

By: Hughes, et al.  
(Klick)

S.B. No. 9

Substitute the following for S.B. No. 9:

By: Klick

C.S.S.B. No. 9

A BILL TO BE ENTITLED

AN ACT

relating to election integrity; increasing criminal penalties;  
creating criminal offenses; creating civil penalties.

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

ARTICLE 1. CRIMINAL PROVISIONS

SECTION 1.01. Article 12.01, Code of Criminal Procedure, is  
amended to read as follows:

Art. 12.01. FELONIES. Except as provided in Article 12.03,  
felony indictments may be presented within these limits, and not  
afterward:

(1) no limitation:

(A) murder and manslaughter;

(B) sexual assault under Section 22.011(a)(2),  
Penal Code, or aggravated sexual assault under Section  
22.021(a)(1)(B), Penal Code;

(C) sexual assault, if:

(i) during the investigation of the offense  
biological matter is collected and subjected to forensic DNA  
testing and the testing results show that the matter does not match  
the victim or any other person whose identity is readily  
ascertained; or

(ii) probable cause exists to believe that  
the defendant has committed the same or a similar sexual offense  
against five or more victims;

(D) continuous sexual abuse of young child or children under Section 21.02, Penal Code;

(E) indecency with a child under Section 21.11, Penal Code;

(F) an offense involving leaving the scene of an accident under Section 550.021, Transportation Code, if the accident resulted in the death of a person;

(G) trafficking of persons under Section 20A.02(a)(7) or (8), Penal Code;

(H) continuous trafficking of persons under Section 20A.03, Penal Code; or

(I) compelling prostitution under Section 43.05(a)(2), Penal Code;

(2) ten years from the date of the commission of the offense:

(A) theft of any estate, real, personal or mixed, by an executor, administrator, guardian or trustee, with intent to defraud any creditor, heir, legatee, ward, distributee, beneficiary or settlor of a trust interested in such estate;

(B) theft by a public servant of government property over which he exercises control in his official capacity;

(C) forgery or the uttering, using or passing of forged instruments;

(D) injury to an elderly or disabled individual punishable as a felony of the first degree under Section 22.04, Penal Code;

(E) sexual assault, except as provided by

Subdivision (1);

(F) arson;

(G) trafficking of persons under Section 20A.02(a)(1), (2), (3), or (4), Penal Code; or

(H) compelling prostitution under Section 43.05(a)(1), Penal Code;

(3) seven years from the date of the commission of the offense:

(A) misapplication of fiduciary property or property of a financial institution;

(B) securing execution of document by deception;

(C) a felony violation under Chapter 162, Tax Code;

(D) false statement to obtain property or credit under Section 32.32, Penal Code;

(E) money laundering;

(F) credit card or debit card abuse under Section 32.31, Penal Code;

(G) fraudulent use or possession of identifying information under Section 32.51, Penal Code;

(H) exploitation of a child, elderly individual, or disabled individual under Section 32.53, Penal Code;

(I) Medicaid fraud under Section 35A.02, Penal Code; or

(J) bigamy under Section 25.01, Penal Code, except as provided by Subdivision (6);

(4) five years from the date of the commission of the

offense:

(A) theft or robbery;

(B) except as provided by Subdivision (5), kidnapping or burglary;

(C) injury to an elderly or disabled individual that is not punishable as a felony of the first degree under Section 22.04, Penal Code;

(D) abandoning or endangering a child; ~~or~~

(E) insurance fraud; or

(F) a felony offense under the Election Code;

(5) if the investigation of the offense shows that the victim is younger than 17 years of age at the time the offense is committed, 20 years from the 18th birthday of the victim of one of the following offenses:

(A) sexual performance by a child under Section 43.25, Penal Code;

(B) aggravated kidnapping under Section 20.04(a)(4), Penal Code, if the defendant committed the offense with the intent to violate or abuse the victim sexually; or

(C) burglary under Section 30.02, Penal Code, if the offense is punishable under Subsection (d) of that section and the defendant committed the offense with the intent to commit an offense described by Subdivision (1)(B) or (D) of this article or Paragraph (B) of this subdivision;

