

Westlaw.

HI ST § 19-3.5

Page 1

HRS § 19-3.5

**C**

HAWAII REVISED STATUTES ANNOTATED  
 DIVISION 1. GOVERNMENT.  
 TITLE 2. ELECTIONS.  
 CHAPTER 19. ELECTION OFFENSE.

**§ 19-3.5 Voter fraud.**

The following persons shall be guilty of a class C felony:

- (1) Any person who knowingly registers another person to vote when that person is not entitled to register to vote;
- (2) Any person who knowingly votes when the person is not entitled to vote;
- (3) Any person who knowingly takes an oath in this title prescribed or authorized by law and willfully makes any false statement of fact while under oath therein; or
- (4) Any person who willfully makes a false answer to any question asked of the person while under oath in this title prescribed or authorized by law.

(L 1990, c 115, § 2)

"Knowingly." --

Immigration judge erred when he ordered an alien to be removed pursuant to 8 U.S.C.S. § 1227(a)(6)(A), based upon a finding that the alien had knowingly committed voter fraud in violation of HRS § 19-3.5(2); the alien did not have the requisite mens rea to commit voter fraud under § 19-3.5(2) because, although she knowingly voted, she did not know at the time she voted that she was ineligible to do so. McDonald v. Gonzales, 400 F.3d 684, 2005 U.S. App. LEXIS 3498 (2005).

H R S § 19-3.5, HI ST § 19-3.5

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031229

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HI ST § 19-4

Page 1

HRS § 19-4

**C**

HAWAII REVISED STATUTES ANNOTATED  
DIVISION 1. GOVERNMENT.  
TITLE 2. ELECTIONS.  
CHAPTER 19. ELECTION OFFENSE.

**§ 19-4 Penalties; disqualification for, removal from office; reports of convictions to chief election officer.**

Every person found guilty of an election fraud shall be fined not less than \$100 nor more than \$1,000, or imprisoned at hard labor not more than two years, or both. Besides the punishment, the person shall be disqualified from voting and from being elected to, holding or occupying any office, elective or appointive. If the person so convicted holds any office, either elective or appointive, at the time of the conviction, the office shall at once and without mention in the sentence or other proceeding be vacated by the conviction. The judge before whom the conviction is had shall immediately transmit to the chief election officer and to the respective county clerks the name of the person, the offense of which the person has been convicted and the sentence of the court.

(L 1970, c 26, pt of § 2; am L 1970, c 188, § 39; am imp L 1984, c 90, § 1)

H R S § 19-4, HI ST § 19-4

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031230

Westlaw.

HI ST § 19-6

Page 1

HRS § 19-6

**C**

HAWAII REVISED STATUTES ANNOTATED  
 DIVISION 1. GOVERNMENT.  
 TITLE 2. ELECTIONS.  
 CHAPTER 19. ELECTION OFFENSE.

**§ 19-6 Misdemeanors.**

The following persons shall be guilty of a misdemeanor:

(1) Any person who offers any bribe or makes any promise of gain, or with knowledge of the same permits any person to offer any bribe or make any promise of gain for the person's benefit to any voter to induce the voter to sign a nomination paper, and any person who accepts any bribe or promise of gain of any kind as consideration for signing the same, whether the bribe or promise of gain be offered or accepted before or after the signing;

(2) Any person who wilfully tears down or destroys or defaces any election proclamation or any poster or notice or list of voters or visual aids or facsimile ballot, issued or posted by authority of law;

(3) Any person printing or duplicating or causing to be printed or duplicated any ballot, conforming as to the size, weight, shape, thickness, or color to the official ballot so that it could be cast or counted as an official ballot in an election;

(4) Every person who is disorderly or creates a disturbance whereby any meeting of the precinct officials or the board of registration of voters during an election is disturbed or interfered with; or whereby any person who intends to be lawfully present at any meeting or election is prevented from attending; or who causes any disturbance at any election; and every person assisting or aiding or abetting any disturbance;

(5) Every person who, either in person or through another, in any manner breaks up or prevents, or endeavors to break up or prevent, the holding of any meeting of the board of registration of voters, or in any manner breaks up or prevents, or endeavors to break up or prevent, the holding of any election;

(6) Any person, other than those designated by section 11-132, who remains or loiters within the area set aside for voting as set forth in section 11- 132 during the time appointed for voting;

(7) Any person, including candidates, carrying on any campaign activities within the area described in section 11-132 during the period of time starting one hour before the polling place opens and ending when the polling place closes for the purpose of influencing votes. Campaign activities shall include the following:

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031231

HI ST § 19-6

Page 2

HRS § 19-6

- (A) Any distribution, circulation, carrying, holding, posting, or staking of campaign cards, pamphlets, posters and other literature;
- (B) The use of public address systems and other public communication media;
- (C) The use of motor caravans or parades; and
- (D) The use of entertainment troupes or the free distribution of goods and services;
- (8) Any person who opens a return envelope containing an absentee ballot voted under chapter 15 other than those authorized to do so under chapter 15;
- (9) Any unauthorized person found in possession of any voting machine or keys thereof;
- (10) Every person who wilfully violates or fails to obey any of the provisions of law, punishment for which is not otherwise in this chapter specially provided for.

(L 1970, c 26, pt of § 2; am L 1973, c 217, § 8; am L 1974, c 34, § 5(b); am L 1975, c 36, § 6 and c 146, § 2(b); am L 1976, c 106, § 5; am L 1980, c 264, § 7; am L 1989, c 121, § 2; am L 1990, c 115, § 3)

## NOTES, REFERENCES, AND ANNOTATIONS

Cross references. --

As to tampering with absentee ballot box or opening it before time prescribed, see § 15-8. As to violation of procedure for counting absentee ballots, see § 15-10. As to holding or display of moveable sign within right-of-way boundaries of public highway or sidewalk or adjacent to highway for political campaign purposes, see § 291C-77.

## NOTES TO DECISIONS

Where criminal statute, as this section, fails to proscribe specifically the alleged offense, it cannot be said that the defendants are in violation of the statute. *Coray v. Ariyoshi*, 54 Haw. 254, 506 P.2d 13, 1973 Haw. LEXIS 185 (1973).

Where poll watcher is person authorized to be in the precinct in question and where his action therein is not specifically proscribed, it cannot be said that he is in violation of § 11-132 and this section. *Coray v. Ariyoshi*, 54 Haw. 254, 506 P.2d 13, 1973 Haw. LEXIS 185 (1973).

Use of poll watchers information beyond 1000 foot perimeter. --

In the absence of constitutional objections, what is done beyond the 1000 feet perimeter with the information recorded by the poll watchers is a matter strictly for the legislature. *Coray v. Ariyoshi*, 54 Haw. 254, 506 P.2d 13, 1973 Haw. LEXIS 185 (1973). Cited in *State v. Park*, 55 Haw. 610, 525 P.2d 586, 1974 Haw. LEXIS 137 (1974); *State v. Good Guys for Fasi*, 56 Haw. 88, 528 P.2d 811, 1974 Haw. LEXIS 91

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031232

Westlaw.

DE ST TI 15 § 2301

Page 1

15 Del.C. § 2301

West's Delaware Code Annotated Currentness

Title 15. Elections

▣ Part II. Registration of Voters

▣ Chapter 23. Penal and Enforcement Provisions

**→§ 2301. Neglect of duty; corrupt or fraudulent conduct; penalty**

Whoever, being a member of a department, is guilty of any wilful neglect of any duty imposed by this title or of any corrupt or fraudulent conduct or practice in the execution of such duty shall be fined not more than \$200 or imprisoned not more than 2 years or both.

45 Laws 1945, ch. 144, § 8; 45 Laws 1945, ch. 148, § 8; 45 Laws 1945, ch. 149, § 8.

## CROSS REFERENCES

Voter registration, constitutional provision, see Del. Const. Art. 5, § 4.

Voting, registration, and elections, see Del. Const. Art. 5, § 1 et seq.

## LIBRARY REFERENCES

Elections ↪314.

Westlaw Key Number Search: 144k314.

C.J.S. Elections § 327.

15 Del.C. § 2301, DE ST TI 15 § 2301

Current through 75 Laws 2006, ch. 441.

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031233

Westlaw.

DE ST TI 15 § 2302

Page 1

15 Del.C. § 2302

**C**

West's Delaware Code Annotated Currentness

Title 15. Elections

Part II. Registration of Voters

Chapter 23. Penal and Enforcement Provisions

**→§ 2302. Wrongful registration; assault; riot; breach of peace; penalty**

Whoever causes or attempts to cause himself or herself to be registered in: (1) The name of any other person living or dead or under any fictitious name; or (2) any election district in this State, knowing that he or she has not the right to be registered; or (3) whoever, knowing himself or herself to be registered in any election district in this State, causes or attempts to cause himself or herself to be registered in any other election district in this State without having first caused his or her record to be removed from the Election District Record in which his or her original permanent registration record may have been previously entered; or (4) whoever, knowing himself or herself to be disqualified as a voter at the next following general election, causes or attempts to cause himself or herself to be entered in the Election District Record in any election district in this State as a registered voter therein or unlawfully interferes with any registrar, alternate registrar or assistant registrar in the discharge of his or her duties under this title; or (5) whoever makes any assault or commits any assault and battery or incites or creates any riot or breach of the peace at or near to any place of registration in this State during the sitting of any registration officers; shall be fined not less than \$50 or more than \$200 or imprisoned not less than 30 days or more than 2 years or both.

19 Laws 1891, ch. 38, § 21; 21 Laws 1898, ch. 36, § 24; 34 Laws 1925, ch. 106, § 1; 50 Laws 1955, ch. 170, § 1; 70 Laws 1995, ch. 186, § 1, eff. July 10, 1995.

## CROSS REFERENCES

Assault and related offenses, see 11 Del.C. § 601 et seq.

Disorderly conduct, see 11 Del.C. § 1301.

Riot, generally, see 11 Del.C. § 1302.

## LIBRARY REFERENCES

Elections 312, 319.

Westlaw Key Number Searches: 144k312; 144k319.

C.J.S. Elections §§ 326, 330.

## NOTES OF DECISIONS

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031234

Westlaw.

DE ST TI 15 § 2303

Page 1

15 Del.C. § 2303

West's Delaware Code Annotated Currentness

Title 15. Elections

Part II. Registration of Voters

Chapter 23. Penal and Enforcement Provisions

**→§ 2303. Registration records; fraudulent entries; alterations, obliterations or omissions; loss; destruction; mutilation; secretion; false copies; penalty**

(a) Whoever, being a registrar, alternate registrar or assistant registrar:

(1) Fraudulently enters or permits to be entered in any registration record the name of any person as a registered voter who is not entitled to be entered therein as a registered voter; or

(2) Fraudulently refuses or omits to register or fraudulently misspells in any registration record in his or her charge the name of any person entitled under this title to have his or her name entered in such registration records; or

(3) Fraudulently removes from any Election District Record in his or her charge the original permanent registration record of any person entered therein; or

(4) Makes any entry in any registration record, except at the time and in the manner in this title provided; or

(5) Does anything which is by this title forbidden to do; or

(6) Whoever, being a registrar, alternate registrar or assistant registrar, inspector or judge of election:

a. Loses any registration records which may be in his or her charge or custody; or

b. Willfully destroys, mutilates, defaces, falsifies or fraudulently removes or secretes any registration record; or

c. Knowingly makes any false entry in or false copy of any registration record or any part thereof; or

d. Fraudulently makes any entry, erasure or alteration in any registration record;

shall be deemed to have knowingly and willfully violated his or her official duty and shall be fined in such amount or imprisoned for such term or both as the court in its discretion may determine.

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031235



DE ST TI 15 § 2304

Page 1

15 Del.C. § 2304

West's Delaware Code Annotated Currentness

Title 15. Elections

▣ Part II. Registration of Voters

▣ Chapter 23. Penal and Enforcement Provisions

**→§ 2304. Alcoholic liquor in registration places; penalty**

Whoever, during the sitting of the registration officers in any election district in this State, brings, takes, orders or sends into, or attempts to bring, take or send into, any place of registration any alcoholic liquor, or, at any such time or place, drinks or partakes of any such liquor, shall be fined not more than \$100 or imprisoned not more than 90 days, or both.

19 Laws 1891, ch. 39, § 32; 21 Laws 1898, ch. 36, § 22; 34 Laws 1925, ch. 106, § 1.

## LIBRARY REFERENCES

Intoxicating Liquors ↪139.

Westlaw Key Number Search: 223k139.

C.J.S. Intoxicating Liquors §§ 323, 361 to 364, 366 to 368.

15 Del.C. § 2304, DE ST TI 15 § 2304

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Westlaw.

DE ST TI 15 § 2305

Page 1

15 Del.C. § 2305

West's Delaware Code Annotated Currentness

Title 15. Elections

Part II. Registration of Voters

Chapter 23. Penal and Enforcement Provisions

**→§ 2305. Intimidation of registration officers; penalty**

If any person, firm, corporation or employer existing or doing business in this State hinders, coerces or intimidates or attempts to hinder, coerce or intimidate any person who has been appointed a registration officer under the laws of this State from qualifying and performing such person's duties as such by threats of depriving such person of employment or occupation, absolutely or contingently, directly or indirectly, shall be liable to a penalty of \$500, recoverable by the Attorney General by civil action in any court of competent jurisdiction in the name of the State, and for the use and benefit of this State.

In any trial under this section the acts of any officer of a corporation, so far as they affect an employee or servant of such corporation, shall be taken and held to be the acts of the corporation, whether special or general authority as to such acts from the corporation is shown or not.

Nothing contained in this section shall be construed to relieve any officer of a corporation from individual liability under this section.

45 Laws 1945, ch. 144, § 24; 45 Laws 1945, ch. 148, § 24; 45 Laws 1945, ch. 149, § 24; 70 Laws 1995, ch. 186, § 1, eff. July 10, 1995.

## LIBRARY REFERENCES

Elections 320.

Westlaw Key Number Search: 144k320.

C.J.S. Elections §§ 333, 334(2).

15 Del.C. § 2305, DE ST TI 15 § 2305

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031237

Westlaw.

DE ST TI 15 § 2306

Page 1

15 Del.C. § 2306

West's Delaware Code Annotated Currentness

Title 15. Elections

▣ Part II. Registration of Voters

▣ Chapter 23. Penal and Enforcement Provisions

**→§ 2306. Notice to Attorney General of violations of registration laws**

Each department shall notify the Attorney General of all violations of the registration laws.

45 Laws 1945, ch. 144, § 9; 45 Laws 1945, ch. 148, § 9; 45 Laws 1945, ch. 149, § 9; 49 Laws 1953, ch. 4, § 5.

15 Del.C. § 2306, DE ST TI 15 § 2306

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Westlaw.

DE ST TI 15 § 2307

Page 1

15 Del.C. § 2307

West's Delaware Code Annotated Currentness

Title 15. Elections

Part II. Registration of Voters

Chapter 23. Penal and Enforcement Provisions

**→§ 2307. Unauthorized entering of registration area; interference with registration; penalty**

(a) Whoever, not being a registration officer or other department of elections personnel, enters the prohibited registration area, as stipulated in § 2011 of this title, during the hours of registration other than to register to vote shall be fined not less than \$100 nor more than \$1,000 or imprisoned not less than 30 days nor more than 2 years, or both.

(b) Whoever enters the prohibited registration area, as stipulated in § 2011 of this title, during the hours of registration for the purpose of interfering with the registration officers in the discharge of their duties or whoever attempts to molest, disturb or prevent the registration officers or any of those seeking to register from proceeding regularly with registration, shall be fined not less than \$500 nor more than \$1,000 or imprisoned not less than 90 days nor more than 3 years, or both.

58 Laws 1972, ch. 401, § 3.

## LIBRARY REFERENCES

Elections ↪319.

Westlaw Key Number Search: 144k319.

C.J.S. Elections § 330.

15 Del.C. § 2307, DE ST TI 15 § 2307

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031239

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DE ST TI 15 § 5101

Page 1

15 Del.C. § 5101

**C**

West's Delaware Code Annotated Currentness

Title 15. Elections

Part IV. General Elections

▣ Chapter 51. Criminal Offenses

▣ Subchapter I. General Provisions

**→§ 5101. Jurisdiction of Court**

The Superior Court shall have exclusive, original jurisdiction of offenses under this title and no prosecution for the violation of any section of this title shall be brought in any other court.

## CROSS REFERENCES

Election offenses, constitutional provisions, see Del. Const. Art. 5, §§ 7 to 9

Enumeration of election offenses, effect, see Del. Const. Art. 5, § 9.

Voting, registration, and elections, see Del. Const. Art. 5, § 1 et seq.

## LIBRARY REFERENCES

Elections ↪325.

Westlaw Key Number Search: 144k325.

## RESEARCH REFERENCES

**Encyclopedias**

15 Am. Jur. Trials 1, Unfair Election Campaign Practices.

15 Del.C. § 5101, DE ST TI 15 § 5101

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031240

Westlaw.

DE ST TI 15 § 5102

Page 1

15 Del.C. § 5102

West's Delaware Code Annotated Currentness

Title 15. Elections

Part IV. General Elections

Chapter 51. Criminal Offenses

Subchapter I. General Provisions

**→§ 5102. Prosecution by Attorney General; duty to report violations**

(a) The Attorney General shall immediately prosecute to final judgment all complaints which may be made of a violation of this title.

(b) Each department of election and all election officers shall notify the Attorney General of all violations of this title.

19 Laws 1891, ch. 39, § 53; 45 Laws 1945, ch. 144, § 9; 45 Laws 1945, ch. 148, § 9; 45 Laws 1945, ch. 149, § 9; 49 Laws 1953, ch. 4, § 5.

UNITED STATES CODE ANNOTATED

Elections and political activities, Federal crimes and offenses, see 18 USCA § 591 et seq.

15 Del.C. § 5102, DE ST TI 15 § 5102

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DE ST TI 15 § 5103

Page 1

15 Del.C. § 5103

West's Delaware Code Annotated Currentness

Title 15. Elections

Part IV. General Elections

Chapter 51. Criminal Offenses

Subchapter I. General Provisions

**→§ 5103. Irregularities or defects in election as a defense**

Irregularities or defects in the mode of noticing, canvassing, polling or conducting any election shall not be a defense to a prosecution for any violation of this title.

19 Laws 1891, ch. 39, § 51.

LIBRARY REFERENCES

Elections ↪321.

Westlaw Key Number Search: 144k321.

15 Del.C. § 5103, DE ST TI 15 § 5103

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Westlaw.

