

Amend CSHB 5138 (house committee report) as follows:

(1) On page 1, line 22, between "PROSECUTION." and "Notwithstanding", insert "(a)".

(2) On page 2, lines 6 and 7, strike "initiated proceedings" and substitute "taken prosecutorial action".

(3) On page 2, between lines 7 and 8, insert the following:

(b) A local prosecuting attorney may file a motion in a district court objecting to the attorney general's representation of the state under Subsection (a) in the prosecution of a criminal offense described by Section 402.101. In response to a motion filed under this subsection, the court shall:

(1) make a finding as to whether the local prosecuting attorney has taken prosecutorial action to prosecute the offense; and

(2) if the court finds the local prosecuting attorney has not taken prosecutorial action to prosecute the offense, issue an order stating the attorney general shall represent the state in the prosecution of the offense.