

SJR

36

SENATE COMMITTEE REPORT

DATE: 2/2/05

FURTHER:

DATE TURNED
IN TO OFFICE: _____

Judiciary Committee considered

SENATE BILL NO. 36

SB 36 ABSENTEE BALLOT APPLICATIONS

"An Act relating to applications requesting the delivery of absentee ballots by mail."

and recommends:

- be replaced with _____ CS _____ (_____)
- adopt previous _____ CS _____ (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to _____ Committee

Senate Bill:
 Same Title
 New Title

House Bill:
 Same Title
 Technical Title Change
 New Title w/ SCR # _____

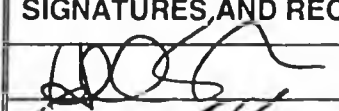
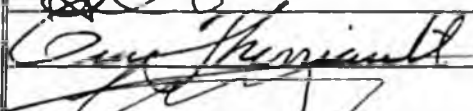
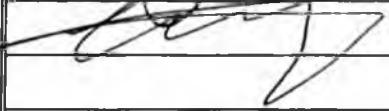
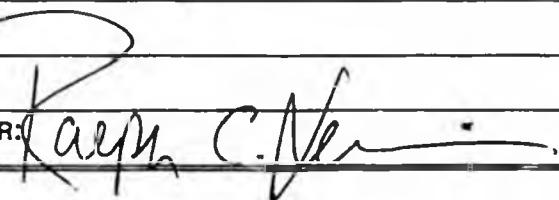
NEW FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
			X	
	X			
	X			
CHAIR: 	X			

Robert 2/8/05

24-LS0123V

Kurtz

2/8/05

CS FOR SENATE BILL NO. 36()

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FOURTH LEGISLATURE - FIRST SESSION

BY

Offered:

Referred:

Sponsor(s): SENATOR THERRIAULT

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to absentee ballots."

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

3 * Section 1. AS 15.20.081(a) is amended to read:

4 (a) A qualified voter may apply in person, by mail, or by electronic
5 transmission to the director for an absentee ballot under this section. The application
6 must include the address or, if the application requests delivery of an absentee ballot
7 by electronic transmission, the telephone electronic transmission number, to which the
8 absentee ballot is to be returned, the applicant's full Alaska residence address, and the
9 applicant's signature. However, a person residing outside the United States and
10 applying to vote absentee in federal elections in accordance with AS 15.05.011 need
11 not include an Alaska residence address in the application. The application must be
12 made on a form prescribed or approved by the director. The voter shall submit
13 the application directly to the division of elections.

14 * Sec. 2. AS 15.20.081(b) is amended to read:

15 (b) An application requesting delivery of an absentee ballot to the applicant by

1 mail must be received by the division of elections not less than 10 [SEVEN] days
2 before the election for which the absentee ballot is sought. An application for an
3 absentee ballot for a state election from a qualified voter requesting delivery of an
4 absentee ballot to the applicant by electronic transmission must be received by the
5 division of elections not later than 5:00 p.m. Alaska time on the day before the
6 election for which the absentee ballot is sought. An absentee ballot application
7 submitted by mail under this section must permit the person to register to vote under
8 AS 15.07.070 and to request an absentee ballot for each state election held within that
9 calendar year for which the voter is eligible to vote. An absentee ballot application
10 submitted by electronic transmission under this section may not include a provision
11 that permits a person to register to vote under AS 15.07.070.

12 * Sec. 3. AS 15.20.081 is amended by adding a new subsection to read:

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

17 (1) contain only that information required under regulations adopted
18 by the director;

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

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

24 (4) if not prepared by the division, be approved by the director before
25 distribution to the public.

26 * Sec. 4. AS 15.56.030(a) is amended to read:

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

29 (1) uses, threatens to use, or causes to be used force, coercion,
30 violence, or restraint, or inflicts, threatens to inflict, or causes to be inflicted damage,
31 harm, or loss, upon or against another person to induce or compel that person to vote

1 or refrain from voting in an election;

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

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

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

10 * Sec. 5. AS 15.56.035(a) is amended to read:

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

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

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

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

21 (4) as a registration official

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

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

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

Alaska State Legislature

SENATOR
GENE THERRIAULT

Mailing Address:
119 N. Cushman, Suite 101
Fairbanks, Alaska 99701
(907) 488-0857
Fax: (907) 488-4271



Senate

While in session:
State Capitol
Juneau, Alaska
99801-1182
(907) 465-4797
Fax: (907) 465-3884
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 political group or political party 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.

