

# VISAGE REPORT: TX S.B. 1

GRADE: F

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## Voter Integrity Summary, Analysis, Grading and Evaluation (VISAGE) Report Method

The Voter Integrity Summary, Analysis, Grading and Evaluation (VISAGE) Report has four major components: Summarizing the overall bill, Analyzing each section of the bill, Grading each section of the bill using Look Ahead America's six objectives for voter integrity reform, and Evaluating the overall bill. We follow this approach rather than taking partisan reports about these bills solely at face value.

Using Look Ahead America's six objectives for voter integrity reform, our Research Group grades the bill with a letter ranking from A to F in each of the following areas:

1. Thumbprint Authentication of Absentee Ballots.
2. Mandated and Public Voter List Hygiene.
3. Ban on the Use of "Black Box" Voting Equipment.
4. Appointment of a Citizens Elections Supervisory Committee.
5. Creation and Funding of a Dedicated Voter Fraud Investigation Division within the State's Attorney General's Office.
6. Equitable Distribution of Private Contributions to Election Operations.

You can find additional information about our six objectives at our website:

<https://lookaheadamerica.org/integrity/>

While we plan to eventually apply the VISAGE methodology to all state bills, given our resources we do not have the ability to review every bill that we discovered in 2021 relating to election integrity. As of now, we need to focus on the larger, more impactful ones receiving national attention to see whether it will impact the state and set a precedent for the nation.

## Summary of TX S.B. 1

In 2020, faced with COVID-19, our country saw a dramatic increase in vote-by-mail ballots. Yet COVID-19 did not deter voters as approximately 155 million people voted, of which 69%, or 107 million voted by mail.<sup>1 2</sup> This represents a significant increase from 2016, in which only 40% voted by mail. 2020 also brought about claims of voter and election fraud on a massive scale. While sensational levels of fraud seem unlikely, voter fraud indeed occurs.

Because of the hotly contested 2020 election, many states with both Republican and Democrat legislatures introduced a flurry of new bills aimed at changing election laws.

A Republican-backed bill introduced primarily by State Senator Bryan Hughes,<sup>3</sup> Texas Governor Greg Abbott signed SB 1 into law on September 7, 2021.<sup>4</sup> That same day, Vice President Kamala Harris tweeted the bill was “one of the most restrictive in the nation.”<sup>5</sup> On November 4th, 2021, the Civil Rights Division of the U.S. Justice Department filed a lawsuit against the State of Texas.<sup>6</sup> The lawsuit alleges the provisions will (1) disenfranchise eligible Texas citizens, (2) violate Section 208 of the Voting Rights Act, 52 U.S.C. § 10508, and (3) violate Section 101 of the Civil Rights Act of 1964, 52 U.S.C. § 10101.

Because of the serious allegations made by the Department of Justice, Look Ahead America decided to look into these claims.

Although Look Ahead America has summarized this bill, the details of this bill can be found at <https://capitol.texas.gov/tlodocs/872/billtext/pdf/SB00001F.pdf#navpanes=0>

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<sup>1</sup> DeSilver, D. (2021, January 28). *Turnout soared in 2020 as nearly two-thirds of eligible U.S. voters cast ballots for president*. Pew Research Center. <https://www.pewresearch.org/fact-tank/2021/01/28/turnout-soared-in-2020-as-nearly-two-thirds-of-eligible-u-s-voters-cast-ballots-for-president/>

<sup>2</sup> U.S. Census Bureau. (2021, April 29). *What Methods Did People Use to Vote in the 2020 Election?* The United States Census Bureau. <https://www.census.gov/library/stories/2021/04/what-methods-did-people-use-to-vote-in-2020-election.html>

<sup>3</sup> <https://legiscan.com/TX/sponsors/SB1/2021/X2>

<sup>4</sup> “Governor Abbott Signs Election Integrity Legislation into Law.” Gov.texas.gov, 7 Sep. 2021, <https://gov.texas.gov/news/post/governor-abbott-signs-election-integrity-legislation-into-law>.

<sup>5</sup> “<https://twitter.com/Vp/Status/1435312662624325636>” Twitter, 7 Sep. 2021, [twitter.com/Vp/status/1435312662624325636](https://twitter.com/Vp/status/1435312662624325636). Accessed 6 Dec. 2021.

<sup>6</sup> Justice Department Files Lawsuit against the State of Texas to Protect Voting Rights - Compliant. Department of Justice - Office of Public Affairs, 4 Nov. 2021, [www.justice.gov/opa/press-release/file/1446536/download](http://www.justice.gov/opa/press-release/file/1446536/download).

# Analysis of the Bill

## Article 1 - GENERAL PROVISIONS

**SECTION 1.01 – Short Title.** The short title is the “Election Integrity Protection Act of 2021.”

**SECTION 1.02 – Purpose.** The purpose is for the legislature to exercise its constitutional duty (TEXAS CONSTITUTION ARTICLE VI SECTION 4) to make all laws necessary to detect and punish election fraud.

**SECTION 1.03 – Findings.** Provides the legislature found that:

A full, free, and fair elections are the underpinnings of a stable constitutional democracy; fraud in elections threatens the stability of a constitutional democracy by undermining public confidence in the legitimacy of public officers chosen by election; reforms to the election laws of this state made by this Act are not intended to impair the right of free suffrage guaranteed to the people of Texas by the United States and Texas Constitutions, but are enacted solely to prevent fraud in the electoral process and ensure that all legally cast ballots are counted; Integral to the right to vote is the assurance of voter access and the right for all votes legally cast to be counted; preventing a valid vote from being counted violates the basic constitutional rights guaranteed to each citizen by the United States Constitution; and providing for voter access and increasing the stability of a constitutional democracy ensures public confidence in the legitimacy of public officers chosen by election.

**SECTION 1.04 – Adds Section 1.0015 Legislative Intent to Chapter 1 of the Election Code.**

The intent of the legislature is that the application of this code and the conduct of elections be uniform and consistent throughout this state to reduce the likelihood of fraud in the conduct of elections, protect the secrecy of the ballot, promote voter access, and ensure that all legally cast ballots are counted.

**SECTION 1.05 – Amends Section 1.003 Construction of Code in Chapter 1 of the Election Code.**

This requires election and other public officials to strictly construe the provisions of this code to affect the intent of the legislature under Section 1.0015 - Legislative Intent. In other words, the spirit of the law matters and must not be construed in other ways.

**SECTION 1.06** – Defines “election official” and defines “federal judge” under Section 1.005 **Definitions** in Chapter 1, Election Code.

**SECTION 1.07** – Amends Section 1.018 **Applicability of the Penal Code** in Chapter 1, of the Election Code.

Adds “Title 2” (General Principles of Criminal Responsibility) to the offenses that may apply to offenses this code may cover.

**SECTION 1.08** – Adds Section 1.022 **Reasonable Accommodation or Modification** to Chapter 1 of the Election Code.

This code may not be interpreted to prohibit or limit the right of a qualified individual with a disability from requesting a reasonable accommodation or modification to any election standard, practice, or procedure mandated by law or rule that the individual is entitled to request under federal or state law.

## Article 2 - REGISTRATION OF VOTERS

**SECTION 2.01** – Amends Section 13.002 **Application Required** in Election Code.

A voter applicant must provide: (1) a statement that they are a United States citizen, (2) evidence that they are a resident of the county, (3) evidence that they are not totally or partially mentally incapacitated, (4) evidence that they they have not been finally convicted of a felony or are eligible for registration having fully served their sentence and discharged or pardoned, and (5) either their Texas driver’s license number, the number of a personal identification card issued by the Department of Public Safety, or the last four digits of their social security number, or a statement that they’ve not received any of these numbers.

