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Election Crimes Prosecution Act

HB 7 – SB 6

Bill Analysis

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The Supreme Court of Texas found in the Texas v. Stephens case that the "attorney general is not required by law to prosecute election law violations." The supreme court held that Article IV, Section 22 of the Texas Constitution states that the attorney general shall perform other duties "as may be required by law." But the Election Code does not require the attorney general to initiate prosecution for an Election Code violation. Therefore, the Stephens case held that while the attorney general can prosecute with the permission of the local prosecutor, he cannot initiate prosecution unilaterally.

This bill would change this "may" to a "shall" and would give the attorney general the power to prosecute election crimes.

Under this bill, local law enforcement that would normally submit reports of probable cause of these crimes to a local prosecuting attorney must also submit these reports to the attorney general. In addition, upon request of the attorney general, the local prosecuting attorney or law enforcement must also turn over all information regarding their criminal investigations on these offenses.

This bill amends current law relating to the duty of the attorney general to prosecute criminal offenses prescribed by the election laws of this state.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

ANALYSIS

SECTION 1. Amends Chapter 402, Government Code, by adding Subchapter E, as follows:

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

Sec. 402.151. APPLICABILITY. Provides that this subchapter applies to a criminal offense under the Election Code.

Sec. 402.152. PROVISION OF INFORMATION TO ATTORNEY

STUDENT LEGISLATIVE SESSION
TEXAS STATE CAPITOL
EST. 2003

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GENERAL. (a) Requires a law enforcement agency to 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 402.151.

(b) Requires a local prosecuting attorney or law enforcement agency to provide any information requested by the attorney general regarding investigations of criminal offenses described by Section 402.151 to assist the attorney general in performing duties required under this subchapter.

Sec. 402.153. PROSECUTION. Provides that, notwithstanding any other law, the attorney general has jurisdiction to prosecute and is required to represent the state in the prosecution of a criminal offense described by Section 402.151.

SECTION 2. Amends Sections 273.021(a) and (b), Election Code, as follows:

(a) Provides that the attorney general has jurisdiction to prosecute and is required to represent the state in the prosecution of a criminal offense prescribed by the election laws of this state as provided by Subchapter E, Chapter 402 (Attorney General), Government Code. Deletes existing text authorizing the attorney general to prosecute a criminal offense prescribed by the election laws of this state.

(b) Authorizes the attorney general to appear before a grand jury in connection with a criminal offense, rather than in connection with an offense, the attorney general is authorized to prosecute under Subsection (a).

SECTION 3. Amends Section 273.022, Election Code, to make a conforming change.

SECTION 4. Makes application of this Act prospective.

EFFECTIVE DATE
January 1, 2027.