

BILL ANALYSIS

Senate Research Center

C.S.S.B. 1
By: Hughes
State Affairs
8/9/2021
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

As efforts to identify and prosecute election crimes have intensified, we have gained a better understanding of the ways certain bad actors take advantage of holes in the electoral process to alter the balance of elections, especially at the local level. At the same time, advances in technology have increased the threat of electronic interference with elections, but also the tools available to prevent that interference.

S.B. 1 seeks to address these issues by strengthening poll watcher protection, bringing about transparency by utilizing technology throughout the electoral process, limiting the most common fraudulent practices and opportunities for fraudulent practices, and providing better and more timely evidence in investigations into alleged voter fraud.

(Original Author's / Sponsor's Statement of Intent)

C.S.S.B. 1 amends current law relating to election integrity and security, including by preventing fraud in the conduct of elections in this state; increases criminal penalties; creates criminal offenses; and provides civil penalties.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the secretary of state in SECTION 1.04 (Section 16.0332, Election Code), SECTION 2.05 (Section 66.004, Election Code), and SECTION 3.11 (Section 127.131, Election Code) of this bill.

SECTION BY SECTION ANALYSIS

ARTICLE 1. REGISTRATION OF VOTERS

SECTION 1.01. Amends Section 13.002, Election Code, by adding Subsection (c-1), as follows:

(c-1) Requires that the information required under Subsections (c)(3) (relating to a statement that the applicant is a United States citizen), (4) (relating to a statement that the applicant is a resident of the county), (5) (relating to a statement that the applicant has not been determined by a court's final judgment to be mentally incapacitated in a certain manner), (6) (relating to a statement that the applicant has not been finally convicted of a felony or is a felon eligible for voter registration), and (8) (relating to certain information identifying the applicant) be supplied by the person desiring to register to vote.

SECTION 1.02. Amends Section 15.021, Election Code, by amending Subsections (b) and (d) and adding Subsections (d-1) and (d-2), as follows:

(b) Creates an exception under Subsection (d) to the requirement that the voter use the registration certificate or a registration application form as the notice, indicating the correct information in the appropriate space on the certificate or application form unless the voter does not have possession of the certificate or an application form at the time of giving the notice. Makes a nonsubstantive change.

(d) Authorizes a voter, rather than a voter who continues to reside in the county in which the voter is registered, to correct information under Section 15.021 (Notice of Change in Registration Information by Voter) by digital transmission of the information under a program administered by the secretary of state (SOS) and the Department of Information Resources.

(d-1) Requires the voter registrar, if the notice indicates that a voter no longer resides in the county in which the voter is registered, to forward the notice and the voter's application for registration to the registrar of the county in which the voter resides. Requires the registrars to coordinate to ensure that the voter's existing registration is canceled immediately after the voter is registered in the county in which the voter resides in accordance with Subsection (d-2).

(d-2) Requires a voter registrar who receives a voter's notice and application from another registrar under Subsection (d-1) to treat it as an original application for registration under Section 13.002 (Application Required), and to register the voter if the voter resides in the county and is otherwise eligible under Section 13.001 (Eligibility for Registration).

SECTION 1.03. Amends Section 15.028, Election Code, as follows:

Sec. 15.028. New heading: NOTICE OF UNLAWFUL VOTING OR REGISTRATION. Requires the voter registrar, if the registrar determines that a person who is not eligible to vote registered to vote or voted in an election, rather than determines that a person who is not a registered voter voted in an election, to execute and deliver an affidavit stating the relevant facts to certain entities, including the attorney general and SOS. Deletes existing text requiring the registrar, if the election covers territory in more than one county, to also deliver an affidavit to the attorney general. Makes nonsubstantive changes.

SECTION 1.04. Amends Section 16.0332, Election Code, by amending Subsection (a) and adding Subsections (a-1), (d), and (e), as follows:

(a) Requires the voter registrar, after the registrar receives notification under Subsection (a-1) of Section 16.0332 (Cancellation Because of Citizenship Status), Section 18.068 (Comparison of Information Regarding Ineligibility) of this code, or Section 62.113 (Compilation of List of Noncitizens), Government Code, of persons excused or disqualified from jury service because of citizenship status or notification of persons who indicate a lack of citizenship status in connection with a motor vehicle or Department of Public Safety of the State of Texas (DPS) record as provided by Subsection (a-1), rather than after the registrar receives a list under Section 18.068 of this code or Section 62.113, Government Code, of persons excused or disqualified from jury service because of citizenship status, to deliver to each registered voter whose name appears on the list a written notice requiring the voter to submit to the registrar certain information.

(a-1) Requires SOS to enter into an agreement with DPS under which information in the existing statewide computerized voter registration list is compared against information in the database of DPS on a monthly basis to verify the accuracy of citizenship status information previously provided on voter registration applications. Requires SOS, in comparing information under this subsection, to consider only a voter's information in the DPS database that was derived from documents presented by the voter to DPS after the person's current voter registration became effective, and prohibits SOS from considering information derived from documents presented by the voter to the department before the person's current voter registration became effective.

(d) Requires SOS to prescribe rules for the administration of this section.

(e) Requires SOS, not later than December 31 of each year, to provide a report to the legislature of the number of voter registrations canceled under this section during the calendar year.

SECTION 1.05. Amends Section 18.068, Election Code, by amending Subsection (a) and adding Subsection (a-1), as follows:

(a) Requires SOS to quarterly compare the information received under certain sections, including under Section 62.114 (Compilation of List of Nonresidents), Government Code, to the statewide computerized voter registration list. Requires SOS, if SOS determines that a voter on the registration list meets certain criteria, including if a voter has been excused or disqualified from jury service because the voter is not a resident of the county in which the voter is registered to vote, to send notice of the determination to:

(1) creates this subdivision from existing text and makes a nonsubstantive change; and

(2) the attorney general, who is required to quarterly review the information to investigate whether a person has committed an offense under Section 13.007 (False Statement on Application) or other law.

Makes a nonsubstantive change.

(a-1) Provides that SOS is not required to send notice under Subsection (a) for a voter who is subject to an exemption from jury service under Section 62.106 (Exemption From Jury Service), Government Code, if that exemption is the only reason the voter is excused from jury service.

SECTION 1.06. Amends Section 31.006, Election Code, as follows:

Sec. 31.006. New heading: REFERRAL TO ATTORNEY GENERAL. (a) Requires SOS, if, after receiving or discovering information indicating that criminal conduct in connection with an election has occurred, SOS determines that there is reasonable cause to suspect that criminal conduct occurred, to promptly refer the information to the attorney general. Requires SOS to deliver to the attorney general all pertinent documents and information, rather than all pertinent documents, in SOS's possession. Deletes existing text requiring SOS, if, after receiving a complaint alleging criminal conduct in connection with an election, SOS determines that there is reasonable cause to suspect that the alleged criminal conduct occurred, to promptly refer the complaint to the attorney general.

(b) Makes conforming changes to this subsection.

