

By: Hall

S.B. No. 1605

A BILL TO BE ENTITLED

AN ACT

relating to election integrity; creating criminal offenses;
increasing criminal penalties; imposing a civil penalty.

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

ARTICLE 1. EARLY VOTING AND POLLING PLACES

SECTION 1.01. Section 84.002, Election Code, is amended by
adding Subsections (c) and (d) to read as follows:

(c) An application for a ballot under this section must
require the voter to affirmatively indicate the voter's ground of
eligibility for early voting.

(d) An application for a ballot under this section must
contain:

(1) a space for a person who assists the voter with the
application to indicate the person's name and address; and

(2) if the application was provided to the voter by a
political party, a political action committee, or a candidate, the
identity of the party, committee, or candidate, as appropriate.

SECTION 1.02. Section 84.003(b), Election Code, is amended
to read as follows:

(b) A person who acts as a witness for an applicant for an
early voting ballot application commits an offense if the person
knowingly fails to comply with Section 1.011. A person who [~~in the
presence of the applicant~~] otherwise assists an applicant in
completing an early voting ballot application commits an offense if

1 the person knowingly fails to comply with Section 1.011(d) in the
2 same manner as a witness.

3 SECTION 1.03. Section 86.0051(d), Election Code, is amended
4 to read as follows:

5 (d) An offense under this section is a [~~Class A misdemeanor,~~
6 ~~unless it is shown on the trial of an offense under this section~~
7 ~~that the person committed an offense under Section 64.036 for~~
8 ~~providing unlawful assistance to the same voter in connection with~~
9 ~~the same ballot, in which event the offense is a]~~ state jail felony.

10 SECTION 1.04. Section 87.027(i), Election Code, is amended
11 to read as follows:

12 (i) The signature verification committee shall compare the
13 signature on each carrier envelope certificate, except those signed
14 for a voter by a witness, with the signature on the voter's ballot
15 application to determine whether the signatures are those of the
16 voter. The committee may also compare the signatures with any
17 known signature [~~two or more signatures~~] of the voter [~~made within~~
18 ~~the preceding six years and~~] on file with the county clerk or voter
19 registrar to determine whether the signatures are those of the
20 voter. Except as provided by Subsection (l), a determination under
21 this subsection that the signatures are not those of the voter must
22 be made by a majority vote of the committee's membership. The
23 committee shall place the jacket envelopes, carrier envelopes, and
24 applications of voters whose signatures are not those of the voter
25 in separate containers from those of voters whose signatures are
26 those of the voter. The committee chair shall deliver the sorted
27 materials to the early voting ballot board at the time specified by

1 the board's presiding judge.

2 SECTION 1.05. Sections 87.041(b), (c), (e), and (g),
3 Election Code, are amended to read as follows:

4 (b) A ballot may be accepted only if:

5 (1) the carrier envelope certificate is properly
6 executed;

7 (2) neither the voter's signature on the ballot
8 application nor the signature on the carrier envelope certificate
9 is determined to have been executed by a person other than the
10 voter, unless signed by a witness;

11 (3) the voter's ballot application states a legal
12 ground for early voting by mail;

13 (4) the voter is registered to vote, if registration
14 is required by law;

15 (5) the address to which the ballot was mailed to the
16 voter, as indicated by the application, was outside the voter's
17 county of residence, if the ground for early voting is absence from
18 the county of residence;

19 (6) for a voter to whom a statement of residence form
20 was required to be sent under Section 86.002(a), the statement of
21 residence is returned in the carrier envelope and indicates that
22 the voter satisfies the residence requirements prescribed by
23 Section 63.0011; ~~and~~

24 (7) the address to which the ballot was mailed to the
25 voter is an address that is otherwise required by Sections 84.002
26 and 86.003; and

27 (8) the person determining whether to accept the

1 ballot has confirmed that the voter did not cast a ballot in person
2 for the election.

3 (c) If a ballot is accepted, the member of the board who
4 accepted the ballot shall initial the carrier envelope, and the
5 board shall enter the voter's name on the poll list unless the form
6 of the list makes it impracticable to do so. The names of the voters
7 casting ballots by mail shall be listed separately on the poll list
8 from those casting ballots by personal appearance.

