

1-1 By: Watson, Hinojosa, Taylor of Collin S.B. No. 302
1-2 (In the Senate - Filed February 24, 2017; February 27, 2017,
1-3 read first time and referred to Committee on State Affairs;
1-4 March 29, 2017, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 8, Nays 0; March 29, 2017,
1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8 Huffman	X			
1-9 Hughes	X			
1-10 Birdwell	X			
1-11 Creighton	X			
1-12 Estes	X			
1-13 Lucio	X			
1-14 Nelson	X			
1-15 Schwertner			X	
1-16 Zaffirini	X			

1-18 COMMITTEE SUBSTITUTE FOR S.B. No. 302 By: Hughes

1-19 A BILL TO BE ENTITLED
1-20 AN ACT

1-21 relating to the continuation and functions of the state bar.
1-22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
1-23 SECTION 1. Section 81.003, Government Code, is amended to
1-24 read as follows:
1-25 Sec. 81.003. SUNSET PROVISION. The state bar is subject to
1-26 Chapter 325 (Texas Sunset Act). Unless continued in existence as
1-27 provided by that chapter, this chapter expires September 1, 2029
1-28 [2017].

1-29 SECTION 2. Section 81.0201, Government Code, is amended by
1-30 amending Subsection (b) and adding Subsection (c) to read as
1-31 follows:

1-32 (b) The training program must provide the person with
1-33 information regarding:

1-34 (1) the law governing [legislation that created the]
1-35 state bar operations [and the board];

1-36 (2) the programs operated by the state bar;

1-37 (3) the role and functions of the state bar;

1-38 (4) the rules of the state bar, with an emphasis on the
1-39 rules that relate to disciplinary and investigatory authority;

1-40 (4-a) the scope of and limitations on the rulemaking
1-41 authority of the state bar;

1-42 (5) the current budget for the state bar;

1-43 (6) the results of the most recent formal audit of the
1-44 state bar;

1-45 (7) the requirements of:

1-46 (A) laws relating to [the] open meetings [law],
1-47 [Chapter 551],

1-48 [(B) the] public information [law],
1-49 administrative procedure, and the disclosure of conflicts of
1-50 interest [Chapter 552]; and

1-51 (B) [(C)] other laws applicable to members of a
1-52 state policymaking body in performing their duties [relating to
1-53 public officials, including conflict of interest laws]; and

1-54 (8) any applicable ethics policies adopted by the
1-55 state bar or the Texas Ethics Commission.

1-56 (c) The executive director shall create a training manual
1-57 that includes the information required by Subsection (b). The
1-58 executive director shall distribute a copy of the training manual
1-59 annually to each member of the board of directors. On receipt of
1-60 the training manual, each member of the board shall sign and submit

2-1 to the executive director a statement acknowledging receipt of the
 2-2 training manual.

2-3 SECTION 3. Section 81.022, Government Code, is amended by
 2-4 adding Subsection (a-2) to read as follows:

2-5 (a-2) Any change in a membership fee or other fee for
 2-6 members of the state bar must be clearly described and included in
 2-7 the proposed budget and considered by the supreme court in the state
 2-8 bar budget deliberations. The change may not be implemented unless
 2-9 approved by the court as part of the state bar budget.

2-10 SECTION 4. Sections 81.024(a) and (b), Government Code, are
 2-11 amended to read as follows:

2-12 (a) The supreme court shall promulgate the rules governing
 2-13 the state bar. [The rules may be amended as provided by this
 2-14 section.]

2-15 (b) The supreme court may:

2-16 (1) [either] as it considers necessary, pursuant to
 2-17 a resolution of the board of directors of the state bar, or pursuant
 2-18 to a petition signed by at least 10 percent of the registered
 2-19 members of the state bar, prepare, propose, and adopt rules or
 2-20 amendments to rules for the operation, maintenance, and
 2-21 administration [conduct] of the state bar; and

2-22 (2) in accordance with Subchapter E-1, adopt rules,
 2-23 including the Texas Disciplinary Rules of Professional Conduct and
 2-24 the Texas Rules of Disciplinary Procedure, for the discipline of
 2-25 state bar [its] members.

