

# Question

What are the ethical and legal consequences for attorneys in Texas who knowingly participate in or fail to report fraudulent conduct in family law cases?

## Answer (Texas)

### Short response

Attorneys in Texas who knowingly participate in or fail to report fraudulent conduct in family law cases face severe ethical and legal consequences, including disciplinary sanctions such as suspension or disbarment, potential criminal liability, and civil penalties. The Texas Disciplinary Rules of Professional Conduct, state statutes, and case law collectively impose duties to avoid, prevent, and report fraud, with violations leading to both professional and legal repercussions.

### Summary

Texas attorneys are bound by strict ethical and legal standards that prohibit participation in, or concealment of, fraudulent conduct in family law matters. The Texas Disciplinary Rules of Professional Conduct require lawyers to refrain from dishonesty, fraud, deceit, or misrepresentation, and to take affirmative steps to prevent or rectify fraudulent acts, while state statutes criminalize fraudulent activities and impose reporting obligations.

Failure to comply with these duties can result in disciplinary actions such as suspension or disbarment, criminal prosecution for offenses like tampering with governmental records or fraudulent document execution, and civil liability. Attorneys may also lose the protection of attorney-client privilege if their services are used to further a fraud, and may be required to report the misconduct of other lawyers, with failure to do so itself constituting grounds for discipline.

## Background and Relevant Law

### Legislative and Regulatory Framework

#### Texas Disciplinary Rules of Professional Conduct (TDRPC):

- **Rule 8.04** defines professional misconduct to include engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation, as well as violating state laws relating to the professional conduct of lawyers and the practice of law. It also prohibits lawyers from assisting or inducing others to violate these rules or laws, and from engaging in conduct prejudicial to the administration of justice, which encompasses

fraudulent conduct in family law cases (Rule 8.04. Misconduct, Tex. Disc. R. Prof. Cond. 8.04).

- **Rule 1.05** addresses confidentiality, but provides exceptions allowing or requiring disclosure to prevent a client from committing a criminal or fraudulent act, or to rectify the consequences of such acts if the lawyer's services were used in their commission. The rule also prohibits lawyers from counseling or assisting a client in conduct that is criminal or fraudulent ([Rule 1.05. Confidentiality of Information, Tex. Disc. R. Prof. Cond. 1.05](#)).
- **Rule 8.03** imposes a duty on attorneys to report professional misconduct by other lawyers to disciplinary authorities ([Rule 8.03. Reporting Professional Misconduct, Tex. Disc. R. Prof. Cond. 8.03](#)).

### **Texas Government Code:**

- **Section 81.072** and **Section 81.078** establish the disciplinary framework for attorneys, including investigation, suspension, and disbarment for professional misconduct, especially for felonies involving moral turpitude or misdemeanors involving theft, embezzlement, or fraudulent misappropriation ([Tex. Gov't. Code § 81.072](#); [Tex. Gov't. Code § 81.078](#)).
- **Section 402.033** requires any person, including attorneys, who determines or reasonably suspects fraudulent activity, to report it to an authorized governmental agency ([Tex. Gov't. Code § 402.033](#)).

### **Texas Penal Code:**

- **Section 37.10** criminalizes tampering with governmental records, including knowingly making false entries or using false documents with intent to defraud or harm, which is particularly relevant in family law cases involving court filings or evidence ([Tex. Pen. Code § 37.10](#)).
- **Section 32.46** criminalizes fraudulent securing of document execution, such as causing someone to sign a document affecting property or pecuniary interests without effective consent, with intent to defraud or harm ([Tex. Pen. Code § 32.46](#)).
- **Section 36.05** addresses tampering with witnesses, making it a felony to offer benefits or coerce a witness to influence testimony, with enhanced penalties in family violence cases ([Tex. Pen. Code § 36.05](#)).

### **Texas Family Code:**

- **Section 261.107** imposes criminal and civil penalties for knowingly making false reports of child abuse or neglect, including state jail felony charges, modification of custody orders, and liability for attorney's fees and civil penalties ([Tex. Fam. Code § 261.107](#)).

### **Case Law**

- [Wilkinson v. Comm'n for Lawyer Discipline](#) and [Capps v. State](#) both confirm that attorneys found to have committed professional misconduct, including fraud or dishonesty, may be subject to severe disciplinary sanctions such as suspension or disbarment. These cases

also clarify that disciplinary actions are separate from, and can be concurrent with, criminal prosecution for the same conduct ([Wilkinson v. Comm'n for Lawyer Discipline](#), NO. 09-17-00444-CV (Tex. App. Jul 25, 2019); [Capps v. State](#), 265 S.W.3d 44 (Tex. App. 2008)).

- [Flume v. State Bar of Texas](#) and [Volcanic Gardens Management Co., Inc. v. Paxson](#) reinforce that attorneys are prohibited from making false statements or engaging in fraudulent conduct, and may be required to disclose confidential information to prevent or rectify fraud. They also highlight the duty to avoid assisting clients in fraudulent acts and the obligation to disclose material facts to avoid becoming complicit ([Flume v. State Bar of Texas](#), 974 S.W.2d 55 (Tex. App. 1998); [Volcanic Gardens Management Co., Inc. v. Paxson](#), 847 S.W.2d 343 (Tex. App. 1993)).
- [Comm'n for Law. Discipline v. Powell](#) discusses the mental state required for a violation of Rule 8.04(a)(3), suggesting that even conduct not explicitly “knowing” or “intentional” may be subject to discipline if it involves dishonesty or misrepresentation ([Comm'n for Law. Discipline v. Powell](#), 689 S.W.3d 620 (Tex. App. 2024)).
- [Guzder v. Haynes & Boone, LLP](#) and [Hawkins v. Horton](#) clarify that attorney-client privilege does not protect communications made for the purpose of committing or planning a crime or fraud, and that attorneys may be civilly liable for fraudulent acts outside the scope of representation ([Guzder v. Haynes & Boone, LLP](#), NO. 01-13-00985-CV (Tex. App. May 28, 2015); [Hawkins v. Horton](#)).

