



TEXAS

CIVIL RIGHTS PROJECT

This is the summary for the original version of HB 6, now superseded by a Committee Substitute released by Chair Cain on March 25. You can see the summary of the Committee Substitute here:

https://docs.google.com/document/d/1_BX7KS0q3tiydFH9JyhbOQ8tg7B8lwV-mlWlaajVHyQ/edit

Text of HB 6: <https://capitol.texas.gov/BillLookup/Text.aspx?LegSess=87R&Bill=HB6>

Article I -- General Provisions

- **Title and Purpose of Bill:** Titling itself “the Election Integrity Protection Act of 2021,” and stating that its purpose is to “exercise the legislature's constitutional authority under Section 4, Article VI, Texas Constitution, to make all laws necessary to detect and punish fraud and preserve the purity of the ballot box.” Sections 1.01 and 1.02.
- **Legislative Findings:** Making a series of findings to justify the bill, including that “fraud in elections threatens the stability of a constitutional democracy by undermining public confidence in the legitimacy of public officers chosen by election,” that “reforms are needed to the election laws of this state to ensure that fraud does not undermine the public confidence in the electoral process,” and that the provisions of the bill “are enacted solely to prevent fraud in the electoral process.” Section 1.03.
- **Legislative Intent:** “To reduce the likelihood of fraud in the conduct of elections, it is the intent of the legislature that the provisions of this code shall be applied evenly, and the conduct of elections throughout this state shall be uniform and consistent.” Section 1.04.
- **Strict Construction of the Election Code:** Requiring that the Election Code’s provisions be “strictly construed by a public official to effect the intent of the legislature” as described in Section 1.04. Section 1.05.
- **Defining “public official” in the Election Code:** “Public official” means “a person elected, selected, appointed, employed, or otherwise designated as an officer, employee, or agent of this state, a government agency, a political subdivision, or any other public body established by state law.” Section 1.06.

Article 2 -- Registration and Conduct of Elections

- **Expedited distribution of documents related to death, to voter registrars and SOS:** Requiring government officials to provide abstracts of death certificates, and abstracts of



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applications for probate, administration of a decedent's estate, or determination of heirship, to SOS and the voter registrar no later than one day after they are prepared. Section 2.01.

- **Requiring election officers to maintain “a record of the serial numbers of all ballots issued at that polling place and the serial numbers of any spoiled ballots, if any,”** if they’re using an electronic voting system that uses paper media for recording votes cast. These logs are “election records subject to public inspection.” Section 2.02.

Article 3 -- Election Officers and Observers

- **General prohibition/criminal offense against presiding judges removing partisan poll watchers from polling places, or requiring them to leave polling places.** Section 3.01.
 - EXCEPTION: Poll watchers can be removed only if they “engage[] in activity that would constitute an offense related to election fraud, including an offense under Chapter 276.” Section 3.02.
 - Making violation of this prohibition a Class A misdemeanor. Section 3.07.
- **The legislative “purpose” of the poll watcher provisions of the Election Code:** Explaining that the Chapter of the Election Code on poll watchers exists “to preserve the purity of the ballot box...by providing for the appointment of watchers to observe the conduct of an election and call to the attention of an election officer potential irregularities or violations of law in the conduct of the election.” Section 3.03.
- **Creating a new Class B misdemeanor offense for an election officer who “intentionally or knowingly refuses to accept a watcher for service when acceptance of the watcher is required.”** Section 3.04. **Similar to Section 4.02 of SB 7, except SB 7 makes it a Class A misdemeanor.**
- **New right for poll watcher to observe certain voting equipment:** Granting poll watchers the right to observe “the sealing and transfer of a memory card, flash drive, hard drive, data storage device, or other medium now existing or later developed used by the voting system equipment.” Section 3.05.
- **Setting forth the following groups of people permitted to be in the polling place:**
 - (1) an election judge or clerk; (2) a watcher; (3) the secretary of state; (4) a staff member of the elections division of the secretary of state's office when performing an official duty authorized under this code; (5) a staff member of an election official or sheriff, only when delivering election supplies; (6) a state



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inspector; (7) a person admitted to vote; (8) a child under 18 years of age who is accompanying a parent who has been admitted to vote; (9) a person providing assistance to a voter; (10) a person accompanying a disabled voter; (11) a special peace officer appointed by the presiding judge; (12) the county chair of a political party conducting a primary election; (13) a voting system technician; (14) the county elections administrator only when performing an official duty authorized by the Election Code; (15) a person whose presence has been authorized by the presiding judge and the alternate presiding judge in accordance with the Election Code. Section 3.08.

