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2005 MAY -3 A 8:58

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

# WEST VIRGINIA LEGISLATURE

FIRST REGULAR SESSION, 2005



# ENROLLED

## House Bill No. 3281

(By Delegates Amores and Craig)



9

Passed April 8, 2005

In Effect Ninety Days from Passage

FILED

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OFFICE WEST VIRGINIA  
SECRETARY OF STATE

**E N R O L L E D**

**H. B. 3281**

(BY DELEGATES AMORES AND CRAIG)

*de*  
*H. B.*

[Passed April <sup>9</sup> 2005; in effect ninety days from passage.]

AN ACT to amend and reenact §3-9-1 of the Code of West Virginia, 1931, as amended, relating to the crime of altering, destroying, or tampering with computer equipment containing voter registration information; accessing or attempting to access confidential voter registration information; and penalties.

*Be it enacted by the Legislature of West Virginia:*

That §3-9-1 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

**ARTICLE 9. OFFENSES AND PENALTIES.**

**§3-9-1. False or fraudulent returns; tampering with, destroying or misdelivering ballots, records, etc.; forgeries; aiding, etc., in offense; penalties.**

1 Every person named and identified in this section, who  
2 shall violate any of the provisions of the election laws as herein  
3 specified, shall be deemed guilty of a felony and, upon convic-

4 tion thereof, shall be punished by imprisonment in a state  
5 correctional facility for not less than one nor more than ten  
6 years:

7 (a) Any commissioner of election or poll clerk who shall  
8 knowingly make or cause to be made, or conspire with others  
9 to make, a false return of the result of the votes cast for any  
10 candidate at any precinct in an election held pursuant to law; or

11 (b) Any commissioner of election receiving the ballot of a  
12 voter to be deposited in the ballot box at any election precinct,  
13 who shall put another ballot in the box instead of the one  
14 received by him; or

15 (c) Any commissioner of election or poll clerk, who  
16 knowingly shall count and string a ballot not taken from the  
17 ballot box, in lieu of one taken, or which should have been  
18 taken from such ballot box; or

19 (d) Any commissioner of a county court, whether acting as  
20 such or ex officio as a member of a board of canvassers or  
21 otherwise, clerk of a county court, or other person, who shall,  
22 except as authorized by law, abstract any ballot from any  
23 package of ballots voted, sealed or returned from any election  
24 precinct, either before or after they are filed with the clerk of  
25 the county court, or who shall in any manner change any such  
26 ballot from what it was when voted by the voter, or who shall  
27 put another ballot in such package in the place of the one so  
28 abstracted therefrom; or

29 (e) Any commissioner of a county court, whether acting as  
30 such commissioner or ex officio as a member of a board of  
31 canvassers, or otherwise, who shall knowingly make and enter  
32 of record, or in any way aid, counsel, or advise the same to be  
33 done, or permit the same to be done without objection on his  
34 part, any false or fraudulent statement of the result of any  
35 election held within the county; or

36 (f) Any person who shall falsely make, or fraudulently  
37 deface, or fraudulently destroy, any certificate of nomination,  
38 or any part thereof, or file any certificate of nomination,  
39 knowing the same, or any part thereof, to be falsely made, or  
40 suppress any certificate of nomination which has been duly  
41 filed, or any part thereof; or erase, deface, or change in any  
42 manner, any election record, or any ballot, poll book, tally sheet  
43 or certificate of election, deposited with either of the clerks of  
44 the county or circuit courts; or conspire with another to do any  
45 of said acts; or induce or attempt to induce any other persons to  
46 do any of said acts; or

47 (g) Any person who shall aid, assist, counsel or advise in  
48 the commission of any of the offenses above specified, whether  
49 or not said acts, or any of them be committed or attempted to be  
50 committed; or

