

By: Cain

H.B. No. 3940

A BILL TO BE ENTITLED

AN ACT

1
2 relating to discrimination against or burdening certain
3 constitutional rights of an applicant for or holder of a license to
4 practice law in this state.

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

6 SECTION 1. Subchapter B, Chapter 81, Government Code, is
7 amended by adding Section 81.02401 to read as follows:

8 Sec. 81.02401. CERTAIN RULES AND POLICIES PROHIBITED;
9 ADMINISTRATIVE OR INJUNCTIVE RELIEF. (a) A rule or policy adopted
10 or a penalty imposed under this chapter may not:

11 (1) limit an applicant's ability to obtain a license to
12 practice law in this state, or a state bar member's ability to
13 maintain or renew the license, based on a sincerely held religious
14 belief of the applicant or state bar member; or

15 (2) burden an applicant's or state bar member's:

16 (A) free exercise of religion, regardless of
17 whether the burden is the result of a rule or policy generally
18 applicable to all applicants or state bar members;

19 (B) freedom of speech regarding a sincerely held
20 religious belief;

21 (C) membership in any religious organization; or

22 (D) freedom of association.

23 (b) Subsection (a) does not apply to a state bar rule or
24 policy adopted or penalty imposed under this chapter that results

1 in a limitation or burden described by Subsection (a) if the rule,
2 policy, or penalty is:

3 (1) essential to enforcing a compelling governmental
4 purpose; and

5 (2) narrowly tailored to accomplish that purpose.

6 (c) A person may assert that a state bar rule or policy
7 adopted or penalty imposed under this chapter violates Subsection
8 (a) as a defense in an administrative hearing or as a claim or
9 defense in a judicial proceeding under Chapter 37, Civil Practice
10 and Remedies Code, except that the person may not assert the
11 violation as a defense to:

12 (1) an allegation of sexual misconduct; or

13 (2) prosecution of an offense.

14 (d) A person may bring an action for injunctive relief for a
15 violation of Subsection (a).

16 SECTION 2. This Act takes effect immediately if it receives
17 a vote of two-thirds of all the members elected to each house, as
18 provided by Section 39, Article III, Texas Constitution. If this
19 Act does not receive the vote necessary for immediate effect, this
20 Act takes effect September 1, 2021.