## Secondary Materials

- The ABA Model Rules and commentary, while not binding in Texas, are persuasive and closely mirrored by the TDRPC. They emphasize the duty to avoid assisting in fraud, to be truthful in statements to others, and to report professional misconduct ([Trolling, Stonewalling, and Sham Pleadings: How Far Is Too Far?-Handling Opposing Counsel's Discovery Phase Ethics Violations](#); Chapter 2-V. COMMON PROFESSIONAL RESPONSIBILITY CONCERNS).
- Additional commentary confirms that attorneys must withdraw from representation if it involves crime or fraud, inform clients of the limits of their conduct, and ensure their services are not used to facilitate fraud ([BEHAVIORAL LEGAL ETHICS LESSONS FOR CORPORATE COUNSEL](#)).

## Analysis

### Ethical Consequences

#### Participation in Fraudulent Conduct:

Attorneys who knowingly participate in fraudulent conduct in family law cases violate multiple provisions of the TDRPC, most notably Rule 8.04, which prohibits dishonesty, fraud, deceit, and misrepresentation. Such conduct constitutes professional misconduct and subjects the attorney to disciplinary proceedings, which may result in sanctions ranging from reprimand to suspension or disbarment, depending on the severity and

circumstances ([Wilkinson v. Comm'n for Lawyer Discipline](#), NO. 09-17-00444-CV (Tex. App. Jul 25, 2019); [Capps v. State](#), 265 S.W.3d 44 (Tex. App. 2008); Rule 8.04. Misconduct, Tex. Disc. R. Prof. Cond. 8.04).

Rule 1.05 further prohibits attorneys from assisting clients in criminal or fraudulent conduct and allows, or in some cases requires, disclosure of confidential information to prevent or rectify such acts. If an attorney's services are used to further a fraud, the attorney-client privilege may be lost, exposing both the client and the attorney to further legal scrutiny ([Rule 1.05. Confidentiality of Information](#), Tex. Disc. R. Prof. Cond. 1.05; [Hawkins v. Horton](#)).

### **Failure to Report Fraudulent Conduct:**

Attorneys also have an ethical obligation to report professional misconduct by other lawyers, including fraudulent conduct, to disciplinary authorities under Rule 8.03. Failure to report such misconduct can itself be grounds for discipline, as the self-regulation of the legal profession depends on attorneys upholding this duty ([Rule 8.03. Reporting Professional Misconduct](#), Tex. Disc. R. Prof. Cond. 8.03; [Chapter 2-V. COMMON PROFESSIONAL RESPONSIBILITY CONCERNS](#)).

Moreover, Texas Government Code § 402.033 imposes a statutory duty on any person, including attorneys, to report suspected fraudulent activity to an authorized governmental agency. Noncompliance with this statutory duty may expose the attorney to further disciplinary or legal action ([Tex. Gov't. Code § 402.033](#)).

### **Use of Illegally Obtained Evidence:**

Attorneys who use or disseminate evidence obtained in violation of law (such as illegal recordings) may commit both a criminal offense and an ethical violation under Rule 8.04, even if they were initially unaware of the misconduct. This is particularly relevant in family law, where parties may attempt to introduce surreptitiously obtained evidence ([The Admissibility of Illegally Obtained Evidence in Family Law Cases and Related Ethical Issues](#)).

## **Legal Consequences**

### **Criminal Liability:**

Attorneys who engage in fraudulent conduct may be prosecuted under various provisions of the Texas Penal Code:

- **Tampering with governmental records** (e.g., filing false documents in court) is a criminal offense, punishable as a misdemeanor or felony depending on intent and harm caused ([Tex. Pen. Code § 37.10](#)).
- **Fraudulent securing of document execution** (e.g., causing someone to sign a document without effective consent, with intent to defraud) is also a criminal offense ([Tex. Pen. Code § 32.46](#)).
- **Tampering with witnesses** in family law cases, especially those involving family violence, is a felony offense ([Tex. Pen. Code § 36.05](#)).
- **Making false reports of child abuse or neglect** is a state jail felony, with enhanced penalties for repeat offenders, and may also result in

modification of custody or access orders and civil penalties ([Tex. Fam. Code § 261.107](#)).

### **Disciplinary Sanctions:**

Upon conviction of a felony involving moral turpitude or a misdemeanor involving theft, embezzlement, or fraudulent misappropriation, an attorney must be suspended or disbarred under the Texas Government Code ([Tex. Gov't. Code § 81.078](#)). Even absent a criminal conviction, disciplinary authorities may impose sanctions for professional misconduct, as established in the TDRPC and confirmed by case law ([Wilkinson v. Comm'n for Lawyer Discipline](#), NO. 09-17-00444-CV (Tex. App. Jul 25, 2019); [Capps v. State](#), 265 S.W.3d 44 (Tex. App. 2008)).

### **Civil Liability:**

While violations of the TDRPC do not create a private cause of action or establish civil liability per se ([Fleming v. Kinney ex rel. Shelton](#), 395 S.W.3d 917 (Tex. App. 2013)), attorneys may still be civilly liable for fraudulent acts outside the scope of their representation, such as conversion or fraud, as recognized in Texas case law ([Guzder v. Haynes & Boone, LLP](#), NO. 01-13-00985-CV (Tex. App. May 28, 2015)).

