

## **BILL ANALYSIS**

C.S.S.B. 623  
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Criminal Jurisprudence  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

There is concern that under current law, there is no means to prosecute a district or county attorney for a criminal act committed within the district or county attorney's jurisdiction. C.S.S.B. 623 seeks to address this issue by providing that a district or county attorney may be disqualified from representing the state if the district or county attorney is the subject of an official criminal investigation, among other provisions.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

C.S.S.B. 623 amends the Code of Criminal Procedure to require a judge of a court in which a district or county attorney represents the state to declare the district or county attorney disqualified for purposes of provisions of law relating to an attorney pro tem on a showing that the attorney is the subject of a criminal investigation by a law enforcement agency if that investigation is based on credible evidence of criminal misconduct for an offense that is within the attorney's authority to prosecute. The bill specifies that a disqualification under the bill's provisions applies only to the attorney's access to the criminal investigation pending against the attorney and to any prosecution of a criminal charge resulting from that investigation.

### **EFFECTIVE DATE**

September 1, 2011.

### **COMPARISON OF ORIGINAL AND SUBSTITUTE**

C.S.S.B. 623 differs from the original by specifying that the criminal investigation that serves as the basis for the disqualification of a district or county attorney for purposes of provisions of law relating to an attorney pro tem is an investigation conducted by a law enforcement agency under certain conditions, whereas the original does not specify an entity by which the investigation is conducted.