

October 18, 2022

Re: DeVisser Plaintiffs' Response to Court's Order dated 10/14/22

Plaintiffs Richard DeVisser, the Michigan Republican Party, and the Republican National Committee (the "DeVisser Plaintiffs") submit the following in response to the Court's Order dated October 14, 2022:

1. Does the prohibition on the possession of electronic devices stated in the Manual apply not only to a challenger or poll watcher but also to an election inspector, election official, or other election worker in an absent voter ballot processing facility? In other words, does the prohibition extend to all persons in such facility on election day, or is it limited to a challenger or poll watcher?

Based on the DeVisser Plaintiffs' knowledge, information, and belief, the Defendants' prohibition on the possession of electronic devices at absent voter ballot processing facilities ("AVBP Facilities") on Election Day, as detailed in the Manual, appears to apply only to challengers and poll watchers.

2. If the answer to #1 is that the prohibition on the possession of electronic devices applies to all persons in such facility, then where is that broad prohibition explained in the Manual? Is there some promulgated rule or other instructional guidance where this is explained?

While the DeVisser Plaintiffs submit that, to their knowledge, information, and belief, the answer to #1 is "no," they further respond that any such broad prohibition on the possession of electronic devices is *not* explained in the Manual, which contains a prohibition that plainly applies only to challengers and poll watchers. Manual at 9, 23-24 (poll watchers are "bound by all the same restrictions as a challenger present at [an AVBP Facility].). On its face, there are no provisions in the Manual suggesting that election inspectors, election officials, or other election workers are subject to the same prohibition against possessing electronic devices in AVBP Facilities as are challengers and poll watchers. Likewise, upon their knowledge, information, and belief, the DeVisser Plaintiffs further respond that any such prohibition is not explained in any instructional material or in any promulgated rule that applies to the Department of State.

3. If the answer to #1 is that the prohibition on the possession of electronic devices applies to all persons in such facility, then where is the penalty for an election inspector, election official, or other election worker who violates that prohibition explained in the Manual? Is there some promulgated rule or other instructional guidance where this is explained?

While the DeVisser Plaintiffs again submit that the answer to #1 is "no," they further respond that to their knowledge, information, and belief, the penalty for an election inspector, election

official, or other election worker who violates that prohibition is not explained in the Manual, any promulgated rule or other instructional guidance.

The absence of the above-referenced prohibition from the Manual, promulgated rules, and other instructional guidance is not the only omission cutting against Defendants' narrative. Indeed, while Defendants claim to base their prohibition against challengers and poll watchers possessing phones in AVBP Facilities on MCL 168.765a(9), which prohibits "communicat[ing] information relative to the processing or tallying of votes that may come to [that person] in [the] counting place until after the polls are closed," their own materials suggest that this concern is a mere pretext for treating challengers differently than others.

For example, while the Defendants' website includes a publication entitled "Violations of Michigan and Federal Elections Law Relevant to Election Day," attached hereto as **Exhibit 1**, the prohibition against communicating information relative to the processing or tallying of votes from an AVBP Facility before the polls close is conspicuously absent from that document. The same can be said of the Defendants' publication entitled "Addendum: Michigan Election Law Crimes," also available on the Defendants' website, and attached hereto as **Exhibit 2**.

This begs the question why, if the Defendants are so concerned about the communication of this information that they felt compelled to make their own unlawful rule barring challengers from possessing phones in AVBP Facilities, the criminal penalties for violating the oath under MCL 168.765a(9) and for violating the sequester requirements under MCL 168.765a(10) are not shown among the other election law crimes in Exhibits 1 and 2. The DeVisser Plaintiffs submit that is because the Defendants' stated concern as to the prohibited sharing of this information—which Defendants have not stated in their papers has actually occurred so recently as to serve as a justification for their rule change—is but post-hoc rationalization for their treating challengers differently than others despite no such distinction existing under the law.

4. If the answer to #1 is that the prohibition on the possession of electronic devices applies to all persons in such facility *except for* "authorized individuals" (Brater Aff. ¶ 47), then: (a) who are the "authorized individuals"; (b) where are "authorized individuals" identified in the Manual, promulgated rule, or other instructional guidance; and (c) where is the exception for "authorized individuals" identified in the Manual, promulgated rule, or other instructional guidance?

While the DeVisser Plaintiffs again submit that the answer to #1 is "no," they further respond that to their knowledge, information, and belief there is no definition or explanation of "authorized individuals" in this context in the Manual or under any promulgated rule or other instructional guidance.

