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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-SECOND SESSION

H. F. No. 365

01/28/2021

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The bill was read for the first time and referred to the Committee on State Government Finance and Elections

1.1 A bill for an act

1.2 relating to elections; modifying certain requirements related to investigations of

1.3 suspicious activity in a voter registration application or absentee ballot application;

1.4 specifying certain persons who are permitted to mail or deliver an absentee ballot

1.5 on behalf of a voter; establishing a criminal penalty; establishing a voting fraud

1.6 penalty assessment; amending Minnesota Statutes 2020, sections 201.275; 203B.03,

1.7 subdivision 1; 203B.08, subdivision 1; 211B.32, subdivision 1; proposing coding

1.8 for new law in Minnesota Statutes, chapter 609.

1.9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.10 Section 1. Minnesota Statutes 2020, section 201.275, is amended to read:

1.11 **201.275 INVESTIGATIONS; PROSECUTIONS.**

1.12 (a) ~~A law enforcement agency that is a county attorney shall promptly investigate upon~~

1.13 being notified by affidavit of an alleged violation of this chapter shall promptly investigate.

1.14 ~~Upon receiving an affidavit alleging a violation of this chapter, a county attorney shall~~

1.15 ~~promptly forward it to a law enforcement agency with jurisdiction for investigation. If there~~

1.16 ~~is probable cause for instituting a prosecution, the county attorney shall proceed according~~

1.17 ~~to the generally applicable standards regarding the prosecutorial functions and duties of a~~

1.18 ~~county attorney, provided that the county attorney is not required to proceed with the~~

1.19 ~~prosecution if the complainant withdraws the allegation.,~~ upon receipt of evidence of

1.20 suspicious activity in a voter registration application submitted under section 201.061,

1.21 subdivision 1, or an absentee ballot application submitted under section 203B.04, subdivision

1.22 1, or 203B.17, subdivision 2. If there is probable cause for instituting a prosecution, the

1.23 county attorney shall proceed by complaint or present the charge, with whatever evidence

1.24 has been found, to a grand jury. A county attorney who refuses or intentionally fails to

1.25 faithfully perform this or any other duty imposed by this chapter is guilty of a misdemeanor

2.1 and upon conviction shall forfeit office. The county attorney, under the penalty of forfeiture  
 2.2 of office, shall prosecute all violations of this chapter and chapter 203B where probable  
 2.3 cause exists, except violations of this section. If a complainant withdraws an allegation  
 2.4 under this chapter, the county attorney is not required to proceed with the prosecution.

2.5 (b) Willful violation of this chapter by any public employee constitutes just cause for  
 2.6 suspension without pay or dismissal of the public employee.

2.7 (c) Where the matter relates to a voter registration application submitted electronically  
 2.8 through the secure website established in section 201.061, subdivision 1, alleged violations  
 2.9 of this chapter may be investigated and prosecuted in the county in which the individual  
 2.10 registered or attempted to register.

2.11 (d) A county attorney that receives an affidavit or an application that shows evidence  
 2.12 of suspicious activity under this section must, within one year of receiving the affidavit or  
 2.13 evidence, submit a report to the secretary of state and to the chairs and ranking minority  
 2.14 members of the committees of the legislature with jurisdiction over elections policy detailing  
 2.15 the investigation and its findings, including whether the investigation resulted in a  
 2.16 prosecution. This paragraph does not require the submission of data that is not public due  
 2.17 to its use in an active criminal investigation.

2.18 **EFFECTIVE DATE; APPLICABILITY.** This section is effective the day following  
 2.19 final enactment and applies to affidavits or applications submitted on or after that date.

2.20 Sec. 2. Minnesota Statutes 2020, section 203B.03, subdivision 1, is amended to read:

2.21 Subdivision 1. **Violation.** (a) No individual shall intentionally:

2.22 (1) make or sign any false certificate required by this chapter;

2.23 (2) make any false or untrue statement in any application for absentee ballots;

2.24 (3) apply for absentee ballots more than once in any election with the intent to cast an  
 2.25 illegal ballot;

2.26 (4) exhibit a ballot marked by that individual to any other individual;

2.27 (5) do any act in violation of the provisions of this chapter for the purpose of casting an  
 2.28 illegal vote in any precinct or for the purpose of aiding another to cast an illegal vote;

2.29 (6) use information from absentee ballot materials or records for purposes unrelated to  
 2.30 elections, political activities, or law enforcement;

3.1 (7) provide assistance to an absentee voter except in the manner provided by section  
3.2 204C.15, subdivision 1;

3.3 (8) solicit the vote of an absentee voter while in the immediate presence of the voter  
3.4 during the time the individual knows the absentee voter is voting; ~~or~~

3.5 (9) alter an absentee ballot application after it has been signed by the voter, except by  
3.6 an election official for administrative purposes; or

3.7 (10) engage in any activity prohibited by section 211B.13 for the purpose of inducing  
3.8 a person to apply for, complete, or cast an absentee ballot.