DE ST TI 15 § 5104

Page 1

15 Del.C. § 5104

West's Delaware Code Annotated Currentness  
 Title 15. Elections  
 Part IV. General Elections  
 Chapter 51. Criminal Offenses  
 Subchapter I. General Provisions

**→§ 5104. Honest belief as a defense**

Upon any prosecution for procuring, offering or casting an illegal vote, the accused may give in evidence any fact tending to show that he or she honestly believed upon good reason that the vote complained of was a lawful one.

19 Laws 1891, ch. 39, § 52; 70 Laws 1995, ch. 186, § 1, eff. July 10, 1995.

LIBRARY REFERENCES

Elections ↪321.  
 Westlaw Key Number Search: 144k321.

15 Del.C. § 5104, DE ST TI 15 § 5104

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031243

Westlaw.

DE ST TI 15 § 5105

Page 1

15 Del.C. § 5105

**C**

West's Delaware Code Annotated Currentness

Title 15. Elections

Part IV. General Elections

▣ Chapter 51. Criminal Offenses

▣ Subchapter I. General Provisions

**→§ 5105. Application to school elections**

The provisions of this chapter shall additionally be applicable to any local school elections held under Title 14.

67 Laws 1990, ch. 243, § 10.

## NOTES OF DECISIONS

**In general 1**

## 1. In general

The Cape Henlopen School District did not violate any criminal statutes when it offered a free pizza party for the school with the documented highest percentage of students whose parents voted in a district referendum. Nor did an alleged \$5000 donation to Cape that paid for Cape's support of the referendum violate Delaware's Campaign Finance Act. Title 15, including, 15 Del. C. § 5105 criminalizes specified conduct by or toward election officers. No allegations regarding the conduct of or toward election officers arose in Cape Henlopen. A civil cause would be possible pursuant to 15 Del. C. § 5162 if the voter can allege that a person attempted to control the exercise of his or her right to vote. Because this statute creates a civil claim rather than a criminal offense, the Attorney General has no jurisdiction to enforce its provisions. Op.Atty.Gen 06-IB04, (March 23, 2006) 2006 WL 1242015

15 Del.C. § 5105, DE ST TI 15 § 5105

Current through 75 Laws 2006, ch. 441.

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DE ST TI 15 § 5111

Page 1

15 Del.C. § 5111

West's Delaware Code Annotated Currentness

Title 15. Elections

Part IV. General Elections

▣ Chapter 51. Criminal Offenses

▣ Subchapter II. Particular Offenses

**→§ 5111. Neglect of duty by department member; corrupt or fraudulent conduct; penalty**

Whoever, being a member of a department, is guilty of any wilful neglect of any duty imposed by this title or of any corrupt or fraudulent conduct or practice in the execution of the same, shall be fined not more than \$200 or imprisoned not more than 2 years, or both.

45 Laws 1945, ch. 144, § 8; 45 Laws 1945, ch. 148, § 8; 45 Laws 1945, ch. 149, § 8.

## CROSS REFERENCES

Election offenses, constitutional provisions, see Del. Const. Art. 5, §§ 7 to 9

Voting, registration, and elections, see Del. Const. Art. 5, § 1 et seq.

## LIBRARY REFERENCES

Elections  314.

Westlaw Key Number Search: 144k314.

C.J.S. Elections § 327.

15 Del.C. § 5111, DE ST TI 15 § 5111

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031245

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DE ST TI 15 § 5112

Page 1

15 Del.C. § 5112

West's Delaware Code Annotated Currentness  
 Title 15. Elections  
 Part IV. General Elections  
 Chapter 51. Criminal Offenses  
 Subchapter II. Particular Offenses

**→§ 5112. Refusal of inspector or judge of election to serve; penalty**

Whoever, having been appointed an inspector or judge of election in any election district, refuses to serve shall be fined \$50.

21 Laws 1898, ch. 38, § 11.

LIBRARY REFERENCES

Elections 314.  
 Westlaw Key Number Search: 144k314.  
 C.J.S. Elections § 327.

15 Del.C. § 5112, DE ST TI 15 § 5112

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031246

Westlaw.

DE ST TI 15 § 5113

Page 1

15 Del.C. § 5113

West's Delaware Code Annotated Currentness  
 Title 15. Elections  
 Part IV. General Elections  
 Chapter 51. Criminal Offenses  
 Subchapter II. Particular Offenses

**→§ 5113. Refusal of clerk of election to qualify or serve; penalty**

Whoever, having been appointed a clerk of election, refuses to qualify or having qualified fails or refuses to perform any of the duties of his or her office shall be fined not less than \$50 nor more than \$100.

28 Laws 1915, ch. 92; 37 Laws 1931, ch. 120; 42 Laws 1939, ch. 115, § 13; 45 Laws 1945, ch. 148, § 29; 45 Laws 1945, ch. 149, § 29; 70 Laws 1995, ch. 186, § 1, eff. July 10, 1995.

LIBRARY REFERENCES

Elections 314.  
 Westlaw Key Number Search: 144k314.  
 C.J.S. Elections § 327.

15 Del.C. § 5113, DE ST TI 15 § 5113

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Westlaw.

DE ST TI 15 § 5114

Page 1

15 Del.C. § 5114

West's Delaware Code Annotated Currentness

Title 15. Elections

Part IV. General Elections

Chapter 51. Criminal Offenses

Subchapter II. Particular Offenses

**→§ 5114. Improper conduct of printer of ballots and ballot envelopes; penalty**

If the printer of the ballot or envelope or any person employed in printing the same:

(1) Knowingly gives or delivers or knowingly permits to be taken any ballots or envelopes by any person other than the department of elections for whom such ballots and envelopes are being printed; or

(2) Prints or causes or permits to be printed any ballot or envelope in any other form than the one prescribed by this title or with any other names thereon than those authorized by the department of elections or with the names spelled or the names or devices thereon arranged in any other way than that authorized and directed by the department of elections,

he or she shall be fined not less than \$100 nor more than \$500 or imprisoned not less than 1 nor more than 5 years, or both.

19 Laws 1891, ch. 37, § 10; 27 Laws 1913, ch. 65; 58 Laws 1971, ch. 148, § 119; 70 Laws 1995, ch. 186, § 1, eff. July 10, 1995.

## LIBRARY REFERENCES

Elections ↪309.

Westlaw Key Number Search: 144k309.

C.J.S. Elections §§ 324, 355(2).

15 Del.C. § 5114, DE ST TI 15 § 5114

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031242

Westlaw.

DE ST TI 15 § 5115

Page 1

15 Del.C. § 5115

West's Delaware Code Annotated Currentness  
 Title 15. Elections  
 Part IV. General Elections  
 Chapter 51. Criminal Offenses  
 Subchapter II. Particular Offenses

**→§ 5115. Improper use of ballot or envelope; penalty**

Whoever:

- (1) Forges or falsely makes the official endorsement of any ballot or envelope;  
or
- (2) Prints or causes to be printed any imitation ballot or envelope or circulates the same; or
- (3) Conspires with other persons or induces or attempts to induce any other person to do any of such acts, whether or not any of such acts are committed or attempted to be committed,

shall be fined not less than \$100 nor more than \$500 or may be imprisoned not more than 5 years.

19 Laws 1891, ch. 37, § 30; 27 Laws 1913, ch. 65, § 27.

LIBRARY REFERENCES

Elections ↪309.  
 Westlaw Key Number Search: 144k309.  
 C.J.S. Elections §§ 324, 355(2).

15 Del.C. § 5115, DE ST TI 15 § 5115

Current through 75 Laws 2006, ch. 441.  
 Revisions to Acts from the Second Regular Session 143rd General Assembly made by the Delaware Code Revisors were unavailable at time of publication.

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DE ST TI 15 § 5116

Page 1

15 Del.C. § 5116

West's Delaware Code Annotated Currentness  
 Title 15. Elections  
 Part IV. General Elections  
 Chapter 51. Criminal Offenses  
 Subchapter II. Particular Offenses

**→§ 5116. Tampering with voting machines; penalties**

Whoever before the opening of the election registers any vote on a voting machine or at any time tampers with, disarranges, defaces, impairs in any manner or destroys a voting machine or any part thereof, including the ballots on its face, shall be fined not less than \$300 nor more than \$500 and may be imprisoned not less than 1 nor more than 2 years.

19 Laws 1891, ch. 37, § 13; 27 Laws 1913, ch. 65, § 11; 49 Laws 1953, ch. 18, § 2;  
 58 Laws 1971, ch. 148, § 120.

LIBRARY REFERENCES

Elections ↪314.  
 Westlaw Key Number Search: 144k314.  
 C.J.S. Elections § 327.

15 Del.C. § 5116, DE ST TI 15 § 5116

Current through 75 Laws 2006, ch. 441.  
 Revisions to Acts from the Second Regular Session 143rd General Assembly made by the Delaware Code Revisors were unavailable at time of publication.

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Westlaw

DE ST TI 15 § 5117

Page 1

15 Del.C. § 5117

West's Delaware Code Annotated Currentness  
Title 15. Elections  
Part IV. General Elections  
Chapter 51. Criminal Offenses  
Subchapter II. Particular Offenses

**→§ 5117. Unauthorized entering of voting room; penalties**

(a) Whoever does not meet the qualifications of § 4933 of this title, and enters the voting room on the day of election other than to vote, shall be fined not less than \$100 nor more than \$1,000 or imprisoned not less than 30 days nor more than 2 years, or both.

(b) Whoever enters the voting room on the day of election for the purpose of disrupting the election shall be fined not less than \$1,000 nor more than \$5,000 or imprisoned not less than 1 year nor more than 5 years.

21 Laws 1898, ch. 38, § 15; 57 Laws 1969, ch. 181, § 71.

LIBRARY REFERENCES

Elections ↪319.  
Westlaw Key Number Search: 144k319.  
C.J.S. Elections § 330.

15 Del.C. § 5117, DE ST TI 15 § 5117

Current through 75 Laws 2006, ch. 441.  
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Westlaw.

DE ST TI 15 § 5118

Page 1

15 Del.C. § 5118

West's Delaware Code Annotated Currentness  
 Title 15. Elections  
 Part IV. General Elections  
 Chapter 51. Criminal Offenses  
 Subchapter II. Particular Offenses

**→§ 5118. Interference with election; penalties**

(a) Whoever:

(1) Enters or attempts to enter the voting room before the hour of opening the polls on the day of election or at the time of opening the election, or at any time during the day of the election and before the hour of closing the election for the purpose of interfering with the election officers in the discharge of their duties as such or for any purpose; or

(2) Attempts to molest, disturb or prevent the election officers from proceeding regularly with any general or special election; or

(3) Takes charge or attempts to take charge of any voting room or place where the election is held within the time mentioned in this subsection for the purpose of preventing or delaying an election or for any other purpose on election day;

shall be fined not less than \$500 nor more than \$1,000, and imprisoned not more than 3 years.

(b) Whoever, not in this title authorized so to do, enters or attempts to enter the election room or within the railing leading to the entrance of the election room, or remains within 30 feet of the polling place, contrary to this title, shall be fined not more than \$200.

(c) Whoever resists a challenger appointed pursuant to §§ 3164 and 4934 of this title or a special officer appointed pursuant to § 4935 of this title shall be fined not more than \$100 or imprisoned not more than one year.

19 Laws 1891, ch. 37, §§ 2, 17, 33; 19 Laws 1891, ch. 39, § 14; 20 Laws 1897, ch. 396, §§ 3, 6; 21 Laws 1898, ch. 38, § 16; 26 Laws 1911, ch. 49; 27 Laws 1913, ch. 65, §§ 2, 15, 30; 58 Laws 1971, ch. 148, § 121.

LIBRARY REFERENCES

Elections ↪319.  
 Westlaw Key Number Search: 144k319.  
 C.J.S. Elections § 330.

15 Del.C. § 5118, DE ST TI 15 § 5118

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031252

Westlaw.

DE ST TI 15 § 5119

Page 1

15 Del.C. § 5119

West's Delaware Code Annotated Currentness  
 Title 15. Elections  
 Part IV. General Elections  
 Chapter 51. Criminal Offenses  
 Subchapter II. Particular Offenses

**→§ 5119. Feigning a physical disability to obtain assistance in voting;  
 penalty**

(a) Whoever, being an elector, feigns a physical defect or disability in order to be permitted to bring into the election room or voting booth another person, shall be fined \$100 and shall be imprisoned not more than 2 years.

(b) Whoever, being an elector selected to assist any person by reason of such person's physical defects, reveals how such elector has voted or what persons were voted for by such elector on any ballot or gives any information concerning the appearance of any ballot voted, shall be fined \$100 and imprisoned not less than 1 nor more than 3 years.

20 Laws 1897, ch. 396, § 1; 27 Laws 1913, ch. 65, § 20; 70 Laws 1995, ch. 186, § 1, eff. July 10, 1995.

CROSS REFERENCES

Assistance for disabled voters, see 15 Del.C. § 4943.

LIBRARY REFERENCES

Elections ↪318.  
 Westlaw Key Number Search: 144k318.  
 C.J.S. Elections § 331.

15 Del.C. § 5119, DE ST TI 15 § 5119

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031253



DE ST TI 15 § 5120

Page 1

15 Del.C. § 5120

**C**

West's Delaware Code Annotated Currentness

Title 15. Elections

Part IV. General Elections

▣ Chapter 51. Criminal Offenses

▣ Subchapter II. Particular Offenses

**→§ 5120. Secreting person in election room; penalty**

Whoever, other than the election officers, secretes or attempts to secrete himself or herself in any part of the polling room during the hours of the election for any purpose whatsoever, shall be fined not less than \$100 and may be imprisoned not more than 1 year.

20 Laws 1897, ch. 396, § 12; 70 Laws 1995, ch. 186, § 1, eff. July 10, 1995.

LIBRARY REFERENCES

Elections ↪309.

Westlaw Key Number Search: 144k309.

C.J.S. Elections §§ 324, 355(2).

15 Del.C. § 5120, DE ST TI 15 § 5120

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END OF DOCUMENT

Westlaw.

DE ST TI 15 § 5121

Page 1

15 Del.C. § 5121

West's Delaware Code Annotated Currentness

Title 15. Elections

Part IV. General Elections

Chapter 51. Criminal Offenses

Subchapter II. Particular Offenses

**→§ 5121. Removal or destruction of election supplies or equipment or voting machines; penalty**

(a) Whoever, during the general election:

(1) Removes or destroys any of the supplies or other conveniences placed in the booths or delivered to the voter for the purpose of enabling the voter to prepare his or her ballot; or

(2) Removes, tears down or defaces the cards printed for the instruction of the voters; or

(3) Destroys or removes any booth, railing or other conveniences provided for such election; or

(4) Tampers with, disarranges, defaces or impairs in any manner the use of or destroys any voting machine or the ballots on the face of a voting machine;

shall be imprisoned not less than 6 months nor more than 1 year.

(b) Whoever induces or attempts to induce any person to commit any of the acts described in subsection (a) of this section, whether or not any such acts are committed or attempted to be committed shall be imprisoned not less than 6 months nor more than 1 year.

19 Laws 1891, ch. 37, § 36; 27 Laws 1913, ch. 65, § 33; 49 Laws 1953, ch. 18, § 4; 70 Laws 1995, ch. 186, § 1, eff. July 10, 1995.

## LIBRARY REFERENCES

Elections ↪319.

Westlaw Key Number Search: 144k319.

C.J.S. Elections § 330.

15 Del.C. § 5121, DE ST TI 15 § 5121

Current through 75 Laws 2006, ch. 441.

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001755



DE ST TI 15 § 5122

Page 1

15 Del.C. § 5122

West's Delaware Code Annotated Currentness

Title 15. Elections

Part IV. General Elections

Chapter 51. Criminal Offenses

Subchapter II. Particular Offenses

**→§ 5122. Disclosures by election officers; penalty**

Whoever, being an election officer:

- (1) Reveals to any person how any elector has voted or what persons were voted for by any elector on any ballot; or
- (2) Gives any information concerning the appearance of any ballot voted or envelope used;

shall be fined not more than \$500 and imprisoned not less than 2 nor more than 5 years.

20 Laws 1897, ch. 396, § 11; 27 Laws 1913, ch. 396, § 11; 70 Laws 1995, ch. 186, § 1, eff. July 10, 1995.

## LIBRARY REFERENCES

Elections ↪314.  
 Westlaw Key Number Search: 144k314.  
 C.J.S. Elections § 327.

15 Del.C. § 5122, DE ST TI 15 § 5122

Current through 75 Laws 2006, ch. 441.

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END OF DOCUMENT

Westlaw.

DE ST TI 15 § 5123

Page 1

15 Del.C. § 5123

West's Delaware Code Annotated Currentness

Title 15. Elections

Part IV. General Elections

Chapter 51. Criminal Offenses

Subchapter II. Particular Offenses

**→§ 5123. Intimidation, persuasion or bribery by election officer; penalty**

Whoever, being an election officer:

(1) In any manner attempts to influence, persuade, intimidate, bribe or coerce any voter in the marking of the voter's ballot, or in the making of the choice of the persons for whom the voter votes; or

(2) Discloses the manner in which any person has voted;

shall be deemed to have knowingly and wilfully violated his or her official duty, shall be guilty of wilful and deliberate perjury, and, in addition to the penalties and disabilities annexed to such crime, be fined not more than \$500 and may be imprisoned not more than 2 years.

19 Laws 1891, ch. 37, § 25; 27 Laws 1913, ch. 65, § 22; 70 Laws 1995, ch. 186, § 1, eff. July 10, 1995.

## CROSS REFERENCES

Bribery, see 11 Del.C. § 1201 et seq.

Reading of election law prior to opening of polls, see 15 Del.C. § 4903.

## LIBRARY REFERENCES

Elections ↪314.

Westlaw Key Number Search: 144k314.

C.J.S. Elections § 327.

15 Del.C. § 5123, DE ST TI 15 § 5123

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031257

Westlaw

DE ST TI 15 § 5124

Page 1

15 Del.C. § 5124

West's Delaware Code Annotated Currentness  
 Title 15. Elections  
 Part IV. General Elections  
 Chapter 51. Criminal Offenses  
 Subchapter II. Particular Offenses

**→§ 5124. Inducing the making of distinguishing mark on ballot; penalty**

Whoever induces or attempts to induce any elector to write, paste or otherwise place on his or her ballot the name of any person, or any sign or device of any kind, as a distinguishing mark by which to indicate to any other person how such elector has voted; or whoever enters into or attempts to form any agreement or conspiracy with any other person to induce or attempt to induce any elector to so place any distinguishing mark or name on his or her ballot, whether or not such act be committed or attempted to be committed; shall be imprisoned not more than 2 years.

