

# SENATE AMENDMENTS

2<sup>nd</sup> Printing

By: Dunnam

H.B. No. 3515

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to the creation of the offense of failure to report  
3 barratry and solicitation of employment.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Chapter 38, Penal Code, is amended by adding  
6 Section 38.121 to read as follows:

7 Sec. 38.121. FAILURE TO REPORT BARRATRY OR SOLICITATION OF  
8 EMPLOYMENT. (a) A lawyer commits an offense if the lawyer, during  
9 the course of representation of a client:

10 (1) acquires knowledge that would reasonably cause a  
11 lawyer to believe that a person, other than a lawyer subject to the  
12 Texas Disciplinary Rules of Professional Conduct, has engaged in  
13 conduct that constitutes an offense under Section 38.12; and

14 (2) fails to report the knowledge to the State Bar of  
15 Texas not later than the 45th business day after the lawyer acquires  
16 the knowledge.

17 (b) An offense under this section is a Class C misdemeanor.

18 SECTION 2. This Act takes effect immediately if it receives  
19 a vote of two-thirds of all the members elected to each house, as  
20 provided by Section 39, Article III, Texas Constitution. If this  
21 Act does not receive the vote necessary for immediate effect, this  
22 Act takes effect September 1, 2009.

**ADOPTED**

MAY 21 2009

*Atty Gen*  
Secretary of the Senate

By: Carroll

\_\_\_B. No. \_\_\_

Substitute the following for \_\_\_B. No. \_\_\_:

By: Carroll

C.S. H.B. No. 3515

A BILL TO BE ENTITLED

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6 Section 38.121 to read as follows:

7 Sec. 38.121. FAILURE TO REPORT BARRATRY OR SOLICITATION OF  
8 EMPLOYMENT. (a) A lawyer commits an offense if the lawyer, during  
9 the course of representation of a client:

10 (1) acquires knowledge that would reasonably cause a  
11 lawyer to believe that a person, other than a lawyer subject to the  
12 Texas Disciplinary Rules of Professional Conduct, while acting on  
13 behalf of a lawyer, has engaged in conduct that constitutes an  
14 offense under Section 38.12; and

15 (2) fails to report the knowledge to the State Bar of  
16 Texas not later than the 45th business day after the lawyer acquires  
17 the knowledge.

18 (b) An offense under this section is a Class C misdemeanor.

19 SECTION 2. This Act takes effect immediately if it receives  
20 a vote of two-thirds of all the members elected to each house, as  
21 provided by Section 39, Article III, Texas Constitution. If this  
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23 Act takes effect September 1, 2009.

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**LEGISLATIVE BUDGET BOARD**  
Austin, Texas

**FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION**

**May 21, 2009**

**TO:** Honorable Joe Straus, Speaker of the House, House of Representatives

**FROM:** John S. O'Brien, Director, Legislative Budget Board

**IN RE: HB3515** by Dunnam (Relating to the creation of the offense of failure to report barratry and solicitation of employment.), **As Passed 2nd House**

<b>No significant fiscal implication to the State is anticipated.</b>
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The bill would amend the Penal Code to create as a Class C misdemeanor offense the act by a lawyer, during the course of representing a client, of failing to report a person, other than a lawyer subject to the Texas Disciplinary Rules of Professional Conduct while acting on behalf of a lawyer, when there is knowledge that would reasonably cause one to believe a lawyer has engaged in barratry and solicitation of professional employment. The bill would take effect immediately if it were to receive the required two-thirds vote in each house; otherwise, it would take effect September 1, 2009.

The punishment for a Class C misdemeanor is a fine not to exceed \$500. It is anticipated that costs associated with enforcement would be insignificant, as would revenue collected from fines and court costs.

**Local Government Impact**

No significant fiscal implication to units of local government is anticipated.

**Source Agencies:**

**LBB Staff:** JOB, SD, DB, MN, ESi

**LEGISLATIVE BUDGET BOARD**

Austin, Texas

**FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION**

May 14, 2009

**TO:** Honorable Jeff Wentworth, Chair, Senate Committee on Jurisprudence

**FROM:** John S. O'Brien, Director, Legislative Budget Board

**IN RE: HB3515** by Dunnam (Relating to the creation of the offense of failure to report barratry and solicitation of employment.), **Committee Report 2nd House, Substituted**

**No significant fiscal implication to the State is anticipated.**

The bill would amend the Penal Code to create as a Class C misdemeanor offense the act by a lawyer, during the course of representing a client, of failing to report a person, other than a lawyer subject to the Texas Disciplinary Rules of Professional Conduct while acting on behalf of a lawyer, when there is knowledge that would reasonably cause one to believe a lawyer has engaged in barratry and solicitation of professional employment. The bill would take effect immediately if it were to receive the required two-thirds vote in each house; otherwise, it would take effect September 1, 2009.

