR FINES; CRUEL AND UNUSUAL PUNISHMENT; REMEDY BY DUE COURSE OF LAW.** Excessive bail shall not be required, nor excessive fines imposed, nor cruel or unusual punishment inflicted. All courts shall be open, and every person for an injury done him, in his lands, goods, person or reputation, shall have remedy by due course of law.

**Sec. 14. DOUBLE JEOPARDY.** No person, for the same offense, shall be twice put in jeopardy of life or liberty; nor shall a person be again put upon trial for the same offense after a verdict of not guilty in a court of competent jurisdiction.

**Sec. 15. RIGHT OF TRIAL BY JURY.** The right of trial by jury shall remain inviolate. The Legislature shall pass such

laws as may be needed to regulate the same, and to maintain its purity and efficiency. Provided, that the Legislature may provide for the temporary commitment, for observation and/or treatment, of mentally ill persons not charged with a criminal offense, for a period of time not to exceed ninety (90) days, by order of the County Court without the necessity of a trial by jury.

(Amended Aug. 24, 1935.)

**Sec. 15-a. COMMITMENT OF PERSONS OF UNSOUND MIND.** No person shall be committed as a person of unsound mind except on competent medical or psychiatric testimony. The Legislature may enact all laws necessary to provide for the trial, adjudication of insanity and commitment of persons of unsound mind and to provide for a method of appeal from judgments rendered in such cases. Such laws may provide for a waiver of trial by jury, in cases where the person under inquiry has not been charged with the commission of a criminal offense, by the concurrence of the person under inquiry, or his next of kin, and an attorney ad litem appointed by a judge of either the County or Probate Court of the county where the trial is being held, and shall provide for a method of service of notice of such trial upon the person under inquiry and of his right to demand a trial by jury.

(Added Nov. 6, 1956.)

**Sec. 16. BILLS OF ATTAINDER; EX POST FACTO OR RETROACTIVE LAWS; IMPAIRING OBLIGATION OF CONTRACTS.** No bill of attainder, ex post facto law, retroactive law, or any law impairing the obligation of contracts, shall be made.

**Sec. 17. TAKING, DAMAGING, OR DESTROYING PROPERTY FOR PUBLIC USE; SPECIAL PRIVILEGES AND IMMUNITIES; CONTROL OF PRIVILEGES AND FRANCHISES.** (a) No person's property shall be taken, damaged, or destroyed for or applied to public use without adequate compensation being made, unless by the consent of such person, and only if the taking, damage, or destruction is for:

- (1) the ownership, use, and enjoyment of the property, notwithstanding an incidental use, by:
  - (A) the State, a political subdivision of the State, or the public at large; or
  - (B) an entity granted the power of eminent domain under law; or

(2) the elimination of urban blight on a particular parcel of property.

(b) In this section, "public use" does not include the taking of property under Subsection (a) of this section for transfer to a private entity for the primary purpose of economic development or enhancement of tax revenues.

(c) On or after January 1, 2010, the legislature may enact a general, local, or special law granting the power of eminent domain to an entity only on a two-thirds vote of all the members elected to each house.

(d) When a person's property is taken under Subsection (a) of this section, except for the use of the State, compensation as described by Subsection (a) shall be first made, or secured by a deposit of money; and no irrevocable or uncontrollable grant of special privileges or immunities shall be made; but all privileges and franchises granted by the Legislature, or created under its authority, shall be subject to the control thereof.

(Amended Nov. 3, 2009.)

**Sec. 18. IMPRISONMENT FOR DEBT.** No person shall ever be imprisoned for debt.

**Sec. 19. DEPRIVATION OF LIFE, LIBERTY, ETC.; DUE COURSE OF LAW.** No citizen of this State shall be deprived of life, liberty, property, privileges or immunities, or in any manner disfranchised, except by the due course of the law of the land.

**Sec. 20. OUTLAWRY OR TRANSPORTATION FOR OFFENSE.** No citizen shall be outlawed. No person shall be transported out of the State for any offense committed within the same. This section does not prohibit an agreement with another state providing for the confinement of inmates of this State in the penal or correctional facilities of that state.

(Amended Nov. 5, 1985.)

**Sec. 21. CORRUPTION OF BLOOD; FORFEITURE; SUICIDES.** No conviction shall work corruption of blood, or forfeiture of estate, and the estates of those who destroy their own lives shall descend or vest as in case of natural death.

**Sec. 22. TREASON.** Treason against the State shall consist only in levying war against it, or adhering to its enemies, giving them aid and comfort; and no person shall be convicted of

treason except on the testimony of two witnesses to the same overt act, or on confession in open court.

Sec. 23. **RIGHT TO KEEP AND BEAR ARMS.** Every citizen shall have the right to keep and bear arms in the lawful defense of himself or the State; but the Legislature shall have power, by law, to regulate the wearing of arms, with a view to prevent crime.

Sec. 24. **MILITARY SUBORDINATE TO CIVIL AUTHORITY.** The military shall at all times be subordinate to the civil authority.

Sec. 25. **QUARTERING SOLDIERS IN HOUSES.** No soldier shall in time of peace be quartered in the house of any citizen without the consent of the owner, nor in time of war but in a manner prescribed by law.