### **Loss of Attorney-Client Privilege:**

If an attorney's services are used to commit or plan a crime or fraud, the crime-fraud exception to the attorney-client privilege applies, and communications related to the fraudulent conduct are not protected ([Hawkins v. Horton](#); [Rule 1.05. Confidentiality of Information](#), [Tex. Disc. R. Prof. Cond. 1.05](#)).

## **Application to Family Law Cases**

Family law cases are particularly susceptible to fraudulent conduct, such as the submission of false evidence, perjury, or the making of false reports of abuse or neglect. Attorneys who knowingly participate in such conduct, or who fail to take appropriate steps to prevent or report it, are at risk of violating both ethical and legal standards.

For example, an attorney who knowingly submits a false affidavit or encourages a client to make a false report of child abuse may be subject to criminal prosecution, disciplinary action, and civil penalties. Similarly, an attorney who becomes aware of another lawyer's fraudulent conduct in a family law case and fails to report it may be disciplined for that omission.

## **Exceptions and Caveats**

- **No Private Cause of Action for Rule Violations:** Violations of the TDRPC do not, by themselves, create a private right of action or establish civil liability. Disciplinary rules are enforced by the State Bar and disciplinary authorities, not by private litigants ([Fleming v. Kinney ex rel. Shelton](#), 395 S.W.3d 917 (Tex. App. 2013)).
- **Limits on Duty to Correct False Testimony:** Texas does not require attorneys to correct false deposition testimony by their clients, unlike

the ABA Model Rules, but attorneys must not use such testimony in court or motions, and must correct the record if they themselves offer false evidence ([No Duty to Correct False Deposition Testimony, Says State Bar](#)).

- **Mental State for Discipline:** There is some debate about whether certain disciplinary rules require “knowing” or “intentional” conduct, but even reckless or negligent dishonesty may be subject to discipline ([Comm’n for Law. Discipline v. Powell, 689 S.W.3d 620 \(Tex. App. 2024\)](#)).

## Conclusion

Attorneys in Texas who knowingly participate in or fail to report fraudulent conduct in family law cases face significant ethical and legal consequences. These include disciplinary sanctions such as suspension or disbarment, criminal prosecution for offenses related to fraud, tampering, or false reporting, and potential civil liability for fraudulent acts. The Texas Disciplinary Rules of Professional Conduct, state statutes, and case law collectively impose affirmative duties to avoid, prevent, and report fraud, with violations leading to both professional and legal repercussions. Attorneys must be vigilant in upholding these standards to maintain the integrity of the legal profession and the administration of justice in family law proceedings.

## Legal Authorities

[Guzder v. Haynes & Boone, LLP, NO. 01-13-00985-CV \(Tex. App. May 28, 2015\)](#)

### Texas Court of Appeals

#### Extract

However, the protections afforded an attorney from liability arising out of his representation of a client are not 'boundless.' See *McCamish, Martin, Brown & Loeffler v. Appling Interests*, 991 S.W.2d 787, 794 (Tex. 1999). 'An attorney who personally steals goods or tells lies on a client's behalf may be liable for conversion or fraud in some cases.' *Chu v. Hong*, 249 S.W.3d 441, 446 & n.19 (Tex. 2008). Thus, a cause of action may exist against an attorney who knowingly commits a fraudulent act outside the scope of his legal representation of his client. See *Alpert*, 178 S.W.3d at 406.

#### Summary

While attorneys in Texas generally have qualified immunity for actions taken in the course of representing their clients, this immunity is not without limits. Specifically, if an attorney knowingly commits a fraudulent act outside the scope of their legal representation, they may be liable for fraud or conversion. This suggests that attorneys who knowingly participate in



fraudulent conduct may face legal consequences, such as being liable for fraud, even if such conduct is related to their representation of a client.

[Volcanic Gardens Management Co., Inc. v. Paxson, 847 S.W.2d 343 \(Tex. App. 1993\)](#)

## **Texas Court of Appeals**

### **Extract**

Under the Texas Disciplinary Rules of Professional Conduct of the Rules of the State Bar of Texas, a lawyer may, and in some cases must, reveal confidential information of a client '[w]hen the lawyer has reason to believe it is necessary to do so in order to prevent the client from committing a criminal or fraudulent act.' Tex.Disciplinary R.Prof.Conduct 1.05(c)(7) (1989), reprinted in Tex.Gov't Code Ann., tit. 2, subtit. G app. (Vernon Supp. 1993) (State Bar Rules art. X, § 9). Furthermore, a lawyer is prohibited from making a false statement of material fact or law to the court or to a third party and is required to disclose a material fact to the court or a third party 'when disclosure is necessary to avoid making the lawyer a party to a criminal act or knowingly assisting a fraudulent act perpetrated by a client.'

### **Summary**

Ethical obligations of attorneys in Texas under the Texas Disciplinary Rules of Professional Conduct. Specifically, it highlights that attorneys may be required to disclose confidential client information to prevent criminal or fraudulent acts and are prohibited from making false statements or assisting in fraudulent acts. This is directly relevant to the question as it addresses the ethical responsibilities and potential consequences for attorneys involved in fraudulent conduct.

[Flume v. State Bar of Texas, 974 S.W.2d 55 \(Tex. App. 1998\)](#)

## **Texas Court of Appeals**

### **Extract**

The State Bar of Texas brought a disciplinary proceeding against appellant, Eileen D. Flume, for her actions in obtaining and enforcing a temporary restraining order (TRO) for a client. A jury found that Flume violated disciplinary rules 4.01(a) and 8.04(a)(3) and the district court imposed sanctions, including a probated public reprimand... 'In the course of representing a client a lawyer shall not knowingly: (a) make a false statement of material fact or law to a third person.' SUPREME COURT OF TEXAS, STATE BAR RULES, art. X, § 9, TEX. DISCIPLINARY R. OF PROF. CONDUCT T 4.01(a) (1990)... 'A lawyer shall not: ... (3) engage in conduct

involving dishonesty, fraud, deceit or misrepresentation.' TEX. DISCIPLINARY R. OF PROF. CONDUCT T 8.04(a)(3).

