

1-1 By: Whitmire S.B. No. 825  
 1-2 (In the Senate - Filed February 26, 2013; March 5, 2013,  
 1-3 read first time and referred to Committee on Criminal Justice;  
 1-4 March 13, 2013, reported favorably by the following vote: Yeas 6,  
 1-5 Nays 0; March 13, 2013, sent to printer.)

1-6 COMMITTEE VOTE

|      | Yea | Nay | Absent | PNV |
|------|-----|-----|--------|-----|
| 1-7  |     |     |        |     |
| 1-8  | X   |     |        |     |
| 1-9  | X   |     |        |     |
| 1-10 |     |     | X      |     |
| 1-11 | X   |     |        |     |
| 1-12 | X   |     |        |     |
| 1-13 | X   |     |        |     |
| 1-14 | X   |     |        |     |

1-15 A BILL TO BE ENTITLED  
 1-16 AN ACT

1-17 relating to disciplinary standards and procedures applicable to  
 1-18 grievances alleging certain prosecutorial misconduct.  
 1-19 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:  
 1-20 SECTION 1. Section 81.072, Government Code, is amended by  
 1-21 amending Subsection (b) and adding Subsections (b-1) and (b-2) to  
 1-22 read as follows:  
 1-23 (b) The supreme court shall establish minimum standards and  
 1-24 procedures for the attorney disciplinary and disability system.  
 1-25 The standards and procedures for processing grievances against  
 1-26 attorneys must provide for:  
 1-27 (1) classification of all grievances and  
 1-28 investigation of all complaints;  
 1-29 (2) a full explanation to each complainant on  
 1-30 dismissal of an inquiry or a complaint;  
 1-31 (3) periodic preparation of abstracts of inquiries and  
 1-32 complaints filed that, even if true, do or do not constitute  
 1-33 misconduct;  
 1-34 (4) an information file for each grievance filed;  
 1-35 (5) a grievance tracking system to monitor processing  
 1-36 of grievances by category, method of resolution, and length of time  
 1-37 required for resolution;  
 1-38 (6) notice by the state bar to the parties of a written  
 1-39 grievance filed with the state bar that the state bar has the  
 1-40 authority to resolve of the status of the grievance, at least  
 1-41 quarterly and until final disposition, unless the notice would  
 1-42 jeopardize an undercover investigation;  
 1-43 (7) an option for a trial in a district court on a  
 1-44 complaint and an administrative system for attorney disciplinary  
 1-45 and disability findings in lieu of trials in district court,  
 1-46 including an appeal procedure to the Board of Disciplinary Appeals  
 1-47 and the supreme court under the substantial evidence rule;  
 1-48 (8) an administrative system for reciprocal and  
 1-49 compulsory discipline;  
 1-50 (9) interim suspension of an attorney posing a threat  
 1-51 of immediate irreparable harm to a client;  
 1-52 (10) authorizing all parties to an attorney  
 1-53 disciplinary hearing, including the complainant, to be present at  
 1-54 all hearings at which testimony is taken and requiring notice of  
 1-55 those hearings to be given to the complainant not later than the  
 1-56 seventh day before the date of the hearing;  
 1-57 (11) the commission adopting rules that govern the use  
 1-58 of private reprimands by grievance committees and that prohibit a  
 1-59 committee:  
 1-60 (A) giving an attorney more than one private  
 1-61 reprimand within a five-year period for a violation of the same

2-1 disciplinary rule; or  
2-2 (B) giving a private reprimand for a violation;  
2-3 (i) that involves a failure to return an  
2-4 unearned fee, a theft, or a misapplication of fiduciary property;  
2-5 or  
2-6 (ii) of a disciplinary rule that requires a  
2-7 prosecutor to disclose to the defense all evidence or information  
2-8 known to the prosecutor that tends to negate the guilt of the  
2-9 accused or mitigates the offense, including Rule 3.09(d), Texas  
2-10 Disciplinary Rules of Professional Conduct; and  
2-11 (12) distribution of a voluntary survey to all  
2-12 complainants urging views on grievance system experiences.  
2-13 (b-1) In establishing minimum standards and procedures for  
2-14 the attorney disciplinary and disability system under Subsection  
2-15 (b), the supreme court must ensure that the statute of limitations  
2-16 applicable to a grievance filed against a prosecutor that alleges a  
2-17 violation of the disclosure rule does not begin to run until the  
2-18 date on which a wrongfully imprisoned person is released from a  
2-19 penal institution.  
2-20 (b-2) For purposes of Subsection (b-1):  
2-21 (1) "Disclosure rule" means the disciplinary rule that  
2-22 requires a prosecutor to disclose to the defense all evidence or  
2-23 information known to the prosecutor that tends to negate the guilt  
2-24 of the accused or mitigates the offense, including Rule 3.09(d),  
2-25 Texas Disciplinary Rules of Professional Conduct.  
2-26 (2) "Penal institution" has the meaning assigned by  
2-27 Article 62.001, Code of Criminal Procedure.  
2-28 (3) "Wrongfully imprisoned person" has the meaning  
2-29 assigned by Section 501.101.  
2-30 SECTION 2. As soon as practicable after the effective date  
2-31 of this Act but not later than December 1, 2013, the Texas Supreme  
2-32 Court shall amend the Texas Rules of Disciplinary Procedure to  
2-33 conform with Section 81.072, Government Code, as amended by this  
2-34 Act.  
2-35 SECTION 3. This Act takes effect September 1, 2013.

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