2-26 SECTION 5. Subchapter B, Chapter 81, Government Code, is
 2-27 amended by adding Section 81.037 to read as follows:

2-28 Sec. 81.037. CRIMINAL HISTORY RECORD INFORMATION. (a) The
 2-29 state bar shall require that each member of the state bar submit a
 2-30 complete and legible set of fingerprints, on a form prescribed by
 2-31 the state bar, to the state bar or to the Department of Public
 2-32 Safety for the purpose of obtaining criminal history record
 2-33 information from the department and the Federal Bureau of
 2-34 Investigation. The state bar may obtain the information from the
 2-35 Board of Law Examiners for a state bar member who has been issued an
 2-36 initial license.

2-37 (b) A state bar member is not required to submit
 2-38 fingerprints under this section if the member has previously
 2-39 submitted fingerprints to:

2-40 (1) the Board of Law Examiners and the Board of Law
 2-41 Examiners made the information accessible to the state bar; or
 2-42 (2) the state bar or the Department of Public Safety
 2-43 under this chapter.

2-44 (c) The state bar shall conduct a criminal history record
 2-45 check of each member of the state bar using information:

2-46 (1) provided by the state bar member or the Board of
 2-47 Law Examiners under this section; or

2-48 (2) made available to the state bar by the Department
 2-49 of Public Safety, the Federal Bureau of Investigation, and any
 2-50 other criminal justice agency under Chapter 411, Government Code.

2-51 (d) The state bar may:

2-52 (1) enter into an agreement with the Department of
 2-53 Public Safety to administer a criminal history record check
 2-54 required under this section; and

2-55 (2) authorize the Department of Public Safety to
 2-56 collect from each state bar member the costs incurred by the
 2-57 department in conducting the criminal history record check.

2-58 (e) The state bar may administratively suspend the license
 2-59 of a member of the state bar who fails to assist the state bar in
 2-60 obtaining criminal history record information under this section.

2-61 SECTION 6. Section 81.054(a), Government Code, is amended
 2-62 to read as follows:

2-63 (a) The supreme court shall set membership fees and other
 2-64 fees for members of the state bar during the court's annual budget
 2-65 process under Section 81.022. The fees, except as provided by
 2-66 Subsection (j) and those set for associate members, must be set in
 2-67 accordance with this section [and Section 81.024].

2-68 SECTION 7. Section 81.072(e), Government Code, is amended
 2-69 to read as follows:

3-1 (e) The state bar shall establish a voluntary mediation and
 3-2 dispute resolution procedure to:

3-3 (1) attempt to resolve each minor grievance referred
 3-4 to the voluntary mediation and dispute resolution procedure by the
 3-5 chief disciplinary counsel [allegation of attorney misconduct that
 3-6 is:]

3-7 [(A) classified as an inquiry under Section
 3-8 81.073(a)(2)(A) because it does not constitute an offense
 3-9 cognizable under the Texas Disciplinary Rules of Professional
 3-10 Conduct; or]

3-11 [(B) classified as a complaint and subsequently
 3-12 dismissed]; and

3-13 (2) facilitate coordination with other programs
 3-14 administered by the state bar to address and attempt to resolve
 3-15 inquiries and complaints referred to the voluntary mediation and
 3-16 dispute resolution procedure.

3-17 SECTION 8. Subchapter E, Chapter 81, Government Code, is
 3-18 amended by adding Sections 81.080, 81.081, 81.082, 81.083, 81.084,
 3-19 81.085, and 81.086 to read as follows:

3-20 Sec. 81.080. ISSUANCE OF SUBPOENA; OBJECTION. (a) On
 3-21 approval of the presiding officer of the appropriate district
 3-22 grievance committee, the chief disciplinary counsel may, during an
 3-23 investigation of a grievance, issue a subpoena that relates
 3-24 directly to a specific allegation of attorney misconduct.

