

By: Hughes, Hall

S.B. No. 9

A BILL TO BE ENTITLED

AN ACT

relating to election integrity; increasing criminal penalties;
creating a criminal offense; creating civil penalties.

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

ARTICLE 1. CRIMINAL PROVISIONS

SECTION 1.01. Article 12.01, Code of Criminal Procedure, is amended to read as follows:

Art. 12.01. FELONIES. Except as provided in Article 12.03, felony indictments may be presented within these limits, and not afterward:

(1) no limitation:

(A) murder and manslaughter;

(B) sexual assault under Section 22.011(a)(2), Penal Code, or aggravated sexual assault under Section 22.021(a)(1)(B), Penal Code;

(C) sexual assault, if:

(i) during the investigation of the offense biological matter is collected and subjected to forensic DNA testing and the testing results show that the matter does not match the victim or any other person whose identity is readily ascertained; or

(ii) probable cause exists to believe that the defendant has committed the same or a similar sexual offense against five or more victims;

- 1 (D) continuous sexual abuse of young child or
2 children under Section 21.02, Penal Code;
- 3 (E) indecency with a child under Section 21.11,
4 Penal Code;
- 5 (F) an offense involving leaving the scene of an
6 accident under Section 550.021, Transportation Code, if the
7 accident resulted in the death of a person;
- 8 (G) trafficking of persons under Section
9 20A.02(a)(7) or (8), Penal Code;
- 10 (H) continuous trafficking of persons under
11 Section 20A.03, Penal Code; or
- 12 (I) compelling prostitution under Section
13 43.05(a)(2), Penal Code;
- 14 (2) ten years from the date of the commission of the
15 offense:
- 16 (A) theft of any estate, real, personal or mixed,
17 by an executor, administrator, guardian or trustee, with intent to
18 defraud any creditor, heir, legatee, ward, distributee,
19 beneficiary or settlor of a trust interested in such estate;
- 20 (B) theft by a public servant of government
21 property over which he exercises control in his official capacity;
- 22 (C) forgery or the uttering, using or passing of
23 forged instruments;
- 24 (D) injury to an elderly or disabled individual
25 punishable as a felony of the first degree under Section 22.04,
26 Penal Code;
- 27 (E) sexual assault, except as provided by

1 Subdivision (1);
2 (F) arson;
3 (G) trafficking of persons under Section
4 20A.02(a)(1), (2), (3), or (4), Penal Code; or
5 (H) compelling prostitution under Section
6 43.05(a)(1), Penal Code;
7 (3) seven years from the date of the commission of the
8 offense:
9 (A) misapplication of fiduciary property or
10 property of a financial institution;
11 (B) securing execution of document by deception;
12 (C) a felony violation under Chapter 162, Tax
13 Code;
14 (D) false statement to obtain property or credit
15 under Section 32.32, Penal Code;
16 (E) money laundering;
17 (F) credit card or debit card abuse under Section
18 32.31, Penal Code;
19 (G) fraudulent use or possession of identifying
20 information under Section 32.51, Penal Code;
21 (H) exploitation of a child, elderly individual,
22 or disabled individual under Section 32.53, Penal Code;
23 (I) Medicaid fraud under Section 35A.02, Penal
24 Code; or
25 (J) bigamy under Section 25.01, Penal Code,
26 except as provided by Subdivision (6);
27 (4) five years from the date of the commission of the

1 offense:

2 (A) theft or robbery;

3 (B) except as provided by Subdivision (5),
4 kidnapping or burglary;

5 (C) injury to an elderly or disabled individual
6 that is not punishable as a felony of the first degree under Section
7 [22.04](#), Penal Code;

8 (D) abandoning or endangering a child; ~~[or]~~

9 (E) insurance fraud; or

10 (F) a felony offense under the Election Code;

11 (5) if the investigation of the offense shows that the
12 victim is younger than 17 years of age at the time the offense is
13 committed, 20 years from the 18th birthday of the victim of one of
14 the following offenses:

15 (A) sexual performance by a child under Section
16 [43.25](#), Penal Code;

17 (B) aggravated kidnapping under Section
18 [20.04\(a\)\(4\)](#), Penal Code, if the defendant committed the offense
19 with the intent to violate or abuse the victim sexually; or

