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## The 2017 Florida Statutes

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ELECTORS AND ELECTIONS ELECTION CODE: VIOLATIONS; PENALTIES

### CHAPTER 104

#### ELECTION CODE: VIOLATIONS; PENALTIES

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**104.011 False swearing; submission of false voter registration information.—**

(1) A person who willfully swears or affirms falsely to any oath or affirmation, or willfully procures another person to swear or affirm falsely to an oath or affirmation, in connection with or arising out of voting or elections commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(2) A person who willfully submits any false voter registration information commits a felony of the third degree, punishable as provided in s. 775.082 or s. 775.083.

History.—s. 15, ch. 14715, 1931; CGL 1936 Supp. 8202(6); s. 8, ch. 26870, 1951; s. 19, ch. 71-136; s. 33, ch. 77-175; s. 38, ch. 94-224; s. 31, ch. 97-13.

**104.012 Consideration for registration; interference with registration; soliciting registrations for compensation; alteration of registration application.—**

(1) Any person who gives anything of value that is redeemable in cash to any person in consideration for his or her becoming a registered voter commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. This section shall not be interpreted, however, to exclude such services as transportation to the place of registration or baby-sitting in connection with the absence of an elector from home for registering.

(2) A person who by bribery, menace, threat, or other corruption, directly or indirectly, influences, deceives, or deters or attempts to influence, deceive, or deter any person in the free exercise of that person's right to register to vote at any time, upon the first conviction, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, and, upon any subsequent conviction, commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(3) A person may not solicit or pay another person to solicit voter registrations for compensation that is based upon the number of registrations obtained. A person who violates the provisions of this subsection commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(4) A person who alters the voter registration application of any other person, without the other person's knowledge and consent, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

History.—s. 1, ch. 63-198; s. 20, ch. 71-136; s. 33, ch. 77-175; s. 39, ch. 94-224; s. 1394, ch. 95-147; s. 32, ch. 97-13; s. 23, ch. 98-129.

**104.013 Unauthorized use, possession, or destruction of voter information card.—**

(1) It is unlawful for any person knowingly to have in his or her possession any blank, forged, stolen, fictitious, counterfeit, or unlawfully issued voter information card unless possession by such person has been duly authorized by the supervisor.

(2) It is unlawful for any person to barter, trade, sell, or give away a voter information card unless said person has been duly authorized to issue a voter information card.

(3) It is unlawful for any person willfully to destroy or deface the information card of a duly registered voter.

(4) Any person who violates any of the provisions of this section commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

History.—s. 1, ch. 76-49; s. 1, ch. 77-174; s. 34, ch. 77-175; s. 3, ch. 91-224; s. 40, ch. 94-224; s. 1395, ch. 95-147; s. 24, ch. 98-129; s. 44, ch. 2005-278.

**104.031 False declaration to secure assistance in preparing ballot.**—Any person who makes a false declaration for assistance in voting, or in the preparation of his or her ballot, in any election is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

History.—s. 49, ch. 4328, 1895; GS 3829; RGS 5892; CGL 8156; s. 8, ch. 26870, 1951; s. 22, ch. 71-136; s. 35, ch. 77-175; s. 4, ch. 91-224; s. 613, ch. 95-147.

Note.—Former s. 99.31.

**104.041 Fraud in connection with casting vote.**—Any person perpetrating or attempting to perpetrate or aid in the perpetration of any fraud in connection with any vote cast, to be cast, or attempted to be cast, is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

History.—s. 4, ch. 22014, 1943; s. 1, ch. 25385, 1949; s. 8, ch. 26870, 1951; s. 23, ch. 71-136; s. 35, ch. 77-175.

Note.—Former s. 101.14.

**104.045 Vote selling.**—Any person who:

(1) Corruptly offers to vote for or against, or to refrain from voting for or against, any candidate in any election in return for pecuniary or other benefit; or

(2) Accepts a pecuniary or other benefit in exchange for a promise to vote for or against, or to refrain from voting for or against, any candidate in any election,

is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

History.—s. 1, ch. 81-107; s. 25, ch. 98-129.

