

## **BILL ANALYSIS**

S.B. 247  
By: Perry  
Judiciary & Civil Jurisprudence  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

The American Bar Association recently adopted an amendment to the Model Rules of Professional Conduct that creates concern that, if the amendment is adopted by the State Bar of Texas, attorneys could lose their licenses solely because of statements they have made regarding controversial political, religious, or social viewpoints; because of their service on boards of various religious or other charitable institutions; or because of their speaking at public events. S.B. 247 seeks to address these concerns by prohibiting the State Bar of Texas from adopting or imposing a rule that forces a person to choose between practicing law and freely expressing their religious beliefs or associating with whom they choose.

### **CRIMINAL JUSTICE IMPACT**

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

S.B. 247 amends the Government Code to prohibit a rule, policy, or penalty under the State Bar Act from doing the following:

- limiting an applicant's ability to obtain a license to practice law in Texas, or a state bar member's ability to maintain or renew the license, based on a sincerely held religious belief of the applicant or member; or
- burdening an applicant or member with regard to the following:
  - free exercise of religion, regardless of whether the burden is caused by a rule or policy that applies generally to all applicants or members;
  - freedom of speech or expression protected by the U.S. or Texas Constitution, including expressive conduct and speech regarding a sincerely held religious belief, political ideology, or societal view;
  - membership in any religious organization; or
  - freedom of association.

S.B. 247 exempts from the prohibition a state bar rule, policy, or penalty that results in such a limitation or burden under the following conditions:

- the rule, policy, or penalty is essential to enforcing a compelling governmental purpose and narrowly tailored to accomplish that purpose; or
- the rule, policy, or penalty restricts willful expressions of bias or prejudice in connection with an adjudicatory proceeding.

The bill authorizes a person to assert that a rule, policy, or penalty violates the bill's provisions as a defense in an administrative hearing or as a claim or defense in a judicial proceeding seeking a declaratory judgment but prohibits a person from making such an assertion as a defense to an allegation of sexual misconduct or to prosecution of an offense. A person may bring an action for injunctive relief for a violation of the bill's provisions.

**EFFECTIVE DATE**

On passage, or, if the bill does not receive the necessary vote, September 1, 2021.