SECTION 1.07. Amends Section 62.113(b), Government Code, as follows:

(b) Requires a clerk of the court, on the third business day of each month, to send a copy of the list of persons excused or disqualified because of citizenship in the previous month to certain persons, including to the attorney general for an investigation of whether the person committed an offense under Section 13.007, Election Code, or other law. Makes a nonsubstantive change.

SECTION 1.08. Amends Sections 62.114(b) and (c), Government Code, as follows:

(b) Requires a clerk of the court, on the third business day of each month, to send a copy of the list of persons excused or disqualified in the previous month because the persons do not reside in the county to the voter registrar of the county, SOS, and the attorney general and the county or district attorney for an investigation of whether the person committed an offense under Section 13.007, Election Code, or other law. Makes a nonsubstantive change.

(c) Prohibits a list compiled under this section from being used for a purpose other than a purpose described by certain sections, including Section 18.068 (Comparison of Information Regarding Ineligibility), Election Code.

ARTICLE 2. CONDUCT AND SECURITY OF ELECTIONS

SECTION 2.01. Amends Section 43.031, Election Code, by amending Subsection (b) and adding Subsections (b-1) and (b-2), as follows:

(b) Prohibits a polling place, except as provided by Subsection (b-1), from being located in a tent or similar temporary moveable structure or in a facility primarily designed for motor vehicles. Prohibits any voter from casting a vote from inside a motor vehicle unless the voter meets the requirements of Section 64.009 (Voter Unable to Enter Polling Place).

(b-1) Authorizes a polling place to be located in a tent or similar temporary moveable structure if:

(1) a building selected for a polling place is later determined by the county commissioners court to be not reasonably accessible due to fire, flood, or other natural disaster rendering the building unsafe for public use;

(2) a suitable substitute building is not available; and

(3) the tent or similar temporary moveable structure is adjacent to the building described by Subdivision (1).

(b-2) Provides that if the county commissioners court makes a determination described by Subsection (b-1)(1):

(1) the determination is valid only for the next scheduled election; and

(2) the court is required to send a record of that determination to SOS as soon as practicable.

SECTION 2.02. Amends Section 61.002, Election Code, as follows:

Sec. 61.002. New heading: OPENING AND CLOSING POLLING PLACE FOR VOTING. (a) Requires the presiding election judge or alternate election judge, immediately before opening the polls for voting on the first day of early voting and on election day, to confirm that each voting machine has any public counter reset to zero and to print the tape that shows the counter was set to zero for each candidate or measure on the ballot.

(b) Creates this subsection from existing text and makes no further changes.

(c) Requires the presiding election judge or alternate election judge, immediately after closing the polls for voting on election day, to print the tape to show the number of votes cast for each candidate or ballot measure for each voting machine.

(d) Requires each election judge or alternate election judge to sign a tape printed under this section.

SECTION 2.03. Amends Section 64.007(c), Election Code, as follows:

(c) Requires an election officer to maintain a register of spoiled ballots at the polling place, including spoiled ballots from a direct recording electronic voting unit. Requires SOS to create and promulgate a form to be used for this purpose.

SECTION 2.04. Amends Subchapter A, Chapter 65, Election Code, by adding Section 65.017, as follows:

Sec. 65.017. VOTE TABULATING EQUIPMENT. Prohibits equipment to tabulate votes, beginning January 1, 2024, from being used if any wireless connectivity capability of the equipment has not been disabled or removed.

SECTION 2.05. Amends Subchapter A, Chapter 66, Election Code, by adding Section 66.004, as follows:

Sec. 66.004. POLLING PLACE CHECKLISTS. Requires SOS to adopt rules and create a checklist or similar guidelines to assist the presiding judge of a polling place in processing forms and conducting procedures required by this code at the opening and closing of the polling place.

SECTION 2.06. Amends Section 66.052, Election Code, as follows:

Sec. 66.052. New heading: DELIVERY BY ELECTION CLERK; CHAIN OF CUSTODY. (a) Creates this subsection from existing text and makes no further changes.

(b) Requires the presiding judge of a polling place, if the presiding judge designates a clerk to deliver election supplies, to attest to the designation, and requires the clerk to attest to the clerk's acceptance of the responsibility. Requires SOS to create and promulgate a form to facilitate compliance with this section.

SECTION 2.07. Amends Section 85.005, Election Code, as follows:

Sec. 85.005. REGULAR DAYS AND HOURS FOR VOTING. (a) Provides that, except as provided by Subsection (c), in an election in which a county clerk is the early voting clerk under Section 83.002 (County Clerk as Early Voting Clerk), early voting by personal appearance at the main early voting polling place is required to be conducted on each weekday of the early voting period that is not a legal state holiday and for a period of at least nine hours, except that voting is prohibited from being conducted earlier than 6 a.m. or later than 9 p.m.

Deletes existing text providing that, except as provided by Subsection (c), in an election in which a county clerk or city secretary is the early voting clerk under Section 83.002 or 83.005 (Clerk for City Elections), early voting by personal appearance at the main early voting polling place is required to be conducted on the weekdays of the early voting period and during the hours that the county clerk's or city secretary's main business office is regularly open for business.

(b) Requires that early voting by personal appearance at the main early voting polling place, in an election to which Subsection (a) does not apply, be conducted at least nine hours, rather than eight hours, each weekday of the early voting period that is not a legal state holiday unless the territory covered by the election has fewer than 1,000 registered voters. Requires that the voting in that case be conducted at least four hours, rather than three hours, each day.

(c) Requires that the voting in a primary election or the general election for state and county officers, in a county with a population of 30,000 or more, rather than a population of 100,000 or more, be conducted at the main early voting polling place for at least 12 hours on each weekday of the last week of the early voting period, and requires that the voting in a special election ordered by the governor be conducted at the main early voting polling place for at least 12 hours on each of the last two days of the early voting period. Prohibits voting under this subsection from being conducted earlier than 6 a.m. or later than 9 p.m. Makes a conforming change.

(d) Provides that a voter who has not voted before the scheduled time for closing a polling place is entitled to vote after that time if the voter is in line at the polling place by closing time. Requires SOS to promulgate any materials and provide any

training to presiding judges necessary to properly process voters under this subsection.

Deletes existing text requiring that early voting by personal appearance at the main early voting polling place, in an election ordered by a city, be conducted for at least 12 hours on one weekday, if the early voting period consists of less than six weekdays, or on two weekdays, if the early voting period consists of six or more weekdays.

SECTION 2.08. Amends Sections 85.006(b) and (e), Election Code, as follows:

(b) Authorizes only the early voting clerk to order voting on a Saturday or Sunday in an election in which a county clerk is the early voting clerk under Section 83.002, rather than in an election in which a county clerk or city secretary is the early voting clerk under Section 83.002 or 83.005.

(e) Requires the early voting clerk, in a primary election or the general election for state and county officers in a county with a population of 30,000 or more, to order voting by personal appearance at the main early voting polling place to be conducted on the last Saturday of the early voting period for at least 12 hours, except that voting is prohibited from being conducted earlier than 6 a.m. or later than 9 p.m., and on the last Sunday of the early voting period for at least six hours, except that voting is prohibited from being conducted earlier than 6 a.m. or later than 9 p.m.