The punishment for a Class C misdemeanor is a fine not to exceed \$500. It is anticipated that costs associated with enforcement would be insignificant, as would revenue collected from fines and court costs.

**Local Government Impact**

No significant fiscal implication to units of local government is anticipated.

**Source Agencies:**

**LBB Staff:** JOB, DB, MN, ESi

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**LEGISLATIVE BUDGET BOARD**

Austin, Texas

**FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION**

May 12, 2009

**TO:** Honorable Jeff Wentworth, Chair, Senate Committee on Jurisprudence

**FROM:** John S. O'Brien, Director, Legislative Budget Board

**IN RE: HB3515** by Dunnam (Relating to the creation of the offense of failure to report barratry and solicitation of employment.), **As Engrossed**

**No significant fiscal implication to the State is anticipated.**

The bill would amend the Penal Code to create as a Class C misdemeanor offense the act by a lawyer of failing to report a person, other than a lawyer subject to the Texas Disciplinary Rules of Professional Conduct, when there is knowledge that would reasonably cause one to believe a lawyer has engaged in barratry and solicitation of professional employment. The bill would take effect immediately if it were to receive the required two-thirds vote in each house; otherwise, it would take effect September 1, 2009.

The punishment for a Class C misdemeanor is a fine not to exceed \$500. It is anticipated that costs associated with enforcement would be insignificant, as would revenue collected from fines and court costs.

**Local Government Impact**

No significant fiscal implication to units of local government is anticipated.

**Source Agencies:**

**LBB Staff:** JOB, MN, ESi, DB

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION**

**March 22, 2009**

**TO:** Honorable Pete Gallego, Chair, House Committee on Criminal Jurisprudence

**FROM:** John S. O'Brien, Director, Legislative Budget Board

**IN RE: HB3515** by Dunnam (Relating to the creation of the offense of failure to report barratry and solicitation of employment.), **As Introduced**

**No significant fiscal implication to the State is anticipated.**

The bill would amend the Penal Code to create as a Class C misdemeanor offense the act by a lawyer of failing to report another lawyer when there is knowledge that would reasonably cause one to believe a lawyer has engaged in barratry and solicitation of professional employment. The bill would take effect immediately if it were to receive the required two-thirds vote in each house; otherwise, it would take effect September 1, 2009.

The punishment for a Class C misdemeanor is a fine not to exceed \$500. It is anticipated that costs associated with enforcement would be insignificant, as would revenue collected from fines and court costs.

**Local Government Impact**

No significant fiscal implication to units of local government is anticipated.

**Source Agencies:**

**LBB Staff:** JOB, ESi, DB

**LEGISLATIVE BUDGET BOARD**

**Austin, Texas**

**CRIMINAL JUSTICE IMPACT STATEMENT**

**81ST LEGISLATIVE REGULAR SESSION**

**May 14, 2009**

**TO:** Honorable Jeff Wentworth, Chair, Senate Committee on Jurisprudence

**FROM:** John S. O'Brien, Director, Legislative Budget Board

**IN RE: HB3515** by Dunning (Relating to the creation of the offense of failure to report barratry and solicitation of employment.), **Committee Report 2nd House, Substituted**

No significant impact on the programs and workload of state corrections agencies or on the demand for resources and services of those agencies is anticipated from any provisions of this bill that authorize or require a change in the sanctions applicable to adults convicted of felony crimes.

**Source Agencies:**

**LBB Staff:** JOB, LM

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**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**CRIMINAL JUSTICE IMPACT STATEMENT**

**81ST LEGISLATIVE REGULAR SESSION**

**May 11, 2009**

**TO:** Honorable Jeff Wentworth, Chair, Senate Committee on Jurisprudence

**FROM:** John S. O'Brien, Director, Legislative Budget Board

**IN RE:** **HB3515** by Dunnam (Relating to the creation of the offense of failure to report barratry and solicitation of employment.), **As Engrossed**

No significant impact on the programs and workload of state corrections agencies or on the demand for resources and services of those agencies is anticipated from any provisions of this bill that authorize or require a change in the sanctions applicable to adults convicted of felony crimes.

**Source Agencies:**

**LBB Staff:** JOB, LM



**LEGISLATIVE BUDGET BOARD**  
Austin, Texas

**CRIMINAL JUSTICE IMPACT STATEMENT**

**81ST LEGISLATIVE REGULAR SESSION**

**March 20, 2009**

**TO:** Honorable Pete Gallego, Chair, House Committee on Criminal Jurisprudence

**FROM:** John S. O'Brien, Director, Legislative Budget Board

**IN RE: HB3515** by Dunnam (Relating to the creation of the offense of failure to report barratry and solicitation of employment.), **As Introduced**

No significant impact on the programs and workload of state corrections agencies or on the demand for resources and services of those agencies is anticipated from any provisions of this bill that authorize or require a change in the sanctions applicable to adults convicted of felony crimes.

**Source Agencies:**

**LBB Staff:** JOB, LM