**104.047 Vote-by-mail ballots and voting; violations.**—

(1) Except as provided in s. 101.62 or s. 101.655, any person who requests a vote-by-mail ballot on behalf of an elector is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(2) Any person who marks or designates a choice on the ballot of another person, except as provided in s. 101.051, s. 101.655, or s. 101.661, is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

History.—s. 26, ch. 98-129; s. 34, ch. 99-2; s. 57, ch. 2001-40; s. 54, ch. 2005-278; s. 36, ch. 2016-37.

**104.051 Violations; neglect of duty; corrupt practices.**—

(1) Any official who willfully violates any of the provisions of this election code shall be excluded from the polls. Any election official who is excluded shall be replaced as provided in this code.

(2) Any official who willfully refuses or willfully neglects to perform his or her duties as prescribed by this election code is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(3) Any official who performs his or her duty as prescribed by this election code fraudulently or corruptly is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(4) Any supervisor, deputy supervisor, or election employee who attempts to influence or interfere with any elector voting a ballot commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

History.—s. 30, ch. 4328, 1895; s. 10, ch. 4537, 1897; s. 16, ch. 14715, 1931; s. 4, ch. 18407, 1937; GS 215, 3824; RGS 259, 5885; CGL 315, 8148; 1936 Supp. 8151(1); 1940 Supp. 7476(8); ss. 3-E, 4, 7, 8, ch. 22018, 1943; s. 8, ch. 26870, 1951; s. 42, ch. 28156, 1953; s. 24, ch. 71-136; s. 35, ch. 77-175; s. 21, ch. 90-315; s. 614, ch. 95-147; s. 27, ch. 98-129.

#### **104.0515 Voting rights; deprivation of, or interference with, prohibited; penalty.—**

(1) All citizens of this state who are otherwise qualified by law to vote at any election by the people in this state or in any district, county, city, town, municipality, school district, or other subdivision of this state shall be entitled and allowed to vote at all such elections without distinction according to race, color, or previous condition of servitude, notwithstanding any law, ordinance, regulation, custom, or usage to the contrary.

(2) No person acting under color of law shall:

(a) In determining whether any individual is qualified under law to vote in any election, apply any standard, practice, or procedure different from the standards, practices, or procedures applied under law to other individuals within the same political subdivision who have been found to be qualified to vote; or

(b) Deny the right of any individual to vote in any election because of an error or omission on any record or paper relating to any application, registration, or other act requisite to voting, if such error or omission is not material in determining whether such individual is qualified under law to vote in such election. This paragraph shall apply to vote-by-mail ballots only if there is a pattern or history of discrimination on the basis of race, color, or previous condition of servitude in regard to vote-by-mail ballots.

(3) No person, whether acting under color of law or otherwise, shall intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce, any other person for the purpose of interfering with the right of such other person to vote or not to vote as that person may choose, or for the purpose of causing such other person to vote for, or not vote for, any candidate for any office at any general, special, or primary election held solely or in part for the purpose of selecting or electing any such candidate.

(4) No voting qualification or prerequisite to voting, and no standard, practice, or procedure, shall be imposed or applied by any political subdivision of this state to deny or abridge the right of any citizen to vote on account of race or color.

(5) Any person who violates the provisions of this section is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

History.—s. 1, ch. 82-59; s. 26, ch. 83-217; s. 5, ch. 91-224; s. 615, ch. 95-147; s. 28, ch. 98-129; s. 37, ch. 2016-37.

#### **104.061 Corruptly influencing voting.—**

(1) Whoever by bribery, menace, threat, or other corruption whatsoever, either directly or indirectly, attempts to influence, deceive, or deter any elector in voting or interferes with him or her in

the free exercise of the elector's right to vote at any election commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084 for the first conviction, and a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, for any subsequent conviction.

(2) No person shall directly or indirectly give or promise anything of value to another intending thereby to buy that person's or another's vote or to corruptly influence that person or another in casting his or her vote. Any person who violates this subsection is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. However, this subsection shall not apply to the serving of food to be consumed at a political rally or meeting or to any item of nominal value which is used as a political advertisement, including a campaign message designed to be worn by a person.