Deletes existing text requiring the early voting clerk, in a primary election or the general election for state and county officers in a county with a population of 100,000 or more, to order personal appearance voting at the main early voting polling place to be conducted for at least 12 hours on the last Saturday and for at least five hours on the last Sunday of the early voting period. Makes a conforming change.

SECTION 2.09. Amends Section 85.010(a-1), Election Code, to redefine "eligible county polling place" for Section 85.010 (Early Voting Polling Place for Certain Elections Held by Political Subdivisions).

SECTION 2.10. Amends Section 85.061, Election Code, by amending Subsection (a) and adding Subsections (a-1) and (a-2), as follows:

(a) Authorizes a polling place, if a suitable room is unavailable inside the branch office, to be located in another room inside the same building as the branch office. Prohibits the polling place, except as provided by Subsection (a-1), from being located in a tent or similar temporary moveable structure or a parking garage, parking lot, or similar facility designed primarily for motor vehicles. Makes a nonsubstantive change.

(a-1) Authorizes an early voting polling place to be located in a tent or similar temporary moveable structure if:

(1) a building selected for an early voting polling place is later determined by the county commissioners court to be not reasonably accessible due to fire, flood, or other natural disaster rendering the building unsafe for public use;

(2) a suitable substitute building is not available; and

(3) the tent or similar temporary moveable structure is adjacent to the building described by Subdivision (1).

(a-2) Provides that if the county commissioners court makes a determination described by Subsection (a-1)(1):

(1) the determination is valid only for the next scheduled election; and

(2) the court is required to send a record of that determination to the secretary of state as soon as practicable.

SECTION 2.11. Amends Section 85.062, Election Code, by amending Subsection (b) and adding Subsections (b-1), (b-2), and (f-1), as follows:

(b) Authorizes an early voting polling place established under Section 85.062 (Temporary Branch Polling Place) to be located, subject to Subsection (d) (relating to requiring the commissioners courts of counties with certain populations to establish a certain number of early voting polling places), at any place in the territory served by the early voting clerk and to be located inside any building, rather than in any stationary structure, as directed by the authority establishing the branch office. Prohibits the polling place, except as provided by Subsection (b-1), from being located in a tent or similar temporary movable structure or a parking garage, parking lot, or similar facility designed primarily for motor vehicles in the general election for state and county officers, general primary election, or runoff primary election. Makes nonsubstantive changes.

(b-1) Authorizes a temporary branch polling place to be located in a tent or similar temporary moveable structure if:

(1) a building selected for a temporary branch polling place is later determined by the county commissioners court to be not reasonably accessible due to fire, flood, or other natural disaster rendering the building unsafe for public use;

(2) a suitable substitute building is not available; and

(3) the tent or similar temporary moveable structure is adjacent to the building described by Subdivision (1).

(b-2) Provides that if the county commissioners court makes a determination described by Subsection (b-1)(1):

(1) the determination is valid only for the next scheduled election; and

(2) the court is required to send a record of that determination to the secretary of state as soon as practicable.

(f-1) Requires the commissioners court of a county, notwithstanding any other provision of this section concerning the location of temporary branch polling places, in an election in which countywide polling places are used, to employ the same methodology it uses to determine the location of countywide polling places to determine the location of temporary branch polling places.

SECTION 2.12. Amends Section 124.002, Election Code, by adding Subsection (c), to prohibit voting system ballots from being arranged in a manner that allows a political party's candidates to be selected in one motion or gesture.

SECTION 2.13. Amends Section 127.1232, Election Code, as follows:

Sec. 127.1232. SECURITY OF VOTED BALLOTS. (a) Creates this subsection from existing text. Requires the general custodian of election records to post a licensed peace officer, rather than a guard, to ensure the security of ballot boxes containing voted ballots throughout the period of tabulation at the central counting station.

(b) Provides that the general custodian of election records in a county with a population of less than 100,000 is authorized, and the general custodian of election records in a county with a population of 100,000 or more is required, to implement a video surveillance system that retains a record of all areas containing voted ballots:

(1) from the time the voted ballots are delivered to the central counting station until the canvass of precinct election returns; and

(2) from the time the voted ballots are delivered to the signature verification committee or early voting ballot board until the canvass of precinct election returns.

(c) Provides that a video from a system implemented under Subsection (b) is authorized to be made available to the public by a livestream in a county with a population of less than 100,000, and is required to be made available to the public by a livestream in a county with a population of 100,000 or more.

(d) Provides that the video recorded is an election record under Section 1.012 (Public Inspection of Election Records) and is required to be retained by the general custodian of election records until the end of the calendar year in which an election is held or until an election contest filed in the county has been resolved, whichever is later.

ARTICLE 3. ELECTION OFFICERS AND OBSERVERS

SECTION 3.01. Amends Subchapter A, Chapter 33, Election Code, by adding Section 33.008, as follows:

Sec. 33.008. TRAINING MANUAL. (a) Requires SOS to publish and maintain a training manual for watchers and to make the manual available on SOS's Internet website.

(b) Requires an appointing authority to provide each watcher appointed by the authority with a copy of the training manual maintained under this section.

SECTION 3.02. Amends Section 33.051, Election Code, by adding Subsections (g) and (h), as follows:

(g) Provides that an election officer commits an offense if the officer intentionally or knowingly refuses to accept a watcher for service when acceptance of the watcher is required by Section 33.051 (Acceptance of Watcher). Provides that an offense under this subsection is a Class A misdemeanor.

(h) Requires the officer presented with a watcher's certificate of appointment, before accepting a watcher, to require the watcher to take a certain oath, administered by the officer.

SECTION 3.03. Amends Section 33.056, Election Code, by amending Subsection (a) and adding Subsections (e) and (f), as follows:

(a) Entitles a watcher to sit or stand near enough to see and hear the election officers conducting the observed activity, except as otherwise prohibited by Chapter 33 (Watchers), rather than entitles a watcher to sit or stand conveniently near the election officers conducting the observed activity.

(e) Prohibits a watcher, except as provided by Section 33.057(b) (relating to prohibiting a watcher from being present at the voting station when a voter is preparing the voter's ballot or is being assisted by a person of the voter's choice), from being denied free movement where election activity is occurring within the location at which the watcher is serving.

(f) Provides that in this code, a watcher who is entitled to "observe" an election activity is entitled to sit or stand near enough to see and hear the activity.

SECTION 3.04. Amends Subchapter C, Chapter 33, Election Code, by adding Section 33.0605, as follows:

Sec. 33.0605. OBSERVING DATA STORAGE SEALING AND TRANSFER. (a) Authorizes a watcher appointed to serve at a polling place in an election who is available at the time of the action to observe all election activities relating to closing the polling place, including the sealing and transfer of a memory card, flash drive, hard drive, data storage device, or other medium now existing or later developed used by the voting system equipment.

