

## **BILL ANALYSIS**

Senate Research Center  
88R19385 JCG-D

C.S.S.B. 20  
By: Huffman; Parker  
State Affairs  
3/28/2023  
Committee Report (Substituted)

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Under Article 16 (General Provisions) of the Texas Constitution, elected and appointed officers, including prosecuting attorneys, take an oath of affirmation to "preserve, protect, and defend the Constitution and laws of the United States and of this State." Prosecutors have discretion in determining if probable cause exists that a suspect committed a criminal offense, and that it can be proven beyond a reasonable doubt at trial, but the Texas Constitution requires that these determinations be made for all state laws and not just the laws that a prosecutor personally deems appropriate.

S.B. 20 bars prosecuting attorneys from, either by adopting and enforcing policy or by demonstrating by pattern or practice, materially limiting or prohibiting the enforcement of any criminal offense. Furthermore, the bill restricts a prosecuting attorney from materially limiting or prohibiting an attorney or peace officer within the same jurisdiction from enforcing a criminal offense. A prosecuting attorney who violates these provisions commits "official misconduct" and would be subject to removal under Chapter 87 (Removal of County Officers from Office; Filling of Vacancies), Subchapter A, Local Government Code.

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

C.S.S.B. 20 amends current law relating to the enforcement of criminal offenses by district attorneys, criminal district attorneys, and county attorneys.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Subchapter B, Chapter 87, Local Government Code, by adding Section 87.0135, as follows:

Sec. 87.0135. OFFICIAL MISCONDUCT GROUNDS: POLICY OF NONENFORCEMENT OF CRIMINAL OFFENSES. (a) Defines "policy" and "prosecuting attorney."

(b) Prohibits a prosecuting attorney from adopting or enforcing a policy under which the prosecuting attorney refuses to prosecute a class or type of criminal offense for any reason other than to comply with an injunction, judgment, or order issued by a court.

(c) Prohibits a prosecuting attorney, in compliance with Subsection (b), from prohibiting or materially limiting a peace officer or attorney who is employed by or otherwise under the direction or control of the prosecuting attorney from enforcing any criminal offense.

(d) Provides that a prosecuting attorney who violates this section commits official misconduct for purposes of removal under Subchapter B (Removal by Petition and Trial).

SECTION 2. Effective date: upon passage or September 1, 2023.