24-I.S0123\G
Bullock
1/27/05

**CS FOR SENATE BILL NO. 36(STA)
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FOURTH LEGISLATURE - FIRST SESSION**

BY THE SENATE STATE AFFAIRS COMMITTEE

**Offered:
Referred:**

Sponsor(s): SENATOR THERRIAULT

**A BILL
FOR AN ACT ENTITLED**

1 **"An Act relating to applications requesting the delivery of absentee ballots."**

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

3 *** Section 1. AS 15.20.081(b) is amended to read:**

4 (b) An application requesting delivery of an absentee ballot to the applicant by
5 mail must be either hand-delivered or mailed directly to the division of elections
6 by the applicant or by a person that is acting at the applicant's direction and that
7 is not a political group or political party. The application must be received by the
8 division of elections not less than 10 [SEVEN] days before the election for which the
9 absentee ballot is sought. A political group or political party may not encourage
10 or assist in a violation of this subsection. An application for an absentee ballot for a
11 state election from a qualified voter requesting delivery of an absentee ballot to the
12 applicant by electronic transmission must be received by the division of elections not
13 later than 5:00 p.m. Alaska time on the day before the election for which the absentee
14 ballot is sought. An absentee ballot application submitted by mail under this section
15 must permit the person to register to vote under AS 15.07.070 and to request an

1 absentee ballot for each state election held within that calendar year for which the
2 voter is eligible to vote. An absentee ballot application submitted by electronic
3 transmission under this section may not include a provision that permits a person to
4 register to vote under AS 15.07.070.

5 * Sec. 2. AS 15.20.081 is amended by adding a new subsection to read:

6 (j) The director shall adopt regulations under AS 44.62 (Administrative
7 Procedure Act) specifying the information required to be included on an absentee
8 ballot application submitted by mail or hand-delivered. The regulations must require
9 that an application requesting delivery of an absentee ballot

10 (1) contain only that information required under regulations adopted
11 by the director;

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

15 (3) if not prepared by the division, be approved by the director before
16 distribution to the public.

17 * Sec. 3. AS 15.56.030(a) is amended to read:

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

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

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

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

29 (4) is a political group or political party, encourages or assists in a
30 violation of AS 15.20.081(b), and has been previously convicted for unlawful
31 interference with voting in the second degree under AS 15.56.035(a)(5).

1 * Sec. 4. AS 15.56.035(a) is amended to read:

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

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

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

9 (3) knowingly solicits or encourages, directly or indirectly, a registered
10 voter who is no longer qualified to vote under AS 15.05.010, to vote in an election;

11 [OR]

12 (4) as a registration official

13 (A) knowingly refuses to register a person who is entitled to
14 register under AS 15.07.030, or

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

16 (5) is a political group or political party and encourages or assists
17 in a violation of AS 15.20.081(b).

24-LS0123VF
Kurtz
2/3/05

CS FOR SENATE BILL NO. 36()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FOURTH LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

Sponsor(s): SENATOR THERRIAULT

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to absentee ballots."

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

3 * Section 1. AS 15.20.081(a) is amended to read:

4 (a) A qualified voter may apply by mail or by electronic transmission to the
5 director for an absentee ballot. The application must include the address or, if the
6 application requests delivery of an absentee ballot by electronic transmission, the
7 telephone electronic transmission number, to which the absentee ballot is to be
8 returned, the applicant's full Alaska residence address, and the applicant's signature.
9 However, a person residing outside the United States and applying to vote absentee in
10 federal elections in accordance with AS 15.05.011 need not include an Alaska
11 residence address in the application. The application must be made on a form
12 prescribed or approved by the director. The voter shall submit the application
13 directly to the division of elections.

14 * Sec. 2. AS 15.20.081(b) is amended to read:

15 (b) An application requesting delivery of an absentee ballot to the applicant by

1 mail must be received by the division of elections not less than 10 [SEVEN] days
2 before the election for which the absentee ballot is sought. An application for an
3 absentee ballot for a state election from a qualified voter requesting delivery of an
4 absentee ballot to the applicant by electronic transmission must be received by the
5 division of elections not later than 5:00 p.m. Alaska time on the day before the
6 election for which the absentee ballot is sought. An absentee ballot application
7 submitted by mail under this section must permit the person to register to vote under
8 AS 15.07.070 and to request an absentee ballot for each state election held within that
9 calendar year for which the voter is eligible to vote. An absentee ballot application
10 submitted by electronic transmission under this section may not include a provision
11 that permits a person to register to vote under AS 15.07.070.

12 * Sec. 3. AS 15.20.081 is amended by adding a new subsection to read:

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

17 (1) contain only that information required under regulations adopted
18 by the director;

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

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

24 (4) if not prepared by the division, be approved by the director before
25 distribution to the public.