20 (C) burglary under Section [30.02](#), Penal Code, if
21 the offense is punishable under Subsection (d) of that section and
22 the defendant committed the offense with the intent to commit an
23 offense described by Subdivision (1)(B) or (D) of this article or
24 Paragraph (B) of this subdivision;

25 (6) ten years from the 18th birthday of the victim of
26 the offense:

27 (A) trafficking of persons under Section

1 20A.02(a)(5) or (6), Penal Code;

2 (B) injury to a child under Section 22.04, Penal
3 Code; or

4 (C) bigamy under Section 25.01, Penal Code, if
5 the investigation of the offense shows that the person, other than
6 the legal spouse of the defendant, whom the defendant marries or
7 purports to marry or with whom the defendant lives under the
8 appearance of being married is younger than 18 years of age at the
9 time the offense is committed; or

10 (7) three years from the date of the commission of the
11 offense: all other felonies.

12 SECTION 1.02. Section 1.018, Election Code, is amended to
13 read as follows:

14 Sec. 1.018. APPLICABILITY OF PENAL CODE. Titles 1 through 4
15 [~~In addition to Section 1.03, Penal Code, and to other titles of the~~
16 ~~Penal Code that may apply to this code, Title 4~~], Penal Code, apply
17 [~~applies~~] to offenses prescribed by this code.

18 SECTION 1.03. Sections 13.007(b) and (c), Election Code,
19 are amended to read as follows:

20 (b) An offense under this section is a state jail felony
21 [~~Class B misdemeanor~~].

22 (c) If conduct that constitutes an offense under this
23 section also constitutes an offense under other law, the actor may
24 be prosecuted under this section, the other law, or both. [~~For~~
25 ~~purposes of this code, an offense under this section is considered~~
26 ~~to be perjury, but may be prosecuted only under this section.~~]

27 SECTION 1.04. Section 61.002, Election Code, is amended to

1 read as follows:

2 Sec. 61.002. OPENING POLLING PLACE FOR VOTING. (a) Before
3 opening the polls for voting, the presiding election judge shall
4 confirm that each voting machine has any public counter reset to
5 zero and shall print the tape that shows the counter was set to
6 zero.

7 (b) Each election judge present shall sign a tape printed
8 under Subsection (a). A representative from each political party
9 required to nominate candidates by primary election, if present at
10 the polling place, shall sign a tape printed under Subsection (a).

11 (c) The commissioners court of a county that participates in
12 the countywide polling place program under Section 43.007 may apply
13 to the secretary of state for a waiver of the requirements of
14 Subsections (a) and (b) in a form prescribed by the secretary of
15 state. If the secretary of state grants the waiver, Subsections (a)
16 and (b) do not apply to the county for which the waiver was granted.

17 (d) A presiding election judge commits an offense if the
18 judge is required to comply with Subsection (a) and fails to comply
19 with the requirements of that subsection. An offense under this
20 section is a Class B misdemeanor.

21 (e) At the official time for opening the polls for voting,
22 an election officer shall open the polling place entrance and admit
23 the voters.

24 SECTION 1.05. Subchapter A, Chapter 61, Election Code, is
25 amended by adding Section 61.0045 to read as follows:

26 Sec. 61.0045. IMPEDING ACCESS TO POLLING PLACE. (a) A
27 person commits an offense if the person impedes a walkway,

1 sidewalk, parking lot, or roadway within 500 feet of a polling place
2 in a manner that hinders a person from entering the polling place.

3 (b) An offense under this section is a Class B misdemeanor.

4 (c) It is a defense to prosecution under this section that
5 at the time of the offense, the person was performing an official
6 duty as a first responder.

7 (d) In this section, "first responder" has the meaning
8 assigned by Section 421.095, Government Code.

9 SECTION 1.06. Subchapter A, Chapter 64, Election Code, is
10 amended by adding Section 64.0101 to read as follows:

11 Sec. 64.0101. UNLAWFULLY TAKING BALLOT. (a) A person
12 commits an offense if the person takes from a voter without the
13 voter's permission a ballot that was provided at the polling place
14 to the voter.

15 (b) An offense under this section is a Class B misdemeanor,
16 unless the person is serving as a watcher under Subchapter A,
17 Chapter 33, at the time of the offense, in which case it is a Class A
18 misdemeanor.

19 (c) It is a defense to prosecution under this section that
20 the person was an election officer performing an official duty at
21 the time the person took the ballot.

