

SENATE CS FOR CS FOR HOUSE BILL NO. 129(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-THIRD LEGISLATURE - SECOND SESSION

BY THE SENATE FINANCE COMMITTEE

Offered: 5/14/24

Referred: Today's Calendar

Sponsor(s): HOUSE JUDICIARY COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to elections; relating to voter registration; relating to candidate legal**
2 **funds; relating to voting; relating to special needs voting; relating to absentee voting;**
3 **relating to defamation claims based on the use of synthetic media; relating to the use of**
4 **synthetic media in electioneering communications; and providing for an effective date."**

5 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

6 * **Section 1.** AS 09.65 is amended by adding a new section to read:

7 **Sec. 09.65.360. Civil liability for defamation based on synthetic media.** An
8 action for defamation based on the use of synthetic media is a claim for defamation
9 per se. In this section, "synthetic media" has the meaning given in AS 15.80.009(g).

10 * **Sec. 2.** AS 15.07.130(a) is amended to read:

11 (a) Periodically, at times of the director's choosing, but **not** [NO] less
12 frequently than in January of each calendar year, the director shall examine the master
13 register maintained under AS 15.07.120 and shall send, by **forwardable**
14 [NONFORWARDABLE] mail to the voter's registration mailing address, **and to the**

1 voter's electronic mail address, if available, a notice requesting address
 2 confirmation or correction. The notice must explain that the voter's registration
 3 will be inactivated unless the voter responds to the notice within 45 days after the
 4 date the notice is sent. The director shall send the notice to each voter

5 (1) whose mail from the division has been returned to the division in
 6 the two years immediately preceding the examination of the register;

7 (2) who has not contacted the division in the two years immediately
 8 preceding the examination of the register **and** [; OR (3)] who has not voted or
 9 appeared to vote in the two general elections immediately preceding the examination
 10 of the register; **or**

11 (3) who the division has learned, after registering to vote in this
 12 state and in the two years immediately preceding the examination of the register,
 13 has

14 (A) registered to vote in another state;

15 (B) received a driver's license from another state;

16 (C) served on a jury in another state;

17 (D) received benefits under a claim of residency in another
 18 state, territory, or country; or

19 (E) established residence in another state, territory, or
 20 country.

21 * **Sec. 3.** AS 15.07.130(b) is amended to read:

22 (b) If a registered voter **does** [HAS] not respond to a notice sent under (a) of
 23 this section within 45 days after the date the notice is sent, the director shall
 24 inactivate the voter's registration [, WITHIN THE PRECEDING FOUR
 25 CALENDAR YEARS, CONTACTED THE DIVISION AND HAS NEITHER
 26 VOTED NOR APPEARED TO VOTE IN A LOCAL, REGIONAL SCHOOL
 27 BOARD, PRIMARY, SPECIAL, OR GENERAL ELECTION DURING THE LAST
 28 FOUR CALENDAR YEARS AND A NOTICE SENT TO THE VOTER UNDER (a)
 29 OF THIS SECTION WAS RETURNED AS UNDELIVERABLE, THE VOTER
 30 SHALL BE ADVISED BY A NOTICE SENT BY FORWARDABLE MAIL TO THE
 31 VOTER'S LAST KNOWN ADDRESS THAT REGISTRATION WILL BE

1 INACTIVATED UNLESS THE VOTER RESPONDS TO THE NOTICE NO
 2 LATER THAN 45 DAYS AFTER THE DATE OF THE NOTICE SENT UNDER
 3 THIS SECTION]. The director shall maintain on the master register the name of a
 4 voter whose registration is inactivated. The director shall cancel a voter's inactive
 5 registration in accordance with the procedures set out in 42 U.S.C. 1973gg-6 (sec. 8,
 6 National Voter Registration Act of 1993) after the second general election that occurs
 7 after the registration becomes inactive if the voter does not contact the division or vote
 8 or appear to vote.