(b) Provides that, notwithstanding any other provision of this code, a watcher duly accepted for service at a polling location is entitled to follow the transfer of election materials from the polling place at which the watcher was accepted to a regional tabulating center, the central counting station, or any other location designated to process election materials. Requires the authority responsible for administering a regional tabulating center or another location where election materials are processed to accept duly appointed watchers for service in the same manner a watcher is accepted for service under Section 33.051 and to accept the same number of watchers that are authorized to serve under Section 33.007(a) (relating to authorizing each appointing authority to appoint not more than two watchers for each precinct polling place, meeting place for an early voting ballot board, or central counting station involved in the election).

SECTION 3.05. Amends Section 33.061(a), Election Code, as follows:

(a) Provides that a person commits an offense of unlawfully obstructing a watcher if the person serves in an official capacity at a location at which the presence of watchers is authorized and knowingly prevents a watcher from observing an activity or procedure the person knows the watcher is entitled to observe, including by taking any action to obstruct the view of a watcher or distance the watcher from the activity or procedure to be observed in a manner that would make observation not reasonably effective.

SECTION 3.06. Amends Subchapter C, Chapter 33, Election Code, by adding Section 33.063, as follows:

Sec. 33.063. RELIEF. (a) Authorizes a watcher, or the appointing authority for a watcher, who believes that the watcher was unlawfully prevented or obstructed from the performance of the watcher's duties to seek injunctive relief under Section 273.081 (Injunction), including issuance of temporary orders; a writ of mandamus under Section 161.009 (Party Officer Subject to Mandamus) or 273.061 (Jurisdiction); and any other remedy available under law.

(b) Provides that the relief provided by this section is available to a state inspector appointed under Chapter 34 (State Inspectors) or any other election inspector authorized by law.

SECTION 3.07. Amends Section 86.006, Election Code, by amending Subsection (a) and adding Subsection (a-2), as follows:

(a) Authorizes the carrier envelope for a marked ballot voted under Chapter 86 (Conduct of Voting by Mail) to be delivered in another envelope and requires that it be transported and delivered only by certain methods, including, subject to Subsections (a-1) (relating to authorizing a voter to deliver a marked ballot in person to the early voting clerk's office only while the polls are open on election day) and (a-2), rather than subject to Subsection (a-1), in-person delivery by the voter who voted the ballot.

(a-2) Requires that an in-person delivery of a marked ballot voted under this chapter be received by an election official at the time of delivery. Requires the receiving official to record the voter's name, signature, and type of identification provided under Section 63.0101 (Documentation of Proof of Identification) on a roster prescribed by SOS. Requires the receiving official to attest on the roster that the delivery complies with Section 86.006 (Method of Returning Marked Ballot).

SECTION 3.08. Amends Chapter 121, Election Code, by adding Section 121.004, as follows:

Sec. 121.004. COMMUNICATIONS WITH VOTING SYSTEMS VENDOR PUBLIC INFORMATION. Provides that, except as provided by Sections 552.110 (Exception: Confidentiality of Trade Secrets; Confidentiality of Certain Commercial or Financial Information) and 552.1101 (Exception: Confidentiality of Proprietary Information), Government Code, a written letter, e-mail, or other communication, including a communication made confidential by other law, between a public official and a voting systems vendor is not confidential, is public information for purposes of Chapter 552 (Public Information), Government Code, and is not subject to an exception to disclosure provided by Chapter 552, Government Code.

SECTION 3.09. Amends Subchapter A, Chapter 127, Election Code, by adding Section 127.009, as follows:

Sec. 127.009. ELECTRONIC DEVICES IN CENTRAL COUNTING STATION. (a) Requires a counting station manager and the presiding judge of the counting station to develop a protocol under which any electronic device inside a central counting station that is necessary to count votes is equipped with software that tracks all input and activity on the electronic device.

(b) Requires the counting station manager and the presiding judge of the counting station to ensure that the input and activity tracked by the software is printed and delivered to SOS not later than the fifth day after vote counting is complete.

(c) Provides that this section applies only to a central counting station located in a county with a population of 250,000 or more.

SECTION 3.10. Amends Section 127.1301, Election Code, as follows:

Sec. 127.1301. New heading: CENTRALLY COUNTED OPTICAL SCAN BALLOTS.

(a) Creates this subsection from existing text and makes no further changes.

(b) Prohibits an authority operating a central counting station under Chapter 127 (Processing Electronic Voting System Results), after January 1, 2024, from purchasing or using a centrally counted optical ballot scan system that uses a data storage disc on which information, once written, is capable of being modified.

SECTION 3.11. Amends Section 127.131, Election Code, by adding Subsection (f), as follows:

(f) Requires the presiding judge of the central counting station to provide and attest to a written reconciliation of votes and voters at the close of tabulation for election day and again after the central counting station meets for the last time to process late-arriving ballots by mail and provisional ballots. Requires SOS to create and promulgate rules and a form to facilitate compliance with this subsection. Requires that the form be posted on a website maintained by the county along with election returns and results.

SECTION 3.12. Amends Section 129.023, Election Code, by adding Subsections (b-2) and (c-1), as follows:

(b-2) Requires the general custodian of election records, if the test is being conducted for an election in which a county election board has been established under Section 51.002 (County Election Board), to notify each member of the board of the test at least 48 hours before the date of the test. Requires each member of the county election board, if the board chooses to witness the test, to sign the statement required by Subsection (e)(1) (relating to requiring the testing board and general custodian of election records to sign a written statement attesting to certain information to provide a full and accurate account of each voting machine's condition).

(c-1) Requires that a test conducted under Section 129.023 (Public Test of Logic and Accuracy) also require the general custodian of election records to demonstrate, using a representative sample of voting system equipment, that the source code of the equipment has not been altered.

ARTICLE 4. VOTING BY MAIL

SECTION 4.01. Amends Section 84.001(b), Election Code, as follows:

(b) Requires that an application for an early voting ballot to be voted by mail be submitted in writing and signed by the applicant using ink on paper. Provides that an electronic signature or photocopied signature is not permitted.

SECTION 4.02. Amends Subchapter A, Chapter 84, Election Code, by adding Section 84.0011, as follows:

Sec. 84.0011. SOLICITATION OF BALLOT BY MAIL APPLICATIONS PROHIBITED. Prohibits the early voting clerk from making any attempt to solicit a person to complete an application for an early voting ballot by mail, whether directly or through a third party.

SECTION 4.03. Amends Section 84.002, Election Code, as effective September 1, 2021, by amending Subsection (a) and adding Subsection (b-1), as follows:

(a) Requires that an early voting ballot application include:

(1) makes no changes to this subdivision;

(1-a) the following information:

(A) the number of the applicant's driver's license, election identification certificate, or personal identification card issued by DPS;

(B) if the applicant has not been issued a number described by Paragraph (A), the last four digits of the applicant's social security number; or

(C) a statement by the applicant that the applicant has not been issued a number described by Paragraph (A) or (B);

(2)-(7) makes no changes to these subdivisions.

(b-1) Authorizes a person to use the number of a driver's license, election identification certificate, or personal identification card that has expired for the purpose of fulfilling the requirement under Subsection (a)(1- a) if the license or identification is otherwise valid.

SECTION 4.04. Amends Section 84.011(a), Election Code, as effective September 1, 2021, as follows:

(a) Requires that the officially prescribed application form for an early voting ballot include certain criteria, including a space for entering the information required under Section 84.002(a)(1-a).