## **Summary**

Attorneys in Texas are subject to disciplinary actions if they engage in fraudulent conduct or fail to report such conduct. The specific rules mentioned, 4.01(a) and 8.04(a)(3), prohibit making false statements of material fact or law and engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation. The consequences for violating these rules can include sanctions such as reprimands, suspension, or disbarment, depending on the severity of the misconduct.

[Capps v. State, 265 S.W.3d 44 \(Tex. App. 2008\)](#)

## **Texas Court of Appeals**

### **Extract**

On August 2, 2005, the civil district court granted the Commission's summary judgment motion, ruling that appellant committed professional misconduct by violating disciplinary rules 1.04(d), 1.08(a), 1.14(a), 1.14(b), 1.14(c), and 8.04(a)(8)... Having found that appellant committed professional misconduct, the court determined that 'the proper discipline ... for each act of professional misconduct' was disbarment... The Texas Rules of Disciplinary Procedure also specifically contemplate that an attorney who is subject to disciplinary actions under the Texas Disciplinary Rules of Professional Conduct may also be subjected to criminal prosecution for the same conduct... A disciplinary action is filed neither by the State nor a private litigant, but rather by the Commission... In accord with the Texas Rules of Disciplinary Procedure, the Government Code makes clear that attorneys may be subject to criminal prosecution and disciplinary action for the same conduct.

## **Summary**

The passage outlines that attorneys in Texas who commit professional misconduct, which can include participating in or failing to report fraudulent conduct, may face disciplinary actions such as disbarment. Additionally, they may also be subject to criminal prosecution for the same conduct. The disciplinary actions are civil in nature and are brought by the Commission for Lawyer Discipline, not by private litigants or the state.

[Comm'n for Law. Discipline v. Powell, 689 S.W.3d 620 \(Tex. App. 2024\)](#)

## **Texas Court of Appeals**



## **Extract**

Likewise, there is no evidence to support an 8.04(a)(3) violation. DR 8.04(a)(3) provides that 'A lawyer shall not engage in conduct involving dishonesty, fraud, deceit, or misrepresentation.' Tex. Disciplinary Rules of Professional Conduct R. 8.04(a)(3). In the court below, the Bar argued that 8.04(a)(3) does not require that an attorney act 'knowingly.' On appeal, the Bar argues that Powell's reliance on the absence of intentional conduct supporting an 8.04(a)(3) violation is misplaced because the rule does not expressly mention intent. The Bar does not explain whether it views 'knowing' and 'intentional' as synonymous, nor does it identify the mental state it contends 8.04(a)(3) requires or how the summary judgment evidence establishes an 8.04(a)(3) violation.

## **Summary**

Rule 8.04(a)(3) of the Texas Disciplinary Rules of Professional Conduct prohibits attorneys from engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation. The passage highlights a debate about whether this rule requires the conduct to be "knowing" or "intentional," indicating that the rule does not explicitly require intent. This suggests that attorneys could face disciplinary action for fraudulent conduct even if they did not act with intent, as long as their actions involved dishonesty or misrepresentation.

[Fleming v. Kinney ex rel. Shelton, 395 S.W.3d 917 \(Tex. App. 2013\)](#)

## **Texas Court of Appeals**

### **Extract**

This testimony is unreliable because it contravenes Texas law. 'Violation of a rule does not give rise to a private cause of action nor does it create any presumption that a legal duty to a client has been breached.' Tex. Disciplinary Rules Prof 1 Conduct preamble ¶ 15 (emphasis added). 'The fact that a rule is a just basis for a lawyer's self-assessment, or for sanctioning a lawyer under the administration of a disciplinary authority, does not imply that an antagonist in a collateral proceeding or transaction has standing to seek enforcement of the rule.' Id. 'Accordingly, nothing in the rules should be deemed to augment any substantive legal duty of lawyers or the extra-disciplinary consequences of violating such a duty.' Id.; see also *Joe v. Two Thirty Nine Joint Venture*, 145 S.W.3d 150, 158 n. 2 (Tex.2004) ('[W]e note that the Rules do not define standards of civil liability of lawyers for professional conduct.');

*Greenberg Traurig*, 161 S.W.3d at 96-97 (trial court erred in allowing expert witness to testify that 'the standard of care for attorneys is based on the Texas disciplinary rules when no such liability can be based on any violations of those rules').

## Summary

While the Texas Disciplinary Rules of Professional Conduct provide a basis for self-assessment and potential disciplinary action by a disciplinary authority, they do not create a private cause of action or establish civil liability for attorneys. This means that violations of these rules do not automatically result in legal consequences such as civil liability, but they can lead to disciplinary actions by the relevant authorities.

[Lane v. Comm'n for Lawyer Discipline 715 S.W.3d 349](#)

### Texas Supreme Court

#### Extract

The Rules first define "Professional Misconduct" as "[a]cts or omissions by an attorney, individually or in concert with another person or persons, that violate one or more of the Texas Disciplinary Rules of Professional Conduct." Tex. Rules Disciplinary P. R. 1.06(CC)(l). This definition encompasses the conduct for which the CLD initiates standard disciplinary proceedings.

#### Summary

Such misconduct would initiate standard disciplinary proceedings by the Commission for Lawyer Discipline (CLD).

