

GENERAL ASSEMBLY OF NORTH CAROLINA
1987 SESSION

CHAPTER 565
HOUSE BILL 1071

AN ACT TO PROVIDE FOR STANDARDIZATION OF CRIMINAL PENALTIES
FOR ELECTION LAW VIOLATIONS.

The General Assembly of North Carolina enacts:

Section 1. Article 22 of Chapter 163 of the General Statutes is amended by adding a new section to read:

"§ 163-272.1. **Penalties for violation of this Chapter.**—Whenever in this Chapter it is provided that a crime is a misdemeanor, the punishment shall be imprisonment for not more than six months, or a fine of not more than one thousand dollars (\$1,000), or both, in the discretion of the court."

Sec. 2. G.S. 163-90.3 reads as rewritten:

"§ 163-90.3. **Making false affidavit perjury.**—Any person who shall knowingly make any false affidavit or shall knowingly swear or affirm falsely to any matter or thing required by the terms of this Article to be sworn or affirmed shall be guilty of ~~perjury~~ a Class I felony."

Sec. 3. G.S. 163-152(e) reads as rewritten:

"(e) Violation of Section. It shall be ~~unlawful~~ a misdemeanor for any person to give, receive, or permit assistance in the voting booth during any primary or general election or election to any voter otherwise than as is allowed by this section."

Sec. 4. G.S. 163-155(5) reads as rewritten:

"§ 163-155. **Aged and disabled persons allowed to vote outside voting enclosure.**—In any primary or election any qualified voter who is able to travel to the voting place, but because of age, or physical disability and physical barriers encountered at the voting place is unable to enter the voting place or enclosure to vote in person without physical assistance, shall be allowed to vote between the hours of 7:00 A.M. and 6:00 P.M. only either in the vehicle conveying such person to the voting place or in the immediate proximity of the voting place under the following restrictions:

- (1) The county board of elections shall have printed and numbered a sufficient supply of affidavits to be distributed to each precinct registrar which shall be in the following form:

'Affidavit of person voting outside voting place or enclosure.

State of North Carolina

County of _____

I do solemnly swear (or affirm) that I am a registered voter in _____
precinct. That because of age or physical disability I am unable to enter the voting place

to vote in person without physical assistance. That I desire to vote outside the voting place and enclosure.

I understand that a false statement as to my condition will subject me to a fine not to exceed ~~five hundred dollars (\$500.00)~~ one thousand dollars (\$1,000) or imprisonment not to exceed six months, or both.

Date

Signature of Voter
Address_____

Signature of assistant who
administered oath.'

- (2) The registrar shall designate one of the assistants, appointed under G.S. 163-42 to attend the voter. Upon arrival outside the voting place, the voter shall execute the affidavit after being sworn by the assistant. The ballots shall then be delivered to the voter who shall mark the ballots and hand them to the assistant. The ballots shall then be delivered to one of the judges of elections who shall deposit the ballots in the proper boxes. The affidavit shall be delivered to the other judge of election.
- (3) The voter shall be entitled to the same assistance in marking the ballots as is authorized by G.S. 163-152.
- (4) The affidavit executed by the voter shall be retained by the county board of elections for a period of six months. In those precincts using voting machines, the county board of elections shall furnish paper ballots of each kind for use by persons authorized to vote outside the voting place by this section.
- (5) If there is no assistant appointed under G.S. 163-42 to perform the duties required by this section, the precinct registrar or one of the precinct judges, to be designated by the voter, if he chooses, or, if he does not, by the precinct registrar, shall perform those duties.

