

BILL ANALYSIS

Senate Research Center

S.B. 532
By: Williams
Criminal Justice
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DIGEST AND PURPOSE

Currently, there is no state law prohibiting a judge from accepting a gift or referral fee in exchange for referring any legal business to an attorney or law firm. In addition, there are no reporting requirements for a judge who accepts such compensation and no means to examine such transactions. As proposed, S.B. 532 makes it a Class B misdemeanor for a judge, after taking the oath of office, to accept a fee or gift in exchange for referring any legal business. This bill creates an exception for constitutional county court judges, justices of the peace, and municipal court judges. This bill requires an attorney or judge who has information concerning a violation to file a complaint with the State Commission on Judicial Conduct not later than the 30th day after the date the information is obtained.

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 Chapter 33, Government Code, by adding Subchapter C, as follows:

SUBCHAPTER C. JUDICIAL CONDUCT

Sec. 33.051. SOLICITATION OR ACCEPTANCE OF REFERRAL FEES OR GIFTS BY JUDGE; CRIMINAL PENALTY. (a) Provides that a judge commits an offense if the judge solicits or accepts a gift or referral fee in exchange for referring any kind of legal business to an attorney or law firm. Provides that this subsection does not prohibit a judge from soliciting funds for appropriate campaign or officeholder expenses as permitted by Canon 4D, Code of Judicial Conduct, and state law or accepting a gift in accordance with the provisions of Canon 4D, Code of Judicial Conduct.

(b) Provides it is an affirmative defense to prosecution under Subsection (a) that:

(1) the judge solicited the gift or referral fee before taking the oath of office but accepted the gift or fee after taking the oath of office; or

(2) the judge solicited or accepted the gift or referral fee after taking the oath of office in exchange for referring to an attorney or law firm legal business that the judge was engaged in but was unable to complete before taking the oath of office.

(c) Provides that an offense under this section is a Class B misdemeanor.

(d) Authorizes the State Commission on Judicial Conduct (SCJC) if, after an investigation, SCJC determines that a judge engaged in conduct described by Subsection (a) to which Subsection (b) does not apply, to issue a sanction against the

judge or institute formal proceedings, regardless of whether the judge is being prosecuted or has been convicted of an offense under this section.

(e) Requires an attorney or judge who has information that a judge engaged in conduct described by Subsection (a) to which Subsection (b) does not apply to file a complaint with the SCJC not later than the 30th day after the date the attorney or judge obtained the information. Provides that a judge who fails to comply with this subsection is subject to sanctions by SCJC. Provides that an attorney who fails to comply with this subsection is subject to discipline by the Commission for Lawyer Discipline under Subchapter E, Chapter 81.

(f) Defines "judge" and "referral fee."

SECTION 2. Makes application of Subsections 33.051(d) and (e) prospective.

SECTION 3. Effective date: September 1, 2003.