To the extent that Defendants attempt to rely on MCL 168.765a(12) as establishing an "authorized individuals" category, that statute cuts against their theory in several ways. As a starting point, subsection 765a(12) permits certain individuals—specifically, "a local election official who has established an absent voter counting board or combined absent voter counting board, the deputy or employee of that local election official, an employee of the state bureau of

elections, a county clerk, an employee of a county clerk, or a representative of a voting equipment company”—to enter and then subsequently leave an AVBP Facility after the tallying has begun but before the polls close, despite the sequestration requirement under section 168.765a(10). *See also* MCL 168.765a(10) (“Except as otherwise provided in subsection (12), a person in attendance at the absent voter counting place or combined absent voter counting place shall not leave the counting place after the tallying has begun until the polls close.”).

But the relaxation of the sequestration requirements for elections officials under subsections 765a(10) and (12) does not magically create a corollary as to the possession of electronic devices. In fact, even those individuals that are exempted from the sequestration requirements under section 765a are still subject to the prohibition against “communicat[ing] information relative to the processing or tallying of votes that may come to [that person] in [the] counting place until after the polls are closed.” *See* MCL 168.765a(12) (“A person described in this subsection who enters an absent voter counting board or combined absent voter counting board and who discloses an election result or in any manner characterizes how any ballot being counted has been voted in a precinct before the time the polls can be legally closed on election day is guilty of a felony.”). And that makes a lot of sense, given that those “authorized individuals,” just by virtue of their own responsibilities and duties as election officials, presumably have far more access to the type of information “relative to the processing or tallying of votes” intended to not be disclosed prior to the close of the polls under section 765a than do challengers. Thus, any classification of “authorized individuals” under subsection 765a(12) cannot serve as a statutory basis for prohibiting challengers from possessing electronic devices at AVBP Facilities, while permitting other classes to possess those devices in the same places.

Finally, subsection 765a(12) actually *supports* the notion that challengers *may* have phones within AVBP Facilities. This is so because subsection 765a(12) permits certain election officials to “enter an absent voter counting board or combined absent voter counting board **only for the purpose of responding to an inquiry from . . . a challenger** or providing instructions on the operation of the counting board.” MCL 168.765a(12) (emphasis added). But if challengers may not possess electronic devices and are also physically sequestered under section 765a(10), how, then, are those challengers supposed to relay such an inquiry to the election officials referenced in the same statute who are outside the facility? In other words, not only does the Michigan law *not* bar challengers from possessing electronic devices in AVBP Facilities, but the law actually *relies* on the use of such devices to ensure that provisions such as subsection 765a(12) are implemented as intended by the Legislature.

For these reasons, and those set forth in the DeVisser Plaintiffs’ Verified Complaint and their Response to the Defendants’ Motion for Summary Disposition, the DeVisser Plaintiffs respectfully request that this Court deny the Defendants’ Motion for Summary Disposition, and that it grant the relief sought in their Verified Complaint and their Response to the Defendants Motion for Summary Disposition.

Dated: October 18, 2022

Respectfully Submitted,

/s/ Charles R. Spies

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EXHIBIT 1

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STATE OF MICHIGAN
BUREAU OF ELECTIONS
LANSING

October 19, 2020

Violations of Michigan and Federal Elections Law Relevant to Election Day

Questions may be directed to the Michigan Bureau of Elections. (517) 335-3234.

Responsibility of County Prosecutors and Law Enforcement Agencies

Under MCL 168.940 and 168.941, county prosecuting attorneys and law enforcement agencies have a duty to investigate alleged criminal violations of Michigan election law, and in appropriate cases, pursue appropriate enforcement action. These statutes read as follows:

- “It is hereby made the duty of every prosecuting attorney, whenever he shall receive credible information that any such offense has been committed, to cause the same to be prosecuted.” (MCL 168.940)
- “It is hereby made the duty of any police, sheriff or peace officer, present and having knowledge of any violation of any of the provisions of this act, to forthwith institute criminal proceedings for the punishment of such offender.” (MCL 168.941)

Michigan election law Criminal Penalties

- Persons are not permitted to solicit votes or engage in any type of campaigning within 100 feet of any doorway used by voters to enter the building in which a polling place is located. Persons shall not post, display or distribute in a polling place or within 100 feet of the entrance to the building in which a polling place is located any material that makes reference to an election, candidate or ballot question. (MCL 168.744; 931(1)(k)).
- Persons must not falsely impersonate another person or vote or attempt to vote under the name of another person. (MCL 168.932a(a))
- Persons must not assume a false or fictitious name to vote or offer to vote. (MCL 168.932a(b))
- Persons who are not qualified to vote must not willfully offer to vote. (MCL 168.932a(c))