History.—ss. 1, 3, ch. 6470, 1913; RGS 5918; CGL 8182; s. 1, ch. 19617, 1939; s. 1, ch. 20934, 1941; s. 7, ch. 22858, 1945; s. 8, ch. 26870, 1951; s. 1, ch. 65-379; s. 25, ch. 71-136; s. 35, ch. 77-175; s. 51, ch. 79-400; s. 21, ch. 81-304; s. 22, ch. 90-315; s. 616, ch. 95-147; s. 29, ch. 98-129.

#### **104.0615 Voter intimidation or suppression prohibited; criminal penalties.—**

(1) This section may be cited as the “Voter Protection Act.”

(2) A person may not directly or indirectly use or threaten to use force, violence, or intimidation or any tactic of coercion or intimidation to induce or compel an individual to:

- (a) Vote or refrain from voting;
- (b) Vote or refrain from voting for any particular individual or ballot measure;
- (c) Refrain from registering to vote; or
- (d) Refrain from acting as a legally authorized election official or poll watcher.

(3) A person may not knowingly use false information to:

- (a) Challenge an individual's right to vote;
- (b) Induce or attempt to induce an individual to refrain from voting or registering to vote; or
- (c) Induce or attempt to induce an individual to refrain from acting as a legally authorized election official or poll watcher.

(4) A person may not knowingly destroy, mutilate, or deface a voter registration form or election ballot or obstruct or delay the delivery of a voter registration form or election ballot.

(5) A person who violates subsection (2), subsection (3), or subsection (4) commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

History.—s. 76, ch. 2005-277.

#### **104.0616 Vote-by-mail ballots and voting; violations.—**

(1) For purposes of this section, the term “immediate family” means a person's spouse or the parent, child, grandparent, or sibling of the person or the person's spouse.

(2) Any person who provides or offers to provide, and any person who accepts, a pecuniary or other benefit in exchange for distributing, ordering, requesting, collecting, delivering, or otherwise physically possessing more than two vote-by-mail ballots per election in addition to his or her own ballot or a ballot belonging to an immediate family member, except as provided in ss. 101.6105-101.694, commits a misdemeanor of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

History.—s. 53, ch. 2005-278; s. 21, ch. 2013-57; s. 8, ch. 2014-17; s. 38, ch. 2016-37.

#### **104.071 Remuneration by candidate for services, support, etc.; penalty.—**

(1) It is unlawful for any person supporting a candidate, or for any candidate, in order to aid or promote the nomination or election of such candidate in any election, directly or indirectly to:

(a) Promise to appoint another person, promise to secure or aid in securing appointment, nomination or election of another person to any public or private position, or to any position of honor, trust, or emolument, except one who has publicly announced or defined what his or her choice or purpose in relation to any election in which he or she may be called to take part, if elected.

(b) Give, or promise to give, pay, or loan, any money or other thing of value to the owner, editor, publisher, or agent, of any communication media, as well as newspapers, to advocate or oppose, through such media, any candidate for nomination in any election or any candidate for election, and no such owner, editor, or agent shall give, solicit, or accept such payment or reward. It shall likewise be unlawful for any owner, editor, publisher, or agent of any poll-taking or poll-publishing concern to advocate or oppose through such poll any candidate for nomination in any election or any candidate for election in return for the giving or promising to give, pay, or loan any money or other thing of value to said owner, editor, publisher, or agent of any poll-taking or poll-publishing concern.

(c) Give, pay, expend, or contribute any money or thing of value for the furtherance of the candidacy of any other candidate.

(d) Furnish, give, or deliver to another person any money or other thing of value for any purpose prohibited by the election laws.

This subsection shall not prohibit a candidate from furnishing complimentary tickets to the candidate's campaign fund raiser to other candidates.

(2) A candidate may give his or her own personal or business funds to another candidate, so long as the contribution is not given in exchange for a promise or expectation that the recipient will directly or indirectly do anything to aid or promote the candidacy of the contributor which the recipient would not have otherwise done.

(3) Any person who violates any provision of this section is guilty of a felony of the third degree, punishable as provided in s. 775.082 or s. 775.083, and from and after conviction shall be disqualified to hold office.

History.—s. 8, ch. 26870, 1951; s. 2, ch. 65-379; s. 26, ch. 71-136; s. 35, ch. 77-175; s. 52, ch. 79-400; s. 33, ch. 89-338; s. 617, ch. 95-147.

