

BILL ANALYSIS

Senate Research Center

H.B. 5010
By: Schofield (Hall)
State Affairs
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Pursuant to Section 81.011, Government Code, the Texas State Bar is a state administrative agency whose purpose is, in pertinent part, to advance the quality of legal services to Texas residents. Section 81.012, Government Code. This is done, in part, through disciplinary procedures. Section 81.072, Government Code. The initial step in the lawyer disciplinary process is the classification of the grievance received from a member of the public. The chief disciplinary counsel has discretion to classify the grievance as either a complaint or an inquiry. Section 81.073(a), Government Code. If it is classified as a complaint, it proceeds on through the disciplinary process for further review. Section 81.075, Government Code. If it is classified as an inquiry, it is dismissed or referred for voluntary alternative dispute resolution. Section 81.074, Government Code. The person who filed the grievance may appeal the classification as an inquiry to the Board of Disciplinary Appeals or may amend the grievance and refile it. Section 81.073(b), Government Code.

Currently, any person anywhere in the country can file a grievance—whether or not they were a client of the lawyer, had any interest in the lawyer’s representation, are familiar with all the facts of the case, or were injured in any way. The chief disciplinary counsel’s office received 7175 grievances in the 2021-2022 year according to the latest report by the Texas State Bar’s Commission for Lawyer Discipline’s Annual Report. One thousand nine hundred twenty-eight (1,928) were classified as complaints. According to the State Bar's 2022 Annual Report, only 400 attorneys were disciplined for their conduct, meaning 6,775 grievances—ninety four percent—were inconsequential. In many cases, the person filing the grievance had no cognizable individual interest or connection in any way to the legal matter or facts alleged in the grievance and, thus, were unable to state a sanctionable violation of any rule.

This bill may not affect the number of grievances filed each year, but it is meant to guide the discretion of the chief disciplinary counsel and thereby reduce the number of inconsequential complaints processed by the State Bar every year, thus saving the Texas taxpayer money and relieving Texas attorneys from the time-consuming and nerve-wracking burden of surviving a complaint process begun by someone with no personal legal interest in the underlying matter.

It will also allow an attorney a limited right of appeal of the disciplinary counsel decision.

H.B. 5010 amends current law relating to the classification of a grievance filed with the State Bar of Texas

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 81.073, Government Code, as follows:

Sec. 81.073. CLASSIFICATION OF GRIEVANCES. (a) Requires the chief disciplinary counsel's office to classify each grievance on receipt as:

(1) a complaint, if the grievance:

(A) creates this paragraph from existing text; and

(B) is submitted by a person who has a cognizable individual interest in or connection to the legal matter or facts alleged in the grievance; or

(2) an inquiry, if:

(A) creates this paragraph from existing text;

(B) the grievance is submitted by a person who does not have a cognizable individual interest in or connection to the legal matter or facts alleged in the grievance; or

(C) redesignates existing Paragraph (B) as Paragraph (C).

(b) Authorizes a complainant or an attorney against whom a grievance is filed to appeal the classification of a grievance, rather than a grievance as an inquiry, to the Board of Disciplinary Appeals, or the complainant is authorized to amend and resubmit the grievance. Deletes existing text prohibiting an attorney against whom a grievance is filed from appealing the classification of the grievance.

SECTION 2. Amends Section 81.074, Government Code, as follows:

Sec. 81.074. DISPOSITION OF INQUIRIES. Requires the chief disciplinary counsel to:

(1) makes no changes to this subdivision; and

(2) refer each inquiry classified under certain sections, including Section 81.073(a)(2)(B), and dismissed under this section to the voluntary mediation and dispute resolution procedure established under Section 81.072(e) (relating to requiring the state bar to establish a voluntary mediation and dispute resolution procedure that meets certain criteria).

SECTION 3. Makes application of this Act prospective.

SECTION 4. Effective date: September 1, 2023.