

BILL ANALYSIS

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S.B. 1195
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Jurisprudence
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The Supreme Court of Texas found in the Stephens case that the "attorney general is not required by law to prosecute election law violations." The supreme court held that Article IV, Section 22, of the Texas Constitution states that the attorney general shall perform other duties "as may be required by law." But the Election Code does not require the attorney general to initiate prosecution for an Election Code violation. Therefore, the Stephens case held that while the attorney general can prosecute with the permission of the local prosecutor, he cannot initiate prosecution unilaterally.

S.B. 1195 would change this "may" to a "shall" and would give the attorney general the power to prosecute election crimes, abortion crimes, human trafficking crimes, bribery and corruption, and abuse of office offenses if no proceedings have begun on these crimes after six months have passed.

Under this bill, local law enforcement that would normally submit reports of probable cause of these crimes to a local prosecuting attorney must also submit these reports to the attorney general. In addition, upon request of the attorney general, the local prosecuting attorney or law enforcement must also turn over all information regarding their criminal investigations on these offenses.

As proposed, S.B. 1195 amends current law relating to the duty of the attorney general to prosecute certain criminal offenses.

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 Chapter 402, Government Code, by adding Subchapter D, as follows:

SUBCHAPTER D. PROSECUTION OF CERTAIN CRIMINAL OFFENSES

Sec. 402.101. **APPLICABILITY.** Provides that this subchapter applies to a criminal offense under:

- (1) the Election Code;
- (2) Chapter 170A (Performance of Abortion) or 171 (Abortion), Health and Safety Code; or
- (3) Chapter 20A (Trafficking of Persons), 36 (Bribery and Corrupt Influence), or 39 (Abuse of Office), Penal Code.

Sec. 402.102. **PROVISION OF INFORMATION TO ATTORNEY GENERAL.** (a) Requires a law enforcement agency that submits to a local prosecuting attorney a report stating there is probable cause to believe an identified person has committed a criminal

offense described by Section 402.101 to simultaneously provide a copy of that report to the attorney general.

(b) Requires a local prosecuting attorney or law enforcement agency, on request of the attorney general, to provide information regarding investigations of criminal offenses described by Section 402.101 to assist the attorney general in performing duties required under this subchapter.

Sec. 402.103. PROSECUTION. Provides that the attorney general, notwithstanding any other law, has jurisdiction to prosecute and is required to prosecute a criminal offense described by Section 402.101 if:

(1) a law enforcement agency submits a report described by Section 402.102(a) to the local prosecuting attorney and the attorney general; and

(2) six months have elapsed from the date the report was submitted and the local prosecuting attorney has not initiated proceedings to prosecute the offense.

SECTION 2. Amends Sections 273.021(a) and (b), Election Code, as follows:

(a) Requires, rather than authorizes, the attorney general to prosecute a criminal offense prescribed by the election laws of this state as provided by Subchapter D, Chapter 402, Government Code.

(b) Authorizes the attorney general to appear before a grand jury in connection with a criminal offense the attorney general is required, rather than with an offense the attorney general is authorized, to prosecute under Subsection (a).

SECTION 3. Amends Section 273.022, Election Code, as follows:

Sec. 273.022. COOPERATION WITH LOCAL PROSECUTOR. Authorizes the attorney general to direct the county or district attorney serving the county in which the offense is to be prosecuted to prosecute a criminal offense that the attorney general is required, rather than an offense the attorney general is authorized, to prosecute under Section 273.021 (Prosecution by Attorney General Authorized) or to assist the attorney general in the prosecution.

SECTION 4. Makes application of this Act prospective.

SECTION 5. Effective date: September 1, 2023.