

By: Schatzline

H.B. No. 5104

A BILL TO BE ENTITLED

AN ACT

relating to membership in and fees collected by the State Bar of Texas and to disciplinary procedures for licensed attorneys.

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

ARTICLE 1. THE STATE BAR AND ATTORNEYS

SECTION 1.01. Section 22.004(b), Government Code, is amended to read as follows:

(b) The supreme court from time to time may promulgate a specific rule or rules of civil procedure, or an amendment or amendments to a specific rule or rules, to be effective at the time the supreme court deems expedient in the interest of a proper administration of justice. The rules and amendments to rules remain in effect unless and until disapproved by the legislature. The clerk of the supreme court shall file with the secretary of state the rules or amendments to rules promulgated by the supreme court under this subsection and shall mail a copy of those rules or amendments to rules to each registered member of the State Bar of Texas and each attorney licensed to practice law in this state not later than the 60th day before the date on which they become effective. On receiving a written request from a member of the legislature, the secretary of state shall provide the member with electronic notifications when the supreme court has promulgated rules or amendments to rules under this section.

SECTION 1.02. Section 74.024(d), Government Code, is

1 amended to read as follows:

2 (d) Any rules adopted under this section remain in effect
3 unless and until disapproved by the legislature. The clerk of the
4 supreme court shall file with the secretary of state the rules or
5 any amendments to the rules adopted by the supreme court under this
6 section and shall mail a copy of the rules and any amendments to
7 each registered member of the State Bar and each attorney licensed
8 to practice law in this state not later than the 120th day before
9 the date on which they become effective. The supreme court shall
10 allow a period of 60 days for review and comment on the rules and any
11 amendments. The clerk of the supreme court shall report the rules
12 or amendments to the rules to the next regular session of the
13 legislature by mailing a copy of the rules or amendments to the
14 rules to each elected member of the legislature on or before
15 December 1 immediately preceding the session.

16 SECTION 1.03. Section 81.012, Government Code, is amended
17 to read as follows:

18 Sec. 81.012. PURPOSES. In order that the public
19 responsibilities of the legal profession may be more effectively
20 discharged, the state bar has the following purposes:

21 (1) to aid the courts in carrying on and improving the
22 administration of justice;

23 (2) to advance the quality of legal services to the
24 public and to foster the role of the legal profession in serving the
25 public;

26 (3) to foster and maintain on the part of those engaged
27 in the practice of law high ideals and integrity, learning,

competence in public service, and high standards of conduct;

(4) to provide proper professional services to the members of the state bar and the attorneys licensed to practice law in this state;

(5) to encourage the formation of and activities of local bar associations;

(6) to provide forums for the discussion of subjects pertaining to the practice of law, the science of jurisprudence and law reform, and the relationship of the state bar to the public; and

(7) to publish information relating to the subjects listed in Subdivision (6).

SECTION 1.04. Sections 81.022(a-2), (a-3), and (a-4), Government Code, are amended to read as follows:

(a-2) A ~~[Any change in a]~~ membership fee or other fee for state bar members must be:

(1) clearly described and included in the proposed budget; and

(2) considered by the supreme court in the state bar budget deliberations.

(a-3) The state bar may not collect a ~~[Except as provided by Subsection (a-4), an increase in a]~~ membership fee or other fee from ~~[for]~~ state bar members ~~[may not take effect]~~ until the supreme court:

(1) distributes the proposed fee ~~[fee change]~~ in ballot form to each member of the state bar who would be required to pay the fee and orders a vote;

(2) counts the returned ballots following the 30th day

1 after the date the ballots are distributed; and

2 (3) promulgates the proposed fee, effective
3 immediately, only on approval of the fee [~~increase~~] by two-thirds
4 [~~a majority~~] of the members of the state bar who would be required
5 to pay the fee [~~members who voted on the increase~~].

6 (a-4) The supreme court shall hold the fee referendum
7 described by Subsection (a-3) once each state fiscal year. If a
8 referendum is not held or if two-thirds of the members of the state
9 bar who would be required to pay the proposed fee fail to approve
10 the fee, the state bar may not collect the fee from state bar
11 members during that state fiscal year [~~An increase in the fee for~~
12 ~~membership in the state bar may be made by the board of directors,~~
13 ~~without a vote of the members of the state bar, provided that not~~
14 ~~more than one increase may be made by the board of directors in a~~
15 ~~six-year period and such increase shall not exceed 10 percent~~].