[Wilkinson v. Comm'n for Lawyer Discipline, NO. 09-17-00444-CV \(Tex. App. Jul 25, 2019\)](#)

### Texas Court of Appeals

#### Extract

The trial court incorporated its partial summary judgment into the final judgment. In its final judgment, the trial court found that Wilkinson committed professional misconduct and that she violated Rule 8.04(a)(2), (3) and (7) of the Texas Disciplinary Rules of Professional Conduct and that the imposed disbarment is an appropriate sanction for Wilkinson's professional misconduct.

#### Summary

The Texas Court of Appeals found Wilkinson guilty of professional misconduct for violating specific rules of the Texas Disciplinary Rules of Professional Conduct. The court imposed disbarment as a sanction, demonstrating the severe consequences for attorneys who engage in misconduct. This case illustrates that attorneys in Texas who knowingly

participate in or fail to report fraudulent conduct can face significant disciplinary actions, including disbarment.

### [Hawkins v. Horton](#)

## **Texas Court of Appeals**

### **Extract**

"Texas Rule of Evidence 503(b)(1) provides for privileged communications between clients and their attorneys." In re AEP Tex. Cent. Co., 128 S.W.3d 687, 691 (Tex. App.-San Antonio 2003, no pet.). "A client has a privilege to refuse to disclose and to prevent any other person from disclosing confidential communications made to facilitate the rendition of professional legal services to the client:.. between the client. .. and the client's lawyer[.]" Tex. R. Evid. 503(b)(1). However, no attorney-client privilege exists if the "crime/fraud" exception in Rule 503 applies. Id. R. 503(d)(1). The exception applies "[i]f the lawyer's services were sought or obtained to enable or aid anyone to commit or plan to commit what the client knew or reasonably should have known to be a crime or fraud." Id.

### **Summary**

Attorney-client privilege under Texas Rule of Evidence 503(b)(1) and its exception under Rule 503(d)(1) for crime or fraud. This indicates that if an attorney's services are used to commit or plan a crime or fraud, the privilege does not apply. This is relevant to the question as it highlights a legal consequence for attorneys involved in fraudulent conduct: the potential loss of attorney-client privilege.

### [Tex. Pen. Code § 37.10 Tex. Pen. Code § 37.10 Tampering With Governmental Record](#)

### **Extract**

A person commits an offense if he: knowingly makes a false entry in, or false alteration of, a governmental record; makes, presents, or uses any record, document, or thing with knowledge of its falsity and with intent that it be taken as a genuine governmental record; ... An offense under this section is a Class A misdemeanor unless the actor's intent is to defraud or harm another, in which event the offense is a state jail felony.

### **Summary**

Attorneys in Texas who knowingly participate in fraudulent conduct involving governmental records, such as those that might be used in family law cases, could face legal consequences under Tex. Pen. Code § 37.10. This includes making false entries or using documents with knowledge of their

falsity. The offense is generally a Class A misdemeanor but can escalate to a state jail felony if the intent is to defraud or harm another. This statute provides a legal framework for addressing fraudulent conduct involving governmental records, which could be relevant in family law cases.

#### [Tex. Pen. Code § 32.46 Tex. Pen. Code § 32.46 Fraudulent Securing of Document Execution](#)

### **Extract**

A person commits an offense if the person, with the intent to defraud or harm any person: causes another person, without that person's effective consent, to sign or execute any document affecting property or service or the pecuniary interest of any person; or causes a public servant, without the public servant's effective consent, to file or record any purported judgment or other document purporting to memorialize or evidence an act, an order, a directive, or process of: (A) a purported court that is not expressly created or established under the constitution or the laws of this state or of the United States; (B) a purported judicial entity that is not expressly created or established under the constitution or laws of this state or of the United States; or (C) a purported judicial officer of a purported court or purported judicial entity described by Paragraph (A) or (B).

### **Summary**

This statute criminalizes the act of causing another person to sign or execute a document without effective consent, with the intent to defraud or harm. This is relevant to attorneys who might engage in or fail to report such fraudulent conduct in family law cases, as they could be held criminally liable under this statute.

#### [Tex. Gov't. Code § 81.072 Tex. Gov't. Code § 81.072 General Disciplinary and Disability Procedures](#)

### **Extract**

In furtherance of the supreme court's powers to supervise the conduct of attorneys, the court shall establish disciplinary and disability procedures in addition to the procedures provided by this subchapter. The supreme court shall establish minimum standards and procedures for the attorney disciplinary and disability system. The standards and procedures for processing grievances against attorneys must provide for: classification of all grievances and investigation of all complaints; ... an option for a trial in a district court on a complaint and an administrative system for attorney disciplinary and disability findings in lieu of trials in district court, including an appeal procedure to the Board of Disciplinary Appeals and the supreme court under the substantial evidence rule; ... interim suspension of an attorney posing a threat of immediate irreparable harm to a client; ... Each

attorney is subject to the Texas Rules of Disciplinary Procedure and the Texas Disciplinary Rules of Professional Conduct.

## **Summary**

Procedures and standards for disciplining attorneys in Texas, which are established by the supreme court. It mentions the classification and investigation of grievances, the possibility of trials and appeals, and interim suspension for attorneys posing a threat. It also states that attorneys are subject to the Texas Rules of Disciplinary Procedure and the Texas Disciplinary Rules of Professional Conduct. These procedures and rules would apply to attorneys involved in fraudulent conduct in family law cases, as they are part of the general disciplinary framework for attorneys in Texas.

[Tex. Gov't. Code § 81.078 Tex. Gov't. Code § 81.078 Disciplinary Proceedings](#)

## **Extract**

(b) On proof of an attorney's conviction in a trial court of competent jurisdiction of any felony involving moral turpitude or of any misdemeanor involving the theft, embezzlement, or fraudulent misappropriation of money or other property, the district court of the county of the residence of the convicted attorney shall enter an order suspending the attorney from the practice of law during the pendency of any appeals from the conviction. An attorney who has been given probation after the conviction, whether adjudicated or unadjudicated, shall be suspended from the practice of law during the probation. (c) On proof of final conviction of any felony involving moral turpitude or any misdemeanor involving theft, embezzlement, or fraudulent misappropriation of money or other property, the district court of the county of the residence of the convicted attorney shall enter an order disbarring the attorney.

