

ENROLLED ACT NO. 23, HOUSE OF REPRESENTATIVES

SIXTY-FOURTH LEGISLATURE OF THE STATE OF WYOMING
2018 BUDGET SESSION

AN ACT relating to elections; modifying penalties imposed upon persons failing to file campaign reports; providing for the collection of delinquent civil penalties, interest and other costs for failing to file campaign reports; repealing criminal penalties for failing to file campaign reports; amending elements and penalties for registration offenses and false voting; modifying enforcement provisions for violations of the Election Code; imposing duties on the secretary of state; and providing for effective dates.

Be It Enacted by the Legislature of the State of Wyoming:

Section 1. W.S. 22-25-108(a), (b) and by creating new subsections (f) through (m), 22-26-102(a)(intro), (i) and by creating new subsections (b) through (e), 22-26-106(a)(intro), (i), (iii) and by creating new subsections (b) through (e) and 22-26-121 are amended to read:

22-25-108. Failure of persons to file reports; notice; penalties; reconsideration.

(a) ~~Candidates~~ Any person required to file a report under W.S. 22-25-106 shall be given notice prior to an election, by the appropriate filing office specified under W.S. 22-25-107, that failure to file the report within the time required, ~~a full and complete itemized statement of contributions if required pursuant to W.S. 22-25-107 and a statement of contributions and expenditures by that section~~ shall subject the ~~candidate~~ person to civil penalties as provided in subsection ~~(e)~~ (f) of this section. The notice shall inform any candidate's campaign committee, organization, political party or political action committee that the officers responsible for filing the report shall be subject to the same civil penalties as the candidate's

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campaign committee, organization, political party or political action committee for failure to file the report.

(b) ~~A candidate~~ Any person who fails to file ~~the statement of contributions required by the seventh day before the election~~ a report under W.S. 22-25-106 within the time required by that section shall have ~~his~~ their name printed on a list drafted by the appropriate filing office. ~~specified under W.S. 22-25-107.~~ The list ~~list~~ filing office shall:

(i) Immediately ~~be posted~~ post the list in the filing office and ~~made~~ make the list available to the public; ~~-~~

(ii) Notify the person at their address of record that the person has twenty-one (21) days from the date the notice was sent to comply with W.S. 22-25-106 or be subject to civil penalties as provided in subsection (f) of this section.

(f) The appropriate filing office or the county attorney, for reports required to be filed with the county clerk, shall issue a final order imposing the civil penalty specified in this subsection against any person failing to comply with W.S. 22-25-106 twenty-one (21) days from the date the notice was sent under subsection (b) of this section. The final order shall be sent to the person at their address of record and shall notify the person of the right to request reconsideration of the order as provided in subsection (h) of this section. The filing office or county attorney shall impose the following civil penalty in the final order:

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(i) Five hundred dollars (\$500.00) for a failure to file a report with the secretary of state;

(ii) Two hundred dollars (\$200.00) for a failure to file a report with the county clerk.

(g) Any candidate required to file a report under W.S. 22-25-106 who authorizes the candidate's campaign committee to file on their behalf as provided by W.S. 22-25-106(j) shall be jointly and severally liable with the candidate's campaign committee for any civil penalty imposed under this section.

(h) Any person may, within twenty (20) days of the date of a final order issued pursuant to subsection (f) of this section, request reconsideration of the order and submit documentation to the appropriate filing office or county attorney showing good cause for a failure to file a report. The filing office or county attorney may, after a decision finding good cause, waive any civil penalty imposed under this section provided that the person files the report within the time specified in the decision. A decision to not waive an imposed penalty by the secretary of state is subject to the contested case procedures of the Wyoming Administrative Procedure Act. A decision to not waive an imposed penalty by the county attorney is appealable to a circuit court of appropriate jurisdiction.

(j) A civil penalty imposed under this section shall be paid within thirty (30) days of the date of the final order issued pursuant to subsection (f) of this section or the date of a decision denying reconsideration by the appropriate filing office or county attorney, whichever is later. Any penalty not paid within the time required by this subsection is delinquent and shall bear interest at a

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rate of eighteen percent (18%) per annum until paid or collected, provided that no penalty is due and no interest shall accrue during any period in which the penalty is being reviewed by a court or during the pendency of a contested case proceeding. The filing office for the state shall notify the attorney general of a delinquent civil penalty.

(k) A delinquent civil penalty may be recovered in an action brought in the name of the state of Wyoming in any court of appropriate jurisdiction. In addition to any other remedy provided by law for the recovery of the penalty and any interest thereon, the county attorney or the attorney general, as appropriate, may recover any costs or damages relating to the recovery effort including attorney's fees. No filing fee shall be charged for the filing of an action under this subsection nor shall a fee be charged for service of process.

(m) Civil penalties and any interest thereon shall be paid to the clerk of court with jurisdiction over the matter for deposit to the public school fund of the county in which the fine was assessed. Any recovered costs or damages relating to the recovery effort shall be retained by the county or the state, as appropriate.

22-26-102. Registration offenses.

(a) Registration offenses consist of performing any of the following acts ~~with the intent to deceive a registration official or to subvert the registration requirements of the law or rights of a qualified elector~~ in connection with or related to the election process or an election:

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(i) Signing or offering to sign an application to register when not a qualified elector or to register under a false name or residence address;

(b) Unless otherwise provided in subsection (c) of this section, registration offenses are misdemeanor offenses punishable by a fine of not more than two hundred dollars (\$200.00).