16 SECTION 1.05. Section 81.024(b), Government Code, is
17 amended to read as follows:

18 (b) The supreme court may:

19 (1) as it considers necessary, pursuant to a
20 resolution of the board of directors of the state bar, or pursuant
21 to a petition signed by at least 10 percent of the registered
22 members of the state bar, prepare, propose, and adopt rules or
23 amendments to rules for the operation, maintenance, and
24 administration of the state bar; and

25 (2) in accordance with Subchapter E-1, adopt rules,
26 including the Texas Disciplinary Rules of Professional Conduct and
27 the Texas Rules of Disciplinary Procedure, for the discipline of

1 state bar members and attorneys licensed to practice law in this
2 state.

3 SECTION 1.06. Section 81.029(e), Government Code, is
4 amended to read as follows:

5 (e) The executive director shall maintain the [~~membership~~]
6 files for state bar members and attorneys licensed to practice law
7 in this state and shall confer with the clerk of the supreme court
8 as to the maintenance of those files.

9 SECTION 1.07. Section 81.034, Government Code, is amended
10 to read as follows:

11 Sec. 81.034. RESTRICTION ON USE OF FUNDS. (a) Fees
12 collected under this chapter and other funds received by the state
13 bar may not be used for influencing the passage or defeat of any
14 legislative measure unless the measure relates to the regulation of
15 the legal profession, improving the quality of legal services, or
16 the administration of justice and the amount of the expenditure is
17 reasonable and necessary. This subsection does not prohibit a
18 member of the board of directors or an officer or employee of the
19 state bar from furnishing information in the person's possession
20 that is not confidential information to a member or committee of the
21 legislature on request of the member or committee.

22 (b) Fees the state bar collects under this chapter or other
23 funds the state bar receives may not be used to provide a gift,
24 grant, or donation to influence a judge, justice, judicial
25 candidate, or judicial association. A judge, justice, judicial
26 candidate, member of a judicial association, or descendant or
27 member of the household of a judge, justice, judicial candidate, or

1 member of a judicial association may not accept a gift, grant, or
2 donation from the state bar.

3 SECTION 1.08. Section 81.051, Government Code, is amended
4 to read as follows:

5 Sec. 81.051. BAR MEMBERSHIP NOT REQUIRED. (a) The state
6 bar is composed of those persons licensed to practice law in this
7 state who elect to become members of the state bar. A person
8 licensed to practice law in this state is not required to enroll in
9 the state bar.

10 (b) Bar members and attorneys licensed to practice law in
11 this state are subject to this chapter and to the rules adopted by
12 the supreme court.

13 (c) A ~~[(b) — Each]~~ person licensed to practice law in this
14 state may ~~[shall, not later than the 10th day after the person's~~
15 ~~admission to practice,~~] enroll in the state bar by registering with
16 the clerk of the supreme court.

17 SECTION 1.09. The heading to Section 81.053, Government
18 Code, is amended to read as follows:

19 Sec. 81.053. STATUS OF CERTAIN MEMBERSHIP CLASSES AND
20 NONMEMBERS.

21 SECTION 1.10. Section 81.053, Government Code, is amended
22 by adding Subsection (d) to read as follows:

23 (d) A person licensed to practice law in this state who is
24 not a member of the state bar is prohibited from holding an office
25 of the state bar or voting in any election conducted by the state
26 bar.

27 SECTION 1.11. Sections 81.054(a), (e), (f), (g), (h), and

(j), Government Code, are amended to read as follows:

(a) Unless the collection of membership fees and other fees for members of the state bar is prohibited as provided by Section 81.022(a-4), the [The] supreme court shall set membership fees and other fees for members of the state bar during the court's annual budget process under Section 81.022. The fees, except as provided by Subsection (j) and those set for associate members, must be set in accordance with this section and Section 81.022.

(e) The state bar by rule may adopt a system under which membership fees are due, if applicable, on various dates during the year. For the year in which a due date is changed, the annual fee shall be prorated on a monthly basis so that the member pays only that portion of the fee that is allocable to the number of months remaining before the new expiration date. An increase in fees applies only to fees that are payable on or after the effective date of the increase.

(f) A person who is otherwise eligible to renew the person's membership may renew the membership by paying the required membership fees, if applicable, to the state bar on or before the due date.