A violation of this section ~~shall be is a misdemeanor and upon conviction punished by a fine not to exceed five hundred dollars (\$500.00) or imprisonment not to exceed six months, or both, in the discretion of the court."~~

Sec. 5. G.S. 163-177 reads as rewritten:

"§ 163-177. Disposition of duplicate abstracts.—Within six hours after the returns of a primary or election have been canvassed and the results judicially determined, the chairman of the county board of elections shall mail, or otherwise deliver, to the State Board of Elections the duplicate-original abstracts prepared in accordance with G.S. 163-176 for all offices and referenda for which the State Board of Elections is required to canvass the votes and declare the results including:

- President and Vice-President of the United States
- Governor, Lieutenant Governor, and all other State executive officers
- United States Senators
- Members of the House of Representatives of the United States Congress

Justices, Judges, and District Attorneys of the General Court of Justice
State Senators in multi-county senatorial districts

Members of the State House of Representatives in multi-county representative districts

Constitutional amendments and propositions submitted to the voters of the State. One duplicate abstract prepared in accordance with G.S. 163-176 for all offices and referenda for which the county board of elections is required to canvass the votes and declare the results (and which are listed below) shall be retained by the county board, which shall forthwith publish and declare the results; the second duplicate abstract shall be mailed to the Chairman of the State Board of Elections, to the end that there be one set of all primary and election returns available at the seat of government.

All county offices

State Senators in single-county senatorial districts

Members of the State House of Representatives in single-county representative districts

Propositions submitted to the voters of one county.

If the chairman of the county board of elections fails or neglects to transmit duplicate abstracts to the Chairman of the State Board of Elections within the time prescribed in this section, he shall be guilty of a misdemeanor ~~and subject to a fine of one thousand dollars (\$1,000)~~: Provided, that the penalty shall not apply if the chairman was prevented from performing the prescribed duty because of sickness or other unavoidable delay, but the burden of proof shall be on the chairman to show that his failure to perform was due to sickness or unavoidable delay."

Sec. 6. G.S. 163-221(c) reads as rewritten:

"(c) Any person who willfully violates this section is guilty of a misdemeanor ~~and, upon conviction, shall be imprisoned for not more than six months or fined in an amount not to exceed five hundred dollars (\$500.00), or both.~~"

Sec. 7. G.S. 163-226.3(a) reads as rewritten:

"(a) Any person who shall, in connection with absentee voting in any primary, general, municipal or special election held in this State, do any of the acts or things declared in this section to be unlawful, shall be guilty of a ~~Class J felony~~ Class I felony. It shall be unlawful:

- (1) For any person except the voter's near relative as defined in G.S. 163-227(c)(4) or the voter's legal guardian to assist the voter to vote an absentee ballot when the voter is voting an absentee ballot other than under the procedure described in G.S. 163-227.2; provided that if there is not a near relative or legal guardian available to assist the voter, the voter may request some other person to give assistance;
- (2) For any person to assist a voter to vote an absentee ballot under the absentee voting procedure authorized by G.S. 163-227.2 except a member of the county board of elections, the supervisor of elections, an employee of the board authorized by the board, the voter's near relative as defined in G.S. 163-227(c)(4), or the voter's legal guardian;

- (3) For a voter who votes an absentee ballot under the procedures authorized by G.S. 163-227.2 to vote his absentee ballot outside of the voting booth or private room provided to him for that purpose in the office of the county board of elections or to receive assistance in getting to and from the voting booth or private room and in preparing and marking his ballots from any person other than a member of the county board of elections, the supervisor of elections, an employee of the board of elections authorized by the board, a near relative of the voter as defined in G.S. 163-227(c)(4), or the voter's legal guardian;
- (4) For any owner, manager, director, employee, or other person, other than the voter's near relative as defined in G.S. 163-227(c)(4) or legal guardian, to make application on behalf of a registered voter who is a patient in any hospital, clinic, nursing home or rest home in this State or for any owner, manager, director, employee, or other person other than the voter's near relative or legal guardian, or officer authorized to administer oaths acting pursuant to G.S. 163-231(a)(1), to mark the voter's absentee ballot or assist such a voter in marking an absentee ballot;
- (5) For any officer with a seal to take the acknowledgment on the container-return envelope of any absentee voter in any primary or election in which the officer is a candidate for nomination or election;
- (6) For any person to take into his possession for delivery to a voter or for return to a county board of elections the absentee ballot of any voter, provided, however, that this prohibition shall not apply to a voter's near relative as defined in G.S. 163-227(c)(4) or the voter's legal guardian;
- (7) Except as provided in subsections (1), (2), (3), and (4) of this section and G.S. 163-227.2(e), for any voter to permit another person to assist him in marking his absentee ballot, to be in the voter's presence when a voter votes an absentee ballot, or to observe the voter mark his absentee ballot."

