NO. 12-2440

UNITED STATES COURT OF APPEALS
FOR THE
SIXTH CIRCUIT

LEVON YUILLE, PASTOR,

Plaintiff-Appellant,

v.

BILL SCHUETTE, IN HIS OFFICIAL CAPACITY AS ATTORNEY GENERAL, STATE OF MICHIGAN; AND **BRIAN L. MACKIE**, IN HIS OFFICIAL CAPACITY AS PROSECUTING ATTORNEY, WASHTENAW COUNTY,

Defendants-Appellees.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
HONORABLE GERALD E. ROSEN
Civil Case No. 2:12-cv-14652-GER-MAR

PETITION FOR REHEARING AND REHEARING EN BANC

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TABLE OF CONTENTS

Page

TABLE OF AUTHORITIES

Cases **Page**

Statutes

Rules

INTRODUCTION

Plaintiff-Appellant Pastor Levon Yuille seeks a rehearing and a rehearing *en banc* in this important First Amendment challenge to a provision of Michigan's extant election law that is patently unconstitutional. Pastor Yuille, a Christian pastor of a church in Michigan, challenges this law under the Free Speech and Free Exercise Clauses of the First Amendment and the Equal Protection Clause of the Fourteenth Amendment. (R-1 [Compl.]).

The Michigan law in question states: "**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**." Mich. Comp. Laws § 168.931(1)(e) (hereinafter "§ 931(1)(e)"). Anyone who violates this provision "is guilty of a misdemeanor" and subject to a fine and/or imprisonment.[1] Mich. Comp. Laws § 168.931(1).

As an initial matter, the parties do not dispute that § 931(1)(e) is, on its face, a "*content-based*" restriction on religious speech and thus "*strict scrutiny applies*."[2] (R-14: [Defs.' Resp.] at 14) (emphasis added).

[1] Section 168.931 of the Michigan Election Law is reprinted in full in the Addendum to this petition.

[2] Michigan Attorney General Bill Schuette filed an *amicus* brief in the district court

The panel denied Pastor Yuille's Emergency Motion for Injunctive Relief, which sought to enjoin this criminal law prior to the November 6, 2012 presidential election. But more than that, the panel dismissed Pastor Yuille's appeal on standing grounds, stating, "[W]e agree with the district court that Yuille has not suffered actual injury-in-fact and thus that he does not have standing to bring suit." (Op. at 4).

In reaching this conclusion, the panel's decision directly conflicts with *Epperson v. Ark.*, 393 U.S. 97 (1968), and it conflicts with a long line of cases from the United States Supreme Court, this circuit, and other circuits that have addressed the issue of standing in the context of a challenge to a law that restricts speech. *See* Fed. R. App. P. 35.

In sum, review of the panel's decision is <u>*necessary*</u> to protect First Amendment freedoms, which "are delicate and vulnerable, as well as supremely precious in our society." *NAACP v. Button*, 371 U.S. 415, 433 (1963).

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in his personal capacity, urging the court to enjoin § 931(1)(e) and stating, "Among other things, § 931(1)(e) is not a neutral law of general applicability but specifically targets religious speakers and religious speech; substantially burdens political and religious speech as well as the free exercise of religion; and cannot be justified by any compelling governmental interest." (R-21-1 [*Amicus* Br. of Att'y Gen.] at 1).

STATEMENT OF THE CASE

On October 22, 2012, Pastor Yuille filed his complaint, challenging the constitutionality of this provision of Michigan's extant election law under the First and Fourteenth Amendments.[3] (R-1 [Compl.]). On October 23, 2012, he filed an emergency motion for a TRO / preliminary injunction, seeking to enjoin this law prior to the November 6, 2012 presidential election. (R-6 [Pl.'s Mot. for TRO]). The government responded on October 26, 2012, (R-14 [Defs.' Resp.]), and Pastor Yuille replied on October 29, 2012, (R-17 [Pl.'s Reply]).

On October 30, 2012, the district court held a hearing on Pastor Yuille's motion. The following day, the court dismissed the complaint for lack of standing and denied the request for injunctive relief as moot. (R-23 [Op. & Order]). Pastor Yuille immediately filed a notice of appeal (R-24 [Notice of Appeal]), invoking this court's jurisdiction pursuant to 28 U.S.C. § 1291.