(g) A person whose membership has been expired for 90 days or less may renew the membership by paying to the state bar membership fees, if applicable, equal to 1-1/2 times the normally required membership fees.

(h) A person whose membership has been expired for more than 90 days but less than one year may renew the membership by paying to the state bar membership fees, if applicable, equal to two times the

1 normally required membership fees.

2 (j) Unless the collection of membership fees and other fees
3 for members of the state bar is prohibited as provided by Section
4 81.022(a-4), the [The] supreme court shall set an additional legal
5 services fee in an amount of \$65 to be paid annually by each active
6 member of the state bar except as provided by Subsection (k).
7 Section 81.024 does not apply to a fee set under this subsection.

8 SECTION 1.12. The heading to Section 81.062, Government
9 Code, is amended to read as follows:

10 Sec. 81.062. [~~STATE BAR~~] ADMISSION TO PRACTICE LAW AND
11 RELIGIOUS BELIEF.

12 SECTION 1.13. Sections 81.072(b) and (c), Government Code,
13 are amended to read as follows:

14 (b) The supreme court shall establish minimum standards and
15 procedures for the attorney disciplinary and disability system.
16 The standards and procedures for processing grievances against
17 attorneys must provide for:

18 (1) classification of all grievances and
19 investigation of all complaints;

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

22 (3) periodic preparation of abstracts of inquiries and
23 complaints filed that, even if true, do or do not constitute
24 misconduct;

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

26 (5) a system for imposing monetary sanctions against
27 persons who file frivolous grievances;

1 (6) a grievance tracking system to monitor processing
2 of grievances by category, method of resolution, and length of time
3 required for resolution;

4 (7) [~~(6)~~] notice by the state bar to the parties of a
5 written grievance filed with the state bar that the state bar has
6 the authority to resolve of the status of the grievance, at least
7 quarterly and until final disposition, unless the notice would
8 jeopardize an undercover investigation;

9 (8) [~~(7)~~] an option for a trial in a district court on
10 a complaint or [~~and~~] an administrative system for attorney
11 disciplinary and disability findings in lieu of trials in district
12 court, and [~~including~~] an appeal procedure to the Board of
13 Disciplinary Appeals or [~~and~~] the supreme court, all under the
14 clear and convincing [~~substantial~~] evidence rule;

15 (9) [~~(8)~~] an administrative system for reciprocal and
16 compulsory discipline;

17 (10) [~~(9)~~] interim suspension of an attorney posing a
18 threat of immediate irreparable harm to a client;

19 (11) [~~(10)~~] authorizing all parties to an attorney
20 disciplinary hearing, including the complainant, to be present at
21 all hearings at which testimony is taken and requiring notice of
22 those hearings to be given to the complainant not later than the
23 seventh day before the date of the hearing;

24 (12) [~~(11)~~] the commission adopting rules that govern
25 the use of private reprimands by grievance committees and that
26 prohibit a committee:

27 (A) giving an attorney more than one private

1 reprimand within a five-year period for a violation of the same
2 disciplinary rule; or

3 (B) giving a private reprimand for a violation:

4 (i) that involves a failure to return an
5 unearned fee, a theft, or a misapplication of fiduciary property;
6 or

7 (ii) of a disciplinary rule that requires a
8 prosecutor to disclose to the defense all evidence or information
9 known to the prosecutor that tends to negate the guilt of the
10 accused or mitigates the offense, including Rule 3.09(d), Texas
11 Disciplinary Rules of Professional Conduct; and

12 (13) [~~(12)~~] distribution of a voluntary survey to all
13 complainants urging views on grievance system experiences.

14 (c) In addition to the minimum standards and procedures
15 provided by this chapter, the supreme court, under Section 81.024
16 shall prepare, propose, and adopt rules it considers necessary for
17 disciplining, suspending, revoking the licenses of [~~disbarring~~],
18 and accepting resignations of attorneys.

19 SECTION 1.14. Section 81.076(b), Government Code, is
20 amended to read as follows:

21 (b) The commission is a standing committee of the state bar.
22 The commission is composed of 12 persons. Six members must be
23 attorneys licensed to practice law in this state, and six members
24 must not be attorneys. The president of the state bar appoints the
25 attorney members. The supreme court appoints the public members.
26 The public members may not have, other than as consumers, an
27 interest, direct or indirect, in the practice of law or the

1 profession of law. The supreme court may remove any member for good
2 cause.

