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2005 MAY -3 A 8:58

OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

FIRST REGULAR SESSION, 2005



ENROLLED

House Bill No. 3281

(By Delegates Amores and Craig)



9

Passed April 8, 2005

In Effect Ninety Days from Passage

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E N R O L L E D

H. B. 3281

(BY DELEGATES AMORES AND CRAIG)

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H. B.

[Passed April ⁹ 2005; in effect ninety days from passage.]

AN ACT to amend and reenact §3-9-1 of the Code of West Virginia, 1931, as amended, relating to the crime of altering, destroying, or tampering with computer equipment containing voter registration information; accessing or attempting to access confidential voter registration information; and penalties.

Be it enacted by the Legislature of West Virginia:

That §3-9-1 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 9. OFFENSES AND PENALTIES.

§3-9-1. False or fraudulent returns; tampering with, destroying or misdelivering ballots, records, etc.; forgeries; aiding, etc., in offense; penalties.

1 Every person named and identified in this section, who
2 shall violate any of the provisions of the election laws as herein
3 specified, shall be deemed guilty of a felony and, upon convic-

4 tion thereof, shall be punished by imprisonment in a state
5 correctional facility for not less than one nor more than ten
6 years:

7 (a) Any commissioner of election or poll clerk who shall
8 knowingly make or cause to be made, or conspire with others
9 to make, a false return of the result of the votes cast for any
10 candidate at any precinct in an election held pursuant to law; or

11 (b) Any commissioner of election receiving the ballot of a
12 voter to be deposited in the ballot box at any election precinct,
13 who shall put another ballot in the box instead of the one
14 received by him; or

15 (c) Any commissioner of election or poll clerk, who
16 knowingly shall count and string a ballot not taken from the
17 ballot box, in lieu of one taken, or which should have been
18 taken from such ballot box; or

19 (d) Any commissioner of a county court, whether acting as
20 such or ex officio as a member of a board of canvassers or
21 otherwise, clerk of a county court, or other person, who shall,
22 except as authorized by law, abstract any ballot from any
23 package of ballots voted, sealed or returned from any election
24 precinct, either before or after they are filed with the clerk of
25 the county court, or who shall in any manner change any such
26 ballot from what it was when voted by the voter, or who shall
27 put another ballot in such package in the place of the one so
28 abstracted therefrom; or

29 (e) Any commissioner of a county court, whether acting as
30 such commissioner or ex officio as a member of a board of
31 canvassers, or otherwise, who shall knowingly make and enter
32 of record, or in any way aid, counsel, or advise the same to be
33 done, or permit the same to be done without objection on his
34 part, any false or fraudulent statement of the result of any
35 election held within the county; or

36 (f) Any person who shall falsely make, or fraudulently
37 deface, or fraudulently destroy, any certificate of nomination,
38 or any part thereof, or file any certificate of nomination,
39 knowing the same, or any part thereof, to be falsely made, or
40 suppress any certificate of nomination which has been duly
41 filed, or any part thereof; or erase, deface, or change in any
42 manner, any election record, or any ballot, poll book, tally sheet
43 or certificate of election, deposited with either of the clerks of
44 the county or circuit courts; or conspire with another to do any
45 of said acts; or induce or attempt to induce any other persons to
46 do any of said acts; or

47 (g) Any person who shall aid, assist, counsel or advise in
48 the commission of any of the offenses above specified, whether
49 or not said acts, or any of them be committed or attempted to be
50 committed; or

51 (h) Any person, who, without the assent of another, shall
52 sign the name of such other person to any certificate, affidavit,
53 ballot, report, statement or writing, required under any provi-
54 sion of this chapter, with intent to mislead and deceive; or who
55 shall use or employ any certificate, affidavit, ballot, report,
56 statement or writing to which the name of a person has been
57 signed without the authority of such person, knowing that such
58 name has been so signed with intent to mislead or deceive; or

59 (i) Any clerk of a court, poll clerk, member of the board of
60 ballot commissioners, commissioner of election, or messenger
61 intrusted with the custody of the ballots, who shall open
62 unlawfully any of the packages in which the ballots are con-
63 tained, or permit any of them to be opened, or destroy any of
64 such ballots, or permit them to be destroyed, or give, or deliver
65 any such packages or ballots to any person not lawfully entitled
66 to receive them, as in this chapter provided, or conspire to
67 procure, or in any way aid, abet, or connive at any robbery, loss
68 or unlawful destruction of any such ballots or packages; or

69 (j) Any person not duly authorized by law who shall, during
70 the progress of any election in this state, or after the closing of
71 the polls and before the ballots are counted and the results
72 ascertained, or within twelve months thereafter, open without
73 breaking, or break open or violate, the seals or locks of any
74 ballot box, paper, envelope or bag, in which ballots have been
75 deposited at or after such election, or who shall obtain posses-
76 sion of such ballot box, paper, envelope or bag containing such
77 ballots, and cancel, withhold, or destroy such ballots, or who
78 shall fraudulently or forcibly add to or diminish the number of
79 ballots legally deposited therein, or who shall fraudulently
80 make any erasure or alteration of any kind, upon any tally sheet,
81 poll book, list of voters, or election returns, deposited therein;
82 or

83 (k) Any person who knowingly, willfully and without
84 authorization from the Secretary of State, a county clerk or
85 municipal clerk directly or indirectly, tampers with, deletes,
86 alters, damages or destroys or attempts to tamper with, delete,
87 alter, damage or destroy any computer or computer network
88 that contains voter registration files, records or data or who
89 knowingly introduces, directly or indirectly, a computer
90 contaminant into any computer, computer program or computer
91 network that contains voter registration files, records or data; or

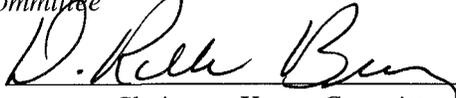
92 (l) Any person who knowingly, directly or indirectly,
93 accesses, attempts to access, or causes to be accessed any voter
94 registration files, records or data stored on or in a computer
95 owned by the Secretary of State, a county commission or
96 municipality, without authorization; or

97 (m) Any person employed by the Secretary of State, a
98 county commission or a municipality who knowingly, directly
99 or indirectly accesses, attempts to access or causes to be
100 accessed any voter registration files, records or data stored on
101 or in a computer in an unauthorized manner, in excess of his or
102 her authorization or for unauthorized use or purpose.

That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.



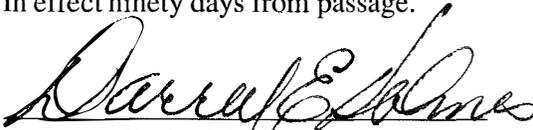
Chairman Senate Committee



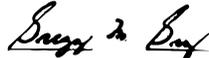
Chairman House Committee

Originating in the House.

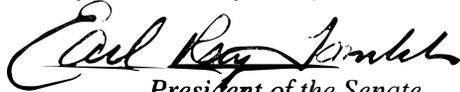
In effect ninety days from passage.



Clerk of the Senate



Clerk of the House of Delegates



President of the Senate



Speaker of the House of Delegates

The within is approved this the 2nd
day of May, 2005.



Governor

PRESENTED TO THE
GOVERNOR

MAY 2 2005

Time 10:10 am