**104.081 Threats of employers to control votes of employees.**—It is unlawful for any person having one or more persons in his or her service as employees to discharge or threaten to discharge any employee in his or her service for voting or not voting in any election, state, county, or municipal, for any candidate or measure submitted to a vote of the people. Any person who violates the provisions of this section is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

History.—s. 8, ch. 26870, 1951; s. 27, ch. 71-136; s. 35, ch. 77-175; s. 618, ch. 95-147; s. 30, ch. 98-129.

**104.091 Aiding, abetting, advising, or conspiring in violation of the code.**—

(1) Any person who knowingly aids, abets, or advises the violation of this code shall be punished in like manner as the principal offender.

(2) Any person who agrees, conspires, combines, or confederates with another person to commit a violation of this code shall be punished as if he or she had committed the violation.

(3) Any person who knows of a felony violation of this code and gives any aid to the offender who has violated this code, with intent that the offender avoid or escape detection, arrest, trial, or punishment, shall be punished as if he or she had committed the violation. This subsection does not prohibit a member of The Florida Bar from giving legal advice to a client.

History.—s. 8, ch. 26870, 1951; s. 1, ch. 67-164; s. 28, ch. 71-136; s. 35, ch. 77-175; s. 1, ch. 2002-214.

**104.101 Failure to assist officers at polls.**—Any person summoned by the sheriff or deputy sheriff who fails or refuses to assist him or her in maintaining the peace at the polls is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

History.—s. 27, ch. 3879, 1889; RS 181; s. 58, ch. 4328, 1895; GS 3834; RGS 5896; CGL 8160; s. 8, ch. 26870, 1951; s. 29, ch. 71-136; s. 35, ch. 77-175; s. 619, ch. 95-147.

Note.—Former s. 99.40.

**104.11 Neglect of duty by sheriff or other officer.**—Any sheriff, deputy sheriff, or other officer who willfully neglects or willfully refuses to perform his or her duties relating to elections is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

History.—s. 8, ch. 26870, 1951; s. 30, ch. 71-136; s. 35, ch. 77-175; s. 620, ch. 95-147.

**104.13 Intermingling ballots.**—Whoever willfully places any ballot in the ballot box except as properly voted by electors, or willfully intermingles any other ballots which have not been duly received during the election with the ballots which are voted by the electors, is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

History.—s. 8, ch. 26870, 1951; s. 3, ch. 65-379; s. 32, ch. 71-136; s. 35, ch. 77-175.

**104.15 Unqualified electors willfully voting.**—Whoever, knowing he or she is not a qualified elector, willfully votes at any election is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

History.—s. 8, ch. 26870, 1951; s. 5, ch. 65-379; s. 34, ch. 71-136; s. 35, ch. 77-175; s. 621, ch. 95-147.

**104.16 Voting fraudulent ballot.**—Any elector who knowingly votes or attempts to vote a fraudulent ballot, or any person who knowingly solicits, or attempts, to vote a fraudulent ballot, is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

History.—s. 36, ch. 4328, 1895; GS 221; s. 42, ch. 6469, 1913; RGS 266, 346, 5911; CGL 322, 403; 8175; s. 6, ch. 17898, 1937; s. 3, ch. 17901, 1937; s. 6, ch. 25187, 1949; s. 4, ch. 25386, 1949; s. 8, ch. 26870, 1951; s. 6, ch. 65-379; s. 35, ch. 71-136; s. 35, ch. 77-175.

Note.—Former ss. 99.20, 102.41.

**104.17 Voting in person after casting vote-by-mail ballot.**—Any person who willfully votes or attempts to vote both in person and by vote-by-mail ballot at any election is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

History.—s. 1, ch. 22014, 1943; s. 1, ch. 25385, 1949; s. 8, ch. 26870, 1951; s. 7, ch. 65-379; s. 36, ch. 71-136; s. 35, ch. 77-175; s. 39, ch. 2016-37.

Note.—Former s. 101.11.

**104.18 Casting more than one ballot at any election.**—Except as provided in s. 101.6952, whoever willfully votes more than one ballot at any election commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

History.—s. 8, ch. 26870, 1951; s. 8, ch. 65-379; s. 37, ch. 71-136; s. 35, ch. 77-175; s. 4, ch. 2011-162.