9 (e) In making the determination under Subsection (b)(2),
10 the board may also compare the signatures with any known signature
11 [~~two or more signatures~~] of the voter [~~made within the preceding six~~
12 ~~years and~~] on file with the county clerk or voter registrar to
13 determine whether the signatures are those of the voter.

14 (g) A person commits an offense if the person intentionally
15 accepts a ballot for voting or causes a ballot to be accepted for
16 voting that the person knows does not meet the requirements of
17 Subsection (b). An offense under this subsection is a state jail
18 felony [~~Class A misdemeanor~~].

19 SECTION 1.06. Section 87.042(b), Election Code, is amended
20 to read as follows:

21 (b) The [~~Except as provided by Subsection (c), the~~] board
22 shall place the ballot envelope containing an accepted ballot in a
23 separate container from the ballot box containing the early voting
24 ballots voted by personal appearance.

25 SECTION 1.07. Section 87.0241, Election Code, is amended to
26 read as follows:

27 Sec. 87.0241. ACCEPTING EARLY VOTING BALLOT VOTED BY MAIL

1 ~~[PROCESSING BALLOTS]~~ BEFORE IN-PERSON BALLOTS COUNTED: OFFENSE
2 ~~[POLLS OPEN]~~. (a) The early voting ballot board may not determine
3 whether to accept early voting ballots voted by mail in accordance
4 with Section 87.041 until after all ballots cast in person for the
5 election have been counted ~~[at any time after the ballots are~~
6 ~~delivered to the board]~~.

7 (b) A member of an early voting ballot board commits an
8 offense if the person accepts an early voting ballot voted by mail
9 in violation of Subsection (a) ~~[The board may not count early voting~~
10 ~~ballots until:~~

11 ~~[(1) the polls open on election day; or~~
12 ~~[(2) in an election conducted by an authority of a~~
13 ~~county with a population of 100,000 or more or conducted jointly~~
14 ~~with such a county, the end of the period for early voting by~~
15 ~~personal appearance].~~

16 (c) An offense under this section is a state jail felony
17 ~~[The secretary of state shall prescribe any procedures necessary~~
18 ~~for implementing this section in regard to elections described by~~
19 ~~Subsection (b)(2)].~~

20 SECTION 1.08. Sections 87.062(a) and (c), Election Code,
21 are amended to read as follows:

22 (a) On the direction of the presiding judge, the early
23 voting ballot board, in accordance with Section 85.032(b), shall
24 open the containers ~~[container]~~ for the early voting ballots that
25 are to be counted by the board, remove the contents from each ~~[the]~~
26 container, and remove any ballots enclosed in ballot envelopes from
27 their envelopes.

1 (c) Ballots voted by mail shall be tabulated separately from
2 the ballots voted by personal appearance and shall be separately
3 reported on the returns [~~The results of all early voting ballots~~
4 ~~counted by the board under this subchapter shall be included in the~~
5 ~~same return~~].

6 SECTION 1.09. Section 87.103, Election Code, is amended to
7 read as follows:

8 Sec. 87.103. COUNTING BALLOTS AND PREPARING RETURNS. (a)
9 The early voting electronic system ballots counted at a central
10 counting station, the ballots cast at precinct polling places, and
11 the ballots voted by mail shall be tabulated separately [~~from the~~
12 ~~ballots cast at precinct polling places~~] and shall be separately
13 reported on the returns.

14 (b) The early voting returns prepared at the central
15 counting station must include any early voting results obtained by
16 the early voting ballot board under Subchapter [~~Subchapters~~] D [~~and~~
17 ~~E~~].

18 ARTICLE 2. ELECTION DAY AND TABULATION OF RESULTS

19 SECTION 2.01. Section 52.075, Election Code, is amended to
20 read as follows:

21 Sec. 52.075. MODIFICATION OF BALLOT FORM FOR CERTAIN VOTING
22 SYSTEMS. The secretary of state may prescribe the form and content
23 of a ballot for an election using a voting system, including an
24 electronic voting system [~~or a voting system that uses direct~~
25 ~~recording electronic voting machines~~], to conform to the formatting
26 requirements of the system.