26 * Sec. 4. AS 15.56.030(a) is amended to read:

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

29 (1) uses, threatens to use, or causes to be used force, coercion,
30 violence, or restraint, or inflicts, threatens to inflict, or causes to be inflicted damage,
31 harm, or loss, upon or against another person to induce or compel that person to vote

1 or refrain from voting in an election;

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

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

7 (4) provides a voter with an absentee ballot application form that
8 does not comply with the requirements of AS 15.20.081(j), and has been
9 previously convicted for unlawful interference with voting in the second degree
10 under AS 15.56.035(a)(5).

11 * Sec. 5. AS 15.56.035(a) is amended to read:

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

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

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

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

22 (4) as a registration official

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

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

26 (5) provides a voter with an absentee ballot application form that
27 does not comply with the requirements of AS 15.20.081(j).

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: SB36
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: OOG
 Title "An Act relating to applications RDU Elections
requesting the delivery of absentee ballots by mail." Component Elections
 Sponsor Senator Therriault
 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						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
-----------------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
-------------------------------	--	--	--	--	--	--

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)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

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

in subsection (a) substituted that term is defined in AS "communication" in paragraph (1) and changed the introductory language in paragraph (1) to read:

e. (a) A person commits

adopted under AS 15.13;

persons have posted warning signs in the form and manner prescribed in AS 15.13, the person is within

political signs or posters on public property without question.

AS 25 ch 48 SLA 1996; am

Special Acts. For severability of AS 15.13, see § 31, ch. 48, Temporary and Special Acts. For certain persons holding unused in January 1, 1997, see § 32, Temporary and Special Acts. — The 2000 amendment, substituted "election officials" for "the beginning of paragraph

provisions. (a) For purposes of this section, a person who continues to constitute a

In addition to imposition of AS 15.55.015(c), the court ruled by the defendant that AS 15.55.015(c) is unconstitutional. (AS 15.55.015(c) (1996))

must be allowed to contribute: see § 30, ch. 48, SLA 1996 in Special Acts. For severability of AS 15.55.015(c), see § 31, ch. 48, Temporary and Special Acts. For certain persons holding unused in January 1, 1997, see § 32, Temporary and Special Acts.

The term "knowingly" has

must be allowed to contribute: see § 30, ch. 48, SLA 1996 in Special Acts. For severability of AS 15.55.015(c), see § 31, ch. 48, Temporary and Special Acts. For certain persons holding unused in January 1, 1997, see § 32, Temporary and Special Acts.

Sec. 15.56.020. Campaign misconduct in the second degree. [Repealed, § 28 ch 48 SLA 1996.]

Sec. 15.56.025. Telephone campaign misconduct. (a) A person commits the crime of telephone campaign misconduct if the person makes a statement about a candidate

(1) as part of an organized telephone poll or organized series of calls to convince potential voters concerning the outcome of an election;

(2) that the person knows to be false; and

(3) that the person intends to affect the outcome of the election.

(b) Violation of this section is a corrupt practice. However, notwithstanding AS 15.20.540, only a defeated candidate may contest the nomination or election of a person for violation of this section.

(c) Telephone campaign misconduct is a class A misdemeanor. (§ 2 ch 142 SLA 1996)

Sec. 15.56.030. Unlawful interference with voting in the first degree. (a) A person commits the crime of unlawful interference with voting in the first degree if the person

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

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

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

(b) Violation of this section is a corrupt practice.

(c) Unlawful interference with voting in the first degree is a class C felony.

(d) For purposes of (a)(2) and (3) of this section, "other valuable thing"

(1) includes

(A) an entry in a game of chance in which a prize of money or other present or future pecuniary gain or advantage may be awarded to a participant wherein the total of the prizes offered is greater than \$2 per participant with a maximum of \$100; and

(B) government employment or benefits;

(2) does not include

(A) materials having a nominal value bearing the name, likeness, or other identification of a candidate, political party, political group, party district committee, or organization, or stating a position on a ballot proposition or question;

(B) food and refreshments provided incidental to an activity that is nonpartisan in nature and directed at encouraging persons to vote, or incidental to a gathering in support of or in opposition to a candidate, political party, political group, party district committee, organization, or ballot question or proposition;

(C) care of the voter's dependents provided in connection with the absence of a voter from home for the purpose of voting;

(D) services provided by a person acting as a representative under AS 15.20.072;

(E) services provided by an election official as defined in AS 15.60.010; and

(F) transportation of a voter to or from the polls without charge. (§ 205 ch 100 SLA 1980; am §§ 1, 2 ch 87 SLA 1996; am § 73 ch 82 SLA 2000)

Revisor's notes. — Enacted as AS 15.56.031. Re-numbered in 1980.

Effect of amendments. — The 1996 amendment, effective September 18, 1996, in subsection (a), in paragraph (1), deleted "for a candidate" preceding "in an election" and "or for any election proposition or

question" from the end and rewrote paragraph (2); and added subsection (d).