19 Laws 1891, ch. 37, § 34; 27 Laws 1913, ch. 65, § 31; 70 Laws 1995, ch. 186, § 1, eff. July 10, 1995.

CROSS REFERENCES

Reading of election law prior to opening of polls, see 15 Del.C. § 4903.

LIBRARY REFERENCES

Elections ↪313.  
 Westlaw Key Number Search: 144k313.  
 C.J.S. Elections § 325.

15 Del.C. § 5124, DE ST TI 15 § 5124

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031258



DE ST TI 15 § 5125

Page 1

15 Del.C. § 5125

West's Delaware Code Annotated Currentness  
 Title 15. Elections  
 Part IV. General Elections  
 Chapter 51. Criminal Offenses  
 Subchapter II. Particular Offenses

**→§ 5125. Inducing election officers to violate election laws; penalty**

Whoever induces or attempts to induce any election officers to violate any of the provisions of this title whether or not such election officers violate or attempt to violate any of such provisions shall be imprisoned not more than 5 years.

27 Laws 1913, ch. 65, § 32.

CROSS REFERENCES

Reading of election law prior to opening of polls, see 15 Del.C. § 4903.

LIBRARY REFERENCES

Elections ↪309.  
 Westlaw Key Number Search: 144k309.  
 C.J.S. Elections §§ 324, 355(2).

15 Del.C. § 5125, DE ST TI 15 § 5125

Current through 75 Laws 2006, ch. 441.  
 Revisions to Acts from the Second Regular Session 143rd General Assembly made by the Delaware Code Revisors were unavailable at time of publication.

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Westlaw.

DE ST TI 15 § 5126

Page 1

15 Del.C. § 5126

**C**

West's Delaware Code Annotated Currentness  
 Title 15. Elections  
 Part IV. General Elections  
 Chapter 51. Criminal Offenses  
 Subchapter II. Particular Offenses

**→§ 5126. Violations by officials; penalty**

Whoever, being a clerk of the peace, an official, or other individual as designated in this title, willfully violates this title in the performance of any duty imposed upon him or her for the violation of which no other punishment is provided by law, shall be fined not less than \$300 nor more than \$500 and may be imprisoned not more than 3 years.

20 Laws 1897, ch. 396, § 13; 27 Laws 1913, ch. 65, § 28; 57 Laws 1969, ch. 181, § 73; 70 Laws 1995, ch. 186, § 1, eff. July 10, 1995.

## LIBRARY REFERENCES

Elections ↪314.  
 Westlaw Key Number Search: 144k314.  
 C.J.S. Elections § 327.

## NOTES OF DECISIONS

**In general 1**

## 1. In general

The primary election law (20 Del. Laws [1897] p. 375, c. 393) provides that every election officer or person having the custody of any document or evidence of any description directed by the act to be made, filed, or preserved, who is guilty of stealing, willfully destroying, mutilating, or defacing, falsifying, or fraudulently removing or secreting the same, shall be guilty of a misdemeanor. Held, that ballots cast at a primary election were "papers or evidence" required to be preserved and delivered to the sheriff by section 29, p. 391, so that the destruction, mutilation, etc., thereof would constitute an offense. *State v. Tyre*, 1907, 6 Penne. 343, 22 Del. 343, 67 A. 199. Elections ↪ 314

Under 19 Del. Laws, c. 39, § 40, making it a crime for an election inspector to permit any alteration of election documents in his custody, an inspector is guilty who is so careless in caring for them that he thereby enables some one else to make such alteration. *State v. Brand*, 1897, 16 Del. 459, 43 A. 263. Elections ↪ 314

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031266



DE ST TI 15 § 5127

Page 1

15 Del.C. § 5127

West's Delaware Code Annotated Currentness  
 Title 15. Elections  
 Part IV. General Elections  
 Chapter 51. Criminal Offenses  
 Subchapter II. Particular Offenses

**→§ 5127. Bribery of person expecting to be election or registration officer; penalty**

Whoever bribes or attempts to bribe anyone expecting to hold any official position under the election or registration laws of this State, either as registrar, inspector, judge or otherwise, by giving money or the promise of money, office or the promise of office or position either under the state or federal government, to perform any service for any political party in this State or to favor any candidate for political office shall be fined not more than \$1,000 and may be imprisoned not more than 6 months.

19 Laws 1893, ch. 575.

CROSS REFERENCES

Bribery, see 11 Del.C. § 1201 et seq.

LIBRARY REFERENCES

Elections ↪316.  
 Westlaw Key Number Search: 144k316.  
 C.J.S. Elections § 332.

15 Del.C. § 5127, DE ST TI 15 § 5127

Current through 75 Laws 2006, ch. 441.  
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Westlaw.

DE ST TI 15 § 5128

Page 1

15 Del.C. § 5128

**C**

West's Delaware Code Annotated Currentness

Title 15. Elections

Part IV. General Elections

▣ Chapter 51. Criminal Offenses

▣ Subchapter II. Particular Offenses

**→§ 5128. Fraudulent voting; penalty**

Whoever, at any general or special election:

- (1) Falsely personates any elector or other person and votes or attempts or offers to vote in or upon the name of such elector or other person; or
- (2) Votes or attempts to vote in or upon the name of any other person whether living or dead or in or upon any false, assumed or fictitious name; or
- (3) Knowingly, willfully or fraudulently votes more than once for any candidate at any election for the same office; or
- (4) Votes or attempts or offers to vote in any election district without having a lawful right to vote therein, or to vote more than once or to vote in more than 1 election district; or
- (5) Having once voted, votes or attempts or offers to vote again; or
- (6) Fraudulently delivers or offers to an election officer more than a single ballot; or
- (7) Knowingly, willfully or fraudulently does any unlawful act to secure an opportunity for himself or herself or for any other person to vote,

shall be fined not less than \$50 or more than \$200, or imprisoned not less than 30 days or more than 2 years, or both.

19 Laws 1891, ch. 39, § 34; 50 Laws 1955, ch. 174, § 1; 70 Laws 1995, ch. 186, § 1, eff. July 10, 1995.

## LIBRARY REFERENCES

Elections ↪318.  
 Westlaw Key Number Search: 144k318.  
 C.J.S. Elections § 331.

## NOTES OF DECISIONS

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031262

Westlaw.

DE ST TI 15 § 5129

Page 1

15 Del.C. § 5129

West's Delaware Code Annotated Currentness  
Title 15. Elections  
Part IV. General Elections  
Chapter 51. Criminal Offenses  
Subchapter II. Particular Offenses

**→§ 5129. False entries by clerk of election**

Whoever, being a clerk of election or other election officer performing the duty of such clerk:

- (1) Willfully keeps a false poll list; or
- (2) Knowingly inserts in his or her poll list any false statement, or any name, statement, check, letter or mark, except as provided by law,

shall be deemed to have knowingly and wilfully violated his or her official duty.

19 Laws 1891, ch. 39, § 35; 70 Laws 1995, ch. 186, § 1, eff. July 10, 1995.

CROSS REFERENCES

Official misconduct, generally, see 11 Del.C. § 1211.

LIBRARY REFERENCES

Elections ↪314.  
Westlaw Key Number Search: 144k314.  
C.J.S. Elections § 327.

15 Del.C. § 5129, DE ST TI 15 § 5129

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Revisions to Acts from the Second Regular Session 143rd General Assembly made by the Delaware Code Revisors were unavailable at time of publication.

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END OF DOCUMENT

031263



DE ST TI 15 § 5130

Page 1

15 Del.C. § 5130

West's Delaware Code Annotated Currentness  
Title 15. Elections  
Part IV. General Elections  
Chapter 51. Criminal Offenses  
Subchapter II. Particular Offenses

**→§ 5130. Failure of election officer to perform duties**

Whoever, being an election officer, willfully:

- (1) Excludes any vote duly tendered, knowing that the person offering the same is lawfully entitled to vote at such election; or
- (2) Receives a vote from any person who has been duly challenged in relation to such person's right to vote at such election without exacting from such person such oath or other proof of qualification as may be required by law; or
- (3) Omits to challenge any person offering to vote whom he or she knows or suspects not to be entitled to vote and who has not been challenged by any other person;

shall be deemed to have violated his official duty.

19 Laws 1891, ch. 39, § 36; 70 Laws 1995, ch. 186, § 1, eff. July 10, 1995.

CROSS REFERENCES

Official misconduct, generally, see 11 Del.C. § 1211.

LIBRARY REFERENCES

Elections ↪314.  
Westlaw Key Number Search: 144k314.  
C.J.S. Elections § 327.

15 Del.C. § 5130, DE ST TI 15 § 5130

Current through 75 Laws 2006, ch. 441.  
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031264

Westlaw.

DE ST TI 15 § 5131

Page 1

15 Del.C. § 5131

West's Delaware Code Annotated Currentness  
Title 15. Elections  
Part IV. General Elections  
Chapter 51. Criminal Offenses  
Subchapter II. Particular Offenses

**→§ 5131. False count or certification by election officer**

Whoever, being an election officer, willfully:

- (1) Makes any false count of votes cast at any election, or makes, signs, publishes or delivers any false return of such election or any false certificate or statement of the result of such election, knowing the same to be false; or
- (2) Defaces, destroys or conceals any statement or certificate entrusted to his or her care or custody

shall be deemed to have knowingly and wilfully violated his or her official duty.

19 Laws 1891, ch. 39, § 37; 70 Laws 1995, ch. 186, § 1, eff. July 10, 1995.

LIBRARY REFERENCES

Elections ↪314.  
Westlaw Key Number Search: 144k314.  
C.J.S. Elections § 327.

15 Del.C. § 5131, DE ST TI 15 § 5131

Current through 75 Laws 2006, ch. 441.  
Revisions to Acts from the Second Regular Session 143rd General Assembly made by the Delaware Code Revisors were unavailable at time of publication.

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END OF DOCUMENT



DE ST TI 15 § 5132

Page 1

15 Del.C. § 5132

West's Delaware Code Annotated Currentness  
 Title 15. Elections  
 Part IV. General Elections  
 Chapter 51. Criminal Offenses  
 Subchapter II. Particular Offenses

**→§ 5132. Fraudulent deposit or alteration of ballots or entering voting machine booth or casting vote; penalty**

(a) Whoever, being an election officer, at any election:

(1) Knowingly and willfully puts or causes to be put any ballot or ballots or other paper having the semblance thereof into any box used at such election for the reception of votes; or

(2) Knowingly and willfully causes or permits any ballot to be in the ballot box at the opening of the polls and before voting shall have commenced; or

(3) Knowingly or willfully or fraudulently puts any ballot or other paper having the semblance thereof into any ballot box unless the same is offered by an elector and the elector's name has been found and checked upon the Election District Record; or

(4) Fraudulently before, during or after the reading and count of the ballot, in any manner changes, substitutes or alters any ballot; or

(5) Removes any ballot or semblance thereof from, or adds any ballot or semblance thereof to, the ballots found in any such ballot box upon the closing of the polls; or

(6) Knowingly and willfully causes or permits any vote to be registered on a voting machine, unless the vote is cast by an elector whose name has been found and checked upon the books of registered voters and who has not previously voted, or knowingly or willfully enters or permits anyone to enter a voting machine booth, unless the person is an elector whose name has been found or checked upon the books of registered voters and who has not previously voted or is an election officer or member or employee of the department of elections whose entrance into the voting machine booth is required by the provisions of this title,

shall be deemed to have knowingly and wilfully violated his or her official duty.

(b) Whoever, not being an election officer, does or causes to be done any of the acts, matters or things mentioned in subsection (a) of this section, shall be fined not more than \$200 or imprisoned not more than 2 years, or both.

19 Laws 1891, ch. 39, § 38; 49 Laws 1953, ch. 18, § 3; 50 Laws 1955, ch. 174, § 2;

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031266

Westlaw.

DE ST TI 15 § 5133

Page 1

15 Del.C. § 5133

West's Delaware Code Annotated Currentness

Title 15. Elections

Part IV. General Elections

Chapter 51. Criminal Offenses

Subchapter II. Particular Offenses

**→§ 5133. Wilful neglect of duty by election officers**

Whoever, being an election officer of whom any duty is required in this title, is guilty of any wilful neglect of such duty or of any corrupt or fraudulent conduct or practice in the execution of the same shall be deemed to have knowingly and wilfully violated his or her official duty.

19 Laws 1891, ch. 39, § 39; 70 Laws 1995, ch. 186, § 1, eff. July 10, 1995.

LIBRARY REFERENCES

Elections 314.

Westlaw Key Number Search: 144k314.  
C.J.S. Elections § 327.

15 Del.C. § 5133, DE ST TI 15 § 5133

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Westlaw.

DE ST TI 15 § 5134

Page 1

15 Del.C. § 5134

West's Delaware Code Annotated Currentness  
 Title 15. Elections  
 Part IV. General Elections  
 Chapter 51. Criminal Offenses  
 Subchapter II. Particular Offenses

**→§ 5134. Stealing, destroying or secreting records; penalty**

(a) Whoever, being an election officer having the custody of any registration records, or copy thereof, oath, return of votes, certificate, poll list or any paper, document, or evidence of any description, in this title directed to be made, filed or preserved:

(1) Steals, wilfully destroys, mutilates, defaces, falsifies, or fraudulently removes or secretes the whole or any part thereof; or

(2) Fraudulently makes any entry, erasure, or alteration therein, except as allowed and directed by this title; or

(3) Permits any other person to do so,

shall be deemed to have knowingly and wilfully violated his or her official duty.

(b) Whoever, not being an election officer and having such custody, does or commits any of the acts, matters or things mentioned in subsection (a) of this section, or whoever, not being an election officer, advises, procures or abets the commission of any of the acts mentioned in this section shall, for each such offense, be fined not more than \$200 or imprisoned not more than 2 years, or both.

19 Laws 1891, ch. 39, §§ 40, 41; 50 Laws 1955, ch. 174, § 3; 70 Laws 1995, ch. 186, § 1, eff. July 10, 1995.

LIBRARY REFERENCES

Elections ↪314.  
 Westlaw Key Number Search: 144k314.  
 C.J.S. Elections § 327.

15 Del.C. § 5134, DE ST TI 15 § 5134

Current through 75 Laws 2006, ch. 441.  
 Revisions to Acts from the Second Regular Session 143rd General Assembly made by the Delaware Code Revisors were unavailable at time of publication.

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031268

Westlaw.

DE ST TI 15 § 5135

Page 1

15 Del.C. § 5135

West's Delaware Code Annotated Currentness  
Title 15. Elections  
Part IV. General Elections  
Chapter 51. Criminal Offenses  
Subchapter II. Particular Offenses

**→§ 5135. Perjury; subornation of perjury**

(a) Whoever is convicted of wilful false swearing or affirming in taking any oath or affirmation prescribed by or upon any examination provided for in this title is guilty of perjury.

(b) Whoever willfully or corruptly instigates, advises, induces or procures any person to swear or affirm falsely, or attempts or offers so to do, is guilty of subornation of perjury, and shall suffer the punishment directed by law in cases of perjury.

19 Laws 1891, ch. 39, §§ 42, 43.

CROSS REFERENCES

Perjury and related offenses, see 11 Del.C. § 1221 et seq.

Perjury, constitutional provision, see Del. Const. Art. 5, § 3.

LIBRARY REFERENCES

Elections ↪309.  
Westlaw Key Number Search: 144k309.  
C.J.S. Elections §§ 324, 355(2).

15 Del.C. § 5135, DE ST TI 15 § 5135

Current through 75 Laws 2006, ch. 441.  
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Westlaw.

DE ST TI 15 § 5136

Page 1

15 Del.C. § 5136

West's Delaware Code Annotated Currentness  
 Title 15. Elections  
 Part IV. General Elections  
 Chapter 51. Criminal Offenses  
 Subchapter II. Particular Offenses

**→§ 5136. Tampering with ballots or deceiving voters; penalty**

Whoever:

(1) Fraudulently changes or alters the ballot of any elector, or substitutes 1 ballot for another, or fraudulently furnishes any elector with a ballot containing more than the proper number of names; or

(2) Intentionally practices any fraud upon any elector to induce the elector to deposit a ballot as his or her vote and to have the same thrown out and not counted, or to have the same counted for a person or candidate other than the person or candidate for whom such elector intended to vote; or

(3) Otherwise defrauds the elector of the elector's vote,

shall be fined not more than \$200 or imprisoned not more than 2 years, or both.

19 Laws 1891, ch. 39, § 44; 70 Laws 1995, ch. 186, § 1, eff. July 10, 1995.

LIBRARY REFERENCES

Elections ↪318.  
 Westlaw Key Number Search: 144k318.  
 C.J.S. Elections § 331.

15 Del.C. § 5136, DE ST TI 15 § 5136

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001270



DE ST TI 15 § 5137

Page 1

15 Del.C. § 5137

West's Delaware Code Annotated Currentness  
 Title 15. Elections  
 Part IV. General Elections  
 Chapter 51. Criminal Offenses  
 Subchapter II. Particular Offenses

**→§ 5137. Disobeying election officers; penalty**

Whoever willfully disobeys any lawful command of any election officer, given in the execution of such officer's duty as such at any election, shall be fined not more than \$200 or imprisoned not more than 1 year, or both.

19 Laws 1891, ch. 39, § 45; 70 Laws 1995, ch. 186, § 1, eff. July 10, 1995.

LIBRARY REFERENCES

Elections ↪309.  
 Westlaw Key Number Search: 144k309.

C.J.S. Elections §§ 324, 355(2).

15 Del.C. § 5137, DE ST TI 15 § 5137

Current through 75 Laws 2006, ch. 441.  
 Revisions to Acts from the Second Regular Session 143rd General Assembly made by the Delaware Code Revisors were unavailable at time of publication.

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DE ST TI 15 § 5138

Page 1

15 Del.C. § 5138

West's Delaware Code Annotated Currentness

Title 15. Elections

Part IV. General Elections

Chapter 51. Criminal Offenses

Subchapter II. Particular Offenses

**→§ 5138. Breach of peace or violence on election day; penalty**

Whoever on any day of election or during the reading and counting of the votes cast thereat causes any breach of the peace or uses any violence or threats of violence whereby any such election or reading and counting of ballots is impeded or hindered or whereby the lawful proceedings of election officers or challengers at such election are interfered with shall be fined not more than \$200 or imprisoned not more than 2 years, or both.

19 Laws 1891, ch. 39, § 46.

CROSS REFERENCES

Criminal mischief, see 11 Del.C. § 811.

Disorderly conduct, see 11 Del.C. § 1301.