3-25 (b) The chief disciplinary counsel shall provide a process
 3-26 for a respondent to object to a subpoena issued under this section.

3-27 Sec. 81.081. ATTORNEY SELF-REPORTING. The chief
 3-28 disciplinary counsel shall develop guidelines and a procedure for
 3-29 an attorney to self-report:

3-30 (1) any criminal offense committed by the attorney;
 3-31 and

3-32 (2) any disciplinary action taken by another state's
 3-33 bar against the attorney.

3-34 Sec. 81.082. PROCESS TO IDENTIFY COMPLAINTS SUITABLE FOR
 3-35 SETTLEMENT OR INVESTIGATORY HEARING. (a) The chief disciplinary
 3-36 counsel shall develop a process to identify a complaint that is
 3-37 appropriate for a settlement attempt or an investigatory hearing
 3-38 before a trial is requested or the complaint is placed on a hearing
 3-39 docket.

3-40 (b) The chief disciplinary counsel may authorize a
 3-41 settlement at any time during the disciplinary process.

3-42 Sec. 81.083. SANCTION GUIDELINES. (a) The chief
 3-43 disciplinary counsel shall propose and the supreme court shall
 3-44 adopt by rule sanction guidelines to:

3-45 (1) associate a specific rule violation or ethical
 3-46 misconduct with a range of appropriate sanctions;

3-47 (2) provide aggravating and mitigating factors that
 3-48 justify deviating from the established sanctions; and

3-49 (3) provide consistency between complaints heard by a
 3-50 district grievance committee and complaints heard by a district
 3-51 court.

3-52 (b) The chief disciplinary counsel shall ensure that
 3-53 interested parties are provided an opportunity to comment on the
 3-54 proposed sanction guidelines.

3-55 (c) The sanction guidelines adopted under this section do
 3-56 not limit the authority of a district grievance committee or of a
 3-57 district judge to make a finding or issue a decision.

3-58 Sec. 81.084. GRIEVANCE TRACKING SYSTEM. (a) The chief
 3-59 disciplinary counsel shall create and maintain a grievance tracking
 3-60 system for grievances filed and disciplinary decisions issued under
 3-61 this subchapter.

3-62 (b) The grievance tracking system must:

3-63 (1) associate each rule violation or instance of
 3-64 ethical misconduct with the sanction imposed or final action taken
 3-65 for the violation or misconduct in a diversionary procedure adopted
 3-66 under state bar rules;

3-67 (2) address whether a sanction decision aligns with
 3-68 the sanction guidelines adopted under Section 81.083;

3-69 (3) specify the district grievance committee or

4-1 district judge that imposed the sanction to evaluate sanction
 4-2 patterns within the disciplinary districts and facilitate training
 4-3 for district grievance committee members; and

4-4 (4) include sufficient information to evaluate and
 4-5 track disciplinary trends over time.

4-6 (c) The chief disciplinary counsel shall:

4-7 (1) periodically evaluate and report information
 4-8 gathered in the grievance tracking system to the commission and
 4-9 district grievance committee members; and

4-10 (2) post the information reported under Subdivision
 4-11 (1) on the state bar's Internet website.

4-12 Sec. 81.085. REGULAR SEARCH OF NATIONAL LAWYER REGULATORY
 4-13 DATA BANK. The chief disciplinary counsel shall establish a
 4-14 process to regularly search the National Lawyer Regulatory Data
 4-15 Bank maintained by the American Bar Association to identify a
 4-16 member of the state bar who is disciplined in another state.

4-17 Sec. 81.086. TELECONFERENCE. The chief disciplinary
 4-18 counsel may hold investigatory and disciplinary hearings by
 4-19 teleconference.

4-20 SECTION 9. Chapter 81, Government Code, is amended by
 4-21 adding Subchapters E-1 and E-2 to read as follows:

4-22 SUBCHAPTER E-1. COMMITTEE ON DISCIPLINARY RULES AND REFERENDA;
 4-23 DISCIPLINARY RULE PROPOSAL PROCESS

4-24 Sec. 81.0871. DEFINITION. In this subchapter, "committee"
 4-25 means the Committee on Disciplinary Rules and Referenda.