51 (h) Any person, who, without the assent of another, shall  
52 sign the name of such other person to any certificate, affidavit,  
53 ballot, report, statement or writing, required under any provi-  
54 sion of this chapter, with intent to mislead and deceive; or who  
55 shall use or employ any certificate, affidavit, ballot, report,  
56 statement or writing to which the name of a person has been  
57 signed without the authority of such person, knowing that such  
58 name has been so signed with intent to mislead or deceive; or

59 (i) Any clerk of a court, poll clerk, member of the board of  
60 ballot commissioners, commissioner of election, or messenger  
61 intrusted with the custody of the ballots, who shall open  
62 unlawfully any of the packages in which the ballots are con-  
63 tained, or permit any of them to be opened, or destroy any of  
64 such ballots, or permit them to be destroyed, or give, or deliver  
65 any such packages or ballots to any person not lawfully entitled  
66 to receive them, as in this chapter provided, or conspire to  
67 procure, or in any way aid, abet, or connive at any robbery, loss  
68 or unlawful destruction of any such ballots or packages; or

69 (j) Any person not duly authorized by law who shall, during  
70 the progress of any election in this state, or after the closing of  
71 the polls and before the ballots are counted and the results  
72 ascertained, or within twelve months thereafter, open without  
73 breaking, or break open or violate, the seals or locks of any  
74 ballot box, paper, envelope or bag, in which ballots have been  
75 deposited at or after such election, or who shall obtain posses-  
76 sion of such ballot box, paper, envelope or bag containing such  
77 ballots, and cancel, withhold, or destroy such ballots, or who  
78 shall fraudulently or forcibly add to or diminish the number of  
79 ballots legally deposited therein, or who shall fraudulently  
80 make any erasure or alteration of any kind, upon any tally sheet,  
81 poll book, list of voters, or election returns, deposited therein;  
82 or

83 (k) Any person who knowingly, willfully and without  
84 authorization from the Secretary of State, a county clerk or  
85 municipal clerk directly or indirectly, tampers with, deletes,  
86 alters, damages or destroys or attempts to tamper with, delete,  
87 alter, damage or destroy any computer or computer network  
88 that contains voter registration files, records or data or who  
89 knowingly introduces, directly or indirectly, a computer  
90 contaminant into any computer, computer program or computer  
91 network that contains voter registration files, records or data; or

92 (l) Any person who knowingly, directly or indirectly,  
93 accesses, attempts to access, or causes to be accessed any voter  
94 registration files, records or data stored on or in a computer  
95 owned by the Secretary of State, a county commission or  
96 municipality, without authorization; or

97 (m) Any person employed by the Secretary of State, a  
98 county commission or a municipality who knowingly, directly  
99 or indirectly accesses, attempts to access or causes to be  
100 accessed any voter registration files, records or data stored on  
101 or in a computer in an unauthorized manner, in excess of his or  
102 her authorization or for unauthorized use or purpose.

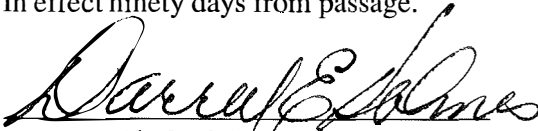
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

  
Chairman Senate Committee

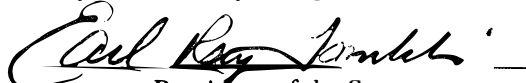
  
Chairman House Committee

Originating in the House.

In effect ninety days from passage.

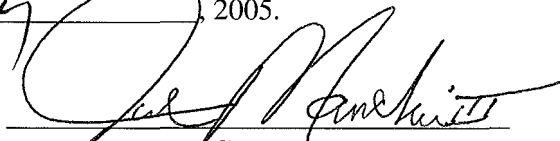
  
Clerk of the Senate

  
Clerk of the House of Delegates

  
President of the Senate

  
Speaker of the House of Delegates

The within is approved this the 2nd  
day of May, 2005.

  
Governor

PRESENTED TO THE  
GOVERNOR

MAY 2 2005

Time 10:10 am