

1-1 By: Hughes S.B. No. 9  
 1-2 (In the Senate - Filed March 7, 2019; March 7, 2019, read  
 1-3 first time and referred to Committee on State Affairs;  
 1-4 April 1, 2019, reported adversely, with favorable Committee  
 1-5 Substitute by the following vote: Yeas 7, Nays 2; April 1, 2019,  
 1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15		X		
1-16	X			
1-17		X		

1-18 COMMITTEE SUBSTITUTE FOR S.B. No. 9 By: Hughes

1-19 A BILL TO BE ENTITLED  
 1-20 AN ACT

1-21 relating to election integrity; increasing criminal penalties;  
 1-22 creating a criminal offense; creating civil penalties.

1-23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-24 ARTICLE 1. CRIMINAL PROVISIONS

1-25 SECTION 1.01. Article 12.01, Code of Criminal Procedure, is  
 1-26 amended to read as follows:

1-27 Art. 12.01. FELONIES. Except as provided in Article 12.03,  
 1-28 felony indictments may be presented within these limits, and not  
 1-29 afterward:

1-30 (1) no limitation:

1-31 (A) murder and manslaughter;

1-32 (B) sexual assault under Section 22.011(a)(2),  
 1-33 Penal Code, or aggravated sexual assault under Section  
 1-34 22.021(a)(1)(B), Penal Code;

1-35 (C) sexual assault, if:

1-36 (i) during the investigation of the offense  
 1-37 biological matter is collected and subjected to forensic DNA  
 1-38 testing and the testing results show that the matter does not match  
 1-39 the victim or any other person whose identity is readily  
 1-40 ascertained; or

1-41 (ii) probable cause exists to believe that  
 1-42 the defendant has committed the same or a similar sexual offense  
 1-43 against five or more victims;

1-44 (D) continuous sexual abuse of young child or  
 1-45 children under Section 21.02, Penal Code;

1-46 (E) indecency with a child under Section 21.11,  
 1-47 Penal Code;

1-48 (F) an offense involving leaving the scene of an  
 1-49 accident under Section 550.021, Transportation Code, if the  
 1-50 accident resulted in the death of a person;

1-51 (G) trafficking of persons under Section  
 1-52 20A.02(a)(7) or (8), Penal Code;

1-53 (H) continuous trafficking of persons under  
 1-54 Section 20A.03, Penal Code; or

1-55 (I) compelling prostitution under Section  
 1-56 43.05(a)(2), Penal Code;

1-57 (2) ten years from the date of the commission of the  
 1-58 offense:

1-59 (A) theft of any estate, real, personal or mixed,  
 1-60 by an executor, administrator, guardian or trustee, with intent to