4-26 Sec. 81.0872. ESTABLISHMENT OF COMMITTEE. (a) The
 4-27 committee consists of nine members, including:

4-28 (1) three attorneys appointed by the president of the
 4-29 state bar;

4-30 (2) one nonattorney public member appointed by the
 4-31 president of the state bar;

4-32 (3) four attorneys appointed by the supreme court; and

4-33 (4) one nonattorney public member appointed by the
 4-34 supreme court.

4-35 (b) The president of the state bar and the chief justice of
 4-36 the supreme court shall alternate designating an attorney member of
 4-37 the committee to serve as the presiding officer of the committee for
 4-38 a term of one year.

4-39 (c) Committee members serve staggered three-year terms,
 4-40 with one-third of the members' terms expiring each year.

4-41 Sec. 81.0873. COMMITTEE DUTIES. The committee shall:

4-42 (1) regularly review the Texas Disciplinary Rules of
 4-43 Professional Conduct and the Texas Rules of Disciplinary Procedure;

4-44 (2) at least annually issue to the supreme court and
 4-45 the board of directors a report on the adequacy of the rules
 4-46 reviewed under Subdivision (1); and

4-47 (3) oversee the initial process for proposing a
 4-48 disciplinary rule under Section 81.0875.

4-49 Sec. 81.0874. STAFF ATTORNEY. The state bar may hire a
 4-50 staff attorney to assist the committee.

4-51 Sec. 81.0875. INITIATION OF RULE PROPOSAL PROCESS.

4-52 (a) The committee may initiate the process for proposing a
 4-53 disciplinary rule for the state bar as the committee considers
 4-54 necessary or in conjunction with the review of the Texas
 4-55 Disciplinary Rules of Professional Conduct and the Texas Rules of
 4-56 Disciplinary Procedure under Section 81.0873(1).

4-57 (b) Not later than the 60th day after the date the committee
 4-58 receives a request to initiate the process for proposing a
 4-59 disciplinary rule, the committee shall:

4-60 (1) initiate the process; or
 4-61 (2) issue a written decision declining to initiate the
 4-62 process and the reasons for declining.

4-63 (c) A request to initiate the process for proposing a
 4-64 disciplinary rule under Subsection (b) may be made by:

4-65 (1) a resolution of the board of directors;

4-66 (2) a request of the supreme court;

4-67 (3) a request of the commission;

4-68 (4) a petition signed by at least 10 percent of the
 4-69 registered members of the state bar;

(5) a concurrent resolution of the legislature; or
(6) a petition signed by at least 20,000 people.

Sec. 81.0876. RULE PROPOSAL. (a) On initiation of the process for proposing a disciplinary rule, the committee shall:

(1) study the issue to be addressed by the proposed rule;

date, (2) hold a public hearing on the issue;
(3) draft the proposed rule, which may not address
more than one subject; and

(4) make all reasonable efforts to solicit comments from different geographic regions in this state, nonattorney members of the public, and members of the state bar.

(b) A proposed disciplinary rule is withdrawn six months after the date the rule proposal process is initiated under Section 81.0875(b)(1) if the proposed disciplinary rule is not published on or before that date in:

(1) the Texas Register; and
(2) the Texas Bar Journal.

(c) The committee shall give interested parties at least 30 days from the date the proposed disciplinary rule is published as required under Subsection (b) to submit comments on the rule to the committee.

(d) The committee shall hold a public hearing on the proposed disciplinary rule if, during the comment period described by Subsection (c), the hearing is requested by:

(1) at least 10 people,
(2) a state agency or political subdivision of this
state; or
(3) an association with at least 25 members.

(e) On conclusion of the comment period described by Subsection (c), the committee may amend the proposed disciplinary rule in response to the comments.

