

BILL ANALYSIS

Senate Research Center
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S.B. 825
By: Whitmire
Criminal Justice
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As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

S.B. 825 amends the state bar disciplinary rules on violations of the prosecutor's disclosure rules (Brady Violations), establishing that the statute of limitations begins to toll on the release from prison of a wrongfully convicted person. It changes the current statute of limitations, which begins to toll at the time a violation is discovered, or should have been discovered, with a four-year statute of limitations. It maintains the four-year statute of limitations and simply changes that it begins to toll on the release from prison of the wrongfully convicted individual. The bill provides an opportunity for the wrongfully convicted person to pursue a grievance after being released from prison and provides an enhanced fairness to the proceeding, and mandates that a public reprimand be issued if the grievance process results in a sustained finding. This enhances open government, provides for public knowledge of the reprimand, and enhances public confidence in the process.

While this bill alone does not end wrongful convictions in Texas, it represents a significant step in addressing the observed barriers to seeking and pursuing accountability and justice for wrongfully convicted individuals.

As proposed, S.B. 825 amends current law relating to disciplinary standards and procedures applicable to grievances alleging certain prosecutorial misconduct.

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 Section 81.072, Government Code, by amending Subsection (b) and adding Subsections (b-1) and (b-2), as follows:

(b) Requires that the standards and procedures required to be established by the Supreme Court of Texas (supreme court) for the attorney disciplinary and disability system for processing grievances against attorneys provide for certain standards and procedures, including the Commission for Lawyer Discipline described by Section 81.076 (Commission for Lawyer Discipline) and as provided in the Texas Rules of Disciplinary Procedure adopted by the supreme court adopting rules that govern the use of private reprimands by grievance committees and that prohibit a committee giving an attorney more than one private reprimand within a five-year period for a violation of the same disciplinary rule; or giving a private reprimand for a violation that involves a failure to return an unearned fee, a theft, or a misapplication of fiduciary property, or of a disciplinary rule that requires a prosecutor to disclose to the defense all evidence or information known to the prosecutor that tends to negate the guilt of the accused or mitigates the offense, including Rule 3.09(d) (relating to requiring the prosecutor in a criminal case to make timely disclosure to the defense of certain evidence or information), Texas Disciplinary Rules of Professional Conduct.

(b-1) Requires the supreme court, in establishing minimum standards and procedures for the attorney disciplinary and disability system under Subsection (b), to ensure that the

statute of limitations applicable to a grievance filed against a prosecutor that alleges a violation of the disclosure rule does not begin to run until the date on which a wrongfully imprisoned person is released from a penal institution.

(b-2) Defines "disclosure rule," "penal institution," and "wrongfully imprisoned person" for purposes of Subsection (b-1).

SECTION 2. Requires the supreme court, as soon as practicable after the effective date of this Act but not later than December 1, 2013, to amend the Texas Rules of Disciplinary Procedure to conform with Section 81.072, Government Code, as amended by this Act.

SECTION 3. Effective date: September 1, 2013.