**SECTION 2.02** – Amends Section 13.002 **False Statement on Application** in the Election Code.

The definition now includes “or intentionally” and “coerces.” It also upgrades the penalty from a Class B misdemeanor to a Class A misdemeanor, except the offense leads to a state jail felony if they directly or through a third party offer or provide

compensation or other benefit, or solicit, receive, or accept compensation or other benefit. One can be prosecuted under this law, another law if applicable, or both.

**SECTION 2.03** – Amends Section 15.021 **Notice of Change in Registration Information by Voter**, Election Code.

A person may update their information using their registration certificate or a registration application form as the notice, or may do so online under a program administered by the secretary of state and the Department of Information Resources. The voter registrar of the voter's old TX county will notify the voter registrar in the voter's new TX county with the notice and application. Upon updating the information, both will ensure that the old county registration is canceled. The new registrar will treat the information change as a new registration, and laws introduced under **False Statement on Application** will apply.

**SECTION 2.04** – Amends Section 15.028 **Notice Of Unlawful Voting Or Registration** in the Election Code.

Adds "Or Registration" to the title of this section. It also expands the people to whom the registrar must send an affidavit to so as now to include the secretary of state and attorney general, in addition to the county or district attorney to whom they used to only send the affidavit. This must occur within 72 hours (not including weekends).

**SECTION 2.05** – Amends Section 16.0332 **Cancellation Because of Citizenship Status** in the Election Code.

After the registrar receives a list of ineligible voters from the DMV or Department of Public Safety, they may compare this against noncitizen lists and voters registration lists indicating ineligibility, then the registrar must contact each voter on the list who applied and request a copy of a birth certificate, US passport, or certificate of naturalization. The secretary of state shall prescribe rules for the administration, and no later than December 31 each year will provide a report to the legislature of the yearly number of voter registrations canceled under this section.

**SECTION 2.06** – Amends Section 18.065 **Secretary of State to Monitor Registrar’s Compliance,** Election Code.

If the secretary of state finds that the voter registrar is not in compliance they have a three strikes policy. After the first violation they must attend a training course that complies with material in Subsection **Delivery of list to Secretary of State, Cancellation Following End of Suspense List Period,** and **Statewide Computerized Voter Registration List** along with rules implementing the statewide computerized voter registration list. After the second violation, the secretary of state must audit the voter registration list of the registrar to determine what needs to be done to be in compliance and provide these results to the registrar. After the third violation, or if the registrar does not make the required audit changes in 14 days, the secretary of state must inform the attorney general that the county where the registrar serves may be subject to civil penalties of \$1,000 fined for each day after the 14th day following the receipt of the results of the audit to bring the county into compliance. These funds will be deposited in the state treasury to the credit of the general revenue fund. The secretary of state shall adopt rules and prescribe procedures for implementation.

**SECTION 2.07** – Amends Section 18.068 **Comparison of Information Regarding Ineligibility** in the Election Code.

Adds Section 62.114 **Compilation of List of Nonresidents of the Government Code.** The secretary of state may compare a list of nonresidents to the statewide computerized voter registration list every quarter. If a voter is not a resident of the county in which they are registered to vote according to this list (and the ones in the original subsection), then the secretary shall send notice of the determination to the voter registrar. The secretary may not send notice if the voter is exempt from jury service under Section 62.106 **Exemption from Jury Service** AND that is the only reason that they are exempt from jury service. (The reasons listed would be: over 70 years old; legal custody of a child under 12 and unable to serve due to having no adult supervision for the child, or primary caretaker of an adult for someone unable to take care of themselves; active military service or serving abroad; student in high school public or private or college; any employee in the legislative branch of state government; currently serving on a jury or summoned for service in the last 3 years.)

**SECTION 2.08** – Amends Section 31.006 **Referral to Attorney General** in the Election Code.

Removes “of Complaint” from the title, and replaces all references to “complaint” and “alleged” with “information.”

**SECTION 2.09** – Adds Section 87.028 **Access to Information** in the Election Code.

A county election official shall provide early voting ballot board or signature verification committee members all available information necessary to fulfilling the functions of their roles, including any information from the statewide computerized voter registration list. The secretary of state will create rules to prevent them from sharing or retaining personally identifiable information for any reason unrelated to their duties.

**SECTION 2.10** – Amends Section 62.113 **Compilation of List of Noncitizens**, Government Code.

Removes “as applicable” from the county or district attorney; the county clerk **MUST** send a list of people excused or disqualified because of citizenship in the previous month to the county or district attorney along with the secretary of state and voter registrar regarding potentially committing an offense on a voter application.

**SECTION 2.11** – Amends Section 62.114 **Compilation of List of Nonresidents**, Government Code

The county clerk will send a list of people excused or disqualified in the previous month from voting in that county due to being nonresidents to the secretary of state and the voter registrar. This list may not be used for any other reason outside of those given in particular sections. It adds Section 18.068 **Comparison of Information Regarding Ineligibility** as one of those sections.

### Article 3 - CONDUCT AND SECURITY OF ELECTIONS

**SECTION 3.01** – Amends Section 2.053 **Action on Certification** in the Election Code.

Changes the word “may” to “shall”, which would automatically require unopposed candidates to be declared elected to office.

**SECTION 3.02** – Amends Section 2.056 **Unopposed Candidate for Office of State or County Government** in the Election Code.

Changes the word “may” to “shall” regarding the declaration of unopposed candidates for state and county offices, which would automatically require unopposed candidates to be declared elected to office.

**SECTION 3.03** – Amends Section 43.007 **Countywide Polling Place Program**, Election Code.

Changes wording from “direct recording electronic voting units” to “voting system equipment.” In addition to auditing direct recording electronic voting units, audits now include ballot marking devices, or hand-marked scannable paper ballots that are printed and scanned at the polling place, or any other type of voting system equipment that the secretary of state determines is capable of processing votes.

**SECTION 3.04** – Amends Section 43.031(b) **Polling Place in Public Building** in the Election Code.

Specifies that no voter may cast a vote from inside a motor vehicle unless the voter meets the requirements of Section 64.009 **Voter Unable to Enter Polling Place**.

**SECTION 3.05** – Amends Section 52.092 **Offices Regularly Filled at General Election for State and County Officers** in the Election Code.

Provides further specification for the order that all offices shall be listed on the ballot, while also specifying the exceptions provided above in SECTION 3.01 and SECTION 3.02 related to unopposed candidates automatically becoming elected.

**SECTION 3.06** – Amends Section 61.002 **Opening and Closing Polling Place for Voting** in the Election Code.

Adds “and closing” to the title, which legislates both opening and closing of polling places for voting. Immediately before opening the polls for the first day of early voting, the public counter on the machines shall be reset to zero, and the tape must be printed showing the counter was set to zero for each candidate or measure on the ballot. Immediately after closing the polls for voting on election day, the tape must be printed to show the number of votes cast for each candidate or ballot measure for each voting machine. Each election judge present shall sign the tapes printed under this section.

**SECTION 3.07** – Amends Section 64.007 **Spoiled Ballot** in the Election Code.

The secretary of state shall promote a form used for the purpose of registering spoiled ballots. The form shall include the name of each voter who returns a spoiled ballot and the spoiled ballot's number.