(6) ten years from the 18th birthday of the victim of the offense:

(A) trafficking of persons under Section

1 20A.02(a)(5) or (6), Penal Code;

2 (B) injury to a child under Section 22.04, Penal  
3 Code; or

4 (C) bigamy under Section 25.01, Penal Code, if  
5 the investigation of the offense shows that the person, other than  
6 the legal spouse of the defendant, whom the defendant marries or  
7 purports to marry or with whom the defendant lives under the  
8 appearance of being married is younger than 18 years of age at the  
9 time the offense is committed; or

10 (7) three years from the date of the commission of the  
11 offense: all other felonies.

12 SECTION 1.02. Section 1.018, Election Code, is amended to  
13 read as follows:

14 Sec. 1.018. APPLICABILITY OF PENAL CODE. Titles 1 through 4  
15 ~~[In addition to Section 1.03, Penal Code, and to other titles of the~~  
16 ~~Penal Code that may apply to this code, Title 4]~~, Penal Code, apply  
17 ~~[applies]~~ to offenses prescribed by this code.

18 SECTION 1.03. Sections 13.007(b) and (c), Election Code,  
19 are amended to read as follows:

20 (b) An offense under this section is a state jail felony  
21 ~~[Class B misdemeanor]~~.

22 (c) If conduct that constitutes an offense under this  
23 section also constitutes an offense under other law, the actor may  
24 be prosecuted under this section, the other law, or both. ~~[For~~  
25 ~~purposes of this code, an offense under this section is considered~~  
26 ~~to be perjury, but may be prosecuted only under this section.]~~

27 SECTION 1.04. Subchapter A, Chapter 61, Election Code, is

1 amended by adding Section 61.0045 to read as follows:

2 Sec. 61.0045. IMPEDING ACCESS TO POLLING PLACE. (a) A  
3 person commits an offense if the person impedes a walkway,  
4 sidewalk, parking lot, or roadway within 100 feet of a polling place  
5 in a manner that hinders a person from entering the polling place.

6 (b) An offense under this section is a Class B misdemeanor.

7 (c) It is a defense to prosecution under this section that  
8 at the time of the offense, the person was performing an official  
9 duty as a first responder.

10 (d) In this section, "first responder" has the meaning  
11 assigned by Section 421.095, Government Code.

12 SECTION 1.05. Subchapter A, Chapter 64, Election Code, is  
13 amended by adding Section 64.0101 to read as follows:

14 Sec. 64.0101. UNLAWFULLY TAKING BALLOT. (a) A person  
15 commits an offense if the person takes from a voter without the  
16 voter's permission a ballot that was provided at the polling place  
17 to the voter.

18 (b) An offense under this section is a Class B misdemeanor,  
19 unless the person is serving as a watcher under Subchapter A,  
20 Chapter 33, at the time of the offense, in which case it is a Class A  
21 misdemeanor.

22 (c) It is a defense to prosecution under this section that  
23 the person was an election officer performing an official duty at  
24 the time the person took the ballot.

25 SECTION 1.06. Section 64.012, Election Code, is amended by  
26 adding Subsections (c), (d), and (e) to read as follows:

27 (c) It is sufficient for the purposes of Subsection (a)(1)

1 to establish that the person had knowledge of the person's  
2 ineligibility to vote if the person was aware of the facts or  
3 circumstances causing the person's ineligibility under this code.

4 (d) It is not a defense to prosecution that the ballot was  
5 not finally counted.

6 (e) It is an affirmative defense to prosecution under  
7 Subsection (a)(1) that the voter cast or attempted to cast a  
8 provisional ballot.

9 SECTION 1.07. Section 64.036(d), Election Code, is amended  
10 to read as follows:

11 (d) An offense under this section is a state jail felony  
12 [Class A misdemeanor].

