

Matthew G. Monforton (Montana Bar # 5245)
Monforton Law Offices, PLLC
32 Kelly Court
Bozeman, Montana 59718
Telephone: (406) 570-2949
E-mail: matthewmonforton@yahoo.com

Attorney for Plaintiff Calvin Zastrow

**UNITED STATES DISTRICT COURT
DISTRICT OF MONTANA**

CALVIN ZASTROW,)	
)	
Plaintiff,)	Case No. _____
v.)	
)	
STEVEN BULLOCK, in his official)	VERIFIED COMPLAINT FOR
capacity as Montana’s Attorney General;)	DAMAGES, INJUNCTIVE
LINDA McCULLOCH, in her official)	RELIEF, AND DECLARATORY
capacity as Montana’s Secretary of State;)	RELIEF
JAMES MURRY, in his official capacity as)	
the Political Practices Commissioner;)	
COUNTY OF YELLOWSTONE; SCOTT)	
TWITO, in his official capacity as the)	
Yellowstone County Attorney; KEVIN)	
GILLEN, in both his individual and official)	
capacity as a Yellowstone County Deputy)	
Attorney; and JOHN DOES 1-3, in both)	
their individual and official capacity as)	
Yellowstone County Deputy Sheriffs,)	
)	
Defendants.)	

PRELIMINARY STATEMENT

1. Section 13-35-218(2), MCA, prohibits ministers, pastors, and priests from attempting to persuade voters to support or oppose candidates or ballot initiatives based upon religious duty unless such attempts are by

“public speech or print,” thereby enabling state scrutiny of clergy members’ political opinions. State law requires the text of this Orwellian law to be included in “Warning Posters” issued by the State.¹ Warning Posters are displayed “conspicuously” in *every* Montana polling station during *every* election. §13-13-113, MCA. They “must be headed ‘WARNING’ in large letters.” *Id.*, emphasis in original. They inform voters that, *inter alia*, violations by clergy members may result in “criminal prosecution.” *Id.*

2. Nineteenth-century wanted posters featured train robbers, horse thieves, and cattle rustlers. The scalawags featured in the twenty-first century wanted posters mandated by §§ 13-13-113 and 13-35-218(2), MCA, are clergymen who make private, unapproved statements to voters.

3. Plaintiff Calvin Zastrow is a licensed minister for the Assemblies of God and a pro-life missionary. He routinely attempts to persuade voters in private communications that they have a religious duty to support pro-life initiatives and candidates and oppose pro-abortion candidates. He is active in efforts to qualify CI-108 for the ballot and thereby amend the Montana Constitution to define preborn children as “persons.” When voters ask Zastrow for his opinions in private discussions,

¹ Exhibit 1 is a true and correct copy of the 2012 Warning Poster and can be found at <http://sos.mt.gov/Elections/Officials/Forms/Polling_Place_Forms/Warning_Poster.pdf>

he tells them they have a religious duty to support CI-108 and pro-life candidates, and oppose pro-abortion candidates. In so doing, he often identifies by name candidates deserving support or opposition

4. On February 4, 2012, Zastrow was gathering signatures for CI-108 while standing on a sidewalk near the entrance to the Montana Pavilion at MetraPark in Billings. Signature gatherers commonly use this location when public events are held at the Pavilion. Deputies arrested Zastrow in the afternoon after MetraPark alerted them to his signature gathering. They booked Zastrow and gave him a citation to appear in court. Later, however, deputies released Zastrow from jail and seized the citation from him because MetraPark “dropped the charges.”

5. Zastrow intends to continue his efforts to qualify CI-108, including lawfully obtaining signatures at MetraPark. He also intends to continue persuading voters in private conversations that their religious duty requires them to support CI-108 and pro-life candidates, and oppose pro-abortion candidates. Zastrow seeks damages for violations of his rights under the First, Fourth and Fourteenth Amendments to the U.S. Constitution as well as prospective relief to prevent Defendants from:

- threatening to enforce §13-35-218(2), MCA, and including the statute’s text in Warning Posters in Montana polling stations; and
- obstructing Zastrow from lawfully gathering signatures at MetraPark.

JURISDICTION AND VENUE

6. This Court has jurisdiction under 28 U.S.C. §§1331, 1343, 42 U.S.C. §1983, and the First, Fourth and Fourteenth Amendments to the United States Constitution.

