

BILL ANALYSIS

Senate Research Center
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S.B. 1210
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Jurisprudence
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DIGEST AND PURPOSE

Current law does not address conflicts of interest regarding staff attorneys and law clerks. As proposed, S.B. 1210 prohibits a law clerk or temporary attorney from negotiating for or accepting employment with a law firm or other private entity during his or her clerkship until the last three months of his or her clerkship. It also prohibits a law clerk from accepting a benefit from a law firm or other entity if it violates bribery law. S.B. 1210 also authorizes a potential clerk to negotiate for employment with a firm or other private entity prior to acceptance of a clerkship, and even to accept a benefit (i.e. bonus) prior to the clerkship. However, if prior acceptance of employment or benefit occurs, the clerk must disclose that agreement or benefit to the clerk of court or a public information officer designated by the court. The information disclosed will be a matter of public record.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Title 2D, Government Code, by adding Chapter 57, as follows:

CHAPTER 57. STAFF ATTORNEYS AND LAW CLERKS; CONFLICT OF INTEREST

Sec. 57.001 **APPLICABILITY OF CHAPTER.** Provides that this chapter applies only to an attorney or law clerk employed by a court of this state for a specified and limited term.

Sec. 57.002. **CERTAIN CONDUCT PROHIBITED.** Prohibits an attorney or law clerk subject to this chapter from negotiating or accepting certain employment or benefits, except as provided by Section 57.003 or 57.004.

Sec. 57.003. **PRIOR OFFER OF EMPLOYMENT.** Provides that this chapter does not prohibit the employment of an attorney or law clerk by a court solely because, before employment with the court begins, the attorney or law clerk: accepts an offer of employment with a law firm or other private entity that begins after the date the attorney's or law clerk's employment with the court terminates, or accepts a benefit from a law firm or another private entity in connection with anticipated employment by the entity if offering, conferring, or agreeing to confer the benefit, or soliciting, accepting or agreeing to accept the benefit, does not violate Chapter 36 (Bribery and Corrupt Influence), Penal Code.

Sec. 57.004. **PERMITTED NEGOTIATIONS.** Authorizes an attorney or law clerk subject to this chapter to negotiate for or accept employment with a law firm or another private entity after the 91st day before the date the attorney's or law clerk's term of employment with the court is to end.

Sec. 57.005. DISCLOSURE. Requires an attorney or law clerk subject to this chapter who has, in accordance with Section 57.003 or 57.004, entered into an agreement for employment with or accepted a benefit from a law firm or another private entity to file a statement containing certain information with the clerk of the court or a public information officer designated by the court. Provides that information filed under this section is a public record and requires it to be made available to any person on request.

Sec. 57.006. REQUIRED RECUSAL. Prohibits an attorney or law clerk subject to this chapter who, in accordance with Section 57.003 or 57.004, entered into an agreement for employment with or accepted a benefit from a law firm or another private entity from participating, either during or after the termination of employment with the court, in any matter before the court that involves the law firm or private entity. Requires a recusal from participation in a matter under this section to be made by public order of the court.

SECTION 2. Effective date: upon passage or September 1, 2001.