- **Granting poll watchers the right to observe in-person delivery of marked mail ballots on election day:** Poll watchers “must be able to determine how the ballots are being delivered and how election officials are making decisions about the delivery of ballots, if applicable.” Poll watchers are prohibited, however, from “disrupt[ing] the process of delivering ballots.” Section 3.09.
- **Setting forth the following groups of people permitted to be present when the early voting ballot board meets:**
 - (1) a presiding judge or member of the board; (2) a watcher; (3) a voting system technician; (4) a county elections administrator only when performing an official duty authorized by the Election Code; or (5) a person whose presence has been authorized by the presiding judge and the alternate presiding judge in accordance with the Election Code. Section 3.10.
- **Setting forth the following groups of people permitted to be present in a central counting station while ballots are being counted:**
 - (1) a counting station manager, tabulation supervisor, assistant to the tabulation supervisor, presiding judge, or clerk; (2) a watcher; (3) a voting system technician; (4) a county elections administrator only when performing an official duty authorized by the Election Code; or (5) a person whose presence has been authorized by the counting station manager in accordance with the Election Code. Section 3.11.

Article 4 -- Assistance of Voters

- **Required form for assistants to voters:** Requires people who assist voters (other than election officers) to complete a form giving their name and address, “the manner in which the person is assisting the voter,” “the reason the assistance is necessary,” and their relationship to the voter. The form must be incorporated into the VBM carrier



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envelope if the voter is voting by mail and receives assistance. Section 4.01. Same as Section 3.10 in SB 7.

- Assisters must also present a form of voter ID. Section 4.01. This part is different than the equivalent section in SB 7.
- **Adding "I did not pressure or intimidate the voter into choosing me to provide assistance" to the oath that vote assistants must take.** Section 4.02.
- **Making it easier to prosecute those who pay or who are paid for depositing mail ballots or assisting voters while voting by mail, by eliminating some of the elements prosecutors must prove, while also raising the punishment for such offenses** (Sections 4.03/4.05)
 - Changes the current criminal prohibitions from ones that prohibit compensating another person for depositing a VBM ballot or assisting VBM voters as part of a performance-based compensation scheme. It would now be a flat prohibition on compensating or even offering to compensate another person for depositing a VBM ballot or assisting VBM voters, even if not part of a performance-based compensation scheme
 - Changing the current criminal offense against accepting such compensation when the person accepting it knows it is illegal. It would now be a flat prohibition on soliciting, receiving, or accepting such compensation even when the person did not know it was illegal.
 - Deletes the current prohibition against making a person's compensation or employment status dependent on the number of mail ballots deposited or VBM voters assisted
 - Including in the definition of prohibited compensation a "political favor" or "official act of discretion."
 - The current version of these offenses is a misdemeanor unless the person has been previously convicted at least twice before of that offense
 - HB 6 deletes the baseline description of the depositing offenses as misdemeanor offenses, while keeping it a state jail felony offense for those who have previously been convicted at least twice before of such offenses, without explaining what level of offense the baseline crime is.
 - HB 6 boosts the penalty of the providing assistance offenses to a state jail felony in all cases.
- **Making it easier to prosecute people who are assisting mail voters by increasing the technical requirements that assistants must comply with, removing a defense to being prosecuted for failing to comply with such technical requirements, and boosting some associated criminal penalties** (Sections 4.04 and 4.06)