(f) The committee shall vote on whether to recommend a proposed disciplinary rule to the board of directors not later than the 60th day after the final day of the comment period described by Subsection (c). The committee may not recommend a proposed disciplinary rule unless at least five members of the committee favor recommendation.

(g) The committee shall submit a proposed disciplinary rule that is recommended by the committee to the board of directors for review and consideration.

Sec. 81.0877. APPROVAL OF PROPOSED DISCIPLINARY RULE BY BOARD OF DIRECTORS. (a) The board of directors shall vote on each proposed disciplinary rule recommended by the committee not later than the 120th day after the date the rule is received from the committee. The board shall vote for or against the rule or return the rule to the committee for additional consideration.

(b) If a proposed disciplinary rule is approved by a majority of the directors, the board of directors shall petition the supreme court to order a referendum as provided by Section 81.0878 on the rule by the members of the state bar.

Sec. 81.0878. REFERENDUM VOTE BY STATE BAR MEMBERS.
(a) On receipt of a petition filed by the board of directors under Section 81.0877(b), the supreme court shall:

(1) distribute a copy of the rule in ballot form to each member of the state bar and order a vote on the rule; and
(2) publish the rule in:

(A) the Texas Register; and
(B) the Texas Bar Journal.

(b) The supreme court shall give state bar members:

(b) The supreme court shall give state bar members:

- (1) at least 30 days to consider a proposed disciplinary rule before voting begins; and
- (2) 30 days to vote on the proposed disciplinary rule following the period for considering the proposed rule under subdivision (1).

Subdivision (1). (c) The state bar shall provide proponents and opponents of a proposed disciplinary rule an equal opportunity to present their views at any bar-sponsored forum at which the rule referendum is discussed.

6-1 (d) One or more proposed disciplinary rules may appear on a
6-2 single referendum ballot. State bar members shall vote for or
6-3 against each rule. If a majority of the members who vote on the
6-4 proposed rule vote in favor of the rule, the rule is approved by the
6-5 members of the state bar.

6-6 Sec. 81.0879. SUPREME COURT APPROVAL OR REJECTION. The
6-7 supreme court by majority vote may approve or reject a proposed
6-8 disciplinary rule in its entirety, but may not approve or reject
6-9 only part of the rule. If the supreme court does not vote on the
6-10 rule on or before the 120th day after the date the rule is approved
6-11 by bar members under Section 81.0878, the rule is considered
6-12 approved by the supreme court.

6-13 Sec. 81.08791. RULE DELIBERATIONS. (a) The committee, the
6-14 board of directors, or the supreme court shall provide notice of any
6-15 deliberation on a proposed disciplinary rule, and the deliberation
6-16 must be open to the public.

6-17 (b) The board of directors and the supreme court shall
6-18 record and make public each vote for or against a proposed
6-19 disciplinary rule.

6-20 Sec. 81.08792. PROPOSED DISCIPLINARY RULE APPROVAL
6-21 REQUIRED BEFORE ADOPTION. A proposed disciplinary rule may not be
6-22 adopted by the supreme court unless the rule is approved by:

- 6-23 (1) the committee;
- 6-24 (2) the board of directors;
- 6-25 (3) the members of the state bar; and
- 6-26 (4) the supreme court.

6-27 Sec. 81.08793. USE OF TECHNOLOGY. The supreme court, the
6-28 committee, and the state bar shall use technological solutions
6-29 throughout the disciplinary rule proposal process to promote:

- 6-30 (1) financial efficiency; and
- 6-31 (2) comments from interested persons.

6-32 Sec. 81.08794. EXPIRED TIME AND DEFEATED RULE PROPOSAL.
6-33 (a) If a time limit provided by this subchapter expires or a
6-34 disciplinary rule proposal is otherwise defeated, the process for
6-35 initiating the proposed disciplinary rule may again be initiated in
6-36 accordance with this subchapter.

6-37 (b) For good cause shown, the supreme court may grant a
6-38 petition to extend any time limit provided by this subchapter until
6-39 a date that is not later than the 90th day after the original
6-40 deadline.

