

By: Bettencourt

S.B. No. 1591

A BILL TO BE ENTITLED

AN ACT

relating to election watchers; increasing a criminal penalty.

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

SECTION 1. Section 33.006(b), Election Code, is amended to read as follows:

(b) A certificate of appointment must:

(1) be in writing and signed by the appointing authority or, for an appointment for a write-in candidate under Section 33.004, by each of the voters making the appointment;

(2) indicate the capacity in which the appointing authority is acting;

(3) state the name, residence address, and voter registration number of the appointee and be signed by the appointee;

(4) identify the election and the precinct polling place or other location at which the appointee is to serve; and

(5) in an election on a measure, identify the measure if more than one is to be voted on and state which side of the measure the appointee represents[~~, and~~

~~[(6) contain an affidavit executed by the appointee stating that the appointee will not have possession of a device capable of recording images or sound or that the appointee will disable or deactivate the device while serving as a watcher]].~~

SECTION 2. Section 33.007, Election Code, is amended by

1 amending Subsection (a) and adding Subsection (e) to read as
2 follows:

3 (a) Each appointing authority may appoint not more than two
4 watchers for each precinct polling place, meeting place for an
5 early voting ballot board, meeting place for a signature
6 verification committee, elections administrator's office, or
7 central counting station involved in the election.

8 (e) For the purpose of appointing watchers, "early voting
9 polling place" and "polling place" include a location for in-person
10 delivery of a ballot to be voted by mail under Section 86.006(a-1).

11 SECTION 3. Section 33.051(c), Election Code, is amended to
12 read as follows:

13 (c) [~~A watcher may not be accepted for service if the~~
14 ~~watcher has possession of a device capable of recording images or~~
15 ~~sound unless the watcher agrees to disable or deactivate the~~
16 ~~device.~~] The presiding judge may inquire whether a watcher has
17 possession of a [any prohibited] recording device before accepting
18 the watcher for service.

19 SECTION 4. Section 33.054(a), Election Code, is amended to
20 read as follows:

21 (a) A watcher serving at the meeting place of an early
22 voting ballot board may be present at any time the board, or a
23 person working on behalf of the board, is processing or counting
24 ballots and until the board completes its duties. The watcher may
25 serve during the hours the watcher chooses, except as provided by
26 Subsection (b).

27 SECTION 5. Subchapter C, Chapter 33, Election Code, is

1 amended by adding Sections 33.0541 and 33.0551 to read as follows:

2 Sec. 33.0541. HOURS OF SERVICE AT SIGNATURE VERIFICATION
3 COMMITTEE MEETING. A watcher serving at the meeting place of a
4 signature verification committee may be present at any time the
5 committee is processing ballots and until the committee completes
6 its duties. The watcher may serve during the hours the watcher
7 chooses.

8 Sec. 33.0551. HOURS OF SERVICE AT ELECTIONS ADMINISTRATOR'S
9 OFFICE. A watcher serving at an elections administrator's office
10 may be present only when the office is used for the purpose of
11 processing or handling ballots. The watcher may serve during the
12 hours the watcher chooses.

13 SECTION 6. Section 33.056, Election Code, is amended by
14 adding Subsections (a-1) and (e) and amending Subsection (d) to
15 read as follows:

16 (a-1) A watcher is entitled to sit or stand near enough to
17 the member of an early voting ballot board or a signature
18 verification committee who is performing a comparison under Section
19 87.041(b)(2) or 87.027(i) to verify that the signature on the
20 carrier envelope certificate is that of the voter.

21 (d) A watcher may not be prohibited from making written
22 notes while on duty, including the name and contact information of a
23 voter whose voting process may have involved a violation of
24 election law. Before permitting a watcher who made written notes at
25 a precinct polling place to leave while the polls are open, the
26 presiding officer may require the watcher to leave the notes with
27 another person on duty at the polling place, selected by the

1 watcher, for retention until the watcher returns to duty.

2 (e) If election activity begins at the location where a
3 watcher is serving and moves to another location, the watcher may
4 follow or accompany the election activity in a reasonable manner.