SECTION 4.05. Amends Subchapter A, Chapter 84, Election Code, by adding Section 84.0111, as follows:

Sec. 84.0111. DISTRIBUTION OF APPLICATION FORM. (a) Prohibits an officer or employee of this state or of a political subdivision of this state, except as provided by Subsection (c) or as otherwise authorized by this code, from distributing an application form for an early voting ballot to a person who did not request an application under Section 84.001 (Application Required).

(b) Prohibits an officer or employee of this state or of a political subdivision of this state from using public funds to facilitate the distribution by another person of an application form for an early voting ballot to a person who did not request an application under Section 84.001.

(c) Authorizes a political party or a candidate for office to distribute an application form for an early voting ballot to a person who did not request an application under Section 84.001.

SECTION 4.06. Amends Section 84.032(c), Election Code, as follows:

(c) Authorizes an applicant for a ballot to be voted by mail to submit a request after the close of early voting by personal appearance by appearing in person and:

(1) makes no changes to this subdivision; or

(2) executing an affidavit that the applicant:

(A) and (B) makes nonsubstantive changes to these paragraphs; or

(C) received notice of a defect under Section 87.0271(b) or 87.0411(b).

SECTION 4.07. Amends Section 84.035, Election Code, as follows:

Sec. 84.035. BALLOT SENT TO APPLICANT. (a) Creates this subsection from existing text and makes no further changes.

(b) Authorizes an election judge to permit a person to whom an early voting ballot has been sent who cancels the person's application for a ballot to be voted by mail in accordance with Section 84.032 (Request for Cancellation) but fails to return the ballot to be voted by mail to the early voting clerk, deputy early voting clerk, or presiding judge as provided by that section to vote only a provisional ballot under Section 63.011 (Provisional Voting).

SECTION 4.08. Amends Section 86.001, Election Code, by adding Subsection (f), as follows:

(f) Requires the early voting clerk to reject the application for a ballot to be voted by mail if the information required under Section 84.002(a)(1-a) included on the application does not identify the same voter identified on the applicant's application for voter registration under Section 13.002(c)(8) (relating to requiring that a voter registration application provide the applicant's driver's license or personal identification number, the applicant's social security number, or a certain statement).

SECTION 4.09. Amends Section 86.002, Election Code, by adding Subsections (g), (h), and (i), as follows:

(g) Requires that the carrier envelope provided with each ballot to be voted by mail include a space that is hidden from view when the envelope is sealed for the voter to enter the following information:

(1) the number of the voter's driver's license, election identification certificate, or personal identification card issued by DPS;

(2) if the voter has not been issued a number described by Subdivision (1), the last four digits of the voter's social security number; or

(3) a statement by the applicant that the applicant has not been issued a number described by Subdivision (1) or (2).

(h) Authorizes a person to use the number of a driver's license, election identification certificate, or personal identification card that has expired for purposes of Subsection (g) if the license or identification is otherwise valid.

(i) Prohibits any record associating an individual voter with a ballot from being created.

SECTION 4.10. Amends Section 86.011(c), Election Code, as follows:

(c) Requires the early voting clerk, if the return is not timely, to enter the time of receipt on the carrier envelope and retain it in a locked container for the period for preserving the precinct election records.

SECTION 4.11. Amends Section 87.027(i), Election Code, as follows:

(i) Authorizes the signature verification committee to also compare the signatures on the carrier envelope certificates with any known signature of the voter, rather than with any two or more signatures of the voter made within the preceding six years, on file with the county clerk or voter registrar to determine whether the signatures are those of the voter.

SECTION 4.12. Amends Subchapter B, Chapter 87, Election Code, by adding Section 87.0271, as follows:

Sec. 87.0271. OPPORTUNITY TO CORRECT DEFECT: SIGNATURE VERIFICATION COMMITTEE. (a) Provides that this section applies to an early voting ballot voted by mail for which the voter did not sign the carrier envelope certificate, for which it cannot immediately be determined whether the signature on the carrier envelope certificate is that of the voter, that is missing any required statement of residence, or that contains incomplete information with respect to a witness.

(b) Authorizes the signature verification committee, before deciding whether to accept or reject a timely delivered ballot under Section 87.027 (Signature Verification Committee), to:

(1) return the carrier envelope to the voter by mail, if the signature verification committee determines that it would be possible to correct the defect and return the carrier envelope before the time the polls are required to close on election day; or

(2) notify the voter of the defect by telephone or e-mail and inform the voter that the voter is authorized to come to the early voting clerk's office in person to correct the defect or to request to have the voter's application to vote by mail canceled under Section 84.032.

(c) Requires the signature verification committee, if the committee takes an action described by Subsection (b), to take either action described by that subsection with respect to each ballot in the election to which this section applies.

(d) Entitles a poll watcher to observe an action taken under Subsection (b).

(e) Authorizes SOS to prescribe any procedures necessary to implement this section.

SECTION 4.13. Amends Section 87.041, Election Code, by amending Subsections (b) and (e) and adding Subsection (d-1), as follows:

(b) Authorizes an early voting ballot to be accepted only if certain criteria are met, including if the information required under Section 86.002(g) provided by the voter identifies the same voter identified on the voter's application for voter registration under Section 13.002(c)(8). Makes nonsubstantive changes.

(d-1) Requires that the signature on the early voting ballot application and on the carrier envelope certificate be rebuttably presumed to be the signatures of the voter if a voter provides the information required under Section 86.002(g) and it identifies the same voter identified on the voter's application for voter registration under Section 13.002(c)(8).

(e) Authorizes the early voting ballot board, in making the determination under Subsection (b)(2) (relating to authorizing an early voting ballot to be accepted if neither the voter's signature on the ballot application nor the signature on the carrier envelope certificate is determined to have been executed by a person other than the voter, unless signed by a witness), to determine whether the signatures are those of the voter, to also compare the signatures with any known signature of the voter on file with the county clerk or voter registrar. Deletes existing text authorizing the board, in making the determination under Subsection (b)(2), to also compare the signatures with any two or more signatures of the voter made within the preceding six years and on file with the county clerk or voter registrar to determine whether the signatures are those of the voter.

SECTION 4.14. Amends Subchapter C, Chapter 87, Election Code, by adding Section 87.0411, as follows:

Sec. 87.0411. OPPORTUNITY TO CORRECT DEFECT: EARLY VOTING BALLOT BOARD. (a) Provides that this section applies to an early voting ballot voted by mail for which the voter did not sign the carrier envelope certificate, for which it cannot immediately be determined whether the signature on the carrier envelope certificate is that of the voter, that is missing any required statement of residence, or to a ballot containing incomplete information with respect to a witness.

(b) Authorizes the early voting ballot board, before deciding whether to accept or reject a timely delivered ballot under Section 87.041 (Accepting Voter), to:

(1) return the carrier envelope to the voter by mail, if the early voting ballot board determines that it would be possible to correct the defect and return the carrier envelope before the time the polls are required to close on election day; or

(2) notify the voter of the defect by telephone or e-mail and inform the voter that the voter is authorized to come to the early voting clerk's office in person to correct the defect or to request to have the voter's application to vote by mail canceled under Section 84.032.