7. Venue for this action properly lies in the Billings Division of the District of Montana because several Defendants reside within the Billings Division and substantially all of the events giving rise to the claims in this action occurred in the Billings Division.

PARTIES

8. Plaintiff Calvin Zastrow resides in Yellowstone County in the State of Montana. He is licensed as a minister by the Executive Presbytery of the General Council of the Assemblies of God.

9. Defendant Steve Bullock is the Attorney General of Montana and is sued in his official capacity only. Bullock has authority to investigate and prosecute violations of §13-35-218(2), MCA, (hereinafter, the “Clergy Censorship Statute”) by and through the state’s county attorneys.

10. Defendant Linda McCulloch is the Secretary of State of Montana and is sued in her official capacity only. Her office is responsible

for preparing the Warning Posters mandated by § 13-13-113, MCA, and distributing them to polling stations throughout Montana.

11. Defendant James Murry is the Commissioner of Political Practices for Montana and is sued in his official capacity only. Murray has authority to investigate violations of, enforce the provisions of, and hire attorneys to prosecute violations of the Clergy Censorship Statute.

12. Defendant Yellowstone County is the municipal entity under Montana law that owns MetraPark. Zastrow was arrested on February 4, 2012, pursuant to the policies and customs of Yellowstone County.

13. Defendant Scott Twito is the Yellowstone County Attorney and is sued in his official capacity only. Twito has authority to investigate and prosecute violations of the Clergy Censorship Statute as well as other crimes occurring within Yellowstone County.

14. Defendant Kevin Gillen is a Yellowstone Deputy County Attorney. Gillen instructed deputies to arrest Zastrow without probable cause. Gillen is sued in both his official and individual capacities.

15. Defendants John Doe 1, John Doe 2, and John Doe 3 are deputies employed by the Yellowstone County Sheriff's Department. They illegally arrested Zastrow on February 4, 2012. They are sued in both their official and individual capacities.

FACTUAL ALLEGATIONS

A. Facts Concerning Montana’s Clergy Censorship Statute

16. The Clergy Censorship Statute states as follows:

A person who is a minister, preacher, priest, or other church officer or who is an officer of any corporation or organization, religious or otherwise, may not, other than by public speech or print, urge, persuade, or command any voter to vote or refrain from voting for or against any candidate, political party ticket, or ballot issue submitted to the people because of the person’s religious duty or the interest of any corporation, church, or other organization.

§ 13-35-218(2), MCA. Violating this statute is a crime. § 13-35-103, MCA.

17. Montana requires Warning Posters to be displayed

“conspicuously” in every polling station during every election. § 13-13-113(1), MCA; see also Exhibit 1. At the top of these posters is the word “WARNING.” *Id.* The next sentence advises voters that “the sections of law printed below list specific conduct or actions which may cause an elector to be subject to criminal prosecution.” *Id.* The text of the Clergy Censorship Statute is one of the sections of law contained in these Warning Posters. *Id.*

B. Facts Concerning the Pavilion at MetraPark

18. MetraPark is located in Billings, Montana and is billed as a “multifacility events campus, the largest of its kind within a 5 state region with professional management solely dedicated to the events business.”

19. Yellowstone County owns and operates MetraPark.

20. One of MetraPark’s buildings, the Montana Pavillion, is a multi-purpose exhibit building consisting of 28,800 square feet of space.

21. Events held at the Pavilion are usually free and open to the public.

22. The Pavilion has served as an official polling station in past elections.

23. Signature gatherers for other ballot initiatives have routinely obtained signatures from the exact location Zastrow used on February 4, 2012.

24. They have done so without being arrested, threatened with arrest, harassed, or impeded by County officials.

25. The sidewalk in front of the Pavilion at MetraPark constitutes a “traditional public forum” as defined by the United States Supreme Court and Ninth Circuit Court of Appeals.

C. Facts Concerning Zastrow's Illegal Arrest on February 4, 2012

26. Calvin Zastrow is licensed as a minister by the Executive Presbytery of the General Council of the Assemblies of God.

27. He has an active pro-life ministry and has sought to qualify pro-life initiatives on state ballots throughout the country.