9 * **Sec. 4.** AS 15.07.130(d) is amended to read:

10 (d) The notice sent under (a) [(b)] of this section must include a postage
 11 prepaid and pre-addressed return card on which the voter may state the voter's current
 12 address. The notice must indicate

13 (1) that the voter should return the card not later than 45 days after the
 14 date of the notice if the voter did not change residence;

15 (2) that failure to return the card by the 45-day deadline could result in
 16 removal of the voter's name from the official registration list for a subsequent election;

17 (3) that the voter's registration will be cancelled if the voter does not
 18 contact the division during, or vote or appear to vote in an election held during, the
 19 period beginning on the date of the notice and ending on the day after the last day of
 20 the fourth calendar year that occurs after the date of notice; and

21 (4) how the voter can continue to be eligible to vote if the voter has
 22 changed residence.

23 * **Sec. 5.** AS 15.07.130 is amended by adding new subsections to read:

24 (g) The division shall adopt regulations providing for regular review and
 25 updates of the master register. The regulations must provide for review of the register
 26 for data breaches, the number of registered voters compared to persons eligible to vote
 27 in the state, and the names of deceased voters, persons convicted of a felony involving
 28 moral turpitude, persons not qualified to vote under AS 15.05, and persons registered
 29 to vote in another state. The regulations may specify records and databases for use in
 30 reviewing the master register; the records and databases may include databases
 31 sourced from governmental agencies outside the division, including the United States

Postal Service national change of address database, the database of permanent fund dividend recipients, Alaska Court System databases, state motor vehicle records, records of the state programs of corrections, property and sales tax records, records of the federal social security system, municipal assessor databases, the United States Social Security Administration death index, an alien database maintained by the United States Department of Homeland Security, and jury duty records from other jurisdictions. The director may compare the master register to state welfare and public assistance agency databases to identify information relevant to registration to vote in state elections, including address changes, deaths, and citizenship status, and shall review the number of voters registered at each registration address to identify anomalous registration totals.

(h) The director shall adopt a best practice voter registration system to improve identity matching when comparing the master register with the records and databases used to review the master register. The director shall develop a written maintenance schedule and guideline manual for the system and provide a report on the system to the senate secretary and the chief clerk of the house of representatives on or before the first day of the first regular session of each legislature and shall notify the legislature that the report is available.

(i) The director shall, in a notice sent under (a) of this section, inform a voter of the criteria to qualify as a voter and the penalties for voter misconduct.

* **Sec. 6.** AS 15.07 is amended by adding a new section to read:

Sec. 15.07.133. Process to cancel registration. The director shall develop a process to allow a voter to cancel the voter's registration in person before an election official or electronically. The director shall prominently display instructions for a voter to cancel the voter's registration at each polling place.

* **Sec. 7.** AS 15.07.195 is amended by adding a new subsection to read:

(e) Unless disclosure of information related to a data breach of information made confidential by this section would compromise a criminal investigation, the director shall, not less than 30 days after discovering the breach, publish notice of the nature and severity of the breach on the division's Internet website and report the details of the breach to the president of the senate and the speaker of the house of

representatives.

* **Sec. 8.** AS 15.13.116(a) is amended to read:

(a) A candidate who, after the date of the general, special, municipal, or municipal runoff election or after the date the candidate withdraws as a candidate, whichever comes first, holds unused campaign contributions shall distribute the amount held on February 1 for a general election or within 90 days after a special election. The distribution may only be made to

(1) pay bills incurred for expenditures reasonably related to the campaign and the winding up of the affairs of the campaign, including a victory or thank you party, thank you advertisements, and thank you gifts to campaign employees and volunteers, and to pay expenditures associated with post-election fund raising that may be needed to raise funds to pay off campaign debts;

(2) make donations, without condition, to

(A) a political party;

(B) the state's general fund;

(C) a municipality of the state; or

(D) the federal government;

(3) make donations, without condition, to organizations qualified as charitable organizations under 26 U.S.C. 501(c)(3) if the organization is not controlled by the candidate or a member of the candidate's immediate family;

(4) repay loans from the candidate to the candidate's own campaign under AS 15.13.078(b);

(5) repay contributions to contributors, but only if repayment of the contribution is made pro rata in approximate proportion to the contributions made using one of the following, as the candidate determines:

(A) to all contributors;

(B) to contributors who have contributed most recently; or

(C) to contributors who have made larger contributions;

(6) **a legal fund established under AS 15.13.118** [ESTABLISH A FUND FOR, AND FROM THAT FUND TO PAY, ATTORNEY FEES OR COSTS INCURRED IN THE PROSECUTION OR DEFENSE OF AN ADMINISTRATIVE

1 OR CIVIL JUDICIAL ACTION THAT DIRECTLY CONCERNS A CHALLENGE
2 TO THE VICTORY OR DEFEAT OF THE CANDIDATE IN THE ELECTION];

3 (7) transfer all or a portion of the unused campaign contributions to an
4 account for a future election campaign; a transfer under this paragraph is limited to

5 (A) \$50,000, if the transfer is made by a candidate for governor
6 or lieutenant governor;

7 (B) \$10,000, if the transfer is made by a candidate for the state
8 senate;

9 (C) \$5,000, if the transfer is made by a candidate for the state
10 house of representatives; and

11 (D) \$5,000, if the transfer is made by a candidate for an office
12 not described in (A) - (C) of this paragraph;

13 (8) transfer all or a portion of the unused campaign contributions to a
14 public office expense term account; a transfer under this paragraph is subject to the
15 following:

16 (A) the authority to transfer is limited to candidates who are
17 elected to the state legislature;

18 (B) the public office expense term account established under
19 this paragraph may be used only for expenses associated with the candidate's
20 serving as a member of the legislature;

21 (C) all amounts expended from the public office expense term
22 account shall be annually accounted for under AS 15.13.110(a)(4);

23 (D) a transfer under this paragraph is limited to \$5,000
24 multiplied by the number of years in the term to which the candidate is elected
25 plus any accumulated interest; and

26 (E) unused campaign contributions transferred under this
27 paragraph must be disposed of as provided in (2), (3), or (5) of this subsection
28 at the end of the term of office immediately following the campaign for which
29 the contributions were received; and

30 (9) transfer all or a portion of the unused campaign contributions to a
31 municipal office account; a transfer under this paragraph is subject to the following:

(A) the authority to transfer is limited to candidates who are elected to municipal office, including a municipal school board;

(B) the municipal office account established under this paragraph may be used only for expenses associated with the candidate's serving as mayor or as a member of the assembly, city council, or school board;

(C) all amounts expended from the municipal office account shall be annually accounted for under AS 15.13.110(a)(4);

(D) a transfer under this paragraph is limited to \$5,000; and

(E) unused campaign contributions transferred under this paragraph must be disposed of as provided in (2), (3), or (5) of this subsection at the end of the term of office immediately following the campaign for which the contributions were received.

* **Sec. 9.** AS 15.13 is amended by adding a new section to read:

Sec. 15.13.118. Legal funds. (a) A candidate for office in an election may establish a legal fund to pay attorney fees and costs incurred in connection with a recount of votes for that office under AS 15.20.510 or an election contest under AS 15.20.540 relating to that office.

(b) Notwithstanding AS 15.13.074(c), a candidate may, after the election, accept donations to a legal fund. Donations to and payments from the legal fund must be reported to the commission in the manner prescribed by the commission.

(c) The balance remaining in a legal fund after allowable attorney fees and costs under (a) of this section have been paid must be disposed of as provided in AS 15.13.116(a)(2)(A) or (3). A candidate may not transfer unused donations under this section to an account for a future election campaign.

* **Sec. 10.** AS 15.13.390(a) is amended to read:

(a) A person who

(1) fails to register when required by AS 15.13.050(a), **fails to report donations and payments when required under AS 15.13.118(b)**, or who fails to file a properly completed and certified report within the time required by AS 15.13.040, 15.13.060(b) - (d), 15.13.110(a)(1), (3), or (4), (e), or (f) is subject to a civil penalty of

not more than \$50 a day for each day the delinquency continues as determined by the commission subject to right of appeal to the superior court. A person who fails to file a properly completed and certified report within the time required by AS 15.13.110(a)(2) or 15.13.110(b) is subject to a civil penalty of not more than \$500 a day for each day the delinquency continues as determined by the commission subject to right of appeal to the superior court;