(c) Requires the early voting ballot board, if the board takes an action described by Subsection (b), to take either action described by that subsection with respect to each ballot in the election to which this section applies.

(d) Entitles a poll watcher to observe an action taken under Subsection (b).

(e) Authorizes SOS to prescribe any procedures necessary to implement this section.

SECTION 4.15. Amends Section 87.0431(b), Election Code, as follows:

(b) Requires the early voting clerk, not later than the 30th day after election day, to deliver notice to the attorney general, including certified copies of the carrier envelope and corresponding ballot application, of any ballot rejected for certain reasons, including because the early voting ballot board or the signature verification committee determined that another violation of the Election Code occurred. Makes nonsubstantive changes.

SECTION 4.16. Amends Sections 87.062(a) and (c), Election Code, as follows:

(a) Makes nonsubstantive changes to this subsection.

(c) Requires that ballots voted by mail be tabulated and stored separately from the ballots voted by personal appearance and be separately reported on the returns. Deletes existing text requiring that the results of all early voting ballots counted by the early voting ballot board under Subchapter D (Processing Manually Counted Ballots) be included in the same return.

SECTION 4.17. Amends Section 87.103, Election Code, as follows:

Sec. 87.103. COUNTING BALLOTS AND PREPARING RETURNS. (a) Requires that the early voting electronic system ballots counted at a central counting station, the ballots cast at precinct polling places, and the ballots voted by mail be tabulated separately and be separately reported on the returns. Makes a nonsubstantive change.

(b) Requires that the early voting returns prepared at the central counting station include any early voting results obtained by the early voting ballot board under Subchapter D, rather than under Subchapters D and E.

SECTION 4.18. Amends Section 87.126, Election Code, by adding Subsection (a-1), as follows:

(a-1) Requires that electronic records made under Section 87.126 (Electronic Recording of Ballot Materials and Applications) record both sides of any application, envelope, or ballot recorded, and that all such records be provided to the early voting ballot board, the signature verification committee, or both.

SECTION 4.19. Amends Subchapter G, Chapter 87, Election Code, by adding Section 87.128, as follows:

Sec. 87.128. NOTES. Entitles each member of an early voting ballot board and each member of a signature verification committee to take and keep any notes reasonably necessary to perform the member's duties under Chapter 87 (Processing Early Voting Results).

ARTICLE 5. ASSISTANCE OF VOTERS

SECTION 5.01. Amends Section 64.009, Election Code, by amending Subsection (b) and adding Subsections (e), (f), (f-1), (g), and (h), as follows:

(b) Authorizes the regular voting procedures, except those in Subchapter B (Assisting Voter), to be modified by the election officer to the extent necessary to conduct voting under this section.

(e) Provides that except as provided by Section 33.057, a poll watcher is entitled to observe any activity conducted under this section.

(f) Requires a person who simultaneously assists three or more voters voting under this section by providing the voters with transportation to the polling place to complete and sign a form, provided by an election officer, that contains the person's name and address and whether the person is providing assistance solely under this section or under both this section and Subchapter B.

(f-1) Provides that Subsection (f) does not apply if the person is related to each voter within the second degree by affinity or the third degree by consanguinity, as determined under Subchapter B (Relationships by Consanguinity or by Affinity), Chapter 573 (Degrees of Relationship; Nepotism Prohibitions), Government Code.

(g) Requires that a form completed under Subsection (f) be delivered to SOS as soon as practicable. Requires SOS to retain a form delivered under this section for the period for preserving the precinct election records and to make the form available to the attorney general for inspection upon request.

(h) Requires SOS to prescribe the form described by Subsection (f).

SECTION 5.02. Amends Section 64.031, Election Code, as follows:

Sec. 64.031. ELIGIBILITY FOR ASSISTANCE. Provides that a voter is eligible to receive assistance in marking or reading the ballot, rather than assistance in marking the ballot, as provided by Subchapter B, if the voter cannot prepare or read the ballot, rather than prepare the ballot, because of a physical disability that renders the voter unable to write or see or an inability to read the language in which the ballot is written.

SECTION 5.03. Amends Subchapter B, Chapter 64, Election Code, by adding Section 64.0322, as follows:

Sec. 64.0322. SUBMISSION OF FORM BY ASSISTANT. (a) Requires a person, other than an election officer, who assists a voter in accordance with Chapter 64 (Voting Procedures) to complete a form stating:

- (1) the name and address of the person assisting the voter;
- (2) the relationship to the voter of the person assisting the voter; and
- (3) whether the person assisting the voter received or accepted any form of compensation or other benefit from a candidate, campaign, or political committee.

(b) Requires SOS to prescribe the form required by this section. Requires that the form be incorporated into the official carrier envelope if the voter is voting an early voting ballot by mail and receives assistance under Section 86.010 (Unlawfully Assisting Voter Voting Ballot by Mail), or be submitted to an election officer at the time the voter casts a ballot if the voter is voting at a polling place or under Section 64.009.

SECTION 5.04. Amends Section 64.034, Election Code, as follows:

Sec. 64.034. OATH. Requires a person, other than an election officer, selected to provide assistance to a voter to take a certain oath, administered by an election officer at the polling place, before providing assistance. Sets forth the required language of the oath.

SECTION 5.05. Amends Sections 86.010(e), (h), and (i), Election Code, as follows:

(e) Requires a person who assists a voter to prepare a ballot to be voted by mail to enter on the official carrier envelope of the voter:

- (1) creates this subdivision from existing text and makes a nonsubstantive change;
- (2) the relationship of the person providing the assistance to the voter; and
- (3) whether the person received or accepted any form of compensation or other benefit from a candidate, campaign, or political committee in exchange for providing assistance.

Deletes existing text requiring a person who assists a voter to prepare a ballot to be voted by mail to enter certain information on the official carrier envelope of the voter.

(h) Provides that Subsection (f) (relating to providing that a person who assists a voter commits an offense if the person knowingly fails to comply with certain requirements) does not apply to:

- (1) a violation of Subsection (c) (relating to requiring a person assisting a voter to sign a certain written oath that is part of the certificate on the official carrier

envelope), if the person is related to the voter within the second degree by affinity or the third degree by consanguinity, as determined under Subchapter B, Chapter 573, Government Code, or was physically living in the same dwelling as the voter at the time of the event; or

(2) a violation of Subsection (e), if the person is related to the voter within the second degree by affinity or the third degree by consanguinity, as determined under Subchapter B, Chapter 573, Government Code.

Makes nonsubstantive changes.

(i) Provides that an offense under this section for a violation of Subsection (c), rather than an offense under this section, is increased to the next higher category of offense if it is shown on the trial of an offense under this section that the defendant was previously convicted of an offense under this code, the offense involved a voter 65 years of age or older, or the defendant committed another offense under this section in the same election.

SECTION 5.06. Amends Section 86.013(b), Election Code, as follows:

(b) Requires that spaces appear on the reverse side of the official carrier envelope for providing certain information, including for indicating the relationship of a certain person to the voter. Makes nonsubstantive changes.

