

BILL ANALYSIS

Senate Research Center
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C.S.S.B. 1568
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State Affairs
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Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The 85th Legislature created an offense for "engaging in organized election fraud activity" as part of H.B. 1735.

The statute (Section 276.011, Election Code) defines organized election fraud activity as three or more persons collaborating to commit offenses under Titles 1 through 7, Election Code, with the purpose to establish, maintain, or participate in a vote harvesting organization. This includes offenses involving the conduct of elections, early voting, mail ballots, voter registration, and voting equipment.

S.B. 1568 would give the Texas attorney general the ability to file a civil suit against persons engaged in organized election fraud activity to recover civil penalties. The civil penalty would be \$1,000 per offense.

Given that this action would be a civil suit, not a criminal prosecution, it would not be a defense that the defendant has not been found criminally responsible for the offense or that another participant was acquitted.

The suit could be brought in any county where any part of the organized election fraud activity occurred. (Original Author's/Sponsor's Statement of Intent)

C.S.S.B. 1568 amends current law relating to organized election fraud activity, and imposes a civil penalty.

RULEMAKING AUTHORITY

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

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 276, Election Code, by adding Section 276.012, as follows:

Sec. 276.012. LIABILITY FOR ENGAGING IN ORGANIZED ELECTION FRAUD ACTIVITY. (a) Defines "organized election fraud activity."

(b) Provides that a person who engages in organized election fraud activity in connection with an election in this state is liable to the state for civil penalties in an action by the Texas attorney general (attorney general) as provided by this section.

(c) Authorizes the attorney general, in an action under this section, to seek injunctive relief to prevent a violation of Section 276.021(a) (relating to committing an offense with a vote harvesting organization) from continuing or recurring.

(d) Requires the attorney general, in an action under this section, to establish each element of the action by a preponderance of the evidence.

(e) Provides that it is not a defense under this section that a defendant is not criminally responsible for an offense committed in furtherance of the organized election fraud activity or that another alleged participant in the organized election fraud activity has been acquitted.

(f) Requires the state, in all actions under this section, to be awarded a civil penalty of \$1,000 for each offense committed under Titles 1 (Introductory Provisions) through 7 (Early Voting) in the course of committing organized election fraud activity.

(g) Provides that the cause of action created by this section is cumulative of any other remedy provided by common law or statute.

(h) Provides that a person found liable under this section or other law for any amount of damages arising from organized election fraud activity is jointly liable with any other defendant for the entire amount of damages arising from the activity.

(i) Authorizes a civil action or proceeding under this section against any person to be brought in the county where any part of the organized election fraud activity occurred.

SECTION 2. Makes application of this Act prospective. Provides that for purposes of this section an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION 3. Effective date: September 1, 2019.