22 SECTION 1.07. Section 64.012, Election Code, is amended by
23 adding Subsections (c) and (d) to read as follows:

24 (c) It is sufficient for the purposes of Subsection (a)(1)
25 to establish that the person had knowledge of the person's
26 ineligibility to vote if the person was aware of the facts or
27 circumstances causing the person's ineligibility under this code.

1 (d) It is not a defense to prosecution that the ballot was
2 not finally counted.

3 SECTION 1.08. Section 64.036(d), Election Code, is amended
4 to read as follows:

5 (d) An offense under this section is a state jail felony
6 [Class A misdemeanor].

7 SECTION 1.09. Section 65.014, Election Code, is amended by
8 amending Subsection (c) and adding Subsections (c-1), (c-2), (c-3),
9 and (c-4) to read as follows:

10 (c) The returns shall be prepared as an original and four
11 [three] copies, and on completing the returns, the presiding judge
12 shall sign each one to certify its accuracy.

13 (c-1) Any watcher present at the polling place must be
14 allowed to inspect and sign each copy of the returns, and may
15 request an additional copy to be printed for the watcher's records.
16 The requirements of this subsection must be completed before any
17 voting system equipment is removed from the polling place.

18 (c-2) The presiding judge shall publicly post at the polling
19 place one of the copies printed under Subsection (c) before the
20 presiding judge leaves the premises.

21 (c-3) The commissioners court of a county that participates
22 in the countywide polling place program under Section 43.007 may
23 apply to the secretary of state for a waiver of the requirements of
24 Subsections (c-1) and (c-2) in a form prescribed by the secretary of
25 state. If the secretary of state grants the waiver, Subsections
26 (c-1) and (c-2) do not apply to the county for which the waiver was
27 granted.

1 (c-4) A presiding judge commits an offense if the judge is
2 required to comply with Subsections (c-1) and (c-2) and fails to
3 comply with those subsections. An offense under this subsection is
4 a Class B misdemeanor.

5 SECTION 1.10. Subchapter A, Chapter 273, Election Code, is
6 amended by adding Section 273.005 to read as follows:

7 Sec. 273.005. DEFENSE TO PROSECUTION FOR PERSON CONDUCTING
8 INVESTIGATION UNDER THIS CODE. It is a defense to prosecution of an
9 offense under this code that a person employed by a law enforcement
10 agency in the commission of the offense is engaged in:

11 (1) the investigation or prosecution of a violation of
12 a law under this code; or

13 (2) official activities investigating a weakness in
14 the electoral process.

15 SECTION 1.11. Section 276.001, Election Code, is amended by
16 amending Subsection (b) and adding Subsection (c) to read as
17 follows:

18 (b) Except as provided by Subsection (c), an [An] offense
19 under this section is a felony of the third degree.

20 (c) An offense under Subsection (a)(1) is a felony of the
21 second degree if the person is serving as a watcher under Subchapter
22 A, Chapter 33, at the time of the offense.

23 SECTION 1.12. (a) The change in law made by this article in
24 amending Article 12.01, Code of Criminal Procedure, does not apply
25 to an offense if the prosecution of that offense becomes barred by
26 limitation before the effective date of this Act. The prosecution
27 of that offense remains barred as if this article had not taken

1 effect.

2 (b) The changes in law made by this article apply only to an
3 offense committed on or after the effective date of this Act. An
4 offense committed before the effective date of this Act is governed
5 by the law in effect on the date the offense was committed, and the
6 former law is continued in effect for that purpose. For purposes of
7 this section, an offense was committed before the effective date of
8 this Act if any element of the offense occurred before that date.

9 ARTICLE 2. VOTERS, ASSISTANTS, AND WATCHERS

10 SECTION 2.01. Section 13.002, Election Code, is amended by
11 adding Subsection (c-1) to read as follows:

12 (c-1) An application may not be accepted if, at the time the
13 applicant received the application, a box on the application was
14 marked to indicate that the applicant:

15 (1) is a United States citizen; or

16 (2) will be 18 years of age or older on election day.

17 SECTION 2.02. Section 33.004(b), Election Code, is amended
18 to read as follows:

19 (b) To be eligible to participate in the appointment under
20 this section of a watcher for a precinct polling place, a person
21 must be a registered voter of the precinct. To be eligible to
22 participate in the appointment under this section of a watcher for
23 an early voting polling place, the meeting place of an early voting
24 ballot board or signature verification committee, or a central
25 counting station, a person must be a registered voter of the
26 territory served by that facility.

