

By: Ritter

H.B. No. 1140

A BILL TO BE ENTITLED

AN ACT

relating to the acceptance of a referral fee or gift by certain judges; providing a criminal penalty.

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

SECTION 1. Chapter 33, Government Code, is amended by adding Subchapter C to read as follows:

SUBCHAPTER C. JUDICIAL CONDUCT

Sec. 33.051. SOLICITATION OR ACCEPTANCE OF REFERRAL FEES OR GIFTS BY JUDGE; CRIMINAL PENALTY. (a) A judge commits an offense if the judge solicits or accepts a gift or a referral fee in exchange for referring any kind of legal business to an attorney or law firm. This subsection does not prohibit a judge from:

(1) soliciting funds for appropriate campaign or officeholder expenses as permitted by Canon 4D, Code of Judicial Conduct, and state law; or

(2) accepting a gift in accordance with the provisions of Canon 4D, Code of Judicial Conduct.

(b) It is an affirmative defense to prosecution under Subsection (a) that:

(1) the judge solicited the gift or referral fee before taking the oath of office but accepted the gift or fee after taking the oath of office; or

(2) the judge solicited or accepted the gift or referral fee after taking the oath of office in exchange for

1 referring to an attorney or law firm legal business that the judge
2 was engaged in but was unable to complete before taking the oath of
3 office.

4 (c) An offense under this section is a Class B misdemeanor.

5 (d) If, after an investigation, the commission determines
6 that a judge engaged in conduct described by Subsection (a) to which
7 Subsection (b) does not apply, the commission may issue a sanction
8 against the judge or institute formal proceedings, regardless of
9 whether the judge is being prosecuted or has been convicted of an
10 offense under this section.

11 (e) An attorney or judge who has information that a judge
12 engaged in conduct described by Subsection (a) to which Subsection
13 (b) does not apply shall file a complaint with the commission not
14 later than the 30th day after the date the attorney or judge
15 obtained the information. A judge who fails to comply with this
16 subsection is subject to sanctions by the commission. An attorney
17 who fails to comply with this subsection is subject to discipline by
18 the Commission for Lawyer Discipline under Subchapter E, Chapter
19 81.

20 (f) For purposes of this section:

21 (1) "Judge" does not include a constitutional county
22 court judge, a justice of the peace, or a municipal court judge.

23 (2) "Referral fee" includes forwarding fees,
24 acknowledgment fees, and any form of payment, benefit, or
25 compensation related to the referral or placement of a potential
26 client for legal services.

27 SECTION 2. Subsections (d) and (e), Section 33.051,

1 Government Code, as added by this Act, apply only to conduct that
2 occurs on or after the effective date of this Act. Conduct that
3 occurs before the effective date of this Act is governed by the law
4 in effect on the date the conduct occurred, and that law is
5 continued in effect for that purpose.

6 SECTION 3. This Act takes effect September 1, 2003.