LIBRARY REFERENCES

Elections ↪320.

Westlaw Key Number Search: 144k320.

C.J.S. Elections §§ 333, 334(2).

15 Del.C. § 5138, DE ST TI 15 § 5138

Current through 75 Laws 2006, ch. 441.

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Westlaw.

DE ST TI 15 § 5139

Page 1

15 Del.C. § 5139

**C**

West's Delaware Code Annotated Currentness

Title 15. Elections

Part IV. General Elections

▣ Chapter 51. Criminal Offenses

▣ Subchapter II. Particular Offenses

**→§ 5139. Interference with election officer or challenger; penalty**

Whoever:

(1) Knowingly or wilfully obstructs, hinders, assaults or by bribery, solicitation or otherwise interferes with any election officer or challenger in the performance of any duty required of him or her or which he or she may by law be authorized or permitted to perform; or

(2) By any means before mentioned or otherwise unlawfully on the day of election hinders or prevents any election officer or challenger in his or her free attendance and presence at the place of election in the election district in which he or she is appointed to serve, or in his or her full and free access and egress to and from any such place of election, or molests, interferes with, removes or ejects from any such place of election any such election officer or challenger, or unlawfully threatens or attempts or offers so to do,

shall be fined not more than \$200 or imprisoned not more than 2 years, or both.

19 Laws 1891, ch. 39, § 47; 70 Laws 1995, ch. 186, § 1, eff. July 10, 1995.

## LIBRARY REFERENCES

Elections ↪319.

Westlaw Key Number Search: 144k319.

C.J.S. Elections § 330.

## NOTES OF DECISIONS

**In general 1**

## 1. In general

The offense, defined by Const. art. 5, § 7, of causing or attempting to cause any officer of election to violate his official duty, is not one of an attempt to commit a particular crime, but is a distinct substantive offense. State v. Burris, 1916, 6 Boyce 166, 29 Del. 166, 97 A. 427. Elections ↪ 319

15 Del.C. § 5139, DE ST TI 15 § 5139

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031273

Westlaw.

DE ST TI 15 § 5140

Page 1

15 Del.C. § 5140

West's Delaware Code Annotated Currentness  
Title 15. Elections  
Part IV. General Elections  
    Chapter 51. Criminal Offenses  
        Subchapter II. Particular Offenses

**→§ 5140. Failure of inspector to preserve order**

Whoever, being an inspector of election, wilfully neglects or when called on wilfully declines to exercise the powers conferred on him or her to preserve order shall be deemed to have knowingly and wilfully violated his or her official duty.

19 Laws 1891, ch. 39, § 48; 70 Laws 1995, ch. 186, § 1, eff. July 10, 1995.

LIBRARY REFERENCES

Elections ↪314.

Westlaw Key Number Search: 144k314.  
C.J.S. Elections § 327.

15 Del.C. § 5140, DE ST TI 15 § 5140

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031274

Westlaw.

DE ST TI 15 § 5141

Page 1

15 Del.C. § 5141

**C**

West's Delaware Code Annotated Currentness

Title 15. Elections

Part IV. General Elections

▣ Chapter 51. Criminal Offenses

▣ Subchapter II. Particular Offenses

**→§ 5141. Stealing or destroying ballot box, ballot, poll list; penalty**

Whoever, not being an election officer:

- (1) Steals or willfully breaks or destroys any ballot box used or intended to be used at any election; or
- (2) Willfully or fraudulently conceals, secretes or removes any ballot box from the custody of the election officers; or
- (3) Alters, defaces, injures, destroys or conceals any ballot or envelope which has been deposited in any ballot box at such election or any poll list used or intended to be used at such election or any report, return, certificate or other evidence in this title required or provided for;

shall, for each such offense, be fined not more than \$200 or imprisoned not more than 2 years, or both.

19 Laws 1891, ch. 39, § 49; 27 Laws 1913, ch. 65.

## LIBRARY REFERENCES

Elections ↩309.

Westlaw Key Number Search: 144k309.

C.J.S. Elections §§ 324, 355(2).

## NOTES OF DECISIONS

**In general 1**

## 1. In general

Under an indictment charging defendant with having destroyed ballots, where the evidence is purely circumstantial, in order to convict the jury should be satisfied from the proof that the ballots could have disappeared in no other reasonable way than by the destruction alleged. *State v. Mundy*, 1895, 16 Del. 429, 43 A. 260. Elections ↩ 329

An indictment alleging that defendant "did then and there unlawfully destroy

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03127E

Westlaw.

DE ST TI 15 § 5142

Page 1

15 Del.C. § 5142

West's Delaware Code Annotated Currentness  
 Title 15. Elections  
 Part IV. General Elections  
 Chapter 51. Criminal Offenses  
 Subchapter II. Particular Offenses

**→§ 5142. Requiring unauthorized oath; penalty**

Whoever, being an election officer or other person, administers or causes to be administered to any legal voter any oath or affirmation not authorized by the Constitution or laws of this State for that purpose as a prerequisite or condition of voting at any election, except when such oath or affirmation is administered in order to satisfy such election officer or other person that such vote is a legal vote according to the Constitution and laws of this State, shall for each such offense be fined not less than \$500 nor more than \$1,000 and imprisoned 10 days.

12 Laws 1861-1865, ch. 326, § 3.

LIBRARY REFERENCES

Elections ↪314.  
 Westlaw Key Number Search: 144k314.  
 C.J.S. Elections § 327.

15 Del.C. § 5142, DE ST TI 15 § 5142

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031270



DE ST TI 15 § 5143

Page 1

15 Del.C. § 5143

West's Delaware Code Annotated Currentness  
 Title 15. Elections  
 Part IV. General Elections  
 Chapter 51. Criminal Offenses  
 Subchapter II. Particular Offenses

**→§ 5143. Candidate for General Assembly not to make written pledge;  
 penalty**

(a) No candidate for State Senator or Representative in the General Assembly shall make any written pledge to give or withhold his or her vote on any proposed law or legislation, nor shall any other person seek to influence any such candidate in the candidate's attitude upon any proposed law or legislation by offer or promise of a vote or votes or of any support at any primary or election.

(b) Whoever violates subsection (a) of this section shall be fined not less than \$50 nor more than \$1,000, or imprisoned not less than 1 month nor more than 2 years, or both.

29 Laws 1917, ch. 112; 30 Laws 1919, ch. 105; 70 Laws 1995, ch. 186, § 1, eff. July 10, 1995.

## LIBRARY REFERENCES

Elections k311.1.  
 Westlaw Key Number Search: 144k311.1.  
 C.J.S. Elections § 324.

15 Del.C. § 5143, DE ST TI 15 § 5143

Current through 75 Laws 2006, ch. 441.  
 Revisions to Acts from the Second Regular Session 143rd General Assembly made by the Delaware Code Revisors were unavailable at time of publication.

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Westlaw.

DE ST TI 15 § 5144

Page 1

15 Del.C. § 5144

West's Delaware Code Annotated Currentness

Title 15. Elections

Part IV. General Elections

▣ Chapter 51. Criminal Offenses

▣ Subchapter II. Particular Offenses

**→§ 5144. Unauthorized release of absentee vote information; penalty**

(a) Any person who knowingly or intentionally releases, transfers, distributes, or otherwise permits or facilitates the distribution of information relating to the number of absentee votes cast in favor or against any particular candidate or measure prior to the close of the polls on the day of an election at which absentee votes were cast and counted is guilty of the unauthorized release of absentee vote information in the first degree and shall be fined not less than \$300 nor more than \$500 and may be imprisoned not less than 1 nor more than 2 years.

(b) Any person who recklessly releases, transfers, distributes, or otherwise permits or facilitates the distribution of information relating to the number of absentee votes cast in favor or against any particular candidate or measure prior to the close of the polls on the day of an election at which absentee votes were cast and counted is guilty of the unauthorized release of absentee vote information in the second degree and shall be fined not more than \$200 and may be imprisoned not more than 1 year.

75 Laws 2005, ch. 149, § 3, eff. July 12, 2005.

## HISTORICAL AND STATUTORY NOTES

75 Laws 2005, ch. 149, § 4, eff. July 12, 2005, provides:

"This Act shall become effective upon its enactment into law. Not later than 6 months following the enactment of this Act into law, the Attorney General, the State Election Commissioner, and the departments of elections for each county shall each promulgate those regulations which are necessary to implement their respective responsibilities under this Act."

15 Del.C. § 5144, DE ST TI 15 § 5144

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031278

Westlaw.

DE ST TI 15 § 5161

Page 1

15 Del.C. § 5161

**C**

West's Delaware Code Annotated Currentness

Title 15. Elections

Part IV. General Elections

▣ Chapter 51. Criminal Offenses

▣ Subchapter III. Offenses Carrying Civil Liability

**→§ 5161. Intimidation of election officers; penalty**

If any person, firm, corporation or employer existing or doing business in this State, hinders, coerces or intimidates or attempts to hinder, coerce or intimidate any person who has been appointed an election officer under the laws of this State from qualifying and performing such person's duties as such by threats of depriving such person of employment or occupation, absolutely or contingently, directly or indirectly, shall be liable to a penalty of \$500, recoverable by the Attorney General by civil action in any court of competent jurisdiction in the name of the State, and for the use and benefit of this State.

45 Laws 1945, ch. 144, § 24; 45 Laws 1945, ch. 148, § 24; 45 Laws 1945, ch. 149, § 24; 70 Laws 1995, ch. 186, § 1, eff. July 10, 1995.

## CROSS REFERENCES

Election offenses, constitutional provisions, see Del. Const. Art. 5, §§ 7 to 9

Voting, registration, and elections, see Del. Const. Art. 5, § 1 et seq.

## LIBRARY REFERENCES

Elections ↪320.

Westlaw Key Number Search: 144k320.

C.J.S. Elections §§ 333, 334(2).

## RESEARCH REFERENCES

**Treatises and Practice Aids**

**Termination of Employment § 10:25, Miscellaneous.**

**15 Del.C. § 5161, DE ST TI 15 § 5161**

**Current through 75 Laws 2006, ch. 441.**

**Revisions to Acts from the Second Regular Session 143rd General Assembly made by the Delaware Code Revisors were unavailable at time of publication.**

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031279

Westlaw.

DE ST TI 15 § 5162

Page 1

15 Del.C. § 5162

**C**

West's Delaware Code Annotated Currentness

Title 15. Elections

Part IV. General Elections

▣ Chapter 51. Criminal Offenses

▣ Subchapter III. Offenses Carrying Civil Liability

**→§ 5162. Intimidation of electors; penalty**

If any person, or corporation existing or doing business in this State, hinders, controls, coerces or intimidates or attempts to hinder, control, coerce or intimidate any qualified elector of this State from or in the exercise of the elector's right to vote at any general, special or municipal election held under the laws of this State, by means of bribery or by threats of depriving such elector of employment or occupation, absolutely or contingently, directly or indirectly, every elector so aggrieved may, in a civil action brought for that purpose, sue for and recover from the person or corporation so offending the sum of \$500.

16 Laws 1881, ch. 329, §§ 1, 2; 70 Laws 1995, ch. 186, § 1, eff. July 10, 1995.

## LIBRARY REFERENCES

Elections ↪320.

Westlaw Key Number Search: 144k320.

C.J.S. Elections §§ 333, 334(2).

## RESEARCH REFERENCES

**Treatises and Practice Aids****Employment Law § 5.11, Defenses.****Termination of Employment § 10:25, Miscellaneous.**

## NOTES OF DECISIONS

**In general 1**

## 1. In general

The Cape Henlopen School District did not violate any criminal statutes when it offered a free pizza party for the school with the documented highest percentage of students whose parents voted in a district referendum. Nor did an alleged \$5000 donation to Cape that paid for Cape's support of the referendum violate Delaware's

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031280

Westlaw.

DE ST TI 15 § 5163

Page 1

15 Del.C. § 5163

West's Delaware Code Annotated Currentness

Title 15. Elections

Part IV. General Elections

Chapter 51. Criminal Offenses

Subchapter III. Offenses Carrying Civil Liability

**→§ 5163. Liability of corporation or officers**

In any trial under § 5161 or 5162 of this title, the acts of any officer of a corporation, insofar as they affect or concern an employee or servant of such corporation, shall be taken and held to be the acts of the corporation, whether general or special authority as to such acts from the corporation is shown or not.

Nothing contained in § 5161 or 5162 of this title or in this section shall be construed to relieve any officer of a corporation from individual liability under such sections.

16 Laws 1881, ch. 329, §§ 1, 2; 45 Laws 1945, ch. 147, § 24; 45 Laws 1945, ch. 148, § 24; 45 Laws 1945, ch. 149, § 24.

## LIBRARY REFERENCES

Elections ↪322.

Westlaw Key Number Search: 144k322.

C.J.S. Elections § 336.

15 Del.C. § 5163, DE ST TI 15 § 5163

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Westlaw.

DE ST TI 15 § 5164

Page 1

15 Del.C. § 5164

**C**

West's Delaware Code Annotated Currentness

Title 15. Elections

Part IV. General Elections

▣ Chapter 51. Criminal Offenses

▣ Subchapter III. Offenses Carrying Civil Liability

**→§ 5164. Liability of stakeholder for paying election bet**

If any stakeholder, or person with whom any money or thing, laid as a wager or bet on the result of any election, or on the election or defeat of any candidate or person voted for thereat, shall be deposited, shall at any time either before or after such bet shall have been decided, pay over or deliver to either or both of the persons betting the same, or to any other person by the order or for the use of them, or either of them, the money or thing so illegally betted, every such stakeholder or depository shall forfeit and pay to any person who will sue for the same, double the amount of such wager or bet or double the value of the thing betted.

Either of the persons betting shall be competent witnesses against the stakeholder.

## LIBRARY REFERENCES

Elections ↪315.

Westlaw Key Number Search: 144k315.

C.J.S. Elections § 328.

## RESEARCH REFERENCES

**Encyclopedias****15 Am. Jur. Trials 1, Unfair Election Campaign Practices.****15 Del.C. § 5164, DE ST TI 15 § 5164****Current through 75 Laws 2006, ch. 441.****Revisions to Acts from the Second Regular Session 143rd General Assembly made by the Delaware Code Revisors were unavailable at time of publication.****Copr. 2006 Thomson/West.****END OF DOCUMENT**



DC ST § 1-1001.12

Formerly cited as DC ST 1981 § 1-1316

District of Columbia Official Code 2001 Edition Currentness

Division I. Government of District.

Title 1. Government Organization. (Refs & Annos)

Chapter 10. Elections. (Refs & Annos)

Subchapter I. Regulation of Elections.

**→ § 1-1001.12. Interference with registration and voting.**

No one shall interfere with the registration or voting of another person, except as it may be reasonably necessary in the performance of a duty imposed by law.

CREDIT(S)

(Aug. 12, 1955, 69 Stat. 703, ch. 862, § 12.)

**HISTORICAL AND STATUTORY NOTES**

**Prior Codifications**

1981 Ed., § 1-1316.

1973 Ed., § 1-1112.

**LIBRARY REFERENCES**

**Key Numbers**

Elections ↪ 319.

Westlaw Topic No. 144.

**Encyclopedias**

C.J.S. Elections § 330.

DC CODE § 1-1001.12

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031283



DC ST § 1-1001.14

**C**

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Title 1. Government Organization. (Refs &amp; Annos)

§ Chapter 10. Elections. (Refs &amp; Annos)

§ Subchapter I. Regulation of Elections.

**→ § 1-1001.14. Corrupt election practices.**

(a) Any person who shall register, or attempt to register, or vote or attempt to vote under the provisions of this subchapter and make any false representations as to his or her qualifications for registering or voting or for holding elective office, or be guilty of violating § 1-1001.07(d)(2)(D), § 1-1001.09, § 1-1001.12, or § 1-1001.13 or be guilty of bribery or intimidation of any voter at an election, or being registered, shall vote or attempt to vote more than once in any election so held, or shall purloin or secrete any of the votes cast in an election, or attempt to vote in an election held by a political party other than that to which he or she has declared himself or herself to be affiliated, or, if employed in the counting of votes in any election held pursuant to this subchapter, knowingly make a false report in regard thereto, and every candidate, person, or official of any political committee who shall knowingly make any expenditure or contribution in violation of Chapter 11 of this title, shall, upon conviction, be fined not more than \$10,000 or be imprisoned not more than 5 years, or both.

(b)(1) Any person who signs an initiative, referendum or recall petition with any other than his or her own name, or who signs a petition for an initiative, referendum or recall measure, knowing that he or she is not a registered qualified elector in the District of Columbia, or who makes a false statement as to his or her residency on any such petition, shall upon conviction be fined not more than \$10,000 or be imprisoned not more than 1 year, or both.

(2) Any public officer, involved in any part of the election process, who willfully violates any of the provisions of § 1-1001.16 or § 1-1001.17, shall be fined not more than \$10,000 or be imprisoned not more than 1 year, or both.

(3) Any person who: (A) For any consideration, compensation, gratuity, reward or thing of value or promise thereof, signs or promises to sign or declines to sign, or promises not to sign any initiative, referendum, or recall petition; or (B) pays or offers or promises to pay, or gives or offers or promises to give any consideration, compensation, gratuity, reward, or thing of value to any person to induce him or her to sign or not to sign, his or her signatures upon any initiative, referendum, or recall petition, or to vote for or against, or to abstain from voting on, any initiative, referendum, or recall measure; or (C) by any other corrupt means or practice, or by threats or intimidation, interferes with, or attempts to interfere with, the right of any qualified registered elector to sign or not to sign any initiative, referendum, or recall petition, or to vote for or against, or to abstain from voting on any initiative, referendum, or recall measure; or (D) makes any false statement to the Board concerning any initiative, referendum, or recall petition, or the signatures appended thereto shall be fined not more than \$10,000 or be imprisoned not more than 1 year, or both.

(4) Any proposer or circulator of an initiative, referendum, or recall petition who willfully violates any provision of §§ 1-1001.16 and 1-1001.17 shall, upon conviction thereof, be subject to a fine of not more than \$10,000 or to imprisonment of not more than 6 months, or both. Each occurrence of a violation of §§ 1-1001.16 and 1-1001.17

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031284

## DC ST § 1-1001.14

shall constitute a separate offense. Violations of §§ 1-1001.16 and 1-1001.17 shall be prosecuted in the name of the District of Columbia by the Corporation Counsel of the District of Columbia.

(c) The provisions of this section shall be supplemental to, and not in derogation of, any penalties under other laws of the District of Columbia.