27 SECTION 2.03. Section 33.006(b), Election Code, is amended

1 to read as follows:

2 (b) A certificate of appointment must:

3 (1) be in writing and signed by the appointing
4 authority or, for an appointment for a write-in candidate under
5 Section 33.004, by each of the voters making the appointment;

6 (2) indicate the capacity in which the appointing
7 authority is acting;

8 (3) state the name, residence address, and voter
9 registration number of the appointee and be signed by the
10 appointee;

11 (4) identify the election and the precinct polling
12 place or other location at which the appointee is to serve;

13 (5) in an election on a measure, identify the measure
14 if more than one is to be voted on and state which side of the
15 measure the appointee represents; and

16 (6) contain an affidavit executed by the appointee
17 stating that the appointee will not use ~~[have possession of]~~ a
18 device capable of recording images or sound ~~[or that the appointee~~
19 ~~will disable or deactivate the device]~~ while serving as a watcher
20 except as permitted by Section 61.014(b).

21 SECTION 2.04. Section 33.007(a), Election Code, is amended
22 to read as follows:

23 (a) Each appointing authority may appoint not more than two
24 watchers for each precinct polling place, meeting place for an
25 early voting ballot board or signature verification committee, or
26 central counting station involved in the election.

27 SECTION 2.05. Section 33.051(a), Election Code, is amended

1 to read as follows:

2 (a) A watcher appointed to serve at a precinct polling
3 place, a meeting place for an early voting ballot board or signature
4 verification committee, or a central counting station must deliver
5 a certificate of appointment to the presiding judge at the time the
6 watcher reports for service. A watcher appointed to serve at an
7 early voting polling place must deliver a certificate of
8 appointment to the early voting clerk or deputy clerk in charge of
9 the polling place when the watcher first reports for service.

10 SECTION 2.06. Section 33.054, Election Code, is amended to
11 read as follows:

12 Sec. 33.054. HOURS OF SERVICE AT EARLY VOTING BALLOT BOARD
13 MEETING OR SIGNATURE VERIFICATION COMMITTEE MEETING. (a) A
14 watcher serving at the meeting place of an early voting ballot board
15 or signature verification committee may be present at any time the
16 board or committee is processing or counting ballots and until the
17 board or committee completes its duties. The watcher may serve
18 during the hours the watcher chooses, except as provided by
19 Subsection (b).

20 (b) A watcher serving at the meeting place of an early
21 voting ballot board may not leave during voting hours on election
22 day without the presiding judge's permission if the board has
23 recorded any votes cast on voting machines or counted any ballots,
24 unless the board has completed its duties and has been dismissed by
25 the presiding judge.

26 SECTION 2.07. Section 33.056, Election Code, is amended by
27 adding Subsections (e) and (f) to read as follows:

1 (e) A watcher serving at the meeting place of an early
2 voting ballot board or signature verification committee is entitled
3 to inspect a form submitted in accordance with Section 64.0322.

4 (f) A watcher serving at a polling place is entitled to
5 inspect any identifying documentation presented by a person
6 assisting a voter in accordance with Subchapter B, Chapter 64.

7 SECTION 2.08. Section 33.057, Election Code, is amended to
8 read as follows:

9 Sec. 33.057. OBSERVING PREPARATION OF VOTER'S BALLOT.

10 (a) In this section, "family member" means a person related to the
11 voter within the second degree by affinity or third degree by
12 consanguinity, as determined under Subchapter B, Chapter 573,
13 Government Code.

14 (b) A watcher or election officer is entitled to be present
15 at the voting station when a voter is being assisted by a person who
16 is not a family member [~~an election officer~~], and the watcher or
17 election officer is entitled to examine the ballot before it is
18 deposited in the ballot box to determine whether it is prepared in
19 accordance with the voter's wishes.

20 (c) [~~(b)~~] A watcher or election officer may not be present
21 at the voting station when a voter is preparing the voter's ballot
22 or is being assisted by a family member [~~person of the voter's~~
23 ~~choice~~].

24 SECTION 2.09. Section 33.060(a), Election Code, is amended
25 to read as follows:

26 (a) On request of a watcher, an election officer who
27 delivers election records from a precinct polling place, an early

1 voting polling place, a meeting place for an early voting ballot
2 board or signature verification committee, or a central counting
3 station shall permit the watcher appointed to serve at that
4 location to accompany the officer in making the delivery.