**104.185 Petitions; knowingly signing more than once; signing another person's name or a fictitious name.**—

(1) A person who knowingly signs a petition or petitions for a candidate, a minor political party, or an issue more than one time commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(2) A person who signs another person's name or a fictitious name to any petition to secure ballot position for a candidate, a minor political party, or an issue commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

History.—s. 1, ch. 77-178; s. 6, ch. 91-224; s. 23, ch. 97-13.

**104.19 Using stickers or rubber stamps or carrying certain items in voting booth; penalty.—**

(1)(a) It is unlawful for any person casting a ballot at any election to use stickers or rubber stamps or to carry into a voting booth any mechanical device, paper, or memorandum which might be used to affect adversely the normal election process.

(b) In casting a write-in ballot, the elector shall cast the same in his or her own handwriting or in the handwriting of an authorized person aiding him or her.

(2) Any person who violates the provisions of this section is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

History.—s. 7, ch. 25187, 1949; s. 8, ch. 26870, 1951; s. 1, ch. 70-136; s. 39, ch. 71-136; s. 35, ch. 77-175; s. 16, ch. 81-105; s. 622, ch. 95-147.

Note.—Former s. 99.201.

**104.20 Ballot not to be seen, and other offenses.—**Any elector who, except as provided by law, allows his or her ballot to be seen by any person; takes or removes, or attempts to take or remove, any ballot from the polling place before the close of the polls; places any mark on his or her ballot by which it may be identified; endeavors to induce any elector to show how he or she voted; aids or attempts to aid any elector unlawfully; or prints or procures to be printed, or has in his or her possession, any copies of any ballot prepared to be voted is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

History.—s. 55, ch. 4328, 1895; s. 2, ch. 4536, 1897; GS 3835; RGS 5897; CGL 8161; s. 8, ch. 26870, 1951; s. 40, ch. 71-136; s. 35, ch. 77-175; s. 623, ch. 95-147; s. 19, ch. 2002-281.

Note.—Former s. 99.34.

**104.21 Changing electors' ballots.—**Whoever fraudulently changes or attempts to change the vote or ballot of any elector, by which actions such elector is prevented from voting such ballot or from voting such ballot as the elector intended, is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

History.—s. 8, ch. 26870, 1951; s. 10, ch. 65-379; s. 41, ch. 71-136; s. 35, ch. 77-175; s. 624, ch. 95-147.

**104.22 Stealing and destroying records, etc., of election.—**Any person who is guilty of stealing, willfully and wrongfully breaking, destroying, mutilating, defacing, or unlawfully moving or securing and detaining the whole or any part of any ballot box or any record tally sheet or copy thereof, returns, or any other paper or document provided for, or who fraudulently makes any entry or alteration therein except as provided by law, or who permits any other person so to do, is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

History.—s. 8, ch. 26870, 1951; s. 11, ch. 65-379; s. 42, ch. 71-136; s. 35, ch. 77-175.

**104.23 Disclosing how elector votes.—**Any election official or person assisting any elector who willfully discloses how any elector voted, except upon trial in court, is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

History.—s. 8, ch. 26870, 1951; s. 12, ch. 65-379; s. 43, ch. 71-136; s. 35, ch. 77-175.

**104.24 Penalty for assuming name.—**A person may not, in connection with any part of the election process, fraudulently call himself or herself, or fraudulently pass by, any other name than the

name by which the person is registered or fraudulently use the name of another in voting. Any person who violates this section is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

History.—s. 57, ch. 6469, 1913; RGS 360, 5913; CGL 417, 8177; s. 4, ch. 22014, 1943; s. 1, ch. 25385, 1949; s. 8, ch. 26870, 1951; s. 13, ch. 65-379; s. 44, ch. 71-136; s. 35, ch. 77-175; s. 625, ch. 95-147; s. 31, ch. 98-129.

Note.—Former ss. 101.14, 102.53.

**104.26 Penalty for destroying ballot or booth, etc.—**Any person who wrongfully, during or before an election, removes, tears down, destroys, or defaces any ballot, booth, compartment, or other convenience provided for the purpose of enabling the elector to prepare his or her ballot, or any card for the instruction of the voter, is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

History.—s. 8, ch. 26870, 1951; s. 46, ch. 71-136; s. 35, ch. 77-175; s. 626, ch. 95-147.