27 SECTION 2.02. Section 63.001, Election Code, is amended by

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

2 (c-2) If the list of registered voters for the precinct
3 required under Subsection (c) is electronic, a paper copy must be
4 kept at the polling place and must be used to accept voters if the
5 electronic copy malfunctions.

6 SECTION 2.03. Section 63.011, Election Code, is amended by
7 amending Subsection (b) and adding Subsection (b-2) to read as
8 follows:

9 (b) A form for an affidavit required by this section must be
10 printed on an envelope in which the provisional ballot voted by the
11 person may be placed and must include:

12 (1) a space for entering the identification number of
13 the provisional ballot voted by the person; and

14 (2) a space for an election officer to indicate:

15 (A) whether the person presented a form of
16 identification described by Section 63.0101; and

17 (B) the reason why the person voted
18 provisionally.

19 (b-2) An election officer commits an offense if the officer
20 intentionally indicates under Subsection (b)(2)(B) a reason for a
21 person voting a provisional ballot other than the actual reason. An
22 offense under this subsection is a state jail felony.

23 SECTION 2.04. Chapter 63, Election Code, is amended by
24 adding Section 63.0111 to read as follows:

25 Sec. 63.0111. OFFENSES RELATED TO ACCEPTANCE OF VOTER. (a)
26 An election officer commits an offense if the officer accepts a
27 voter for voting under Section 63.001 if the voter is only permitted

1 to vote a provisional ballot in the election.

2 (b) An election officer commits an offense if the officer
3 knowingly accepts or permits the same person to vote more than one
4 ballot in the same election.

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

6 SECTION 2.05. Sections 64.036(a) and (d), Election Code,
7 are amended to read as follows:

8 (a) A person commits an offense if the person knowingly:

9 (1) provides assistance to a voter who is not eligible
10 for assistance;

11 (2) while assisting a voter prepares the voter's
12 ballot in a way other than the way the voter directs or without
13 direction from the voter;

14 (3) while assisting a voter suggests by word, sign, or
15 gesture how the voter should vote; or

16 (4) provides assistance, or offers to provide
17 assistance, to a voter who has not requested assistance, indicated
18 that the person is eligible for assistance, or selected the person
19 to assist the voter.

20 (d) An offense under this section is a state jail felony
21 [~~Class A misdemeanor~~].

22 SECTION 2.06. Section 65.002, Election Code, is amended by
23 adding Subsections (d) and (e) to read as follows:

24 (d) A county election officer who intentionally prevents or
25 delays the presiding judge from counting ballots in accordance with
26 Subsection (c) commits an offense.

27 (e) An offense under Subsection (d) is a state jail felony.

1 SECTION 2.07. Section 122.001, Election Code, is amended by
2 adding Subsection (d-1) to read as follows:

3 (d-1) Effective September 1, 2023, a voting system may not
4 be used in an election if the voting system does not use a paper
5 record or produce a paper receipt that can be used to verify the
6 tabulation of electronic voting system results.

7 SECTION 2.08. Subchapter A, Chapter 122, Election Code, is
8 amended by adding Section 122.0031 to read as follows:

9 Sec. 122.0031. UNIFORM PROCEDURES FOR CERTAIN VOTING
10 SYSTEMS. (a) This section applies to an election in which a voting
11 system described by Section 122.001(d-1) is used.

12 (b) Not later than the 90th day before an election to which
13 this section applies, the secretary of state shall adopt uniform
14 procedures for the numbering of ballots in the election and the
15 accountability of ballots.

16 SECTION 2.09. Subchapter A, Chapter 123, Election Code, is
17 amended by adding Section 123.010 to read as follows:

18 Sec. 123.010. DIRECT RECORDING ELECTRONIC VOTING SYSTEM
19 PROHIBITED. Except as necessary to comply with Section 61.012, an
20 authority may not adopt a voting system that uses direct recording
21 electronic voting machines.

