

Protecting Texans From Voter Intimidation

This memo outlines the robust protections for voters against voter intimidation under both federal and Texas law. **Voter intimidation is a crime and local election officials and law enforcement have a responsibility to protect Texans from voter intimidation of any kind.**

First, anyone who “intimidates, threatens, coerces, or attempts to intimidate, threaten, or coerce, any other person for the purpose of interfering with the right of such other person to vote”¹ in a federal election commits a federal crime.

Second, Texas law makes it a crime to coerce voters, to retaliate against them for how they voted, and to knowingly “prevent a voter from casting a legal ballot.”²

Finally, presiding election judges are *required* to “preserve order and prevent breaches of the peace and violations of the Texas Election Code” in the polling place and in the surrounding area where electioneering is prohibited.³ They have the power of a district judge to enforce order and keep the peace, including by calling on law enforcement to remove people who violate the law.⁴



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¹ 18 U.S.C. § 594.

² Tex. Penal Code § 36.03; Tex. Elec. Code §§ 276.001, 276.013(a)(4).

³ Tex. Elec. Code § 32.075(a).

⁴ Tex. Elec. Code § 32.075(c), (h).

I. Voter Intimidation

FEDERAL LAW

Federal law provides that “[w]hoever **intimidates, threatens, coerces, or attempts to intimidate, threaten, or coerce, any other person for the purpose of interfering with the right of such other person to vote** or to vote as he may choose, or of causing such other person to vote for, or not to vote for,” any candidate for federal office, shall be fined or imprisoned for not more than one year.⁵

Such protection extends to **attempts** to intimidate, threaten, or coerce voters and any intimidation, threats, or coercion with respect not only to voting but also voter registration and assisting voters to register and/or vote.⁶ Thus, federal laws prohibit all persons from engaging in conduct that is intended to (regardless of its effect) intimidate voters.

A person found guilty of violating the federal voter intimidation law could be sentenced to up to five years in prison in addition to criminal fines.⁷ People who intimidate or attempt to intimidate voters—or interfere with the right to vote—are also subject to civil liability.⁸

TEXAS LAW

Under Texas law, it is a **felony** to knowingly or intentionally “**prevent a voter from casting a legal ballot**” in an election in which the voter is eligible to vote. It is also a crime to use **coercion** to influence a voter “not to vote or to vote in a particular manner.”⁹

Employers may not refuse employees time off to vote or penalize them for going to the polls, unless the polls are open for two consecutive hours outside the employee's working hours.¹⁰ An employer who cuts an employee's wages or benefits because of how the employee voted, or because the employee refused to reveal how he or she voted, commits a felony.¹¹

In addition, Texas law specifically provides that no person may:

⁵ 18 U.S.C. § 594; *see also* 18 U.S.C. §§ 241, 242, 245(b)(1)(A), 610 (other criminal provisions).

⁶ 52 U.S.C. § 20511.

⁷ *Id.*; *see also* 52 U.S.C. § 10308(a).

⁸ *See* 52 U.S.C. § 10307(b); 52 U.S.C. § 10101(b); 42 U.S.C. § 1985(3).

⁹ Tex. Penal Code § 36.03(a)(2).

¹⁰ Tex. Elec. Code § 276.004.

¹¹ Tex. Elec. Code § 276.001(2).

- In retaliation for how a voter voted, or for refusing to reveal how the voter voted, “**harm[] or threaten[] to harm the voter** by an unlawful act”;¹²
- “**Provide false information to a voter** with the intent of preventing the voter from voting”;¹³ or
- “Influence the independent exercise of the vote of another in the presence of the ballot or during the voting process.”¹⁴

Retaliation against a voter is a felony of the third degree, punishable by two to ten years in prison and a fine of up to \$10,000. Election fraud is a felony of the second degree, punishable by two to twenty years in prison and a fine of up to \$10,000. Coercion of a voter is a Class A misdemeanor, or a third-degree felony if the coercion is a threat to commit a felony.¹⁵