On November 1, 2012, Pastor Yuille filed an Emergency Motion for Injunctive Relief with this court. And on November 3, 2012, the panel affirmed the ruling of the district court dismissing Pastor Yuille's claim for lack of jurisdiction and denied as moot his request for injunctive relief. (Op. at 4).

[3] The district court had jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1343.

STATEMENT OF FACTS

Pastor Yuille is a resident of the State of Michigan, a devout Christian, and the pastor of The Bible Church, which is located in Ypsilanti, Michigan. He is the National Director of the National Black Pro-Life Congress, the former Chairman of the Michigan Black Republican Council of Southern Michigan, and the host of *Joshua's Trail*, a Christian radio talk show that airs in Washtenaw County, Michigan and elsewhere. (R-6-2 [Pastor Yuille Decl. at ¶¶ 2, 3 at Ex. 1]).

Pursuant to his sincerely held Christian beliefs, Pastor Yuille believes, professes, and advises that abortion and gay marriage are gravely immoral and contrary to God's Word. Pastor Yuille believes, professes, and advises that it is a grave sin for a politician to support abortion and gay marriage and that it is a grave sin for a Christian to knowingly vote for a politician that publicly supports abortion and gay marriage. Pastor Yuille believes, professes, and advises that when a Christian knowingly votes for a politician who publicly supports abortion and gay marriage, the voter becomes a partner in the sin and his or her soul is in danger of eternal damnation. As a result, the voter is separating himself or herself from the body of Christ. (R-6-2 [Pastor Yuille Decl. at ¶¶ 6-10 at Ex. 1]).

Pastor Yuille expresses these sincerely held religious beliefs publicly and privately, including when he is speaking to potential voters. (R-6-2 [Pastor Yuille Decl. at ¶ 11 at Ex. 1]). Therefore, as a result of his sincerely held religious beliefs

and his desire to express those beliefs publicly, Pastor Yuille is a pastor, who, for the purpose of influencing a voter at an election, including those voters who are members of his church, advises the voter, under pain of religious disapproval and the potential for suffering separation from the body of Christ, to vote consistent with God's Word. (R-1 [Compl. at ¶ 23]) (emphasis added).

By professing his sincerely held religious beliefs and advising voters pursuant to these beliefs, Pastor Yuille is violating the plain language of § 931(1)(e), and thus subjecting himself to criminal prosecution, which has a chilling effect on his speech. (R-6-2 [Pastor Yuille Decl. at ¶ 14 at Ex. 1]).

REASONS FOR GRANTING THE PETITION

The panel erroneously concluded that Pastor Yuille lacks standing to challenge this provision of Michigan's extant election law,[4] which, *on its face*, criminalizes *his* religious speech, substantially burdens *his* religious beliefs, and targets *his* religion for disfavored treatment. (*See* Op. at 1-4).

In its decision, the panel stated: "Moving to the specifics of Yuille's argument, he claimed below that he had demonstrated actual injury-in-fact by: (1) pointing to the existence of a statute criminalizing his speech; and (2) claiming that the statute in question chilled his speech." (Op. at 2). The panel then held,

[4] Michigan Compiled Laws § 168.931, of which § 168.931(1)(e) is a part, is a criminal statute that is currently enforced in Michigan. *See, e.g., Mich. v. Pinkney*, No. 286992, 2009 Mich. App. LEXIS 1526, at *1 (Mich. Ct. App. July, 14, 2009) (affirming conviction under MCL § 168.931(1)(a)).

incorrectly, that "[w]ithout more, both of these claims fail to support standing under well-established Supreme Court jurisprudence." (Op. at 2) (emphasis added).

In their decisions dismissing Pastor Yuille's constitutional challenge, both the district court and the panel relied upon *Poe v. Ullman*, 367 U.S. 497 (1961), a case in which a sharply divided Court dismissed a constitutional challenge to two Connecticut statutes that prohibited the use of contraceptive devices and the giving of medical advice in the use of such devices. (*See* Op. at 3) ("[T]he 'mere existence of a state penal statute would constitute insufficient grounds to support a federal court's adjudication of its constitutionality in proceedings brought against the State's prosecuting officials if real threat of enforcement is wanting.'") (quoting *Poe*, 367 U.S. at 507). *Poe v. Ullman*, however, does not countenance dismissal in this case.

Indeed, the tenuous holding of *Poe* was rejected, *sub silentio*, by the Court in *Epperson v. Ark.*, 393 U.S. 97 (1968), a case decided seven years later.