## CREDIT(S)

(Aug. 12, 1955, 69 Stat. 704, ch. 862, § 14; Oct. 4, 1961, 75 Stat. 820, Pub. L. 87-389, § 1(24); Sept. 22, 1970, 84 Stat. 854, Pub. L. 91-405, title II, § 205(k); Dec. 16, 1975, D.C. Law 1-37, § 2(8), 22 DCR 3430; Apr. 23, 1977, D.C. Law 1-126, title IV, § 402, 24 DCR 2372; Aug. 18, 1978, D.C. Law 2-101, § 2, 25 DCR 257; June 7, 1979, D.C. Law 3-1, § 2(b), 25 DCR 9454; Mar. 16, 1982, D.C. Law 4-88, § 2(i), (n), (o), (q), 29 DCR 458; Sept. 22, 1994, D.C. Law 10-173, § 2(f), 41 DCR 5154; July 25, 1995, D.C. Law 11-30, § 2(d), 42 DCR 1547.)

## HISTORICAL AND STATUTORY NOTES

**Prior Codifications**

1981 Ed., § 1-1318.

1973 Ed., § 1-1114.

**Legislative History of Laws**

For legislative history of D.C. Law 1-37, see Historical and Statutory Notes following § 1-1001.05.

For legislative history of D.C. Law 1-126, see Historical and Statutory Notes following § 1-1001.02.

For legislative history of D.C. Law 2-101, see Historical and Statutory Notes following § 1-1001.01.

For legislative history of D.C. Law 3-1, see Historical and Statutory Notes following § 1-1001.02.

For legislative history of D.C. Law 4-88, see Historical and Statutory Notes following § 1-1001.01.

For legislative history of D.C. Law 10-173, see Historical and Statutory Notes following § 1-1001.02.

For legislative history of D.C. Law 11-30, see Historical and Statutory Notes following § 1-1001.02.

## CROSS REFERENCES

Election campaigns, lobbying, and conflicts of interest, violation of laws, prosecutions, see § 1-1107.01.

**Section References**

This section is referred to in §§ 1-1001.02, and 1-1001.07.

## LIBRARY REFERENCES

**Key Numbers**

Elections ↪ 312, 313, 316 to 320, 323.  
Westlaw Topic No. 144.

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031285



DC ST § 1-1001.15

**C**

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Division I. Government of District.

Title 1. Government Organization. (Refs &amp; Annos)

<sup>Ⓜ</sup> Chapter 10. Elections. (Refs & Annos)        <sup>Ⓜ</sup> Subchapter I. Regulation of Elections.

**→ § 1-1001.15. Candidacy for more than 1 office prohibited; multiple nominations; candidacy of officeholder for another office restricted.**

(a) No person shall be a candidate for more than 1 office on the Board of Education or the Council or Mayor in any election for the members of the Board of Education or the Council or Mayor, and no person shall be a candidate for more than 1 office on the Council or for the Mayor in any primary election. If a person is nominated for more than 1 such office, he or she shall, within 3 days after the Board has sent him notice that he or she has been so nominated, designate in writing the office for which he or she wishes to run, in which case he or she will be deemed to have withdrawn all other nominations. In the event that such person fails within such 3-day period to file such a designation with the Board, all such nominations of such person shall be deemed withdrawn.

(b) Notwithstanding the provisions of subsection (a) of this section, a person holding the office of Mayor, Delegate, Chairman or member of the Council, or member of the Board of Education shall, while holding such office, be eligible as a candidate for any other of such offices in any primary or general election. In the event that said person is elected in a general election to the office for which he or she is a candidate, that person shall, within 24 hours of the date that the Board certifies said person's election, pursuant to subsection (a)(11) of § 1-1001.05, either resign from the office that person currently holds or shall decline to accept the office for which he or she was a candidate. In the event that said person elects to resign, said resignation shall be effective not later than 24 hours before the date upon which that person would assume the office to which he or she has been elected.

## CREDIT(S)

(Aug. 12, 1955, 69 Stat. 704, ch. 862, § 15; as added Apr. 22, 1968, 82 Stat. 106, Pub. L. 90-292, § 4(9); Dec. 24, 1973, 87 Stat. 835, Pub. L. 93-198, title VII, § 751(9), (10); Apr. 23, 1977, D.C. Law 1-126, title IV, § 402, 24 DCR 2372; Jan. 2, 1979, D.C. Law 2-101, § 2, 25 DCR 257; Mar. 16, 1982, D.C. Law 4-88, § 2(j), (o), (q), 29 DCR 458; Mar. 14, 1985, D.C. Law 5-159, § 22, 32 DCR 30.)

## HISTORICAL AND STATUTORY NOTES

**Prior Codifications**

1981 Ed., § 1-1319.

1973 Ed., § 1-1115.

**Legislative History of Laws**

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West's F.S.A. § 104.011

C

Effective: [See Text Amendments]

West's Florida Statutes Annotated Currentness

Title IX. Electors and Elections (Chapters 97-109)

Chapter 104. Election Code: Violations; Penalties (Refs & Annos)

→ **104.011. False swearing; submission of false voter registration information**

(1) A person who willfully swears or affirms falsely to any oath or affirmation, or willfully procures another person to swear or affirm falsely to an oath or affirmation, in connection with or arising out of voting or elections commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(2) A person who willfully submits any false voter registration information commits a felony of the third degree, punishable as provided in s. 775.082 or s. 775.083.

CREDIT(S)

Laws 1868, c. 1637, subc. 12 § 1; Rev.St.1892, § 2786; Gen.St.1906, § 3828; Rev.Gen.St.1920, § 5891; Comp.Gen.Laws 1927, § 8154; Laws 1931, c. 14715, § 15; Comp.Gen.Laws Supp.1936, § 8202 (6); Fla.St.1949, §§ 103.15, 875.14; Laws 1951, c. 26870, § 8; Laws 1971, c. 71-136, § 19; Laws 1977, c. 77-175, § 33. Amended by Laws 1994, c. 94-224, § 38, eff. Jan. 1, 1995; Laws 1997, c. 97-13, § 31, eff. Jan. 1, 1998.

CROSS REFERENCES

Qualification and registration of electors, applications, signature and oath, see § 97.053.

Perjury, see § 837.011 et seq.

Uniform statewide voter registration application, see § 97.052.

Uniform statewide voter registration application, signature of applicant, see § 97.052.

LAW REVIEW AND JOURNAL COMMENTARIES

History of corrupt practices acts. J. V. Keen, 9 Fla.L.J. 297 (1935).

LIBRARY REFERENCES

2002 Main Volume

Elections ↻318, 332.

Westlaw Topic No. 144.

C.J.S. Elections §§ 331, 353.

RESEARCH REFERENCES

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West's F.S.A. § 104.012

C

Effective: [See Text Amendments]

West's Florida Statutes Annotated Currentness

Title IX. Electors and Elections (Chapters 97-109)

Chapter 104. Election Code: Violations; Penalties (Refs & Annos)

**→104.012. Consideration for registration; interference with registration; soliciting registrations for compensation; alteration of registration application**

(1) Any person who gives anything of value that is redeemable in cash to any person in consideration for his or her becoming a registered voter commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. This section shall not be interpreted, however, to exclude such services as transportation to the place of registration or baby-sitting in connection with the absence of an elector from home for registering.

(2) A person who by bribery, menace, threat, or other corruption, directly or indirectly, influences, deceives, or deters or attempts to influence, deceive, or deter any person in the free exercise of that person's right to register to vote at any time, upon the first conviction, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, and, upon any subsequent conviction, commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(3) A person may not solicit or pay another person to solicit voter registrations for compensation that is based upon the number of registrations obtained. A person who violates the provisions of this subsection commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(4) A person who alters the voter registration application of any other person, without the other person's knowledge and consent, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

CREDIT(S)

Laws 1963, c. 63-198, § 1; Laws 1971, c. 71-136, § 20; Laws 1977, c. 77-175, § 33. Amended by Laws 1994, c. 94-224, § 39, eff. Jan. 1, 1995; Laws 1995, c. 95-147, § 1394, eff. July 10, 1995; Laws 1997, c. 97-13, § 32, eff. Jan. 1, 1998; Laws 1998, c. 98-129, § 23, eff. July 1, 1998.

CROSS REFERENCES

Registration to vote, see § 97.041 et seq.

LIBRARY REFERENCES

2002 Main Volume

Elections ↪316, 332.  
Westlaw Topic No. 144.  
C.J.S. Elections §§ 332, 353.

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West's F.S.A. § 104.013

Page 1

C

Effective: January 01, 2006

West's Florida Statutes Annotated Currentness

Title IX. Electors and Elections (Chapters 97-109)

Chapter 104. Election Code: Violations; Penalties (Refs &amp; Annos)

## → 104.013. Unauthorized use, possession, or destruction of voter information card

- (1) It is unlawful for any person knowingly to have in his or her possession any blank, forged, stolen, fictitious, counterfeit, or unlawfully issued voter information card unless possession by such person has been duly authorized by the supervisor.
- (2) It is unlawful for any person to barter, trade, sell, or give away a voter information card unless said person has been duly authorized to issue a voter information card.
- (3) It is unlawful for any person willfully to destroy or deface the information card of a duly registered voter.
- (4) Any person who violates any of the provisions of this section commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

## CREDIT(S)

Laws 1976, c. 76-49, § 1; Laws 1977, c. 77-174, § 1; Laws 1977, c. 77-175, § 34; Laws 1991, c. 91-224, § 3. Amended by Laws 1994, c. 94-224, § 40, eff. Jan. 1, 1995; Laws 1995, c. 95-147, § 1395, eff. July 10, 1995; Laws 1998, c. 98-129, § 24, eff. July 1, 1998; Laws 2005, c. 2005-278, § 44, eff. Jan. 1, 2006.

## HISTORICAL AND STATUTORY NOTES

## Amendment Notes:

Laws 2005, c. 2005-278, § 44, substituted references to voter information cards for references to voter registration identification cards throughout.

## CROSS REFERENCES

Registration identification card, see § 97.071.

## LIBRARY REFERENCES

2002 Main Volume

Elections ⇨ 312, 332.

Westlaw Topic No. 144.

C.J.S. Elections §§ 326, 353.

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West's F.S.A. § 104.031

**C**

**Effective: [See Text Amendments]**

West's Florida Statutes Annotated Currentness

Title IX. Electors and Elections (Chapters 97-109)

Chapter 104. Election Code: Violations; Penalties (Refs & Annos)

**→ 104.031. False declaration to secure assistance in preparing ballot**

Any person who makes a false declaration for assistance in voting, or in the preparation of his or her ballot, in any election is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

**CREDIT(S)**

Laws 1895, c. 4328, § 49; Gen.St.1906, § 3829; Rev.Gen.St.1920, § 5892; Comp.Gen.Laws 1927, § 8156; Fla.St.1949, § 99.31; Laws 1951, c. 26870, § 8; Laws 1971, c. 71-136, § 22; Laws 1977, c. 77-175, § 35; Laws 1991, c. 91-224, § 4. Amended by Laws 1995, c. 95-147, § 613, eff. July 10, 1995.

**CROSS REFERENCES**

Assistance in casting ballot, see § 101.051.

False swearing to qualifications, see § 104.011.

**LIBRARY REFERENCES**

**2002 Main Volume**

Elections ↔ 318, 332.  
Westlaw Topic No. 144.  
C.J.S. Elections §§ 331, 353.

**RESEARCH REFERENCES**

**Encyclopedias**

FL Jur. 2d Elections § 190, False Swearing or Declaration.

West's F. S. A. § 104.031, FL ST § 104.031

Current through Chapter 316 and S.J.R. No. 2788 (End) of the 2006 Second Regular Session of the Nineteenth Legislature

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Page 1

West's F.S.A. § 104.041

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West's Florida Statutes Annotated Currentness

Title IX. Electors and Elections (Chapters 97-109)

▪ Chapter 104. Election Code: Violations; Penalties (Refs &amp; Annos)

**→104.041. Fraud in connection with casting vote**

Any person perpetrating or attempting to perpetrate or aid in the perpetration of any fraud in connection with any vote cast, to be cast, or attempted to be cast, is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

**CREDIT(S)**

Laws 1943, c. 22014, § 4; Laws 1949, c. 25385, § 1; Fla.St.1949, § 101.14; Laws 1951, c. 26870, § 8; Laws 1971, c. 71-136, § 23; Laws 1977, c. 77-175, § 35.

**HISTORICAL AND STATUTORY NOTES****Amendment Notes:**

Former § 101.14 was repealed and a new § 101.14 substituted by Laws 1949, c. 25385, § 1. The new § 101.14, was revised and renumbered as this section by Laws 1951, c. 26870, § 8.

**LIBRARY REFERENCES****2002 Main Volume**

Elections ↪318, 332.  
Westlaw Topic No. 144.  
C.J.S. Elections §§ 331, 353.

**RESEARCH REFERENCES****Encyclopedias**

FL Jur. 2d Elections § 203, Undue Influence on Election Process; Threats; Fraud; Bribery.

West's F. S. A. § 104.041, FL ST § 104.041

Current through Chapter 316 and S.J.R. No. 2788 (End) of the 2006 Second Regular Session of the Nineteenth Legislature

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West's F.S.A. § 104.045

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**Effective: January 01, 2006**

West's Florida Statutes Annotated Currentness  
Title IX. Electors and Elections (Chapters 97-109)  
    § Chapter 104. Election Code: Violations; Penalties (Refs & Annos)

**→ 104.045. Vote selling**

Any person who:

- (1) Corruptly offers to vote for or against, or to refrain from voting for or against, any candidate in any election in return for pecuniary or other benefit; or
- (2) Accepts a pecuniary or other benefit in exchange for a promise to vote for or against, or to refrain from voting for or against, any candidate in any election,

is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

CREDIT(S)

Laws 1981, c. 81-107, § 1. Amended by Laws 1998, c. 98-129, § 25, eff. July 1, 1998; Laws 2005, c. 2005-278, § 31, eff. Jan. 1, 2006.

**LIBRARY REFERENCES**

2002 Main Volume

- Elections ↪332.
- Westlaw Topic No. 144.
- C.J.S. Elections § 353.

**RESEARCH REFERENCES**

**Encyclopedias**

FL Jur. 2d Elections § 201, Offenses in Connection With Voting.

West's F. S. A. § 104.045, FL ST § 104.045

Current through Chapter 316 and S.J.R. No. 2788 (End) of the 2006 Second Regular Session of the Nineteenth Legislature

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West's F.S.A. § 104.047

Page 1

C

Effective: January 01, 2006

West's Florida Statutes Annotated Currentness

Title IX. Electors and Elections (Chapters 97-109)

Chapter 104. Election Code: Violations; Penalties (Refs &amp; Annos)

## → 104.047. Absentee ballots and voting; violations

(1) Except as provided in s. 101.62 or s. 101.655, any person who requests an absentee ballot on behalf of an elector is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(2) Any person who marks or designates a choice on the ballot of another person, except as provided in s. 101.051, s. 101.655, or s. 101.661, is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

## CREDIT(S)

Added by Laws 1998, c. 98-129, § 26, eff. July 1, 1998. Amended by Laws 1999, c. 99-2, § 34, eff. June 29, 1999; Laws 2001, c. 2001-40, § 57, eff. Jan. 1, 2002; Laws 2005, c. 2005-278, § 54, eff. Jan. 1, 2006.

## LIBRARY REFERENCES

2002 Main Volume

Elections ↪ 132, 317.

Westlaw Topic No. 144.

C.J.S. Elections §§ 101, 329.

## RESEARCH REFERENCES

## Encyclopedias

FL Jur. 2d Elections § 202, Offenses in Connection With Voting -- Illegal Voting.

FL Jur. 2d Elections § 204, Theft, Destruction, Alteration, or Wrongful Possession or Handling, of Ballots and Election Equipment and Records.

## NOTES OF DECISIONS

## Violations 1

## 1. Violations

Violations of the election code by election officials will not necessarily invalidate the votes of innocent electors. *Jacobs v. Seminole County Canvassing Bd.*, 773 So.2d 519 (2000). Elections ↪ 227(1)

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Page 1

West's F.S.A. § 104.051

**C****Effective: [See Text Amendments]**

West's Florida Statutes Annotated Currentness

Title IX. Electors and Elections (Chapters 97-109)

Chapter 104. Election Code: Violations; Penalties (Refs &amp; Annos)

**→ 104.051. Violations; neglect of duty; corrupt practices**

(1) Any official who willfully violates any of the provisions of this election code shall be excluded from the polls. Any election official who is excluded shall be replaced as provided in this code.

(2) Any official who willfully refuses or willfully neglects to perform his or her duties as prescribed by this election code is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(3) Any official who performs his or her duty as prescribed by this election code fraudulently or corruptly is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(4) Any supervisor, deputy supervisor, or election employee who attempts to influence or interfere with any elector voting a ballot commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

**CREDIT(S)**

Laws 1847, c. 71, § 7; Rev.St.1892, § 205; Laws 1895, c. 4328, §§ 30, 57, 62; Laws 1897, c. 4537, § 10; Laws 1899, c. 4699, § 3; Gen.St.1906, §§ 215, 289, 3819, 3824, 3825; Laws 1909, c. 5929, § 17; Rev.Gen.St.1920, §§ 259, 385, 5880, 5886, 5888; Comp.Gen.Laws 1927, §§ 315, 450, 8143, 8149, 8151; Laws 1931, c. 14715, § 16; Comp.Gen.Laws Supp.1936, § 8151(1); Laws 1937, c. 18407, § 4; Comp.Gen.Laws Supp.1940, § 7476; Laws 1943, c. 22018, §§ 3-E, 4, 7, 8, 11; Fla.St.1949, §§ 99.13, 100.37, 100.46, 100.47, 103.16, 105.02, 875.08, 875.10, 875.11; Laws 1951, c. 26870, § 8; Laws 1953, c. 28156, § 42; Laws 1971, c. 71-136, § 24; Laws 1977, c. 77-175, § 35; Laws 1990, c. 90-315, § 21. Amended by Laws 1995, c. 95-147, § 614, eff. July 10, 1995; Laws 1998, c. 98-129, § 27, eff. July 1, 1998.

**CROSS REFERENCES**

Duties of supervisor of elections, failure to administer voter registration database, see § 98.0977.

Electors and elections, registration list maintenance programs, see § 98.065.

Electors and elections, registration office, officers and procedures, other registration list maintenance activities, see § 98.075.

False declaration to secure assistance in preparing ballot, penalty, see § 104.031.

False swearing to elector's qualifications, penalty, see § 104.011.