**SECTION 3.08** – Adds Section 66.004 **Polling Place Checklists** to the Election Code.

The secretary of state must adopt rules and create a checklist or similar guidelines to assist the presiding judge of a polling place in processing forms and conducting procedures required by the code at the opening and closing of the polling place.

**SECTION 3.09** – Amends Section 85.005 **Regular Days and Hours for Voting**, Election Code.

Increases the hours for early voting from 8 to 9 in large territories; In any election, early voting in person at the main early voting polling place shall be conducted on each weekday of the early voting period that is not a legal state holiday and for a period of at least nine hours, no earlier than 6 a.m. or later than 10 p.m.

Increases the hours for early voting from 3 to 4 in small territories; In a territory with fewer than 1,000 registered voters, voting shall be conducted at least 4 hours each day, increased from 3 hours each day.

Finally, any voter may vote if they are in line at the polling place before poll closing time.

**SECTION 3.10** – Amends Section 85.006 **Voting on Saturday or Sunday** in the Election Code.

The same hours extend on weekends to follow changes made in Section 3.09 above regarding early voting hours and includes Sunday early voting.

**SECTION 3.11** – Amends Section 85.010 **Early Voting Polling Place for Certain Elections Held by Political Subdivisions** in the Election Code.

Removes a temporary branch polling place as an exception from the eligible county polling place.

**SECTION 3.12** – Amends Section 85.061 **Permanent Branch Polling Place** in the Election Code.

An early polling place shall be located inside rather than at each branch office that is regularly maintained. If a suitable room is unavailable inside a branch office, the polling place may be located in another room inside the same building as the branch office.

**SECTION 3.13** – Amends Section 85.062 **Temporary Branch Polling Place** in the Election Code.

Early voting may be located inside any building as directed by the authority establishing the branch office. This changed the original wording which stated that it may be located “in” any “stationary structure.” It prohibits a polling place to be in a moveable structure. For any temporary branch polling place, the commissioners court of a county shall use the same methodology it uses to determine the location of countywide polling places to determine the location of temporary branch polling places.

**SECTION 3.14** – Amends Section 87.002 **Composition of Board** in the Election Code.

The board composition is changed from a presiding judge and two other members to a presiding judge, an alternate presiding judge, and one other member. The alternate presiding judge is to be appointed in the same manner as the presiding judge. The other member is appointed by the presiding judge.

In the general election for state and county officers, each county chair of a political party with nominees on the general election ballot shall submit to the county election board a list of all names of persons eligible to serve on the early voting ballot board, specifically in order of the county chair’s preference. The county election board shall appoint persons as members of the early voting ballot board in the order of preference indicated on each list. The county election board shall appoint as the presiding judge the highest-ranked person on the list from the political party whose nominee for governor received the most votes in the county in the most recent gubernatorial general election, and as the alternate presiding judge, the highest-ranked person on the list provided by the party whose nominee for governor received the second most votes in the county in the most recent gubernatorial general election.

**SECTION 3.15** – Amends Section 124.002 **Manner of Indicating Party Alignment**, Election Code.

Ballots may not be arranged in a manner that allows a political party's candidates to be selected in one motion or gesture.

**SECTION 3.16** – Amends Section 127.006 **Counting Station Clerks** in the Election Code.

Allows the manager and presiding judge to appoint clerks for the central counting station, and also gives this appointment power to the alternate presiding judge.

**SECTION 3.17** – Adds Section 127.009 **Electronic Devices in Central Counting Station** in the Election Code.

A counting station manager and the presiding judge of the counting station shall develop a protocol under which any electronic device inside a central counting station that is necessary to count votes is equipped with software that tracks all input and activity on the electronic device. It is the responsibility of the manager and presiding judge to ensure that the input and activity tracked by the software is delivered to the secretary of state no later than the fifth day after vote counting completes. This section applies only to a central counting station located in a county with a population of 250,000 or more.

**SECTION 3.18** – Amends Section 127.1232 **Security of Voted Ballots**, Election Code.

In a county with a population greater than 100,000, the general custodian of election records shall implement a video surveillance system that retains a record of all areas containing voted ballots. This surveillance shall be active from the time the voted ballots are delivered to the central counting station until the canvass of precinct election returns, and from the time the voted ballots are delivered to the signature verification committee or early voting ballot board until the canvas of precinct election returns. A video from this system shall be made available to the public by livestream. A recording must also be retained by the general custodian of election records until the end of the calendar year in which an election has been held or until an election contest filed in the county has been resolved, whichever is later.

**SECTION 3.19** – Adds Subchapter J **Randomized Audits** to Section 127 of the Election Code.

After the uniform election date in November of an even-numbered year, the secretary of state shall conduct an audit of the elections held in four counties during the previous two years. The counties shall be selected at random except that two of the counties selected must have a total population of less than 300,000 and two of the counties must have a total of more than 300,000. A county selected in the most recent audit cycle may not be selected in the current audit cycle. A county selected to be audited may not pay the cost of performing an audit under this section. The secretary of state shall adopt rules as necessary to implement this section.

#### Article 4 - ELECTION OFFICERS AND OBSERVERS

**SECTION 4.01** – Amends Section 32.075 **Law Enforcement Duties and Powers**, Election Code.

A presiding judge may not have a watcher removed from the polling place for violating a provision of this code or any other provision of law relating to the conduct of elections, other than a violation of the Penal Code, unless an election judge or clerk observed the violation. A presiding judge may call a law enforcement officer to request that a poll watcher be removed if the poll watcher commits a breach of the peace or violates law.

**SECTION 4.02** – Adds Section 33.0015 **Chapter Purpose and Watcher Duty**, Election Code.

The purpose of this chapter is to preserve the integrity of the ballot box in accordance with Section 4 (**Elections by ballot; Purity of Elections; Registration of Voters**), Article VI (**Suffrage**) of the Texas Constitution, by providing for the appointment of watchers. They should be allowed to observe and report on irregularities or violation of law in the conduct of any election, but may not interfere in the orderly conduct of an election.

**SECTION 4.03** – Adds Section 33.0016 **References to Early Voting Ballot Board in This Chapter**, Election Code.

References to an early voting ballot board includes a signature verification committee.

**SECTION 4.04** – Adds Section 33.008 **Training Program** in the Election Code.

The secretary of state shall develop and maintain a training program for watchers, which must be available entirely by the Internet and at any time, without a requirement for prior registration. Any watcher who completes the training must receive a certificate of completion.

**SECTION 4.05** – Amends Section 33.031 **General Eligibility Requirements**, Election Code.

To be eligible to serve as a watcher, in addition to a certificate of appointment, a person must also complete the training just introduced in SECTION 4.04.

**SECTION 4.06** – Amends Section 33.051 **Acceptance of Watcher**, Election Code.

A watcher must give the certificate of appointment and the certificate of completion of training to a presiding judge when reporting for service. The watcher must deliver these certificates to the early voting clerk or deputy clerk in charge of the polling place when first reporting for service. The reporting officer must require the watcher to countersign their certificate of appointment to ensure that the watcher is the same person who signed the certificate of appointment. A watcher who arrives at the proper time with the certificates required must be accepted unless the required number of appointees have already been accepted. The serving watcher's certificates at an early voting polling place will be retained at the polling place until voting at the polling place concludes. At each subsequent time that the watcher reports for service, the watcher shall inform the clerk or deputy in charge. The officer may require the watcher to sign the watcher's name in the officer's presence, for comparison with the signature on the certificate of appointment, if uncertain of the watcher's identity. If a watcher is not accepted for service, the certificates must be returned to the watcher with a signed statement with the rejection reason. An election officer commits a Class A misdemeanor if the officer intentionally or knowingly refuses to accept a watcher for service. Before accepting a watcher, the officer presented with a watcher's certificate of appointment shall require the watcher to take the following oath, administered by the officer: "I swear (or affirm) that I will not disrupt the voting process or harass voters in the discharge of my duties."