2-1 defraud any creditor, heir, legatee, ward, distributee,  
2-2 beneficiary or settlor of a trust interested in such estate;  
2-3 (B) theft by a public servant of government  
2-4 property over which he exercises control in his official capacity;  
2-5 (C) forgery or the uttering, using or passing of  
2-6 forged instruments;  
2-7 (D) injury to an elderly or disabled individual  
2-8 punishable as a felony of the first degree under Section 22.04,  
2-9 Penal Code;  
2-10 (E) sexual assault, except as provided by  
2-11 Subdivision (1);  
2-12 (F) arson;  
2-13 (G) trafficking of persons under Section  
2-14 20A.02(a)(1), (2), (3), or (4), Penal Code; or  
2-15 (H) compelling prostitution under Section  
2-16 43.05(a)(1), Penal Code;  
2-17 (3) seven years from the date of the commission of the  
2-18 offense:  
2-19 (A) misapplication of fiduciary property or  
2-20 property of a financial institution;  
2-21 (B) securing execution of document by deception;  
2-22 (C) a felony violation under Chapter 162, Tax  
2-23 Code;  
2-24 (D) false statement to obtain property or credit  
2-25 under Section 32.32, Penal Code;  
2-26 (E) money laundering;  
2-27 (F) credit card or debit card abuse under Section  
2-28 32.31, Penal Code;  
2-29 (G) fraudulent use or possession of identifying  
2-30 information under Section 32.51, Penal Code;  
2-31 (H) exploitation of a child, elderly individual,  
2-32 or disabled individual under Section 32.53, Penal Code;  
2-33 (I) Medicaid fraud under Section 35A.02, Penal  
2-34 Code; or  
2-35 (J) bigamy under Section 25.01, Penal Code,  
2-36 except as provided by Subdivision (6);  
2-37 (4) five years from the date of the commission of the  
2-38 offense:  
2-39 (A) theft or robbery;  
2-40 (B) except as provided by Subdivision (5),  
2-41 kidnapping or burglary;  
2-42 (C) injury to an elderly or disabled individual  
2-43 that is not punishable as a felony of the first degree under Section  
2-44 22.04, Penal Code;  
2-45 (D) abandoning or endangering a child; ~~or~~  
2-46 (E) insurance fraud; or  
2-47 (F) a felony offense under the Election Code;  
2-48 (5) if the investigation of the offense shows that the  
2-49 victim is younger than 17 years of age at the time the offense is  
2-50 committed, 20 years from the 18th birthday of the victim of one of  
2-51 the following offenses:  
2-52 (A) sexual performance by a child under Section  
2-53 43.25, Penal Code;  
2-54 (B) aggravated kidnapping under Section  
2-55 20.04(a)(4), Penal Code, if the defendant committed the offense  
2-56 with the intent to violate or abuse the victim sexually; or  
2-57 (C) burglary under Section 30.02, Penal Code, if  
2-58 the offense is punishable under Subsection (d) of that section and  
2-59 the defendant committed the offense with the intent to commit an  
2-60 offense described by Subdivision (1)(B) or (D) of this article or  
2-61 Paragraph (B) of this subdivision;  
2-62 (6) ten years from the 18th birthday of the victim of  
2-63 the offense:  
2-64 (A) trafficking of persons under Section  
2-65 20A.02(a)(5) or (6), Penal Code;  
2-66 (B) injury to a child under Section 22.04, Penal  
2-67 Code; or  
2-68 (C) bigamy under Section 25.01, Penal Code, if  
2-69 the investigation of the offense shows that the person, other than

3-1 the legal spouse of the defendant, whom the defendant marries or  
3-2 purports to marry or with whom the defendant lives under the  
3-3 appearance of being married is younger than 18 years of age at the  
3-4 time the offense is committed; or

3-5 (7) three years from the date of the commission of the  
3-6 offense: all other felonies.

3-7 SECTION 1.02. Section 1.018, Election Code, is amended to  
3-8 read as follows:

3-9 Sec. 1.018. APPLICABILITY OF PENAL CODE. Titles 1 through 4  
3-10 [In addition to Section 1.03, Penal Code, and to other titles of the  
3-11 Penal Code that may apply to this code, Title 4], Penal Code, apply  
3-12 [applies] to offenses prescribed by this code.

3-13 SECTION 1.03. Sections 13.007(b) and (c), Election Code,  
3-14 are amended to read as follows:

3-15 (b) An offense under this section is a state jail felony  
3-16 [Class B misdemeanor].

3-17 (c) If conduct that constitutes an offense under this  
3-18 section also constitutes an offense under other law, the actor may  
3-19 be prosecuted under this section, the other law, or both. [For  
3-20 purposes of this code, an offense under this section is considered  
3-21 to be perjury, but may be prosecuted only under this section.]

3-22 SECTION 1.04. Subchapter A, Chapter 61, Election Code, is  
3-23 amended by adding Section 61.0045 to read as follows:

3-24 Sec. 61.0045. IMPEDING ACCESS TO POLLING PLACE. (a) A  
3-25 person commits an offense if the person impedes a walkway,  
3-26 sidewalk, parking lot, or roadway within 500 feet of a polling place  
3-27 in a manner that hinders a person from entering the polling place.

3-28 (b) An offense under this section is a Class B misdemeanor.

