

1-1 By: Whitmire S.B. No. 623
1-2 (In the Senate - Filed February 11, 2011; February 17, 2011,
1-3 read first time and referred to Committee on Criminal Justice;
1-4 March 21, 2011, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 7, Nays 0; March 21, 2011,
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 623 By: Whitmire

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to the disqualification of a district or county attorney
1-11 who is the subject of a criminal investigation.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Article 2.08, Code of Criminal Procedure, is
1-14 amended to read as follows:

1-15 Art. 2.08. DISQUALIFIED. (a) District and county
1-16 attorneys shall not be of counsel adversely to the State in any
1-17 case, in any court, nor shall they, after they cease to be such
1-18 officers, be of counsel adversely to the State in any case in which
1-19 they have been of counsel for the State.

1-20 (b) A judge of a court in which a district or county attorney
1-21 represents the State shall declare the district or county attorney
1-22 disqualified for purposes of Article 2.07 on a showing that the
1-23 attorney is the subject of a criminal investigation based on
1-24 credible evidence of criminal misconduct for an offense that is
1-25 within the attorney's authority to prosecute. A disqualification
1-26 under this subsection applies only to the attorney's access to the
1-27 criminal investigation pending against the attorney and to any
1-28 prosecution of a criminal charge resulting from that investigation.

1-29 SECTION 2. The change in law made by this Act applies only
1-30 to the prosecution of an offense committed on or after the effective
1-31 date of this Act. The prosecution of an offense committed before
1-32 the effective date of this Act is governed by the law in effect on
1-33 the date the offense was committed, and the former law is continued
1-34 in effect for that purpose. For purposes of this section, an
1-35 offense was committed before the effective date of this Act if any
1-36 element of the offense occurred before that date.

1-37 SECTION 3. This Act takes effect September 1, 2011.

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