In *Epperson*, a teacher brought a constitutional challenge to Arkansas' "anti-evolution" statute, which was adopted in 1928. *Id.* at 98. The Arkansas law made it unlawful for a public school teacher "to teach the theory or doctrine that mankind ascended or descended from a lower order of animals" or "to adopt or use in any such institution a textbook that teaches" this theory. *Id.* at 98-99. A

violation of this law was a misdemeanor and subjected the violator to dismissal from her teaching position. *Id.* at 99. The Court struck down the law, holding that it was "contrary to the mandate of the First Amendment." *Id.* at 109. The Court reached the merits of this First Amendment challenge even though the appellant had not been prosecuted nor threatened with prosecution under the statute. Indeed, the Court made the following relevant observation: "There is *no record of any prosecutions* in Arkansas under its statute. It is possible that the statute *is presently more of a curiosity* than a vital fact of life in these States." *Id.* at 101-02 (emphasis added). Thus, despite these facts, the Supreme Court accepted jurisdiction of the case, stating, "Nevertheless, the present case was brought, *the appeal as of right is properly here*, and *it is our duty to decide the issues presented*. *Id.* at 102; *see also Doe v. Bolton*, 410 U.S. 179, 188 (1973) (relying on *Epperson* and holding that abortion providers had standing to challenge a state's abortion statutes even though "the record [did] not disclose that any one of them [had] been prosecuted, or threatened with prosecution"); *see generally Planned Parenthood Ass'n v. City of Cincinnati*, 822 F.2d 1390, 1395 (6th Cir. 1987) (holding that where a plaintiff "would be subject to application of the [challenged] statute," that alone is sufficient to provide the "fear of prosecution . . . reasonably founded in fact" to confer standing).

As in *Epperson*, the present case was brought, Pastor Yuille's appeal of right

is properly before the court, and *it is the court's duty to decide the issues presented*.

Moreover, in *Poe* there was no evidence that the statutes would ever be enforced in any manner. *See Poe*, 367 U.S. at 507-08. The same is not true here. Indeed, throughout these proceedings, the government has strenuously defended this provision of Michigan's election law as necessary and narrowly tailored to prevent a "minister's influence and power" over a voter.[5] (*See* R-14 [Defs.' Resp.] at 15-16). And while the government prosecutors retreated from the broad and sweeping application of this statute that is required by its plain language, they were nonetheless unwilling to disavow enforcement of a narrower (and yet still unconstitutional) construction. The following exchanges with the district court during the hearing on Pastor Yuille's request for a temporary restraining order demonstrate this point:

> THE COURT: This statute does not reach -- is the Attorney General's Office interpretation of this statute that it is not -- that it does not reach proselytization from a pulpit, on a street corner, not at the time of an -- at the time when the votes are being cast?
> MS. SHERMAN: It does not reach or prohibit proselytization *other than at an election*, yes, that would be the Attorney General's position.

[5] During oral argument, counsel for the Attorney General stated the following: "I think it's also important that the kind of power and influence that a religious official can wield is for some voters very different in kind then the kind of power that a leaflet wheels (sic). The Supreme Court has said voter intimidation is very hard to detect. I submit that this is a particularly difficult kind of potential intimidation to detect." (Tr. of Hr'g at 31:10-16).

(Tr. of Hr'g at 26:17-24)[6] (emphasis added).

> THE COURT: Does the Attorney General's Office have any intent under this statute to prohibit him from being –
> MS. SHERMAN: No, Your Honor. And I would point the Court to I believe it's Affidavit Seven which is the affidavit of Tom Cameron, he's the [head] of our criminal division. He has under oath before a notary public said we have no -- *I can't say there's no intent*. *I have to back up on that*. What I would say is there are no -- they don't know of any threats of prosecution, there are no pending prosecutions and there's no investigation pending.

(Tr. of Hr'g at 28:5-15) (emphasis added).

> THE COURT: Well, he said in his affidavit that he's been doing all of these activities. He's proselytized against abortion --
> MR. HILLER: Correct.
> THE COURT: -- proselytizing against gay marriage.
> MR. HILLER: Correct.
> THE COURT: Whether he's threatened excommunication or dismissal or some other religious disapproval, I'm not sure. But, but what if he did?
> MR. HILLER: *As long as he didn't do it at an election*, he does not violate the statute.
> THE COURT: By "at an election" Prosecutor – Washtenaw County Prosecutor means either at a polling site or some other situs where a voter is voting?
> MR. HILLER: Correct.