28. Zastrow routinely shares his opinions with voters in non-public communications regarding their religious duty to support pro-life candidates and ballot initiatives and oppose pro-abortion candidates. He intends to continue privately advising voters as to their religious duties in casting votes regarding specific ballot initiatives and specific candidates in the 2012 elections.

29. Zastrow has been gathering signatures since September 2011 to qualify CI-108 for the ballot in November 2012.

30. On February 4, 2012, Family Life Expo conducted an event at the Pavilion in MetraPark billed as "a full day of helpful seminars on running your household and helping your family enjoy success."

31. The event was free and open to the public.

32. Zastrow arrived at the Pavillion at around 9:30 a.m. and began obtaining signatures for CI-108.

33. He did so while standing on the sidewalk running parallel to the Pavilion. Zastrow positioned himself next to a light pole to avoid obstructing members of the public entering and exiting the Pavilion.

34. Zastrow did not have any signs, posters or banners and did not use any sound amplifying equipment.

35. He did not distribute any literature, was never loud, disruptive or argumentative, and did not smoke.

36. Zastrow never entered the Pavilion.

37. At approximately 10:30 a.m., Robert Trampler, MetraPark's events coordinator, informed Zastrow that "petitioners were not allowed" at that location because it was "private property."

38. When Zastrow informed Trampler that the location was County property, Trampler asked Zastrow if he would be willing to move to a different location.

39. Zastrow stated that he would agree as long as the new location provided adequate accessibility to persons entering and exiting the Pavilion.

40. Trampler left, then returned several minutes later and stated that he had conferred with the commissioners and the County Attorney.

41. Trampler then told Zastrow to move west to a location behind a tree and an unused ticket booth, both of which blocked Zastrow's

accessibility to the public and the public's visibility of Zastrow. Moreover, most of the attendees walked to the Pavilion from the east, thereby further diminishing Zastrow's ability to communicate with them.

42. Zastrow left for a short while, then returned to his original location next to the light pole.

43. Trampler told Zastrow to leave or face arrest. Zastrow declined.

44. Shortly after noon, Trampler again approached Zastrow and again told him to leave. Zastrow declined.

45. MetraPark officials contacted Kevin Gillen, a deputy county attorney employed by Yellowstone County.

46. Gillen instructed Yellowstone County officials that Zastrow should be arrested for gathering signatures at the location he had been using throughout the day.

47. Three patrol cars approached Zastrow at approximately 12:40 p.m.

48. Two deputies exited their vehicles and approached Zastrow. A third approached Zastrow's wife, Patricia Zastrow, who was standing near her husband. Rose Lance, a friend of the Zastrows, was seated in a nearby vehicle.

49. The deputies asked Zastrow to continue his activities at the location selected by Trampler that was obstructed by a tree and a ticket booth.

50. Zastrow declined and stated that he was on County property.

51. Deputies then told Zastrow that he could buy a booth inside the Pavilion and gather signatures there.

52. Zastrow declined.

53. Deputies then repeated their offer to Zastrow to buy a booth inside the Pavilion.

54. Zastrow again declined.

55. Deputies then handcuffed Zastrow, announced that he was under arrest for trespassing, and placed him in a patrol car.

56. Deputies transported Zastrow to the Yellowstone County Detention Facility, where he was booked, searched, fingerprinted, photographed, then questioned further.

57. Around 2:00 p.m., deputies gave Zastrow a citation to appear in court.

58. Shortly thereafter, deputies told him to return the citation because MetraPark was “dropping the charges.”

59. Deputies then dropped off Zastrow in downtown Billings.

60. They ordered him not to gather any more signatures at MetraPark.

61. Montana elections are scheduled to be held in May, June and November of 2012.

62. During each of these elections, Montana officials will post Warning Posters in every polling station, advising that opinions pertaining to voters' religious duties privately expressed by members of the clergy, such as Zastrow, are to be treated with disdain and that members of the clergy who express such opinions are criminals.

CAUSES OF ACTION

FIRST CAUSE OF ACTION - 42 U.S.C. § 1983

The Clergy Censorship Statute Violates the Free Speech Clause of the First Amendment

63. Paragraphs 1 through 62 are incorporated by reference.

64. The Clergy Censorship Statute imposes criminal sanctions upon members of the clergy who privately discuss with voters their religious duty to support or oppose candidates, political parties, and ballot initiatives. §13-35-218(2), MCA.