- Persons must not offer to vote or attempt to vote more than once at the same election. (MCL 168.932a(e))
- Persons shall not intentionally misrepresent themselves as an election official if they are not an election official. (MCL 168.932e)
- A challenger “who challenges a qualified and registered elector for the purpose of annoying or delaying voters is guilty of a misdemeanor.” (MCL 168.727(3))
- “Any officer or election board who shall prevent the presence of any such challenger or shall refuse to provide a challenger with conveniences for the performance of the duties expected of him or her shall, upon conviction, be punished by a fine not exceeding \$1,000.00, or by imprisonment in the state prison not exceeding 2 years, or both.” (MCL 168.734)
- Names of elected or appointed public officials “shall not appear on any material that is temporarily posted, displayed, or distributed in a polling place or polling room on election day.” (MCL 168.744a)
- Persons must not attempt by means of bribery, menace, or other corrupt means to influence a voter in giving his or her vote or to deter the voter from giving his or her vote. (MCL 168.932(a))
- Persons present while an absent voter is voting an absent voter ballot must not attempt to influence the absent voter on how he or she should vote. (MCL 168.932(g), (h))
- Persons may not accept payment for voting or refraining from voting. (MCL 168.931(1)(b))
- Persons may not pay or promise to pay another person for voting, for refraining from voting or to influence how the person votes. (MCL 168.931(1)(a))
- Persons may not be in possession of another person’s absent voter ballot unless the person 1) is a member of the voter’s immediate family and has been asked by the voter to return the ballot 2) resides in the voter’s household and has been asked by the voter to return the ballot 3) is responsible for handling mail (but only during the course of his or her employment) or 4) is an authorized election official. (MCL 168.932(f)).

Other Conduct that is Prohibited in a Polling Place on Election Day

The following section includes offenses that do not constitute criminal violations of Michigan election law but are conduct standards that may be enforced by election inspectors pursuant to their authority under MCL 168.678: “Each board of election inspectors shall possess full authority to maintain peace, regularity and order at its polling place, and to enforce obedience to their lawful commands during any election.” Election inspectors may enlist the assistance of the clerk or law enforcement, as appropriate, to ensure there is no disruption in voting.

- All pollwatchers, public and media must remain in the marked off “public area” of the polling place.
- *Persons shall not use video cameras, cell phone cameras or video recording, cameras, television or recording equipment in the polling place, except that broadcast stations and credentialed media may be permitted to briefly film from public area. Personnel working for broadcast stations or media shall not set up cameras in the polling place. Note: Under a 2019 court order, voters may use a camera or cell phone to take a picture of the voter’s voted ballot only and only while in the voting station.*
- News reporters are not permitted to interview voters in the polling place.
- *Persons shall not use cell phones once they have entered voting station. Cell phones may be used in the polling place by voters (while waiting in line), challengers and pollwatchers as long as they are not disruptive to the voting process. Note: Under a 2019 court order, voters may also use a camera or cell phone to take a picture of the voter’s voted ballot only and only while in the voting booth.*
- Challengers shall not approach voters or talk to voters for any reason. Challengers are prohibited from wearing, displaying or saying anything that suggests or conveys that they are available to assist voters in any way or answer questions that voters may have.
- Challengers shall not wear or display a button, armband, vest, shirt, hat or any similar item which identifies the organization he or she represents.
- Challengers shall not make challenges indiscriminately and without good cause. A challenger shall not handle poll books or interfere with or unduly delay the work of election inspectors.
- Challengers may be expelled from the polling place based on evidence of drinking alcoholic beverages or disorderly conduct. The election inspectors and other election officials on duty shall protect a challenger in the discharge of his or her duties. (MCL 168.733(3))
- A challenger shall not threaten or intimidate a voter while the voter is entering, in or leaving the polling place. (MCL.168.733(4))

Conduct actionable under federal law

The activities listed below provide a basis for prosecution under federal law. Complaints or questions may be directed to:

Dawn Ison, Election Officer for the Eastern District of Michigan, U.S. Department of Justice. Phone: (313) 226-9567.

Federal Bureau of Investigation, Detroit Field Office. Phone: (313) 965-2323.