3-29 SECTION 1.05. Section 64.012, Election Code, is amended by  
3-30 adding Subsections (c) and (d) to read as follows:

3-31 (c) It is sufficient for the purposes of Subsection (a)(1)  
3-32 to establish that the person had knowledge of the person's  
3-33 ineligibility to vote if the person was aware of the facts or  
3-34 circumstances causing the person's ineligibility under this code.

3-35 (d) It is not a defense to prosecution that the ballot was  
3-36 not finally counted.

3-37 SECTION 1.06. Section 64.036(d), Election Code, is amended  
3-38 to read as follows:

3-39 (d) An offense under this section is a state jail felony  
3-40 [Class A misdemeanor].

3-41 SECTION 1.07. Subchapter A, Chapter 273, Election Code, is  
3-42 amended by adding Section 273.005 to read as follows:

3-43 Sec. 273.005. DEFENSE TO PROSECUTION FOR PERSON CONDUCTING  
3-44 INVESTIGATION UNDER THIS CODE. It is a defense to prosecution of an  
3-45 offense under this code that a person employed by a law enforcement  
3-46 agency in the commission of the offense is engaged in:

3-47 (1) the investigation or prosecution of a violation of  
3-48 a law under this code; or

3-49 (2) official activities investigating a weakness in  
3-50 the electoral process.

3-51 SECTION 1.08. (a) The change in law made by this article in  
3-52 amending Article 12.01, Code of Criminal Procedure, does not apply  
3-53 to an offense if the prosecution of that offense becomes barred by  
3-54 limitation before the effective date of this Act. The prosecution  
3-55 of that offense remains barred as if this article had not taken  
3-56 effect.

3-57 (b) The changes in law made by this article apply only to an  
3-58 offense committed on or after the effective date of this Act. An  
3-59 offense committed before the effective date of this Act is governed  
3-60 by the law in effect on the date the offense was committed, and the  
3-61 former law is continued in effect for that purpose. For purposes of  
3-62 this section, an offense was committed before the effective date of  
3-63 this Act if any element of the offense occurred before that date.

3-64 ARTICLE 2. VOTERS, ASSISTANTS, AND WATCHERS

3-65 SECTION 2.01. Section 13.002, Election Code, is amended by  
3-66 adding Subsection (c-1) to read as follows:

3-67 (c-1) A registration application must require the applicant  
3-68 to affirmatively indicate all information provided on the  
3-69 application. An application may not be accepted if any box or space

4-1 on the application was filled at the time the applicant received the  
 4-2 application.

4-3 SECTION 2.02. Section 33.004(b), Election Code, is amended  
 4-4 to read as follows:

4-5 (b) To be eligible to participate in the appointment under  
 4-6 this section of a watcher for a precinct polling place, a person  
 4-7 must be a registered voter of the precinct. To be eligible to  
 4-8 participate in the appointment under this section of a watcher for  
 4-9 an early voting polling place, the meeting place of an early voting  
 4-10 ballot board or signature verification committee, or a central  
 4-11 counting station, a person must be a registered voter of the  
 4-12 territory served by that facility.

4-13 SECTION 2.03. Section 33.006(b), Election Code, is amended  
 4-14 to read as follows:

4-15 (b) A certificate of appointment must:  
 4-16 (1) be in writing and signed by the appointing  
 4-17 authority or, for an appointment for a write-in candidate under  
 4-18 Section 33.004, by each of the voters making the appointment;

4-19 (2) indicate the capacity in which the appointing  
 4-20 authority is acting;

4-21 (3) state the name, residence address, and voter  
 4-22 registration number of the appointee and be signed by the  
 4-23 appointee;

4-24 (4) identify the election and the precinct polling  
 4-25 place or other location at which the appointee is to serve;

4-26 (5) in an election on a measure, identify the measure  
 4-27 if more than one is to be voted on and state which side of the  
 4-28 measure the appointee represents; and

4-29 (6) contain an affidavit executed by the appointee  
 4-30 stating that the appointee will not use [~~have possession of~~] a  
 4-31 device capable of recording images or sound [~~or that the appointee~~  
 4-32 ~~will disable or deactivate the device~~] while serving as a watcher  
 4-33 except as permitted by Section 61.014(b).