6-41 SUBCHAPTER E-2. OMBUDSMAN FOR ATTORNEY DISCIPLINE SYSTEM

6-42 Sec. 81.0881. DEFINITIONS. In this subchapter:

6-43 (1) "Ombudsman" means the ombudsman for the attorney
6-44 discipline system of the state bar.

6-45 (2) "System" means the attorney discipline system of
6-46 the state bar.

6-47 Sec. 81.0882. OMBUDSMAN FOR ATTORNEY DISCIPLINE SYSTEM.

6-48 (a) The state bar shall fund one full-time equivalent position of
6-49 ombudsman for the attorney discipline system.

6-50 (b) The ombudsman is selected by the members of the supreme
6-51 court and is independent of the state bar, the board of directors,
6-52 the commission, and the chief disciplinary counsel.

6-53 (c) The ombudsman shall report directly to the supreme
6-54 court.

6-55 Sec. 81.0883. POWERS AND DUTIES OF OMBUDSMAN. (a) The
6-56 ombudsman shall:

6-57 (1) review grievances to determine whether the state
6-58 bar followed the proper grievance procedures;

6-59 (2) receive complaints about the system;

6-60 (3) receive and investigate complaints on violations

6-61 of the system's procedural rules;

6-62 (4) answer questions from the public on the system's
6-63 operation, accessing the system, and the availability of other
6-64 state bar programs;

6-65 (5) assist members of the public wishing to submit a
6-66 lawyer grievance by explaining the information required and the
6-67 methods for submitting the information; and

6-68 (6) at least annually, make recommendations to the
6-69 board of directors and the supreme court for improvements to the

7-1 system, including ways to improve access to the system and changes
 7-2 to the grievance form.

7-3 (b) The ombudsman may not:

7-4 (1) draft a complaint for a member of the public;

7-5 (2) act as an advocate for a member of the public;

7-6 (3) reverse or modify a finding or judgment in any

7-7 disciplinary proceeding; or

7-8 (4) intervene in any disciplinary matter.

7-9 Sec. 81.0884. ACCESS TO INFORMATION. The chief
 7-10 disciplinary counsel, a district grievance committee, the board of
 7-11 directors, the commission, and state bar members shall share with
 7-12 the ombudsman requested information that is necessary to:

7-13 (1) determine whether the state bar followed
 7-14 procedural rules related to a particular grievance; or

7-15 (2) evaluate the system's efficacy and adequacy.

7-16 Sec. 81.0885. CONFIDENTIAL INFORMATION; PRIVILEGED
 7-17 COMMUNICATIONS. (a) All types of information, proceedings,
 7-18 hearing transcripts, and statements presented to the ombudsman are
 7-19 confidential and may not be disclosed to any person other than the
 7-20 chief disciplinary counsel unless disclosure is ordered by a court.

7-21 (b) The ombudsman may not access privileged communications
 7-22 and information shared between the chief disciplinary counsel and
 7-23 the commission.

7-24 SECTION 10. Section 81.115(b), Government Code, is amended
 7-25 to read as follows:

7-26 (b) A profile must contain the following information on each
 7-27 attorney:

7-28 (1) the name of each law school attended and the date
 7-29 the attorney graduated;

7-30 (2) the date the attorney became licensed to practice
 7-31 law in this state;

7-32 (3) any specialty certification recognized by the
 7-33 state bar and held by the attorney;

7-34 (4) the attorney's primary practice location;

7-35 (5) any public disciplinary sanctions issued by the
 7-36 state bar against the attorney, including a link on the attorney's
 7-37 online profile to the full text of the disciplinary judgment
 7-38 entered by a district grievance committee or district judge [during
 7-39 at least the 10-year period preceding the date of the profile]; and

7-40 (6) any public disciplinary sanctions issued by an
 7-41 entity in another state responsible for attorney discipline in that
 7-42 state against the attorney [during at least the 10-year period
 7-43 preceding the date of the profile].