U.S. Department of Justice, Civil Rights Division, Voting Section, Washington, D.C. Phone: (800) 253-3931.

- Paying individuals to register to vote, or to vote in elections where a federal candidate's name is on the ballot (52 U.S.C. § 10307(c), 18 U.S.C. § 597).
- Preventing or impeding qualified voters from participating in election that includes a federal candidate through such tactics as disseminating false information as to the date, timing, or location of federal voting activity (18 U.S.C. §§ 241,242).
- Multiple voting in a federal election, voting for individuals in a federal election who do not personally participate in the voting act attributed to them, or impersonating voters (52 U.S.C. §§ 10307(c), 10307(e), 20511).
- Intimidating voters through physical force in any election (18 U.S.C. § 245 (b)(1)(A)); or through physical or economic intimidation in connection with registration to vote or voting in a federal election (52 U.S.C. § 20511, 18 U.S.C. § 594). If the victim is a federal employee, intimidation in connection with all elections is prohibited (18 U.S.C. § 610).
- Malfeasance by election officials, acting "under color of law," such as diluting valid ballots with invalid ones (so-called "ballot box stuffing"), rendering false vote tabulations, or preventing valid voter registrations or votes from being given effect in any election (18 U.S.C. §§ 241, 242), as well as in elections where federal candidates are on the ballot (52 U.S.C. §§ 10307(c), 10307(e), and 20511).
- Registering to vote, or voting in a federal election, by persons who are not entitled to vote under applicable state law and persons who are not United States citizens (52 U.S.C. § 20511).
- Falsely claiming United States citizenship in connection with registering to vote or voting in any election (18 U.S.C. §§ 911, 1015(f)).
- Voting in a federal election by anyone who is not a United States citizen (18 U.S.C. § 611).
- Providing false information concerning an individual's name, address, or period of residence in order to register to vote, or to vote in a federal election (52 U.S.C. §§ 10307(c) and 20511).
- Causing the submission of voter registrations in any election, or the submission of ballots in federal elections, that are materially defective under applicable state law (52 U.S.C. § 20511).
- Ordering, keeping, or having under one's control any troops or armed men at any polling place in a general or special election, if one is a civil or military officer or employee of the United States government (18 U.S.C. § 592).

EXHIBIT 2

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STATE OF MICHIGAN
BUREAU OF ELECTIONS
LANSING

October 22, 2020

Addendum: Michigan Election Law Crimes

168.678 Board of election inspectors; authority.

<http://legislature.mi.gov/doc.aspx?mcl-168-678>

Each board of election inspectors shall possess full authority to maintain peace, regularity and order at its polling place, and to enforce obedience to their lawful commands during any primary or election and during the canvass of the votes after the poll is closed.

168.727 Challenge; duty of election inspector; indiscriminate challenge; penalty.

<http://legislature.mi.gov/doc.aspx?mcl-168-727>

(1) An election inspector shall challenge an applicant applying for a ballot if the inspector knows or has good reason to suspect that the applicant is not a qualified and registered elector of the precinct, or if a challenge appears in connection with the applicant's name in the registration book. A registered elector of the precinct present in the polling place may challenge the right of anyone attempting to vote if the elector knows or has good reason to suspect that individual is not a registered elector in that precinct. An election inspector or other qualified challenger may challenge the right of an individual attempting to vote who has previously applied for an absent voter ballot and who on election day is claiming to have never received the absent voter ballot or to have lost or destroyed the absent voter ballot.

(2) Upon a challenge being made under subsection (1), an election inspector shall immediately do all of the following:

- (a) Identify as provided in sections 745 and 746 a ballot voted by the challenged individual, if any.
- (b) Make a written report including all of the following information:
 - (i) All election disparities or infractions complained of or believed to have occurred.
 - (ii) The name of the individual making the challenge.
 - (iii) The time of the challenge.
 - (iv) The name, telephone number, and address of the challenged individual.
 - (v) Other information considered appropriate by the election inspector.
- (c) Retain the written report created under subdivision (b) and make it a part of the election record.
- (d) Inform a challenged elector of his or her rights under section 729.

A challenger shall not make a challenge indiscriminately and without good cause. A challenger shall not handle the poll books while observing election procedures or the ballots during the counting of the ballots. A challenger shall not interfere with or unduly delay the work of the election inspectors. An individual who challenges a qualified and registered elector of a voting precinct for the purpose of annoying or delaying voters is guilty of a misdemeanor.