Penalties are higher for **elected officials**: election fraud committed by a person acting in his or her capacity as an elected official is a felony of the first degree.¹⁶

Examples of Intimidation

Though there are many different kinds of voter intimidation, common examples of unlawful intimidation include:

- Verbal or physical confrontation of voters by persons dressed in official-looking uniforms;
- Physical intimidation, such as standing or hovering close to voters as they attempt to vote;
- Flyers threatening jail time or other punitive action against persons who vote;
- Direct confrontation or questioning of voters or asking voters for documentation when none is required;
- Vandalism of polling places;
- Use of police officers to threaten or intimidate voters;
- Threats made by an employer to the job, wages, or benefits of an employee if he or she does not vote in a particular manner; and
- Occupying the parking lot of a polling place in such a way that voters might be hindered from entering.¹⁷

¹² Tex. Elec. Code § 276.001(1).

¹³ Tex. Elec. Code § 276.013(a)(5).

¹⁴ Tex. Elec. Code § 276.013(a)(1).

¹⁵ Tex. Elec. Code §§ 276.001, 276.013(b); Tex. Penal Code §§ 36.03(b), 12.33, 12.34.

¹⁶ Tex. Elec. Code § 276.013(b).

¹⁷ These examples are provided by the Brennan Center for Justice: Wendy Weiser and Vishal Agraharkar, *Ballot Security and Voter Suppression: What It Is and What the Law Says*, Brennan Center for Justice 7-8 (2012), <https://www.brennancenter.org/our-work/research-reports/ballot-security-and-voter-suppression>.

II. Election and Other Misconduct at the Polling Place

“**Electioneering**” includes expressing a preference for or against any candidate, measure, or political party, whether or not it appears on the ballot, including by posting, using, or distributing political signs or literature.¹⁸ During the voting period, electioneering and loitering are prohibited within 100 feet of an outside door through which voters enter a polling place and, since September 1, 2025, within 20 feet of a curbside voting parking space.¹⁹

Only materials authorized by the Election Code may be posted in a polling place; voter guides and generic voter registration applications are not authorized. Voters may bring their own written materials into the voting station to help them vote, but the electioneering limits still apply to those materials.²⁰

Presiding election judges are responsible for:

- Preserving **order** and preventing breaches of the peace and violations of the Election Code in the polling place and within the 100-foot zone;²¹
- Enforcing the electioneering and loitering limits, but only inside the 100-foot and 20-foot distance markers;²²
- Requiring people to put away **wireless devices** in the room where voting takes place, and any device used to record within 100 feet of the voting stations;²³
- Appointing licensed special peace officers and calling law enforcement when needed to remove people who breach the peace or break the law.²⁴

Presiding judges have “the power of a district judge to enforce order and keep the peace,” including the power to issue arrest warrants.²⁵

No person may:

- Electioneer (for or against any candidate, measure, or political party) or loiter within 100 feet of a polling place entrance or within 20 feet of a curbside voting space;²⁶

¹⁸ Tex. Sec’y of State, Election Advisory No. 2026-26, Certain Activities in Vicinity of Polling Places (Oct. 4, 2026), <https://www.sos.state.tx.us/elections/laws/advisory2026-26.shtml> [hereinafter *Advisory 2026*]; Tex. Elec. Code § 61.003.

¹⁹ Tex. Elec. Code §§ 61.003, 85.036 (as amended by Tex. H.B. 521, 89th Leg., R.S. (2025)); *Advisory 2026*.

²⁰ *Advisory 2026*; Tex. Elec. Code § 62.013.

²¹ Tex. Elec. Code § 32.075(a).

²² Tex. Elec. Code § 32.075(e); *Advisory 2026*.

²³ Tex. Elec. Code § 61.014; *Advisory 2026*.

²⁴ Tex. Elec. Code § 32.075(b), (f), (h).

²⁵ Tex. Elec. Code § 32.075(c).

²⁶ Tex. Elec. Code § 61.003.