The 2000 amendment, effective January 1, 2001, in subsection (d) deleted "but is not limited to" at the end of the introductory language of paragraph (1) and in subparagraph (2)(D) substituted "acting as a rep-

representative under AS 15.20.072" for "acting as a personal representative as defined in AS 15.20.071."

NOTES TO DECISIONS

Voter assistance program not corrupt practice. — A borough's voter assistance program which reimbursed each voter for up to 10 gallons of gasoline used by the voter to reach the polls did not violate the prohibition against inducing a person to vote for or refrain from voting for a person and was not a corrupt practice under this section. *Dansereau v. Ulmer*, 903 P.2d 555 (Alaska 1995).

Offer of chance drawing accompanied by

nonneutral message. — A postcard mailed to shareholders of a native regional corporation that offered entry in a \$1,000 cash prize drawing to those who submitted a ballot stub, or a similarly sized piece of paper, and stated that the Alaska Federation of Natives endorsed a certain candidate for governor potentially violated this section because of the accompanying nonneutral message. *Dansereau v. Ulmer*, 903 P.2d 555 (Alaska 1995).

Sec. 15.56.035. Unlawful interference with voting in the second degree. (a) A person commits the crime of unlawful interference with voting in the second degree if the person

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

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

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

(4) as a registration official

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

(B) accepts a fee from an applicant applying for registration.

(b) Violation of (a)(3) of this section is a corrupt practice.

(c) Unlawful interference with voting in the second degree is a class A misdemeanor. (§ 205 ch 100 SLA 1980)

Revisor's notes. — Enacted as AS 15.56.036. Re-numbered in 1980.

Sec. 15.56.040. Voter misconduct in the first degree. (a) A person commits the crime of voter misconduct in the first degree if the person

(1) votes or attempts to vote in the name of another person or in a name other than the person's own;

(2) votes or attempts to vote more than once at the same election with the intent that the person's vote be counted more than once;

(3) intentionally makes a false affidavit, swears falsely, or falsely affirms under an oath required by this title;

(4) knowingly votes or solicits a person to vote after the polls are closed with the intent that the vote be counted.

(b) Voter misconduct in the first degree is a class C felony. (§ 205 ch 100 SLA 1980)

Revisor's notes. — Enacted as AS 15.56.041. Re-numbered in 1980.

Sec. 15.56.050. Voter misconduct in the second degree. (a) A person commits the crime of voter misconduct in the second degree if the person

(1) registers to vote without being entitled to register under AS 15.07.030;

(2) knowingly makes a material false statement while applying for voter registration or reregistration; or

(3) votes or attempts to vote in an election after being disqualified under AS 15.05.030.

(b) Voter misconduct in the second degree is a class A misdemeanor. (§ 205 ch 100 SLA 1980)

Revisor's notes. — numbered in 1980.

Sec. 15.56.060 the crime of unla

(1) induces or threat, intimidat

(2) intentional election documen

(3) intentional certificate, regist

(4) is contracte official ballot, and

(A) personally other than a pers

(B) prints or re a content other tl

(b) Unlawful ir

Revisor's notes. — numbered in 1980.

Sec. 15.56.070 commits the crim official, the perso

(1) intentionall act with the inter

(2) knowingly j or

(3) intentionall destroy election r

(b) Election offi 1980)

Revisor's notes. — numbered in 1980.

Sec. 15.56.080 commits the crime official, and while

(1) opens a ball in a local election

(2) marks a bal

(3) otherwise a

(4) allows a per

(b) Election offi ch 100 SLA 1980)

Revisor's notes. — numbered in 1980.

Sec. 15.56.090. crime of improper

(1) signs a nar referendum, recal

23 P.3d 81 (Alaska Ct. App. 1990).
 The court should not have
 or tampering with phys-
 a 99-year sentence for
 would not support the
 ust be incarcerated for
 hout any possibility of
 18 P.2d 127 (Alaska Ct.
 nial, 34 F.3d 1073 (9th

ation, imposition of a
 tive to another term for
 t impermissibly enlarge
 e sentence which was
 State, 625 P.2d 882

tion on a conviction for
 AS 11.46.300, was re-
 tion of bank robbery in
 of four years with two
 to his federal robbery
 Dodd v. State, 686 P.2d

ence which is imposed
 secutive to a sentence
 evocation of probation.
 (Alaska Ct. App. 1989).
 e sentences imposed.
 e imposed for two or
 sentence incarceration
 t the aggregate of all
 ho receives consecutive
 against only the first
 offender sentenced to
 ives credit against each
 38 P.2d 769 (Alaska Ct.

sentenced he had spent
 e in the case was to run
 rom his previous felony.
 ould be applied against
 mith v. State, 892 P.2d

SENTENCES.

on under this section
 ences. Drumbarger v.
 App. 1986).