(2) whether as a contributor or intermediary, delays in reporting a contribution as required by AS 15.13.040(r) is subject to a civil penalty of not more than \$1,000 a day for each day the delinquency continues as determined by the commission subject to right of appeal to the superior court;

(3) whether as a contributor or intermediary, misreports or fails to disclose the true source of a contribution in violation of AS 15.13.040(r) or 15.13.074(b) is subject to a civil penalty of not more than the amount of the contribution that is the subject of the misreporting or failure to disclose; upon a showing that the violation was intentional, a civil penalty of not more than three times the amount of the contribution in violation may be imposed; these penalties as determined by the commission are subject to right of appeal to the superior court;

(4) violates a provision of this chapter, except as otherwise specified in this section, is subject to a civil penalty of not more than \$50 a day for each day the violation continues as determined by the commission, subject to right of appeal to the superior court; and

(5) is assessed a civil penalty may submit to the commission an affidavit stating facts in mitigation; however, the imposition of the penalties prescribed in this section or in AS 15.13.380 does not excuse that person from registering or filing reports required by this chapter.

* **Sec. 11.** AS 15.20.030 is amended to read:

Sec. 15.20.030. Preparation of ballots, envelopes, and other material. The director shall provide ballots for use as absentee ballots in all districts. The director shall provide a secrecy sleeve in which the voter shall initially place the marked ballot, and shall provide an envelope with the prescribed voter's certificate on it, in which the secrecy sleeve with ballot enclosed shall be placed. The director shall prescribe the

form of and prepare the voter's certificate, envelopes, and other material used in absentee voting. The voter's certificate shall include a declaration, for use when required, that the voter is a qualified voter in all respects, a blank for the voter's signature, a certification that the affiant properly executed the marking of the ballot and gave the voter's identity, [BLANKS FOR THE ATTESTING OFFICIAL OR WITNESS,] and a place for recording the date the envelope was sealed [AND WITNESSED]. The envelope with the voter's certificate must include a notice that false statements made by the voter [OR BY THE ATTESTING OFFICIAL OR WITNESS] on the certificate are punishable by law.

* **Sec. 12.** AS 15.20.072 is amended by adding a new subsection to read:

(h) If a voter satisfies the requirements of (d) of this section, the division may not reject a voter's special needs ballot based on an error by an election official or representative on the register under (c) of this section or an error by a representative under (d) of this section.

* **Sec. 13.** AS 15.20.081(d) is amended to read:

(d) Upon receipt of an absentee ballot by mail, the voter [, IN THE PRESENCE OF A NOTARY PUBLIC, COMMISSIONED OFFICER OF THE ARMED FORCES INCLUDING THE NATIONAL GUARD, DISTRICT JUDGE OR MAGISTRATE, UNITED STATES POSTAL OFFICIAL, REGISTRATION OFFICIAL, OR OTHER PERSON QUALIFIED TO ADMINISTER OATHS,] may proceed to mark the ballot in secret, to place the ballot in the secrecy sleeve, to place the secrecy sleeve in the envelope provided, and to sign the voter's certificate on the envelope. The [IN THE PRESENCE OF AN OFFICIAL LISTED IN THIS SUBSECTION WHO SHALL SIGN AS ATTESTING OFFICIAL AND SHALL DATE THE SIGNATURE. IF NONE OF THE OFFICIALS LISTED IN THIS SUBSECTION IS REASONABLY ACCESSIBLE, AN ABSENTEE VOTER SHALL SIGN THE VOTER'S CERTIFICATE IN THE PRESENCE OF AN INDIVIDUAL WHO IS 18 YEARS OF AGE OR OLDER, WHO SHALL SIGN AS A WITNESS AND ATTEST TO THE DATE ON WHICH THE VOTER SIGNED THE CERTIFICATE IN THE INDIVIDUAL'S PRESENCE, AND, IN ADDITION, THE] voter shall certify, as prescribed in AS 09.63.020, under penalty of perjury, that

the statements in the voter's certification are true.

