

By: Burrows

H.R. No. 123

R E S O L U T I O N

1 WHEREAS, The right to vote is sacred and the exercise of that
2 right represents a cornerstone of our democracy; and

3 WHEREAS, The offense of illegal voting has long existed in
4 this state, and when first codified, stated that if "any person,
5 knowing himself not to be a qualified voter" nonetheless voted, the
6 person would be subject to a fine; and

7 WHEREAS, The offense has changed over the decades until its
8 eventual recodification in Section [64.012\(a\)\(1\)](#), Election Code,
9 which states that a person commits the offense if the person "votes
10 or attempts to vote in an election in which the person knows the
11 person is not eligible to vote"; and

12 WHEREAS, The offense is punishable by incarceration, fine, or
13 both, and

14 WHEREAS, A person's knowledge of their own ineligibility has
15 always been an element of the offense; and

16 WHEREAS, It is a fundamental principle of criminal law in
17 this state that persons should only be convicted of an offense when
18 all required elements of the offense are shown to have been
19 satisfied; and

20 WHEREAS, Instances where a person knows that the person is
21 ineligible to vote in an election, but nonetheless votes or
22 attempts to vote should be prosecuted; and

23 WHEREAS, Cases of genuine mistake, where the person votes or
24 attempts to vote under the honest belief that the person is eligible

1 to vote, should not establish the required element of knowledge of
2 one's own ineligibility; and

3 WHEREAS, In such cases, the ineligible person's vote should
4 not be allowed, and any vote erroneously cast by an ineligible
5 person should not be counted, but a person should not be criminally
6 incarcerated for making an innocent mistake; now, therefore, be it

7 RESOLVED, That the House of Representatives of the 87th Texas
8 Legislature, 2nd Called Session, hereby strongly believes that no
9 Texan should be prosecuted for the offense of illegal voting if the
10 person voted or attempted to vote based on a mistaken, honest belief
11 that the person was in fact eligible to vote; and, be it further

12 RESOLVED, That the Texas House of Representatives encourages
13 the careful exercise of discretion at all levels of government when
14 investigating and prosecuting cases of alleged illegal voting.