13 SECTION 1.08. Subchapter A, Chapter 125, Election Code, is  
14 amended by adding Sections 125.0041 and 125.011 to read as follows:

15 Sec. 125.0041. VOTING SYSTEM PROCEDURES BEFORE OPENING  
16 POLLING PLACE; CRIMINAL OFFENSE. (a) Before opening the polls for  
17 voting, the presiding election judge shall confirm that each voting  
18 machine has any public counter reset to zero and shall print the  
19 tape that shows the counter was set to zero.

20 (b) Each election judge present shall sign a tape printed  
21 under Subsection (a). A representative from each political party  
22 required to nominate candidates by primary election, if present at  
23 the polling place, shall sign a tape printed under Subsection (a).

24 (c) The commissioners court of a county that participates in  
25 the countywide polling place program under Section 43.007 may apply  
26 to the secretary of state for a waiver of the requirements of  
27 Subsections (a) and (b) in a form prescribed by the secretary of

1 state. If the secretary of state grants the waiver, Subsections (a)  
2 and (b) do not apply to the county for which the waiver was granted.

3 (d) A presiding election judge commits an offense if the  
4 judge is required to comply with Subsection (a) and fails to comply  
5 with the requirements of that subsection. An offense under this  
6 section is a Class B misdemeanor.

7 Sec. 125.011. VOTING SYSTEM PROCEDURES FOR CLOSING POLLING  
8 PLACE; CRIMINAL OFFENSE. (a) Before closing the polling place on  
9 election day, the presiding judge shall verify and document the  
10 number on the public counter of each voting machine and shall print  
11 a minimum of three copies of each tally tape. The presiding judge  
12 shall sign each copy to certify its accuracy and distribute the  
13 tapes in accordance with this code.

14 (b) Any watcher present at the polling place must be allowed  
15 to inspect and sign each copy of the tally tape, and may request an  
16 additional copy to be printed for the watcher's records.

17 (c) The requirements of this section must be completed  
18 before any voting system equipment is removed from the polling  
19 place.

20 (d) The commissioners court of a county that participates in  
21 the countywide polling place program under Section 43.007 may apply  
22 to the secretary of state for a waiver of the requirements of  
23 Subsections (a) and (b) in a form prescribed by the secretary of  
24 state. If the secretary of state grants the waiver, Subsections (a)  
25 and (b) do not apply to the county for which the waiver was granted.

26 (e) A presiding judge commits an offense if the judge is  
27 required to comply with Subsections (a) and (b) and fails to comply



1 with those subsections. An offense under this subsection is a Class  
2 B misdemeanor.

3 SECTION 1.09. Subchapter A, Chapter 273, Election Code, is  
4 amended by adding Section 273.005 to read as follows:

5 Sec. 273.005. DEFENSE TO PROSECUTION FOR PERSON CONDUCTING  
6 INVESTIGATION UNDER THIS CODE. (a) It is a defense to prosecution  
7 of an offense under this code that a person employed by a law  
8 enforcement agency in the commission of the offense is engaged in:

9 (1) the investigation or prosecution of a violation of  
10 a law under this code; or

11 (2) official activities investigating a weakness in  
12 the electoral process.

13 (b) Subsection (a) does not apply to a person employed by a  
14 law enforcement agency that engages in an activity described in  
15 Subsection (a) that results in casting a vote for an eligible  
16 candidate or for or against a measure.

17 SECTION 1.10. Section 276.001, Election Code, is amended by  
18 amending Subsection (b) and adding Subsection (c) to read as  
19 follows:

20 (b) Except as provided by Subsection (c), an [An] offense  
21 under this section is a felony of the third degree.

22 (c) An offense under Subsection (a)(1) is a felony of the  
23 second degree if the person is serving as a watcher under Subchapter  
24 A, Chapter 33, at the time of the offense.

25 SECTION 1.11. (a) The change in law made by this article in  
26 amending Article 12.01, Code of Criminal Procedure, does not apply  
27 to an offense if the prosecution of that offense becomes barred by

1 limitation before the effective date of this Act. The prosecution  
2 of that offense remains barred as if this article had not taken  
3 effect.

