

By: Whitmire, et al.
(Thompson of Harris)

S.B. No. 825

A BILL TO BE ENTITLED

1 AN ACT

2 relating to disciplinary standards and procedures applicable to
3 grievances alleging certain prosecutorial misconduct.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Section 81.072, Government Code, is amended by
6 amending Subsection (b) and adding Subsections (b-1) and (b-2) to
7 read as follows:

12 (1) classification of all grievances and
13 investigation of all complaints;

14 (2) a full explanation to each complainant on
15 dismissal of an inquiry or a complaint;

16 (3) periodic preparation of abstracts of inquiries and
17 complaints filed that, even if true, do or do not constitute
18 misconduct:

19 (4) an information file for each grievance filed;

20 (5) a grievance tracking system to monitor processing
21 of grievances by category, method of resolution, and length of time
22 required for resolution.

23 (6) notice by the state bar to the parties of a written
24 grievance filed with the state bar that the state bar has the

1 authority to resolve of the status of the grievance, at least
2 quarterly and until final disposition, unless the notice would
3 jeopardize an undercover investigation;

4 (7) an option for a trial in a district court on a
5 complaint and an administrative system for attorney disciplinary
6 and disability findings in lieu of trials in district court,
7 including an appeal procedure to the Board of Disciplinary Appeals
8 and the supreme court under the substantial evidence rule;

9 (8) an administrative system for reciprocal and
10 compulsory discipline;

11 (9) interim suspension of an attorney posing a threat
12 of immediate irreparable harm to a client;

13 (10) authorizing all parties to an attorney
14 disciplinary hearing, including the complainant, to be present at
15 all hearings at which testimony is taken and requiring notice of
16 those hearings to be given to the complainant not later than the
17 seventh day before the date of the hearing;

18 (11) the commission adopting rules that govern the use
19 of private reprimands by grievance committees and that prohibit a
20 committee:

21 (A) giving an attorney more than one private
22 reprimand within a five-year period for a violation of the same
23 disciplinary rule; or

24 (B) giving a private reprimand for a violation:
25 (i) that involves a failure to return an

26 unearned fee, a theft, or a misapplication of fiduciary property;
27 or

(12) distribution of a voluntary survey to all complainants urging views on grievance system experiences.

15 (b-2) For purposes of Subsection (b-1):

25 SECTION 2. As soon as practicable after the effective date
26 of this Act but not later than December 1, 2013, the Texas Supreme
27 Court shall amend the Texas Rules of Disciplinary Procedure to

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1 conform with Section 81.072, Government Code, as amended by this
2 Act.

3 SECTION 3. This Act takes effect September 1, 2013.