168.733 Challengers; space in polling place; rights; space at counting board; expulsion for cause; protection; threat or intimidation.

(<http://legislature.mi.gov/doc.aspx?mcl-168-733>)

(1) The board of election inspectors shall provide space for the challengers within the polling place that enables the challengers to observe the election procedure and each person applying to vote. A challenger may do 1 or more of the following:

- (a) Under the scrutiny of an election inspector, inspect without handling the pollbooks as ballots are issued to electors and the electors' names being entered in the poll book.
- (b) Observe the manner in which the duties of the election inspectors are being performed.
- (c) Challenge the voting rights of a person who the challenger has good reason to believe is not a registered elector.
- (d) Challenge an election procedure that is not being properly performed.
- (e) Bring to an election inspector's attention any of the following:
 - (i) Improper handling of a ballot by an elector or election inspector.
 - (ii) A violation of a regulation made by the board of election inspectors pursuant to section 742.
 - (iii) Campaigning being performed by an election inspector or other person in violation of section 744.
 - (iv) A violation of election law or other prescribed election procedure.
- (f) Remain during the canvass of votes and until the statement of returns is duly signed and made.
- (g) Examine without handling each ballot as it is being counted.
- (h) Keep records of votes cast and other election procedures as the challenger desires.
- (i) Observe the recording of absent voter ballots on voting machines.

(2) The board of election inspectors shall provide space for each challenger, if any, at each counting board that enables the challengers to observe the counting of the ballots. A challenger at the counting board may do 1 or more of the activities allowed in subsection (1), as applicable.

(3) Any evidence of drinking of alcoholic beverages or disorderly conduct is sufficient cause for the expulsion of a challenger from the polling place or the counting board. The election inspectors and other election officials on duty shall protect a challenger in the discharge of his or her duties.

(4) A person shall not threaten or intimidate a challenger while performing an activity allowed under subsection (1). A challenger shall not threaten or intimidate an elector while the elector is entering the polling place, applying to vote, entering the voting compartment, voting, or leaving the polling place.

168.734 Challengers; preventing presence, penalty.

(<http://legislature.mi.gov/doc.aspx?mcl-168-734>)

Any officer or election board who shall prevent the presence of any such challenger as above provided, or shall refuse or fail to provide such challenger with conveniences for the performance of the duties expected of him, shall, upon conviction, be punished by a fine not exceeding \$1,000.00, or by imprisonment in the state prison not exceeding 2 years, or by both

such fine and imprisonment in the discretion of the court.

168.744 Prohibited acts; violation as misdemeanor.

(<http://legislature.mi.gov/doc.aspx?mcl-168-744>)

An election inspector or any other person in a polling room, in a compartment connected to a polling room, or within 100 feet from any entrance to a building in which a polling place is located shall not persuade or endeavor to persuade a person to vote for or against any particular candidate or party ticket or for or against any ballot question that is being voted on at the election. A person shall not place or distribute stickers, other than stickers provided by the election officials pursuant to law, in a polling room, in a compartment connected to a polling room, or within 100 feet from any entrance to a building in which a polling place is located.

(1) A person shall not solicit donations, gifts, contributions, purchase of tickets, or similar demands, or request or obtain signatures on petitions in a polling room, in a compartment connected to a polling room, or within 100 feet from any entrance to a building in which a polling place is located.

(2) On election day, a person shall not post, display, or distribute in a polling place, in any hallway used by voters to enter or exit a polling place, or within 100 feet of an entrance to a building in which a polling place is located any material that directly or indirectly makes reference to an election, a candidate, or a ballot question. Except as otherwise provided in section 744a, this subsection does not apply to official material that is required by law to be posted, displayed, or distributed in a polling place on election day.

(3) A person who violates this section is guilty of a misdemeanor.

168.744a Appearance of name of elected or appointed official in polling place or room prohibited; violation; fine.

(<http://legislature.mi.gov/doc.aspx?mcl-168-744a>)

(1) Notwithstanding any provision of law to the contrary, the name of an elected or appointed official of this state or a political subdivision of this state shall not appear on any material that is temporarily posted, displayed, or distributed in a polling place or polling room on election day.

(2) A person who violates this section is guilty of a misdemeanor punishable by a fine of not more than \$100.00 for a first offense and is guilty of a misdemeanor punishable by a fine of not more than \$250.00 for a second or subsequent offense.