**104.271 False or malicious charges against, or false statements about, opposing candidates; penalty.—**

(1) Any candidate who, in a primary election or other election, willfully charges an opposing candidate participating in such election with a violation of any provision of this code, which charge is known by the candidate making such charge to be false or malicious, is guilty of a felony of the third degree, punishable as provided in s. 775.082 or s. 775.083 and, in addition, after conviction shall be disqualified to hold office.

(2) Any candidate who, in a primary election or other election, with actual malice makes or causes to be made any statement about an opposing candidate which is false is guilty of a violation of this code. An aggrieved candidate may file a complaint with the Florida Elections Commission pursuant to s. 106.25. The commission shall adopt rules to provide an expedited hearing of complaints filed under this subsection. Notwithstanding any other provision of law, the commission shall assess a civil penalty of up to \$5,000 against any candidate found in violation of this subsection, which shall be deposited to the account of the General Revenue Fund of the state.

History.—s. 44, ch. 28156, 1953; s. 48, ch. 71-136; s. 27, ch. 77-104; s. 35, ch. 77-175; s. 1, ch. 85-210; s. 627, ch. 95-147; s. 44, ch. 97-13.

**104.2715 False representations of military service; penalty.—**

(1) A candidate who, in a primary or other election, falsely represents, directly or indirectly, that he or she served or is currently serving in the military, whether active duty, reserve, or National Guard, commits a violation of the Florida Election Code.

(2) Any person may file a complaint with the Florida Elections Commission pursuant to s. 106.25 alleging a violation of subsection (1).

(3) The commission shall adopt rules to provide an expedited hearing of complaints filed under subsection (2), or, in cases referred to the Division of Administrative Hearings pursuant to s. 106.25(5), the director shall assign an administrative law judge to provide an expedited hearing.

(4) Notwithstanding any other law, the commission or administrative law judge shall assess a civil penalty of up to \$5,000 against any candidate who is found to have violated subsection (1), which shall be deposited into the General Revenue Fund.

History.—s. 1, ch. 2011-148.

**104.29 Inspectors refusing to allow watchers while ballots are counted.—**The inspectors or other election officials at the polling place shall, after the polls close, allow as many as three persons near to them to see whether the ballots are being reconciled correctly. Any official who denies this

privilege or interferes therewith commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

History.—s. 8, ch. 26870, 1951; s. 51, ch. 71-136; s. 35, ch. 77-175; s. 53, ch. 79-400; s. 50, ch. 2011-40.

#### **104.30 Voting system; unlawful possession; tampering.—**

(1) Any unauthorized person who unlawfully has possession of any voting system, components, or key thereof is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(2) Any person who tampers or attempts to tamper with or destroy any voting system or equipment with the intention of interfering with the election process or the results thereof is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

History.—s. 26, ch. 13893, 1929; CGL 1936 Supp. 8202(1); s. 8, ch. 26870, 1951; s. 17, ch. 65-379; s. 52, ch. 71-136; s. 35, ch. 77-175; s. 29, ch. 2001-40.

Note.—Former s. 100.28.

#### **104.31 Political activities of state, county, and municipal officers and employees.—**

(1) No officer or employee of the state, or of any county or municipality thereof, except as hereinafter exempted from provisions hereof, shall:

(a) Use his or her official authority or influence for the purpose of interfering with an election or a nomination of office or coercing or influencing another person's vote or affecting the result thereof.

(b) Directly or indirectly coerce or attempt to coerce, command, or advise any other officer or employee to pay, lend, or contribute any part of his or her salary, or any money, or anything else of value to any party, committee, organization, agency, or person for political purposes. Nothing in this paragraph or in any county or municipal charter or ordinance shall prohibit an employee from suggesting to another employee in a noncoercive manner that he or she may voluntarily contribute to a fund which is administered by a party, committee, organization, agency, person, labor union or other employee organization for political purposes.

(c) Directly or indirectly coerce or attempt to coerce, command, and advise any such officer or employee as to where he or she might purchase commodities or to interfere in any other way with the personal right of said officer or employee.

