

39A.4 Election misconduct in the third degree.

1. A person commits the crime of election misconduct in the third degree if the person willfully commits any of the following acts:

a. *Election day acts.* Any of the following on election day:

(1) Loitering, congregating, electioneering, posting signs, treating voters, or soliciting votes, during the receiving of the ballots, either on the premises of a polling place or within three hundred feet of an outside door of a building affording access to a room where the polls are held, or of an outside door of a building affording access to a hallway, corridor, stairway, or other means of reaching the room where the polls are held. This subparagraph does not apply to the posting of signs on private property not a polling place, except that the placement of a sign that is more than ninety square inches in size on a motor vehicle, trailer, or semitrailer, or its attachment to a motor vehicle, trailer, or semitrailer parked on public property within three hundred feet of a polling place is prohibited.

(2) Interrupting, hindering, or opposing a voter while in or approaching the polling place for the purpose of voting.

(3) As a voter, submitting a false statement as to the voter's ability to mark a ballot.

(4) Interfering or attempting to interfere with a voter when the voter is inside the enclosed voting space, or when the voter is marking a ballot.

(5) Endeavoring to induce a voter to show how the voter marks or has marked a ballot.

(6) Marking, or causing in any manner to be marked, on a ballot, any character for the purpose of identifying such ballot.

b. *Actions by election official.* As an election official:

(1) Serving as a member of a challenging committee or observer under section 49.104, subsection 2, 5, or 6, while serving as a precinct election official at the polls.

(2) Failing to perform duties prescribed by chapters 39 through 53, or performing those duties in such a way as to hinder the object of the law.

(3) Disclosing the manner in which a person's ballot has been voted to anyone except as ordered by a court.

(4) Failing to carry out a duty with regard to access under chapter 22 to a public record that relates to an election or voter registration.

(5) Furnishing a voter with a ballot other than the proper ballot to be used at an election.

(6) Making or consenting to a false entry on the list of voters or poll books.

(7) Placing or permitting another election official to place anything other than a ballot into a ballot box as provided in section 49.85, or permitting a person other than an election official to place anything into a ballot box.

(8) Taking or permitting to be taken out of a ballot box a ballot deposited in the ballot box, except in the manner prescribed by law.

(9) Destroying or altering a ballot that has been given to a voter.

(10) Permitting a person to vote in a manner prohibited by law.

(11) Refusing or rejecting the vote of a voter qualified to vote.

(12) Wrongfully acting or refusing to act for the purpose of avoiding an election, or of rendering invalid a ballot cast from a precinct or other voting district.

(13) Having been deputized to carry the poll books of an election to the place where they are to be canvassed, failing to deliver them to such place, safe, with seals unbroken, and within the time specified by law.

c. *Miscellaneous offenses.*

(1) As a party committee member or a primary election officer or public officer upon whom a duty is imposed by chapter 43 or by a statute applicable to chapter 43, neglecting to perform any such duty, or performing any such duty in such a way as to hinder the object of the statute, or by disclosing to anyone, except as may be ordered by a court, the manner in which a ballot may have been voted.

(2) As a person who is designated pursuant to section 43.4 to report the results of a precinct caucus as it relates to the selection and reporting of delegates selected as part of the presidential nominating process or who is designated pursuant to section 43.4 to tabulate and report the number of persons attending the caucus favoring each presidential candidate,

failing to perform those duties, falsifying the information, or omitting information required to be reported under section 43.4.

(3) Making a false answer under chapter 43 relative to a person's qualifications and party affiliations.

(4) Paying, offering to pay, or receiving compensation for voter registration assistance in violation of section 48A.25.

(5) Using voter registration information in violation of section 48A.39.

(6) As a candidate, making a promise to name or appoint another person to a position or to secure a position for another person in violation of section 49.120.

(7) Soliciting the use of influence from a candidate in violation of section 49.121.

(8) As a public official or employee, or a person acting under color of a public official or employee, knowingly requiring a public employee to act in connection with an absentee ballot in violation of section 53.7.

(9) As a person designated by the county commissioner of elections or by the voter casting an absentee ballot, failing to return an absentee ballot in violation of section 53.35A.

(10) As an incumbent officeholder of, or a candidate for, an office being voted for at the election in progress, serving as a member of a challenging committee or observer under section 49.104, subsection 2, 5, or 6, or section 53.23, subsection 4.

(11) Returning a voted absentee ballot, by mail or in person, to the commissioner's office and the person returning the ballot is not the voter, the voter's designee, or a special precinct election official designated pursuant to section 53.22, subsection 1.

(12) Making a false or untrue statement reporting that a voted absentee ballot was returned to the commissioner's office, by mail or in person, by a person other than the voter, the voter's designee, or a special precinct election official designated pursuant to section 53.22, subsection 1.

2. Election misconduct in the third degree is a serious misdemeanor.

2002 Acts, ch 1071, §4; 2004 Acts, ch 1083, §1, 37; 2007 Acts, ch 59, §20, 38; 2007 Acts, ch 215, §222

Referred to in §49.92