

# Failure of a lawyer to report barratry and solicitation of employment

HB 3515 by Dunnam (Carona)

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**DIGEST:** HB 3515 would have created a new offense of failure to report barratry or solicitation of employment. A lawyer would have committed an offense if the lawyer, while representing a client:

- had acquired knowledge that would reasonably cause a lawyer to believe that another lawyer or person had committed barratry or solicitation of employment under Penal Code, sec. 38.12; and
- had failed to report the knowledge to the appropriate prosecuting attorney and the State Bar of Texas within 45 days after the lawyer acquired the knowledge.

The new offense would have been a class C misdemeanor (maximum fine of \$500).

**GOVERNOR'S  
REASON FOR  
VETO:**

“House Bill No. 3515 would criminally punish a lawyer who had not committed barratry for the barratry committed by another person, and would, therefore, make a lawyer not engaged in criminal conduct subject to criminal penalties because of the criminal conduct of others. House Bill No. 3515 would also require lawyers to report to the State Bar of Texas persons who are not subject to the State Bar’s jurisdiction. Stopping barratry is good public policy for Texas, but House Bill No. 3515 would be an ineffective means of combating this offense.”

**RESPONSE:**

**Rep. Jim Dunnam**, the bill’s author, said: “The Governor’s action in protecting illegal ambulance-chasing is both confusing and disconcerting. The Governor’s veto is bad for the legal profession, but even worse for Texans. Lawyers should be required to report barratry, which is a third degree felony, because it would protect citizens from high-pressure illegal solicitation by unethical lawyers and their agents during difficult personal crises. Several provisions of Texas law make persons not engaged in criminal conduct subject to criminal penalties because of the criminal activity of others, such as failure to report abuse.

“To be clear, HB 3515 would not have required lawyers to seek out evidence of criminal conduct against their colleagues. It would have simply required the reporting of barratry witnessed in everyday legal activities, such as depositions. I wish that Governor Perry would have joined me in combating this illegal activity and signed HB 3515.”

**Sen. John Carona**, the Senate sponsor, was unavailable for comment.

**NOTES:**

The HRO analysis of HB 3515 appeared in Part Two of the April 27 *Daily Floor Report*.