(c) Registration offenses committed with the intent to deceive a registration official are high misdemeanor offenses punishable by not more than one (1) year imprisonment, a fine of not more than five thousand dollars (\$5,000.00), or both.

(d) Second or subsequent offenses under subsection (c) of this section are felony offenses punishable by not more than five (5) years imprisonment, a fine of not more than ten thousand dollars (\$10,000.00), or both.

(e) The county sheriff shall investigate registration offenses at the request of a county clerk who has reasonable cause to believe that a person has committed a registration offense. After an investigation and a finding that the allegation has merit, the county sheriff shall refer the matter to the district attorney for prosecution in the appropriate courts of this state.

22-26-106. False voting.

(a) False voting consists of performing any of the following acts in connection with or related to the election process or an election:

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(i) Voting, or offering to vote, ~~with the knowledge of when~~ not ~~being~~ a qualified elector entitled to vote at the election;

(iii) ~~Knowingly~~ Voting, or offering to vote, in a precinct other than that in which qualified to vote;

(b) Unless otherwise provided in subsection (c) of this section, false voting is a misdemeanor offense punishable by a fine of not more than two hundred dollars (\$200.00).

(c) False voting committed with the knowledge of not being a qualified elector entitled to vote at the election or in that precinct is a high misdemeanor offense punishable by not more than one (1) year imprisonment, a fine of not more than five thousand dollars (\$5,000.00), or both.

(d) Second or subsequent offenses under subsection (c) of this section are felony offenses punishable by not more than five (5) years imprisonment, a fine of not more than ten thousand dollars (\$10,000.00), or both.

(e) The county sheriff shall investigate acts of false voting at the request of a county clerk who has reasonable cause to believe that a person has committed false voting. After an investigation and a finding that the allegation has merit, the county sheriff shall refer the matter to the district attorney for prosecution in the appropriate courts of this state.

22-26-121. Violations of election code; complaints; investigations and prosecutions.

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(a) Any qualified elector aggrieved by Except as otherwise provided in this section, any person may file a written complaint with the secretary of state regarding any violation of the Wyoming Election Code of 1973, as amended, may file a written complaint of the violation with the secretary of state or with the district attorney for the county in which the elector resides by any statewide or legislative candidate, committee or organization. If the secretary of state ~~or the district attorney fails or refuses for any reason to take action on or prosecute the elector's complaint, the elector may file the complaint with~~ finds that the complaint has merit and suspects a violation of the Election Code, he shall refer the complaint to the Wyoming attorney general for investigation and prosecution. ~~If The attorney general finds that the elector's complaint has merit, he may prosecute the complaint in the appropriate courts of this state~~ district court for the district in which the violation was alleged to occur or in the district court for Laramie county if the violation is reasonably believed to occur in more than one (1) judicial district.

(b) A chief election officer Except as otherwise provided in this section, any person may file a written complaint with the ~~district attorney or attorney general~~ county clerk regarding any violation of the ~~Wyoming Election Code of 1973, as amended by any county or municipal candidate, committee or organization.~~ If the ~~attorney general~~ county clerk finds that the ~~election officer's~~ complaint has merit, ~~he may prosecute the complaint in the appropriate courts of this state and if the violation is reasonably believed to occur in more than one (1) district the complaint may be filed in the district court for Laramie county~~ and suspects a violation of the Election Code, the county clerk shall refer the complaint

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to the district attorney for the county in which the candidate resides for investigation and prosecution.

(c) Complaints that the secretary of state violated the Election Code shall be filed with the attorney general for investigation and prosecution. Complaints that the county clerk violated the Election Code shall be filed with the district attorney for the county for investigation and prosecution.

(d) The secretary of state or the county clerk may refer any suspected violation of the Election Code to the appropriate prosecuting authority as provided in this section.

(e) A complaint of a violation of W.S. 22-26-102 or 22-26-106 shall be filed with the county clerk for the county in which the elector resides and be investigated by the county sheriff as provided in those sections. If the county clerk or other appropriate official specified in W.S. 22-26-102(e) or 22-26-106(e) fails or refuses for any reason to take action on the elector's complaint, the elector may file a complaint with the Wyoming attorney general.

(f) As used in this section:

(i) "County or municipal candidate, committee or organization" means any county or municipal candidate, candidate committee for county or municipal office, political action committee for county or municipal candidate, political action committee or organization supporting or opposing a municipal initiative or referendum petition drive or ballot proposition within a county or

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political subdivision or any other person not identified in paragraph (ii) of this subsection;

(ii) "Statewide or legislative candidate, committee or organization" means any statewide or legislative candidate, candidate committee for statewide or legislative office, political action committee or organization supporting or opposing any statewide or legislative candidate or any statewide initiative or referendum petition drive or ballot proposition, or state or county party central committee.

Section 2. W.S. 22-25-108(c) through (e), 22-25-109 and 22-26-101(a) (i) and (v) are repealed.

Section 3. The secretary of state shall develop a form that the secretary of state and county clerks may use to receive written complaints under W.S. 22-26-121, as amended by this act.

ORIGINAL HOUSE
BILL NO. HB0002

ENGROSSED

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Section 4.

(a) Section 3 of this act is effective immediately upon completion of all acts necessary for a bill to become law as provided by Article 4, Section 8 of the Wyoming Constitution.

(b) Except as provided in subsection (a) of this section, this act is effective May 1, 2018.

(END)

Speaker of the House

President of the Senate

Governor

TIME APPROVED: _____

DATE APPROVED: _____

I hereby certify that this act originated in the House.

Chief Clerk