3 SECTION 1.15. The heading to Section 81.077, Government
4 Code, is amended to read as follows:

5 Sec. 81.077. [~~DISBARMENT~~] PROCEEDINGS IN ACTION TO REVOKE
6 ATTORNEY LICENSE.

7 SECTION 1.16. Sections 81.077(a), (b), and (d), Government
8 Code, are amended to read as follows:

9 (a) The supreme court may not adopt or promulgate any rule
10 abrogating the right of trial by jury of an accused attorney in an
11 [a-disbarment] action to revoke the attorney's license to practice
12 law in the county of the residence of the accused attorney.

13 (b) A [~~disbarment~~] proceeding to revoke [~~against~~] a
14 resident attorney's license to practice law [~~attorney~~] shall be
15 instituted in a district court in the county of the attorney's
16 residence, but the accused attorney may apply for change of venue
17 under Rule 257, Texas Rules of Civil Procedure.

18 (d) Venue in a [~~disbarment~~] proceeding to revoke [~~against~~] a
19 nonresident attorney's license to practice law in this state
20 [~~member of the state bar~~] is in a district court either in Travis
21 County or in any county where the alleged misconduct occurred.

22 SECTION 1.17. Sections 81.078(a), (c), and (d), Government
23 Code, are amended to read as follows:

24 (a) Except as provided by Subsection (b), until an attorney
25 has been convicted of the charges for revocation of the attorney's
26 license to practice law [~~disbarment~~] pending against the attorney
27 in a court of competent jurisdiction, the attorney may be suspended

1 from the practice of law only if the attorney concurs in an order of
2 suspension entered by the grievance committee.

3 (c) On proof of final conviction of any felony involving
4 moral turpitude or any misdemeanor involving theft, embezzlement,
5 or fraudulent misappropriation of money or other property, the
6 district court of the county of the residence of the convicted
7 attorney shall enter an order revoking the attorney's license to
8 practice law [~~disbarring the attorney~~].

9 (d) In an action for the revocation of an attorney's license
10 to practice law [~~to disbar any attorney~~] for acts made the basis of
11 a conviction for a felony involving moral turpitude or a
12 misdemeanor involving theft, embezzlement, or fraudulent
13 misappropriation of money or other property, the record of
14 conviction is conclusive evidence of the guilt of the attorney for
15 the crime of which the attorney [~~he~~] was convicted.

16 SECTION 1.18. Section 81.085, Government Code, is amended
17 to read as follows:

18 Sec. 81.085. REGULAR SEARCH OF NATIONAL LAWYER REGULATORY
19 DATA BANK. The chief disciplinary counsel shall establish a
20 process to regularly search the National Lawyer Regulatory Data
21 Bank maintained by the American Bar Association to identify an
22 attorney licensed to practice law in this state [~~a member of the~~
23 ~~state bar~~] who is disciplined in another state.

24 SECTION 1.19. Section 81.0872(a), Government Code, is
25 amended to read as follows:

26 (a) The committee consists of nine members, including:

27 (1) three attorneys licensed to practice law in this

1 state appointed by the president of the state bar;

2 (2) one nonattorney public member appointed by the
3 president of the state bar;

4 (3) four attorneys licensed to practice law in this
5 state appointed by the supreme court; and

6 (4) one nonattorney public member appointed by the
7 supreme court.

8 SECTION 1.20. Section 81.0876(a), Government Code, is
9 amended to read as follows:

10 (a) On initiation of the process for proposing a
11 disciplinary rule, the committee shall:

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

14 (2) hold a public hearing on the issue;

15 (3) draft the proposed rule, which may not address
16 more than one subject; and

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

20 SECTION 1.21. The heading to Section 81.0878, Government
21 Code, is amended to read as follows:

22 Sec. 81.0878. REFERENDUM VOTE BY ATTORNEYS [~~STATE BAR~~
23 ~~MEMBERS~~].

24 SECTION 1.22. Sections 81.0878(a), (b), and (d), Government
25 Code, are amended to read as follows:

26 (a) On receipt of a petition filed by the board of directors
27 under Section 81.0877(b), the supreme court shall:

1 (1) distribute a copy of the rule in ballot form to
2 each attorney licensed to practice law in this state and each member
3 of the state bar and order a vote on the rule; and

4 (2) publish the rule in:

5 (A) the Texas Register; and

6 (B) the Texas Bar Journal.