4-34 SECTION 2.04. Section 33.007(a), Election Code, is amended  
 4-35 to read as follows:

4-36 (a) Each appointing authority may appoint not more than two  
 4-37 watchers for each precinct polling place, meeting place for an  
 4-38 early voting ballot board or signature verification committee, or  
 4-39 central counting station involved in the election.

4-40 SECTION 2.05. Section 33.051(a), Election Code, is amended  
 4-41 to read as follows:

4-42 (a) A watcher appointed to serve at a precinct polling  
 4-43 place, a meeting place for an early voting ballot board or signature  
 4-44 verification committee, or a central counting station must deliver  
 4-45 a certificate of appointment to the presiding judge at the time the  
 4-46 watcher reports for service. A watcher appointed to serve at an  
 4-47 early voting polling place must deliver a certificate of  
 4-48 appointment to the early voting clerk or deputy clerk in charge of  
 4-49 the polling place when the watcher first reports for service.

4-50 SECTION 2.06. Section 33.054, Election Code, is amended to  
 4-51 read as follows:

4-52 Sec. 33.054. HOURS OF SERVICE AT EARLY VOTING BALLOT BOARD  
 4-53 MEETING OR SIGNATURE VERIFICATION COMMITTEE MEETING. (a) A  
 4-54 watcher serving at the meeting place of an early voting ballot board  
 4-55 or signature verification committee may be present at any time the  
 4-56 board or committee is processing or counting ballots and until the  
 4-57 board or committee completes its duties. The watcher may serve  
 4-58 during the hours the watcher chooses, except as provided by  
 4-59 Subsection (b).

4-60 (b) A watcher serving at the meeting place of an early  
 4-61 voting ballot board may not leave during voting hours on election  
 4-62 day without the presiding judge's permission if the board has  
 4-63 recorded any votes cast on voting machines or counted any ballots,  
 4-64 unless the board has completed its duties and has been dismissed by  
 4-65 the presiding judge.

4-66 SECTION 2.07. Section 33.056, Election Code, is amended by  
 4-67 adding Subsections (e) and (f) to read as follows:

4-68 (e) A watcher serving at the meeting place of an early  
 4-69 voting ballot board or signature verification committee is entitled

5-1 to inspect a form submitted in accordance with Section 64.0322.

5-2 (f) A watcher serving at a polling place is entitled to  
 5-3 inspect any identifying documentation presented by a person  
 5-4 assisting a voter in accordance with Subchapter B, Chapter 64.

5-5 SECTION 2.08. Section 33.057, Election Code, is amended to  
 5-6 read as follows:

5-7 Sec. 33.057. OBSERVING PREPARATION OF VOTER'S BALLOT.

5-8 (a) In this section, "family member" means a person related to the  
 5-9 voter within the second degree by affinity or third degree by  
 5-10 consanguinity, as determined under Subchapter B, Chapter 573,  
 5-11 Government Code.

5-12 (b) A watcher or election officer is entitled to be present  
 5-13 at the voting station when a voter is being assisted by a person who  
 5-14 is not a family member [an election officer], and the watcher or  
 5-15 election officer is entitled to examine the ballot before it is  
 5-16 deposited in the ballot box to determine whether it is prepared in  
 5-17 accordance with the voter's wishes.

5-18 (c) [~~(b)~~] A watcher or election officer may not be present  
 5-19 at the voting station when a voter is preparing the voter's ballot  
 5-20 or is being assisted by a family member [person of the voter's  
 5-21 choice].

5-22 SECTION 2.09. Section 33.060(a), Election Code, is amended  
 5-23 to read as follows:

5-24 (a) On request of a watcher, an election officer who  
 5-25 delivers election records from a precinct polling place, an early  
 5-26 voting polling place, a meeting place for an early voting ballot  
 5-27 board or signature verification committee, or a central counting  
 5-28 station shall permit the watcher appointed to serve at that  
 5-29 location to accompany the officer in making the delivery.