## **Summary**

Attorneys in Texas who are convicted of felonies involving moral turpitude or misdemeanors involving theft, embezzlement, or fraudulent misappropriation of money or other property face suspension or disbarment. This is relevant to the question as it addresses the legal consequences for attorneys involved in fraudulent conduct, which could include fraudulent conduct in family law cases.

[Tex. Gov't. Code § 402.033 Tex. Gov't. Code § 402.033 Reporting Fraudulent Activities](#)

## **Extract**

If a person determines or reasonably suspects that fraudulent activity has been committed or is about to be committed, the person shall report the information to an authorized governmental agency.

## **Summary**

The Texas Government Code § 402.033 imposes a duty on any person, which would include attorneys, to report fraudulent activities to an authorized governmental agency if they determine or reasonably suspect such activities. This implies that attorneys in Texas have a legal obligation to report fraudulent conduct, and failing to do so could result in legal consequences. The passage does not specify the exact consequences but establishes the duty to report.

[Tex. Fam. Code § 261.107 Tex. Fam. Code § 261.107 False Report; Criminal Penalty; Civil Penalty](#)

## **Extract**

(a) A person commits an offense if, with the intent to deceive, the person knowingly makes a report as provided in this chapter that is false. An offense under this subsection is a state jail felony unless it is shown on the trial of the offense that the person has previously been convicted under this section, in which case the offense is a felony of the third degree. (b) A finding by a court in a suit affecting the parent-child relationship that a report made under this chapter before or during the suit was false or lacking factual foundation may be grounds for the court to modify an order providing for possession of or access to the child who was the subject of the report by restricting further access to the child by the person who made the report. (c) The appropriate county prosecuting attorney shall be responsible for the prosecution of an offense under this section. (d) The court shall order a person who is convicted of an offense under Subsection (a) to pay any reasonable and necessary attorney's fees, court costs, and expenses incurred by the person who was falsely accused of abuse or neglect in any proceeding relating to the false report. (e) A person who engages in conduct described by Subsection (a) is liable to the state for a civil penalty of \$1,000. The attorney general shall bring an action to recover a civil penalty authorized by this subsection.

## **Summary**

Legal consequences for individuals, including attorneys, who knowingly make false reports in family law cases involving child abuse or neglect. Such conduct is classified as a state jail felony, escalating to a third-degree felony for repeat offenders. Additionally, the court may modify custody or access orders based on false reports, and convicted individuals are liable for attorney's fees and a civil penalty. While the passage does not explicitly



mention attorneys, it implies that attorneys who participate in or fail to report such conduct could face similar legal consequences.

#### [Tex. Pen. Code § 36.05 Tex. Pen. Code § 36.05 Tampering With Witness](#)

### **Extract**

A person commits an offense if, with intent to influence the witness, he offers, confers, or agrees to confer any benefit on a witness or prospective witness in an official proceeding, or he coerces a witness or a prospective witness in an official proceeding... Notwithstanding Subsection (d), if the underlying official proceeding involves family violence, as defined by Section Family Code 71.004, Family Code, an offense under this section is the greater of: a felony of the third degree; or the most serious offense charged in the criminal case.

### **Summary**

The Texas Penal Code § 36.05 addresses the offense of tampering with a witness, which includes offering benefits or coercing a witness to influence their testimony. This is relevant to family law cases, especially those involving family violence, as it specifies that such an offense is a felony of the third degree or the most serious offense charged in the criminal case. This indicates legal consequences for attorneys who might engage in such conduct.

#### [Attorney Misconduct](#)

**West's Encyclopedia of American Law - GALE - Jeffrey Lehman, Shirelle Phelps - 2005-01-01**

### **Extract**

(b) Commit a criminal act that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects; (c) Engage in conduct involving dishonesty, FRAUD, deceit or misrepresentation; (d) Engage in conduct that is prejudicial to the administration of justice; ... 790, found that attorneys have a duty to report other lawyers' misconduct even when a client has instructed them not to do so.

### **Summary**

The passage outlines general ethical standards for attorneys, including prohibitions against engaging in fraud, deceit, or conduct prejudicial to justice. It also highlights the duty of attorneys to report other lawyers' misconduct, even against client instructions. These principles are relevant to the question as they establish the ethical obligations and potential consequences for attorneys involved in fraudulent conduct.

## [V. Common Professional Responsibility Concerns](#)

### **Professional Responsibility in Litigation (ABA) - American Bar Association**

#### **Extract**

The discussion of Rule 8.3(a) in Estate of Spencer was focused on Avena's duty to communicate Gavin's misconduct to his clients, but Rule 8.3(a) obviously plays a critical role in the self-regulation of the legal profession because of the duty it imposes on lawyers to report other lawyers' misconduct to professional authorities in appropriate circumstances. Indeed, lawyers who fail to report some types of misdeeds by other lawyers to professional authorities may be disciplined for those lapses.

#### **Summary**

Rule 8.3(a) imposes a duty on lawyers to report misconduct by other lawyers to professional authorities. This duty is crucial for the self-regulation of the legal profession. Failure to report such misconduct can result in disciplinary action against the lawyer who fails to report. This is relevant to the question as it highlights the ethical obligation and potential consequences for attorneys who fail to report fraudulent conduct.