5 SECTION 2.10. Section 61.014(b), Election Code, is amended
6 to read as follows:

7 (b) A person, other than a watcher solely recording the
8 counting of ballots, may not use any mechanical or electronic means
9 of recording images or sound within 100 feet of a voting station.

10 SECTION 2.11. Section 64.009, Election Code, is amended by
11 adding Subsections (e), (f), and (g) to read as follows:

12 (e) A person who assists at least three voters voting under
13 this section at the same time by providing the voters with
14 transportation to the polling place must complete and sign a form
15 that:

16 (1) requires the person to affirm that the voters are
17 physically unable to enter the polling place without personal
18 assistance or likelihood of injuring their health; and

19 (2) contains the following information:

20 (A) the person's name and address; and

21 (B) whether the person is providing assistance to
22 the voters solely under this section or under both this section and
23 Subchapter B.

24 (f) Subsection (e) does not apply to a person if the person
25 is a family member of all voters that the person provides with
26 transportation to the polling place. For purposes of this
27 subsection, "family member" has the meaning assigned by Section

1 33.057(a).

2 (g) The secretary of state shall prescribe the form
3 described by Subsection (e).

4 SECTION 2.12. Subchapter B, Chapter 64, Election Code, is
5 amended by adding Section 64.0322 to read as follows:

6 Sec. 64.0322. SUBMISSION OF FORM BY ASSISTANT. (a) Before
7 a person, other than an election officer, assists a voter in
8 accordance with this chapter, the person must complete a form
9 stating:

10 (1) the name and address of the person assisting the
11 voter;

12 (2) the manner in which the voter requires assistance;

13 (3) the reason the assistance is necessary; and

14 (4) the relationship of the assistant to the voter.

15 (b) The secretary of state shall prescribe the form required
16 by this section. The form must be incorporated into the official
17 carrier envelope if the voter is voting an early voting ballot by
18 mail and receives assistance under Section 86.010, or must be
19 submitted to an election officer before the voter may be accepted
20 for voting if the voter is voting at a polling place or under
21 Section 64.009.

22 (c) An election officer may, at the officer's discretion,
23 make a copy of a form submitted under this section and deliver the
24 copy to the secretary of state.

25 SECTION 2.13. Section 84.002, Election Code, is amended by
26 adding Subsection (c) to read as follows:

27 (c) An application for a ballot to be voted by mail on the

1 ground of disability must require the applicant to affirmatively
2 indicate that the applicant agrees with the statement "I have a
3 sickness or physical condition that prevents me from appearing at a
4 polling place on election day without needing personal assistance
5 or injuring my health," as prescribed by Section 82.002(a).

6 SECTION 2.14. Section 84.011(a), Election Code, is amended
7 to read as follows:

8 (a) The officially prescribed application form for an early
9 voting ballot must include:

10 (1) immediately preceding the signature space the
11 statement: "I certify that the information given in this
12 application is true, and I understand that giving false information
13 in this application is a crime.";

14 (2) a statement informing the applicant of the
15 offenses prescribed by Sections 84.003 and 84.004;

16 (3) spaces for entering an applicant's voter
17 registration number and county election precinct of registration,
18 with a statement informing the applicant that failure to furnish
19 that information does not invalidate the application; and

20 (4) on an application for a ballot to be voted by mail:

21 (A) a space for an applicant applying on the
22 ground of absence from the county of residence to indicate the date
23 on or after which the applicant can receive mail at the address
24 outside the county;

25 (B) a space for indicating the fact that an
26 applicant whose application is signed by a witness cannot make the
27 applicant's mark and a space for indicating the relationship or

1 lack of relationship of the witness to the applicant;

2 (C) a space for entering an applicant's telephone
3 number, with a statement informing the applicant that failure to
4 furnish that information does not invalidate the application;

5 (D) a space or box for an applicant applying on
6 the ground of age or disability to indicate that the address to
7 which the ballot is to be mailed is the address of a facility or
8 relative described by Section 84.002(a)(3), if applicable;

9 (E) a space or box for an applicant applying on
10 the ground of confinement in jail to indicate that the address to
11 which the ballot is to be mailed is the address of a relative
12 described by Section 84.002(a)(4), if applicable;

13 (F) a space for an applicant applying on the
14 ground of age or disability to indicate if the application is an
15 application under Section 86.0015;

16 (G) spaces for entering the signature, printed
17 name, and residence address of any person assisting the applicant;

18 (H) a statement informing the applicant of the
19 condition prescribed by Section 81.005; ~~and~~

20 (I) a statement informing the applicant of the
21 requirement prescribed by Section 86.003(c); and

22 (J) a statement informing the applicant that
23 expected or likely confinement for childbirth on election day is
24 sufficient cause to entitle a voter to vote under Section
25 82.002(a).

