

BILL ANALYSIS

S.B. 825
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Judiciary & Civil Jurisprudence
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Under the Texas Disciplinary Rules of Professional Conduct, a prosecutor is required to make timely disclosure to the defense of all evidence or information known to the prosecutor that tends to negate the guilt of the accused or mitigates the offense. Currently, the statute of limitations for filing a grievance against a prosecutor who violates the prosecutor disclosure rule, otherwise known as a Brady violation, begins to run at the time a violation is discovered or should have been discovered. In an effort to address the barriers to seeking and pursuing accountability and justice for wrongfully convicted individuals, S.B. 825 seeks to provide an opportunity for a wrongfully convicted person to pursue such a grievance after being released from prison by tolling the statute of limitations until the date on which the person is released. S.B. 825 also seeks to enhance open government and public confidence in the prosecutor disciplinary process by prohibiting the use of a private reprimand as a means of discipline for such a violation.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Supreme Court in SECTION 2 of this bill.

ANALYSIS

S.B. 825 amends the Government Code to require the standards and procedures established by the Texas Supreme Court for processing grievances against attorneys to provide for the Commission for Lawyer Discipline adopting rules that prohibit a grievance committee from giving a private reprimand for a violation of a disciplinary rule that requires a prosecutor to disclose to the defense all evidence or information known to the prosecutor that tends to negate the guilt of the accused or mitigates the offense. The bill requires the supreme court, in establishing minimum standards and procedures for the attorney disciplinary and disability system, to ensure that the statute of limitations applicable to a grievance filed against a prosecutor that alleges a violation of the disclosure rule does not begin to run until the date on which a wrongfully imprisoned person is released from a penal institution. The bill defines, among other terms, "disclosure rule" as the disciplinary rule that requires a prosecutor to disclose to the defense all evidence or information known to the prosecutor that tends to negate the guilt of the accused or mitigates the offense. The bill requires the supreme court to amend the Texas Rules of Disciplinary Procedure to conform with the bill's provisions as soon as practicable after the bill's effective date but not later than December 1, 2013.

EFFECTIVE DATE

September 1, 2013.