3.9 (b) Before inspecting information from absentee ballot materials or records, an individual  
3.10 shall provide identification to the public official having custody of the material or  
3.11 information.

3.12 **EFFECTIVE DATE.** This section is effective the day following final enactment.

3.13 Sec. 3. Minnesota Statutes 2020, section 203B.08, subdivision 1, is amended to read:

3.14 Subdivision 1. **Marking and return by voter; penalty.** (a) An eligible voter who  
3.15 receives absentee ballots as provided in this chapter shall mark them in the manner specified  
3.16 in the directions for casting the absentee ballots. The return envelope containing marked  
3.17 ballots may be mailed as provided in the directions for casting the absentee ballots or may  
3.18 be left with the county auditor or municipal clerk who transmitted the absentee ballots to  
3.19 the voter. If delivered in person, the return envelope must be submitted to the county auditor  
3.20 or municipal clerk by 3:00 p.m. on election day.

3.21 ~~The voter may designate an agent to deliver in person the sealed absentee ballot return~~  
3.22 ~~envelope to the county auditor or municipal clerk or to deposit the return envelope in the~~  
3.23 ~~mail. An agent may deliver or mail the return envelopes of not more than three voters in~~  
3.24 ~~any election. Any person designated as an agent who tampers with either the return envelope~~  
3.25 ~~or the voted ballots or does not immediately mail or deliver the return envelope to the county~~  
3.26 ~~auditor or municipal clerk is guilty of a misdemeanor.~~

3.27 (b) Except as provided in this paragraph, absentee ballots may only be mailed or delivered  
3.28 by the voter who received them. At the request of the voter, one of the following persons  
3.29 may mail or deliver an absentee ballot on behalf of the voter, provided that the person is at  
3.30 least 18 years of age:

3.31 (1) the voter's spouse; parent or stepparent; sibling or stepsibling; child or stepchild;  
3.32 grandparent or stepgrandparent, or grandchild or stepgrandchild;

- 4.1 (2) the voter's legal guardian;  
 4.2 (3) another member of the voter's household; or  
 4.3 (4) an agent as authorized by section 203B.11.

4.4 (c) A person who mails or delivers an absentee ballot on behalf of a voter who is not  
 4.5 authorized to do so under this subdivision or section 203B.11 is guilty of a felony. A person  
 4.6 authorized to mail or deliver a voter's absentee ballot who subsequently tampers with either  
 4.7 the return envelope or voted ballot is guilty of a felony. A person authorized to mail or  
 4.8 deliver a voter's absentee ballot who does not immediately mail or deliver the ballot is guilty  
 4.9 of a misdemeanor.

4.10 **EFFECTIVE DATE.** This section is effective the day following final enactment.

4.11 Sec. 4. Minnesota Statutes 2020, section 211B.32, subdivision 1, is amended to read:

4.12 Subdivision 1. **Administrative remedy; exhaustion.** (a) Except as provided in paragraph  
 4.13 (b) or (c), a complaint alleging a violation of chapter 211A or 211B must be filed with the  
 4.14 office. The complaint must be finally disposed of by the office before the alleged violation  
 4.15 may be prosecuted by a county attorney.

4.16 (b) Complaints arising under those sections and related to those individuals and  
 4.17 associations specified in section 10A.022, subdivision 3, must be filed with the Campaign  
 4.18 Finance and Public Disclosure Board.

4.19 (c) Complaints alleging a violation of section 211B.13 need not be filed with the office  
 4.20 and may be prosecuted by a county attorney as provided in section 211B.16, consistent with  
 4.21 the standards provided in section 201.275.

4.22 Sec. 5. **[609.476] VOTING FRAUD PENALTY ASSESSMENT.**

4.23 (a) When a court sentences an adult convicted of violating section 201.014; 201.054,  
 4.24 subdivision 2; 201.061, subdivision 5; 203B.03; 203B.08; 204C.12; 204C.14; 204C.41; or  
 4.25 211B.13, the court shall impose an assessment of \$1,000. The assessment is in addition to  
 4.26 any fine imposed by the court and the surcharge required by section 357.021, subdivision  
 4.27 6.

4.28 (b) The court may not waive payment of the assessment required by this section. If the  
 4.29 defendant qualifies for the services of a public defender or the court finds on the record that  
 4.30 the convicted person is indigent or that immediate payment of the assessment would create  
 4.31 undue hardship for the convicted person or that person's immediate family, the court may

- 5.1 reduce the amount of the minimum assessment to not less than \$100. The court may also
- 5.2 authorize payment of the assessment in installments.
- 5.3 **EFFECTIVE DATE.** This section is effective the day following final enactment.