**SECTION 4.07** – Amends Section 33.056 **Observing Activity Generally** in the Election Code.

Changes the language from allowing watchers to sit or stand “conveniently” near to near “enough to see and hear” election officers. Except as provided by Section 33.057(b) **Observing Preparation of Voter’s Ballot** – in which a watcher may not be present at the voting station when a voter is preparing the voter's ballot or is being assisted by a person of the voter's choice – a watcher may not be denied free movement where election activity occurs within the location at which the watcher serves. A watcher is entitled to sit or stand near enough to see and hear the activity.

**SECTION 4.08** – Adds Section 33.0605 **Observing Data Storage Sealing and Transfer** to the Election Code.

A watcher appointed to serve at a polling place in an election may observe all election activities relating to closing the polling place, including the sealing and transfer of a memory card, flash drive, hard drive, data storage device, or other medium now existing or later developed that is used by the voting system equipment. Watchers are entitled to follow the transfer of election materials from the polling place at which the watcher was accepted to a regional tabulating center, the central counting station, or any other location designated to process election materials. The authority responsible for administering a regional tabulating center or another location where election materials are processed must accept watchers for service in the same manner as in Section 33.051 **Acceptance of Watcher**. They must accept no more than two watchers.

**SECTION 4.09** – Amends Section 33.061 **Unlawfully Obstructing Watcher**, Election Code.

A person commits an offense if the person serves in an official capacity at a location at which the presence of watchers is authorized, and knowingly prevents a watcher from observing an activity or procedure that the person knows the watcher is entitled to observe, including by taking any action to obstruct the view of a watcher, or distance the watcher from the activity or procedure to be observed in a manner that would make observation not reasonably effective.

**SECTION 4.10** – Adds Section 33.063 **Relief** to the Election Code.

The appointing authority for a watcher who believes that the watcher was unlawfully prevented or obstructed from the performance of the watcher’s duties may seek: (1)

injunctive relief in a venue of court appeals, including issuance of temporary orders; (2) a writ of mandamus; and (3) any other remedy available under law.

**SECTION 4.11** – Amends Section 34.005 **Action by Secretary of State** in the Election Code.

If the secretary of state believes that a state inspector was unlawfully prevented or obstructed from the performance of the inspector's duties, the secretary of state may seek the same remedies in Section 33.063 **Relief**.

**SECTION 4.12** – Amends Section 86.006 **Method of Returning Marked Ballot**, Election Code.

A marked ballot voted under this chapter must be returned to the early voting clerk in the official carrier envelope. The carrier envelope may be delivered in another envelope and must be transported and delivered only by: (1) mail; (2) common or contract carrier; or (3) The voter may deliver a marked ballot in person to the early voting clerk's office only while the polls are open on election day with an acceptable form of identification, and it must be received by an election official at the time of delivery. The receiving official shall record the voter's name, signature, and type of identification on a roster prescribed by the secretary of state. The receiving official shall attest on the roster that the delivery complies.

**SECTION 4.13** – Adds Section 121.004 **Communications with Voting Systems Vendor Public Information** to the Election Code.

A written letter, e-mail, or other communication, including a communication made confidential by other law, between a public official and a voting systems vendor: (1) is not confidential; (2) is public information; and (3) is not subject to an exception other than for confidentiality of trade secrets, certain commercial or financial information, or proprietary information. Likewise, a written letter, e-mail, or other communication between a public official and a voting systems vendor is excepted from disclosure if the communication discloses information, data, or records relating to the security of elections critical infrastructure.

**SECTION 4.14** – Amends Section 127.1301 **Centrally Counted Optical Scan Ballots** in the Election Code.

An authority operating a central counting station under this chapter may not purchase or use a centrally counted optical ballot scan system that uses a rewritable data storage disc, but they are eligible to have 100 percent of the cost of those system components reimbursed. It applies starting on the date on which Texas certifies the first centrally counted optical ballot scan system under this section, or on September 1, 2026, whichever comes first until October 1, 2026 when it expires.

**SECTION 4.15** – Amends Subsection 127.131 **Preparing Returns** in the Election Code.

The presiding judge of the central counting station shall provide and attest to a written reconciliation of votes and voters at the close of tabulation for election day and again after the central counting station meets for the last time to process late-arriving ballots by mail and provisional ballots. The secretary of state shall create and promote rules and a form to facilitate compliance. The form shall be posted on a website maintained by the county along with election returns and results.

**SECTION 4.16** – Amends Section 129.023 **Public Test of Logic and Accuracy**, Election Code.

If the test is being conducted for an election in which a county election board has been established, the general custodian of election records shall notify each member of the board of the test at least 48 hours before the date of the test. If the county election board chooses to witness the test, each member shall sign a statement in which they attest to: the qualification of each direct recording electronic voting machine that was successfully tested; any problems discovered; and the cause of any problem if it can be identified. A test conducted under this section must also require the general custodian of election records to demonstrate, using a representative sample of voting system equipment, that the source code of the equipment has not been altered.

## Article 5 - VOTING BY MAIL

### **SECTION 5.01** – Amends Section 84.001 **Application Required** in the Election Code.

An application must be submitted in writing and signed by the applicant using ink on paper. An electronic or photocopied signature is not permitted.

### **SECTION 5.02** – Amends Section 84.002 **Contents of Application** in the Election Code.

In addition to the applicant's name and address, they must provide the number of their driver's license, election identification certificate, or personal identification card issued by the Department of Public Safety. If not issued a number, then the last four digits of the applicant's social security number; or a statement that the applicant has not been issued any of these numbers.

A person may use the number of a driver's license, election identification certificate, or personal identification card that has expired for the purpose of fulfilling the requirement if the license or identification is otherwise valid.

### **SECTION 5.03** – Amends Section 84.011 **Official Application Form** in the Election Code.

The application form for an early voting ballot must include a space for entering the information required in the above Section 84.002 **Contents of Application**.

### **SECTION 5.04** – Adds Section 84.0111 **Distribution of Election Form** to the Election Code.

An officer or employee of this state or of a political subdivision of this state may not distribute an application form for an early voting ballot to a person who did not request an application. They may also not use public funds to facilitate distribution of these. Nor may any political party or a candidate for office do so.

### **SECTION 5.05** – Amends Section 84.032 **Request for Cancellation** in the Election Code.

An applicant may submit a request after the close of early voting by appearing in person and returning the ballot to be voted by mail to the early voting clerk; or executing an affidavit that they have not received the ballot to be voted by mail, never requested a ballot to be voted by mail; or received notice of a defect (such as a signature error).

**SECTION 5.06** – Amends Section 84.035 **Ballot Sent to Applicant** in the Election Code.

An election judge may permit a person to whom an early voting ballot has been sent, cancels their vote by mail ballot and fails to return the vote by mail ballot in person to only vote by a provisional ballot.