(Tr. of Hr'g at 35:5-19) (emphasis added).

> THE COURT: -- *at what point will the Attorney General enforce this statute*?
> MS. SHERMAN: *At an election*.

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[6] A copy of the hearing transcript was submitted to this court as an attachment to Pastor Yuille's Emergency Motion for Injunctive Relief. During the hearing, Ms. Sherman was representing the Michigan Attorney General and Mr. Hiller was representing the Wayne County Prosecutor.

(Tr. of Hr'g at 45: 22-24) (emphasis added).

> THE COURT: Let me ask you this. Suppose his client goes to the polls on Tuesday and stands in front of the polling places and says don't vote for President Obama because he's a sinner. And if you do, you will be viewed with religious disfavor and you'll go directly to where ever people who are disfavored go. You going to enforce the statute?
> MS. SHERMAN: I can't speak for what -- I can't speak for our criminal division and The Attorney General's Office. *I can't promise they aren't going to enforce something*. I can tell you there are no threats or impending plans to enforce that. We do enforce state law, but it's never been enforced since 1877.

(Tr. of Hr'g at 50:24-51:11) (emphasis added).

> THE COURT: If he stays outside the hundred feet and in subsection (k) he's okay?
> MS. SHERMAN: If, if the Court reads Subsection (1)(e) *in pari materia* with (1)(k) and said it's clear from the statute as a whole as to what the legislature meant was a hundred feet then he's fine beyond the hundred feet. But even if –
> THE COURT: I don't think I have to say it's absolutely pristinely clear, I think I can say that as I'm duty-bound to do, that the statute fairly and reasonably can be read that way and that is harmonious with the Constitution.
> MS. SHERMAN: *But I would argue even if it was broader and it was just at an election not the 100 feet, the statute is still narrowly tailored for the kind of potential intimidation that's present here*. But certainly the most clean and plausible way to apply it would be to say if you read the statute as a whole, it's clear that the 100-foot mark from (k) when read as a whole as a reasonable restriction on (1)(e) at an election. But either way the Court -- *the state has not only a compelling interest in protecting against voter fraud, but it also has the narrow tailoring because it only prohibits those particular activities; the commanding, the advising, the imposing the threats upon; and it only does so at the polling location and not at the pulpit or on the sidewalk*. And it only does so during the time, you know at the election, not before the election, not after, not the day before, not

> the week before and, again, not on the sidewalk. *So I think it's narrowly tailored under either of those potential interpretations*.

(Tr. of Hr'g at 52:4-53:7) (emphasis added). Thus, *Poe v. Ullman* is also factually distinct from this case.

Indeed, aside from *Epperson*'s clear mandate that this court has a *duty* to decide the important First Amendment issues presented by this case, a party's standing to make a pre-enforcement challenge to a criminal statute that chills the exercise of First Amendment liberties is well established. And that is particularly the case when, as here, the plain language of the statute criminalizes speech. In *Thornhill v. Ala.*, 310 U.S. 88 (1940), the Court made this precise point: "Where regulations of the liberty of free discussion are concerned, there are special reasons for observing the rule *that it is the statute*, and not the accusation or the evidence under it, which prescribes the limits of permissible conduct and warns against transgression." *Id.* at 98 (emphasis added).

Moreover, and quite appropriately, the standing requirement is relaxed in the First Amendment context. *See Red Bluff Drive-In, Inc. v. Vance*, 648 F.2d 1020, 1034 n.18 (5th Cir. 1981) (stating that the injury-in-fact requirement for standing is properly relaxed for First Amendment challenges "because of the 'danger of tolerating, in the area of First Amendment freedoms, the existence of a penal statute susceptible of sweeping an improper application'") (quotations in original, citations omitted); *Berner v. Delahanty*, 129 F.3d 20, 24 (1st Cir. 1997) ("When

the First Amendment is in play . . . the Court has relaxed the prudential limitations on standing to ameliorate the risk of washing away free speech protections.").