- Use a sound amplification device to electioneer within 1,000 feet of a polling place;²⁷
- Use a wireless communication device in a room where voting is taking place, or record sound or images within 100 feet of a voting station;²⁸
- Wear an unauthorized name tag or badge (or other similar device) relating to a candidate, measure, or political party appearing on the ballot in the polling place or within 100 feet of any outside door through which a voter may enter the building where the polling place is located;²⁹
- Tamper with voting machines or tabulating equipment;³⁰
- Unlawfully remove a ballot from a ballot box; or³¹
- If connected with the conduct of the election, including as a poll watcher, indicate to a voter how he or she should vote.³²

III. Voter Challenges

Texas does not allow challenges to a voter's eligibility at the polls during early voting or on Election Day.³³ Instead, a registered voter may challenge the registration of another voter of the same county only by filing a sworn statement with the voter registrar that identifies the voter and the "specific qualification for registration that the challenged voter has not met."³⁴ The challenge must rest on the challenger's **personal knowledge**; secondhand information, media reports, and database matching do not qualify.³⁵

The registrar must hold a hearing and give the voter notice before deciding the challenge, and the voter may appeal the decision.³⁶ A registrar may not send a residence-confirmation notice based on a challenge filed after the 75th day before the November general election until after that election.³⁷ A voter placed on the suspense list may still vote by submitting a **statement of residence**.³⁸

²⁷ Tex. Elec. Code § 61.004.

²⁸ Tex. Elec. Code § 61.014.

²⁹ Tex. Elec. Code § 61.010.

³⁰ Tex. Penal Code § 33.05.

³¹ Tex. Elec. Code § 276.003.

³² Tex. Elec. Code § 61.008; Tex. Sec'y of State, Elections Div., *Law Enforcement Guide* 11, 16 (rev. July 20, 2026), <https://www.sos.state.tx.us/elections/forms/law-enforcement-handbook.pdf> [hereinafter *Law Enforcement Guide*].

³³ Brennan Ctr. for Just., *Texas: Limits on Voter Eligibility Challenges* (updated Aug. 3, 2026), <https://www.brennancenter.org/our-work/research-reports/texas-limits-voter-eligibility-challenges> [hereinafter *Brennan Center, Texas Challenges*].

³⁴ Tex. Elec. Code §§ 16.091–.092.

³⁵ *Brennan Center, Texas Challenges*; Tex. Sec'y of State, Election Advisory No. 2024-18, *Required List Maintenance Activities* (June 4, 2024), <https://www.sos.state.tx.us/elections/laws/advisory2024-18.shtml> (citing Tex. Sec'y of State Election Law Op. RP-1 (2018)).

³⁶ Tex. Elec. Code §§ 16.093–.095, 17.002.

³⁷ Tex. Elec. Code § 16.0921.

³⁸ Tex. Elec. Code §§ 15.112, 63.0011.

Federal law also bars systematic removal of voters from the rolls within 90 days of a federal election.³⁹ A challenger who knowingly makes a false or intentionally misleading statement in a sworn challenge may be prosecuted for election fraud, a **second-degree felony**.⁴⁰

Making aggressive, baseless, and frivolous voter challenges that disrupt voting may constitute voter intimidation under federal and Texas law and thus may be subject to criminal prosecution.⁴¹

IV. Observers

Unlike some states, Texas does not allow members of the public to observe inside polling places; only people authorized by law, such as election officers, voters, and appointed poll watchers, may be present.⁴² Texas law also places limits on poll watchers and their appointment, including:

- Watchers may be appointed only by candidates, political parties, and political action committees, and each must present a certificate of appointment and a certificate showing completion of the Secretary of State's training;⁴³
- Each appointing authority may have no more than two watchers at a precinct polling place, and no more than two at a time at an early voting location;⁴⁴
- Watchers must swear that they "will not disrupt the voting process or harass voters," must wear a badge, and must affirm that they will not possess a recording device unless it is disabled; since September 1, 2025, a person convicted of a first- or second-degree felony or an election-related felony may not serve.⁴⁵

Additionally, poll watchers are subject to strict limitations on their behavior. They may not:

- Disrupt the voting process or harass voters;⁴⁶
- Converse or otherwise communicate with a voter about the election;⁴⁷
- Talk with election officers about the election, except to call attention to an irregularity or violation of law;⁴⁸

³⁹ 52 U.S.C. § 20507(c)(2)(A).

