

Criminal Penalties Related to Voting By Mail

Under Texas Election Code §276.011 a person commits an offense if, with the intent to establish, maintain, or participate in a vote harvesting organization, the person commits or conspires to commit one or more offenses under Titles 1 through 7. An offense under this provision can be punished up to a state jail felony.

Texas Election Code, §276.013 established that a person commits an offense if the person knowingly or intentionally makes any effort to: influence the independent exercise of the vote of another in the presence of the ballot or during the voting process; cause a voter to become registered, a ballot to be obtained, or a vote to be cast under false pretenses; or to cause any intentionally misleading statement, representation, or information to be provided to an election official or on an application for ballot by mail, carrier envelope, or any other official election-related form or document. Offense of this provision can be punishable as greater than a Class A misdemeanor.

Texas Election Code, §276.013 a crime if a person: votes or attempts to vote in an election in which the person knows the person is not eligible to vote; knowingly votes or attempts to vote more than once in an election; knowingly votes or attempts to vote a ballot belonging to another person, or by impersonating another person; or knowingly marks or attempts to mark any portion of another person's ballot without the consent of that person, or without specific direction from that person how to mark the ballot. An offense under this section is a felony of the second degree unless the person is convicted of an attempt. In that case, the offense is a state jail felony.

Texas Election Code, §84.003 establishes that a person commits a crime if a person who acts as a witness for an applicant for an early voting ballot application, 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 the person knowingly fails to comply with Section 1.011 (d) in the same manner as a witness. An offense under this section is a Class A misdemeanor

Texas Election Code §84.004 establishes that A person commits an offense if the person signs an application for a ballot to be voted by mail as a witness for more than one applicant in the same election; or the person signs an application for annual ballots by mail as a witness for more than one applicant in the same calendar year. Each application unlawfully signed by the witness in violation of this section constitutes a separate offense. An offense under this section is a Class B misdemeanor.

Texas Election Code 84.0041 establishes that a person commits an offense if the person: knowingly provides false information on an application for ballot by mail; intentionally causes false information to be provided on an application for ballot by mail; knowingly submits an application for ballot by mail without the knowledge and authorization of the voter; or knowingly and without the voter's authorization alters information provided by the voter on an application for ballot by mail. An offense under this section is a state jail felony.

Texas Election Code §84.007 (b-1) requires that if an application for ballot by mail is submitted by facsimile machine or email, for that application for ballot by mail submitted by telephonic facsimile machine or electronic transmission to be effective, the actual application also must be submitted by mail and be received by the early voting clerk not later than the fourth business day after the transmission by telephonic facsimile machine or electronic transmission is received.

Texas Election Code §86.0051 establishes that a person commits an offense if the person acts as a witness for a voter in signing the certificate on the carrier envelope and knowingly fails to comply with Section 1.011. A person other than the voter who assists a voter by depositing the carrier envelope in the mail or with a common or contract carrier or who obtains the carrier envelope for that purpose must provide the person's signature, printed name, and residence address on the reverse side of the envelope. A person commits an offense if the person knowingly violates this statute. It is not a defense to an offense under this subsection that the voter voluntarily gave another person possession of the voter's carrier envelope. An offense under this section is a Class A misdemeanor, unless it is shown on the trial of an offense under this section that the person committed an offense under Section 64.036 for providing unlawful assistance to the same voter in connection with the same ballot, in which event the offense is a state jail felony.

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Texas Election Code, §86.006 establishes that a person commits an offense if the person knowingly possesses an official ballot or official carrier envelope provided under this code to another. If the person possessed the ballot or carrier envelope with intent to defraud the voter or the election authority an offense under Subsection (f) is a Class A misdemeanor unless the defendant possessed the ballot or carrier envelope without the request of the voter, in which case it is a felony of the third degree. If conduct that constitutes an offense under this section also constitutes an offense under any other law, the actor may be prosecuted under this section, the other law, or both. An offense under Subsection (g) is increased to the next higher category of offense if it is shown that the defendant was previously convicted of an offense under this code; the offense involved an individual 65 years of age or older; or if the defendant committed another offense under this section in the same election. A ballot returned in violation of §86.006 may not be counted.

Texas Election Code Sec. 86.010 limits the assistance that can be legally provided to a voter utilizing ballot by mail. A voter casting a ballot by mail who would be eligible under Section 64.031 to receive assistance at a polling place may select a person as provided by Section 64.032(c) to assist the voter in preparing the ballot. Assistance rendered under this section is limited to that authorized by this code at a polling place, except that a voter with a disability who is physically unable to deposit the ballot and carrier envelope in the mail may also select a person as provided by Section 64.032(c) to assist the voter by depositing a sealed carrier envelope in the mail.

The person assisting the voter must sign a written oath prescribed by Section 64.034 that is part of the certificate on the official carrier envelope. If a voter is assisted in violation of this section, the voter's ballot may not be counted. A person who assists a voter to prepare a ballot to be voted by mail shall enter the person's signature, printed name, and residence address on the official carrier envelope of the voter. A person who assists a voter commits an offense if the person knowingly fails to comply with Subsections (c) and (e). An offense under this section is a state jail felony.

Texas Election Code §86.0105 prohibits compensation for assisting voters. A person commits an offense if the person: compensates another person for assisting voters as provided by Section 86.010, as part of any performance-based compensation scheme based on the number of voters assisted or in which another person is presented with a quota of voters to be assisted as provided by Section 86.010; engages in another practice that causes another person's compensation from or employment status with the person to be dependent on the number of voters assisted as provided by Section 86.010; or with knowledge that accepting compensation for such activity is illegal, accepts compensation for an activity described by Subdivision (1) or (2). An offense under this section is a misdemeanor punishable by: confinement in jail for a term of not more than one year or less than 30 days; or confinement described by Subdivision (1) and a fine not to exceed \$4,000. An offense under this section is a state jail felony if it is shown on the trial of an offense under this section that the defendant was previously convicted two or more times under this section. An officer, director, or other agent of an entity that commits an offense under this section is punishable for the offense.

Texas Election Code §87.041(g) provides that as a member of the Early Voting Ballot Board, a person commits an offense if the person intentionally accepts a ballot for voting or causes a ballot to be accepted for voting that the person knows does not meet the requirements of §85.041(b). An offense under this subsection is a Class A misdemeanor.

IMPORTANT NOTICE

This document summarizes some very important laws related to the use, completion and transmission of Early Voting Ballot by Mail material. For more specific explanatory information or more assistance, please contact the Texas Secretary of State's Election Division at (512) 463-5586. You can also find additional information on their website: <http://www.sos.state.tx.us/elections/index.shtml>.