65. Laws prohibiting such speech are subject to strict scrutiny. *Citizens United v. F.E.C.*, 130 S. Ct. 876, 898 (2010).

66. The Clergy Censorship Statute cannot satisfy strict scrutiny because the State has no compelling, or even legitimate, interest in prohibiting such speech.

67. The Clergy Censorship Statute therefore violates the Free Speech Clause of the First Amendment.

WHEREFORE, Zastrow prays for relief against all Defendants as set forth below.

SECOND CAUSE OF ACTION - 42 U.S.C. § 1983

The Clergy Censorship Statute Violates the Free Exercise Clause of the First Amendment

68. Paragraphs 1 through 67 are incorporated by reference.

69. The Free Exercise Clause of the First Amendment protects the right of persons to become members of the clergy. *McDaniel v. Paty*, 435 U.S. 618, 626 (1978).

70. The Clergy Censorship Statute forces members of the clergy to sacrifice either their right to be in the clergy or their right to speak privately to voters regarding voters' religious duties. Thus, clergy members "cannot exercise both rights simultaneously because the State has conditioned the exercise of one on the surrender of the other." *McDaniel*, 435 U.S. at 626.

71. Defendants have no compelling, or even legitimate, interest in infringing upon the rights of members of the clergy in the manner required by the Clergy Censorship Statute.

72. Because “only those interests of the highest order and those not otherwise served can overbalance legitimate claims to the free exercise of religion,” *McDaniel*, 435 U.S. at 626, the Clergy Censorship Statute violates the Free Exercise Clause of the First Amendment.

WHEREFORE, Zastrow prays for relief against all Defendants as set forth below.

THIRD CAUSE OF ACTION - 42 U.S.C. § 1983

The Clergy Censorship Statute Violates the Establishment Clause of the First Amendment

73. Paragraphs 1 through 72 are incorporated by reference.

74. The Establishment Clause of the First Amendment prohibits the government not only from favoring religion, but also from disfavoring it. *Church of Lukumi Babalu Aye, Inc. v. City of Hialeah*, 508 U.S. 520, 532 (1993) (the Establishment Clause “forbids an official purpose to disapprove of a particular religion or of religion in general”).

75. State laws pass muster under the Establishment Clause only if (1) they have a secular purpose, (2) their primary effect neither advances nor

inhibits religion, and (3) they do not foster excessive entanglement with religion. *Lemon v. Kurtzman*, 403 U.S. 602, 612 (1971).

76. The Clergy Censorship Statute cannot meet any of these three requirements and therefore violates the Establishment Clause of the First Amendment.

WHEREFORE, Zastrow prays for relief against all Defendants as set forth below.

FOURTH CAUSE OF ACTION - 42 U.S.C. § 1983
(The Clergy Censorship Statute Violates the Equal Protection Clause of the
Fourteenth Amendment)

77. Paragraphs 1 through 76 are incorporated by reference.

78. Under the Equal Protection Clause of the Fourteenth Amendment, statutes involving religious-based discrimination are subject to strict scrutiny.

79. Those persons who follow a religious calling by joining the ministry are prohibited from engaging in private communications with voters regarding voters' religious duty to support or oppose candidates, parties and ballot initiatives.

80. Persons following secular callings (*e.g.*, doctors, unionized construction workers, lawyers, *etc.*) face no such prohibition.

81. The Clergy Censorship Statute thus discriminates based upon religion, a suspect classification.

82. The Clergy Censorship Statute cannot meet the requirements of strict scrutiny and therefore violates the Equal Protection Clause of the Fourteenth Amendment.

WHEREFORE, Zastrow prays for relief against all Defendants as set forth below.

FIFTH CAUSE OF ACTION - 42 U.S.C. § 1983
Zastrow's Illegal Arrest Violated the Fourth Amendment

83. Paragraphs 1 through 82 are incorporated by reference.

84. Defendants' actions in arresting, restraining, handcuffing, transporting, and incarcerating Zastrow constituted a seizure for purposes of the Fourth and Fourteenth Amendments to the United States Constitution.

85. Defendants arrested, restrained, handcuffed, transported, and incarcerated Zastrow without probable cause and their actions were unreasonable in light of the circumstances.