* **Sec. 14.** AS 15.20.220(b) is amended to read:

(b) The state review board shall review and count absentee ballots under AS 15.20.081(e) and (h), absentee ballots properly cured under AS 15.20.221, and questioned ballots that have been forwarded to the director and that have not been reviewed or counted by a district counting board.

* **Sec. 15.** AS 15.20 is amended by adding a new section to read:

Sec. 15.20.221. Procedure for curing uncounted ballot. (a) If a voter's ballot is rejected because the certificate is missing a signature or the voter provided insufficient voter identification, the director shall immediately make a reasonable effort to contact the voter, explain the ballot deficiency, explain how the deficiency may be cured, and inform the voter of the deadline to cure the ballot. The director shall, within 24 hours, send a notice of deficiency by electronic mail to the voter's electronic mail address if the voter has provided an electronic mail address. If the voter has provided a telephone number, the director shall, within 24 hours, attempt to notify the voter of the deficiency by telephone call and text message. The director shall, within 48 hours, but not later than five days after election day, send a notice of deficiency by first class, nonforwardable mail to the address in the voter's registration record.

(b) A notice of deficiency must include a form for the voter to confirm that the voter returned a ballot to the division, provide a copy of a form of identification accepted by the division under AS 15.15.225(a), and provide a signature. The director shall provide a printed copy of the form with the notice of deficiency mailed to the voter. The director shall also make the form available in a format that can be completed and returned electronically.

(c) The rejected ballot of a voter who received a notice of deficiency may be counted only if

(1) the voter returns the completed form sent with the notice of deficiency, the division receives the form within 14 days after election day, and the form confirms that the voter returned a ballot to the division;

(2) the voter provides a signature and includes a copy of a form of

1 identification accepted by the division under AS 15.15.225(a); and

2 (3) the ballot is otherwise valid.

3 (d) A voter's rejected ballot may not be counted and the director shall, if
4 applicable, send copies of the signature on the voter's return envelope to the attorney
5 general for investigation if the voter returns the form and the form indicates that the
6 voter did not return a ballot to the division.

7 * **Sec. 16.** AS 15.80 is amended by adding a new section to read:

8 **Sec. 15.80.006. Cybersecurity.** The director shall, by regulation, develop a
9 cybersecurity program to defend the voter registration records kept by the division
10 against cyber attacks and data breaches and enable the division to detect and recover
11 from cyber attacks. The program must include cybersecurity training for election
12 officials.

13 * **Sec. 17.** AS 15.80 is amended by adding a new section to read:

14 **Sec. 15.80.009. Synthetic media in electioneering communications.** (a) A
15 person may not knowingly use synthetic media in an electioneering communication
16 with the intent to influence an election.

17 (b) An individual who is harmed by an electioneering communication that
18 violates this section may bring an action in the superior court to recover damages, full
19 reasonable attorney fees, and costs from

20 (1) the person who created the electioneering communication or
21 retained the services of another to create the electioneering communication;

22 (2) a person who disseminates an electioneering communication
23 knowing that the electioneering communication includes synthetic media; or

24 (3) a person who removes a disclosure statement described in (d) of
25 this section from an electioneering communication with the intent to influence an
26 election and knowing that the electioneering communication includes synthetic media.

27 (c) An individual who is harmed by an electioneering communication that
28 violates this section may seek injunctive relief in the superior court to prohibit
29 publication of the synthetic media.

30 (d) It is a defense to an action under this section that

31 (1) the electioneering communication included the following

1 disclosure statement: "This (image/video/audio) has been manipulated" and

2 (A) for visual media that included other text, the text of the
3 disclosure statement remained visible throughout the entirety of the
4 communication, was easily readable by the average viewer, and was in a font
5 not smaller than the largest font size of any other text that appeared in the
6 visual component;

7 (B) for visual media that did not include any other text, the
8 disclosure statement was in a font size that was easily readable by the average
9 viewer;

10 (C) for a communication that consisted of only audio, the
11 disclosure statement was read

12 (i) at the beginning of the audio, at the end of the audio,
13 and, if the audio was longer than two minutes in duration, at intervals
14 interspersed within the audio that occurred at least once every two
15 minutes; and

16 (ii) in a clear manner and in a pitch and at a speed that
17 was easily heard by the average listener; or

18 (2) the synthetic media constitutes satire or parody.