ces may be imposed.
 within paragraphs (4),
 court may not impose a
 if the defendant's con-
 (1), (2) or (3) of subsec-
 d to impose concurrent
 5 P.2d 662 (Alaska Ct.
 her grounds, State v.
 1986).

e given if any of the six
 are met. State v. An-
 86).

he forgery cases vio-
 ts could therefore
 Whitree v. State, 683
 4).

unlawfully imposing
 e Joseph v. State, 712
 5).

consideration of alter-
 of concurrent sen-

tences without increasing the total time to serve, other sentences. *Napayonak v. State*, 793 P.2d 1059
 where the trial court had erred in imposing a one-year (Alaska Ct. App. 1990).
 sentence on a probation revocation concurrently to the

Collateral references. — Right of convicted de-
 fendant or prosecution to receive updated presentence
 report at sentencing proceedings, 22 ALR5th 660.

*Sec. 12.55.030. Discharge of indigents imprisoned for nonpayment of fine. [Repealed,
 § 16 ch 53 SLA 1973.]*

Sec. 12.55.035. Fines. (a) Except as provided in AS 12.55.036, upon conviction of an
 offense, a defendant may be sentenced to pay a fine as authorized in this section or as
 otherwise authorized by law.

(b) Except as provided in AS 12.55.036, upon conviction of an offense, a defendant who
 is not an organization may be sentenced to pay, unless otherwise specified in the
 provision of law defining the offense, a fine of no more than

(1) \$500,000 for murder in the first or second degree, attempted murder in the first
 degree, sexual assault in the first degree, sexual abuse of a minor in the first degree,
 kidnapping, or misconduct involving a controlled substance in the first degree;

(2) \$250,000 for a class A felony;

(3) \$100,000 for a class B felony;

(4) \$50,000 for a class C felony;

(5) \$10,000 for a class A misdemeanor;

(6) \$2,000 for a class B misdemeanor;

(7) \$500 for a violation.

(c) Except as provided in AS 12.55.036, upon conviction of an offense, a defendant that
 is an organization may be sentenced to pay a fine not exceeding the greater of

(1) an amount that is

(A) \$1,000,000 for a felony offense or for a misdemeanor offense that results in death;

(B) \$200,000 for a class A misdemeanor offense that does not result in death;

(C) \$25,000 for a class B misdemeanor offense that does not result in death;

(D) \$10,000 for a violation;

(2) three times the pecuniary gain realized by the defendant as a result of the offense;
 or

(3) three times the pecuniary damage or loss caused by the defendant to another, or to
 the property of another, as a result of the offense.

(d) If a defendant is sentenced to pay a fine, the court may grant permission for the
 payment to be made within a specified period of time or in specified installments.

(e) In imposing a fine under (c) of this section, in addition to any other relevant factors,
 the court shall consider

(1) measures taken by the organization to discipline an officer, director, employee, or
 agent of the organization;

(2) measures taken by the organization to prevent a recurrence of the offense;

(3) the organization's obligation to make restitution to a victim of the offense, and the
 extent to which imposition of a fine will impair the ability of the organization to make
 restitution; and

(4) the extent to which the organization will pass on to consumers the expense of the
 fine.

(f) In imposing a fine, the court may not reduce the fine by the amount of a surcharge
 or otherwise consider the applicability of a surcharge to the offense. (§ 12 ch 166 SLA
 1978; am § 17 ch 45 SLA 1982; am § 26 ch 143 SLA 1982; am § 4 ch 59 SLA 1988; am
 § 18 ch 85 SLA 1988; am §§ 1, 2 ch 142 SLA 1990; am § 2 ch 71 SLA 1992; am §§ 2 —
 4 ch 79 SLA 1994; am § 3 ch 56 SLA 1998; am §§ 1, 2 ch 131 SLA 2002)

Lieutenant Governor Loren Leman State of Alaska

In Juneau:
PO Box 110015
Juneau, AK 99811

Phone: (907) 465-3520
Fax: (907) 465-5400



In Anchorage:
550 W 7th Ave Ste 1700
Anchorage, AK 99501

Phone: (907) 269-7460
Fax: (907) 269-0263

FAX TRANSMITTAL

Please deliver to: Heather Brakes
Location: Senator Therriault's Office
Phone Number: 465-3613
Fa. Number: 465-3884
Pages (including cover): 10
Comment:

Date: January 20, 2005
From: Whitney Brewster
Phone: 269-7460
Fax: 269-0263

If you receive this fax in error, please immediately notify the sender by telephone, and return this fax to the sender at the above address. Thank you.