22 SECTION 2.10. Subchapter C, Chapter 127, Election Code, is
23 amended by adding Section 127.062 to read as follows:

24 Sec. 127.062. SEALED BALLOT BOXES FOR HYBRID VOTING SYSTEM.
25 (a) This section applies to an election where a voting system is
26 used that produces both an electronic system ballot and a paper
27 record or receipt.

1 (b) All provisions of this subchapter that apply to an
2 electronic system ballot also apply to the paper record or receipt
3 generated by a voting system.

4 ARTICLE 3. STATE OFFICIALS, CITIZENSHIP, AND REGISTRATION

5 SECTION 3.01. Chapter 1, Election Code, is amended by
6 adding Section 1.021 to read as follows:

7 Sec. 1.021. RESIDENCE FOR CERTAIN REGISTERED VOTERS.

8 (a) For purposes of registration under this code, a person's
9 residence is established at the first residence address in the
10 following list that is applicable to the person:

11 (1) the address stated on a driver's license issued to
12 the person by the Department of Public Safety that has not expired
13 or, if the person has notified the department of a change of address
14 under Section 521.054, Transportation Code, the new address
15 contained in the notification;

16 (2) the address stated on a personal identification
17 card issued to the person by the Department of Public Safety that
18 has not expired or, if the person has notified the department of a
19 change of address under Section 521.054, Transportation Code, the
20 new address contained in the notification;

21 (3) the address stated on a license to carry a
22 concealed handgun issued to the person by the Department of Public
23 Safety that has not expired or, if the person has notified the
24 department of a change of address under Section 411.181, Government
25 Code, the new address contained in the notification;

26 (4) an address corresponding to a residence at which
27 the person receives mail;

1 (5) the address the person claims as a homestead in
2 this state; or

3 (6) the registration address of a vehicle the person
4 owns.

5 (b) A person whose residence in this state has no address
6 may establish residence under this section by executing an
7 affidavit stating that the person's residence in this state has no
8 address and filing the affidavit with the secretary of state.

9 (c) The address described by Subsection (a)(4) may not be a
10 commercial post office box or similar location that does not
11 correspond to a residence.

12 (d) This section does not apply to:

13 (1) a person who is a member of the armed forces of the
14 United States or the spouse or a dependent of a member; or

15 (2) a person enrolled as a full-time student at an
16 institution of higher education.

17 (e) The secretary of state shall adopt rules as necessary to
18 implement this section.

19 SECTION 3.02. Section 13.071, Election Code, is amended to
20 read as follows:

21 Sec. 13.071. REVIEW OF APPLICATION. (a) The registrar
22 shall review each submitted application for registration to
23 determine whether it complies with Section 13.002 and indicates
24 that the applicant is a United States citizen eligible for
25 registration.

26 (b) If the application is submitted to the Department of
27 Public Safety in person with the proof of citizenship required by

1 Section 20.063(e), the ~~[The]~~ registrar shall make the determination
2 not later than the seventh day after the date the application is
3 submitted to the registrar.

4 (c) If the application is submitted in a manner other than
5 the manner described by Subsection (b), the registrar shall forward
6 the information relating to the applicant to the secretary of state
7 for determining citizenship as provided by Section 13.0721.

8 SECTION 3.03. Subchapter C, Chapter 13, Election Code, is
9 amended by adding Section 13.0721 to read as follows:

10 Sec. 13.0721. DETERMINATION OF CITIZENSHIP. (a) This
11 section does not apply to an application for registration submitted
12 to the Department of Public Safety in person with the proof of
13 citizenship required by Section 20.063(e).

14 (b) The secretary of state shall verify with the Department
15 of Public Safety the citizenship status of each applicant for voter
16 registration whose information is forwarded to the secretary of
17 state as provided by Section 13.071(c). If the department verifies
18 the applicant's citizenship status, the secretary of state shall
19 notify the registrar. If the department does not have information
20 regarding the citizenship status of the applicant or has
21 information indicating that the applicant is not a citizen, the
22 registrar and the applicant shall be notified as provided by
23 secretary of state rule.