⁴⁰ Tex. Elec. Code § 276.013(a)(3), (b).

⁴¹ See 18 U.S.C. §§ 241, 242, 245(b)(1)(A), 594; Tex. Elec. Code § 276.013(a)(4); Tex. Penal Code § 36.03.

⁴² Tex. Elec. Code § 61.001; *Advisory 2026*.

⁴³ Tex. Elec. Code §§ 33.002–.006, 33.008, 33.031; Tex. Sec'y of State, Elections Div., *Poll Watcher's Guide 2–5* (rev. Sept. 3, 2025), <https://www.sos.state.tx.us/elections/forms/pollwatchers-guide.pdf> [hereinafter *Poll Watcher's Guide*].

⁴⁴ Tex. Elec. Code § 33.007; *Poll Watcher's Guide*, at 2.

⁴⁵ Tex. Elec. Code §§ 33.006, 33.035 (as amended by Tex. H.B. 493, 89th Leg., R.S. (2025)); *Poll Watcher's Guide*, at 1, 3–5.

⁴⁶ Tex. Elec. Code § 33.051(h).

⁴⁷ Tex. Elec. Code § 33.058; *Poll Watcher's Guide*, at 7–8.

⁴⁸ Tex. Elec. Code § 33.058.

- Be present at a voting station while a voter is preparing his or her ballot or is being assisted;⁴⁹
- Use a wireless device in a room where voting is taking place, or record sound or images;⁵⁰
- Indicate to a voter how he or she should vote;⁵¹
- Reveal how a voter voted, or other election information, before the polls close; or⁵²
- Wear clothing or other items expressing a preference for a candidate, measure, or political party.⁵³

As Texas's limitations on poll watchers illustrate, **behavior that is otherwise lawful may constitute illegal voter intimidation in and around polling places.** Voter intimidation is subject to criminal prosecution under Texas and federal law.⁵⁴

Removal of Disruptive Observers

A presiding judge may not remove a poll watcher for violating the Election Code unless an election judge or clerk observed the violation, but may have a watcher removed for a breach of the peace or a violation of other law, regardless of who observed it. **In those cases, the presiding judge may call law enforcement to remove the watcher.**⁵⁵ Election officials, in turn, may not knowingly prevent a watcher from observing activity the watcher is entitled to observe; doing so is a Class A misdemeanor.⁵⁶

V. Firearms and Open Carry

Texas law prohibits firearms on the premises of a polling place on Election Day and while early voting is in progress. A violation is a felony of the third degree, and a license to carry a handgun is not a defense.⁵⁷ Laws allowing open carry did not change this rule; only peace officers, on or off duty, are exempt.⁵⁸

Finally, it is important to remember that even where carrying a firearm near a polling place is lawful, such as off the premises, displaying a firearm in a public place in a manner calculated to alarm is

⁴⁹ Tex. Elec. Code § 33.057.

⁵⁰ Tex. Elec. Code §§ 33.006, 61.014; *Advisory 2026*.

⁵¹ Tex. Elec. Code § 61.008.

⁵² Tex. Elec. Code §§ 61.006–.007.

⁵³ Tex. Elec. Code § 61.003; *Advisory 202*.

⁵⁴ See 18 U.S.C. § 594; Tex. Elec. Code §§ 276.001, 276.013(a)(4); Tex. Penal Code § 36.03.

⁵⁵ Tex. Elec. Code § 32.075(g)–(h); *Poll Watcher's Guide*, at 10.

⁵⁶ Tex. Elec. Code § 33.061.

⁵⁷ Tex. Penal Code § 46.03(a)(2), (f), (g).