**LAW REVIEW AND JOURNAL COMMENTARIES**

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West's F.S.A. § 104.0515

Page 1

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West's Florida Statutes Annotated Currentness

Title IX. Electors and Elections (Chapters 97-109)

Chapter 104. Election Code: Violations; Penalties (Refs &amp; Annos)

**→ 104.0515. Voting rights; deprivation of, or interference with, prohibited; penalty**

- (1) All citizens of this state who are otherwise qualified by law to vote at any election by the people in this state or in any district, county, city, town, municipality, school district, or other subdivision of this state shall be entitled and allowed to vote at all such elections without distinction according to race, color, or previous condition of servitude, notwithstanding any law, ordinance, regulation, custom, or usage to the contrary.
- (2) No person acting under color of law shall:
- (a) In determining whether any individual is qualified under law to vote in any election, apply any standard, practice, or procedure different from the standards, practices, or procedures applied under law to other individuals within the same political subdivision who have been found to be qualified to vote; or
- (b) Deny the right of any individual to vote in any election because of an error or omission on any record or paper relating to any application, registration, or other act requisite to voting, if such error or omission is not material in determining whether such individual is qualified under law to vote in such election. This paragraph shall apply to absentee ballots only if there is a pattern or history of discrimination on the basis of race, color, or previous condition of servitude in regard to absentee ballots.
- (3) No person, whether acting under color of law or otherwise, shall intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce, any other person for the purpose of interfering with the right of such other person to vote or not to vote as that person may choose, or for the purpose of causing such other person to vote for, or not vote for, any candidate for any office at any general, special, or primary election held solely or in part for the purpose of selecting or electing any such candidate.
- (4) No voting qualification or prerequisite to voting, and no standard, practice, or procedure, shall be imposed or applied by any political subdivision of this state to deny or abridge the right of any citizen to vote on account of race or color.
- (5) Any person who violates the provisions of this section is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

CREDIT(S)

Laws 1982, c. 82-59, § 1; Laws 1983, c. 83-217, § 26; Laws 1991, c. 91-224, § 5. Amended by Laws 1995, c. 95-147, § 615, eff. July 10, 1995; Laws 1998, c. 98-129, § 28, eff. July 1, 1998.

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West's F.S.A. § 104.061

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West's Florida Statutes Annotated Currentness

Title IX. Electors and Elections (Chapters 97-109)

Chapter 104. Election Code: Violations; Penalties (Refs & Annos)

**→104.061. Corruptly influencing voting**

(1) Whoever by bribery, menace, threat, or other corruption whatsoever, either directly or indirectly, attempts to influence, deceive, or deter any elector in voting or interferes with him or her in the free exercise of the elector's right to vote at any election commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084 for the first conviction, and a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, for any subsequent conviction.

(2) No person shall directly or indirectly give or promise anything of value to another intending thereby to buy that person's or another's vote or to corruptly influence that person or another in casting his or her vote. Any person who violates this subsection is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. However, this subsection shall not apply to the serving of food to be consumed at a political rally or meeting or to any item of nominal value which is used as a political advertisement, including a campaign message designed to be worn by a person.

**CREDIT(S)**

Laws 1868, c. 1637, subc. 12, § 3; Rev.St.1892, § 2783; Laws 1895, c. 4328, § 50; Gen.St.1906, §§ 3814, 3826; Laws 1909, c. 5929, § 15; Laws 1913, c. 6470, §§ 1, 3, 6 to 8; Rev.Gen.St.1920, §§ 5874, 5889, 5908, 5918, 5921 to 5923; Comp.Gen.Laws 1927, §§ 8137, 8152, 8172, 8182, 8185 to 8187; Laws 1939, c. 19617, § 1; Comp.Gen.Laws 1940, Supp.1940, § 8182; Laws 1941, c. 20934, § 1; Laws 1945, c. 22858, § 7; Fla.St.1949, §§ 102.61, 875.02, 875.12, 875.27, 875.34, 875.35, 875.36; Laws 1951, c. 26870, § 8; Laws 1965, c. 65-379, § 1; Laws 1971, c. 71-136, § 25; Laws 1977, c. 77- 175, § 35; Laws 1979, c. 79-400, § 51; Laws 1981, c. 81-304, § 21; Laws 1990, c. 90-315, § 22. Amended by Laws 1995, c. 95-147, § 616, eff. July 10, 1995; Laws 1998, c. 98-129, § 29, eff. July 1, 1998.

**CROSS REFERENCES**

Consideration for registration, see § 104.012.

**LAW REVIEW AND JOURNAL COMMENTARIES**

Campaign finance law. 28 U.Fla.L.Rev. 458 (1976).

Florida's election laws. C. Allen Watts, 2 Stetson Intramural L.Rev. 25 (1971).

**LIBRARY REFERENCES**

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031296

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Page 1

West's F.S.A. § 104.0615

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West's Florida Statutes Annotated Currentness

Title IX. Electors and Elections (Chapters 97-109)

Chapter 104. Election Code: Violations; Penalties (Refs &amp; Annos)

**→104.0615. Voter intimidation or suppression prohibited; criminal penalties**

- (1) This section may be cited as the "Voter Protection Act."
- (2) A person may not directly or indirectly use or threaten to use force, violence, or intimidation or any tactic of coercion or intimidation to induce or compel an individual to:
- (a) Vote or refrain from voting;
  - (b) Vote or refrain from voting for any particular individual or ballot measure;
  - (c) Refrain from registering to vote; or
  - (d) Refrain from acting as a legally authorized election official or poll watcher.
- (3) A person may not knowingly use false information to:
- (a) Challenge an individual's right to vote;
  - (b) Induce or attempt to induce an individual to refrain from voting or registering to vote; or
  - (c) Induce or attempt to induce an individual to refrain from acting as a legally authorized election official or poll watcher.
- (4) A person may not knowingly destroy, mutilate, or deface a voter registration form or election ballot or obstruct or delay the delivery of a voter registration form or election ballot.
- (5) A person who violates subsection (2), subsection (3), or subsection (4) commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

CREDIT(S)

Added by Laws 2005, c. 2005-277, § 76, eff. July 1, 2005.

## HISTORICAL AND STATUTORY NOTES

**Amendment Notes:**

Laws 2005, c. 2005-277, § 78, provides:

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West's F.S.A. § 104.0616

**Effective: January 01, 2006**

West's Florida Statutes Annotated Currentness

Title IX. Electors and Elections (Chapters 97-109)

Chapter 104. Election Code: Violations; Penalties (Refs & Annos)

**→104.0616. Absentee ballots and voting; violations**

Any person who provides or offers to provide, and any person who accepts, a pecuniary or other benefit in exchange for distributing, ordering, requesting, collecting, delivering, or otherwise physically possessing absentee ballots, with intent to alter, change, modify, or erase any vote on the absentee ballot, except as provided in ss. 101.6105-101.695, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

CREDIT(S)

Laws 2005, c. 2005-278, § 53, eff. Jan. 1, 2006.

West's F. S. A. § 104.0616, FL ST § 104.0616

Current through Chapter 316 and S.J.R. No. 2788 (End) of the 2006 Second Regular Session of the Nineteenth Legislature

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West's F.S.A. § 104.071

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West's Florida Statutes Annotated Currentness

Title IX. Electors and Elections (Chapters 97-109)

Chapter 104. Election Code: Violations; Penalties (Refs & Annos)

**→104.071. Remuneration by candidate for services, support, etc.; penalty**

(1) It is unlawful for any person supporting a candidate, or for any candidate, in order to aid or promote the nomination or election of such candidate in any election, directly or indirectly to:

(a) Promise to appoint another person, promise to secure or aid in securing appointment, nomination or election of another person to any public or private position, or to any position of honor, trust, or emolument, except one who has publicly announced or defined what his or her choice or purpose in relation to any election in which he or she may be called to take part, if elected.

(b) Give, or promise to give, pay, or loan, any money or other thing of value to the owner, editor, publisher, or agent, of any communication media, as well as newspapers, to advocate or oppose, through such media, any candidate for nomination in any election or any candidate for election, and no such owner, editor, or agent shall give, solicit, or accept such payment or reward. It shall likewise be unlawful for any owner, editor, publisher, or agent of any poll-taking or poll-publishing concern to advocate or oppose through such poll any candidate for nomination in any election or any candidate for election in return for the giving or promising to give, pay, or loan any money or other thing of value to said owner, editor, publisher, or agent of any poll-taking or poll-publishing concern.

(c) Give, pay, expend, or contribute any money or thing of value for the furtherance of the candidacy of any other candidate.

(d) Furnish, give, or deliver to another person any money or other thing of value for any purpose prohibited by the election laws.

This subsection shall not prohibit a candidate from furnishing complimentary tickets to the candidate's campaign fund raiser to other candidates.

(2) A candidate may give his or her own personal or business funds to another candidate, so long as the contribution is not given in exchange for a promise or expectation that the recipient will directly or indirectly do anything to aid or promote the candidacy of the contributor which the recipient would not have otherwise done.

(3) Any person who violates any provision of this section is guilty of a felony of the third degree, punishable as provided in s. 775.082 or s. 775.083, and from and after conviction shall be disqualified to hold office.

CREDIT(S)

Laws 1913, c. 6469, § 60; Laws 1913, c. 6470, §§ 5, 6, 11, 14, 15; Rev.Gen.St.1920, §§ 5916, 5920, 5921, 5926, 5929, 5930; Comp.Gen.Laws 1927, §§ 8180, 8184, 8185, 8190, 8193, 8194; Fla.St.1949, §§ 875.31, 875.33,

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031299

West's F.S.A. § 104.081

**C**

**Effective: [See Text Amendments]**

West's Florida Statutes Annotated Currentness

Title IX. Electors and Elections (Chapters 97-109)

Chapter 104. Election Code: Violations; Penalties (Refs & Annos)

**→ 104.081. Threats of employers to control votes of employees**

It is unlawful for any person having one or more persons in his or her service as employees to discharge or threaten to discharge any employee in his or her service for voting or not voting in any election, state, county, or municipal, for any candidate or measure submitted to a vote of the people. Any person who violates the provisions of this section is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

CREDIT(S)

Laws 1951, c. 26870, § 8; Laws 1971, c. 71-136, § 27; Laws 1977, c. 77-175, § 35. Amended by Laws 1995, c. 95-147, § 618, eff. July 10, 1995; Laws 1998, c. 98-129, § 30, eff. July 1, 1998.

**HISTORICAL AND STATUTORY NOTES**

**Prior Laws:**

Fla.St.1949, §§ 875.22, 875.23.

Comp.Gen.Laws 1927, §§ 8165, 8166.

Rev.Gen.St.1920, §§ 5901, 5902.

Gen.St.1906, §§ 3839, 3840.

Laws 1901, c. 5016, §§ 1, 2, 3.

**LAW REVIEW AND JOURNAL COMMENTARIES**

History of corrupt practices acts. J. V. Keen, 9 Fla.L.J. 297 (1935).

**LIBRARY REFERENCES**

2002 Main Volume

Elections ↻320, 332.

Westlaw Topic No. 144.

C.J.S. Elections §§ 333, 353.

**RESEARCH REFERENCES**

**Encyclopedias**

FL Jur. 2d Elections § 203, Undue Influence on Election Process; Threats; Fraud; Bribery.

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031300

West's F.S.A. § 104.091

**C**

**Effective: October 01, 2002**

West's Florida Statutes Annotated Currentness

Title IX. Electors and Elections (Chapters 97-109)

Chapter 104. Election Code: Violations; Penalties (Refs & Annos)

**→ 104.091. Aiding, abetting, advising, or conspiring in violation of the code**

(1) Any person who knowingly aids, abets, or advises the violation of this code shall be punished in like manner as the principal offender.

(2) Any person who agrees, conspires, combines, or confederates with another person to commit a violation of this code shall be punished as if he or she had committed the violation.

(3) Any person who knows of a felony violation of this code and gives any aid to the offender who has violated this code, with intent that the offender avoid or escape detection, arrest, trial, or punishment, shall be punished as if he or she had committed the violation. This subsection does not prohibit a member of The Florida Bar from giving legal advice to a client.

CREDIT(S)

Laws 1951, c. 26870, § 8; Laws 1967, c. 67-164, § 1; Laws 1971, c. 71-136, § 28; Laws 1977, c. 77-175, § 35. Amended by Laws 2002, c. 2002-214, § 1, eff. Oct. 1, 2002.

**HISTORICAL AND STATUTORY NOTES**

**Amendment Notes:**

Laws 2002, c. 2002-214, § 1 rewrote the section, which formerly read:

"Any person who shall knowingly aid, abet or advise the violation of this code shall be punished in like manner as the principal offender."

**Prior Laws:**

- Fla.St.1949, §§ 875.19 to 875.21.
- Comp.Gen.Laws 1927, §§ 8162 to 8164.
- Rev.Gen.St.1920, §§ 5898 to 5900.
- Gen.St.1906, §§ 3836 to 3838.
- Laws 1897, c. 4538, §§ 1, 2, 4, 5.

**CROSS REFERENCES**

Contribution limits, see § 106.08.

**LAW REVIEW AND JOURNAL COMMENTARIES**

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031301

West's F.S.A. § 104.101

**C**

**Effective: [See Text Amendments]**

West's Florida Statutes Annotated Currentness

Title IX. Electors and Elections (Chapters 97-109)

Chapter 104. Election Code: Violations; Penalties (Refs & Amos)

**→ 104.101. Failure to assist officers at polls**

Any person summoned by the sheriff or deputy sheriff who fails or refuses to assist him or her in maintaining the peace at the polls is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

**CREDIT(S)**

Laws 1889, c. 3879, § 27; Rev.St.1892, § 181; Laws 1895, c. 4328, § 58; Gen.St.1906, § 3834; Rev.Gen.St.1920, § 5896; Comp.Gen.Laws 1927, § 8160; Fla.St.1949, § 99.40; Laws 1951, c. 26870, § 8; Laws 1971, c. 71-136, § 29; Laws 1977, c. 77-175, § 35. Amended by Laws 1995, c. 95-147, § 619, eff. July 10, 1995.

**LIBRARY REFERENCES**

2002 Main Volume

Elections ↪ 314, 332.

Westlaw Topic No. 144.

C.J.S. Elections §§ 327, 353.

West's F. S. A. § 104.101, FL ST § 104.101

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031302

West's F.S.A. § 104.11

**C**

**Effective: [See Text Amendments]**

West's Florida Statutes Annotated Currentness

Title IX. Electors and Elections (Chapters 97-109)

Chapter 104. Election Code: Violations; Penalties (Refs & Annos)

**→104.11. Neglect of duty by sheriff or other officer**

Any sheriff, deputy sheriff, or other officer who willfully neglects or willfully refuses to perform his or her duties relating to elections is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

**CREDIT(S)**

Laws 1951, c. 26870, § 8; Laws 1971, c. 71-136, § 30; Laws 1977, c. 77-175, § 35. Amended by Laws 1995, c. 95-147, § 620, eff. July 10, 1995.

**HISTORICAL AND STATUTORY NOTES**

**Prior Laws:**

Fla.St.1949, § 875.07.  
Comp.Gen.Laws 1927, § 8142.  
Rev.Gen.St.1920, § 5879.  
Gen.St.1906, § 3818.  
Laws 1895, c. 4328, § 58.

**LIBRARY REFERENCES**

**2002 Main Volume**

Elections ↪314, 332.  
Westlaw Topic No. 144.  
C.J.S. Elections §§ 327, 353.

West's F. S. A. § 104.11, FL ST § 104.11

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West's F.S.A. § 104.13

**C**

**Effective: [See Text Amendments]**

West's Florida Statutes Annotated Currentness

Title IX. Electors and Elections (Chapters 97-109)

Chapter 104. Election Code: Violations; Penalties (Refs & Annos)

**→104.13. Intermingling ballots**

Whoever willfully places any ballot in the ballot box except as properly voted by electors, or willfully intermingles any other ballots which have not been duly received during the election with the ballots which are voted by the electors, is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

CREDIT(S)

Laws 1951, c. 26870, § 8; Laws 1965, c. 65-379, § 3; Laws 1971, c. 71-136, § 32; Laws 1977, c. 77-175, § 35.

HISTORICAL AND STATUTORY NOTES

**Prior Laws:**

Fla.St.1949, § 875.13.

Comp.Gen.Laws 1927, § 8153.

Rev.Gen.St.1920, § 5890.

Gen.St.1906, § 3827.

Rev.St.1892, § 2785.

Laws 1868, c. 1637, subc. 12, § 7.

LIBRARY REFERENCES

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Westlaw Topic No. 144.

C.J.S. Elections §§ 329, 353.

RESEARCH REFERENCES

**Encyclopedias**

FL Jur. 2d Elections § 204, Theft, Destruction, Alteration, or Wrongful Possession or Handling, of Ballots and Election Equipment and Records.

West's F. S. A. § 104.13, FL ST § 104.13

Current through Chapter 316 and S.J.R. No. 2788 (End) of the 2006 Second Regular Session of the Nineteenth Legislature

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031304

West's F.S.A. § 104.15

**C**

**Effective: [See Text Amendments]**

West's Florida Statutes Annotated Currentness

Title IX. Electors and Elections (Chapters 97-109)

Chapter 104. Election Code: Violations; Penalties (Refs & Annos)

**→ 104.15. Unqualified electors willfully voting**

Whoever, knowing he or she is not a qualified elector, willfully votes at any election is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

**CREDIT(S)**

Laws 1881, c. 3278, § 1; Rev.St.1892, § 2787; Gen.St.1906, § 3830; Laws 1909, c. 5929, § 14; Rev.Gen.St.1920, §§ 5893, 5907; Comp.Gen.Laws 1927, §§ 8157, 8171; Laws 1949, c. 25365, § 1; Fla.St.1949, §§ 875.15, 875.26; Prior Laws;; Laws 1951, c. 26870, § 8; Laws 1965, c. 65-379, § 5; Laws 1971, c. 71-136, § 34; Laws 1977, c. 77-175, § 35. Amended by Laws 1995, c. 95- 147, § 621, eff. July 10, 1995.

**CROSS REFERENCES**

Qualifications to register or vote, see § 97.041.

**LIBRARY REFERENCES**

2002 Main Volume

Elections ↩313, 332.  
Westlaw Topic No. 144.  
C.J.S. Elections §§ 325, 353.

**RESEARCH REFERENCES**

**Encyclopedias**

FL Jur. 2d Elections § 202, Offenses in Connection With Voting -- Illegal Voting.

