

SUBJECT: Making certain election fraud offenses second-degree felonies

COMMITTEE: Elections — committee substitute recommended

VOTE: 5 ayes — Cain, Clardy, Jetton, Schofield, Swanson

4 nays — J. González, Beckley, Bucy, Fierro

WITNESSES: For — Alan Vera, Harris County Republican Party Ballot Security Committee; Robert Green, Travis County Republican Party Election Integrity Committee; and eight individuals; (*Registered, but did not testify*: Heather Hawthorne, County and District Clerks Association of Texas; Marcia Strickler, WilcoWeTheePeople; Angela Smith, Fredericksburg Tea Party; Tom Nobis, Republican Party of Texas; Don Garner, Texas Faith and Freedom Coalition; and nine individuals)

Against — Susana Carranza, League of Women Voters of Texas; (*Registered, but did not testify*: Matt Simpson, ACLU of Texas; Joanne Richards, Common Ground for Texans; Harrison Hiner, Communications Workers of America; Richard Evans, Emgage Action; Lon Burnam, Public Citizen; Rene Perez, Tarrant County Libertarian Party; James Slattery, Texas Civil Rights Project; Carisa Lopez, Texas Freedom Network; Georgia Keysor)

On — (*Registered, but did not testify*: Jonathan White, Office of the Attorney General; Christina Adkins, Texas Secretary of State)

DIGEST: CSHB 574 would make it a second-degree felony (two to 20 years in prison and an optional fine of up to \$10,000) for a person to knowingly or intentionally make any effort to count invalid votes, fail to count valid votes, alter a report to include invalid votes, or alter a report to exclude valid votes.

The bill also would increase from a class A misdemeanor (up to one year in jail and/or a maximum fine of \$4,000) to a second-degree felony the offenses of knowingly or intentionally making any effort to:

- influence the independent exercise of the vote of another in the presence of the ballot or during the voting process;
- cause a voter to become registered, a ballot to be obtained, or a vote to be cast under false pretenses; and
- cause any intentionally misleading statement, representation, or information to be provided to an election official or on an application for ballot by mail, carrier envelope, or any other official election-related form or document.

The bill would take effect September 1, 2021.

**SUPPORTERS
SAY:**

CSHB 547 would protect the integrity of elections in Texas by making it a second-degree felony to knowingly or intentionally make an effort to count invalid votes, exclude valid votes, or fraudulently alter an elections report. The bill would make statute consistent by elevating some current election-related offenses from misdemeanors to felonies and would appropriately punish individuals who committed election fraud.

While it is already a criminal offense in Texas for an individual to commit certain types of voter fraud, the bill would specify that purposefully counting invalid votes, excluding valid votes, or altering election reports would incur a criminal penalty. This would give prosecutors more tools to enforce the law and help the state ensure election integrity.

The bill would not punish an election worker who mistakenly counted or excluded a ballot because knowledge or intention to commit fraud would have to be present for the statute to apply. However, it is appropriate and necessary for the state to deter individuals who would seek to knowingly and intentionally commit fraud in this manner from working as election officials by increasing the penalty for such offenses.

**CRITICS
SAY:**

CSHB 547 could create a chilling effect among individuals seeking to be election workers by threatening serious criminal penalties over genuine disagreements on the validity of evaluated ballots. Under the broad language of the bill, an individual could be prosecuted for merely

attempting to count a ballot the person viewed as valid or exclude a ballot the person viewed as invalid. It also may be possible to prosecute the new election offenses created in the bill under existing laws.