

SUBJECT: Prohibiting certain State Bar of Texas policies

COMMITTEE: Judiciary & Civil Jurisprudence — favorable, without amendment

VOTE: 5 ayes — Leach, Murr, Schofield, Slawson, Vasut
4 nays — Julie Johnson, Davis, Flores, Moody

SENATE VOTE: On final passage (March 15) — 21 - 9

WITNESSES: None

BACKGROUND: Some have suggested that prohibiting the State Bar of Texas from adopting certain rules would help to protect members from policies that could limit a person's ability to obtain, maintain, or renew a law license based on the person's religious beliefs or exercise of free speech or free association.

DIGEST: SB 559 would prohibit the State Bar of Texas from adopting a rule or policy, or imposing a penalty that:

- limited an applicant's ability to obtain a law license or a state bar member's ability to maintain or renew their license based on a sincerely held religious belief; or
- burdened the applicant's or member's free exercise of religion, freedom of speech or expression, membership in any religious organization, or freedom of association.

This prohibition would not apply to a rule, policy, or penalty that was essential to enforcing a compelling governmental purpose and was narrowly tailored to accomplish that purpose, or that restricted willful expressions of bias or prejudice relating to an adjudicatory proceeding.

A person could use a violation of the bill's prohibition on certain State Bar rules, policies, or penalties as a defense in an administrative hearing or as a claim or defense in certain judicial proceedings. A person could not

assert the violation as a defense to an allegation of sexual misconduct or the prosecution of an offense. A person could bring an action for injunctive relief for a violation of the bill's provisions.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2023.