7-44 SECTION 11. Section 411.100, Government Code, is amended to
 7-45 read as follows:

7-46 Sec. 411.100. ACCESS TO CRIMINAL HISTORY RECORD
 7-47 INFORMATION: BOARD OF LAW EXAMINERS AND STATE BAR OF TEXAS.

7-48 (a) The Board of Law Examiners is entitled to obtain from the
 7-49 department criminal history record information maintained by the
 7-50 department that relates to a person who is an applicant to take a
 7-51 bar examination.

7-52 (a-1) The State Bar of Texas is entitled to obtain:

7-53 (1) from the department, criminal history record
 7-54 information maintained by the department that relates to a person
 7-55 who is a member of the state bar; or

7-56 (2) from the Board of Law Examiners, criminal history
 7-57 record information obtained under Subsection (a).

7-58 (b) Criminal history record information obtained [by the
 7-59 board] under Subsection (a) or (a-1) may not be released or
 7-60 disclosed to any person, except on court order or with consent of
 7-61 the applicant.

7-62 (c) Immediately following the [board's] decision of the
 7-63 Board of Law Examiners on recommending an applicant, the board
 7-64 shall collect and make accessible to the State Bar of Texas [seal]
 7-65 all criminal history record information obtained by the board that
 7-66 relates to that applicant.

7-67 SECTION 12. Section 411.1005(a), Government Code, is
 7-68 amended to read as follows:

7-69 (a) The chief disciplinary [general] counsel of the State

8-1 Bar of Texas is entitled to obtain from the department criminal
8-2 history record information maintained by the department that
8-3 relates to a person who is:

8-4 (1) ~~a person~~ licensed by the state bar;

8-5 (2) ~~and who is~~ the subject of or involved in an
8-6 investigation of:

8-7 (A) professional misconduct relating to a
8-8 grievance filed under the disciplinary rules of the state bar; or
8-9 (B) barratry, the unauthorized practice of law,
8-10 or falsely holding oneself out as a lawyer, in violation of Section
8-11 38.12, 38.122, or 38.123, Penal Code;

8-12 (3) ~~(2)~~ a witness in any disciplinary action or
8-13 proceeding conducted by the state bar, the Board of Disciplinary
8-14 Appeals, or any court; or

8-15 (4) ~~(3)~~ an applicant for reinstatement to practice
8-16 law.

8-17 SECTION 13. The following provisions of the Government Code
8-18 are repealed:

8-19 (1) Sections 81.024(c), (d), (e), (f), and (g); and

8-20 (2) Section 411.1005(c).

8-21 SECTION 14. (a) The State Bar of Texas shall obtain
8-22 criminal history record information on each person who is a member
8-23 of the state bar on the effective date of this Act as authorized by
8-24 Section 81.037, Government Code, as added by this Act, not later
8-25 than September 1, 2019.

8-26 (b) As soon as practicable after the effective date of this
8-27 Act, but not later than January 1, 2018, the president of the State
8-28 Bar of Texas and the Texas Supreme Court shall appoint the initial
8-29 members of the Committee on Disciplinary Rules and Referenda as
8-30 follows:

8-31 (1) the state bar president shall appoint one person
8-32 to a term expiring in 2018;

8-33 (2) the supreme court shall appoint two people to
8-34 terms expiring in 2018;

8-35 (3) the state bar president shall appoint two people
8-36 to terms expiring in 2019;

8-37 (4) the supreme court shall appoint one person to a
8-38 term expiring in 2019;

8-39 (5) the state bar president shall appoint one person
8-40 to a term expiring in 2020; and

8-41 (6) the supreme court shall appoint two people to
8-42 terms expiring in 2020.