**SECTION 5.07** – Amends Section 86.001 **Reviewing Application and Providing Ballot** in the Election Code.

The clerk must reject the application to vote by mail if the information included on the application does not identify the same voter identified on the applicant’s application for voter registration. The clerk must provide notice of the rejection to the applicant and also include information regarding the ability to correct or add the information required through an online tool. If an applicant corrects an application for a ballot to be voted by mail online and that application subsequently identifies the same voter identified on the applicant’s application for voter registration, then the clerk must send them the ballot.

**SECTION 5.08** – Amends Section 86.002 **Additional Balloting Materials**, Election Code.

The carrier envelope must include a space hidden from view when the envelope is sealed for the voter to enter their driver’s license, election identification certificate, or personal identification card issued by the Department of Public Safety. If the voter has not been issued one of these, then they must use the last four digits of the voter’s social security number, or a statement that they have not been issued any such number. They may use the number of a driver’s license, election identification certificate, or personal identification card that has expired if the license or identification is otherwise valid. No record associating an individual voter with a ballot may be created.

**SECTION 5.09** – Adds “in a locked container” to Section 86.011 **Action by Clerk on Return of Ballot** in the Election Code.

“If the return is not timely, the clerk shall enter the time of receipt on the carrier envelope and retain it in a locked container for the period for preserving the precinct election records. The clerk shall destroy the unopened envelope and its contents after the preservation period.”

**SECTION 5.10** – Amends 86.015 **Electronic Tracking of Application for ballot Voted by Mail or Ballot Voted by Mail**, Election Code.

A voter may add or correct information required. Early voting ballot application must include: the applicant's name and the address at which the applicant is registered to vote, the driver's license number, election identification certificate, or personal identification card issued by the Department of Public Safety; the last four digits of the applicant's social security number; or a statement that the applicant has not been issued a number.

**SECTION 5.11** – Amends Section 87.027 **Signature Verification Committee** in the Election Code.

Includes the county chair's preference and order, which is about eligibility for signature verifying committee, and to any known signature as opposed to any 2 signatures made in the prior 6 years.

The early voting clerk shall determine the number of members to compose the signature verification committee and shall state that number in the order calling for the committee's appointment; it must consist of no fewer than five members. Each county chair of a political party with a nominee or aligned candidate on the ballot shall submit to the appointing authority a list of names of persons eligible to serve on the signature verification committee in order of the county chair's preference, and they must be citizens of the county. The authority shall appoint at least two persons from each list in the order of preference indicated on each list to serve as members of the committee. The same number of members must be appointed from each list. The authority shall appoint as chair of the committee the highest-ranked person on the list provided by the political party whose nominee for governor received the most votes in the county in the most recent gubernatorial general election. The signature verification committee shall compare signatures on the envelope to any signature made by the voter instead of against any two from the last six years.

**SECTION 5.12** – Adds Section 87.0271 **Opportunity to Correct Defect: Signature Verification Committee** to the Election Code.

This applies to any early voting ballot voted by mail: (1) for which the voter did not sign the carrier envelope certificate; (2) for which it cannot immediately be determined whether the signature on the carrier envelope certificate is that of the voter; (3) missing

any required statement of residence; (4) or missing identification information (e.g. SSN, TX DL, TX ID, etc.); or (5) containing incomplete information with respect to a witness.

No later than the second business day after a signature verification committee discovers a defect and before the committee decides whether to accept or reject a timely delivered ballot, they shall: determine if it would be possible for the voter to correct the defect and return the carrier envelope to the voter by mail before the time the polls are required to close on election day, if the committee determines that it would be possible for the voter to correct the defect and return the carrier envelope before the time the polls are required to close on election day.

If not possible for the voter to correct the defect and return the carrier envelope before the time the polls are required to close on election day, then the committee may notify the voter of the defect by telephone or e-mail and inform the voter that they may request to have their application to vote by mail canceled or come to the early voting clerk's office in person no later than the sixth day after election day to correct the defect. A poll watcher is entitled to observe any actions taken. The secretary of state may prescribe any procedures necessary to implement this section. A ballot may not be finally rejected for a reason listed in Section 87.041 Accepting Voter. A ballot may be accepted only if the carrier envelope certificate is properly executed; neither the voter's signature on the ballot application nor the signature on the carrier envelope certificate is determined to have been executed by a person other than the voter, unless signed by a witness; or for a voter to whom a statement of residence form was required to be sent the statement of residence is returned in the carrier envelope and indicates that the voter satisfies the residence requirements - before the seventh day after election day.

**SECTION 5.13** – Amends Section 87.041 **Accepting Voter** in the Election Code.

If a voter provides a Texas driver's license, personal identification card, last 4 of social security number or a statement that they have none of these, then it identifies the same voter identified on the voter's application for voter registration and the signature on the ballot application and on the carrier envelope certificate shall be presumed to be the signatures of the voter. It changes the requirement of two signatures from the past six years to any known signature.

**SECTION 5.14** – Adds Section 87.0411 **Opportunity to Correct Defect: Early Voting Ballot Board** to the Election Code.

This is an exact rehash of SECTION 5.12 as it offers the exact same requirements for the early voting ballot board as it does the signature verification board.

**SECTION 5.15** – Amends Section 87.0431 **Notice of Rejected Ballot** in the Election Code.

This gives a new reason why a ballot was rejected in reporting to the Secretary of State: the early voting ballot board or the signature verification committee determined that another violation of the Election Code occurred.

**SECTION 5.16** – Amends Section 87.062 **Counting Ballots and Preparing Returns** in the Election Code.

Replaces the word “container” with “containers”, and it states that ballots voted by mail shall be tabulated and stored separately from the ballots voted by personal appearance and shall be separately reported on the returns.

**SECTION 5.17** – Amends Section 87.103, also titled **Counting Ballots and Preparing Returns** in the Election Code.

The early voting electronic system ballots counted at a central counting station, the ballots cast at precinct polling places, and the ballots voted by mail shall be tabulated separately and shall be separately reported on the returns. The early voting returns prepared at the central counting station must include any early voting results obtained by the early voting ballot board.

**SECTION 5.18** – Amends Section 87.126 **Electronic Recording of Ballot Materials and Applications** in the Election Code.

Electronic records made under this section shall record both sides of any application, envelope, or ballot recorded, and all such records shall be provided to the early voting ballot board, the signature verification committee, or both.

**SECTION 5.19** – Adds Section 87.128 **Notes** to the Election Code.

Each member of an early voting ballot board and of a signature verification committee is entitled to take any notes reasonably necessary to perform their duties, but notes may not contain personally identifiable information. Each member who takes notes under this section shall sign the notes and deliver them to the presiding judge or committee chair, as applicable, for delivery to the custodian of election records. Notes collected under this section shall be preserved in the same manner as precinct election records.

**Article 6 - ASSISTANCE OF VOTERS**

**SECTION 6.01** – Amends Section 64.009 **Voter Unable to Enter a Polling Place**, Election Code.

Regular voting procedures may be modified by the election officer in order to conduct voting under this section, except those in Subchapter B **Assisting Voter**. Except for watching the voter make their selections, a poll watcher is entitled to observe any activity conducted under this section.

Any individual who provides transportation for seven or more voters must sign a form provided by an election officer. This does not apply to relatives or “the third degree by consanguinity.” This form must be delivered to the secretary of state and available to the attorney general upon request. The Secretary of State prescribes said form.

