

By: Parker

S.B. No. 378

A BILL TO BE ENTITLED

AN ACT

relating to the enforcement of criminal offenses by district attorneys, criminal district attorneys, and county attorneys; providing a civil penalty.

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

SECTION 1. Chapter 41, Government Code, is amended by adding Subchapter G to read as follows:

SUBCHAPTER G. ENFORCEMENT OF CRIMINAL OFFENSES

Sec. 41.371. DEFINITIONS. In this subchapter:

(1) "Policy" includes a formal, written rule or policy and an informal, unwritten policy.

(2) "Prosecuting attorney" means a district attorney, a criminal district attorney, or a county attorney with criminal jurisdiction.

Sec. 41.372. POLICY ON ENFORCEMENT OF CRIMINAL OFFENSES.

(a) A prosecuting attorney may not:

(1) adopt or enforce a policy under which the prosecuting attorney prohibits or materially limits the enforcement of any criminal offense; or

(2) as demonstrated by pattern or practice, prohibit or materially limit the enforcement of any criminal offense.

(b) In compliance with Subsection (a), a prosecuting attorney may not prohibit or materially limit a peace officer or attorney who is employed by or otherwise under the direction or

1 control of the prosecuting attorney from enforcing any criminal
2 offense.

3 Sec. 41.373. INJUNCTIVE RELIEF. (a) The attorney general
4 may bring an action in a district court in Travis County or in a
5 county in which the principal office of the prosecuting attorney is
6 located to enjoin a violation of Section 41.372.

7 (b) The attorney general may recover reasonable expenses
8 incurred in obtaining relief under this section, including court
9 costs, reasonable attorney's fees, investigative costs, witness
10 fees, and deposition costs.

11 Sec. 41.374. CIVIL PENALTY. (a) A prosecuting attorney who
12 a court finds has intentionally violated Section 41.372 is subject
13 to a civil penalty in an amount equal to:

14 (1) not less than \$1,000 and not more than \$1,500 for
15 the first violation; and

16 (2) not less than \$25,000 and not more than \$25,500 for
17 each subsequent violation.

18 (b) Each day of a continuing violation of Section 41.372
19 constitutes a separate violation for the civil penalty imposed
20 under this section.

21 (c) The court that hears an action brought under Section
22 41.373 against the prosecuting attorney may determine the amount of
23 the civil penalty imposed under this section.

24 (d) The attorney general may sue to collect the penalty
25 under this section and may recover reasonable expenses incurred in
26 collecting the penalty, including court costs, reasonable
27 attorney's fees, investigative costs, witness fees, and deposition

1 costs.

2 (e) Sovereign immunity of this state and governmental
3 immunity of a county to suit is waived and abolished to the extent
4 of liability created by this section.

5 Sec. 41.375. REMOVAL FROM OFFICE. (a) For purposes of
6 Section 66.001, Civil Practice and Remedies Code, a prosecuting
7 attorney performs an act that causes the forfeiture of the
8 prosecuting attorney's office if the prosecuting attorney violates
9 Section 41.372.

10 (b) The attorney general shall file a petition under Section
11 66.002, Civil Practice and Remedies Code, against a prosecuting
12 attorney to whom Subsection (a) applies if presented with evidence,
13 including evidence of a statement by the prosecuting attorney,
14 establishing probable grounds the prosecuting attorney engaged in
15 conduct described by Subsection (a). The court in which the
16 petition is filed shall give precedence to proceedings relating to
17 the petition in the same manner as provided for an election contest
18 under Section 23.101.

19 (c) If the prosecuting attorney against whom an information
20 is filed based on conduct described by Subsection (a) is found
21 guilty as charged after a jury trial, the court shall enter judgment
22 removing the person from office.

23 SECTION 2. This Act takes effect immediately if it receives
24 a vote of two-thirds of all the members elected to each house, as
25 provided by Section 39, Article III, Texas Constitution. If this
26 Act does not receive the vote necessary for immediate effect, this
27 Act takes effect September 1, 2023.