5-30 SECTION 2.10. Section 61.014(b), Election Code, is amended  
 5-31 to read as follows:

5-32 (b) A person, other than a watcher solely recording the  
 5-33 counting of ballots, may not use any mechanical or electronic means  
 5-34 of recording images or sound within 100 feet of a voting station.

5-35 SECTION 2.11. Section 64.009, Election Code, is amended by  
 5-36 adding Subsections (e), (f), and (g) to read as follows:

5-37 (e) A person who assists at least three voters voting under  
 5-38 this section at the same time by providing the voters with  
 5-39 transportation to the polling place must complete and sign a form  
 5-40 that:

5-41 (1) requires the person to affirm that the voters are  
 5-42 physically unable to enter the polling place without personal  
 5-43 assistance or likelihood of injuring their health; and

5-44 (2) contains the following information:

5-45 (A) the person's name and address; and

5-46 (B) whether the person is providing assistance to  
 5-47 the voters solely under this section or under both this section and  
 5-48 Subchapter B.

5-49 (f) Subsection (e) does not apply to a person if the person  
 5-50 is a family member of all voters that the person provides with  
 5-51 transportation to the polling place. For purposes of this  
 5-52 subsection, "family member" has the meaning assigned by Section  
 5-53 33.057(a).

5-54 (g) The secretary of state shall prescribe the form  
 5-55 described by Subsection (e).

5-56 SECTION 2.12. Subchapter B, Chapter 64, Election Code, is  
 5-57 amended by adding Section 64.0322 to read as follows:

5-58 Sec. 64.0322. SUBMISSION OF FORM BY ASSISTANT. (a) Before  
 5-59 a person, other than an election officer, assists a voter in  
 5-60 accordance with this chapter, the person must complete a form  
 5-61 stating:

5-62 (1) the name and address of the person assisting the  
 5-63 voter;

5-64 (2) the manner in which the voter requires assistance;

5-65 (3) the reason the assistance is necessary; and

5-66 (4) the relationship of the assistant to the voter.

5-67 (b) The secretary of state shall prescribe the form required  
 5-68 by this section. The form must be incorporated into the official  
 5-69 carrier envelope if the voter is voting an early voting ballot by

6-1 mail and receives assistance under Section 86.010, or must be  
 6-2 submitted to an election officer before the voter may be accepted  
 6-3 for voting if the voter is voting at a polling place or under  
 6-4 Section 64.009.

6-5 (c) An election officer may, at the officer's discretion,  
 6-6 make a copy of a form submitted under this section and deliver the  
 6-7 copy to the secretary of state.

6-8 SECTION 2.13. Section 84.002, Election Code, is amended by  
 6-9 adding Subsection (c) to read as follows:

6-10 (c) An application for a ballot to be voted by mail on the  
 6-11 ground of disability must require the applicant to affirmatively  
 6-12 indicate that the applicant agrees with the statement "I am  
 6-13 physically unable to enter a polling place without needing personal  
 6-14 assistance or injuring my health," as prescribed by Section  
 6-15 82.002(a).

6-16 SECTION 2.14. Section 86.013(f), Election Code, is amended  
 6-17 to read as follows:

6-18 (f) The oath of a person assisting a voter and the form  
 6-19 described by Section 64.0322(a) must be included on the official  
 6-20 carrier envelope as part of the certificate prescribed by  
 6-21 Subsection (c).