24 (c) An applicant for voter registration who receives notice
25 under Subsection (b) must provide proof of citizenship to the
26 registrar not later than the 60th day after the date of receipt.
27 Except as provided by Subsection (d), this proof must be presented

1 in person. The following is acceptable as proof of citizenship
2 under this section:

3 (1) an unexpired passport issued to the person;

4 (2) a certified copy of a birth certificate or other
5 document confirming the person's birth that is admissible in a
6 court of law and establishes the person's identity, presented with
7 a government-issued identification that contains the person's
8 photograph; or

9 (3) United States citizenship papers issued to the
10 person, presented with a government-issued identification that
11 contains the person's photograph.

12 (d) An applicant may mail a certified copy of a document
13 described by Subsection (c)(2) or (3) with a copy of the person's
14 government-issued photo identification to the registrar.

15 (e) If an applicant does not provide proof of citizenship as
16 required, the registrar shall reject the application and notify the
17 secretary of state. The secretary of state shall keep a list of
18 applicants for which the secretary receives notice under this
19 section.

20 (f) The secretary of state shall adopt rules and prescribe
21 procedures to implement this section.

22 SECTION 3.04. Section 13.143(a), Election Code, is amended
23 to read as follows:

24 (a) Except as provided by Subsection [~~Subsections~~] (b) [~~and~~
25 ~~(e)~~], if an applicant's registration application is approved, the
26 registration becomes effective on the 30th day after the date the
27 application is approved [~~submitted to the registrar~~] or on the date

1 the applicant becomes 18 years of age, whichever is later.

2 SECTION 3.05. Section 16.031(a), Election Code, is amended
3 to read as follows:

4 (a) The registrar shall cancel a voter's registration
5 immediately on receipt of:

6 (1) notice under Section 13.072(b) or 15.021 or a
7 response under Section 15.053 that the voter's residence is outside
8 the county;

9 (2) an abstract of the voter's death certificate under
10 Section 16.001(a) or an abstract of an application indicating that
11 the voter is deceased under Section 16.001(b);

12 (3) an abstract of a final judgment of the voter's
13 total mental incapacity, partial mental incapacity without the
14 right to vote, conviction of a felony, or disqualification under
15 Section 16.002, 16.003, or 16.004;

16 (4) notice under Section 112.012 that the voter has
17 applied for a limited ballot in another county;

18 (5) notice from a voter registration official in
19 another state that the voter has registered to vote outside this
20 state;

21 (6) notice from the early voting clerk under Section
22 101.053 that a federal postcard application submitted by an
23 applicant states a voting residence address located outside the
24 registrar's county; ~~[or]~~

25 (7) notice from the secretary of state that the voter
26 has registered to vote in another county, as determined by the
27 voter's driver's license number or personal identification card

1 number issued by the Department of Public Safety or social security
2 number; or

3 (8) a list under Section 18.068 of this code or Section
4 62.113, Government Code, of persons excused or disqualified from
5 jury service because of citizenship status that includes the voter,
6 or notice from any governmental agency that the voter has
7 acknowledged that the voter is not a citizen of the United States.

8 SECTION 3.06. Section 16.036(a), Election Code, is amended
9 to read as follows:

10 (a) Immediately after, but not later than the 30th day after
11 the date a voter's registration is canceled under Section
12 16.031(a)(3) or (8), 16.033, or 16.0331, [~~or 16.0332,~~ the
13 registrar shall deliver written notice of the cancellation to the
14 voter.

15 SECTION 3.07. Section 18.065, Election Code, is amended by
16 adding Subsections (e), (f), and (g) to read as follows:

17 (e) If a registrar fails to correct a violation within 30
18 days of a notice under Subsection (b), the secretary of state shall
19 correct the violation on behalf of the registrar.

20 (f) A registrar is liable to this state for a civil penalty
21 of \$50 for each violation corrected by the secretary of state under
22 Subsection (e). The attorney general may bring an action to recover
23 a civil penalty imposed under this section.

24 (g) A civil penalty collected by the attorney general under
25 this section shall be deposited in the state treasury to the credit
26 of the general revenue fund.

27 SECTION 3.08. Section 18.068, Election Code, is amended to

1 read as follows:

2 Sec. 18.068. COMPARISON OF INFORMATION REGARDING
3 INELIGIBILITY. (a) The secretary of state shall quarterly compare
4 the information received under Section 16.001 of this code and
5 Section 62.113, Government Code, to the statewide computerized
6 voter registration list.