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- Requiring that those who assist a voter in preparing a mail ballot must enter on the carrier envelope the “manner” of assistance they provided and their “relationship” to the voter.
- Currently, it is a crime for a person who assists a mail voter to knowingly fail to sign the written assistant oath on the carrier envelope or to knowingly fail to provide their signature, printed name, and residence address on the carrier envelope--unless they are a family member of the voter or someone living in the same dwelling as the voter. HB 6 retains the current exemption for family members/someone living in the same dwelling as the voter to the criminal offense of knowingly failing to sign the assistant oath. But it makes the exemption for knowingly failing to provide signature, printed name, and residence apply only to assistants who are family members, taking it away from assistants living in the same dwelling as the voter.
- Raising from a state jail felony to a third degree felony the offense level for an assistant who knowingly fails to provide their signature, printed name, residence, manner of assistance, and relationship to the voter on the carrier envelope when assisting a mail voter, if the assistance by the person was itself also unlawful.
- The net effects of the these preceding bullet points are that:
 - Someone living in the same dwelling as the voter would now be criminally liable when assisting a mail voter if they knowingly fail to provide the following elements on the carrier envelope: their signature, printed name, residence, manner of assistance, relationship to the voter;
 - Any assistant other than a family member would also now be criminally liable when assisting a mail voter if they knowingly fail to provide either the manner of their assistance or their relationship to the voter on the carrier envelope (they are already criminally liable for knowingly failing to provide either their signature, printed name, or residence on the carrier envelope); and
 - Those assistants (other than family members) who knowingly fail to provide either their signature, printed name, residence, manner of assistance, or relationship to the voter on the carrier envelope will be liable for a third degree felony (not the lower level offense of a state jail felony) if the person also unlawfully provided assistance to the same voter in connection with the same ballot.

Article 5 -- Fraud and Unlawful Practices

- **Creating a new state jail felony offense against election judges who enter false information on a form for an affidavit required by Section 63.001 (which creates the reasonable impediment declaration and substantially similar name affidavit).**



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This section of HB 6 refers specifically to “an affidavit,” suggesting it is meant to apply only to substantially similar name affidavits, but it may be that this section was also meant to cover reasonable impediment declarations. [Section 5.01](#).

- **Adding a new form of the already existing “illegal voting” criminal offense:** HB 6 amends the current list of offenses that qualify as criminal “illegal voting” found in Section 64.012, by adding “knowingly votes or attempts to vote in an election in this state after voting in an election in another state that is held on the same day” as a criminal offense. [Section 5.02](#).
- **Making it easier to bring prosecutions for “vote harvesting” by softening an evidentiary requirement and expanding the kinds of activities that are unlawful ([Section 5.03](#)):**
 - Allowing prosecutors to win convictions for “engaging in organized election fraud activity” by showing that the person merely intended to “further” a “vote harvesting organization,” instead of the current requirement of proof that the person intended to “maintain” or “participate” in one.
 - Instead of requiring proof that the defendant committed or conspired to commit an election related offense, prosecutors could prove one of the following three elements to convict a person of “organized election fraud”:
 - 1) The person “directly or through a third party, provides or offers to provide vote harvesting services to a candidate for office in exchange for compensation or other benefit”
 - 2) The person “directly, or through a third party, offers or provides compensation or other benefit to another person in exchange for vote harvesting services”
 - 3) The person “knowingly collects or possesses a mail ballot or official carrier envelope from a voter in connection with vote harvesting services.”
 - Proof of one of these three alternative elements makes the offense a third degree felony.
 - Applying the definition of “benefit” from criminal bribery laws to this offense, defining it as “anything reasonably regarded as pecuniary gain or pecuniary advantage, including benefit to any other person in whose welfare the beneficiary has a direct and substantial interest”
 - Defining “vote harvesting services” as “personal services that include direct interaction with one or more voters in connection with an official ballot, ballot by mail, or an application for ballot by mail that are performed with the intention that ballot be cast for a specific candidate or measure.”