6-22 SECTION 2.15. Section 213.013(i), Election Code, is amended  
 6-23 to read as follows:

6-24 (i) No device capable of recording images or sound is  
 6-25 allowed inside the room in which the recount is conducted, or in any  
 6-26 hallway or corridor in the building in which the recount is  
 6-27 conducted within 30 feet of the entrance to the room, while the  
 6-28 recount is in progress unless the person entitled to be present at  
 6-29 the recount is a watcher or agrees to disable or deactivate the  
 6-30 device. However, on request of a person entitled to appoint  
 6-31 watchers to serve at the recount, the recount committee chair shall  
 6-32 permit the person to photocopy under the chair's supervision any  
 6-33 ballot, including any supporting materials, challenged by the  
 6-34 person or person's watcher. The person must pay a reasonable charge  
 6-35 for making the copies and, if no photocopying equipment is  
 6-36 available, may supply that equipment at the person's expense. The  
 6-37 person shall provide a copy on request to another person entitled to  
 6-38 appoint watchers to serve at the recount.

#### 6-39 ARTICLE 3. ELECTION CONTESTS

6-40 SECTION 3.01. Section 232.006(a), Election Code, is amended  
 6-41 to read as follows:

6-42 (a) The venue of an election contest for a statewide office  
 6-43 is in Travis County or any county where a contestee resided at the  
 6-44 time of the election. For purposes of this section, a contestee's  
 6-45 residence is determined under Section 411.0257, Government Code.

6-46 SECTION 3.02. Chapter 232, Election Code, is amended by  
 6-47 adding Subchapter C to read as follows:

#### 6-48 SUBCHAPTER C. CONTEST INVOLVING ALLEGED FRAUD

6-49 Sec. 232.061. PETITION ALLEGING FRAUD. This subchapter  
 6-50 applies to an election contest in which the contestant alleges in  
 6-51 the petition that an opposing candidate, an agent of the opposing  
 6-52 candidate, or a person acting on behalf of the opposing candidate  
 6-53 with the candidate's knowledge committed a violation of any of the  
 6-54 following sections of this code:

- 6-55 (1) Section 13.007;
- 6-56 (2) Section 64.012;
- 6-57 (3) Section 64.036;
- 6-58 (4) Section 84.003;
- 6-59 (5) Section 84.0041;
- 6-60 (6) Section 86.0051;
- 6-61 (7) Section 86.006;
- 6-62 (8) Section 86.010; or
- 6-63 (9) Section 276.013.

6-64 Sec. 232.062. EVIDENTIARY STANDARD. A contestant must  
 6-65 prove an allegation described by Section 232.061 by a preponderance  
 6-66 of the evidence.

6-67 Sec. 232.063. CIVIL PENALTY. (a) If the court in its  
 6-68 judgment finds that the contestee, an agent of the contestee, or a  
 6-69 person acting on behalf of the contestee with the contestee's

7-1 knowledge committed one or more violations of a section described  
7-2 by Section 232.061, the contestee is liable to this state for a  
7-3 civil penalty of \$1,000 for each violation.

7-4 (b) A penalty collected under this section shall be  
7-5 deposited in the state treasury to the credit of the general revenue  
7-6 fund.

7-7 Sec. 232.064. ATTORNEY'S FEES. In an election contest to  
7-8 which this subchapter applies, the court may award reasonable  
7-9 attorney's fees to the prevailing party.

7-10 SECTION 3.03. The changes in law made by this article apply  
7-11 only to an election contest for which the associated election  
7-12 occurred after the effective date of this Act.

7-13 ARTICLE 4. STATE AND COUNTY OFFICERS

7-14 SECTION 4.01. Section 18.061, Election Code, is amended by  
7-15 amending Subsection (b) and adding Subsection (f) to read as  
7-16 follows:

7-17 (b) The statewide computerized voter registration list  
7-18 must:

7-19 (1) contain the name and registration information of  
7-20 each voter registered in the state;

7-21 (2) assign a unique identifier to each registered  
7-22 voter; and

7-23 (3) be available to any election official in the  
7-24 state, including the attorney general, through immediate  
7-25 electronic access.

7-26 (f) Appropriate state or local officials and agencies shall  
7-27 provide technological security measures to prevent unauthorized  
7-28 access to the statewide computerized voter registration list.

