

**House Bill 5138**  
Senate Amendments  
Section-by-Section Analysis

HOUSE VERSION

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

SENATE VERSION (CS)

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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 shall submit to the attorney general any report stating there is probable cause to believe an identified person has committed a criminal offense described by Section 402.101.

(b) A local prosecuting attorney or law enforcement agency shall provide any information requested by the attorney general 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. 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.

CONFERENCE

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| <p><u>filed under this subsection, the court shall:</u></p> <p><u>(1) make a finding as to whether the local prosecuting attorney has taken prosecutorial action to prosecute the offense; and</u></p> <p><u>(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.</u></p>   |  |            |
| <p>SECTION 2. Sections 273.021(a) and (b), Election Code, are amended to read as follows:</p> <p>(a) The attorney general <u>has jurisdiction to</u> <del>may</del> prosecute and shall represent the state in the prosecution of a criminal offense prescribed by the election laws of this state <u>as provided by Subchapter D, Chapter 402, Government Code.</u></p> <p>(b) The attorney general may appear before a grand jury in connection with <u>a criminal</u> <del>an</del> offense the attorney general is authorized to prosecute under Subsection (a).</p> | <p>SECTION 2. Same as House version.</p> |            |
| <p>SECTION 3. Section 273.022, Election Code, is amended to read as follows:</p> <p>Sec. 273.022. COOPERATION WITH LOCAL PROSECUTOR. The attorney general may direct the county or district attorney serving the county in which the offense is to be prosecuted to prosecute <u>a criminal</u> <del>an</del> offense that the attorney general is authorized to prosecute under Section 273.021 or to assist the attorney general in the prosecution.</p>   | <p>SECTION 3. Same as House version.</p> |            |
| <p>SECTION 4. The changes in law made by this Act apply only</p>   | <p>SECTION 4. Same as House version.</p> |            |

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to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

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

SENATE VERSION (CS)

SECTION 5. Same as House version.

CONFERENCE