

By: Hughes

S.B. No. 1367

A BILL TO BE ENTITLED

AN ACT

relating to the appointment, duties, and removal of the state prosecuting attorney.

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

SECTION 1. The heading to Section 42.001, Government Code, is amended to read as follows:

Sec. 42.001. OFFICE; DUTIES; QUALIFICATIONS.

SECTION 2. Section 42.001, Government Code, is amended by amending Subsection (a) and adding Subsection (a-1) to read as follows:

(a) The supreme court [~~of criminal appeals~~] shall appoint a state prosecuting attorney.

(a-1) The state prosecuting attorney:

(1) shall [~~to~~] represent the state in all proceedings before the court of criminal appeals;

(2) [~~. The state prosecuting attorney~~] may [~~also~~] represent the state in any stage of a criminal case before a state court of appeals if the attorney [~~he~~] considers it necessary for the interest of the state; and

(3) may exercise concurrent jurisdiction to represent the state in the district and inferior courts in this state in a criminal case in which the criminal conduct alleged relates to a violation of this state's election laws.

SECTION 3. Section 42.004, Government Code, is amended to

1 read as follows:

2 Sec. 42.004. REMOVAL. The supreme court [~~of criminal~~
3 ~~appeals~~] may remove state prosecuting attorneys from office for
4 good cause.

5 SECTION 4. The changes in law made by this Act apply only to
6 a state prosecuting attorney who is appointed on or after the
7 effective date of this Act. A state prosecuting attorney appointed
8 before the effective date of this Act continues to serve for the
9 term to which the state prosecuting attorney was appointed unless
10 otherwise removed as provided by law.

11 SECTION 5. (a) Notwithstanding any other section of this
12 Act, in a state fiscal year, the state prosecuting attorney is not
13 required to implement a mandatory provision in another section of
14 this Act imposing a duty on the state prosecuting attorney to take
15 an action unless money is specifically appropriated to the state
16 prosecuting attorney for that fiscal year to carry out that duty.
17 The state prosecuting attorney may implement the provision in that
18 fiscal year to the extent other funding is available to the state
19 prosecuting attorney for the implementation.

20 (b) If, as authorized by Subsection (a) of this section, the
21 state prosecuting attorney does not implement the mandatory
22 provision in a state fiscal year, the state prosecuting attorney,
23 in the state prosecuting attorney's legislative budget request for
24 the next state fiscal biennium, shall certify that fact to the
25 Legislative Budget Board and include a written estimate of the
26 costs of implementing the provision in each year of that next state
27 fiscal biennium.

1 (c) This section expires and any duty suspended by
2 Subsection (a) of this section becomes mandatory on September 1,
3 2029.

4 SECTION 6. This Act takes effect September 1, 2025.