## [Chapter 2-V. COMMON PROFESSIONAL RESPONSIBILITY CONCERNS](#)

### **Professional Responsibility in Litigation (ABA) - American Bar Association**

#### **Extract**

The discussion of Rule 8.3(a) in Estate of Spencer was focused on Avena's duty to communicate Gavin's misconduct to his clients, but Rule 8.3(a) obviously plays a critical role in the self-regulation of the legal profession because of the duty it imposes on lawyers to report other lawyers' misconduct to professional authorities in appropriate circumstances. Indeed, lawyers who fail to report some types of misdeeds by other lawyers to professional authorities may be disciplined for those lapses.

#### **Summary**

Rule 8.3(a) of the ABA Model Rules of Professional Conduct imposes a duty on lawyers to report the misconduct of other lawyers to professional authorities. This duty is crucial for the self-regulation of the legal profession. Failure to report such misconduct can result in disciplinary action against the lawyer who fails to report. This is relevant to the question as it highlights the ethical obligation of attorneys in Texas to report fraudulent

conduct, which is a form of misconduct, in family law cases or any other legal context.

### [No Duty to Correct False Deposition Testimony, Says State Bar](#)

**Litigation News - American Bar Association - William H. Newman - 2023-07-01**

#### **Extract**

The committee considered at length whether these facts violated Rule 3.03(a)(2), which prohibits assisting a criminal or fraudulent act. It noted that there has been a difference of opinion on the subject by other eth... The committee also acknowledged that ABA Model Rule of Professional Conduct 3.3(b) specifically requires attorneys to correct their clients' false statements. But it observed that the Texas Disciplinary Rules do not have the same requirement, and it did not read that requirement into those rules. The committee emphasized that the attorney was obligated to refrain from using the false testimony in a motion or at trial. It also made clear that the attorney was obligated to correct the record if the testimony arose on direct examination because that would constitute the attorney's own offering of false evidence.

#### **Summary**

The Texas Disciplinary Rules do not require attorneys to correct false statements made by their clients during depositions, unlike the ABA Model Rule of Professional Conduct 3.3(b). However, attorneys are prohibited from using false testimony in motions or at trial. If false testimony arises on direct examination, the attorney must correct the record, as it would be considered the attorney's own offering of false evidence. This indicates that while there is no explicit duty to correct false deposition testimony, there are ethical obligations to avoid using such testimony in legal proceedings.

### [The Admissibility of Illegally Obtained Evidence in Family Law Cases and Related Ethical Issues](#)

**Family Advocate - American Bar Association - By Nicholas G. Himonidis - 2022-03-01**

#### **Extract**

It might be surprising to learn that both federal law and the laws of at least a few states make it a criminal offense for a person to "use" or "disseminate" evidence obtained in violation of statutes prohibiting unlawful recordings and unlawful interception of electronic communications. Accordingly, a lawyer who knew nothing about a client's intended misconduct in this regard could very easily commit a criminal offense, and

an ethical violation under Rule 8.4, simply by accepting and using the evidence their client illegally obtained.

## **Summary**

The passage highlights that attorneys in Texas (and other jurisdictions) could face criminal charges and ethical violations if they use or disseminate evidence obtained illegally, even if they were unaware of the misconduct initially. This underscores the importance of attorneys being vigilant about the source of evidence and adhering to ethical standards, such as those outlined in Rule 8.4.

## **[BEHAVIORAL LEGAL ETHICS LESSONS FOR CORPORATE COUNSEL.](#)**

**Case Western Reserve Law Review - Case Western Reserve University School of Law - Schaefer, Paula - 2019-06-22**

## **Extract**

be held criminally liable for participation in a client crime (31) and civilly liable for participating in client fraud and client breach of fiduciary duty. (32) Moreover, attorney professional conduct rules require that an attorney withdraw from a representation rather than participate in a crime or fraud, (33) inform the client that the lawyer cannot participate in criminal and fraudulent conduct, (34) and take steps to ensure that the lawyer's services are not used to facilitate a fraud. (35)

## **Summary**

Potential criminal and civil liabilities for attorneys who participate in client crimes or fraud. It also highlights the ethical obligations under professional conduct rules, which require attorneys to withdraw from representation if it involves crime or fraud, to inform the client of the limits of the attorney's conduct, and to ensure that their services are not used to facilitate fraud. These principles are generally applicable to attorneys, including those practicing family law in Texas.

## **[The Lawyers' Social Contract: The Ethical Ties That Bind the Legal Profession](#)**

**Landslide - American Bar Association - Michael E. McCabe Jr. - 2024-06-01**

## **Extract**

a lawyer is prohibited from “knowingly” making a false statement of fact or law to a tribunal or from failing to correct a previous false statement of fact or law... Lawyers cannot offer evidence they know to be false... it is grounds

for “professional misconduct” if a lawyer: • commits a criminal act that reflects adversely on their honesty, trustworthiness, or fitness to practice; • engages in conduct involving dishonesty, fraud, deceit, or misrepresentation; • engages in conduct prejudicial to the administration of justice...

## Summary

Lawyers are ethically bound not to make false statements or offer false evidence. Engaging in fraudulent conduct or failing to report it can be considered professional misconduct. This includes making false statements, engaging in fraud, deceit, or misrepresentation, and conduct prejudicial to the administration of justice. These actions can lead to ethical and legal consequences for attorneys, including disciplinary actions by the bar.