7 (a-1) The secretary of state shall enter into an agreement
8 with the Department of Public Safety under which information in the
9 statewide computerized voter registration list is compared against
10 information in the database of the Department of Public Safety on a
11 monthly basis to verify the accuracy of information provided on
12 voter registration applications. The Department of Public Safety
13 shall use any available information under the federal REAL ID
14 program to assist the secretary under this subsection. The
15 information compared must include, at a minimum, a voter's:

- 16 (1) full legal name;
17 (2) former name, if applicable;
18 (3) date of birth;
19 (4) residence address;
20 (5) driver's license or state identification card
21 number;
22 (6) signature;
23 (7) social security number;
24 (8) documentation of lawful presence in this state;
25 and
26 (9) citizenship status.

27 (a-2) If the secretary of state determines from information

1 received under Subsection (a) or (a-1) that a voter on the
2 registration list may be ineligible to vote [~~is deceased or has been~~
3 ~~excused or disqualified from jury service because the voter is not a~~
4 ~~citizen~~], the secretary shall send notice of the determination to:

5 (1) the voter registrar of the counties considered
6 appropriate by the secretary; and

7 (2) if appropriate, the attorney general.

8 (b) The secretary of state shall by rule determine what
9 information combinations identified as common to a voter and to an
10 individual who is deceased or ineligible to vote constitute a weak
11 match or a strong match in order to:

12 (1) produce the least possible impact on Texas voters;
13 and

14 (2) fulfill its responsibility to manage the voter
15 rolls.

16 (c) The secretary of state may not determine that a voter is
17 deceased or ineligible to vote based on a weak match. The
18 secretary of state may inform the county of the voter's residence
19 that a weak match exists.

20 (d) On receiving notification from the secretary of state
21 under Subsection (c) that a weak match of identifying information
22 exists for a county voter and an individual who is deceased or
23 ineligible to vote, the county shall investigate whether the voter
24 is that [~~the~~] individual [~~who is deceased~~].

25 (e) The secretary of state may determine that a voter is
26 deceased or ineligible to vote based on a strong match.

27 (f) The secretary of state may obtain, for purposes of

1 determining whether a voter is deceased or ineligible to vote,
2 information from other state agency databases relating to a voter
3 that is the same type of information that the secretary of state or
4 a voter registrar collects or stores for voter registration
5 purposes.

6 SECTION 3.09. Section 19.001(a), Election Code, is amended
7 to read as follows:

8 (a) Before May 15 of each year, the registrar shall prepare
9 and submit to the secretary of state a statement containing:

10 (1) the total number of initial registrations for the
11 previous voting year;

12 (2) the total number of registrations canceled under
13 Sections 16.031(a)(1) and (8) and Section [7] 16.033[7, and 16.0332]
14 for the previous voting year; and

15 (3) the total number of registrations for which
16 information was updated for the previous voting year.

17 SECTION 3.10. Section 20.063, Election Code, is amended by
18 adding Subsection (e) to read as follows:

19 (e) A person who submits a voter registration application to
20 the department in person shall at the time of submission present as
21 proof of citizenship:

22 (1) an unexpired passport issued to the person;

23 (2) a certified copy of a birth certificate or other
24 document confirming the person's birth that is admissible in a
25 court of law and establishes the person's identity; or

26 (3) United States citizenship papers issued to the
27 person.

ARTICLE 4. REPEALER, TRANSITION, AND EFFECTIVE DATE

Section 4.01. The following provisions of the Election Code are repealed:

- (1) Section 13.041;
- (2) Sections 13.143(d) and (e);
- (3) Section 16.0332;
- (4) Section 66.058(g);
- (5) Section 87.042(c);
- (6) Sections 127.201(f) and (g);
- (7) Chapter 129; and
- (8) Section 213.016.

SECTION 4.02. Section 33.05, Penal Code, is repealed.

SECTION 4.03. The changes in law made by this Act in repealing or amending the punishments for existing criminal offenses apply only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION 4.04. This Act takes effect September 1, 2019.