7 (b) The supreme court shall give state bar members and
8 attorneys licensed to practice law in this state:

9 (1) at least 30 days to consider a proposed
10 disciplinary rule before voting begins; and

11 (2) 30 days to vote on the proposed disciplinary rule
12 following the period for considering the proposed rule under
13 Subdivision (1).

14 (d) One or more proposed disciplinary rules may appear on a
15 single referendum ballot. State bar members and attorneys licensed
16 to practice law in this state shall vote for or against each rule.
17 If a majority of the members and attorneys who vote on the proposed
18 rule vote in favor of the rule, the rule is approved by the members
19 and attorneys [~~of the state bar~~].

20 SECTION 1.23. Section [81.0879](#), Government Code, is amended
21 to read as follows:

22 Sec. 81.0879. SUPREME COURT APPROVAL OR REJECTION. The
23 supreme court by majority vote may approve or reject a proposed
24 disciplinary rule in its entirety, but may not approve or reject
25 only part of the rule. If the supreme court does not vote on the
26 rule on or before the 120th day after the date the rule is approved
27 by bar members and attorneys under Section [81.0878](#), the rule is

1 considered approved by the supreme court.

2 SECTION 1.24. Section 81.08792, Government Code, is amended
3 to read as follows:

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

7 (1) the committee;

8 (2) the board of directors;

9 (3) the members of the state bar and the attorneys
10 licensed to practice law in this state; and

11 (4) the supreme court.

12 SECTION 1.25. Section 81.0884, Government Code, is amended
13 to read as follows:

14 Sec. 81.0884. ACCESS TO INFORMATION. The chief
15 disciplinary counsel, a district grievance committee, the board of
16 directors, the commission, ~~[and]~~ state bar members, and attorneys
17 licensed to practice law in this state shall share with the
18 ombudsman requested information that is necessary to:

19 (1) determine whether the state bar followed
20 procedural rules related to a particular grievance; or

21 (2) evaluate the system's efficacy and adequacy.

22 SECTION 1.26. Section 81.092(a), Government Code, is
23 amended to read as follows:

24 (a) The committee shall, either on its own initiative or on
25 request ~~[when requested to do so]~~ by a member of the state bar or an
26 attorney licensed to practice law in this state, express its
27 opinion on the propriety of professional conduct other than on a

1 question pending before a court of this state.

2 SECTION 1.27. The heading to Section 81.102, Government
3 Code, is amended to read as follows:

4 Sec. 81.102. LICENSURE [~~STATE BAR MEMBERSHIP~~] REQUIRED.

5 SECTION 1.28. Section 81.102(a), Government Code, is
6 amended to read as follows:

7 (a) Except as provided by Subsection (b), a person may not
8 practice law in this state unless the person is licensed to practice
9 law in this state [~~a member of the state bar~~].

10 SECTION 1.29. Section 81.113(c), Government Code, is
11 amended to read as follows:

12 (c) The state bar shall recognize, prepare, or administer
13 continuing education programs for members of the state bar and
14 attorneys licensed to practice law in this state. A member of the
15 state bar and an attorney licensed to practice law in this state
16 must participate in the programs to the extent required by the
17 supreme court to maintain the person's state bar membership or
18 license.

19 SECTION 1.30. Sections 81.115(a), (f), and (h), Government
20 Code, are amended to read as follows:

21 (a) The state bar shall create a profile of each attorney
22 licensed to practice law in this state [~~by the state bar~~]. The
23 profile must:

24 (1) include the information required by Subsection
25 (b);

26 (2) include the information described by Subsection
27 (c) if that information is provided by the attorney to the state

1 bar; and

2 (3) be compiled in a format that permits the state bar
3 to make the information contained in the profile available online
4 to the public.

5 (f) The state bar shall:

6 (1) annually provide to each attorney licensed to
7 practice law in this state [~~by the state bar~~] a copy of the
8 attorney's profile; or

9 (2) provide to an individual attorney a copy of the
10 attorney's profile on request. The state bar shall provide an
11 attorney one month from the date a copy of the attorney's profile is
12 provided to the attorney to correct factual errors in the
13 attorney's profile.

