

The Texas Civil Medicaid Fraud statute allows anyone to sue. This concept is also in federal statutes such as the qui tam relator provisions in the federal False Claims Act. This concept was also passed last session in SB 1978 (86R), which allows anyone to sue.

- Some more information on qui tam provisions and citizen-suit provisions: Cass R. Sunstein, What's Standing After Lujan? Of Citizen Suits, "Injuries," and Article III, 91 Mich. L. Rev. 163 (1992).

Also, the Texas Supreme Court has made abundantly clear that statutes allowing any person to sue are constitutional. Here are some cases:

Marvin v. Trout, 199 U.S. 212, 225 (1905) ("Statutes providing for actions by a common informer, who himself had no interest whatever in the controversy other than that given by statute, have been in existence for hundreds of years in England, and in this country ever since the foundation of our government.").

Spence v. Fenchler, 107 Tex. 443, 180 S.W. 597 (1915) (allowing private litigants to sue under a statute that authorized "any citizen" to bring an action to enjoin the operation of a bawdyhouse, specifically providing that "**such citizen shall not be required to show that he is personally injured by the acts complained of.**" SCOTEX concluded that the plaintiff did not have to show particular interest or damage.").

Scott v. Board of Adjustment, 405 S.W.2d 55, 56 (Tex. 1966) ("Within constitutional bounds, the Legislature may grant a right to a citizen or to a taxpayer to bring an action against a public body or a right of review on behalf of the public without proof of particular or pecuniary damage peculiar to the person bringing the suit. Thus, in Spence v. Fenchler, 107 Tex. 443, 180 S.W. 597 (1915), the statute authorized 'any citizen' to bring an action to enjoin the operation of a bawdyhouse. The statute went further, specifically providing that 'such citizen shall not be required to show that he is personally injured by the acts complained of.' **This Court concluded that the plaintiff did not have to show particular interest or damage.**").

Hunt v. Bass, 664 S.W.2d 323, 324 (Tex. 1984) ("Standing consists of some interest peculiar to the person individually and not as a member of the general public. Mitchell v. Dixon, 140 Tex. 520, 168 S.W.2d 654 (1943); Yett v. Cook, 115 Tex. 205, 281 S.W. 837 (1926); City of San Antonio v. Strumberg, 70 Tex. 366, 7 S.W. 754 (1888); Pierce v. Southern Pacific Co., 410 S.W.2d 801 (Tex.Civ.App.—Waco 1967, writ ref'd); City of DeLeon v. Fincher, 344 S.W.2d 743 (Tex.Civ.App.—Amarillo 1961, writ ref'd n.r.e.). This general rule of standing is applied in all cases **absent a statutory exception to the contrary.** Scott v. Board of Adjustment, 405 S.W.2d 55 (Tex. 1966).").

Williams v. Lara, 52 S.W.3d 171, 178–79 (Tex. 2001) ("As a general rule of Texas law, to have standing, **unless it is conferred by statute**, a plaintiff must demonstrate that he or she possesses an interest in a conflict distinct from that of the general public, such that the defendant's actions have caused the plaintiff some particular injury. *179 See Hunt v. Bass, 664 S.W.2d 323, 324 (Tex. 1984).").

Andrade v. Venable, 372 S.W.3d 134, 137 (Tex. 2012) (“**Unless standing is conferred by statute**, a plaintiff must show that he has suffered a particularized injury distinct from the general public.”).

Sneed v. Webre, 465 S.W.3d 169, 180 (Tex. 2015) (“Generally, **unless standing is conferred by statute**, ‘a plaintiff must demonstrate that he or she possesses an interest in a conflict distinct from that of the general public, such that the defendant’s actions have caused the plaintiff some particular injury.’ Id. at 178–79 (citing Hunt v. Bass, 664 S.W.2d 323, 324 (Tex. 1984)). ‘The issue of standing focuses on whether a party has a sufficient relationship with the lawsuit so as to have a ‘justiciable interest’ in its outcome.’ Austin Nursing Ctr., Inc. v. Lovato, 171 S.W.3d 845, 848 (Tex. 2005). ‘The general test for standing in Texas requires that there “(a) shall be a real controversy between the parties, which (b) will be actually determined by the judicial declaration sought.” ’ Tex. Ass’n of Bus., 852 S.W.2d at 446 (quoting Bd. of Water Eng’rs v. City of San Antonio, 155 Tex. 111, 283 S.W.2d 722, 724 (Tex. 1955)).”).

In re Xerox Corp., 555 S.W.3d 518, 525 (Tex. 2018) (“[T]he Texas Medicaid Fraud Prevention Act . . . imbues the attorney general with broad investigative and enforcement authority and—via qui tam provisions—**deputizes private citizens to pursue a TMFPA action on the government’s behalf.**”).