**SECTION 6.02** – Amends Section 64.031 **Eligibility for Assistance** in the Election Code.

Ensures that an eligible voter receives assistance in reading a ballot.

**SECTION 6.03** – Adds Section 64.0322 **Submission of a Form by Assistant** to the Election Code.

Requires a person other than an election officer that assists a voter to fill out a form provided by the secretary of state.

**SECTION 6.04** – Amends Section 64.034 **Oath** in the Election Code.

Requires a person other than an election officer to take an oath before giving assistance.

**SECTION 6.05** – Amends Section 86.010 **Unlawfully Assisting Voter Voting Ballot by Mail** in the Election Code.

Penalties will be increased for those who have committed repeat offenses and/or involved someone over the age of 65.

A person who assists a voter to prepare a mail in ballot shall enter on the official carrier envelope their signature, printed name and address; their relationship to the voter; and whether or not they received any compensation from the voter or the campaign for their assistance.

If the person is related to the voter within the second degree by affinity (in-laws) or the third degree by consanguinity (an aunt/uncle, niece/nephew, or a great grandparent/grandchild), or was physically living in the same dwelling as the voter at the time they are not considered to commit an offense.

**SECTION 6.06** – Amends Section 86.0105 **Compensation for Assisting Voters Prohibited** in the Election Code.

If a person compensates or offers to compensate someone to assist voters, solicits, receives or accepts compensation for assistance, they are guilty of felony. This does not apply to attendants and caregivers of the voter.

**SECTION 6.07** – Amends Section 86.0103 **Official Carrier Envelope** in the Election Code.

Now one must indicate their relationship to the voter if they are carrying their ballot.

**SECTION 6.08** – Adds that the secretary of state will create a study about the implementing of a program to help voters with disabilities better understand how to use voting systems. The secretary of state will provide the report no later than the end of 2022.

## Article 7 - FRAUD AND OTHER UNLAWFUL PRACTICES

**SECTION 7.01** – Adds Section 63.0111 **Offenses Related to Provisional Voting**, Election Code.

If an election judge provides a voter an affidavit that the judge knows contains false information is a felony.

**SECTION 7.02** – Amends Section 276.004 **Unlawfully Prohibiting Employee from Voting** in the Election Code.

In addition to election day, it is Class C misdemeanor if an employer refuses to allow an employee to be absent for two hours or threatens the employee for being absent while early voting is in progress.

**SECTION 7.03** – Amends Section 276.013 **Election Fraud** in the Election Code.

The following qualify as a Class A misdemeanor for any person who:

Alters the ballot of another or otherwise cause a ballot to not reflect the intent of the voter; Causes a voter to become registered, a ballot to be obtained, or a vote to be cast under false pretenses; Provides a false or intentionally misleading statement, representation, or information to an election official, carrier envelope, or other official election-related document; Prevents a voter from casting a legal ballot in an election in which the voter is eligible to vote; Provides false information to a voter with the intent of preventing them from voting in an election in which they are eligible to vote; Causes the ballot not to reflect the intent of the voter; Causes a ballot to be voted for another person that the person knows to be deceased or otherwise knows not to be a qualified or registered voter; Causes or enables a vote to be cast more than once in the same election; or discards or destroys a voter's completed ballot without the voter's consent.

These offenses got downgraded to a Class B Misdemeanor from a Class A Misdemeanor: The person who committed the offense while acting in the person's capacity as an elected official, in which case the offense is a state jail felony; or the person is convicted of an attempt.

**SECTION 7.04** – Adds five sections to Chapter 276 **Miscellaneous Offenses and Other Provisions** in the Election Code.

**Section 276.015 Vote Harvesting.**

Provides definitions for “benefit” and “vote harvesting services.” A person commits a felony of the third degree if they directly or through a third party knowingly provides or offers to provide vote harvesting services in exchange for compensation or other benefit, or vice-versa. A person commits an offense if they knowingly collect or possess a mail ballot or official carrier envelope in connection with vote harvesting services. They may be prosecuted under this section, any other applicable law, or both.

Any records necessary to investigate an offense under this section or any other section of this code shall be provided by an election officer in an unredacted form to a law enforcement officer upon request. Records obtained under this subsection are not subject to public disclosure.

The following do not apply to this section: An activity not performed in exchange for compensation or a benefit; Interactions that do not occur in the presence of the ballot or during the voting process; Interactions that do not directly involve an official ballot or ballot by mail; Interactions that are not conducted in-person with a voter; or Activity that is not designed to deliver votes for or against a specific candidate or measure.

**Section 276.016 Unlawful Solicitation and Distribution of Application to Vote by Mail.**

Any public official or election official while acting as such commits a state jail felony by soliciting submission of a vote by mail application without person requesting one, giving an application to vote by mail when not requested unless allowed by another authorized provision in this code, authorizing or approving public funds to third-party distribution to vote by mail to those who didn't request it, filling in an application to vote by mail or any portion then gives to voter partially filled out.

This penalty does not apply if an election or public official is providing a vote by mail application via a public website, or if they fill in an application to vote by

mail or any portion then gives to the voter partially filled out if lawfully assisting a voter. This also does not apply if the election or public official provides general info about voting by mail, the process or timelines, or while acting in the official's capacity as a candidate for public elective office

The remedy is cumulative and does not restrict others in this code or by law. A violation is subject to injunctive relief or mandamus provided by the code.

**Section 276.017 Unlawful Distribution of Early Voting Ballots and Balloting Materials.**

If an early voting clerk or other election official sends an early voting ballot by mail or materials to someone knowing they didn't request one or submit an application for one, then this is a Class A misdemeanor.

**Section 276.018 Perjury in Connection With Certain Election Procedures.**

If there's intent to deceive, knowingly or intentionally making a false statement or swearing to the truth of a false statement on a voter registration application or made previously while making an oath, declaration or affidavit, then this is considered a state jail felony.

**Section 276.019 Unlawful Altering of Election Procedures.**

No public official or election official can alter or change in any way or suspend any election standard, practice, or procedure mandated by law or rule not expressed by this code.

## Article 8 - ENFORCEMENT

**SECTION 8.01** – Adds sections 31.128 -31.130 to **Miscellaneous Provisions** in the Election Code.

**Section 31.128 Restriction on Eligibility.**

The chair of a county political party holding a primary or runoff primary election does not count as an “election official.” A person may not serve as an election official if they have been convicted of an offense in this code.

**Section 31.129 Civil Penalty.**

The election official may be liable to the state under civil penalty, which includes termination of employment and loss of benefits, if they are employed by or are an officer of the state or a political subdivision of the state AND if they violate a provision of the Election Code.

**Section 31.130 Suit Against Election Officer.**

Any action against an election officer may only be brought against them while they are in their official capacity as an officer.

**SECTION 8.02** – Section 232.008 **Filing Period for Petition.**

A contestant must file a petition no later than the 45th day after the date the election records are publicly available - no later than the 15th day after election day in an electronic format - or the official result of the contested election is determined. A contestant must file the petition no later than the 15th day after the date the election records are publicly available or the official result is determined in a contest of: a primary or runoff primary election; or if a general or special election for which a runoff is necessary according to the official result or will be necessary if the contestant prevails. A contestant may deliver a copy of the petition to the Secretary of State using electronic delivery or other means.