168.931 Prohibited conduct; violation as misdemeanor; “valuable consideration” defined.

(<http://legislature.mi.gov/doc.aspx?mcl-168-931>)

(1) A person who violates 1 or more of the following subdivisions is guilty of a misdemeanor:

(a) A person shall not, either directly or indirectly, give, lend, or promise valuable consideration, to or for any person, as an inducement to influence the manner of voting by a person relative to a candidate or ballot question, or as a reward for refraining from voting.

(b) A person shall not, either before, on, or after an election, for the person's own benefit or on behalf of any other person, receive, agree, or contract for valuable consideration for 1 or more of the following:

(i) Voting or agreeing to vote, or inducing or attempting to induce another to vote, at an election.

- (ii) Refraining or agreeing to refrain, or inducing or attempting to induce another to refrain, from voting at an election.
 - (iii) Doing anything prohibited by this act.
 - (iv) Both distributing absent voter ballot applications to voters and receiving signed applications from voters for delivery to the appropriate clerk or assistant of the clerk. This subparagraph does not apply to an authorized election official.
- (c) A person shall not solicit any valuable consideration from a candidate for nomination for, or election to, an office described in this act. This subdivision does not apply to requests for contributions of money by or to an authorized representative of the political party committee of the organization to which the candidate belongs. This subdivision does not apply to a regular business transaction between a candidate and any other person that is not intended for, or connected with, the securing of votes or the influencing of voters in connection with the nomination or election.
- (d) A person shall not, either directly or indirectly, discharge or threaten to discharge an employee of the person for the purpose of influencing the employee's vote at an election.
- (e) A priest, pastor, curate, or other officer of a religious society shall not for the purpose of influencing a voter at an election, impose or threaten to impose upon the voter a penalty of excommunication, dismissal, or expulsion, or command or advise the voter, under pain of religious disapproval.
- (f) A person shall not hire a motor vehicle or other conveyance or cause the same to be done, for conveying voters, other than voters physically unable to walk, to an election.
- (g) In a city, township, village, or school district that has a board of election commissioners authorized to appoint inspectors of election, an inspector of election, a clerk, or other election official who accepts an appointment as an inspector of election shall not fail to report at the polling place designated on election morning at the time specified by the board of election commissioners, unless excused as provided in this subdivision. A person who violates this subdivision is guilty of a misdemeanor, punishable by a fine of not more than \$10.00 or imprisonment for not more than 10 days, or both. An inspector of election, clerk, or other election official who accepts an appointment as an inspector of election is excused for failing to report at the polling place on election day and is not subject to a fine or imprisonment under this subdivision if 1 or more of the following requirements are met:
- (i) The inspector of election, clerk, or other election official notifies the board of election commissioners or other officers in charge of elections of his or her inability to serve at the time and place specified, 3 days or more before the election.
 - (ii) The inspector of election, clerk, or other election official is excused from duty by the board of election commissioners or other officers in charge of elections for cause shown.
- (h) A person shall not willfully fail to perform a duty imposed upon that person by this act, or disobey a lawful instruction or order of the secretary of state as chief state election officer or of a board of county election commissioners, board of city election commissioners, or board of inspectors of election.
- (i) A delegate or member of a convention shall not solicit a candidate for nomination before the convention for money, reward, position, place, preferment, or other valuable consideration in return for support by the delegate or member in the convention. A candidate or other person shall not promise or give to a delegate money, reward, position, place, preferment, or other valuable consideration in return for support by or vote of the delegate in the convention.
- (j) A person elected to the office of delegate to a convention shall not accept or receive any money or other valuable consideration for his or her vote as a delegate.
- (k) A person shall not, while the polls are open on an election day, solicit votes in a

polling place or within 100 feet from an entrance to the building in which a polling place is located.

(l) A person shall not keep a room or building for the purpose, in whole or in part, of recording or registering bets or wagers, or of selling pools upon the result of a political nomination, appointment, or election. A person shall not wager property, money, or thing of value, or be the custodian of money, property, or thing of value, staked, wagered, or pledged upon the result of a political nomination, appointment, or election. A person shall not participate in a meeting or a portion of a meeting of more than 2 persons, other than the person's immediate family, at which an absent voter ballot is voted.

(m) A person, other than an authorized election official, shall not, either directly or indirectly, give, lend, or promise any valuable consideration to or for a person to induce that person to both distribute absent voter ballot applications to voters and receive signed absent voter ballot applications from voters for delivery to the appropriate clerk.

(2) A person who violates a provision of this act for which a penalty is not otherwise specifically provided in this act, is guilty of a misdemeanor.