14 (h) Unless the collection of membership fees and other fees
15 for members of the state bar is prohibited as provided by Section
16 81.022(a-4), for [~~For~~] purposes of administering this section, the
17 state bar may collect from each member of the state bar an annual
18 fee of not more than \$10.

19 SECTION 1.31. Section 81.156, Government Code, is amended
20 to read as follows:

21 Sec. 81.156. CONSTRUCTION OF SUBCHAPTER. This subchapter
22 may not be construed to limit or otherwise affect the authority of
23 the Supreme Court of Texas to regulate the practice of law, enforce
24 the Texas Disciplinary Rules of Professional Conduct, or discipline
25 persons admitted to the state bar or licensed to practice law in
26 this state.

27 SECTION 1.32. Section 82.023(a), Government Code, is

1 amended to read as follows:

2 (a) Each person intending to apply for a license to practice
3 law in this state [~~admission to the bar~~] must file with the Board of
4 Law Examiners, on a form provided by the board, a declaration of
5 intention to study law.

6 SECTION 1.33. Section 82.0361(a), Government Code, is
7 amended to read as follows:

8 (a) In this section, "nonresident attorney" means a person
9 who resides in and is licensed to practice law in another state but
10 who is not licensed to practice law in this state [~~a member of the~~
11 ~~State Bar of Texas~~].

12 SECTION 1.34. Section 82.061(b), Government Code, is
13 amended to read as follows:

14 (b) An attorney may not be suspended or have the attorney's
15 license to practice law revoked [~~stricken from the rolls~~] for
16 contempt unless the contempt involves fraudulent or dishonorable
17 conduct or malpractice.

18 SECTION 1.35. The heading to Section 82.062, Government
19 Code, is amended to read as follows:

20 Sec. 82.062. REVOCATION OF LICENSE [~~DISBARMENT~~].

21 SECTION 1.36. Section 411.100(a-1), Government Code, is
22 amended to read as follows:

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

24 (1) from the department, criminal history record
25 information maintained by the department that relates to a person
26 who is a member of the state bar or is licensed to practice law in
27 this state; or

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

ARTICLE 2. CONFORMING CHANGES

SECTION 2.01. Article 26.044(f), Code of Criminal Procedure, is amended to read as follows:

(f) A public defender's office must be directed by a chief public defender who:

(1) is licensed to practice law in this state ~~[a member of the State Bar of Texas]~~;

(2) has practiced law for at least three years; and

(3) has substantial experience in the practice of criminal law.

SECTION 2.02. Article 26.047(d), Code of Criminal Procedure, is amended to read as follows:

(d) A program under this article must have a director. Unless the program uses a review committee appointed under Subsection (e), a program under this article must be directed by a person who:

(1) is licensed to practice law in this state ~~[a member of the State Bar of Texas]~~;

(2) has practiced law for at least three years; and

(3) has substantial experience in the practice of criminal law.

SECTION 2.03. Articles 26.052(d)(2) and (3), Code of Criminal Procedure, are amended to read as follows:

(2) The standards must require that a trial attorney appointed as lead counsel to a capital case:

1 (A) be licensed to practice law in this state [~~a~~
2 ~~member of the State Bar of Texas~~];

3 (B) exhibit proficiency and commitment to
4 providing quality representation to defendants in death penalty
5 cases;

6 (C) have not been found by a federal or state
7 court to have rendered ineffective assistance of counsel during the
8 trial or appeal of any capital case, unless the local selection
9 committee determines under Subsection (n) that the conduct
10 underlying the finding no longer accurately reflects the attorney's
11 ability to provide effective representation;

12 (D) have at least five years of criminal law
13 experience;

14 (E) have tried to a verdict as lead defense
15 counsel a significant number of felony cases, including homicide
16 trials and other trials for offenses punishable as second or first
17 degree felonies or capital felonies;

18 (F) have trial experience in:

19 (i) the use of and challenges to mental
20 health or forensic expert witnesses; and

21 (ii) investigating and presenting
22 mitigating evidence at the penalty phase of a death penalty trial;
23 and

24 (G) have participated in continuing legal
25 education courses or other training relating to criminal defense in
26 death penalty cases.

