

TEXAS HOUSE OF REPRESENTATIVES



BRISCOE CAIN
District 128

RQ-0389-KP
FILE# ML-48912-20
I.D.# 48912

December 14, 2020

The Honorable Ken Paxton
Texas Attorney General
Office of the Attorney General
Attn: Opinion Committee
P.O. Box 12548
Austin, Texas 78711-2548

Re: Public Access to the Texas Capitol; Members Voting from Somewhere other than their
Respective Chamber

Dear General Paxton:

I respectfully request an Opinion as to the following:

Under the Texas Constitution, the Legislature is required to meet every two years. The Legislature will convene on January 12, 2020. Due to COVID-19 and recent civil unrest, the Capitol and Capitol grounds have been closed to the public.

Article III, § 16 of the Texas Constitution states that “the sessions of each House shall be open, except the Senate when in Executive session.” The House and Senate may adopt rules of governance under Chapter 301 of the Government Code. Currently, the 86th Legislature imposes rules that require the House and Senate chambers and committee hearings to be open to the public.

Therefore, I respectfully request that you offer your opinion as to the following three specific questions:

1. Under the U.S. Constitution, Texas Constitution, and Texas state law, must the Capitol be open to allow the citizens of Texas to petition their government, specifically in terms of public access to the Texas Capitol in order to testify during legislative committee hearings regarding the budget and proposed legislation?



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2. Does the legislature, any other Texas elected official, or any state agency have the power to close the Capitol to the public? If so, under what circumstances?

3. What is meant by "in a House" or "in either House" as described by Art. III, § 12(b) or Art. III, § 21 of the Texas Constitution? Do such phrases require that voting and debate occur physically and in-person?

There is less than one month before Legislators meet to convene for the 87th Legislative Session. Therefore, our prompt response would be greatly appreciated.

Sincerely,

A handwritten signature in blue ink that reads "B. Cain".

Briscoe Cain
Texas State Representative
House District 128