ARTICLE 6. FRAUD AND OTHER UNLAWFUL PRACTICES

SECTION 6.01. Amends Chapter 63, Election Code, by adding Section 63.0111, as follows:

Sec. 63.0111. OFFENSES RELATED TO PROVISIONAL VOTING. (a) Provides that an election judge commits an offense if the judge knowingly provides a voter with a form for an affidavit required by Section 63.001 (Regular Procedure for Accepting Voter) if the form contains information that the judge entered on the form knowing it was false.

(b) Provides that an offense under this section is a state jail felony.

SECTION 6.02. Amends Sections 276.004(a) and (b), Election Code, as follows:

(a) Provides that a person commits an offense of unlawfully prohibiting an employee from voting if, with respect to another person over whom the person has authority in the scope of employment, the person knowingly:

(1) refuses to permit the other person to be absent from work on election day or while early voting is in progress for the purpose of attending the polls to vote; or

(2) subjects or threatens to subject the other person to a penalty for attending the polls on election day or while early voting is in progress to vote.

(b) Makes a conforming change to this subsection.

SECTION 6.03. Amends Chapter 276, Election Code, by adding Sections 276.015, 276.016, and 276.017, as follows:

Sec. 276.015. VOTE HARVESTING. (a) Defines "benefit" and "vote harvesting services."

(b) Provides that a person commits an offense if the person, directly or through a third party, knowingly provides or offers to provide vote harvesting services in exchange for compensation or other benefit.

(c) Provides that a person commits an offense if the person, directly or through a third party, knowingly provides or offers to provide compensation or other benefit to another person in exchange for vote harvesting services.

(d) Provides that a person commits an offense if the person knowingly collects or possesses a mail ballot or official carrier envelope in connection with vote harvesting services.

(e) Provides that this section does not apply to:

(1) an activity not performed in exchange for compensation or a benefit;

(2) interactions that do not directly involve an official ballot, ballot by mail, or an application for ballot by mail;

(3) interactions that are not conducted in-person with a voter; or

(4) activity that is not designed to deliver votes for or against a specific candidate or measure.

(f) Provides that in this section, compensation in exchange for vote harvesting services is inferred if a person who performed vote harvesting services for a candidate or campaign solicits, receives, or is offered compensation from the candidate or campaign, directly or through a third party, for services other than vote harvesting services provided.

(g) Provides that an offense under this section is a felony of the third degree.

(h) Authorizes the actor, if conduct that constitutes an offense under this section also constitutes an offense under any other law, to be prosecuted under this section, the other law, or both.

(i) Requires that records necessary to investigate an offense under this section or any other section of this code be provided by an election officer in an unredacted form to a law enforcement officer upon request. Provides that records obtained under this subsection are not subject to public disclosure.

Sec. 276.016. CIVIL LIABILITY FOR VOTE HARVESTING. (a) Provides that a person who is shown by a preponderance of the evidence to have violated Section 276.015 is civilly liable to any candidate or political party who suffers harm from the vote harvesting services for damages and penalties that are authorized to be awarded under Subsection (c).

(b) Provides that a person is harmed by the vote harvesting services if the person can demonstrate that the person has standing to seek relief and the liable party violated Section 276.015.

(b-1) Provides that, to establish standing under this section, a person is not required to demonstrate that the vote harvesting services successfully delivered votes for a specific candidate or measure, but is required to demonstrate that:

(1) the vote harvesting services were intended to deliver votes for a specific candidate or measure; and

(2) the person opposed the candidate or measure in the person's capacity as a candidate or political party.

(c) Authorizes a party who prevails in an action under this section to recover damages in an amount including any or all of:

- (1) the amount of compensation paid to or received by a party in exchange for vote harvesting services;
- (2) the fair market value of any benefit given or received in exchange for vote harvesting services;
- (3) a penalty in the amount of \$35,000; or
- (4) reasonable and necessary attorney's fees, court costs, witness fees, and discovery costs.

(d) Requires that a party who is a candidate for office who prevails in an action under this section and shows that the number of voters contacted by the vote harvesting activity exceeds the number of votes by which the party lost the election recover damages in an amount including any or all of:

- (1) the party's campaign expenditures properly filed on a campaign finance report in connection with the election; or
- (2) any fees and expenses incurred by the party in filing and securing a place on the ballot.

(e) Provides that a person who commits an offense under Section 276.015 and is found civilly liable, including by vicarious liability, under Chapter 276 (Miscellaneous Offenses and Other Provisions) or other law for any amount of damages arising from the vote harvesting services is jointly liable with any other defendant for the entire amount of damages arising from the vote harvesting services.

(f) Provides that the cause of action created by this section is cumulative of any other remedy provided by common law or statute.

(g) Provides that rules applicable to a party's access to election records under Chapter 231 (Contest in District Court Generally) or 232 (Contests for Office) apply to a cause of action under this section.

(h) Provides that the expedited actions process created by Rule 169, Texas Rules of Civil Procedure, does not apply to an action under this section.

(i) Provides that Chapter 27 (Actions Involving the Exercise of Certain Constitutional Rights), Civil Practice and Remedies Code, does not apply to a cause of action under this section.

(j) Authorizes a cause of action under this section to be brought in the county where any element of a violation under Section 276.015 occurred, or where any part of the vote harvesting services occurred.

(k) Requires that this section be liberally construed and applied to promote its underlying purpose to protect candidates and the voting public from unlawful vote harvesting and provide an efficient and economical remedy to secure that protection.

Sec. 276.017. UNLAWFUL ALTERING OF ELECTION PROCEDURES. Prohibits a public official from creating, altering, modifying, waiving, or suspending any election standard, practice, or procedure mandated by law or rule in a manner not expressly authorized by this code.

ARTICLE 7. ENFORCEMENT

SECTION 7.01. Amends Section 18.065, Election Code, by amending Subsection (a) and adding Subsections (e), (f), and (g), as follows:

(a) Requires SOS to monitor each voter registrar for substantial compliance with certain sections, including with Section 16.0332, and with rules implementing the statewide computerized voter registration list.

(e) Requires a voter registrar to correct a violation within 30 days of a notice under Subsection (b) (relating to requiring SOS to deliver written notice of noncompliance to the registrar). Requires SOS, if a registrar fails to correct the violation within 30 days of a notice under Subsection (b), to correct the violation on behalf of the registrar and to notify the attorney general that the registrar failed to correct a violation under this subsection.

(f) Provides that a county served by a voter registrar who fails to correct a violation under Subsection (e) is liable to this state for a civil penalty of \$1,000 for each violation corrected by SOS under that subsection. Authorizes the attorney general to bring an action to recover a civil penalty imposed under Section 18.065 (Secretary of State to Monitor Registrar's Compliance).

(g) Requires that a civil penalty collected by the attorney general under this section be deposited in the state treasury to the credit of the general revenue fund.

SECTION 7.02. Amends Subchapter E, Chapter 31, Election Code, by adding Sections 31.128 and 31.129, as follows:

Sec. 31.128. RESTRICTION ON ELIGIBILITY. (a) Defines "election official."

