

By: Whitmire
(Aliseda, Gallego)

S.B. No. 623

Substitute the following for S.B. No. 623:

By: Aliseda

C.S.S.B. No. 623

A BILL TO BE ENTITLED

AN ACT

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

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

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

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

(b) A judge of a court in which a district or county attorney
represents the State shall declare the district or county attorney
disqualified for purposes of Article 2.07 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. A disqualification under this
subsection 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.

SECTION 2. The change in law made by this Act applies only
to the prosecution of an offense committed on or after the effective
date of this Act. The prosecution of an offense committed before

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

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