26 SECTION 2.15. Section 86.013(f), Election Code, is amended
27 to read as follows:

1 (f) The oath of a person assisting a voter and the form
2 described by Section 64.0322(a) must be included on the official
3 carrier envelope as part of the certificate prescribed by
4 Subsection (c).

5 SECTION 2.16. Section 213.013(i), Election Code, is amended
6 to read as follows:

7 (i) No device capable of recording images or sound is
8 allowed inside the room in which the recount is conducted, or in any
9 hallway or corridor in the building in which the recount is
10 conducted within 30 feet of the entrance to the room, while the
11 recount is in progress unless the person entitled to be present at
12 the recount is a watcher or agrees to disable or deactivate the
13 device. However, on request of a person entitled to appoint
14 watchers to serve at the recount, the recount committee chair shall
15 permit the person to photocopy under the chair's supervision any
16 ballot, including any supporting materials, challenged by the
17 person or person's watcher. The person must pay a reasonable charge
18 for making the copies and, if no photocopying equipment is
19 available, may supply that equipment at the person's expense. The
20 person shall provide a copy on request to another person entitled to
21 appoint watchers to serve at the recount.

22 ARTICLE 3. ELECTION CONTESTS

23 SECTION 3.01. Section 232.006(a), Election Code, is amended
24 to read as follows:

25 (a) The venue of an election contest for a statewide office
26 is in Travis County or any county where a contestee resided at the
27 time of the election. For purposes of this section, a contestee's

1 residence is determined under Section 411.0257, Government Code.

2 SECTION 3.02. Chapter 232, Election Code, is amended by
3 adding Subchapter C to read as follows:

4 SUBCHAPTER C. CONTEST INVOLVING ALLEGED FRAUD

5 Sec. 232.061. PETITION ALLEGING FRAUD. This subchapter
6 applies to an election contest in which the contestant alleges in
7 the petition that an opposing candidate, an agent of the opposing
8 candidate, or a person acting on behalf of the opposing candidate
9 with the candidate's knowledge committed a violation of any of the
10 following sections of this code:

- 11 (1) Section 13.007;
- 12 (2) Section 64.012;
- 13 (3) Section 64.036;
- 14 (4) Section 84.003;
- 15 (5) Section 84.0041;
- 16 (6) Section 86.0051;
- 17 (7) Section 86.006;
- 18 (8) Section 86.010; or
- 19 (9) Section 276.013.

20 Sec. 232.062. EVIDENTIARY STANDARD. A contestant must
21 prove an allegation described by Section 232.061 by a preponderance
22 of the evidence.

23 Sec. 232.063. CIVIL PENALTY. (a) If the court in its
24 judgment finds that the contestee, an agent of the contestee, or a
25 person acting on behalf of the contestee with the contestee's
26 knowledge committed one or more violations of a section described
27 by Section 232.061, the contestee is liable to this state for a

1 civil penalty of \$1,000 for each violation.

2 (b) A penalty collected under this section shall be
3 deposited in the state treasury to the credit of the general revenue
4 fund.

5 Sec. 232.064. ATTORNEY'S FEES. In an election contest to
6 which this subchapter applies, the court may award reasonable
7 attorney's fees to the prevailing party.

8 SECTION 3.03. The changes in law made by this article apply
9 only to an election contest for which the associated election
10 occurred after the effective date of this Act.

11 ARTICLE 4. STATE AND COUNTY OFFICERS

12 SECTION 4.01. Section 18.061, Election Code, is amended by
13 amending Subsection (b) and adding Subsection (f) to read as
14 follows:

15 (b) The statewide computerized voter registration list
16 must:

17 (1) contain the name and registration information of
18 each voter registered in the state;

19 (2) assign a unique identifier to each registered
20 voter; and

21 (3) be available to any election official in the
22 state, including the attorney general, through immediate
23 electronic access.