⁵⁸ *Advisory 2026*; Tex. Penal Code § 46.15.

disorderly conduct, and using or handling a firearm to threaten or intimidate voters may violate voter intimidation laws.⁵⁹

VI. Law Enforcement at Polling Locations

The President does not have authority to order law enforcement to patrol polling places.⁶⁰ Sheriff's deputies and police officers are commanded at the local level, and a federal statute makes it a felony for any federal official to send "armed men" to the vicinity of polling places.⁶¹

Federal law prohibits U.S. military presence at the polls and members of the U.S. military from interfering with any qualified voter's right to vote.⁶² This prohibition, of course, does not apply to members of the U.S. military who are at the polls to vote.⁶³

Under Texas law, only people specifically authorized by law may be inside a polling place. Peace officers who are not there to vote may be present when appointed by the presiding judge as special peace officers or called to help preserve order.⁶⁴ Even then, a special peace officer may not enforce the electioneering and loitering rules unless the appointment is approved by the presiding officer of the local canvassing authority.⁶⁵

A voter may not be arrested while attending an election except for treason, a felony, or a breach of the peace, and a voter arrested while voting or waiting to vote must be allowed to vote before being removed.⁶⁶ The Secretary of State recommends that officers turn off body cameras within 100 feet of a voting station.⁶⁷ Given that law enforcement itself can be intimidating to some voters, Texas election officials should be particularly vigilant in ensuring that voters who are distrustful of the police are not deterred from voting because of the presence of law enforcement.

VII. Voter Misinformation

It is a felony under Texas law to knowingly or intentionally "provide false information to a voter with the intent of preventing the voter from voting."⁶⁸ It is also a Class A misdemeanor to create a "deep

⁵⁹ Tex. Penal Code §§ 42.01(a)(8), 36.03; Tex. Elec. Code § 276.013(a)(4).

⁶⁰ Sean Morales-Doyle et al., *Voters Should Not Be Intimidated*, Brennan Ctr. for Just. (Oct. 7, 2020), <https://www.brennancenter.org/our-work/research-reports/voters-should-not-be-intimidated>.

⁶¹ 18 U.S.C. § 592.

⁶² 18 U.S.C. §§ 592–593.

⁶³ 18 U.S.C. § 593.

⁶⁴ Tex. Elec. Code §§ 61.001, 32.075(b), (h).

⁶⁵ Tex. Elec. Code § 32.075(b).

⁶⁶ Tex. Elec. Code §§ 276.005, 32.075(d).

⁶⁷ *Advisory 2026*.

⁶⁸ Tex. Elec. Code § 276.013(a)(5), (b).

fake video” and cause it to be published or distributed within 30 days of an election with intent to injure a candidate or influence the result.⁶⁹

VIII. Whom to Contact for Enforcement

Texas elections are administered locally by county election officials and, for local elections, by cities, school districts, and other political subdivisions. On a statewide level, the Secretary of State is the “chief election officer of the state” and provides guidance to local election officials and law enforcement.⁷⁰

Most election crimes are investigated by local law enforcement and prosecuted by district and county attorneys.

Persons who have been subject to, or witnessed, voter intimidation or other election violations may file a written, signed complaint with the Secretary of State, which refers possible criminal conduct to the Attorney General.⁷¹ Emergencies and crimes in progress at a polling place should be reported to local law enforcement by calling 911.

Texas Secretary of State, Elections Division
P.O. Box 12060, Austin, Texas 78711-2060
Tel: 1-800-252-VOTE (8683)
Email: elections@sos.texas.gov

Voters may also seek advice on how to report intimidation by contacting the national, nonpartisan Election Protection coalition. The main number, **866-OUR-VOTE**, is administered by the Lawyers’ Committee for Civil Rights Under Law. The coalition also has lines available for Spanish-speaking (888)-VE-Y-VOTA, Arabic-speaking (844)-YALLA-US, and Asian-language- speaking (888)-API-VOTE voters.

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⁶⁹ Tex. Elec. Code § 255.004(c)–(e).

⁷⁰ Tex. Elec. Code § 31.001(a); *Law Enforcement Guide*, at 4.

⁷¹ Tex. Elec. Code § 31.006; *Law Enforcement Guide*, at 18–19.