Grossman v. Wolfe, 578 S.W.3d 250, 256–57 (Tex. App.—Austin 2019, pet. denied) (“In recognizing this exception in Spence, **the supreme court held that the plaintiff there did not have to show a particular interest or damage to establish standing because the statute at issue authorized “any citizen” to bring an action to enjoin the operation of a “bawdy or disorderly house.”** See Spence, 180 S.W. at 609. Later, the supreme court relied on Spence to hold in Scott that a taxpayer who had no injury distinct from that of the general public nevertheless had standing to sue a governmental entity because the relevant statute provided that “any taxpayer” could challenge in court the legality of the governmental entity’s decision. See Scott, 405 S.W. 2d at 56–57; see also Davis v. Zoning Bd. of Adjustment, 865 S.W.2d 941, 942 (Tex. 1993) (relying on Scott to hold that plaintiffs were entitled to sue zoning board). **And the supreme court has since recognized in dicta Scott’s holding regarding the Legislature’s authority to grant standing.** See, e.g., Jefferson County v. Jefferson Cty. Constables Ass’n, 546 S.W.3d 661, 666 (Tex. 2018) (noting general rule that unless standing is conferred by statute, plaintiff must demonstrate an interest in conflict distinct from that of general public); Andrade v. Venable, 372 S.W.3d 134, 137 (Tex. 2012) (addressing applicability of judicially created exception to standing for certain taxpayers, but recognizing that standing can be conferred by statute); Williams v. Lara, 52 S.W.3d 171, 178 (Tex. 2001) (same); Bland, 34 S.W.3d at 556 & n. 52 (“Unless standing is conferred by statute, taxpayers must show as a rule that they have suffered a particularized injury distinct from that suffered by the general public in order to have standing to challenge a government action or assert a public right.”) (citing Scott, 405 S.W.2d at 55); Hunt v. Bass, 664 S.W.2d 323, 324 (Tex. 1984) (holding that plaintiff had shown particular personal interest different from general public that is required by general standing rule, but relying on Scott, 405 S.W.2d at 55, to note that “general rule of

standing is applied in all cases absent statutory exception to the contrary”); see also *Sneed v. Webre*, 465 S.W.3d 169, 181 (Tex. 2015) (“Generally unless standing is conferred by statute, a plaintiff must demonstrate that he or she possesses an interest in a conflict distinct from that of the general public, such that the defendant’s actions have caused the plaintiff some particular injury.”) (cleaned up); *Texas Assoc’n of Bus. v. Texas Air Control Bd.*, 852 S.W.2d 440, 472 (Tex. 1993) (Doggett, J., dissenting) (citing *Scott*, 405 S.W.2d at 56, for the proposition that “On several occasions, *257 we have recognized the power of the Legislature to exempt litigants from proof of ‘special injury.’ ”).

Grossman v. Wolfe, 578 S.W.3d 250, 257 (Tex. App.—Austin 2019, pet. denied) (“Relevant here and relied upon by Grossman, the Legislature has included in the Antiquities Code a standing provision that is similar to the standing statutes upheld in both *Scott* and *Spence*: ‘A citizen of the State of Texas may bring an action . . . for restraining orders and injunctive relief to restrain and enjoin violations or threatened violations of’ the Antiquities Code. Tex. Nat. Res. Code § 191.173(a); see *Scott*, 405 S.W.2d at 56 (quoting relevant statute); *Spence*, 180 S.W. at 602 (same). And there is no dispute that Grossman is a citizen. Accordingly, we hold that, based on *Scott* and *Spence*, Grossman has standing under subsection 191.173(a) of the Antiquities Code to sue to restrain and enjoin violations of the Antiquities Code even though he has not suffered a particularized injury distinct from the general public.”).

In re Sullivan, 157 S.W.3d 911, 915 (Tex. App. — Houston [14th Dist.] 2005, orig. proceeding) (“Standing is a constitutional prerequisite to suit in both federal courts and the courts of Texas. *Williams v. Lara*, 52 S.W.3d 171, 178 (Tex. 2001). Nonetheless, **the judge-made criteria regarding standing do not apply when the Texas Legislature has conferred standing through a statute.** *Id.* In statutory standing cases, such as this, the analysis is a straight statutory construction of the relevant statute to determine upon whom the Texas Legislature conferred standing and whether the claimant in question falls in that category. See *Tex. Dep’t of Protective and Regulatory Servs. v. Sherry*, 46 S.W.3d 857, 859–61 (Tex. 2001) (determining whether putative father had standing to maintain a suit affecting the parent-child relationship based solely on construction of statutory standing provision).”).