Sec. 8. G.S. 163-237 reads as rewritten:

"§ 163-237. Certain violations of absentee ballot law made criminal offenses.—(a) False Statements under Oath Made Misdemeanor. If any person shall willfully and falsely make any affidavit or statement, under oath, which affidavit or statement under oath, is required to be made by the provisions of this Article, he shall be guilty of a misdemeanor, ~~and upon conviction, shall be punished by a fine of not less than one hundred dollars (\$100.00), or imprisoned for not less than 60 days, or both, in the discretion of the court.~~

(b) False Statements Not under Oath Made Misdemeanor. Except as provided by G.S. 163-275(16), if any person, for the purpose of obtaining or voting any official ballot under the provisions of this Article, shall willfully sign any printed or written false statement which does not purport to be under oath, or which, if it purports to be under oath, was not duly sworn to, he shall be guilty of a misdemeanor, ~~and upon~~

~~conviction shall be fined not less than one hundred dollars (\$100.00), or imprisoned not less than 60 days, or both, in the discretion of the court.~~

(c) ~~Fraud in Connection with Absentee Vote; Forgery.~~ Any person attempting to aid and abet fraud in connection with any absentee vote cast or to be cast, under the provisions of this Article, shall be guilty of a misdemeanor, ~~and, upon conviction, be fined or imprisoned, in the discretion of the court.~~ Any person attempting to vote by fraudulently signing the name of a regularly qualified voter shall be guilty of forgery, and be punished accordingly.

(d) ~~Violations Not Otherwise Provided for Made Misdemeanors.~~ If any person shall willfully violate any of the provisions of this Article, or willfully fail to comply with any of the provisions thereof, for which no other punishment is herein provided, he shall be guilty of a misdemeanor, ~~and upon conviction, shall be fined not less than one hundred dollars (\$100.00), or imprisoned not less than six months, or both, in the discretion of the court."~~

Sec. 9. G.S. 163-236 is rewritten to read:

"§ 163-236. Violations by chairman of county board of elections.—The chairman of the county board of elections shall be sole custodian of blank applications for absentee ballots, official ballots, and container-return envelopes for absentee ballots. He shall issue and deliver blank applications for absentee ballots in strict accordance with the provisions of ~~G.S. 163-277(4)~~ G.S. 163-227(c). The issuance of ballots to persons whose applications for absentee ballots have been approved by the county board of elections under the provisions of G.S. 163-230(3) is the responsibility and duty of the chairman of the county board of elections.

It shall be the duty of the chairman of the county board of elections to keep current all records required of him by this Article and to make promptly all reports required of him by this Article.

~~The willful violation of the terms of this section shall constitute a misdemeanor, and upon conviction, the offender shall be fined not less than one hundred dollars (\$100.00), or imprisoned not less than 60 days, or both, in the discretion of the court."~~

Sec. 10. G.S. 163-270 reads as rewritten:

"§ 163-270. Using funds of insurance companies for political purposes.—No insurance company or association, including fraternal beneficiary associations, doing business in this State shall, directly or indirectly, pay or use, or offer, consent or agree to pay or use, any money or property for or in aid of any political party, committee or organization, or for or in aid of any corporation, joint-stock company, or other association organized or maintained for political purposes, or for or in aid of any candidate for political office or for nomination for such office, or for any political purpose whatsoever, or for the reimbursement or indemnification of any person for money or property so used. An officer, director, stockholder, attorney or agent for any corporation or association which violates any of the provisions of this section, who participates in, aids, abets, advises or consents to any such violation, and any person who solicits or knowingly receives any money or property in violation of this section, shall be guilty of a misdemeanor, ~~and shall be punished by imprisonment for not more than one year and a fine of not more than one thousand dollars (\$1,000).~~