The provisions of this section shall not be construed so as to prevent any person from becoming a candidate for and actively campaigning for any elective office in this state. All such persons shall retain the right to vote as they may choose and to express their opinions on all political subjects and candidates. The provisions of paragraph (a) shall not be construed so as to limit the political activity in a general, special, primary, bond, referendum, or other election of any kind or nature, of elected officials or candidates for public office in the state or of any county or municipality thereof; and the provisions of paragraph (a) shall not be construed so as to limit the political activity in general or special elections of the officials appointed as the heads or directors of state administrative agencies, boards, commissions, or committees or of the members of state boards, commissions, or committees, whether they be salaried, nonsalaried, or reimbursed for expense. In the event of a dual capacity of any member of a state board, commission, or committee, any restrictive provisions applicable to either capacity shall apply. The provisions of paragraph (a) shall not be construed so as to limit the political activity in a general, special, primary, bond, referendum, or other election of any kind or nature of the Governor, the elected members of the Governor's Cabinet, or the members of the Legislature. The provisions of paragraphs (b) and (c) shall apply to all officers and employees of the state or of any county or municipality thereof, whether elected, appointed, or otherwise employed, or whether the activity shall

be in connection with a primary, general, special, bond, referendum, or other election of any kind or nature.

(2) An employee of the state or any political subdivision may not participate in any political campaign for an elective office while on duty.

(3) Any person violating the provisions of this section is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(4) Nothing contained in this section or in any county or municipal charter shall be deemed to prohibit any public employee from expressing his or her opinions on any candidate or issue or from participating in any political campaign during the employee's off-duty hours, so long as such activities are not in conflict with the provisions of subsection (1) or s. 110.233.

History.—s. 8, ch. 26870, 1951; s. 7, ch. 29615, 1955; s. 5, ch. 29936, 1955; s. 1, ch. 59-208; s. 18, ch. 65-379; s. 53, ch. 71-136; ss. 1, 2, ch. 74-13; s. 1, ch. 75-261; s. 30, ch. 79-190; s. 1, ch. 80-207; s. 628, ch. 95-147; s. 1, ch. 2006-275.

**104.32 Supervisor of elections; delivery of books to successor.**—Any supervisor of elections who willfully fails or refuses promptly to comply with the demand of his or her successor for the delivery of registration books, papers, and blanks connected with his or her office is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

History.—s. 8, ch. 3879, 1889; RS 2779; s. 9, ch. 4328, 1895; GS 3820; RGS 5881; CGL 8144; s. 8, ch. 26870, 1951; s. 2, ch. 65-60; s. 54, ch. 71-136; s. 35, ch. 77-175; s. 629, ch. 95-147.

Note.—Former s. 98.21.

**104.39 Witnesses as to violations.**—Any person who violates any provision of this code shall be a competent witness against any other person so violating and may be compelled to attend and testify as any other person. The testimony given shall not be used in any prosecution or criminal proceeding against the person so testifying, except in a prosecution for perjury.

History.—s. 8, ch. 26870, 1951; s. 35, ch. 77-175.

**104.41 Violations not otherwise provided for.**—Any violation of this code not otherwise provided for is a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

History.—s. 8, ch. 26870, 1951; s. 61, ch. 71-136; s. 35, ch. 77-175.

**104.42 Fraudulent registration and illegal voting; investigation.**—

(1) The supervisor of elections is authorized to investigate fraudulent registrations and illegal voting and to report his or her findings to the local state attorney and the Florida Elections Commission.

(2) The board of county commissioners in any county may appropriate funds to the supervisor of elections for the purpose of investigating fraudulent registrations and illegal voting.

History.—ss. 12, 14, ch. 17899, 1937; CGL 1940 Supp. 369(4); s. 8, ch. 26870, 1951; s. 35, ch. 77-175; s. 32, ch. 98-129.

Note.—Former s. 100.40.

**104.43 Grand juries; special investigation.**—The grand jury in any circuit shall, upon the request of any candidate or qualified voter, make a special investigation when it convenes during a campaign preceding any election day to determine whether there is any violation of the provisions of this code, and shall return indictments when sufficient ground is found.

History.—s. 8, ch. 26870, 1951; s. 35, ch. 77-175.