(3) A person or a person's agent who knowingly makes, publishes, disseminates, circulates, or places before the public, or knowingly causes directly or indirectly to be made, published, disseminated, circulated, or placed before the public, in this state, either orally or in writing, an assertion, representation, or statement of fact concerning a candidate for public office at an election in this state, that is false, deceptive, scurrilous, or malicious, without the true name of the author being subscribed to the assertion, representation, or statement if written, or announced if unwritten, is guilty of a misdemeanor.

(4) As used in this section, "valuable consideration" includes, but is not limited to, money, property, a gift, a prize or chance for a prize, a fee, a loan, an office, a position, an appointment, or employment.

168.931a Appearance of name of elected or appointed official on ballot-related material; prohibition; violation as misdemeanor; penalty.

<http://legislature.mi.gov/doc.aspx?mcl-168-931a>

(1) Notwithstanding any provision of law to the contrary, and except as otherwise provided in subsection (2), the name of an elected or appointed official of this state or a political subdivision of this state shall not appear on any ballot-related material that is provided to an elector. As used in this section, "ballot-related material" includes any of the following:

- (a) Any material provided to an elector with an absent voter ballot.
- (b) Absent voter ballot instructions.
- (c) An envelope used to mail to an elector an absent voter ballot or any other ballot material.
- (d) An absent voter ballot return envelope.

(2) Any ballot-related material printed or prepared before the effective date of the amendatory act that added this section that contains the name of an elected or appointed official of this state or a political subdivision of this state may be used if the elected or appointed official whose name appears on the ballot-related materials is not a candidate at the election in which those ballot-related materials are being used.

(3) A person who violates this section is guilty of a misdemeanor punishable by a fine of not more than \$100.00 for a first offense and is guilty of a misdemeanor punishable by a fine of not more than \$250.00 for a second or subsequent offense.

168.932 Prohibited conduct; violation as felony.

<http://legislature.mi.gov/doc.aspx?mcl-168-932>

A person who violates 1 or more of the following subdivisions is guilty of a felony:

(a) A person shall not attempt, by means of bribery, menace, or other corrupt means or device, either directly or indirectly, to influence an elector in giving his or her vote, or to deter the elector from, or interrupt the elector in giving his or her vote at any election held in this state.

(b) A person not duly authorized by law shall not, during the progress of any election or after the closing of the polls and before the final results of the election have been ascertained, break open or violate the seals or locks of any ballot box or voting machine used or in use at that election. A person shall not willfully damage or destroy any ballot box or voting machine. A person shall not obtain undue possession of that ballot box or voting machine. A person shall not conceal, withhold, or destroy a ballot box or voting machine, or fraudulently or forcibly add to or diminish the number of ballots legally deposited in the box or the totals on the voting machine. A person shall not aid or abet in any act prohibited by this subdivision.

(c) An inspector of election, clerk, or other officer or person having custody of any record, election list of voters, affidavit, return, statement of votes, certificates, poll book, or of any paper, document, or vote of any description, which pursuant to this act is directed to be made, filed, or preserved, shall not willfully destroy, mutilate, deface, falsify, or fraudulently remove or secrete any or all of those items, in whole or in part, or fraudulently make any entry, erasure, or alteration on any or all of those items, or permit any other person to do so.

(d) A person shall neither disclose to any other person the name of any candidate voted for by any elector, the contents of whose ballots were seen by the person, nor in any manner obstruct or attempt to obstruct any elector in the exercise of his or her duties as an elector under this act.

(e) A person who is not involved in the counting of ballots as provided by law and who has possession of an absent voter ballot mailed or delivered to another person shall not do any of the following:

- (i) Open the envelope containing the ballot.
- (ii) Make any marking on the ballot.
- (iii) Alter the ballot in any way.
- (iv) Substitute another ballot for the absent voter ballot that the person possesses.

(f) A person other than an absent voter; a person whose job it is to handle mail before, during, or after being transported by a public postal service, express mail service, parcel post service, or common carrier, but only during the normal course of his or her employment; a clerk or assistant of the clerk; a member of the immediate family of the absent voter including father-in-law, mother-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, grandparent, or grandchild; or a person residing in the absent voter's household shall not do any of the following:

- (i) Possess an absent voter ballot mailed or delivered to another person, regardless of whether the ballot has been voted.
- (ii) Return, solicit to return, or agree to return an absent voter ballot to the clerk of a city, township, village, or school district.