Consequently, it is well established that when a statute chills speech—such as this statute, which criminalizes Pastor Yuille's speech on its face—that chilling effect constitutes an injury-in-fact sufficient to confer standing. *See G & V Lounge, Inc. v. Mich. Liquor Control Comm'n*, 23 F.3d 1071, 1076 (6th Cir. 1994) (recognizing that "a chilling effect on one's constitutional rights constitutes a present injury in fact"); *N.H. Right to Life Political Action Comm. v. Gardner*, 99 F.3d 8, 13 (1st Cir. 1996) ("[A]n actual injury can exist when the plaintiff is chilled from exercising her right to free expression or foregoes expression in order to avoid enforcement consequences."); *Minn. Citizens Concerned for Life v. Fed. Election Comm'n*, 113 F.3d 129, 132 (8th Cir. 1997) ("Sufficient hardship is usually found if the regulation . . . chills protected First Amendment activity."); *see also Elrod v. Burns*, 427 U.S. 347, 373 (1976) ("The loss of First Amendment freedoms, for even minimal periods of time, unquestionably constitutes irreparable injury."). And when the government chills a citizen's First Amendment rights, the citizen need not wait for some adverse consequence before challenging the action. *Steffel v. Thompson*, 415 U.S. 452, 459 (1974) ("[I]t is not necessary that petitioner first expose himself to actual arrest or prosecution to be entitled to challenge a statute that he claims deters the exercise of his constitutional rights.");

Dombrowski v. Pfister, 380 U.S. 479, 486 (1965) ("Because of the sensitive nature of constitutionally protected expression, we have not required that all of those subject to overbroad regulations risk prosecution to test their rights.").

In the final analysis, the freedom of speech is a precious and vulnerable right that is *essential* for the preservation of our republican form of government. As the Supreme Court has long recognized, "[Speech] concerning public affairs is more than self-expression; it is the essence of self-government." *NAACP v. Claiborne Hardware Co.*, 458 U.S. 886, 913 (1982) (citations omitted). Moreover, "private religious speech, far from being a First Amendment orphan, is as fully protected under the Free Speech Clause as secular private expression." *Capitol Square Rev. & Adv. Bd. v. Pinette*, 515 U.S. 753, 760 (1995). Consequently, there can be no dispute that Pastor Yuille's speech, which expresses his sincerely held religious beliefs, is fully protected under the First Amendment and deserving of such protection. *See, e.g., Murdock v. Pa.*, 319 U.S. 105, 110 (1943) (holding that "spreading one's religious beliefs" and "preaching the Gospel" are constitutionally protected activities); *Bd. of Educ. v. Mergens*, 496 U.S. 226, 250 (1990) (O'Connor, J.) (observing that "*private* speech endorsing religion" is protected by "the Free Speech and Free Exercise Clauses").

In sum, § 931(1)(e), which imposes criminal penalties on speech, "is a stark example of speech suppression." *Ashcroft v. Free Speech Coal.*, 535 U.S. 234, 244

(2002) (noting that "even minor punishments can chill protected speech" and acknowledging that "a law imposing criminal penalties on protected speech is a stark example of speech suppression"). It is the law today in Michigan; it currently exists as part of Michigan's extant election law. And it is a law that criminalizes Pastor Yuille's speech on its face. Indeed, no court should "tolerat[e], in the area of First Amendment freedoms, the existence of [such] a penal statute." Thus, Pastor Yuille has standing to challenge this patently unconstitutional criminal law.

CONCLUSION

Pastor Yuille respectfully requests that the court grant this petition, vacate the panel's opinion, and reverse the district court's order dismissing this case for lack of jurisdiction.

Respectfully submitted,

AMERICAN FREEDOM LAW CENTER

/s/ Robert J. Muise
Robert J. Muise, Esq. (P62849)

/s/ David Yerushalmi
David Yerushalmi, Esq.

Counsel for Plaintiff-Appellant

CERTIFICATE OF COMPLIANCE

I certify that pursuant to Fed. R. App. P. 35, the foregoing petition does not exceed 15 pages, excluding material not counted under Fed. R. App. P. 32.

AMERICAN FREEDOM LAW CENTER

/s/ Robert J. Muise
Robert J. Muise, Esq.

CERTIFICATE OF SERVICE

I hereby certify that on November 16, 2012, I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Sixth Circuit by using the appellate CM/ECF system. Participants in the case who are registered CM/ECF users will be served by the appellate CM/ECF system. I further certify that all of the participants in this case are registered CM/ECF users.

AMERICAN FREEDOM LAW CENTER

/s/ Robert J. Muise
Robert J. Muise, Esq.

ADDENDUM

MICHIGAN ELECTION LAW

§ 168.931. Prohibited conduct; violation as misdemeanor; "valuable consideration" defined.

Sec. 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.

(m) 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.

(n) 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.