

By: Slaton

H.B. No. 125

A BILL TO BE ENTITLED

AN ACT

relating to the enforcement of certain election laws by district attorneys, criminal district attorneys, and county attorneys; providing a civil penalty.

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

SECTION 1. Chapter 41, Government Code, is amended by adding Subchapter G to read as follows:

SUBCHAPTER G. ENFORCEMENT OF CERTAIN ELECTION LAWS

Sec. 41.371. DEFINITIONS. In this subchapter:

(1) "Policy" includes a formal, written rule or policy and an informal, unwritten policy.

(2) "Prosecuting attorney" means a district attorney, a criminal district attorney, or a county attorney with criminal jurisdiction.

Sec. 41.372. POLICY ON ENFORCEMENT OF CERTAIN ELECTION LAWS. (a) A prosecuting attorney may not:

(1) adopt or enforce a policy under which the prosecuting attorney prohibits or materially limits the enforcement of any criminal offense prescribed by the election laws of this state; or

(2) as demonstrated by pattern or practice, prohibit or materially limit the enforcement of any criminal offense prescribed by the election laws of this state.

(b) In compliance with Subsection (a), a prosecuting

1 attorney may not prohibit or materially limit a peace officer or  
2 attorney who is employed by or otherwise under the direction or  
3 control of the prosecuting attorney from enforcing any criminal  
4 offense prescribed by the election laws of this state.

5 Sec. 41.373. INJUNCTIVE RELIEF. (a) The attorney general  
6 may bring an action in a district court in Travis County or in a  
7 county in which the principal office of the prosecuting attorney is  
8 located to enjoin a violation of Section 41.372.

9 (b) The attorney general may recover reasonable expenses  
10 incurred in obtaining relief under this section, including court  
11 costs, reasonable attorney's fees, investigative costs, witness  
12 fees, and deposition costs.

13 Sec. 41.374. CIVIL PENALTY. (a) A prosecuting attorney who  
14 a court finds has intentionally violated Section 41.372 is subject  
15 to a civil penalty in an amount equal to:

16 (1) not less than \$1,000 and not more than \$1,500 for  
17 the first violation; and

18 (2) not less than \$25,000 and not more than \$25,500 for  
19 each subsequent violation.

20 (b) Each day of a continuing violation of Section 41.372  
21 constitutes a separate violation for the civil penalty imposed  
22 under this section.

23 (c) The court that hears an action brought under Section  
24 41.373 against the prosecuting attorney may determine the amount of  
25 the civil penalty imposed under this section.

26 (d) The attorney general may sue to collect the penalty  
27 under this section and may recover reasonable expenses incurred in

1 collecting the penalty, including court costs, reasonable  
2 attorney's fees, investigative costs, witness fees, and deposition  
3 costs.

4 (e) Sovereign immunity of this state and governmental  
5 immunity of a county to suit is waived and abolished to the extent  
6 of liability created by this section.

7 Sec. 41.375. REMOVAL FROM OFFICE. (a) For purposes of  
8 Section 66.001, Civil Practice and Remedies Code, a prosecuting  
9 attorney performs an act that causes the forfeiture of the  
10 prosecuting attorney's office if the prosecuting attorney violates  
11 Section 41.372.

12 (b) The attorney general shall file a petition under Section  
13 66.002, Civil Practice and Remedies Code, against a prosecuting  
14 attorney to whom Subsection (a) applies if presented with evidence,  
15 including evidence of a statement by the prosecuting attorney,  
16 establishing probable grounds the prosecuting attorney engaged in  
17 conduct described by Subsection (a). The court in which the  
18 petition is filed shall give precedence to proceedings relating to  
19 the petition in the same manner as provided for an election contest  
20 under Section 23.101.

21 (c) If the prosecuting attorney against whom an information  
22 is filed based on conduct described by Subsection (a) is found  
23 guilty as charged after a jury trial, the court shall enter judgment  
24 removing the person from office.

25 SECTION 2. This Act takes effect immediately if it receives  
26 a vote of two-thirds of all the members elected to each house, as  
27 provided by Section 39, Article III, Texas Constitution. If this

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1 Act does not receive the vote necessary for immediate effect, this

2 Act takes effect September 1, 2023.