**NOTES OF DECISIONS**

**Construction and application 1**  
**Evidence 4**  
**Special or local laws 3**  
**Validity of elections 2**

1. Construction and application

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West's F.S.A. § 104.16

**C**

**Effective: [See Text Amendments]**

West's Florida Statutes Annotated Currentness

Title IX. Electors and Elections (Chapters 97-109)

▣ Chapter 104. Election Code: Violations; Penalties (Refs & Annos)

**→104.16. Voting fraudulent ballot**

Any elector who knowingly votes or attempts to vote a fraudulent ballot, or any person who knowingly solicits, or attempts, to vote a fraudulent ballot, is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

**CREDIT(S)**

Laws 1895, c. 4328, § 36; Gen.Stat.1906, § 221; Laws 1913, c. 6469, § 42; Rev.Gen.St.1920, §§ 266, 346, 5911; Comp.Gen.Laws 1927, §§ 322, 403, 8175; Laws 1937, c. 17898, § 6; Laws 1937, c. 17901, § 3; Laws 1949, c. 25187, § 6; Laws 1949, c. 25386, § 4; Fla.St.1949, §§ 99.20, 102.41; Laws 1951, c. 26870, § 8; Laws 1965, c. 65-379, § 6; Laws 1971, c. 71-136, § 35; Laws 1977, c. 77-175, § 35.

**LIBRARY REFERENCES**

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C.J.S. Elections §§ 76-77, 353.

**RESEARCH REFERENCES**

**Encyclopedias**

FL Jur. 2d Elections § 202, Offenses in Connection With Voting -- Illegal Voting.

West's F. S. A. § 104.16, FL ST § 104.16

Current through Chapter 316 and S.J.R. No. 2788 (End) of the 2006 Second Regular Session of the Nineteenth Legislature

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West's F.S.A. § 104.17

**C**

**Effective: [See Text Amendments]**

West's Florida Statutes Annotated Currentness

Title IX. Electors and Elections (Chapters 97-109)

Chapter 104. Election Code: Violations; Penalties (Refs & Annos)

**→104.17. Voting in person after casting absentee ballot**

Any person who willfully votes or attempts to vote both in person and by absentee ballot at any election is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

CREDIT(S)

Laws 1943, c. 22014, § 1; Laws 1949, c. 25385, § 1; Fla.St.1949, § 101.11; Laws 1951, c. 26870, § 8; Laws 1965, c. 65-379, § 7; Laws 1971, c. 71-136, § 36; Laws 1977, c. 77-175, § 35.

**HISTORICAL AND STATUTORY NOTES**

Former § 101.11 derived from Laws 1943, c. 22014, § 1 was repealed and a new § 101.11 substituted by Laws 1949, c. 25385, § 1. This new § 101.11 was subsequently revised and renumbered as this section by Laws 1951, c. 26870, § 8.

**CROSS REFERENCES**

Voting in person, return of absentee ballot, see § 101.69.

**LIBRARY REFERENCES**

2002 Main Volume

Elections ↪313, 332.  
Westlaw Topic No. 144.  
C.J.S. Elections §§ 325, 353.

**RESEARCH REFERENCES**

**Encyclopedias**

FL Jur. 2d Elections § 202, Offenses in Connection With Voting -- Illegal Voting.

West's F. S. A. § 104.17, FL ST § 104.17

Current through Chapter 316 and S.J.R. No. 2788 (End) of the 2006 Second Regular Session of the Nineteenth Legislature

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West's F.S.A. § 104.18

**C****Effective: [See Text Amendments]**

West's Florida Statutes Annotated Currentness

Title IX. Electors and Elections (Chapters 97-109)

☐ Chapter 104. Election Code: Violations; Penalties (Refs &amp; Annos)

**→ 104.18. Casting more than one ballot at any election**

Whoever willfully votes more than one ballot at any election is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

CREDIT(S)

Laws 1951, c. 26870, § 8; Laws 1965, c. 65-379, § 8; Laws 1971, c. 71-136, § 37; Laws 1977, c. 77-175, § 35.

**HISTORICAL AND STATUTORY NOTES****Prior Laws:**

Fla.St.1949, §§ 875.15 to 875.17.

Laws 1949, c. 25365, §§ 1 to 3.

Comp.Gen.Laws 1927, §§ 8157, 8158, 8176.

Rev.Gen.St.1920, §§ 5893, 5894, 5912.

Laws 1913, c. 6469, § 56.

Gen.St.1906, §§ 3830, 3831.

Rev.St.1892, §§ 2787, 2788.

Laws 1881, c. 3278, § 1.

Laws 1868, c. 1637, subc. 12, § 6.

**LIBRARY REFERENCES****2002 Main Volume**

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Westlaw Topic No. 144.

C.J.S. Elections §§ 325, 353.

**RESEARCH REFERENCES****Encyclopedias**

FL Jur. 2d Elections § 202, Offenses in Connection With Voting -- Illegal Voting.

**NOTES OF DECISIONS****Validity of elections 1**

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West's F.S.A. § 104.185

**C**

**Effective: [See Text Amendments]**

West's Florida Statutes Annotated Currentness

Title IX. Electors and Elections (Chapters 97-109)

Chapter 104. Election Code: Violations; Penalties (Refs & Annos)

**→104.185. Petitions; knowingly signing more than once; signing another person's name or a fictitious name**

(1) A person who knowingly signs a petition or petitions for a candidate, a minor political party, or an issue more than one time commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(2) A person who signs another person's name or a fictitious name to any petition to secure ballot position for a candidate, a minor political party, or an issue commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

CREDIT(S)

Laws 1977, c. 77-178, § 1; Laws 1991, c. 91-224, § 6. Amended by Laws 1997, c. 97-13, § 23, eff. Jan. 1, 1998.

LIBRARY REFERENCES

2002 Main Volume

Elections ↪317, 332.

Westlaw Topic No. 144.

C.J.S. Elections §§ 329, 353.

RESEARCH REFERENCES

**Encyclopedias**

FL Jur. 2d Elections § 201, Offenses in Connection With Voting.

West's F. S. A. § 104.185, FL ST § 104.185

Current through Chapter 316 and S.J.R. No. 2788 (End) of the 2006 Second Regular Session of the Nineteenth Legislature

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West's F.S.A. § 104.19

**C**

**Effective: [See Text Amendments]**

West's Florida Statutes Annotated Currentness

Title IX. Electors and Elections (Chapters 97-109)

Chapter 104. Election Code: Violations; Penalties (Refs & Annos)

**→ 104.19. Using stickers or rubber stamps or carrying certain items in voting booth; penalty**

(1)(a) It is unlawful for any person casting a ballot at any election to use stickers or rubber stamps or to carry into a voting booth any mechanical device, paper, or memorandum which might be used to affect adversely the normal election process.

(b) In casting a write-in ballot, the elector shall cast the same in his or her own handwriting or in the handwriting of an authorized person aiding him or her.

(2) Any person who violates the provisions of this section is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

**CREDIT(S)**

Laws 1949, c. 25187, § 7; Fla.St.1949, § 99.201; Laws 1951, c. 26870, § 8; Laws 1970, c. 70-136, § 1; Laws 1971, c. 71-136, § 39; Laws 1977, c. 77- 175, § 35; Laws 1981, c. 81-105, § 16. Amended by Laws 1995, c. 95-147, § 622, eff. July 10, 1995.

**CROSS REFERENCES**

Assistance in casting ballot, see § 101.051.

**LIBRARY REFERENCES**

2002 Main Volume

Elections ↪317, 332.

Westlaw Topic No. 144.

C.J.S. Elections §§ 329, 353.

**RESEARCH REFERENCES**

**Encyclopedias**

FL Jur. 2d Elections § 201, Offenses in Connection With Voting.

**NOTES OF DECISIONS**

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West's F.S.A. § 104.20

**C****Effective: [See Text Amendments]**

West's Florida Statutes Annotated Currentness

Title IX. Electors and Elections (Chapters 97-109)

Chapter 104. Election Code: Violations; Penalties (Refs &amp; Annos)

**→ 104.20. Ballot not to be seen, and other offenses**

Any elector who, except as provided by law, allows his or her ballot to be seen by any person; takes or removes, or attempts to take or remove, any ballot from the polling place before the close of the polls; places any mark on his or her ballot by which it may be identified; endeavors to induce any elector to show how he or she voted; aids or attempts to aid any elector unlawfully; or prints or procures to be printed, or has in his or her possession, any copies of any ballot prepared to be voted is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

**CREDIT(S)**

Laws 1895, c. 4328, § 55; Laws 1897, c. 4536, § 2; Gen.St.1906, § 3835; Rev.Gen.St.1920, § 5897; Comp.Gen.Laws 1927, § 8161; Fla.St.1949, § 99.34; Laws 1951, c. 26870, § 8; Laws 1971, c. 71-136, § 40; Laws 1977, c. 77-175, § 35. Amended by Laws 1995, c. 95-147, § 623, eff. July 10, 1995; Laws 2002, c. 2002-281, § 19.

**HISTORICAL AND STATUTORY NOTES****Amendment Notes:**

Laws 2002, c. 2002-281, § 22, provides:

"Except as otherwise expressly provided in this act, this act shall take effect one year after the legislature adopts the general appropriations act specifically appropriating to the Department of State, for distribution to the counties, \$8.7 million or such other amounts as it determines and appropriates for the specific purpose of funding this act." [Line item 28711 of the 2004- 2005 General Appropriations Act appropriates \$11.6 million for distribution to the counties for one disability-compliant machine per polling place. For purposes of the effect of Laws 2002, c. 2002-281, one year after adoption of this appropriation would be July 1, 2005.]

**CROSS REFERENCES**

Assistance in casting ballot, see § 101.051.

Secret voting, see § 101.041.

Time allowed in voting booth, see § 101.51.

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031310

West's F.S.A. § 104.21

**C**

**Effective: [See Text Amendments]**

West's Florida Statutes Annotated Currentness

Title IX. Electors and Elections (Chapters 97-109)

Chapter 104. Election Code: Violations; Penalties (Refs & Amos)

**→ 104.21. Changing electors' ballots**

Whoever fraudulently changes or attempts to change the vote or ballot of any elector, by which actions such elector is prevented from voting such ballot or from voting such ballot as the elector intended, is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

CREDIT(S)

Laws 1951, c. 26870, § 8; Laws 1965, c. 65-379, § 10; Laws 1971, c. 71-136, § 41; Laws 1977, c. 77-175, § 35. Amended by Laws 1995, c. 95-147, § 624, eff. July 10, 1995.

**HISTORICAL AND STATUTORY NOTES**

**Prior Laws:**

- Fla.St.1949, §§ 99.34, 875.03.
- Comp.Gen.Laws 1927, § 8138.
- Rev.Gen.St.1920, § 5875.
- Gen.St.1906, § 3815.
- Rev.St.1892, § 2784.
- Laws 1868, c. 1637, subc. 12, § 5.

**LIBRARY REFERENCES**

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- Elections ↻317, 332.
- Westlaw Topic No. 144.
- C.J.S. Elections §§ 329, 353.

**RESEARCH REFERENCES**

**Encyclopedias**

FL Jur. 2d Elections § 204, Theft, Destruction, Alteration, or Wrongful Possession or Handling, of Ballots and Election Equipment and Records.

**NOTES OF DECISIONS**

**Construction and application 1**

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031311



West's F.S.A. § 104.22

**C**

**Effective: [See Text Amendments]**

West's Florida Statutes Annotated Currentness

Title IX. Electors and Elections (Chapters 97-109)

Chapter 104. Election Code: Violations; Penalties (Refs & Annos)

**→104.22. Stealing and destroying records, etc., of election**

Any person who is guilty of stealing, willfully and wrongfully breaking, destroying, mutilating, defacing, or unlawfully moving or securing and detaining the whole or any part of any ballot box or any record tally sheet or copy thereof, returns, or any other paper or document provided for, or who fraudulently makes any entry or alteration therein except as provided by law, or who permits any other person so to do, is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

CREDIT(S)

Laws 1951, c. 26870, § 8; Laws 1965, c. 65-379, § 11; Laws 1971, c. 71-136, § 42; Laws 1977, c. 77-175, § 35.

**HISTORICAL AND STATUTORY NOTES**

**Prior Laws:**

Fla.St.1949, §§ 875.13, 875.28, 875.29.

Comp.Gen.Laws 1927, §§ 8153, 8173, 8174.

Rev.Gen.St.1920, §§ 5890, 5909, 5910.

Laws 1909, c. 5929, §§ 18, 19.

Gen.St.1906, § 3827.

Rev.St.1892, § 2785.

Laws 1868, c. 1637, subc. 12, § 7.

**LIBRARY REFERENCES**

2002 Main Volume

Elections ⇨317, 332.

Westlaw Topic No. 144.

C.J.S. Elections §§ 329, 353.

**RESEARCH REFERENCES**

**Encyclopedias**

FL Jur. 2d Elections § 203, Undue Influence on Election Process; Threats; Fraud; Bribery.

FL Jur. 2d Elections § 204, Theft, Destruction, Alteration, or Wrongful Possession or Handling, of Ballots and

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031312

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Page 1

West's F.S.A. § 104.23

**C****Effective: [See Text Amendments]**

West's Florida Statutes Annotated Currentness

Title IX. Electors and Elections (Chapters 97-109)

Chapter 104. Election Code: Violations; Penalties (Refs &amp; Annos)

**→104.23. Disclosing how elector votes**

Any election official or person assisting any elector who willfully discloses how any elector voted, except upon trial in court, is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

CREDIT(S)

Laws 1951, c. 26870, § 8; Laws 1965, c. 65-379, § 12; Laws 1971, c. 71-136, § 43; Laws 1977, c. 77-175, § 35.

HISTORICAL AND STATUTORY NOTES

**Prior Laws:**

Fla.St.1949, § 875.04.

Comp.Gen.Laws 1927, § 8139.

Rev.Gen.St.1920, § 5876.

Gen.St.1906, § 3816.

Laws 1895, c. 4328, § 51.

CROSS REFERENCES

Secret voting, see § 101.041.

LIBRARY REFERENCES

2002 Main Volume

Elections ↪314.

Westlaw Topic No. 144.

C.J.S. Elections § 327.

RESEARCH REFERENCES

**Encyclopedias**

FL Jur. 2d Elections § 199, Offenses of Officials Connected With Elections.

UNITED STATES CODE ANNOTATED

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001313



West's F.S.A. § 104.24

**C**

**Effective: [See Text Amendments]**

West's Florida Statutes Annotated Currentness

Title IX. Electors and Elections (Chapters 97-109)

Chapter 104. Election Code: Violations; Penalties (Refs & Annos)

**→ 104.24. Penalty for assuming name**

A person may not, in connection with any part of the election process, fraudulently call himself or herself, or fraudulently pass by, any other name than the name by which the person is registered or fraudulently use the name of another in voting. Any person who violates this section is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

**CREDIT(S)**

Laws 1913, c. 6469, § 57; Rev.Gen.St.1920, §§ 360, 5913; Comp.Gen.Laws 1927, §§ 417, 8177; Laws 1943, c. 22014, § 4; Laws 1949, c. 25385, § 1; Fla.St.1949, §§ 101.14, 102.53; Laws 1951, c. 26870, § 8; Laws 1965, c. 65-379, § 13; Laws 1971, c. 71-136, § 44; Laws 1977, c. 77-175, § 35. Amended by Laws 1995, c. 95-147, § 625, eff. July 10, 1995; Laws 1998, c. 98-129, § 31, eff. July 1, 1998.

**HISTORICAL AND STATUTORY NOTES**

Former § 101.14, derived from Laws 1943, c. 22014, § 4, was repealed and a new § 101.14 was substituted by Laws 1949, c. 25385, § 1.

**LIBRARY REFERENCES**

**2002 Main Volume**

Elections ↪ 312, 332.  
Westlaw Topic No. 144.  
C.J.S. Elections §§ 326, 353.

**RESEARCH REFERENCES**

**Encyclopedias**

FL Jur. 2d Elections § 201, Offenses in Connection With Voting.

**NOTES OF DECISIONS**

**In general 1**

**Evidence 2**

**1. In general**

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West's F.S.A. § 104.26

**C**

**Effective: [See Text Amendments]**

West's Florida Statutes Annotated Currentness

Title IX. Electors and Elections (Chapters 97-109)

Chapter 104. Election Code: Violations; Penalties (Refs & Annos)

**→104.26. Penalty for destroying ballot or booth, etc.**

Any person who wrongfully, during or before an election, removes, tears down, destroys, or defaces any ballot, booth, compartment, or other convenience provided for the purpose of enabling the elector to prepare his or her ballot, or any card for the instruction of the voter, is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

**CREDIT(S)**

Laws 1895, c. 4328, § 41; Gen.St.1906, § 3812; Rev.Gen.St.1920, § 5873; Comp.Gen.Laws 1927, § 8136; Fla.St.1949, § 875.01. Amended by Laws 1995, c. 95-147, § 626, eff. July 10, 1995.

**HISTORICAL AND STATUTORY NOTES**

**Prior Laws:**

Fla.St.1949, § 875.01.  
Comp.Gen.Laws 1927, § 8136.  
Rev.Gen.St.1920, § 5873.  
Gen.St.1906, § 3812.  
Laws 1895, c. 4328, § 41.

**LIBRARY REFERENCES**

**2002 Main Volume**

Elections ↪317, 332.  
Westlaw Topic No. 144.  
C.J.S. Elections §§ 329, 353.

**RESEARCH REFERENCES**

**Encyclopedias**

FL Jur. 2d Elections § 204, Theft, Destruction, Alteration, or Wrongful Possession or Handling, of Ballots and Election Equipment and Records.

West's F. S. A. § 104.26, FL ST § 104.26

Current through Chapter 316 and S.J.R. No. 2788 (End) of the 2006 Second

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**Westlaw Attached Printing Summary Report for SMITH,DEANNA 5090189**

Your Search:	"TOC SELECTIONS"
Date/Time of Request:	Thursday, November 09, 2006 09:54:00 Central
Client Identifier:	DEANNA SMITH
Database:	FL-ST-ANN
Lines:	803
Documents:	9
Images:	0

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West's F.S.A. § 104.271

**C**

**Effective: [See Text Amendments]**

West's Florida Statutes Annotated Currentness

Title IX. Electors and Elections (Chapters 97-109)

Chapter 104. Election Code: Violations; Penalties (Refs & Annos)

**→104.271. False or malicious charges against, or false statements about, opposing candidates; penalty**

(1) Any candidate who, in a primary election or other election, willfully charges an opposing candidate participating in such election with a violation of any provision of this code, which charge is known by the candidate making such charge to be false or malicious, is guilty of a felony of the third degree, punishable as provided in s. 775.082 or s. 775.083 and, in addition, after conviction shall be disqualified to hold office.