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- **Expanding what qualifies as the criminal offense of “election fraud” and boosting penalties for all forms of “election fraud”** (Section 5.04): Adding to the current list of actions that qualify as criminal “election fraud” the following:
 - Knowingly or intentionally making any effort to “count invalid votes or alter a report to include invalid votes”
 - Knowingly or intentionally making any effort to “fail to count valid votes or alter a report to exclude valid votes”
 - For all versions of the offense, which is described in Section 276.013, baseline crime would now be a second degree felony instead of the current Class A misdemeanor.
- **Prohibition on unsolicited distribution of vote by mail applications by public officials** (Section 5.05).
 - Public officials cannot knowingly do one of the following:
 - “solicit[] the submission of an application by a person who did not request the application” (similar but not identical to Section 2.01 of SB 7)
 - “distribute[] an application to a person who did not request the application, unless the distribution is expressly authorized by another provision of” the Election Code (similar but not identical to Section 2.04 of SB 7)
 - “authorize[] the expenditure of public funds to facilitate third party distribution of an application to a person who did not request the application” (similar but not identical to Section 2.04 of SB 7)
 - “complete[] any portion of an application to vote by mail and distribute[] the application to an applicant with intent that the applicant will submit the application on the applicant’s behalf to the early voting clerk”
 - EXCEPTION to this last one: Public officials would not be liable for this last bullet point if they were lawfully assisting the applicant in applying to vote by mail.
 - Committing any one of these offenses would be a state jail felony.
 - Election officials cannot “knowingly mail or distribute a [mail] ballot or [mail] balloting materials” to anyone other than the mail voter
 - This offense would be a state jail felony.
- **Creating a new perjury criminal offense for false assistant oaths** (Section 5.05). HB 6 creates a new Class A misdemeanor offense for making a false statement when taking the oath required to provide assistance to voters, or “swears to the truth of a false statement previously made when making the oath.” Prosecutors must prove that the defendant committed the offense “with intent to deceive and with knowledge of the statement’s meaning.”



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- The offense is boosted to a state jail felony if the person made such a false statement “three or more times in connection with a single election”
- **Creating a new criminal offense for public officials who “alter” or “suspend” election processes (Section 5.05):**
 - HB 6 creates a new state jail felony if a public official “knowingly issue[s] an order altering or suspending an election standard, practice, or procedure mandated by law or rule unless the alteration or suspension is expressly authorized under” the Election Code
 - EXCEPTION: The criminal offense doesn’t apply if the public official 1) “first requested approval of the proposed alteration from the secretary of state by submitting a written request for approval to the secretary of state” and 2) “the secretary of state by written order approved the proposed alteration”
 - Similar to SB 1112, one of the “Bettencourt Seven,” which more narrowly prohibits “suspending the requirement” that the signature on a VBM application and on the VBM carrier envelope must be the voter’s signature (unless signed by a witness)

Article 6 -- Enforcement

- **Creating a new expedited process for investigating criminal election conduct just before an election after complaints are made by two or more registered voters (Section 6.01):**
 - Currently, the county/district attorney or the Attorney General must begin an investigation if at least two registered voters submit affidavits alleging criminal conduct regarding an election. HB 6 would require a county/district attorney who receives such affidavits within 60 days before an election to determine if they can be investigated “expeditiously” by their office “so that a presentation of an information or indictment may be made in time to prevent ongoing or deter future criminal activity.” The county/district attorney must make that determination within 48 hours of receiving such affidavits.
 - If the county/district attorney determines they cannot be investigated expeditiously by their office, they must notify the presiding judge of the court of criminal appeals within 24 hours. A three-judge panel must then be appointed, which must then appoint a different county/district attorney to investigate the affidavits.



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- **Creating a new expedited process for the Texas Supreme Court, the Texas Court of Appeals, and Texas trial courts to hear requests for injunctive relief just before an election** (Sections 6.02, 6.03, 6.04, 6.05, 6.06)
 - Starting on the 60th day before an election, the Court must give “absolute preference” to a request for injunctive relief regarding “a violation or threatened violation” of the Election Code arising from the list of election offenses in Chapter 276 (such as “organized election fraud” and “election fraud”).
 - The Court must “promptly hear the appeal” and do so within 24 hours after the last brief is filed if before the Supreme Court or Court of Appeals, or within 24 hours after receiving the request if before a trial court.
 - Creating a new state jail felony offense for “communicat[ing] with a clerk of the court in an attempt to influence the assignment of or withhold the assignment of a justice identified by name or political party to a panel hearing an appeal.”
 - When such cases are before a trial court, they must “be docketed and assigned at random by the district clerk using an automated system.” Creating a new state jail felony offense for “communicat[ing] with a district or county clerk in an attempt to influence the assignment of cases or withhold the assignment of cases to a judge identified by name or political party”