Sec. 26. **PERPETUITIES AND MONOPOLIES; PRIMO-GENITURE OR ENTAILMENTS.** Perpetuities and monopolies are contrary to the genius of a free government, and shall never be allowed, nor shall the law of primogeniture or entailments ever be in force in this State.

Sec. 27. **RIGHT OF ASSEMBLY; PETITION FOR REDRESS OF GRIEVANCES.** The citizens shall have the right, in a peaceable manner, to assemble together for their common good; and apply to those invested with the powers of government for redress of grievances or other purposes, by petition, address or remonstrance.

Sec. 28. **SUSPENSION OF LAWS.** No power of suspending laws in this State shall be exercised except by the Legislature.

Sec. 29. **PROVISIONS OF BILL OF RIGHTS EXCEPTED FROM POWERS OF GOVERNMENT; TO FOREVER REMAIN INVIOLETE.** To guard against transgressions of the high powers herein delegated, we declare that everything in this "Bill of Rights" is excepted out of the general powers of government, and shall forever remain inviolate, and all laws contrary thereto, or to the following provisions, shall be void.

Sec. 30. **RIGHTS OF CRIME VICTIMS.** (a) A crime victim has the following rights:

- (1) the right to be treated with fairness and with respect for the victim's dignity and privacy

throughout the criminal justice process;  
and

- (2) the right to be reasonably protected from the accused throughout the criminal justice process.

(b) On the request of a crime victim, the crime victim has the following rights:

- (1) the right to notification of court proceedings;
- (2) the right to be present at all public court proceedings related to the offense, unless the victim is to testify and the court determines that the victim's testimony would be materially affected if the victim hears other testimony at the trial;
- (3) the right to confer with a representative of the prosecutor's office;
- (4) the right to restitution; and
- (5) the right to information about the conviction, sentence, imprisonment, and release of the accused.

(c) The legislature may enact laws to define the term "victim" and to enforce these and other rights of crime victims.

(d) The state, through its prosecuting attorney, has the right to enforce the rights of crime victims.

(e) The legislature may enact laws to provide that a judge, attorney for the state, peace officer, or law enforcement agency is not liable for a failure or inability to provide a right enumerated in this section. The failure or inability of any person to provide a right or service enumerated in this section may not be used by a defendant in a criminal case as a ground for appeal or post-conviction writ of habeas corpus. A victim or guardian or legal representative of a victim has standing to enforce the rights enumerated in this section but does not have standing to participate as a party in a criminal proceeding or to contest the disposition of any charge.

(Added Nov. 7, 1989.)

Sec. 31. **COMPENSATION TO VICTIMS OF CRIME FUND; COMPENSATION TO VICTIMS OF CRIME AUXILIARY FUND; USE OF FUND MONEY.** (a) The compensation to victims of crime fund created by general law and the compensation to victims of crime auxiliary fund created by general law are each a separate dedicated account in the general revenue fund.

(b) Except as provided by Subsection (c) of this section and subject to legislative appropriation, money deposited to the credit of the compensation to victims of crime fund or the compensation to victims of crime auxiliary fund from any source may be expended as provided by law only for delivering or funding victim-related compensation, services, or assistance.

(c) The legislature may provide by law that money in the compensation to victims of crime fund or in the compensation to victims of crime auxiliary fund may be expended for the purpose of assisting victims of episodes of mass violence if other money appropriated for emergency assistance is depleted.

(Added Nov. 4, 1997.)

**Sec. 32. MARRIAGE.** (a) Marriage in this state shall consist only of the union of one man and one woman.

(b) This state or a political subdivision of this state may not create or recognize any legal status identical or similar to marriage.

(Added Nov. 8, 2005.)

**Sec. 33. ACCESS AND USE OF PUBLIC BEACHES.** (a) In this section, "public beach" means a state-owned beach bordering on the seaward shore of the Gulf of Mexico, extending from mean low tide to the landward boundary of state-owned submerged land, and any larger area extending from the line of mean low tide to the line of vegetation bordering on the Gulf of Mexico to which the public has acquired a right of use

or easement to or over the area by prescription or dedication or has established and retained a right by virtue of continuous right in the public under Texas common law.

(b) The public, individually and collectively, has an unrestricted right to use and a right of ingress to and egress from a public beach. The right granted by this subsection is dedicated as a permanent easement in favor of the public.

(c) The legislature may enact laws to protect the right of the public to access and use a public beach and to protect the public beach easement from interference and encroachments.

(d) This section does not create a private right of enforcement.

(Added Nov. 3, 2009.)

**Sec. 34. RIGHT TO HUNT, FISH, AND HARVEST WILDLIFE.** (a) The people have the right to hunt, fish, and harvest wildlife, including by the use of traditional methods, subject to laws or regulations to conserve and manage wildlife and preserve the future of hunting and fishing.

(b) Hunting and fishing are preferred methods of managing and controlling wildlife.

(c) This section does not affect any provision of law relating to trespass, property rights, or eminent domain.

(d) This section does not affect the power of the legislature to authorize a municipality to regulate the discharge of a weapon in a populated area in the interest of public safety.

(Added Nov. 3, 2015.)