4 (b) The changes in law made by this article apply only to an  
5 offense committed on or after the effective date of this Act. An  
6 offense committed before the effective date of this Act is governed  
7 by the law in effect on the date the offense was committed, and the  
8 former law is continued in effect for that purpose. For purposes of  
9 this section, an offense was committed before the effective date of  
10 this Act if any element of the offense occurred before that date.

11 ARTICLE 2. VOTERS, ASSISTANTS, AND WATCHERS

12 SECTION 2.01. Section 13.002, Election Code, is amended by  
13 adding Subsection (c-1) to read as follows:

14 (c-1) An application may not be accepted if, at the time the  
15 applicant received the application, a box on the application was  
16 marked to indicate that the applicant:

17 (1) is a United States citizen; or

18 (2) will be 18 years of age or older on election day.

19 SECTION 2.02. Section 33.004(b), Election Code, is amended  
20 to read as follows:

21 (b) To be eligible to participate in the appointment under  
22 this section of a watcher for a precinct polling place, a person  
23 must be a registered voter of the precinct. To be eligible to  
24 participate in the appointment under this section of a watcher for  
25 an early voting polling place, the meeting place of an early voting  
26 ballot board or signature verification committee, or a central  
27 counting station, a person must be a registered voter of the

territory served by that facility.

SECTION 2.03. Section 33.006(b), Election Code, is amended to read as follows:

(b) A certificate of appointment must:

(1) be in writing and signed by the appointing authority or, for an appointment for a write-in candidate under Section 33.004, by each of the voters making the appointment;

(2) indicate the capacity in which the appointing authority is acting;

(3) state the name, residence address, and voter registration number of the appointee and be signed by the appointee;

(4) identify the election and the precinct polling place or other location at which the appointee is to serve;

(5) in an election on a measure, identify the measure if more than one is to be voted on and state which side of the measure the appointee represents; and

(6) contain an affidavit executed by the appointee stating that the appointee will not use ~~[have possession of]~~ a device capable of recording images or sound ~~[or that the appointee will disable or deactivate the device]~~ while serving as a watcher except as permitted by Section 61.014(b).

SECTION 2.04. Section 33.007(a), Election Code, is amended to read as follows:

(a) Each appointing authority may appoint not more than two watchers for each precinct polling place, meeting place for an early voting ballot board or signature verification committee, or

1 central counting station involved in the election.

2 SECTION 2.05. Section 33.051(a), Election Code, is amended  
3 to read as follows:

4 (a) A watcher appointed to serve at a precinct polling  
5 place, a meeting place for an early voting ballot board or signature  
6 verification committee, or a central counting station must deliver  
7 a certificate of appointment to the presiding judge at the time the  
8 watcher reports for service. A watcher appointed to serve at an  
9 early voting polling place must deliver a certificate of  
10 appointment to the early voting clerk or deputy clerk in charge of  
11 the polling place when the watcher first reports for service.

12 SECTION 2.06. Section 33.054, Election Code, is amended to  
13 read as follows:

14 Sec. 33.054. HOURS OF SERVICE AT EARLY VOTING BALLOT BOARD  
15 MEETING OR SIGNATURE VERIFICATION COMMITTEE MEETING. (a) A  
16 watcher serving at the meeting place of an early voting ballot board  
17 or signature verification committee may be present at any time the  
18 board or committee is processing or counting ballots and until the  
19 board or committee completes its duties. The watcher may serve  
20 during the hours the watcher chooses, except as provided by  
21 Subsection (b).

22 (b) A watcher serving at the meeting place of an early  
23 voting ballot board may not leave during voting hours on election  
24 day without the presiding judge's permission if the board has  
25 recorded any votes cast on voting machines or counted any ballots,  
26 unless the board has completed its duties and has been dismissed by  
27 the presiding judge.

SECTION 2.07. Section 33.056, Election Code, is amended by adding Subsection (e) to read as follows:

(e) A watcher serving at the meeting place of an early voting ballot board or signature verification committee is entitled to inspect a form submitted in accordance with Section 64.0322.