27 (3) The standards must require that an attorney

1 appointed as lead appellate counsel in the direct appeal of a
2 capital case:

3 (A) be licensed to practice law in this state [~~a~~
4 ~~member of the State Bar of Texas~~];

5 (B) exhibit proficiency and commitment to
6 providing quality representation to defendants in death penalty
7 cases;

8 (C) have not been found by a federal or state
9 court to have rendered ineffective assistance of counsel during the
10 trial or appeal of any capital case, unless the local selection
11 committee determines under Subsection (n) that the conduct
12 underlying the finding no longer accurately reflects the attorney's
13 ability to provide effective representation;

14 (D) have at least five years of criminal law
15 experience;

16 (E) have authored a significant number of
17 appellate briefs, including appellate briefs for homicide cases and
18 other cases involving an offense punishable as a capital felony or a
19 felony of the first degree or an offense described by Article
20 [42A.054](#)(a);

21 (F) have trial or appellate experience in:

22 (i) the use of and challenges to mental
23 health or forensic expert witnesses; and

24 (ii) the use of mitigating evidence at the
25 penalty phase of a death penalty trial; and

26 (G) have participated in continuing legal
27 education courses or other training relating to criminal defense in

1 appealing death penalty cases.

2 SECTION 2.04. Section 107.259(a), Family Code, is amended
3 to read as follows:

4 (a) An office of child representation or office of parent
5 representation must be directed by a chief counsel who:

6 (1) is licensed to practice law in this state [~~a member~~
7 ~~of the State Bar of Texas~~];

8 (2) has practiced law for at least five years; and

9 (3) has substantial experience in the practice of
10 child protection law.

11 SECTION 2.05. Section 107.305(a), Family Code, is amended
12 to read as follows:

13 (a) Unless a program uses a review committee appointed under
14 Section 107.306, a program under this subchapter must be directed
15 by a person who:

16 (1) is licensed to practice law in this state [~~a member~~
17 ~~of the State Bar of Texas~~];

18 (2) has practiced law for at least three years; and

19 (3) has substantial experience in the practice of
20 child welfare law.

21 SECTION 2.06. Section 81.0221, Government Code, is amended
22 to read as follows:

23 Sec. 81.0221. ALCOHOLIC BEVERAGES. None of the funds of the
24 state bar collected from membership fees or other fees [~~mandatory~~
25 ~~dues~~] may be used for the purchase of alcoholic beverages.

26 SECTION 2.07. Section 154.051(a), Government Code, is
27 amended to read as follows:

1 (a) The Court Reporters Certification Advisory Board is
2 established as an advisory board to the commission. The advisory
3 board is composed of at least nine members appointed by the supreme
4 court as follows:

5 (1) one active district judge presiding over a court
6 that employs an official court reporter;

7 (2) one active attorney licensed in this state who has
8 been a practicing attorney in this state [~~member of the State Bar~~]
9 for more than the five years immediately preceding the attorney's
10 appointment to the advisory board;

11 (3) two certified shorthand reporters actively
12 engaged in the practice of official court reporting in this state
13 for more than the five years immediately preceding their
14 appointment to the advisory board;

15 (4) two certified shorthand reporters actively
16 engaged in the practice of shorthand reporting on a freelance basis
17 for more than the five years immediately preceding their
18 appointment to the advisory board;

19 (5) one certified shorthand reporter actively engaged
20 in practice as a captioner in this state for more than the five
21 years immediately preceding the captioner's appointment to the
22 advisory board; and

23 (6) two certified shorthand reporters who:

24 (A) own a shorthand reporting firm in this state;
25 and

26 (B) have owned and operated a shorthand reporting
27 firm in this state for more than the five years immediately

preceding their appointment to the advisory board.

SECTION 2.08. Sections 432.005(a) and (b), Government Code, are amended to read as follows:

(a) The adjutant general shall appoint an officer of the state military forces as state judge advocate general. To be eligible for appointment, an officer must be an attorney licensed to practice law in this state ~~[a member of the State Bar of Texas]~~ for at least five years.

(b) The adjutant general shall appoint judge advocates and legal officers on recommendation by the state judge advocate general. To be eligible for appointment, a judge advocate or legal officer must be an officer of the state military forces and an attorney licensed to practice law in this state ~~[a member of the State Bar of Texas]~~.

SECTION 2.09. Section 432.045(b), Government Code, is amended to read as follows:

(b) A military judge must be a commissioned officer of the state military forces, an attorney licensed to practice law in this state ~~[a member of the State Bar of Texas]~~, and certified to be qualified for duty as a military judge by the state judge advocate general of the state military forces.