State Capital
Juneau, Alaska 99801
907.465.3520 465.3400 FAX
www.lt.gov.state.ak.us

550 West 7th Ave., Ste 1700
Anchorage, Alaska 99501
907.269.7460 269.0263 FAX
LL.Governor@gov.state.ak.us

Lieutenant Governor Loren Leman

October 8, 2004

Mr. Jake Metcalfe, Chairman
Alaska Democratic Party
PO Box 231230
Anchorage, AK 99523-1230

Dear Mr. Metcalfe:

Jake

I appreciate the efforts by political parties in Alaska, including yours, to register voters and encourage turnout in the November 2 election. However, I ask the Alaska Democratic Party to cease and desist from its current practice of soliciting and receiving applications for by-mail absentee ballots by a postcard that is returned to an Alaska Democratic Party mailbox.

AS 15 20.061(a) states that: "A qualified voter may apply by mail or by electronic transmission to the director for an absentee ballot." The Department of Law informs me that your activity is not consistent with the text and spirit of this provision. The statute contemplates a direct relationship between the voter and the Division of Elections. As far as I know, your approach has never before been allowed in the State of Alaska—in fact, I am told that it was specifically disallowed under a previous Administration.

I have two main concerns: the assurance that all returned applications are delivered promptly to the Division of Elections for processing; and the security and privacy of the application itself. Your designed application requests information that is not required by federal or State law. Your design may be not only a violation of voters' privacy, but may also be a violation of federal law. Now when identification theft is of such great concern, it is troubling that you would request people to put their social security, email and phone numbers as well as birth date on a postcard that can be viewed by many people.

I am not suggesting a remedy that disenfranchises voters who return the application you mailed to them. These applications are being processed—and will continue to be. Nor am I suggesting that voters who receive your designed application be disallowed from returning them. Even though the Division of Elections has alerted voters by public service announcements and other media that applications designed by and returned to parties other than the Division carry some risk, the Division likely could not reach all voters who have already received your cards. Those voters who yet return their postcards will have their applications processed.

However, I am proposing a solution that will guard voters' rights and protect your party and the Division of Elections. I ask that starting today you allow a Division of Elections

Mr. Jake Metcalfe
October 8, 2004
Page 2

employee to accompany your Party representative who accepts mail at the Post Office so these postcards will be turned over directly and immediately to the Division for security and processing.

As Alaska's chief elections official, I need to understand your procedures for receiving and delivering these postcards to the Division of Elections. Have you or other party workers reviewed or copied any postcards before delivering them to the Division? How much time elapses between when you pick up the postcards and deliver them to the Division? How often do you pick up this mail and when do you do it?

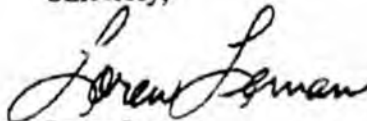
I am concerned that with the fast approaching by-mail ballot deadline of October 26, your middleman approach could cause a voter to lose an opportunity to vote because of your delay in forwarding the application.

Laura Glaiser, the Director of the Division of Elections, expressed concern about your approach when this first came to her attention. When she discussed your design with me, I concurred. In response to her inquiry, the Department of Law advised Ms. Glaiser that although your action creates risks for the voter, it could be construed to be within the law. However, the Division and my office have since received numerous inquiries and expressions of concern about your absentee application design from many Alaskans. In response to our further inquiry, the Department of Law has reevaluated its initial advice and now believes it was incorrect.

I hope that I can count on your cooperation to make the change I have requested to maintain voter privacy and integrity of elections. I ask that you start with your next mail pick up today. Please notify me by 3:00 p.m. today if you intend to comply with my request for accompaniment to the Post Office. If possible, I'd like your answers to the other questions by then also, but I understand some of my questions may take a few hours to research.

If you will comply, please contact Laura Glaiser at 465-4611 so she can assign an Elections employee to accompany your representative to the Post Office and receive the applications.

Sincerely,



Loren Leman
Lieutenant Governor

cc: Laura Glaiser

ALASKA DEMOCRATIC PARTY



Moving Alaska Forward

October 8, 2004

Lieutenant Governor Lorea Leman
550 West 7th Avenue
Suite 1700
Anchorage, AK 99501

Via Fax: 907.269.0263

Dear Lieutenant Governor Leman:

I am writing in response to your letter of October 8, which was sent in error to Jake Metcalfe. Mr. Metcalfe is chair-elect of the Alaska Democratic Party. At present I hold that office.

As you know, efforts by the Alaska Democratic Party to provide voters with applications for absentee ballots have been conducted in strict compliance with the advice and procedures that previously were approved by the Division of Elections and the Department of Law. I understand from your letter that you now have a different view of what the law requires and wish to alter the procedures that have been in place for some time.