86. Defendants' actions inflicted upon Zastrow unnecessary physical discomfort, humiliation, embarrassment, and mental suffering.

87. Because Gillen and John Does 1 -3 violated Zastrow's clearly

established constitutional rights, they do not have qualified immunity.

88. Because “absolute immunity does not extend to the prosecutorial function of giving legal advice to the police,” *Lacey v. Maricopa County*, 649 F.3d 1118, 1129 (9th Cir. 2011), quoting *Burns v. Reed*, 500 U.S. 478, 496 (1991), this defense does not apply to Defendant Gillen.

WHEREFORE, Zastrow prays for relief against Defendants Gillen and John Does 1 – 3 as set forth below.

SIXTH CAUSE OF ACTION - 42 U.S.C. § 1983
Zastrow’s Illegal Arrest Violated the First Amendment

89. Paragraphs 1 through 88 are incorporated by reference.

90. Defendants effected a criminal prosecution of Zastrow on February 4, 2012, by arresting him while he was lawfully gathering signatures for CI-108 near the Pavilion.

91. Defendants had no probable cause to arrest Zastrow and knew that he was exercising his First Amendment rights when they arrested him.

92. When Defendants arrested Zastrow, they did so maliciously and with the intent of depriving him of his First Amendment right to lawfully obtain signatures for CI-108 near the Pavilion.

93. Because Gillen and John Does 1 -3 violated Zastrow's clearly established constitutional rights, they do not have qualified immunity.

94. Because "absolute immunity does not extend to the prosecutorial function of giving legal advice to the police," *Lacey v. Maricopa County*, 649 F.3d 1118, 1129 (9th Cir. 2011), quoting *Burns v. Reed*, 500 U.S. 478, 496 (1991), this defense does not apply to Defendant Gillen.

WHEREFORE, Zastrow prays for relief against Defendants Gillen and John Does 1 – 3 as set forth below.

SEVENTH CAUSE OF ACTION - 42 U.S.C. § 1983

Zastrow's Illegal Arrest Constituted Malicious Prosecution in Violation of his Right to Due Process Under the Fourteenth Amendment

95. Paragraphs 1 through 94 are incorporated by reference.

96. Defendants effected a criminal prosecution of Zastrow on February 4, 2012, by arresting him while he was lawfully gathering signatures for CI-108 near the Pavilion.

97. Defendants had no probable cause to arrest Zastrow and knew that he was exercising his First Amendment rights when they arrested him.

98. When Defendants arrested Zastrow, they did so maliciously and with the intent of depriving him of his First Amendment right to lawfully

obtain signatures for CI-108 near the Pavilion.

99. Defendants' arrest of Zastrow deprived him of his liberty without due process of law.

100. Because Gillen and John Does 1 -3 violated Zastrow's clearly established constitutional rights, they do not have qualified immunity.

101. Because "absolute immunity does not extend to the prosecutorial function of giving legal advice to the police," *Lacey v. Maricopa County*, 649 F.3d 1118, 1129 (9th Cir. 2011), quoting *Burns v. Reed*, 500 U.S. 478, 496 (1991), this defense does not apply to Defendant Gillen.

WHEREFORE, Zastrow prays for relief against Defendants Gillen and John Does 1 – 3 as set forth below.

EIGHTH CAUSE OF ACTION – Supplemental State Law Claim
Defendants Violated Montana's Anti-Intimidation Act

102. Paragraphs 1 through 101 are incorporated by reference.

103. Under § 27-1-1503(1), MCA, an individual who is subject to, *inter alia*, an act of criminal intimidation under § 45-5-203, MCA, has a civil cause of action against the person causing the harm.

104. Intimidation occurs when, with the purpose to cause another to perform or to omit the performance of any act, the person communicates to

another, under circumstances that reasonably tend to produce a fear that it will be carried out, a threat to subject any person to physical confinement or restraint without lawful authority. § 45-5-203(1)(b), MCA.

105. On February 4, 2012, Zastrow was lawfully exercising his First Amendment right to collect signatures while standing near the Pavilion.

106. Defendants repeatedly threatened Zastrow with arrest if he refused to either cease gathering signatures or move to a location in which his visibility to the public would be obscured by a tree and a ticket booth.

