

By: West

S.R. No. 49

SENATE RESOLUTION

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

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

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

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

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

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

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

WHEREAS, Cases of genuine mistake, where the person votes

or attempts to vote under the honest belief that the person is eligible to vote, should not establish the required element of knowledge of one's own ineligibility; and

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

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

RESOLVED, That the Texas Senate encourages the careful exercise of discretion at all levels of government when investigating and prosecuting cases of alleged illegal voting.