7-29 SECTION 4.02. Section 18.062, Election Code, is amended by  
7-30 adding Subsection (c) to read as follows:

7-31 (c) For the purposes of Subsection (a), the secretary of  
7-32 state may disclose a voter's social security number or date of birth  
7-33 to other states and jurisdictions.

7-34 SECTION 4.03. Section 43.007, Election Code, is amended by  
7-35 adding Subsection (f-1) to read as follows:

7-36 (f-1) The commissioners court of a county with a population  
7-37 of more than one million must designate a sufficient number of  
7-38 locations as countywide polling places to ensure that no voter who  
7-39 resides in the county must travel more than three miles from the  
7-40 voter's residence to a countywide polling place.

7-41 SECTION 4.04. Section 67.007, Election Code, is amended by  
7-42 adding Subsection (f) to read as follows:

7-43 (f) Not later than 24 hours after completing county election  
7-44 returns under this section, the county clerk shall post on the  
7-45 county's Internet website, if the county maintains a website:

7-46 (1) the number of votes that were cast in the county;  
7-47 and

7-48 (2) the number of registered voters in the county.

7-49 SECTION 4.05. Section 216.001, Election Code, is amended to  
7-50 read as follows:

7-51 Sec. 216.001. APPLICABILITY OF CHAPTER. (a) Except as  
7-52 provided by Subsection (b), this [This] chapter applies only to an  
7-53 election that results in a tie vote as provided by Sections  
7-54 2.002(i), 2.023(b) and (c), and 2.028.

7-55 (b) If the results of an election show that the number of  
7-56 votes cast in an election precinct exceeds the number of registered  
7-57 voters in the precinct, the authority designated under Section  
7-58 212.026 shall initiate an automatic recount for that precinct in  
7-59 accordance with this chapter.

7-60 ARTICLE 5. AUDITABLE VOTING SYSTEMS

7-61 SECTION 5.01. Chapter 127, Election Code, is amended by  
7-62 adding Subchapter I to read as follows:

7-63 SUBCHAPTER I. RISK-LIMITING AUDIT

7-64 Sec. 127.301. APPLICABILITY OF SUBCHAPTER. This subchapter  
7-65 applies to an election:

7-66 (1) that occurs after August 31, 2024;

7-67 (2) that contains a race or measure that is voted on  
7-68 statewide; and

7-69 (3) in which an auditable voting system described by

8-1 Section 129.003(a) is used.

8-2 Sec. 127.302. RISK-LIMITING AUDIT. (a) Not later than 24  
 8-3 hours after all ballots have been counted in an election, the  
 8-4 general custodian of election records shall conduct a risk-limiting  
 8-5 audit for a selected statewide race or measure.

8-6 (b) The secretary of state shall select, in accordance with  
 8-7 rules adopted by the secretary, the precincts to be counted and the  
 8-8 office or proposition to be counted.

8-9 (c) The general custodian of election records shall  
 8-10 complete the audit not later than 24 hours before the time for  
 8-11 conducting the canvass of the election.

8-12 (d) The general custodian of election records shall post a  
 8-13 notice of the date, hour, and place of the audit in the custodian's  
 8-14 office and on the county's Internet website, if the county  
 8-15 maintains a website.

8-16 (e) A watcher may be present for the audit if appointed by a  
 8-17 candidate in the election. A watcher must deliver a certificate of  
 8-18 appointment to the general custodian of election records at the  
 8-19 time the watcher reports for service. The certificate must be in  
 8-20 writing and must include:

8-21 (1) the printed name and signature of the watcher;

8-22 (2) the election subject to the audit; and

8-23 (3) the printed name and signature of the candidate  
 8-24 making the appointment.

8-25 (f) The secretary of state may appoint personnel to assist  
 8-26 with the audit, including applicable voting system technicians or  
 8-27 representatives and persons who have assisted with the design and  
 8-28 implementation of the audit.

8-29 Sec. 127.303. RULES. (a) The secretary of state shall  
 8-30 adopt rules prescribing procedures necessary to implement this  
 8-31 subchapter.