SECTION 2.08. Section 33.060(a), Election Code, is amended to read as follows:

(a) On request of a watcher, an election officer who delivers election records from a precinct polling place, an early voting polling place, a meeting place for an early voting ballot board or signature verification committee, or a central counting station shall permit the watcher appointed to serve at that location to accompany the officer in making the delivery.

SECTION 2.09. Section 61.014(b), Election Code, is amended to read as follows:

(b) A person, other than a watcher solely recording the counting of ballots, may not use any mechanical or electronic means of recording images or sound within 100 feet of a voting station.

SECTION 2.10. Section 64.009, Election Code, is amended by adding Subsections (e), (f), and (g) to read as follows:

(e) A person who assists at least three voters voting under this section at the same time by providing the voters with transportation to the polling place must complete and sign a form that contains the following information:

- (1) the person's name and address; and
- (2) whether the person is providing assistance to the voters solely under this section or under both this section and

1 Subchapter B.

2 (f) Subsection (e) does not apply to a person if the person  
3 is a family member of all voters that the person provides with  
4 transportation to the polling place. For purposes of this  
5 subsection, "family member" means a person related to the person  
6 within the second degree by affinity or third degree by  
7 consanguinity, as determined under Subchapter B, Chapter 573,  
8 Government Code.

9 (g) The secretary of state shall prescribe the form  
10 described by Subsection (e).

11 SECTION 2.11. Subchapter B, Chapter 64, Election Code, is  
12 amended by adding Section 64.0322 to read as follows:

13 Sec. 64.0322. SUBMISSION OF FORM BY ASSISTANT. (a) Before  
14 a person, other than an election officer, assists a voter in  
15 accordance with this chapter, the person must complete a form  
16 stating:

17 (1) the name and address of the person assisting the  
18 voter; and

19 (2) the relationship of the assistant to the voter.

20 (b) The secretary of state shall prescribe the form required  
21 by this section. The form must be incorporated into the official  
22 carrier envelope if the voter is voting an early voting ballot by  
23 mail and receives assistance under Section 86.010, or must be  
24 submitted to an election officer before the voter may be accepted  
25 for voting if the voter is voting at a polling place or under  
26 Section 64.009.

27 (c) An election officer may, at the officer's discretion,

1 make a copy of a form submitted under this section and deliver the  
2 copy to the secretary of state.

3 SECTION 2.12. Section 84.011(a), Election Code, is amended  
4 to read as follows:

5 (a) The officially prescribed application form for an early  
6 voting ballot must include:

7 (1) immediately preceding the signature space the  
8 statement: "I certify that the information given in this  
9 application is true, and I understand that giving false information  
10 in this application is a crime.";

11 (2) a statement informing the applicant of the  
12 offenses prescribed by Sections 84.003 and 84.004;

13 (3) spaces for entering an applicant's voter  
14 registration number and county election precinct of registration,  
15 with a statement informing the applicant that failure to furnish  
16 that information does not invalidate the application; and

17 (4) on an application for a ballot to be voted by mail:

18 (A) a space for an applicant applying on the  
19 ground of absence from the county of residence to indicate the date  
20 on or after which the applicant can receive mail at the address  
21 outside the county;

22 (B) a space for indicating the fact that an  
23 applicant whose application is signed by a witness cannot make the  
24 applicant's mark and a space for indicating the relationship or  
25 lack of relationship of the witness to the applicant;

26 (C) a space for entering an applicant's telephone  
27 number, with a statement informing the applicant that failure to

furnish that information does not invalidate the application;

(D) a space or box for an applicant applying on the ground of age or disability to indicate that the address to which the ballot is to be mailed is the address of a facility or relative described by Section 84.002(a)(3), if applicable;

(E) a space or box for an applicant applying on the ground of confinement in jail to indicate that the address to which the ballot is to be mailed is the address of a relative described by Section 84.002(a)(4), if applicable;

(F) a space for an applicant applying on the ground of age or disability to indicate if the application is an application under Section 86.0015;

(G) spaces for entering the signature, printed name, and residence address of any person assisting the applicant;

(H) a statement informing the applicant of the condition prescribed by Section 81.005; ~~and~~

(I) a statement informing the applicant of the requirement prescribed by Section 86.003(c); and

(J) a statement informing the applicant that expected or likely confinement for childbirth on election day is sufficient cause to entitle a voter to vote under Section 82.002(a).

