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H.B. No. 5138

A BILL TO BE ENTITLED

AN ACT

relating to the duty of the attorney general to prosecute criminal
offenses prescribed by the election laws of this state.

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

SECTION 1. Chapter 402, Government Code, is amended by
adding Subchapter D to read as follows:

SUBCHAPTER D. PROSECUTION OF CRIMINAL OFFENSES PRESCRIBED BY STATE
ELECTION LAWS

Sec. 402.101. APPLICABILITY. This subchapter applies to a
criminal offense under the Election Code.

Sec. 402.102. PROVISION OF INFORMATION TO ATTORNEY GENERAL.

(a) 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 shall simultaneously submit a copy of that report
to the attorney general.

(b) On request of the attorney general, a local prosecuting
attorney or law enforcement agency shall provide all information
requested 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. (a) Notwithstanding any other
law, the attorney general has jurisdiction to prosecute and shall
represent the state in the prosecution of 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 taken prosecutorial action to prosecute the offense.

(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.

SECTION 2. Sections 273.021(a) and (b), Election Code, are amended to read as follows:

(a) The attorney general has jurisdiction to ~~[may]~~ prosecute and shall represent the state in the prosecution of a criminal offense prescribed by the election laws of this state as provided by Subchapter D, Chapter 402, Government Code.

(b) The attorney general may appear before a grand jury in connection with a criminal ~~[an]~~ offense the attorney general is

1 authorized to prosecute under Subsection (a).

2 SECTION 3. Section 273.022, Election Code, is amended to
3 read as follows:

4 Sec. 273.022. COOPERATION WITH LOCAL PROSECUTOR. The
5 attorney general may direct the county or district attorney serving
6 the county in which the offense is to be prosecuted to prosecute a
7 criminal ~~[an]~~ offense that the attorney general is authorized to
8 prosecute under Section 273.021 or to assist the attorney general
9 in the prosecution.

10 SECTION 4. The changes in law made by this Act apply only to
11 an offense committed on or after the effective date of this Act. An
12 offense committed before the effective date of this Act is governed
13 by the law in effect on the date the offense was committed, and the
14 former law is continued in effect for that purpose. For purposes of
15 this section, an offense was committed before the effective date of
16 this Act if any element of the offense occurred before that date.

17 SECTION 5. This Act takes effect September 1, 2026.