8-43 (c) Notwithstanding Subchapter E-1, Government Code, as
8-44 added by this Act, not later than March 1, 2018, the Texas Supreme
8-45 Court shall adopt the rules necessary to:

8-46 (1) modify the voluntary mediation and dispute
8-47 resolution procedures for grievances as required by Section
8-48 81.072(e), Government Code, as amended by this Act;

8-49 (2) authorize the issuance of subpoenas under Section
8-50 81.080, Government Code, as added by this Act;

8-51 (3) implement Section 81.081, Government Code, as
8-52 added by this Act;

8-53 (4) revise the time provided for grievance
8-54 investigations, subpoena issuance, investigatory hearings, and
8-55 providing voluntary mediation and dispute resolution under Section
8-56 81.072(e), Government Code, as amended by this Act;

8-57 (5) establish the process to identify complaints
8-58 suitable for settlement attempts and authorize the chief
8-59 disciplinary counsel to conduct investigatory and disciplinary
8-60 hearings by teleconference under Sections 81.082 and 81.086,
8-61 Government Code, as added by this Act;

8-62 (6) establish the grievance referral program as
8-63 required by Subsection (d)(3) of this section; and

8-64 (7) establish the sanction guidelines proposed by the
8-65 chief disciplinary counsel under Section 81.083, Government Code,
8-66 as added by this Act.

8-67 (d) The chief disciplinary counsel shall:

8-68 (1) develop proposed changes to the disciplinary rules
8-69 regarding the time for conducting an investigation of a grievance

9-1 or issuing a subpoena related to an investigation or attempting a
9-2 settlement in an investigatory hearing under Section 81.082,
9-3 Government Code, as added by this Act;

9-4 (2) propose rules necessary to implement the
9-5 settlement process described by Section 81.082, Government Code, as
9-6 added by this Act; and

9-7 (3) propose rules to establish a grievance referral
9-8 program under the Texas Rules of Disciplinary Procedure, including
9-9 criteria for attorney participation and authorization for use of
9-10 the program at any point in the attorney disciplinary process.

9-11 (e) The State Bar of Texas shall assist the Texas Supreme
9-12 Court on rule modifications to the Texas Rules of Disciplinary
9-13 Procedure that are necessary to address Section 81.072(e)(1),
9-14 Government Code, as amended by this Act, including:

9-15 (1) types of grievances the chief disciplinary counsel
9-16 may refer to the voluntary mediation and dispute resolution
9-17 procedure and the criteria defining the grievance types;

9-18 (2) modifications to the time for processing
9-19 grievances to accommodate voluntary mediation and dispute
9-20 resolution and the establishment of a limit on the time for
9-21 resolution through voluntary mediation and dispute resolution or
9-22 referral to the formal grievance process for further action; and

9-23 (3) confidentiality rules to allow the chief
9-24 disciplinary counsel and client-attorney assistance program to
9-25 share appropriate information in a case referred for voluntary
9-26 mediation and dispute resolution.

9-27 (f) The State Bar of Texas shall include on attorneys'
9-28 online profiles any historical information on public disciplinary
9-29 sanctions as is practicable under Section 81.115(b), Government
9-30 Code, as amended by this Act. A public disciplinary action issued
9-31 on or after the effective date of this Act must be included on the
9-32 attorney's online profile as required by Section 81.115(b),
9-33 Government Code, as amended by this Act.

9-34 SECTION 15. (a) Except as provided by Subsection (b) of
9-35 this section, Section 81.0201, Government Code, as amended by this
9-36 Act, applies to a member of the board of directors of the State Bar
9-37 of Texas appointed before, on, or after the effective date of this
9-38 Act.

9-39 (b) A member of the board of directors of the State Bar of
9-40 Texas who, before the effective date of this Act, completed the
9-41 training program required by Section 81.0201, Government Code, as
9-42 that law existed before the effective date of this Act, is required
9-43 to complete additional training only on subjects added by this Act
9-44 to the training program as required by Section 81.0201, Government
9-45 Code, as amended by this Act. A board member described by this
9-46 subsection may not vote, deliberate, or be counted as a member in
9-47 attendance at a meeting of the board held on or after December 1,
9-48 2017, until the member completes the additional training.

9-49 SECTION 16. This Act takes effect September 1, 2017.

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