SECTION 2.13. Section 86.013(f), Election Code, is amended to read as follows:

(f) The oath of a person assisting a voter and the form described by Section 64.0322(a) must be included on the official carrier envelope as part of the certificate prescribed by



Subsection (c).

SECTION 2.14. Section 213.013(i), Election Code, is amended to read as follows:

(i) No device capable of recording images or sound is allowed inside the room in which the recount is conducted, or in any hallway or corridor in the building in which the recount is conducted within 30 feet of the entrance to the room, while the recount is in progress unless the person entitled to be present at the recount is a watcher or agrees to disable or deactivate the device. However, on request of a person entitled to appoint watchers to serve at the recount, the recount committee chair shall permit the person to photocopy under the chair's supervision any ballot, including any supporting materials, challenged by the person or person's watcher. The person must pay a reasonable charge for making the copies and, if no photocopying equipment is available, may supply that equipment at the person's expense. The person shall provide a copy on request to another person entitled to appoint watchers to serve at the recount.

### ARTICLE 3. ELECTION CONTESTS

SECTION 3.01. Section 232.006(a), Election Code, is amended to read as follows:

(a) The venue of an election contest for a statewide office is in Travis County or any county where a contestee resided at the time of the election. For purposes of this section, a contestee's residence is determined under Section 411.0257, Government Code.

SECTION 3.02. Chapter 232, Election Code, is amended by adding Subchapter C to read as follows:

1           SUBCHAPTER C. CONTEST INVOLVING ALLEGED FRAUD

2           Sec. 232.061. PETITION ALLEGING FRAUD. This subchapter  
3 applies to an election contest in which the contestant alleges in  
4 the petition that an opposing candidate, an agent of the opposing  
5 candidate, or a person acting on behalf of the opposing candidate  
6 with the candidate's knowledge committed a violation of any of the  
7 following sections of this code:

- 8                   (1) Section 13.007;  
9                   (2) Section 64.012;  
10                  (3) Section 64.036;  
11                  (4) Section 84.003;  
12                  (5) Section 84.0041;  
13                  (6) Section 86.0051;  
14                  (7) Section 86.006;  
15                  (8) Section 86.010; or  
16                  (9) Section 276.013.

17           Sec. 232.062. EVIDENTIARY STANDARD. A contestant must  
18 prove an allegation described by Section 232.061 by a preponderance  
19 of the evidence.

20           Sec. 232.063. CIVIL PENALTY. (a) If the court in its  
21 judgment finds that the contestee, an agent of the contestee, or a  
22 person acting on behalf of the contestee with the contestee's  
23 knowledge committed one or more violations of a section described  
24 by Section 232.061, the contestee is liable to this state for a  
25 civil penalty of \$1,000 for each violation.

26           (b) A penalty collected under this section shall be  
27 deposited in the state treasury to the credit of the general revenue

1 fund.

2 Sec. 232.064. ATTORNEY'S FEES. In an election contest to  
3 which this subchapter applies, the court may award reasonable  
4 attorney's fees to the prevailing party.

5 SECTION 3.03. The changes in law made by this article apply  
6 only to an election contest for which the associated election  
7 occurred after the effective date of this Act.

8 ARTICLE 4. STATE AND COUNTY OFFICERS

9 SECTION 4.01. Section 18.061, Election Code, is amended by  
10 amending Subsection (b) and adding Subsection (f) to read as  
11 follows:

12 (b) The statewide computerized voter registration list  
13 must:

14 (1) contain the name and registration information of  
15 each voter registered in the state;

16 (2) assign a unique identifier to each registered  
17 voter; and

18 (3) be available to any election official in the  
19 state, including the attorney general, through immediate  
20 electronic access.

