

By: Cain

H.B. No. 3247

A BILL TO BE ENTITLED

AN ACT

relating to creating the criminal offense of prosecutorial misconduct.

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

SECTION 1. Chapter 39, Penal Code, is amended by adding Section 39.08 to read as follows:

Sec. 39.08. PROSECUTORIAL MISCONDUCT. (a) In this section, "prosecuting attorney" means an attorney who represents the state in a criminal action.

(b) A person commits an offense if:

(1) the person is a prosecuting attorney or working on behalf of a prosecuting attorney in a criminal action;

(2) the person intentionally destroys, withholds from the defendant, or otherwise fails to disclose to the defendant information that the attorney or person is required to disclose under Article 39.14(h), Code of Criminal Procedure;

(3) the defendant is actually innocent of the offense with which the defendant is charged; and

(4) the conduct described by Subdivision (2) was a substantial contributing factor to the wrongful conviction of the defendant.

(c) A person commits an offense if the person:

(1) is a prosecuting attorney; and

(2) intentionally obstructs the exoneration of a

1 defendant for an offense of which the person knows the defendant was  
2 actually innocent and wrongfully convicted.

3 (d) An offense under this section is a felony of the second  
4 degree.

5 (e) If conduct constituting an offense under this section  
6 also constitutes an offense under another section of this code, the  
7 actor may be prosecuted under either section or under both  
8 sections.

9 SECTION 2. This Act takes effect September 1, 2023.