24 (f) Appropriate state or local officials and agencies shall
25 provide technological security measures to prevent unauthorized
26 access to the statewide computerized voter registration list.

27 SECTION 4.02. Section 18.062, Election Code, is amended by

1 adding Subsection (c) to read as follows:

2 (c) For the purposes of Subsection (a), the secretary of
3 state may disclose a voter's social security number or date of birth
4 to other states and jurisdictions.

5 SECTION 4.03. Subchapter A, Chapter 31, Election Code, is
6 amended by adding Section 31.014 to read as follows:

7 Sec. 31.014. RULES. The secretary of state shall adopt
8 rules establishing best practices for:

9 (1) maintaining the physical and digital security of
10 elections infrastructure and systems; and

11 (2) restricting access to elections infrastructure
12 and systems to authorized personnel.

13 SECTION 4.04. Section 43.007, Election Code, is amended by
14 adding Subsections (f-1) and (g-1) to read as follows:

15 (f-1) Notwithstanding Subsection (f), the commissioners
16 court of a county with a population of more than one million must
17 select countywide polling places using the same methodology that
18 the county would use to select polling places if it were not
19 participating in the countywide polling place program.

20 (g-1) A county participating in the program shall, at each
21 countywide polling place, post a notice of the four nearest
22 countywide polling place locations by driving distance.

23 SECTION 4.05. Section 67.007, Election Code, is amended by
24 adding Subsection (f) to read as follows:

25 (f) Not later than 24 hours after completing county election
26 returns under this section, the county clerk shall post on the
27 county's Internet website, if the county maintains a website:

1 (1) the number of votes that were cast in the county;

2 and

3 (2) the number of registered voters in the county.

4 SECTION 4.06. Subchapter A, Chapter 127, Election Code, is
5 amended by adding Section 127.008 to read as follows:

6 Sec. 127.008. ELECTRONIC DEVICES IN CENTRAL COUNTING
7 STATION. (a) A counting station manager and the presiding judge
8 of the counting station shall develop a protocol under which no
9 electronic device capable of being connected to the Internet is
10 permitted inside a central counting station, except as permitted by
11 Subsection (b).

12 (b) The protocol developed under Subsection (a) may permit a
13 cellular telephone or the equipment necessary to count votes to be
14 present in the central counting station if the devices are not
15 connected to the Internet.

16 SECTION 4.07. Section 216.001, Election Code, is amended to
17 read as follows:

18 Sec. 216.001. APPLICABILITY OF CHAPTER. (a) Except as
19 provided by Subsection (b), this [This] chapter applies only to an
20 election that results in a tie vote as provided by Sections
21 2.002(i), 2.023(b) and (c), and 2.028.

22 (b) If the results of an election show that the number of
23 votes cast in an election precinct exceeds the number of registered
24 voters in the precinct, the authority designated under Section
25 212.026 shall initiate an automatic recount for that precinct in
26 accordance with this chapter.

ARTICLE 5. AUDITABLE VOTING SYSTEMS

SECTION 5.01. Chapter 127, Election Code, is amended by adding Subchapter I to read as follows:

SUBCHAPTER I. RISK-LIMITING AUDIT

Sec. 127.301. APPLICABILITY OF SUBCHAPTER. This subchapter applies to an election:

(1) that occurs after August 31, 2024;

(2) that contains a race or measure that is voted on statewide; and

(3) in which an auditable voting system described by Section 129.003(a) is used.

Sec. 127.302. RISK-LIMITING AUDIT. (a) Not later than 24 hours after all ballots have been counted in an election, the general custodian of election records shall conduct a risk-limiting audit for a selected statewide race or measure.

(b) The secretary of state shall select, in accordance with rules adopted by the secretary, the precincts to be counted and the office or proposition to be counted.

(c) The general custodian of election records shall complete the audit not later than 24 hours before the time for conducting the canvass of the election.

(d) The general custodian of election records shall post a notice of the date, hour, and place of the audit in the custodian's office and on the county's Internet website, if the county maintains a website.

(e) A watcher may be present for the audit if appointed by a candidate in the election. A watcher must deliver a certificate of

1 appointment to the general custodian of election records at the
2 time the watcher reports for service. The certificate must be in
3 writing and must include:

- 4 (1) the printed name and signature of the watcher;
5 (2) the election subject to the audit; and
6 (3) the printed name and signature of the candidate
7 making the appointment.

