

By: Aliseda

H.B. No. 1638

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the disqualification of a district or county attorney
3 who is the subject of a criminal investigation.

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

5 SECTION 1. Article 2.08, Code of Criminal Procedure, is
6 amended to read as follows:

7 Art. 2.08. DISQUALIFIED. (a) District and county
8 attorneys shall not be of counsel adversely to the State in any
9 case, in any court, nor shall they, after they cease to be such
10 officers, be of counsel adversely to the State in any case in which
11 they have been of counsel for the State.

12 (b) A judge of a court in which a district or county attorney
13 represents the State shall declare the district or county attorney
14 disqualified for purposes of Article 2.07 on a showing that the
15 attorney, as a result of credible evidence of criminal misconduct,
16 is the subject of a criminal investigation for an offense that is
17 within the attorney's authority to prosecute. A disqualification
18 under this subsection applies only to the attorney's access to the
19 criminal investigation pending against the attorney and to any
20 prosecution of a criminal charge resulting from that investigation.

21 SECTION 2. The change in law made by this Act applies only
22 to the prosecution of an offense committed on or after the effective
23 date of this Act. The prosecution of an offense committed before
24 the effective date of this Act is governed by the law in effect on

1 the date the offense was committed, and the former law is continued
2 in effect for that purpose. For purposes of this section, an
3 offense was committed before the effective date of this Act if any
4 element of the offense occurred before that date.

5 SECTION 3. This Act takes effect September 1, 2011.