21 (f) Appropriate state or local officials and agencies shall  
22 provide technological security measures to prevent unauthorized  
23 access to the statewide computerized voter registration list.

24 SECTION 4.02. Section 18.062, Election Code, is amended by  
25 adding Subsection (c) to read as follows:

26 (c) For the purposes of Subsection (a), the secretary of  
27 state may disclose a voter's social security number or date of birth

1 to other states and jurisdictions.

2 SECTION 4.03. Subchapter A, Chapter 31, Election Code, is  
3 amended by adding Section 31.014 to read as follows:

4 Sec. 31.014. RULES. The secretary of state shall adopt  
5 rules establishing best practices for:

6 (1) maintaining the physical and digital security of  
7 elections infrastructure and systems; and

8 (2) restricting access to elections infrastructure  
9 and systems to authorized personnel.

10 SECTION 4.04. Section 43.007, Election Code, is amended by  
11 amending Subsections (f) and (m) and adding Subsection (g-1) to  
12 read as follows:

13 (f) In selecting countywide polling places, a county must  
14 adopt a methodology for determining where each polling place will  
15 be located. The total number of countywide polling places may not  
16 be less than:

17 (1) except as provided by Subdivisions [~~Subdivision~~]

18 (2) and (3), 50 percent of the number of precinct polling places  
19 that would otherwise be located in the county for that election;  
20 [~~or~~]

21 (2) except as provided by Subdivision (3), for an  
22 election held in the first year in which the county participates in  
23 the program, 65 percent of the number of precinct polling places  
24 that would otherwise be located in the county for that election; or

25 (3) for an election held on the November general  
26 election date in an even-numbered year, 80 percent of the number of  
27 precinct polling places that would otherwise be located in the

1 county for that election.

2 (g-1) A county participating in the program shall, at each  
3 countywide polling place, post a notice of the four nearest  
4 countywide polling place locations by driving distance.

5 (m) In adopting a methodology under Subsection (f), the  
6 county must ensure that:

7 (1) in a county with a population of less than one  
8 million, each county commissioners precinct contains at least one  
9 countywide polling place and the percentage of the total number of  
10 countywide polling places located in each commissioners precinct  
11 must be as equal as mathematically possible to the percentage of  
12 registered voters of the county whose registrations are effective  
13 on the date of the election residing in each commissioners  
14 precinct; or [and]

15 (2) in a county with a population of one million or  
16 more, the percentage of the total number of countywide polling  
17 places located in each state representative district in the county  
18 containing territory in which the election is held must be as equal  
19 as mathematically possible to the percentage of registered voters  
20 of the county whose registrations are effective on the date of the  
21 election residing in each state representative district [the total  
22 ~~number of permanent branch and temporary branch polling places open~~  
23 ~~for voting in a county commissioners precinct does not exceed more~~  
24 ~~than twice the number of permanent branch and temporary branch~~  
25 ~~polling places in another county commissioners precinct].~~

26 SECTION 4.05. Section 67.007, Election Code, is amended by  
27 adding Subsection (f) to read as follows:

1       (f) Not later than 24 hours after completing county election  
2 returns under this section, the county clerk shall post on the  
3 county's Internet website, if the county maintains a website:

4               (1) the number of votes that were cast in the county;  
5 and

6               (2) the number of registered voters in the county.

7       SECTION 4.06. Subchapter A, Chapter 127, Election Code, is  
8 amended by adding Section 127.008 to read as follows:

9       Sec. 127.008. ELECTRONIC DEVICES IN CENTRAL COUNTING  
10 STATION. (a) A counting station manager and the presiding judge  
11 of the counting station shall develop a protocol under which no  
12 electronic device capable of being connected to the Internet is  
13 permitted inside a central counting station, except as permitted by  
14 Subsection (b).

15               (b) The protocol developed under Subsection (a) may permit a  
16 cellular telephone or the equipment necessary to count votes to be  
17 present in the central counting station if the devices are not  
18 connected to the Internet.