**SECTION 8.03 – Adds SUBTITLE D. OTHER ELECTION LAWSUITS. CHAPTER 247. LAWSUIT ALLEGING IMPROPER ELECTION ACTIVITIES to Title 14, Election Code.**

**Section 247.001 Petition Alleging Fraud.**

This applies to a civil suit in which a candidate in an election alleges in the petition that an opposing candidate, their agent(s) or someone acting on their behalf with their knowledge violated any of the following:

**Section 13.007 False Statement on Application**

**Section 64.012 Illegal Voting**

**Section 64.036 Unlawful Assistance**

**Section 84.003 Signing Application by Witness; Assisting Applicant**

**Section 84.0041 Fraudulent Use of Application for Ballot by Mail**

**Section 86.0051 Unlawful Carrier Envelope Action by Person Other Than Voter**

**Section 86.006 Method of Returning Marked Ballot**

**Section 86.010 Unlawfully Assisting Voter Voting Ballot by Mail**

**Section 276.013 Election Fraud**

**Section 276.015 Vote Harvesting**

**Section 247.002 Procedure.**

A candidate may file in the county where the defendant resided at the time of election if it is a local matter, otherwise if it is a state matter, they may file in a district court in Travis County (where the state capital Austin is located).

**Section 247.003 Filing Period for Petition.**

The candidate may file no earlier than the day after the date the election is certified and no later than the 45th day after that date OR on the date election records are made publicly available - no later than the 15th day after election day in an electronic format.

**Section 247.004 Damages.**

If the defendant, agent or someone on their behalf is shown to have violated anything in this chapter, then they are liable for damages in an amount of \$1,000

for each violation. In other words, for each illegally cast ballot or registration the fine is \$1,000. The court shall award this to the plaintiff irrespective of whether the plaintiff is awarded actual damages. In other words, whether or not the plaintiff gets any additional compensation, they will still receive \$1,000 per violation at a bare minimum. The plaintiff may claim other damages.

**Section 247.005 Attorney's Fees.**

The court may also award reasonable attorney's fees to the prevailing party. In other words, the plaintiff will get \$1,000 per violation minimum plus the possibility of attorney's fees if they win. Otherwise, the defense may be entitled to have their attorney's fees compensated if they win.

**SECTION 8.04** – Amends Section 273.061 **Jurisdiction** in the Election Code.

The court of criminal appeals may issue an order for a government official to properly provide, sequester, transfer, or impound evidence in or records relating to a criminal investigation conducted under this code or conducted in connection with the conduct of an election or political party convention. If issued under this subsection, it shall include an order requiring the provision, sequestration, transfer, or impoundment of the evidence or record.

**SECTION 8.05** – Adds two sections to **Subchapter D, General Provisions** in Government Code.

**Section 22.304 Court Sitting in Panels for Certain Election Proceedings; Criminal Offense.**

A "public official" means any officer, employee, or agent of Texas, a government agency, a political subdivision, or other public body established by state law. A court proceeding filed in a court of appeals shall be docketed by the clerk of the court and assigned to a panel of three justices determined using an automated assignment system. If any person intends to influence or attempts to influence a court clerk to change the composition of a three-justice panel assigned a specific proceeding it is a Class A misdemeanor.

**Section 22.305 Priority of Certain Election Proceedings.**

Due to the timeliness of the election, the supreme court or a court of appeals shall prioritize this case over any other on or after 70 days before a general or special election. If granted, oral argument for a proceeding may be given in person or through electronic means (i.e. a Zoom call, Google Meets, etc).

**SECTION 8.06** – Amends Section 23.101 **Primary Priorities** in the Government Code.

This section provides where this case would fall in a list of priority of cases to be heard by the court. Except for a criminal case in which the death penalty has been or may be assessed or when it would otherwise interfere with a constitutional right, the trial courts of Texas shall prioritize this case over any other pending proceeding. A hearing may be held in person or through electronic means (i.e. a Zoom call, Google Meets, etc.), as determined by the court.

**SECTION 8.07** – Adds **SUBCHAPTER D, GENERAL PROVISIONS** to Chapter 23, Government Code.

**Section 23.301 Assignment of Certain Election Proceedings; Criminal Offense.**

The clerk of a district court shall docket the proceeding and, if more than one district court in the county has jurisdiction over the proceeding, randomly assign the proceeding to a district court using an automated assignment system. The county court clerk shall docket the proceeding and, if more than one court in the county has jurisdiction over the proceeding, randomly assign the proceeding to a court using an automated assignment system. If any person intends to influence or attempts to influence a court clerk to change the court or judge assigned commits a Class A misdemeanor. The offense becomes a state jail felony if the person committed the offense while acting in the person's official capacity as an election official. If a district or county clerk does not comply, the plaintiff may compel compliance with help from the supreme court or a court of appeals.

**Section 23.302 Deadlines in Certain Election Proceedings.**

A judge to whom a case is assigned who wishes to be recused from the proceeding must, before recusal and within 24 hours: hear an application for any emergency temporary relief sought; grant or deny any emergency temporary

relief sought; and set a scheduling order that provides: a date for a hearing on any injunction sought no later than five days after the date on which the proceeding was filed; and discovery and deposition deadlines before the expiration of any emergency relief order entered.

The presiding judge shall assign a new judge to a proceeding no later than 12 hours after the original judge assigned to the proceeding is recused.

A final order in a proceeding filed shall be submitted in writing to the parties no later than 24 hours after the judge makes a final determination in the proceeding. If a district judge does not comply with this section, a person may seek from the supreme court, the court of criminal appeals, or a court of appeals a writ of mandamus to compel compliance with this section.

## Article 9 - INELIGIBLE VOTERS AND RELATED REFORMS

**SECTION 9.01** – Adds Article 42.0194 **Finding Regarding Felony Conviction** to the Code of Criminal Procedure.

If the defendant is found guilty of a felony conviction, the court will make an affirmative finding that the person has been found guilty of a felony and enter it in the judgment of the case, and; Instruct the defendant how the judgment will affect their right to vote.

**SECTION 9.02** – Amends Article 42.01 **Judgment** in the Code of Criminal Procedure.

The judgment should reflect the affirmative finding and instruction entered above.

**SECTION 9.03** – Amends Section 64.012 **Illegal Voting** in the Election Code.

Adds “knowingly or intentionally” to someone found guilty of (1) voting when ineligible, (2) double voting, (3) impersonating someone else, (4) voting on someone else’s ballot without their consent. It also adds (5) voting in Texas after voting in another state.

It downgrades these offenses from Felony to a Class A misdemeanor and adds that the person cannot be found guilty solely upon the fact that they signed a provisional ballot

affidavit, unless other evidence supports that they knowingly committed the offense. (Presumably they did not know if their vote by mail was counted or if they moved). If it constitutes any offense under any other law, the guilty person may be prosecuted under this section, the other law, or both.

**SECTION 9.04** - If one has already been found guilty of these items, this law cannot be retroactively applied to those who have been sentenced.

## Article 10 - REPEALER; SEVERABILITY; TRANSITION; EFFECTIVE DATE

**SECTION 10.01** – Repeals the following:

- (1) A temporary branch polling place that is located in a movable structure may be established only with the approval of the county clerk;
- (2) Punishment for knowingly paying someone for assisting someone to make their vote or paying someone per vote that they collect results in (1) 30 days - 1 year in jail or (2) 30 days - 1 year in jail and a fine not to exceed \$4,000;
- (3) The secretary of state at any time may waive or reinstate the requirements of this section - which deals with a risk limiting audit - for a particular political subdivision.