8 (f) The secretary of state may appoint personnel to assist
9 with the audit, including applicable voting system technicians or
10 representatives and persons who have assisted with the design and
11 implementation of the audit.

12 Sec. 127.303. RULES. (a) The secretary of state shall
13 adopt rules prescribing procedures necessary to implement this
14 subchapter.

15 (b) Rules adopted under this subchapter must include a rule,
16 using widely accepted statistical methods, that provides for the
17 number or percentage of paper records that must be counted in a
18 risk-limiting audit under Section 127.302.

19 Sec. 127.304. PUBLICATION OF RESULTS. The results of a
20 risk-limiting audit conducted under this subchapter must be
21 published on the Internet website of the secretary of state not
22 later than three days after the completion of the audit.

23 Sec. 127.305. PILOT PROGRAM. (a) Notwithstanding Section
24 127.301(1), the secretary of state shall conduct a pilot program,
25 beginning with the election taking place November 3, 2020, of the
26 risk-limiting audit program created under this subchapter.

27 (b) The secretary of state shall select at least five

1 counties to participate in the pilot program. At least one county
2 participating in the pilot program must have a population of at
3 least 500,000.

4 (c) After each election conducted under the pilot program,
5 the secretary of state shall send a detailed report to each member
6 of the legislature evaluating the success of the program and making
7 a recommendation as to whether the legislature should act to delay
8 the statewide implementation of the program.

9 (d) The secretary of state shall adopt rules as necessary to
10 implement this section.

11 (e) This section expires August 31, 2024.

12 SECTION 5.02. Subchapter A, Chapter 129, Election Code, is
13 amended by adding Section 129.003 to read as follows:

14 Sec. 129.003. PAPER AUDIT TRAIL REQUIRED. (a) In this
15 section, "auditable voting system" means a voting system that uses,
16 creates, or displays a paper record that may be read by the voter.

17 (b) Except as otherwise provided by this section, a voting
18 system that consists of direct recording electronic voting machines
19 may not be used in an election unless the system is an auditable
20 voting system.

21 (c) The electronic vote is the official record of the vote
22 cast if a risk-limiting audit conducted under Section 127.302
23 produces strong evidence that the reported outcome of the election
24 matches the results that a full counting of the paper records would
25 reveal.

26 (c-1) The paper record is the official record of the vote
27 cast:

1 (1) for a recount under Title 13, including a recount
2 of ballots cast on a system involving direct recording electronic
3 voting machines; or

4 (2) if a risk-limiting audit conducted under Section
5 127.302 fails to produce strong evidence that the reported outcome
6 of the election matches the results that a full counting of the
7 paper records would reveal.

8 (d) An authority that purchased a voting system other than
9 an auditable voting system after September 1, 2014, and before
10 September 1, 2019, may use available federal funding and, if
11 federal funding is not available, available state funding to
12 convert the purchased voting system into an auditable voting system
13 in accordance with the following schedule:

14 (1) if the voting system was converted into an
15 auditable voting system not later than the election taking place
16 November 3, 2020, the authority is eligible to have 100 percent of
17 the cost of conversion reimbursed under this section; and

18 (2) if the authority is not eligible for a 100 percent
19 reimbursement of cost under Subdivision (1) and the voting system
20 was converted into an auditable voting system not later than the
21 election taking place November 5, 2024, the authority is eligible
22 to have 50 percent of the cost of conversion reimbursed under this
23 section.

24 (e) The secretary of state may use any available funds to
25 assist an authority with the purchase of an auditable voting system
26 if the funds have been appropriated for that purpose.

27 (f) Subsections (a), (b), (c), and (c-1) do not apply to an

1 election held before September 1, 2024.

2 (g) A paper record generated by an auditable voting system
3 may be used only for the purposes described by this section and may
4 not be retained by the voter.

5 (h) Notwithstanding Subsection (b), a voter voting under
6 Section 64.009 may use a direct recording electronic voting machine
7 regardless of whether the direct recording electronic voting
8 machine is part of an auditable voting system.

9 ARTICLE 6. REPEALER AND EFFECTIVE DATE

10 SECTION 6.01. The following provisions of the Election Code
11 are repealed:

- 12 (1) Section 33.051(c);
13 (2) Section 61.003(a-1); and
14 (3) Section 85.036(b).

15 SECTION 6.02. This Act takes effect September 1, 2019.