19       SECTION 4.07. Section 216.001, Election Code, is amended to  
20 read as follows:

21       Sec. 216.001. APPLICABILITY OF CHAPTER. (a) Except as  
22 provided by Subsection (b), this [This] chapter applies only to an  
23 election that results in a tie vote as provided by Sections  
24 2.002(i), 2.023(b) and (c), and 2.028.

25               (b) If the results of an election show that the number of  
26 votes cast in an election precinct exceeds the number of registered  
27 voters in the precinct, the authority designated under Section

212.026 shall initiate an automatic recount for that precinct in accordance with this chapter.

ARTICLE 5. AUDITABLE VOTING SYSTEMS

SECTION 5.01. Chapter 127, Election Code, is amended by adding Subchapter I to read as follows:

SUBCHAPTER I. RISK-LIMITING AUDIT

Sec. 127.301. APPLICABILITY OF SUBCHAPTER. (a) This subchapter applies to an election:

(1) that occurs after August 31, 2024;

(2) that contains a race or measure that is voted on statewide; and

(3) in which an auditable voting system is used.

(b) In this subchapter, "auditable voting system" means a voting system that uses, creates, or displays a paper record that may be read by the voter.

Sec. 127.302. RISK-LIMITING AUDIT. (a) Not later than 24 hours after all ballots have been counted in an election, the general custodian of election records shall conduct a risk-limiting audit for a selected statewide race or measure.

(b) The secretary of state shall select, in accordance with rules adopted by the secretary, the precincts to be counted and the office or proposition to be counted.

(c) The general custodian of election records shall complete the audit not later than 24 hours before the time for conducting the canvass of the election.

(d) The general custodian of election records shall post a notice of the date, hour, and place of the audit in the custodian's

office and on the county's Internet website, if the county maintains a website.

(e) A watcher may be present for the audit if appointed by a candidate in the election or appointed under Section 33.003 or 33.005. A watcher must deliver a certificate of appointment to the general custodian of election records at the time the watcher reports for service. The certificate must be in writing and must include:

- (1) the printed name and signature of the watcher;
- (2) the election subject to the audit; and
- (3) the printed name and signature of, as appropriate:
  - (A) the candidate making the appointment;
  - (B) the county chair of the political party making the appointment; or
  - (C) the campaign treasurer or assistant campaign treasurer of the specific-purpose political committee making the appointment.

(f) The secretary of state may appoint personnel to assist with the audit, including applicable voting system technicians or representatives and persons who have assisted with the design and implementation of the audit.

Sec. 127.303. RULES. (a) The secretary of state shall adopt rules prescribing procedures necessary to implement this subchapter.

(b) Rules adopted under this subchapter must include a rule, using widely accepted statistical methods, that provides for the number or percentage of paper records that must be counted in a



1 risk-limiting audit under Section 127.302.

2 Sec. 127.304. PUBLICATION OF RESULTS. The results of a  
3 risk-limiting audit conducted under this subchapter must be  
4 published on the Internet website of the secretary of state not  
5 later than three days after the completion of the audit.

6 Sec. 127.305. PILOT PROGRAM. (a) Notwithstanding Section  
7 127.301(1), the secretary of state shall conduct a pilot program,  
8 beginning with the election taking place November 3, 2020, of the  
9 risk-limiting audit program created under this subchapter.

10 (b) The secretary of state shall select up to five counties  
11 to participate in the pilot program. At least one county  
12 participating in the pilot program must have a population of at  
13 least 500,000.

14 (c) After each election conducted under the pilot program,  
15 the secretary of state shall send a detailed report to each member  
16 of the legislature evaluating the success of the program and making  
17 a recommendation as to whether the legislature should act to delay  
18 the statewide implementation of the program.

19 (d) The secretary of state shall adopt rules as necessary to  
20 implement this section.

21 (e) This section expires August 31, 2024.

22 ARTICLE 6. REPEALER AND EFFECTIVE DATE

23 SECTION 6.01. Section 33.051(c), Election Code, is  
24 repealed.

25 SECTION 6.02. This Act takes effect September 1, 2019.