107. In so doing, Defendants violated §§ 45-5-203(1)(b) and 27-1-1503(1), MCA.

WHEREFORE, Zastrow prays for relief against Defendants Gillen and John Does 1 – 3 as set forth below.

NINTH CAUSE OF ACTION – Supplemental State Law Claim
Defendants Falsely Imprisoned Zastrow

108. Paragraphs 1 through 107 are incorporated by reference.

109. Defendants Gillen and John Does 1 – 3, ordered, consented and/or agreed to Zastrow's arrest, physical restraint, handcuffing, transporting to jail, and incarceration.

110. Defendants' actions in confining Zastrow were unlawful.

111. As a direct and proximate cause of the intentional conduct of Defendants Gillen and John Does 1 – 3 in ordering, consenting, and/or agreeing to Zastrow’s confinement, Zastrow was falsely imprisoned.

112. Further, the actions of Defendants Gillen and John Does 1 – 3 caused Zastrow to be humiliated and embarrassed, to feel degraded and inferior, and to feel that other people would regard him with aversion or dislike.

WHEREFORE, Zastrow prays for relief against Defendants Gillen and John Does 1 – 3 as set forth below.

REQUEST FOR JURY TRIAL

Plaintiff Calvin Zastrow requests a jury trial as to all issues so triable.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Calvin Zastrow prays for relief as follows:

- a) Declare that the Clergy Censorship Statute is unconstitutional;
- b) Enjoin Defendants from enforcing the Clergy Censorship Statute, threatening to enforce it, and posting its text in Montana polling stations;
- c) Enjoin Defendants from obstructing lawful efforts by Zastrow to gather signatures at MetraPark;

d) Award Zastrow nominal, compensatory and punitive damages against Defendants for their willful violation of Zastrow's clearly established federal constitutional rights and state rights;

e) Award Zastrow his costs of litigation, including reasonable attorneys' fees and expenses, pursuant to 42 U.S.C. § 1988; and

f) Grant such other relief to which Zastrow may be entitled, or as this Court deems necessary and proper.

DATED: February 21, 2012

/s/ Matthew G. Monforton
Matthew G. Monforton
Monforton Law Offices, PLLC
32 Kelly Court
Bozeman, Montana 59718
Telephone: (406) 570-2949

Attorney for Plaintiff Calvin Zastrow

VERIFICATION

I solemnly affirm under penalty of perjury under the laws of the United States that the foregoing statements contained in this Complaint are true and correct to the best of my knowledge and understanding.

DATED: February 21, 2012

/s/ Calvin Zastrow
Calvin Zastrow
Plaintiff

The sections of law printed below list specific conduct or actions which may cause an elector to be subject to criminal prosecution. This is not intended to be a complete printing of all laws pertaining to election violations. **By law, this warning notice must be posted in conspicuous places in the polling place.**

INFORMATION ON STATE LAWS
REGARDING PROHIBITIONS ON
ACTS OF FRAUD AND
MISREPRESENTATION:

13-35-201. Electors and ballots. (1) An elector may not show the contents of his ballot to anyone after it is marked. No elector may place any mark upon the ballot by which it may be identified as the one voted by him.

(2) An elector may not receive a ballot from any person other than an election judge and may not vote any ballot except one received from an election judge. No person other than an election judge may deliver a ballot to an elector.

(3) No person may solicit an elector to show his ballot after it is marked.

(4) An elector who does not vote a ballot delivered to him shall, before leaving the polling place, return the ballot to an election judge.

13-35-202. Conduct of election officials and election judges. An election officer or judge of an election may not:

(1) deposit in a ballot box a paper ballot that is not marked as official;

(2) examine an elector's ballot before putting the ballot in the ballot box;

(3) look at any mark made by the elector upon the ballot;

(4) make or place any mark or device on any ballot with the intent to ascertain how the elector has voted;

(5) allow any individual other than the elector to be present at the marking of the ballot except as provided in 13-13-118 and 13-13-119; or

(6) make a false statement in a certificate regarding affirmation.