Any officer aiding or abetting in any contribution made in violation of this section shall be liable to the company or association for the amount so contributed. The Commissioner of Insurance may revoke the license of any company violating this section. No person shall be excused from attending and testifying, or producing any books, papers or other documents before any court or magistrate, upon any investigation, proceeding or trial for a violation of any of the provisions of this section, upon the ground or for the reason that the testimony or evidence, documentary or otherwise, required of him may tend to incriminate or degrade him; but no person shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter or thing concerning which he may so testify or produce evidence, documentary or otherwise, and no testimony so given or produced shall be used against him upon criminal investigation or proceeding."

Sec. 11. G.S. 163-271 reads as rewritten:

"§ 163-271. Intimidation of voters by officers made misdemeanor.—It shall be unlawful for any person holding any office, position, or employment in the State government, or under and with any department, institution, bureau, board, commission, or other State agency, or under and with any county, city, town, district, or other political subdivision, directly or indirectly, to discharge, threaten to discharge, or cause to be discharged, or otherwise intimidate or oppress any other person in such employment on account of any vote such voter or any member of his family may cast, or consider or intend to cast, or not to cast, or which he may have failed to cast, or to seek or undertake to control any vote which any subordinate of such person may cast, or consider or intend to cast, or not to cast, by threat, intimidation, or declaration that the position, salary, or any part of the salary of such subordinate depends in any manner whatsoever, directly or indirectly, upon the way in which subordinate or any member of his family casts, or considers or intends to cast, or not to cast his vote, at any primary or election. ~~Any person violating this section shall be guilty of a misdemeanor and punished by fine or imprisonment, or both, in the discretion of the court. A violation of this section is a misdemeanor.~~"

Sec. 12. G.S. 163-273(a) reads as rewritten:

"(a) Any person who shall, in connection with any primary or election in this State, do any of the acts and things declared in this section to be unlawful, shall be guilty of a misdemeanor, ~~and upon conviction shall be fined or imprisoned, or both, in the discretion of the court.~~ It shall be unlawful:

- (1) For a voter, except as otherwise provided in this Chapter, to allow his ballot to be seen by any person.
- (2) For a voter to take or remove, or attempt to take or remove, any ballot from the voting enclosure.
- (3) For any person to interfere with, or attempt to interfere with, any voter when inside the voting enclosure.
- (4) For any person to interfere with, or attempt to interfere with, any voter when marking his ballots.

- (5) For any voter to remain longer than the specified time allowed by this Chapter in a voting booth, after being notified that his time has expired.
- (6) For any person to endeavor to induce any voter, while within the voting enclosure, before depositing his ballots, to show how he marks or has marked his ballots.
- (7) For any person to aid, or attempt to aid, any voter by means of any mechanical device, or any other means whatever, while within the voting enclosure, in marking his ballots."

Sec. 13. G.S. 163-274 reads as rewritten:

"§ 163-274. **Certain acts declared misdemeanors.**—Any person who shall, in connection with any primary or election in this State, do any of the acts and things declared in this section to be unlawful, shall be guilty of a misdemeanor, ~~and upon conviction shall be fined or imprisoned, or both, in the discretion of the court.~~ It shall be unlawful:

- (1) For any person to fail, as an officer or as a judge or registrar of a primary or election, or as a member of any board of elections, to prepare the books, ballots, and return blanks which it is his duty under the law to prepare, or to distribute the same as required by law, or to perform any other duty imposed upon him within the time and in the manner required by law;
- (2) For any person to continue or attempt to act as a judge or registrar of a primary or election, or as a member of any board of elections, after having been legally removed from such position and after having been given notice of such removal;
- (3) For any person to break up or by force or violence to stay or interfere with the holding of any primary or election, to interfere with the possession of any ballot box, election book, ballot, or return sheet by those entitled to possession of the same under the law, or to interfere in any manner with the performance of any duty imposed by law upon any election officer or member of any board of elections;
- (4) For any person to be guilty of any boisterous conduct so as to disturb any member of any election board or any registrar or judge of election in the performance of his duties as imposed by law;
- (5) For any person to bet or wager any money or other thing of value on any election;
- (6) For any person, directly or indirectly, to discharge or threaten to discharge from employment, or otherwise intimidate or oppose any legally qualified voter on account of any vote such voter may cast or consider or intend to cast, or not to cast, or which he may have failed to cast;
- (7) For any person to publish in a newspaper or pamphlet or otherwise, any charge derogatory to any candidate or calculated to affect the candidate's chances of nomination or election, unless such publication

- be signed by the party giving publicity to and being responsible for such charge;
- (8) For any person to publish or cause to be circulated derogatory reports with reference to any candidate in any primary or election, knowing such report to be false or in reckless disregard of its truth or falsity, when such report is calculated or intended to affect the chances of such candidate for nomination or election;
 - (9) For any person to give or promise, in return for political support or influence, any political appointment or support for political office;
 - (10) For any chairman of a county board of elections or other returning officer to fail or neglect, willfully or of malice, to perform any duty, act, matter or thing required or directed in the time, manner and form in which said duty, matter or thing is required to be performed in relation to any primary, general or special election and the returns thereof;
 - (11) For any clerk of the superior court to refuse to make and give to any person applying in writing for the same a duly certified copy of the returns of any primary or election or of a tabulated statement to a primary or election, the returns of which are by law deposited in his office, upon the tender of the fees therefor;
 - (12) For any person willfully and knowingly to impose upon any blind or illiterate voter a ballot in any primary or election contrary to the wish or desire of such voter, by falsely representing to such voter that the ballot proposed to him is such as he ~~desires.~~ desires; or
 - (13) Except as authorized by G.S. 163-72.2(b), for any person to provide false information, or sign the name of any other person, to a written report under G.S. 163-72.2."

Sec. 14. G.S. 163-275 reads as rewritten:

"§ 163-275. **Certain acts declared felonies.**—Any person who shall, in connection with any primary, general or special election held in this State, do any of the acts or things declared in this section to be unlawful, shall be guilty of a ~~Class H felony~~ Class I felony. It shall be unlawful:

- (1) For any person fraudulently to cause his name to be placed upon the registration books of more than one election precinct or fraudulently to cause or procure his name or that of any other person to be placed upon the registration books in any precinct when such registration in that precinct does not qualify such person to vote legally therein, or to impersonate falsely another registered voter for the purpose of voting in the stead of such other voter;
- (2) For any person to give or promise or request or accept at any time, before or after any such primary or election, any money, property or other thing of value whatsoever in return for the vote of any elector;
- (3) For any person who is an election officer, a member of an election board or other officer charged with any duty with respect to any