We believe that Alaska's election laws should be strictly complied with. We likewise believe that our efforts to provide voters with absentee ballot applications have complied fully with AS 15.20.081(a). Under the circumstances, though, and in light of the issues raised in your letter, it is appropriate to have our legal counsel evaluate the issue and determine which of the two conflicting legal opinions the Department of Law apparently has rendered on this matter is correct. We will do that promptly and will then contact you. Until we have had an opportunity to obtain a legal assessment of the issue, we will voluntarily comply with your request and will not send out by mail any additional applications for absentee ballots that are returned to an Alaska Democratic Party mailbox.

Thank you for bringing your concerns about this issue to our attention. I will get back to you promptly and trust that an agreeable solution and procedure can be arrived at.

Sincerely,

Scott A. Sterling
Chair

This communication is paid for by the Alaska Democratic Party, PO Box 231230, Anchorage, AK 99523-1230 and is not authorized by any candidate or candidate's committee.

State Capital
Juneau, Alaska 99801
907.465.3520 465.5400 fax
www.ltgov.state.ak.us

550 West 7th Ave, Suite 1700
Anchorage, Alaska 99501
907.269.7460 269.0263 fax
LT_Governor@gov.state.ak.us

Lieutenant Governor Loren Leman

October 8, 2004

Scott Sterling, Chairman
Alaska Democratic Party
PO Box 231230
Anchorage, AK 99523-1230

Dear Chairman Sterling:

Scott

Thank you for your response to my letter delivered to you by hand earlier today.

I apologize for addressing it to my friend Jake Metcalfe, rather than you. I meant no disrespect to you. Last night, when I was drafting this letter, I called a number of officers listed on your web site, including yourself, to confirm who your party chairman is now. The first person I was able to reach is your National Committeeman, John Davies, another friend from Fairbanks. He told me that Jake is the new chairman, and since that triggered my memory about an article I had read about your convention, I mistakenly believed that Jake is the chairman now.

I appreciate your commitment not to distribute any more solicitations for absentee ballots for return to your party address. However, you have not addressed the bigger issue—accompaniment by a Division of Elections employee when you retrieve these applications from the Post Office. I am assuming by your silence that you do not intend to comply with my request for this—at least not until your attorneys do further legal review.

I had hoped that this could be resolved easily, without dueling legal opinions and that just the integrity of the election would motivate you to comply with the action I requested.

Sincerely,

Loren Leman

Loren Leman
Lieutenant Governor

ALASKA DEMOCRATIC PARTY



Moving Alaska Forward

PO Box 231230
Anchorage, AK 99523-1230
907.258.3050 v
907.258.1626 f
adp@alaska.net
www.alaskademocrats.org

October 10, 2004

Lieutenant Governor Loren Leman
550 West 7th Avenue
Suite 1700
Anchorage, AK 99501

Via Fax: 907.269.0263

Dear Lieutenant Governor Leman:

I am writing in further follow up to our exchange of letters on Friday, October 8 concerning the handling of applications for absentee ballots.

As I indicated in my initial response, the Alaska Democratic Party has strictly complied with the advice and procedures that previously were approved by the Division of Elections and the Department of Law. Your letter indicated that you now have a different view about the procedures for absentee ballot applications that are authorized by AS 15.20.081(a). After I received your letter, I reviewed that statute and consulted with legal counsel.

It is unclear that AS 15.20.081(a) limits the absentee ballot application process in the manner that is suggested by your letter. At the same time, we share your belief about the importance of maintaining the integrity of election process. Toward that end, and even though it is not required by the express language AS 15.20.081(a), we are willing to proceed with the collection of returned applications as requested in your October 8 letter. We will permit an employee of the Division of Elections to accompany a representative of the Alaska Democratic Party to the post office each day and collect the returned absentee ballot applications for processing by the Division. Please have the appropriate representative of the Division of Elections contact Abbey Nauman at the Alaska Democratic Party to coordinate that effort.

We appreciate your assurances that voters will not be disenfranchised and that all applications that are returned by voters will be timely processed by the Division of Elections. For our part, we remain committed to proceeding in this effort in strict compliance with the law and in compliance with the guidance and directions provided by the Division of Elections.

This communication is paid for by the Alaska Democratic Party, PO Box 231230, Anchorage, AK 99523-1230 and is not authorized by any candidate or candidate's committee.

01/20/2005 18:15 907-269-0263

LT GOVERNOR

PAGE 07/10

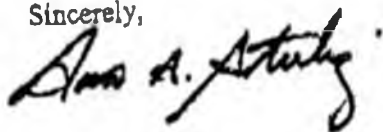
10/10/2004 15:06 19072501626

AK DEMOCRATIC PARTY

PAGE 02/02

If you have any further questions or concerns, please feel free to contact me.

