

BILL ANALYSIS

Senate Research Center
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S.B. 623
By: Whitmire
Criminal Justice
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As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

S.B. 623 adds a provision to disqualify a district or county attorney from representing the state if the district or county attorney is the subject of an official criminal investigation. Currently, there is no statutory means to prosecute a district or county attorney for a criminal act committed within the district or county attorney's jurisdiction.

This bill would address cases within a district or county attorney's jurisdiction and would not impact criminal allegations in another district or county attorney's jurisdiction.

A disqualification under this bill applies only to the attorney's access to the criminal investigation pending against the attorney and to any prosecution of a criminal charge resulting from that investigation.

As proposed, S.B. 623 amends current law relating to the disqualification of a district or county attorney who is the subject of a criminal investigation.

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 Article 2.08, Code of Criminal Procedure, as follows:

Art. 2.08. DISQUALIFIED. (a) Creates this subsection from existing text. Makes no further changes to this subsection.

(b) Requires a judge of a court in which a district or county attorney represents the State to declare the district or county attorney disqualified for purposes of Article 2.07 (Attorney Pro Tem) on a showing that the attorney is the subject of a criminal investigation for an offense that is within the attorney's authority to prosecute. Provides that a disqualification under this subsection applies only to the attorney's access to the criminal investigation pending against the attorney and to any prosecution of a criminal charge resulting from that investigation.

SECTION 2. Makes application of this Act prospective.

SECTION 3. Effective date: September 1, 2011.