SECTION 2.10. Sections 432.046(b) and (c), Government Code, are amended to read as follows:

(b) Trial counsel or defense counsel detailed for a general court-martial must be:

(1) an attorney licensed to practice law in this state ~~[a member of the State Bar of Texas]~~; and

1 (2) certified as competent to perform those duties by
2 the state judge advocate general.

3 (c) In the case of a special or summary court-martial the
4 accused shall be afforded the opportunity to be represented at the
5 trial by counsel having the qualifications prescribed under
6 Subsection (b) unless counsel having those qualifications cannot be
7 obtained because of physical conditions or military exigencies. If
8 counsel having those qualifications cannot be obtained, the court
9 may be convened and the trial held, but the convening authority
10 shall make a detailed written statement, to be appended to the
11 record, stating why counsel with those qualifications could not be
12 obtained. If the trial counsel is qualified to act as counsel
13 before a general court-martial, the defense counsel detailed by the
14 convening authority must be a person similarly qualified. If the
15 trial counsel is a judge advocate or an attorney licensed to
16 practice law in this state [~~a member of the State Bar of Texas~~], the
17 defense counsel detailed by the convening authority must be a judge
18 advocate or an attorney licensed to practice law in this state [~~a~~
19 ~~member of the State Bar of Texas~~].

20 SECTION 2.11. Section [432.109](#)(a), Government Code, is
21 amended to read as follows:

22 (a) The Texas Court of Military Appeals consists of five
23 judges appointed by the adjutant general on the advice and
24 recommendation of the state judge advocate general for staggered
25 six-year terms. A judge appointed to fill a vacancy occurring
26 before the expiration of the term for which the judge's predecessor
27 was appointed shall be appointed only for the unexpired term of his

predecessor. The adjutant general, on the advice and recommendation of the state judge advocate general, shall appoint the chief judge of the court. A person is eligible for appointment to the court if the person:

(1) is an attorney licensed to practice law in this state ~~[a member of the State Bar of Texas]~~;

(2) is a commissioned officer of the Texas military forces, active or retired, or a retired commissioned officer in the reserves of the armed forces of the United States; and

(3) has been engaged in the active practice of law for at least five years and has at least five years' experience as a staff judge advocate, judge advocate, or legal officer with the Texas military forces, except that the requirements of this subdivision are satisfied by equivalent experience or practice in the armed forces of the United States.

SECTION 2.12. Section 2501.003(2), Insurance Code, is amended to read as follows:

(2) "Attorney" means:

(A) a person who is licensed to practice law in this state ~~[and is a member of the State Bar of Texas]~~; or

(B) a Texas professional corporation organized to provide professional legal services.

SECTION 2.13. Section 951.051(b), Occupations Code, is amended to read as follows:

(b) An attorney licensed to practice law in this state ~~[A member of the state bar]~~ may provide legal services to a prepaid legal services program only if the organization sponsoring the

1 program is approved by the board of directors.

2 SECTION 2.14. Section 2051.102(d), Occupations Code, is
3 amended to read as follows:

4 (d) If an applicant is an attorney [~~a member of the State Bar~~
5 ~~of Texas~~], the application information required under Subsection
6 (b)(5) must include the name and address of each person who is
7 involved in the activities of the athlete agent. This subsection
8 does not require an applicant to state the name and address of a
9 member of a law firm or professional corporation who is not involved
10 in the business of the athlete agent.

11 ARTICLE 3. TRANSITION AND EFFECTIVE DATE

12 SECTION 3.01. (a) Sections 81.022(a-2), (a-3), and (a-4),
13 81.054(a), (e), (f), (g), (h), and (j), and 81.115(h), Government
14 Code, as amended by this Act, apply only to membership fees and
15 other fees payable to the State Bar of Texas on or after June 1,
16 2026. Membership fees and other fees payable to the State Bar of
17 Texas before June 1, 2026, are governed by the law in effect
18 immediately before the effective date of this Act, and the former
19 law is continued in effect for that purpose.

20 (b) As soon as practicable after the effective date of this
21 Act, the Supreme Court of Texas shall adopt rules necessary to
22 implement the changes in law made by this Act to Chapters 81 and 82,
23 Government Code.

24 SECTION 3.02. This Act takes effect September 1, 2025.