(2) Any candidate who, in a primary election or other election, with actual malice makes or causes to be made any statement about an opposing candidate which is false is guilty of a violation of this code. An aggrieved candidate may file a complaint with the Florida Elections Commission pursuant to s. 106.25. The commission shall adopt rules to provide an expedited hearing of complaints filed under this subsection. Notwithstanding any other provision of law, the commission shall assess a civil penalty of up to \$5,000 against any candidate found in violation of this subsection, which shall be deposited to the account of the General Revenue Fund of the state.

**CREDIT(S)**

Laws 1953, c. 28156, § 44; Laws 1971, c. 71-136, § 48; Laws 1977, c. 77-104, § 27; Laws 1977, c. 77-175, § 35; Laws 1985, c. 85-210, § 1. Amended by Laws 1995, c. 95-147, § 627, eff. July 10, 1995; Laws 1997, c. 97-13, § 44, eff. Jan. 1, 1998.

**LAW REVIEW AND JOURNAL COMMENTARIES**

Executive suspension and removal of public officers under the 1968 Florida Constitution. William M. Barr and Frederick B. Karl, 23 U.Fla.L.Rev. 635 (1971).

**LIBRARY REFERENCES**

2002 Main Volume

Elections ↪318, 332.  
Westlaw Topic No. 144.  
C.J.S. Elections §§ 331, 353.

**RESEARCH REFERENCES**

**Encyclopedias**

FL Jur. 2d Elections § 191, False Swearing or Declaration -- False or Malicious Charges Against, or False Statements About, Opposing Candidates.

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031317

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Page 1

West's F.S.A. § 104.29

C

Effective: [See Text Amendments]

West's Florida Statutes Annotated Currentness

Title IX. Electors and Elections (Chapters 97-109)

Chapter 104. Election Code: Violations; Penalties (Refs &amp; Annos)

**→ 104.29. Inspectors refusing to allow watchers while ballots are counted**

The inspectors or other election officials shall, at all times while the ballots are being counted, allow as many as three persons near to them to see whether the ballots are being correctly read and called and the votes correctly tallied, and any official who denies this privilege or interferes therewith is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

CREDIT(S)

Laws 1951, c. 26870, § 8; Laws 1971, c. 71-136, § 51; Laws 1977, c. 77-175, § 35; Laws 1979, c. 79-400, § 53.

## HISTORICAL AND STATUTORY NOTES

**Prior Laws:**

Fla.St.1949, § 875.05.  
 Comp.Gen.Laws 1927, § 8140.  
 Rev.Gen.St.1920, § 5877.  
 Laws 1915, c. 6873, § 1.

## CROSS REFERENCES

Tabulation of vote where voting machine used, procedure, see § 101.54.

## LIBRARY REFERENCES

2002 Main Volume

Elections ↪ 314, 332.

Westlaw Topic No. 144.  
 C.J.S. Elections §§ 327, 353.

## RESEARCH REFERENCES

**Encyclopedias**

FL Jur. 2d Elections § 199, Offenses of Officials Connected With Elections.

## NOTES OF DECISIONS

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Page 1

West's F.S.A. § 104.30

C

Effective: January 01, 2002

West's Florida Statutes Annotated Currentness

Title IX. Electors and Elections (Chapters 97-109)

Chapter 104. Election Code: Violations; Penalties (Refs &amp; Annos)

## → 104.30. Voting system; unlawful possession; tampering

(1) Any unauthorized person who unlawfully has possession of any voting system, components, or key thereof is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(2) Any person who tampers or attempts to tamper with or destroy any voting system or equipment with the intention of interfering with the election process or the results thereof is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

## CREDIT(S)

Laws 1929, c. 13893, § 26; Comp.Gen.Laws Supp.1936, § 8202(1); Fla.St.1949, § 100.28; Laws 1951, c. 26870, § 8; Laws 1965, c. 65-379, § 17; Laws 1971, c. 71-136, § 52; Laws 1977, c. 77-175, § 35. Amended by Laws 2001, c. 2001-40, § 29, eff. Jan. 1, 2002.

## CROSS REFERENCES

Disposition of voting machine keys following election, see § 101.38.

Locking voting machine following election, see § 101.56.

## LIBRARY REFERENCES

## 2002 Main Volume

Elections ↪ 317, 332.  
Westlaw Topic No. 144.  
C.J.S. Elections §§ 329, 353.

## RESEARCH REFERENCES

## Encyclopedias

FL Jur. 2d Elections § 204, Theft, Destruction, Alteration, or Wrongful Possession or Handling, of Ballots and Election Equipment and Records.

West's F. S. A. § 104.30, FL ST § 104.30

Current through Chapter 316 and S.J.R. No. 2788 (End) of the 2006 Second

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West's F.S.A. § 104.31

**C**

**Effective: October 01, 2006**

West's Florida Statutes Annotated Currentness

Title IX. Electors and Elections (Chapters 97-109)

Chapter 104. Election Code: Violations; Penalties (Refs & Annos)

**→ 104.31. Political activities of state, county, and municipal officers and employees**

(1) No officer or employee of the state, or of any county or municipality thereof, except as hereinafter exempted from provisions hereof, shall:

(a) Use his or her official authority or influence for the purpose of interfering with an election or a nomination of office or coercing or influencing another person's vote or affecting the result thereof.

(b) Directly or indirectly coerce or attempt to coerce, command, or advise any other officer or employee to pay, lend, or contribute any part of his or her salary, or any money, or anything else of value to any party, committee, organization, agency, or person for political purposes. Nothing in this paragraph or in any county or municipal charter or ordinance shall prohibit an employee from suggesting to another employee in a noncoercive manner that he or she may voluntarily contribute to a fund which is administered by a party, committee, organization, agency, person, labor union or other employee organization for political purposes.

(c) Directly or indirectly coerce or attempt to coerce, command, and advise any such officer or employee as to where he or she might purchase commodities or to interfere in any other way with the personal right of said officer or employee.

The provisions of this section shall not be construed so as to prevent any person from becoming a candidate for and actively campaigning for any elective office in this state. All such persons shall retain the right to vote as they may choose and to express their opinions on all political subjects and candidates. The provisions of paragraph (a) shall not be construed so as to limit the political activity in a general, special, primary, bond, referendum, or other election of any kind or nature, of elected officials or candidates for public office in the state or of any county or municipality thereof; and the provisions of paragraph (a) shall not be construed so as to limit the political activity in general or special elections of the officials appointed as the heads or directors of state administrative agencies, boards, commissions, or committees or of the members of state boards, commissions, or committees, whether they be salaried, nonsalaried, or reimbursed for expense. In the event of a dual capacity of any member of a state board, commission, or committee, any restrictive provisions applicable to either capacity shall apply. The provisions of paragraph (a) shall not be construed so as to limit the political activity in a general, special, primary, bond, referendum, or other election of any kind or nature of the Governor, the elected members of the Governor's Cabinet, or the members of the Legislature. The provisions of paragraphs (b) and (c) shall apply to all officers and employees of the state or of any county or municipality thereof, whether elected, appointed, or otherwise employed, or whether the activity shall be in connection with a primary, general, special, bond, referendum, or other election of any kind or nature.

(2) An employee of the state or any political subdivision may not participate in any political campaign for an elective office while on duty.

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West's F.S.A. § 104.32

**C**

**Effective: [See Text Amendments]**

West's Florida Statutes Annotated Currentness

Title IX. Electors and Elections (Chapters 97-109)

Chapter 104. Election Code: Violations; Penalties (Refs & Annos)

**→104.32. Supervisor of elections; delivery of books to successor**

Any supervisor of elections who willfully fails or refuses promptly to comply with the demand of his or her successor for the delivery of registration books, papers, and blanks connected with his or her office is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

CREDIT(S)

Laws 1889, c. 3879, § 8; Rev.St.1892, § 2779; Laws 1895, c. 4328, § 9; Gen.St.1906, § 3820; Rev.Gen.St.1920, § 5881; Comp.Gen.Laws 1927, § 8144; Fla.St.1949, § 98.21; Laws 1951, c. 26870, § 8; Laws 1965, c. 65-60, § 2; Laws 1971, c. 71-136, § 54; Laws 1977, c. 77-175, § 35. Amended by Laws 1995, c. 95-147, § 629, eff. July 10, 1995.

#### LIBRARY REFERENCES

2002 Main Volume

Elections ⇄314, 332.  
Westlaw Topic No. 144.  
C.J.S. Elections §§ 327, 353.

#### RESEARCH REFERENCES

##### Encyclopedias

FL Jur. 2d Elections § 199, Offenses of Officials Connected With Elections.

West's F. S. A. § 104.32, FL ST § 104.32

Current through Chapter 316 and S.J.R. No. 2788 (End) of the 2006 Second Regular Session of the Nineteenth Legislature

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West's F.S.A. § 104.39

**C**

**Effective: [See Text Amendments]**

West's Florida Statutes Annotated Currentness

Title IX. Electors and Elections (Chapters 97-109)

Chapter 104. Election Code: Violations; Penalties (Refs & Annos)

**→104.39. Witnesses as to violations**

Any person who violates any provision of this code shall be a competent witness against any other person so violating and may be compelled to attend and testify as any other person. The testimony given shall not be used in any prosecution or criminal proceeding against the person so testifying, except in a prosecution for perjury.

CREDIT(S)

Laws 1951, c. 26870, § 8; Laws 1977, c. 77-175, § 35.

HISTORICAL AND STATUTORY NOTES

**Prior Laws:**

Fla.St.1949, § 875.32.

Comp.Gen.Laws 1927, § 8181.

Rev.Gen.St.1920, § 5917.

Laws 1913, c. 6469, § 61.

CROSS REFERENCES

Persons not excused from testifying on ground testimony might incriminate, see § 914.04.

Prohibition against self-incrimination, see Const. Art. 1, § 9.

LIBRARY REFERENCES

2002 Main Volume

Witnesses ↪35.

Westlaw Topic No. 410.

C.J.S. Federal Civil Procedure § 521.

C.J.S. Witnesses § 49.

RESEARCH REFERENCES

**Encyclopedias**

FL Jur. 2d Elections § 188, by Florida Elections Commission -- Witnesses; Immunity from Prosecution.

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West's F.S.A. § 104.41

**C**

**Effective: [See Text Amendments]**

West's Florida Statutes Annotated Currentness

Title IX. Electors and Elections (Chapters 97-109)

▣ Chapter 104. Election Code: Violations; Penalties (Refs & Annos)

**→104.41. Violations not otherwise provided for**

Any violation of this code not otherwise provided for is a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

CREDIT(S)

Laws 1951, c. 26870, § 8; Laws 1971, c. 71-136, § 61; Laws 1977, c. 77-175, § 35.

LIBRARY REFERENCES

2002 Main Volume

Elections ↻317, 332.  
Westlaw Topic No. 144.  
C.J.S. Elections §§ 329, 353.

NOTES OF DECISIONS

**In general 1**

1. In general

Public officials, authorized by law, as well as the several candidates and the electorate, may report alleged violations of the Florida Election Code to an appropriate prosecuting attorney, who, upon subsequent investigation may take appropriate action as the Election Code and the authority of his office may authorize. Op.Atty.Gen., 072-331, Sept. 28, 1972.

The Florida Election Code imposes specific duties upon the supervisor of elections and other public officials, but enforcement of the election laws for which criminal sanctions are imposed lies with the appropriate prosecuting attorneys of the several counties and the determination of guilt in such cases rests with the judiciary. Op.Atty.Gen., 072-331, Sept. 28, 1972.

West's F. S. A. § 104.41, FL ST § 104.41

Current through Chapter 316 and S.J.R. No. 2788 (End) of the 2006 Second Regular Session of the Nineteenth Legislature

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Page 1

West's F.S.A. § 104.42

**C****Effective: [See Text Amendments]**

West's Florida Statutes Annotated Currentness

Title IX. Electors and Elections (Chapters 97-109)

Chapter 104. Election Code: Violations; Penalties (Refs &amp; Annos)

**→104.42. Fraudulent registration and illegal voting; investigation**

(1) The supervisor of elections is authorized to investigate fraudulent registrations and illegal voting and to report his or her findings to the local state attorney and the Florida Elections Commission.

(2) The board of county commissioners in any county may appropriate funds to the supervisor of elections for the purpose of investigating fraudulent registrations and illegal voting.

**CREDIT(S)**

Laws 1937, c. 17899, §§ 12, 14; Comp.Gen.Laws Supp.1940, § 369(4); Fla.St.1949, § 100.40; Laws 1951, c. 26870, § 8; Laws 1977, c. 77-175, § 35. Amended by Laws 1998, c. 98-129, § 32, eff. July 1, 1998.

**CROSS REFERENCES**

County annual budget, see § 129.01 et seq.

**LIBRARY REFERENCES**

2002 Main Volume

Elections k324.1.  
Westlaw Topic No. 144.  
C.J.S. Elections § 337.

**NOTES OF DECISIONS****In general 1****1. In general**

A board of county commissioners may amend an existing county budget, or adopt a supplemental county budget, so as to provide funds for the purpose of investigating fraudulent registrations and illegal voting, when no such funds, or an insufficient amount, were appropriated for such purposes. Op.Atty.Gen., 064-73, June 15, 1964.

West's F. S. A. § 104.42, FL ST § 104.42

Current through Chapter 316 and S.J.R. No. 2788 (End) of the 2006 Second

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West's F.S.A. § 104.43

**C**

**Effective: [See Text Amendments]**

West's Florida Statutes Annotated Currentness

Title IX. Electors and Elections (Chapters 97-109)

Chapter 104. Election Code: Violations; Penalties (Refs & Annos)

**→ 104.43. Grand juries; special investigation**

The grand jury in any circuit shall, upon the request of any candidate or qualified voter, make a special investigation when it convenes during a campaign preceding any election day to determine whether there is any violation of the provisions of this code, and shall return indictments when sufficient ground is found.

CREDIT(S)

Laws 1951, c. 26870, § 8; Laws 1977, c. 77-175, § 35.

**HISTORICAL AND STATUTORY NOTES**

**Prior Laws:**

Fla.St.1949, § 875.45.

Com.Gen.Laws 1927, § 8196.

Rev.Gen.St.1920, § 5932.

Laws 1913, c. 6470, § 17.

**LAW REVIEW AND JOURNAL COMMENTARIES**

The Florida jury process. S. O. Kanner and John E. Smith, 15 U.Fla.L.Rev. 1 (1962).

**LIBRARY REFERENCES**

2002 Main Volume

Grand Jury ↪25.

Westlaw Topic No. 193.

C.J.S. Grand Juries §§ 10, 76, 78, 80-81, 83-84.

**RESEARCH REFERENCES**

**Encyclopedias**

FL Jur. 2d Juries § 288, Initiation of Inquiry.

West's F. S. A. § 104.43, FL ST § 104.43

Current through Chapter 316 and S.J.R. No. 2788 (End) of the 2006 Second

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Page 1

West's Ann.Cal.Elec.Code § 18000

**C****Effective: [See Text Amendments]**

West's Annotated California Codes Currentness  
 Elections Code (Refs & Annos)  
 Division 18. Penal Provisions (Refs & Annos)  
 Chapter 1. General Provisions

**→ § 18000. Scope of division**

This division applies to all elections.

CREDIT(S)

(Stats.1994, c. 920 (S.B.1547), § 2.)

**HISTORICAL AND STATUTORY NOTES**

2003 Main Volume

Legislative intent relating to Stats.1994, c. 920 (S.B.1547), § 2, see Historical and Statutory Notes under Elections Code § 1.

Former § 18000, enacted by Stats.1961, c. 23, § 18000, derived from Elec.C.1939, § 7700; Pol.C. § 1266a, added by Stats.1927, c. 236, § 1, providing for establishment of election return centers, was repealed by Stats.1975, c. 1203, § 8.

**Derivation:** Former §§ 12013, 12056, 15281, 29000, enacted by Stats.1961, c. 23, pp. 755, 758, 796, 869, §§ 12013, 12056, 15281, 29000.

Former § 29100, added by Stats.1976, c. 1192, § 15.

Elec.C.1939, §§ 4963, 5010, 6601, 11500 (Stats.1939, c. 26, pp. 203, 205, 239, 310); Stats.1923, c. 96, p. 192, § 24; Pen.C. § 64 1/2, added by Stats.1899, c. 52, p. 59, § 1; Stats.1899, c. 120, p. 153, § 1.

**LAW REVIEW AND JOURNAL COMMENTARIES**

Penal provisions of Elections Code and municipal referendum and initiative elections. (1965) 5 Santa Clara Law. 187.

**LIBRARY REFERENCES**

2003 Main Volume

Elections ↪311.  
 Westlaw Topic No. 144.

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West's Ann.Cal.Elec.Code § 18001

**C**

**Effective: [See Text Amendments]**

West's Annotated California Codes Currentness  
 Elections Code (Refs & Annos)  
 Division 18. Penal Provisions (Refs & Annos)  
 Chapter 1. General Provisions

**→§ 18001. General fine**

Upon a conviction for any crime punishable by imprisonment in any jail or prison, in relation to which no fine is herein prescribed, the court may impose a fine on the offender not exceeding one thousand dollars (\$1,000) in cases of misdemeanors or ten thousand dollars (\$10,000) in cases of felonies, in addition to the imprisonment prescribed.

CREDIT(S)

(Stats.1994, c. 920 (S.B.1547), § 2.)

**HISTORICAL AND STATUTORY NOTES**

2003 Main Volume

Legislative intent relating to Stats.1994, c. 920 (S.B.1547), § 2, see Historical and Statutory Notes under Elections Code § 1.

Amendment of this section by Initiative Measure (Prop. 52, Art. 4, § 4) was rejected at the Nov. 5, 2002 election.

Former § 18001, enacted by Stats.1961, c. 23, § 18001, derived from Elec.C.1939, § 7701; Pol.C. § 1266a, added by Stats.1927, c. 236, § 1, relating to precincts served by election return centers, was repealed by Stats.1975, c. 1203, § 8.

**Derivation:** Former § 29001, enacted by Stats.1961, c. 23, p. 869, § 29001.

Former § 29101, added by Stats.1976, c. 1192, § 15.

Elec.C.1939, § 11501 (Stats.1939, c. 26, p. 310); Pen.C. § 61.

**CROSS REFERENCES**

Felony, definition and penalties, see Penal Code §§ 17, 18.

Misdemeanor, definition and penalties, see Penal Code §§ 17, 19.

**LIBRARY REFERENCES**

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