(g) A person who assists an absent voter who is disabled or otherwise unable to mark the ballot shall only render his or her assistance by showing the absent voter how to vote the ballot as the absent voter desires or by marking the ballot as directed by the absent voter. A person

who assists an absent voter who is disabled or otherwise unable to mark the ballot shall not suggest or in any manner attempt to influence the absent voter on how he or she should vote or allow any other person to do so.

(h) A person present while an absent voter is voting an absent voter ballot shall not suggest or in any manner attempt to influence the absent voter on how he or she should vote.

(i) A person shall not plan or organize a meeting at which absent voter ballots are to be voted.

168.932a Violations as felony; penalty.

<http://legislature.mi.gov/doc.aspx?mcl-168-932a>

A person who does any of the following is guilty of a felony punishable by imprisonment for not more than 4 years or a fine of not more than \$2,000.00, or both:

(a) A person shall not, at an election, falsely impersonate another person, or vote or attempt to vote under the name of another person, or induce or attempt to induce a person to impersonate another person or to vote or attempt to vote under the name of another person.

(b) A person shall not assume a false or fictitious name to vote or to offer to vote by that name, enter or cause to be entered upon the registration book in a voting precinct a false or fictitious name, or induce or attempt to induce another person to assume a false or fictitious name in order to vote, by that name, vote, or offer to or enter or cause to be entered upon the registration book of a voting precinct, a false or fictitious name.

(c) A person who is not a qualified and registered elector shall not willfully offer to vote or attempt to vote at an election held in this state. A person shall not aid or counsel a person who is not a qualified and registered elector to vote or offer to vote at the place where the vote is given during an election.

(d) A qualified and registered elector shall not offer to vote or attempt to vote in a voting precinct in which the elector does not reside, except as otherwise provided in this act. A person shall not procure, aid, or counsel another person to go or come into a township, ward, or voting precinct for the purpose of voting at an election, knowing that the person is not qualified or registered to vote in that township, ward, or voting precinct.

(e) A person shall not offer to vote or attempt to vote more than once at the same election either in the same or in another voting precinct. A person shall not give 2 or more votes folded together.

168.932c Registering individuals; compensation prohibited; violation as felony; penalty.

<http://legislature.mi.gov/doc.aspx?mcl-168-932c>

(1) A person shall not provide compensation to another person for registering individuals to vote that is based upon any of the following:

(a) The total number of individuals a person registers to vote.

(b) The total number of individuals a person registers to vote in a particular political party.

(2) A person who violates this section is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not more than \$1,000.00, or both.

168.932e Misrepresentation as election official; violation as felony.
(<http://legislature.mi.gov/doc.aspx?mcl-168-932e>)

(1) A person shall not intentionally misrepresent by word or act in a polling place on election day that he or she is an election official if that person is not an election official.

(2) A person who violates this section is guilty of a felony.

168.933 Perjury; definition.
(<http://legislature.mi.gov/doc.aspx?mcl-168-933>)

A person who makes a false affidavit or swears falsely while under oath under section 848 or for the purpose of securing registration, for the purpose of voting at an election, or for the purpose of qualifying as a candidate for elective office under section 558 is guilty of perjury.

168.934 Misdemeanor; penalty.
(<http://legislature.mi.gov/doc.aspx?mcl-168-934>)

Any person who shall be found guilty of a misdemeanor under the provisions of this act shall, unless herein otherwise provided, be punished by a fine of not exceeding \$500.00, or by imprisonment in the county jail for a term not exceeding 90 days, or both such fine and imprisonment in the discretion of the court.

168.935 Felony; penalty.
(<http://legislature.mi.gov/doc.aspx?mcl-168-935>)

Any person found guilty of a felony under the provisions of this act shall, unless herein otherwise provided, be punished by a fine not exceeding \$1,000.00, or by imprisonment in the state prison for a term not exceeding 5 years, or by both such fine and imprisonment in the discretion of the court.

168.940 Prosecuting attorney; duty to prosecute.
(<http://legislature.mi.gov/doc.aspx?mcl-168-940>)

It is hereby made the duty of every prosecuting attorney, whenever he shall receive credible information that any such offense has been committed, to cause the same to be prosecuted.

168.941 Peace officers; duty to institute proceedings.
(<http://legislature.mi.gov/doc.aspx?mcl-168-941>)

It is hereby made the duty of any police, sheriff or other peace officer, present and having knowledge of any violation of any of the provisions of this act, to forthwith institute criminal proceedings for the punishment of such offender.