8-32 (b) Rules adopted under this subchapter must include a rule,  
 8-33 using widely accepted statistical methods, that provides for the  
 8-34 number or percentage of paper records that must be counted in a  
 8-35 risk-limiting audit under Section 127.302.

8-36 Sec. 127.304. PUBLICATION OF RESULTS. The results of a  
 8-37 risk-limiting audit conducted under this subchapter must be  
 8-38 published on the Internet website of the secretary of state not  
 8-39 later than three days after the completion of the audit.

8-40 Sec. 127.305. PILOT PROGRAM. (a) Notwithstanding Section  
 8-41 127.301(1), the secretary of state shall conduct a pilot program,  
 8-42 beginning with the election taking place November 3, 2020, of the  
 8-43 risk-limiting audit program created under this subchapter.

8-44 (b) The secretary of state shall adopt rules as necessary to  
 8-45 implement this section.

8-46 (c) This section expires August 31, 2024.

8-47 SECTION 5.02. Subchapter A, Chapter 129, Election Code, is  
 8-48 amended by adding Section 129.003 to read as follows:

8-49 Sec. 129.003. PAPER AUDIT TRAIL REQUIRED. (a) In this  
 8-50 section, "auditable voting system" means a voting system that uses,  
 8-51 creates, or displays a paper record that may be read and audited by  
 8-52 the voter.

8-53 (b) Except as otherwise provided by this section, a voting  
 8-54 system that consists of direct recording electronic voting machines  
 8-55 may not be used in an election unless the system is an auditable  
 8-56 voting system.

8-57 (c) Except for a recount under Title 13, or if a  
 8-58 risk-limiting audit conducted under Section 127.302 fails to  
 8-59 produce strong evidence that the reported outcome of the election  
 8-60 matches the result that a full counting of the paper records would  
 8-61 reveal, the electronic vote is the official record of the ballot.  
 8-62 For a recount of ballots cast on a system involving direct recording  
 8-63 electronic voting machines, or if an audit conducted under Section  
 8-64 127.302 fails to produce strong evidence that the reported outcome  
 8-65 of the election matches the result that a full counting of the paper  
 8-66 records would reveal, the paper record is the official record of the  
 8-67 vote cast.

8-68 (d) An authority that purchased a voting system other than  
 8-69 an auditable voting system after September 1, 2014, and before



9-1 September 1, 2019, may use available federal funding and, if  
9-2 federal funding is not available, available state funding to  
9-3 convert the purchased voting system into an auditable voting system  
9-4 in accordance with the following schedule:

9-5 (1) if the voting system was converted into an  
9-6 auditable voting system not later than the election taking place  
9-7 November 3, 2020, the authority is eligible to have 100 percent of  
9-8 the cost of conversion reimbursed under this section; and

9-9 (2) if the authority is not eligible for a 100 percent  
9-10 reimbursement of cost under Subdivision (1) and the voting system  
9-11 was converted into an auditable voting system not later than the  
9-12 election taking place November 5, 2024, the authority is eligible  
9-13 to have 50 percent of the cost of conversion reimbursed under this  
9-14 section.

9-15 (e) Subsections (a)-(c) do not apply to an election held  
9-16 before September 1, 2024.

9-17 (f) A paper record generated by an auditable voting system  
9-18 may be used only for the purposes described by this section and may  
9-19 not be retained by the voter.

9-20 (g) Notwithstanding Subsection (b), a voter voting under  
9-21 Section 64.009 may use a direct recording electronic voting machine  
9-22 regardless of whether the direct recording electronic voting  
9-23 machine is part of an auditable voting system.

9-24 ARTICLE 6. REPEALER AND EFFECTIVE DATE

9-25 SECTION 6.01. The following provisions of the Election Code  
9-26 are repealed:

- 9-27 (1) Section 33.051(c);
- 9-28 (2) Section 61.003(a-1); and
- 9-29 (3) Section 85.036(b).

9-30 SECTION 6.02. This Act takes effect September 1, 2019.

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