- primary or election, knowingly to make any false or fraudulent entry on any election book or any false or fraudulent returns, or knowingly to make or cause to be made any false statement on any ballot, or to do any fraudulent act or knowingly and fraudulently omit to do any act or make any report legally required of such person;
- (4) For any person knowingly to swear falsely with respect to any matter pertaining to any primary or election;
 - (5) For any person convicted of a crime which excludes him from the right of suffrage, to vote at any primary or election without having been restored to the right of citizenship in due course and by the method provided by law;
 - (6) For any person to take corruptly the oath prescribed for voters, ~~and the person so offending shall be guilty of perjury;~~
 - (7) For any person with intent to commit a fraud to register or vote at more than one precinct or more than one time, or to induce another to do so, in the same primary or election, or to vote illegally at any primary or election;
 - (8) For any registrar or any clerk or copyist to make any entry or copy with intent to commit a fraud;
 - (9) For any election official or other officer or person to make, certify, deliver or transmit any false returns of any primary or election, or to make any erasure, alteration, or conceal or destroy any election ballot, book, record, return or process with intent to commit a fraud;
 - (10) For any person to assault any registrar, judge of election or other election officer while in the discharge of his duty in the registration of voters or in conducting any primary or election;
 - (11) For any person, by threats, menaces or in any other manner, to intimidate or attempt to intimidate any registrar, judge of election or other election officer in the discharge of his duties in the registration of voters or in conducting any primary or election;
 - (12) For any registrar, judge of election, member of a board of elections, assistant, marker, or other election official, directly or indirectly, to seek, receive or accept money or the promise of money, the promise of office, or other reward or compensation from a candidate in any primary or election or from any source other than such compensation as may be provided by law for his services;
 - (13) For any person falsely to make or present any certificate or other paper to qualify any person fraudulently as a voter, or to attempt thereby to secure to any person the privilege of ~~voting;~~ voting;
 - (14) ~~Any~~ For any officer authorized by G.S. 163-80 to register voters and any other individual ~~who to~~ knowingly and willfully receives, completes, or signs ~~receive, complete, or sign~~ an application to register from any voter contrary to the provisions of G.S. 163-72 ~~shall be guilty of a Class H felony.; or~~

- (15) Reserved for future codification purposes.
- (16) For any person falsely to make the certificate provided by G.S. 163-229(b)(2)."

Sec. 15. G.S. 163-278.13(f) reads as rewritten:

"(f) Any individual, candidate, political committee, or referendum committee who violates the provisions of this section is guilty of a misdemeanor ~~and shall be fined not more than one thousand dollars (\$1,000), or imprisoned for not more than one year, or be both fined and imprisoned.~~"

Sec. 16. G.S. 163-278.19(c) reads as rewritten:

"(c) A violation of this section ~~shall be punishable by a fine of not less than one hundred dollars (\$100.00) nor more than five thousand dollars (\$5,000), or imprisonment of not more than one year, or by both fine and imprisonment. is a~~ misdemeanor. In addition, the acceptance of any contribution, expenditure, payment, reimbursement, indemnification, or anything of value under subsection (a) shall be unlawful and the defendant shall be subject to the same punishment as set forth in this subsection."

Sec. 17. G.S. 163-278.27(a) reads as rewritten:

"**§ 163-278.27. Penalty for violations; duty to report and prosecute.**—(a) Any individual, candidate, political committee, referendum committee, treasurer, person or media who violates the provisions of G.S. 163-278.7, 163-278.8, 163-278.9, 163-278.10, 163-278.11, 163-278.12, 163-278.14, 163-278.16, 163-278.17, 163-278.18, 163-278.40A, 163-278.40B, 163-278.40C, 163-278.40D or 163-278.40E is guilty of a misdemeanor ~~and shall be fined not more than one thousand dollars (\$1,000) if an individual, and not more than five thousand dollars (\$5,000) if a person other than an individual, or imprisoned for not more than one year, or be both fined and imprisoned.~~"

Sec. 18. G.S. 163-278.44 reads as rewritten:

"**§ 163-278.44. Crime; punishment.**—Any individual person, candidate, political committee, or treasurer who willfully and intentionally violates any of the provisions of this Article, shall be guilty of a misdemeanor ~~and shall be fined not more than one thousand dollars (\$1,000) if an individual, and not more than five thousand dollars (\$5,000) if a person other than an individual, or imprisoned for not more than one year, or be both fined and imprisoned.~~"

Sec. 19. This act applies only to offenses committed on or after October 1, 1987.

In the General Assembly read three times and ratified this the 6th day of July, 1987.