Sincerely,



Scott A. Sterling
Chair

CC: Division of Elections

State Capitol
Juneau, Alaska 99801
907.465.3520 465.5400 FAX
www.lgov.state.ak.us



550 West 7th Ave, Suite 1700
Anchorage, Alaska 99501
907.269.7460 269.0263 FAX
LT_Governor@gov.state.ak.us

Lieutenant Governor Loren Leman

October 12, 2004

Mr. Scott Sterling, Chairman
Alaska Democratic Party
PO Box 231230
Anchorage, AK 99523-1230

Dear Chairman Sterling: *Scott*

Thank you for agreeing on Sunday to comply with my request that a Division of Elections employee accompany your representative when retrieving absentee ballot request forms from your Post Office box. I have alerted the Division of Elections Director, Laura Glaiser, and she will coordinate with Abbey Neuman.

One part of my original letter to you remains unanswered—the questions related to the security, privacy and handling of the absentee ballot request cards that you received to date, before your agreement to be accompanied. Maintaining election integrity is very important to me—as well as the Division--and we must have these answered.

Please respond to the questions I posed in my October 8 letter. They are: Have you or other party workers reviewed or copied any postcards before delivering them to the Division? How much time elapses between when you pick up the postcards and deliver them to the Division? How often do you pick up this mail and when do you do it?

To these three questions, now that I have more information, I am adding two more: Did anyone other than the voter apply stickers with voters' addresses and in some instances precinct numbers to the applications after they were signed by the voter and mailed? Have you delivered all the applications you received?

Please respond by 5 p.m. on Wednesday, October 13.

Sincerely,

A handwritten signature in cursive script that reads "Loren Leman".

Loren Leman
Lieutenant Governor

ALASKA DEMOCRATIC PARTY



Moving Alaska Forward

PO Box 231230
Anchorage, AK 99523-1230
907.258.3050 v
907.258.1626 f
adp@alaska.net
www.alaskademocrats.org

October 13, 2004

Lieutenant Governor Loren Leman
550 West 7th Avenue
Suite 1700
Anchorage, AK 99501

Via Fax: 907.269.0263

Dear Lieutenant Governor Leman:

I am writing in response to your letter yesterday requesting some additional information about the manner in which the Alaska Democratic Party has processed absentee ballot applications.

Several of these questions were first mentioned in your letter last Friday. Unlike the other issues you raised, which required only an assessment of the law and a decision on my part, your questions required that I check with the several individuals who have been involved in the absentee ballot application process. That effort took a bit more time.

Furthermore, I am disappointed in your asking these additional questions in the public forum of your press conference yesterday rather than addressing them to me directly. It is difficult to gauge the real purpose of these questions when you stage a media event several hours before faxing me your letter yesterday.

It's also worth noting that your legal authority to demand answers from the Alaska Democratic Party, or from any Alaska citizen in this setting, is non-existent. So, the tone and tenor of your comments yesterday is wholly unwarranted. That said, I will reiterate that it is the desire of the ADP to cooperate fully to ensure a proper and smooth election and, toward that end, I am happy to provide the information you requested.

This communication is paid for by the Alaska Democratic Party, PO Box 231230, Anchorage, AK 99523-1230 and is not authorized by any candidate or candidate's committee.

1. Have you or other party workers reviewed or copied any postcards before delivering them to the Division? We reviewed postcards to confirm that they were signed and filled out. Only new voter registration forms were copied.

2. How much time elapses between when you pick up the postcards and deliver them to the division? Postcards are given to the Division of Elections as we receive them. Approximately, one week expired before the first Absentee Ballot Requests were turned in. Thereafter, they were turned in as we received them.

3. How often do you pick up this mail and when do you do it? We pick up the mail between 10am and Noon, Monday through Friday.

4. Did anyone other than the voter apply stickers with voters' addresses and in some instances precinct numbers to the applications after they were signed by the voter and mailed? Applications were sent to voters' mailing addresses and mailing addresses were imprinted on the applications in accordance with instructions we were provided by the Division of Elections. After the applications were sent out, the Division of Elections informed the ADP that applications had to have residence, not mailing, addresses. When applications were returned, for those that lacked residence addresses, that information was provided by the Democratic Party without otherwise altering any portion of the application completed by the voter.

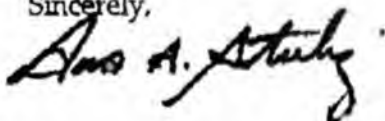
5. Have you delivered all the applications you received?

Yes. They will continue to be delivered on a rolling basis as they're received.

I trust that these responses provide the information you requested. I appreciate that the Division of Elections has received a large number of absentee ballot applications this year, as a consequence of the efforts of both parties. I also appreciate your continued assurances that all applications will be processed and that no voter will be disenfranchised as a consequence of the changes in procedure that have been imposed by the Division of Elections.

Very truly yours,

Sincerely,



Scott A. Sterling
Chair