

R E S O L U T I O N

1 BE IT RESOLVED by the House of Representatives of the State of  
2 Texas, 88th Legislature, Regular Session, 2023, That House Rule 13,  
3 Section 9(a), be suspended in part as provided by House Rule 13,  
4 Section 9(f), to enable the conference committee appointed to  
5 resolve the differences on House Bill 17 (official misconduct by  
6 and removal of prosecuting attorneys) to consider and take action  
7 on the following matters:

8 (1) House Rule 13, Section 9(a)(4), is suspended to permit  
9 the committee to add text on a matter not included in either the  
10 house or senate version of the bill in proposed SECTION 1 of the  
11 bill, by adding to the definition of "official misconduct" in added  
12 Sections [87.011\(3\)\(B\)](#) and (C), Local Government Code, a prosecuting  
13 attorney's adoption or enforcement of a policy instructing "law  
14 enforcement to refuse to arrest individuals suspected of committing  
15 a class or type of offense under state law".

16 Explanation: The change is necessary to ensure that a  
17 prosecuting attorney may not avoid committing official misconduct,  
18 as defined and amended by the bill, by instructing law enforcement  
19 to refuse to arrest individuals whom the attorney is prohibited  
20 from refusing to prosecute.

21 (2) House Rule 13, Section 9(a)(4), is suspended to permit  
22 the committee to add text on a matter not included in either the  
23 house or senate version of the bill by adding the following new  
24 SECTION to the bill:

1 SECTION 2. Subchapter B, Chapter 87, Local Government Code,  
2 is amended by adding Section 87.0131 to read as follows:

3 Sec. 87.0131. DEFENSE IN CERTAIN CASES. It is a defense in  
4 an action alleging a prosecuting attorney committed official  
5 misconduct described by Section 87.011(3)(C) that the prosecuting  
6 attorney took action immediately on discovering an attorney  
7 employed by or otherwise under the direction or control of the  
8 prosecuting attorney was acting as described by Section  
9 87.011(3)(C).

10 Explanation: The change is necessary to provide a defense in  
11 a removal action alleging certain official misconduct committed by  
12 a prosecuting attorney, if the attorney took immediate action on  
13 discovering the misconduct was occurring.

Cook

H.R. No. 2440

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Speaker of the House

I certify that H.R. No. 2440 was adopted by the House on May 28, 2023, by the following vote: Yeas 87, Nays 51, 2 present, not voting.

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Chief Clerk of the House