

**SB**

**36**

# ALASKA STATE LEGISLATURE

SENATOR  
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Senate  
Senate District F  
**Senate Bill 36**

## **Sponsor Statement**

Senate Bill 36 has been drafted to address a concern that manifested itself in the 2004 general election. This concern sprang from the decision of the Alaska Democratic Party to have individual absentee ballot requests mailed back to the political party office instead of directly to the Division of Elections. This action resulted in sensitive personal data being made available to a political party apparatus without express consent. Although there is no clear evidence of illegal action or wrongdoing, individual Alaskans should not feel that their privacy is under attack just because they wish to participate in a regularly scheduled election.

SB 36 requires that all absentee ballot requests be delivered directly to the Division of Elections for confidential processing. The act further prohibits a person from assisting or encouraging the violation of the new law.

SB 36 allows for all citizens and groups in Alaska to encourage participation in our election process through the use of absentee ballots. However, once a person decides to request an absentee ballot, they have every right to assume that only non-partisan personnel at the Division of Elections will handle their request.

# LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES  
LEGISLATIVE AFFAIRS AGENCY  
STATE OF ALASKA

(907) 465-3867 or 465-2450  
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Mail Stop 3101

State Capitol  
Juneau, Alaska 99801-1182  
Deliveries to: 129 6th St., Rm. 329

## MEMORANDUM

March 17, 2005

**SUBJECT:** Use of Intent Language as Interpretive Aid  
(HCS for CSSL 36(STA))

**TO:** Representative Paul Seaton  
Chair of the House State Affairs Committee  
Attn: Louie Flora

**FROM:** Kathryn L. Kurtz *KLK*  
Legislative Counsel

Enclosed is the final version of HCS CSSB 36 passed from your committee.

The committee added conceptual intent language specifying how a portion of the codified language in the bill is to be interpreted. This intent language will not be legally binding. At most it may serve as an interpretive aid for a court. Because it is not codified, it will remain invisible to most individuals trying to use and interpret the statute.

As a matter of good drafting, we would strongly recommend including the committee's interpretive language in the portion of the bill that is to be codified, rather than as intent language. *See Manual of Legislative Drafting at 14.*

KLK:jad  
05-165.jad

Enclosure

AMENDMENT

OFFERED IN THE HOUSE  
TO: CSSB 36(JUD)

BY REPRESENTATIVE GATTO

- 1 Page 1, line 13, following "elections.":
- 2       Insert "<sup>insert</sup>In this subsection, "directly" means in person, by electronic transmission,
- 3 by mail, or by other common carrier."

AMENDMENT

OFFERED IN THE HOUSE

BY REPRESENTATIVE SEATON

TO: CSHB 94(STA), Draft Version "Y"

1 Page 1, line 6, following "absentec voting,":

2 Insert "absentee ballots,"

3

4 Page 7, line 11:

5 Following "apply":

6 Insert "in person,"

7 Following "mail":

8 Insert "s"

9

10 Page 7, line 12, following "absentec ballot":

11 Insert "under this section"

12

13 Page 7, line 22, following "application.":

14 Insert "The application must be made on a form prescribed or approved by the  
15 director. The voter shall submit the application directly to the division of elections."

16

17 Page 7, following line 22:

18 Insert a new bill section to read:

19 "\* **Sec. 13.** AS 15.20.081(b) is amended to read:20 (b) An application requesting delivery of an absentee ballot to the applicant by  
21 mail must be received by the division of elections not less than 10 [SEVEN] days  
22 before the election for which the absentee ballot is sought. An application for an  
23 absentee ballot for a state election from a qualified voter requesting delivery of an

1 absentee ballot to the applicant by electronic transmission must be received by the  
2 division of elections not later than 5:00 p.m. Alaska time on the day before the  
3 election for which the absentee ballot is sought. An absentee ballot application  
4 submitted by mail under this section must permit the person to register to vote under  
5 AS 15.07.070 and to request an absentee ballot for each state election held within that  
6 calendar year for which the voter is eligible to vote. An absentee ballot application  
7 submitted by electronic transmission under this section may not include a provision  
8 that permits a person to register to vote under AS 15.07.070."  
9

10 Renumber the following bill sections accordingly.

11  
12 Page 8, following line 12:

13 Insert a new bill section to read:

14 **\*\* Sec. 16.** AS 15.20.081 is amended by adding a new subsection to read:

15 (j) The director shall adopt regulations under AS 44.62 (Administrative  
16 Procedure Act) specifying the information required to be included on an absentee  
17 ballot application form. The regulations must require that an absentee ballot  
18 application form

19 (1) contain only that information required under regulations adopted  
20 by the director;

21 (2) conceal the personal information of the individual requesting  
22 delivery of an absentee ballot while the application is in the custody of the United  
23 States Postal Service or other person delivering the application to the division; and

24 (3) specify that the form is to be returned by the voter directly to the  
25 division, and not to another person providing the form; and

26 (4) if not prepared by the division, be approved by the director before  
27 distribution to the public."  
28

29 Renumber the following bill sections accordingly.

30  
31 Page 23, following line 15:

1 Insert new bill sections to read:

2 **\*\* Sec. 49.** AS 15.56.030(a) is amended to read:

3 (a) A person commits the crime of unlawful interference with voting in the  
4 first degree if the person

5 (1) uses, threatens to use, or causes to be used force, coercion,  
6 violence, or restraint, or inflicts, threatens to inflict, or causes to be inflicted damage,  
7 harm, or loss, upon or against another person to induce or compel that person to vote  
8 or refrain from voting in an election;

9 (2) knowingly pays, offers to pay, or causes to be paid money or other  
10 valuable thing to a person to vote or refrain from voting in an election; [OR]

11 (3) solicits, accepts, or agrees to accept money or other valuable thing  
12 with the intent to vote for or refrain from voting for a candidate at an election or for an  
13 election proposition or question; or

14 (4) encourages or assists in a violation of AS 15.20.081 and has  
15 been previously convicted for unlawful interference with voting in the second  
16 degree under AS 15.56.035(a)(5).

17 **\* Sec. 50.** AS 15.56.035(a) is amended to read:

18 (a) A person commits the crime of unlawful interference with voting in the  
19 second degree if the person

20 (1) has an official ballot in possession outside of the voting room  
21 unless the person is an election official or other person authorized by law or local  
22 ordinance, or by the director or chief municipal elections official in a local election;

23 (2) makes, or knowingly has in possession, a counterfeit of an official  
24 election ballot;

25 (3) knowingly solicits or encourages, directly or indirectly, a registered  
26 voter who is no longer qualified to vote under AS 15.05.010, to vote in an election;  
27 [OR]

28 (4) as a registration official

29 (A) knowingly refuses to register a person who is entitled to  
30 register under AS 15.07.030; or

31 (B) accepts a fee from an applicant applying for registration; or

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7

**(5) encourages or assists in a violation of AS 15.20.081."**

Renumber the following bill sections accordingly.

Page 25, line 7:

Delete "secs. 23 - 46"

Insert "secs. 25 - 48"

LEGISLATIVE INTENT  
CS for Senate Bill No. 36

*Sect 1*

*in a manner.*

The legislature understands and intends that the requirement to “submit the application directly to the division of elections” means that no intermediary organization will control the applications, which could cause delay in their submission to the Division nor <sup>would</sup> ~~are~~ the ballots available for data mining by individuals or other organizations. ~~The language of~~ “direct return” is not meant to prevent deposit into the US mail, Fed Ex, or ~~the~~ <sup>an</sup> expedited delivery system by a friend, relative or others.

# FISCAL NOTE

**STATE OF ALASKA**  
**2005 LEGISLATIVE SESSION**

Fiscal Note Number: 1  
 Bill Version: CSSB 38(STA)  
 (S) Publish Date: 2/2/05

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: OOG  
 Title: "An Act relating to applications  
requesting the delivery of absentee ballots by mail." RDU: Elections  
 Component: Elections  
 Sponsor: Senator Theriault  
 Requester: Senate State Affairs Component No.: 21

**Expenditures/Revenues** (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services						
Travel						
Contractual	0.0					
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	0.0					
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2005) cost: 0.0  
 Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)  
 This legislation may require internal policy or procedural changes only and therefore does not impose any fiscal impact on the Division.

Prepared by: Lauri Allred, Administrative Assistant Supervisor Phone: 465-5347  
 Division: Division of Elections Date/Time: 1/18/05 1:20 PM  
 Approved by: Laura A. Glaiser, Director Date: 1/18/2005  
 Agency: Division of Elections