[Trolling, Stonewalling, and Sham Pleadings: How Far Is Too Far?-Handling Opposing Counsel's Discovery Phase Ethics Violations](#)

**The Construction Lawyer - American Bar Association - Kimberly A. Hurtado - 2025-01-01**

## Extract

When presented with evidence of an adverse party’s fraudulent conduct that has been assisted by their counsel, look to Model Rule 8.4, Misconduct, which confirms: It is professional misconduct for a lawyer to: . . . (a) violate or attempt to violate the Rules of Professional Conduct, knowingly assist or induce another to do so, or do so through the acts of another; . . . [or] (c) engage in conduct involving dishonesty, fraud, deceit or misrepresentation. . . . Additionally, ABA Model Rule 4.1, Truthfulness in Statement to Others, states: In the course of representing a client a lawyer shall not knowingly: (a) make a false statement of material fact or law to a third person; or (b) fail to disclose a material fact to a third person when disclosure is necessary to avoid assisting a criminal or fraudulent act by a client, unless disclosure is prohibited by

## Summary

The ABA Model Rules of Professional Conduct, specifically Rule 8.4 and Rule 4.1, outline the ethical obligations of attorneys. Rule 8.4 addresses misconduct, including knowingly assisting in or engaging in fraudulent conduct. Rule 4.1 emphasizes truthfulness and the obligation to disclose material facts to avoid assisting in fraudulent acts. These rules are generally applicable to attorneys and provide a framework for understanding the ethical consequences of participating in or failing to report fraudulent conduct.

["Civil Proceedings" And The Call Of Law](#)

## **Extract**

Rule 3.5 on impartiality and decorum prohibits 'conduct intended to disrupt the tribunal' (ABA, 2020). Rule 3.1 prohibits frivolous or abusive use of procedure. There are a lot of opportunities for mischief when attorneys are doing their jobs. Courtroom antics intended to embarrass, delay or burden a third person with no substantial purpose fail to demonstrate a good faith basis in knowledge of the case, case law or statutes violates this rule. Rule 8.2 prohibits misleading people in the course of our jobs statements that you know, to be false or statements that display a reckless disregard for the truth. Rule 8.4 prohibits conduct that is prejudicial to the administration of justice, which is a catchall category and can be applied to various instances of bad conduct.

## **Summary**

The passage outlines several rules from the American Bar Association (ABA) that are relevant to attorney conduct. Rule 3.5 addresses conduct that disrupts the tribunal, Rule 3.1 addresses frivolous or abusive use of procedure, Rule 8.2 addresses making false or misleading statements, and Rule 8.4 addresses conduct prejudicial to the administration of justice. These rules are applicable to attorneys in general and provide a framework for understanding the ethical obligations of attorneys, including those in Texas, in legal proceedings. Violations of these rules could lead to ethical and legal consequences for attorneys who engage in or fail to report fraudulent conduct.

### [Rule 8.04. Misconduct](#)

## **Extract**

violate any other laws of this state relating to the professional conduct of lawyers and to the practice of law.

## **Summary**

The passage from Rule 8.04 of the Texas Disciplinary Rules of Professional Conduct indicates that lawyers in Texas are subject to discipline if they violate any laws related to professional conduct and the practice of law. This would include participating in or failing to report fraudulent conduct in family law cases, as such actions would likely violate laws and ethical standards governing attorneys. The rule is part of a broader framework that ensures lawyers maintain integrity and adhere to legal and ethical standards.

### [Rule 8.03. Reporting Professional Misconduct](#)



## **Extract**

A report to a disciplinary authority of professional misconduct by a lawyer should be made and processed in accordance with the Texas Rules of Disciplinary Procedure.

## **Summary**

Attorneys in Texas have an obligation to report professional misconduct to a disciplinary authority. This is relevant to the question as it implies that failing to report fraudulent conduct, which is a form of professional misconduct, could itself be a violation of the ethical rules governing attorneys in Texas. The passage does not specify the consequences but highlights the duty to report.

### [Rule 1.05. Confidentiality of Information](#)

## **Extract**

When the lawyer has reason to believe it is necessary to do so in order to prevent the client from committing a criminal or fraudulent act. To the extent revelation reasonably appears necessary to rectify the consequences of a client's criminal or fraudulent act in the commission of which the lawyer's services had been used... The principle of confidentiality is given effect not only in the Texas Disciplinary Rules of Professional Conduct but also in the law of evidence regarding the attorney-client privilege and in the law of agency... Exceptions exist in evidence law where the services of the lawyer were sought or used by a client in planning or committing a crime or fraud... Rule 5.03(d) Texas Rules of Civil Evidence (Tex. R. Civ. Evid.), and Rule 5.03(d), Texas Rules of Criminal Evidence (Tex R. Crim. Evid.), indicate the underlying public policy of furnishing no protection to client information where the client seeks or uses the services of the lawyer to aid in the commission of a crime or fraud... The lawyer may not counsel or assist a client in conduct that is criminal or fraudulent. See Rule 1.02(c)... A lawyer's duty under Rule 3.03(a) not to use false or fabricated evidence is a special instance of the duty prescribed in Rule 1.02(c) to avoid assisting a client in criminal or fraudulent conduct... The lawyer may have been innocently involved in past conduct by the client that was criminal or fraudulent... Sub-paragraph (c) and give the lawyer professional discretion to reveal both unprivileged and privileged information in order to serve those interests.

## **Summary**

The Texas Disciplinary Rules of Professional Conduct outline the ethical obligations of attorneys regarding confidentiality and the reporting of fraudulent conduct. Attorneys are prohibited from assisting clients in criminal or fraudulent acts and have a duty to prevent such acts if they have reason to believe they are occurring. The rules provide exceptions to

confidentiality when a lawyer's services are used in the commission of a crime or fraud, allowing the lawyer to disclose information to prevent or rectify the consequences of such conduct. This indicates that attorneys who knowingly participate in or fail to report fraudulent conduct may face ethical consequences, including potential disciplinary action, for violating these rules.

This memo was compiled by Vincent AI based on vLex materials available as of September 27, 2025. [View full answer on vLex](#)