(b) Prohibits a person from serving as an election official if the person has been finally convicted of an offense under this code.

Sec. 31.129. CIVIL PENALTY. (a) Defines "election official."

(b) Provides that an election official may be liable to this state for a civil penalty if the official is employed by or is an officer of this state or a political subdivision of this state and violates a provision of this code.

(c) Authorizes a civil penalty imposed under this section to include termination of the person's employment and loss of the person's employment benefits.

SECTION 7.03. Amends Section 232.006(a), Election Code, as follows:

(a) Provides that 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, rather than in Travis County. Provides that, for purposes of Section 232.006 (Venue), a contestee's residence is determined under Section 411.0257 (Residence), Government Code.

SECTION 7.04. Amends Sections 232.008(b), (c), and (d), Election Code, as follows:

(b) Requires a contestant, except as provided by Subsection (c), to file the petition not later than the later of the 45th day, rather than the 30th day, after the date the election records are publicly available under Section 1.012 or the official result of the contested election is determined.

(c) Requires a contestant to file the petition not later than the later of the 15th day, rather than the 10th day, after the date the election records are publicly available under Section 1.012 or the official result is determined in a contest of certain elections.

(d) Requires a contestant to deliver, electronically or otherwise, a copy of the petition to SOS by the same deadline prescribed for the filing of the petition.

SECTION 7.05. Amends Chapter 232, Election Code, by adding Subchapter C, as follows:

SUBCHAPTER C. CONTEST INVOLVING ALLEGED FRAUD

Sec. 232.061. **PETITION ALLEGING FRAUD.** Provides that this subchapter applies to an election contest in which the contestant alleges in the petition that an opposing candidate, an agent of the opposing candidate, or a person acting on behalf of the opposing candidate with the candidate's knowledge violated any of certain sections of this code.

Sec. 232.062. **DAMAGES.** (a) Provides that if it is shown by a preponderance of the evidence that a contestee, an agent of the contestee, or a person acting on behalf of the contestee with the contestee's knowledge committed one or more violations of a section described by Section 232.061, the contestee is liable to the contestant for damages in an amount of \$1,000 for each violation.

(b) Requires a court, notwithstanding Section 41.004(a) (relating to authorizing exemplary damages to be awarded only if damages other than nominal damages are awarded), Civil Practice and Remedies Code, to award damages under Subsection (a) to the contestant irrespective of whether the contestant is awarded actual damages.

Sec. 232.063. **ATTORNEY'S FEES.** Authorizes the court, in an election contest to which this subchapter applies, to award reasonable attorney's fees to the prevailing party.

SECTION 7.06. Amends Section 273.061, Election Code, as follows:

Sec. 273.061. **JURISDICTION.** (a) Creates this subsection from existing text and makes no further changes.

(b) Authorizes the court of criminal appeals to issue a writ of mandamus to compel the performance of any duty imposed by law in connection with the provision, sequestration, transfer, or impoundment of evidence in or records relating to a criminal investigation conducted under this code or conducted in connection with the conduct of an election or political party convention. Requires that, if a writ of mandamus is issued under this subsection, it include an order requiring the provision, sequestration, transfer, or impoundment of the evidence or record.

SECTION 7.07. Amends Subchapter D, Chapter 22, Government Code, by adding Section 22.304, as follows:

Sec. 22.304. **PRIORITY OF CERTAIN ELECTION PROCEEDINGS.** (a) Requires the Supreme Court of Texas, the Texas Court of Criminal Appeals, or a court of appeals to prioritize over any other proceeding pending or filed in the court a proceeding for injunctive relief or for a writ of mandamus under Chapter 273 (Criminal Investigation and Other Enforcement Proceedings), Election Code, pending or filed in the court on or after the 120th day before a general or special election.

(b) Authorizes oral argument for a proceeding described by Subsection (a), if granted, to be given in person or through electronic means.

SECTION 7.08. Amends Section 23.101, Government Code, by amending Subsection (a) and adding Subsection (b-1), as follows:

(a) Creates an exception under Subsection (b-1) to the requirement that the trial courts of this state regularly and frequently set hearings and trials of pending matters, giving preference to hearings and trials of certain matters. Makes a nonsubstantive change.

(b-1) Requires the trial courts of this state, except for a criminal case in which the death penalty has been or may be assessed or when it would otherwise interfere with a constitutional right, to prioritize over any other proceeding pending or filed in the court a proceeding for injunctive relief under Chapter 273, Election Code, pending or filed in the court on or after the 120th day before a general or special election.

ARTICLE 8. INELIGIBLE VOTERS AND RELATED REFORMS

SECTION 8.01. Amends Chapter 42, Code of Criminal Procedure, by adding Article 42.0194, as follows:

Art. 42.0194. FINDING REGARDING FELONY CONVICTION. Requires the court, in the trial of a felony offense, if the defendant is 18 years of age or older and is adjudged guilty of the offense, to:

- (1) make an affirmative finding that the person has been found guilty of a felony and enter the affirmative finding in the judgment of the case; and
- (2) instruct the defendant regarding how the felony conviction will impact the defendant's right to vote in this state.

SECTION 8.02. Amends Article 42.01, Code of Criminal Procedure, as effective September 1, 2021, by adding Section 16, as follows:

Sec. 16. Provides that in addition to the information described by Section 1 (relating to the content of a judgment showing the conviction or acquittal of a defendant), the judgment should reflect the affirmative finding and instruction entered pursuant to Article 42.0194.

ARTICLE 9. REPEALER; SEVERABILITY; TRANSITION; EFFECTIVE DATE

SECTION 9.01. Repealer: Section 85.062(e) (relating to authorizing a temporary branch polling place that is located in a movable structure to be established only with the approval of the county clerk and the polling place's implementation), Election Code.

Repealer: Section 127.201(f) (relating to authorizing SOS at any time to waive or reinstate the requirements of a partial count of electronic voting system ballots by the general custodian for a particular political subdivision), Election Code.

SECTION 9.02. Severability clause.

SECTION 9.03. (a) Provides that except as otherwise provided by this Act, the changes in law made by this Act apply only to an offense committed on or after the effective date of this Act. Provides that an offense committed before the effective date of this Act is governed by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. Provides that for purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

(b) Provides that the changes in law made by this Act apply only to an election ordered on or after the effective date of this Act. Provides that an election ordered before the effective date of this Act is governed by the law in effect when the election was ordered, and the former law is continued in effect for that purpose.

(c) Provides that the changes in law made by this Act apply only to an election contest for which the associated election occurred after the effective date of this Act.

(d) Provides that the changes in law made by this Act apply only to an application to vote an early voting ballot by mail submitted on or after the effective date of this Act. Provides that an application to vote an early voting ballot by mail submitted before the

effective date of this Act is governed by the law in effect when the application was submitted, and the former law is continued in effect for that purpose.

(e) Provides that the changes in law made by this Act apply only to an application for voter registration submitted on or after the effective date of this Act.

SECTION 9.04. Effective date: the 91st day after the last day of the legislative session.