5 SECTION 7. Section 33.061, Election Code, is amended by
6 amending Subsection (b) and adding Subsections (c), (d), (e), and
7 (f) to read as follows:

8 (b) An offense under this section is a state jail felony
9 [~~Class A misdemeanor~~].

10 (c) A peace officer or special peace officer appointed under
11 Section 32.075 shall ensure that a watcher who is the victim of an
12 offense under this section is given access to perform the watcher's
13 duties under this chapter.

14 (d) With the consent of the appropriate local county or
15 district attorney, the attorney general has concurrent
16 jurisdiction with that consenting local prosecutor to prosecute an
17 offense under this section.

18 (e) An offense under Subsection (a) includes an action taken
19 to distance or obstruct the view of a watcher in a way that makes
20 observation reasonably ineffective.

21 (f) Enforcement of social distancing recommendations is not
22 a defense to an offense under this section.

23 SECTION 8. Subchapter B, Chapter 43, Election Code, is
24 amended by adding Section 43.0321 to read as follows:

25 Sec. 43.0321. POLLING PLACES WITH MULTIPLE ROOMS. (a) The
26 county clerk and commissioners court shall make a reasonable effort
27 to ensure that a building in use as a polling place has all election

1 activity conducted in a single room.

2 (b) A polling place where election activity is conducted in
3 more than one room is considered to be two separate polling places
4 for purposes of Section 33.007.

5 SECTION 9. Section 61.014, Election Code, is amended by
6 amending Subsections (a) and (b) and adding Subsection (b-1) to
7 read as follows:

8 (a) A person, other than a watcher using the device solely
9 to record images or sound as permitted under Subsection (b), may not
10 use a wireless communication device within 100 feet of a voting
11 station.

12 (b) A person, other than a watcher who reasonably believes a
13 voter is receiving unlawful assistance, may not use a [any]
14 mechanical or electronic device to record [means of recording]
15 images or sound that captures the activity [within 100 feet] of a
16 voter at a voting station.

17 (b-1) A recording made by a watcher under Subsection (b) may
18 not capture or record any information on a voter's ballot.

19 SECTION 10. Section 64.009, Election Code, is amended by
20 adding Subsections (e) and (f) to read as follows:

21 (e) If voting under this section occurs in a vehicle with
22 opaque windows, a watcher may request that the windows be opened to
23 allow the watcher to observe voting.

24 (f) If voting under this section occurs for more than one
25 voter in the same vehicle and that vehicle can accommodate more than
26 five passengers, a watcher may enter the vehicle to observe voting.

27 SECTION 11. Section 86.006, Election Code, is amended by

1 adding Subsection (a-2) to read as follows:

2 (a-2) A county may not have more than one location for
3 in-person delivery of a marked ballot under this section.

4 SECTION 12. Section 213.013(i), Election Code, is amended
5 to read as follows:

6 (i) On [~~No device capable of recording images or sound is~~
7 ~~allowed inside the room in which the recount is conducted, or in any~~
8 ~~hallway or corridor in the building in which the recount is~~
9 ~~conducted within 30 feet of the entrance to the room, while the~~
10 ~~recount is in progress unless the person entitled to be present at~~
11 ~~the recount agrees to disable or deactivate the device. However,~~
12 ~~on~~] request of a person entitled to appoint watchers to serve at the
13 recount, the recount committee chair shall permit the person to
14 photocopy under the chair's supervision any ballot, including any
15 supporting materials, challenged by the person or person's watcher.
16 The person must pay a reasonable charge for making the copies and,
17 if no photocopying equipment is available, may supply that
18 equipment at the person's expense. The person shall provide a copy
19 on request to another person entitled to appoint watchers to serve
20 at the recount.

21 SECTION 13. The change in law made by this Act applies only
22 to an offense committed under Section 33.061, Election Code, on or
23 after the effective date of this Act. An offense committed before
24 the effective date of this Act is governed by the law in effect on
25 the date the offense was committed, and the former law is continued
26 in effect for that purpose. For purposes of this section, an
27 offense was committed before the effective date of this Act if any

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1 element of the offense was committed before that date.

2 SECTION 14. This Act takes effect September 1, 2021.