

By: Middleton

H.B. No. 2335

A BILL TO BE ENTITLED

AN ACT

relating to civil liability of certain prosecutors for policies related to the prosecution of rioters.

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

SECTION 1. Title 5, Civil Practice and Remedies Code, is amended by adding Chapter 117 to read as follows:

CHAPTER 117. LIABILITY RELATED TO PROSECUTION OF RIOTERS

Sec. 117.0001. DEFINITIONS. In this chapter:

(1) "Prosecutor" means a district attorney, criminal district attorney, or county attorney.

(2) "Riot" has the meaning assigned by Section 42.02, Penal Code.

Sec. 117.0002. LIABILITY FOR FAILURE TO PROSECUTE RIOTERS.

(a) A prosecutor is liable in that individual's official capacity for significant physical injury, death, or property damage if:

(1) the physical injury, death, or property damage:

(A) was caused by criminal conduct that occurred during a riot and in the prosecutor's jurisdiction; and

(B) was a foreseeable outcome of the riot; and

(2) the prosecutor had established, at the time of the riot, a formal or informal policy of not prosecuting an individual who engages in criminal conduct as part of a riot.

(b) A prosecutor's public statements regarding riots and evidence showing that a prosecutor routinely did not prosecute

1 individuals who engaged in criminal conduct as part of a riot are  
2 admissible in a civil proceeding under Subsection (a) for the  
3 purpose of establishing that the prosecutor has established an  
4 informal policy described by Subsection (a)(2).

5 Sec. 117.0003. WAIVER OF SOVEREIGN AND GOVERNMENTAL  
6 IMMUNITY. Sovereign immunity of this state and governmental  
7 immunity of a political subdivision to suit is waived and abolished  
8 to the extent of liability created by this chapter.

9 SECTION 2. Chapter 117, Civil Practice and Remedies Code,  
10 as added by this Act, applies only to a cause of action that accrues  
11 on or after the effective date of this Act. A cause of action that  
12 accrued before the effective date of this Act is governed by the law  
13 applicable to the cause of action immediately before the effective  
14 date of this Act, and that law is continued in effect for that  
15 purpose.

16 SECTION 3. This Act takes effect September 1, 2021.