13-35-206. Injury to election equipment, materials, and records. A person is guilty of criminal mischief or tampering with public records and information, as appropriate, and is punishable as provided in 45-6-101 or 45-7-208, as applicable, whenever the person:

(1) prior to or on election day, knowingly defaces or destroys any list of candidates posted in accordance with the provisions of the law;

(2) during an election:

(a) removes or defaces instructions for the voters; or

(b) removes or destroys any of the supplies or other conveniences placed in the voting station for the purpose of enabling a voter to prepare the voter's ballot;

(3) removes any ballots from the polling place before the closing of the polls with the purpose of changing the result of the election;

(4) carries away or destroys any poll lists, checklists, ballots, ballot boxes, or other

equipment for the purpose of disrupting or invalidating an election;

(5) knowingly detains, mutilates, alters, or destroys any election returns;

(6) mutilates, secretes, destroys, or alters election records, except as provided by law;

(7) tampers with, disarranges, defaces, injures, or impairs a voting system with the intent to alter the outcome of an election;

(8) mutilates, injures, or destroys a ballot or appliance used in connection with a voting system; or

(9) fraudulently defaces or destroys a declaration or certificate of nomination.

13-35-211. Electioneering -- soliciting information from electors. (1) A person may not do any electioneering on election day within any polling place or any building in which an election is being held or within 100 feet of any entrance to the building in which the polling place is located, which aids or promotes the success or defeat of any candidate or ballot issue to be voted upon at the election.

(2) A person may not buy, sell, give, wear, or display at or about the polls on an election day any badge, button, or other insignia which is designed or tends to aid or promote the success or defeat of any candidate or ballot issue to be voted upon at the election.

(3) A person within a polling place or any building in which an election is being held may not solicit from an elector, before or after the elector has marked a ballot and returned it to an election judge, information as to whether the elector intends to vote or has voted for or against a candidate or ballot issue.

13-35-214. Illegal influence of voters. No person, directly or indirectly, by himself or by any other person on his behalf, for any election, to or for any person on behalf of any elector or to or for any person, in order to induce any elector to vote or refrain from voting or to vote for or against any particular candidate, political party ticket, or ballot issue, may:

(1) give, lend, agree to give or lend, offer, or promise any money, liquor, or valuable consideration or promise or endeavor to procure any money, liquor, or valuable consideration;

(2) promise to appoint another person or promise to secure or aid in securing the appointment, nomination, or election of another person to a public or private position or employment or to a position of honor, trust, or emolument, in order to aid or promote his nomination or election, except that he may publicly announce or define what is his choice or purpose in relation to an election in which he may be called to take part, if elected.

13-35-217. Officers not to influence voter.

No officer, while acting in his official capacity, may, by menace, reward, or promise of reward, induce or attempt to induce any elector to cast a vote contrary to his original intention or desire.

13-35-218. Coercion or undue influence of voters. (1) No person, directly or indirectly, by himself or any other person in his behalf, in order to induce or compel a person to vote or refrain from voting for any candidate, the ticket of any political party, or any ballot issue before the people, may:

(a) use or threaten to use any force, coercion, violence, restraint, or undue influence against any person; or

(b) inflict or threaten to inflict, by himself or any other person, any temporal or spiritual injury, damage, harm, or loss upon or against any person.

(2) No person who is a minister, preacher, priest, or other church officer or who is an officer of any corporation or organization, religious or otherwise, may, other than by public speech or print, urge, persuade, or command any voter to vote or refrain from voting for or against any candidate, political party ticket, or ballot issue submitted to the people because of his religious duty or the interest of any corporation, church, or other organization.

(3) No person may, by abduction, duress, or any fraudulent contrivance, impede or prevent the free exercise of the franchise by any voter at any election or thereby compel, induce, or prevail upon any elector to give or to refrain from giving his vote at any election.

(4) No person may, in any manner, interfere with a voter lawfully exercising his right to vote at an election so as to prevent the election from being fairly held and lawfully conducted.

(5) No person on election day may obstruct the doors or entries of any polling place or engage in any solicitation of a voter within the room where votes are being cast or elsewhere in any manner which in any way interferes with the election process or obstructs the access of voters to or from the polling place.

INFORMATION ON FEDERAL LAWS
REGARDING PROHIBITIONS ON ACTS
OF FRAUD AND MISREPRESENTATION:

Federal authorities may become involved in election fraud or misrepresentation issues when a state prosecutor asks for federal assistance or when allegations arise that criminal vote fraud has occurred in a federal election. If you have information about vote fraud, contact the nearest office of the FBI or your local U.S. Attorney's office.