**SECTION 10.02** – If any provision of this Act or its application to any person or circumstance is held invalid, that invalidity does not affect other provisions or applications of this Act.

**SECTION 10.03** – The changes in law made by this Act apply only to an offense committed on or after the effective date of this Act, not retroactively. The changes in law made by this Act apply only to an election ordered on or after the effective date of this Act, which is December 2, 2021. The changes in law made by this Act apply only to any application to vote an early voting ballot by mail submitted on or after the effective date of this Act. The changes in law made by this Act apply only to an application for voter registration submitted on or after the effective date of this Act. Chapter 247, Election Code, as added by this Act (under section 8.03), applies only to a cause of action for which the associated election occurred after the effective date of this Act.

**SECTION 10.04** – This Act takes effect on the 91st day after the last day of the legislative session.

## Grading S.B. 1

### 1. Thumbprint Authentication of Absentee Ballots: F

This bill does nothing to implement thumbprint authentication. In fact, it not only does nothing with thumbprint authentication, it also downgrades the only method of authentication by allowing the signature committee to compare the vote by mail ballot signature against any known signature of the alleged voter, as opposed to comparing against at least two signatures from the alleged voter in the last six years.

### 2. Mandated and Public Voter List Hygiene: D-

Article 2 deals with illegal and ineligible registrations on the voter rolls. It does address the issue somewhat as the county registrar receives a list of ineligible voters from the DMV or Department of Public Safety, and they may compare this against noncitizen lists and the voter registration lists. The registrar must contact each applicant whose citizenship appears to be in doubt and request a copy of a birth certificate, US passport, or certificate of naturalization before making a determination of those in doubt. Any false applications result in the registrar sending the secretary of state, attorney general, and county or district attorney an affidavit about each case. Likewise, the secretary of state may also compare a list of nonresidents to the statewide computerized voter registration list every quarter. If a voter is not a resident of the county in which they are registered to vote according to this list, then the secretary shall send notice of the determination to the voter registrar. This is basic standard operating procedure, however, and while it is a pass, it barely does anything than the bare minimum. It does not look into false addresses or illegal locations, it does not check into people who filed a national change of address, or subsequently registered in another state.

### 3. Ban on the Use of “Black Box” Voting Equipment: F

This bill does nothing to remove or change “black box” voting equipment. In fact, there are still parts of Texas that have paperless voting systems as well, which are even more vulnerable to risk of hacks and issues than “black box” voting equipment that at least has a paper trail.

#### 4. Appointment of a Citizens Elections Supervisory Committee: F

The only committee of which this bill speaks is the signature verification committee. There is also an early voting ballot board. Neither involves citizens being on the board; all members are nominated by the parties and remain the status quo in terms of membership.

#### 5. Creation and sufficient Funding for a Dedicated Voter Fraud Investigation Division within the State's Attorney General's Office: F

No division of voter fraud exists within the Attorney General's Office with this bill. The only new involvement of the attorney general now involves the registrar's requirement to send an affidavit of unlawful voting or registration.

#### 6. Equitable Distribution of Private Contributions to Election Operations: N/A

Not applicable in this bill.

### Evaluation of TX S.B. 1

Texas S.B. 1 purports to achieve voter integrity, however, the voters of Texas deserve much higher standards from their elected officials in addressing voter fraud and election integrity.

Not only does it fail at all of Look Ahead America's core objectives to strengthen our elections, in many cases it actually undermines voter integrity. Not in the way that the Department of Justice claims it does, however, as the bill makes clear that the laws are not to discriminate against those with disabilities and leaves room for their aid. Likewise, at various points many accommodations are made for those with disabilities, those in need, those in hospice or assisted living. The actions by the DOJ appear at best uninformed and at worst political theater.

They claim that the bill forces people working elections not to assist voters. The lawsuit alleges "Assistors must not answer a voter's questions" in an oath. In actuality it reads:

*"I swear (or affirm) under penalty of perjury that the voter I am assisting represented to me they are eligible to receive assistance; I will not suggest, by word, sign, or gesture, how the voter should vote; I will confine my assistance to reading the ballot to the voter, directing the voter to read the ballot, marking the voter's ballot, or directing the voter to*

*mark the ballot; I will prepare the voter's ballot as the voter directs; I did not pressure or coerce the voter into choosing me to provide assistance; I am not the voter's employer, an agent of the voter's employer, or an officer or agent of a labor union to which the voter belongs; I will not communicate information about how the voter has voted to another person; and I understand that if assistance is provided to a voter who is not eligible for assistance, the voter's ballot may not be counted."*

Another issue that the suit raises is that "Some qualified Texas voters will not be able to provide the identification number required by SB 1. For example, voters who have lost a driver's license or disposed of an expired identification card nonetheless have been issued a Texas identification document number for purposes of SB 1. But they may not have available records of that number. Moreover, such voters cannot provide a partial social security number in lieu of their unknown identification document number." Texas allows seven types of identification used for in person voting.<sup>7</sup> Likewise, the voter application under SB 1 allows for a voter to explain that one has either not received these numbers or can explain why they are not present (i.e. lost or stolen) and the clerk could review these cases. Additionally, taking the DOJ's argument to its conclusion, not voting provides less of a burden on the voter than penalties incurred for not having or knowing their social security number to file income taxes, which is mandated by the United States Constitution and enforced by the federal government. In Texas' case, one only needs the last four numbers to vote as opposed to all nine to file taxes with the IRS. Perhaps one should make a case for not filing their income taxes if they lose their driver's license, but we doubt that the Department of Justice would accept such an argument from citizens unable to pay their taxes to a federal government. Much of the lawsuit misrepresents the bill; it will likely be dismissed as the act itself indicates incredible federal overreach into state elections.

That said, this bill undermines some protections against voter fraud. For example, as the DOJ itself pointed out, one does not need to have an unexpired license to apply for a voter registration. In many other locations, the punishment is lessened from a felony for committing fraud down to a misdemeanor, although in a few they are upgraded to a felony. One section regarding assisting voters states that regular voting procedures may be modified by the election officer to conduct voting, which sets a dangerous precedent that officers may modify rules, even if done for the best intentions.

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<sup>7</sup> <https://www.votetexas.gov/register-to-vote/need-id.html>

The bill has small positives, such as removing elections administrators that knowingly share false election information. It also makes it a criminal offense to remove poll watchers/observers or obstruct their view, and allows free movement (except for at the voting station as the voter fills out their ballot). Finally, it prevents a person from returning more than two family absentee ballots and limits who can return a ballot, effectively banning ballot harvesting.

It is a mixed bag, but largely the negatives outweigh the positives. The bill does little to change the issues raised in the 2020 general election, and in many cases expands the ability for voters to vote by mail, a method plagued with vulnerabilities. That penalties get downgraded from felony to misdemeanors, one can use an expired license to register, signature verification gets loosened, and ballot harvesting has a number of exemptions, this bill seems like political theater and barely does anything to address voter integrity issues that we raise at Look Ahead America.

## Acknowledgements

Many thanks go to our legislation tracker researchers who chose to remain anonymous. Stephen Johnston was excellent in leading the team on reviewing the finer points of this bill.

## How to Help

Only when more people get involved, will meaningful, impactful change occur. That's how Look Ahead America will positively impact election reform. Support Look Ahead America by signing up to volunteer or by making a financial contribution at <https://www.lookaheadamerica.org>.

You can also join our Discord community server at <https://discord.gg/lookaheadamerica>