

By: Reynolds

H.B. No. 1038

A BILL TO BE ENTITLED

AN ACT

relating to prohibited deceptive or disenfranchising practices regarding an election; providing criminal penalties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter A, Chapter 61, Election Code, is amended by adding Section 61.015 to read as follows:

Sec. 61.015. UNLAWFULLY RESTRICTING VOTER'S RIGHT TO VOTE.

(a) An election officer commits an offense if the officer knowingly:

(1) removes the name of an eligible voter from the list of registered voters or the poll list for the precinct;

(2) refuses to accept for voting a person whose acceptance is required by this code; or

(3) prevents the deposit in the ballot box of a marked and properly folded ballot that was provided at the polling place to the voter who is depositing it or for whom the deposit is attempted.

(b) An offense under this section is a state jail felony.

SECTION 2. Chapter 61, Election Code, is amended by adding Subchapter C to read as follows:

SUBCHAPTER C. DECEPTIVE ELECTION PRACTICES

Sec. 61.061. DECEPTIVE ELECTION PRACTICES PROHIBITED. A person may not knowingly deceive another person regarding:

(1) the time, place, or manner of conducting an election in this state; or

1 (2) the qualifications for or restrictions governing
2 voter eligibility for an election in this state.

3 Sec. 61.062. CRIMINAL OFFENSE. (a) A person commits an
4 offense if the person violates Section 61.061 with the intent to
5 prevent another person from:

6 (1) voting in an election; or

7 (2) casting a ballot that may legally be counted.

8 (b) An offense under this section is a Class B misdemeanor.

9 Sec. 61.063. REPORT TO SECRETARY OF STATE; ACTION BY
10 SECRETARY. (a) A person may report a suspected violation of
11 Section 61.061 to the secretary of state through the voting rights
12 hotline or otherwise.

13 (b) Not later than 48 hours after receiving the report, the
14 secretary of state shall:

15 (1) refer the matter to the attorney general as
16 provided by Section 31.006 if the secretary determines that there
17 is reasonable cause to suspect that a criminal offense has been
18 committed; and

19 (2) take any action determined necessary to provide
20 correct information to the voters affected by the violation.

21 (c) The secretary of state shall adopt rules regarding the
22 method of taking corrective action under Subsection (b)(2).

23 Sec. 61.064. CIVIL ACTION. The attorney general or a person
24 harmed by a violation of Section 61.061 may bring a civil action for
25 relief against a person who violates that section, including an
26 action seeking a permanent or temporary injunction, restraining
27 order, or other appropriate order.

1 Sec. 61.065. REPORT TO LEGISLATURE. (a) Not later than
2 February 1 of each year, the secretary of state shall submit a
3 report to the legislature regarding the reported violations of
4 Section 61.061 during the preceding calendar year.

5 (b) The report must include:

6 (1) the number of reports of violations received;

7 (2) the number of alleged violations referred to the
8 attorney general;

9 (3) a description of the corrective actions taken
10 under Section 61.063(b)(2);

11 (4) the geographic locations of and populations
12 affected by the alleged violations; and

13 (5) any other information considered appropriate by
14 the secretary of state.

15 (c) The secretary of state may withhold specific
16 information from a report under this section if the secretary
17 determines that the disclosure of that information would unduly
18 interfere with an ongoing investigation.

19 SECTION 3. The heading to Section 63.012, Election Code, is
20 amended to read as follows:

21 Sec. 63.012. UNLAWFULLY ACCEPTING [~~OR REFUSING TO ACCEPT~~]
22 VOTER.

23 SECTION 4. Section 63.012(a), Election Code, is amended to
24 read as follows:

25 (a) An election officer commits an offense if the officer
26 knowingly[+]

27 [~~(1)~~] permits an ineligible voter to vote other than

1 as provided by Section 63.011[~~or~~
2 [~~(2) refuses to accept a person for voting whose~~
3 ~~acceptance is required by this code~~].

4 SECTION 5. The heading to Section 64.010, Election Code, is
5 amended to read as follows:

6 Sec. 64.010. UNLAWFULLY PERMITTING [~~OR PREVENTING~~] DEPOSIT
7 OF BALLOT.

8 SECTION 6. Section 64.010(a), Election Code, is amended to
9 read as follows:

10 (a) An election officer commits an offense if the officer[~~+~~
11 [~~(1)~~] permits a person to deposit in the ballot box a
12 ballot that the officer knows was not provided at the polling place
13 to the voter who is depositing the ballot or for whom the deposit is
14 made[~~or~~
15 [~~(2) prevents the deposit in the ballot box of a marked~~
16 ~~and properly folded ballot that was provided at the polling place to~~
17 ~~the voter who is depositing it or for whom the deposit is~~
18 ~~attempted~~].

19 SECTION 7. This Act takes effect September 1, 2011.