19 (e) An interactive computer service, Internet service provider, cloud service
20 provider, telecommunications network, or radio or television broadcaster, including a
21 cable or satellite television operator, programmer, or producer, is not liable under this
22 section for hosting, publishing, or distributing an electioneering communication
23 provided by another person. This subsection does not prevent an individual from
24 bringing an action under (b)(3) of this section for removing a disclosure statement.

25 (f) In this section,

26 (1) "access software provider" means a provider of client, server, or
27 other software or enabling tools that

28 (A) filter, screen, allow, or disallow content;

29 (B) pick, choose, analyze, or digest content; or

30 (C) transmit, receive, display, forward, cache, search, subset,
31 organize, reorganize, or translate content;

1 (2) "artificial intelligence" means a machine-based system that, for
 2 explicit or implicit objectives, infers, from the input the system receives, how to
 3 generate outputs, including predictions, content, recommendations, and decisions that
 4 can influence physical or virtual environments, with different artificial intelligence
 5 systems varying in levels of autonomy and adaptiveness after deployment;

6 (3) "electioneering communication" means a communication that

7 (A) directly or indirectly identifies a candidate or political
 8 party;

9 (B) is disseminated through a mailing, a newspaper, the
 10 Internet, or broadcast media, including radio, television, cable, or satellite, to
 11 an audience that includes voters who will have the opportunity to vote on a
 12 candidate identified in the communication or on a candidate of a party
 13 identified in the communication; and

14 (C) when read as a whole and with limited reference to outside
 15 events, is susceptible of no other reasonable interpretation but as an
 16 exhortation to vote for or against a specific candidate;

17 (4) "interactive computer service" means an information service,
 18 system, or access software provider that provides or enables computer access by
 19 multiple users to a computer server, including specifically a service or system that
 20 provides access to the Internet and such systems operated or services offered by
 21 libraries or educational institutions;

22 (5) "synthetic media"

23 (A) means an image, audio recording, or video recording of an
 24 individual's appearance, speech, or conduct that is manipulated by artificial
 25 intelligence in a manner that creates a realistic but false image, audio
 26 recording, or video recording and produces

27 (i) a depiction that a reasonable person would believe is
 28 of a real individual in appearance, speech, or conduct but did not
 29 actually occur in reality; and

30 (ii) a materially different understanding or impression
 31 than a reasonable person would have from the unaltered, original

version of the image, audio recording, or video recording;

(B) does not include an image, audio recording, or video recording that is minimally edited, adjusted, or enhanced by artificial intelligence without materially altering how the meaning or significance of the depiction would be perceived by a reasonable person.

* **Sec. 18.** AS 24.60.080(e) is amended to read:

(e) A political contribution is not a gift under this section if it is reported under AS 15.13.040 or is exempt from the reporting requirement under AS 15.13.040(g). **A donation to a legal fund under AS 15.13.118 is not a gift under this section if it is reported under AS 15.13.118(b).** The use of a bulk mailing permit owned by a legislator's campaign committee or used in a legislator's election campaign is not a gift to that legislator under this section.

* **Sec. 19.** AS 39.52.130(d) is amended to read:

(d) The restrictions relating to gifts imposed by this section do not apply to a campaign contribution to a candidate for elective office **or a donation to a legal fund under AS 15.13.118** if the contribution **or donation** complies with laws and regulations governing elections and campaign disclosure.

* **Sec. 20.** AS 15.20.203(b)(2) and 15.20.203(b)(3) are repealed.

* **Sec. 21.** Sections 1, 8 - 10, and 17 - 19 of this Act take effect immediately under AS 01.10.070(c).

* **Sec. 22.** Sections 2 - 6 and 16 of this Act take effect July 1, 2025.

* **Sec. 23.** Except as provided in sections 21 and 22 of this Act, this Act takes effect July 1, 2024.