

As Amended by Senate Committee

Session of 2007

Substitute for HOUSE BILL No. 2129

By Committee on Elections and Governmental Organization

2-14

10 AN ACT concerning elections; relating to ~~certain crimes~~ **corrupt polit-**
11 **ical advertising; relating to advance voting**; amending K.S.A. ~~25-~~
12 ~~2407~~ **25-1121, 25-2407 and 25-4156 and K.S.A. 2006 Supp. 25-**
13 **1124 and 25-1128** and repealing the existing ~~section~~ **sections.**
14

15 *Be it enacted by the Legislature of the State of Kansas:*

16 Section 1. K.S.A. 25-2407 is hereby amended to read as follows: 25-
17 2407. Corrupt political advertising is:

18 (a) ~~(1)~~ **(1)** Publishing or causing to be published in a newspaper or other
19 periodical any paid matter which ~~is designed or tends to aid, injure or~~
20 ~~defeat any candidate for nomination or election to public office expressly~~
21 *advocates the nomination, election or defeat of any candidate*, unless such
22 matter is followed by the word “advertisement” or the abbreviation “adv.”
23 in a separate line together with the name of the chairman of the political
24 or other organization inserting the same or the name of the person who
25 is responsible therefor; or

26 ~~(b)~~ **(2)** broadcasting or causing to be broadcast by any radio or tele-
27 vision station any paid matter which ~~is designed or tends to aid, injure or~~
28 ~~defeat any candidate for nomination or election to public office expressly~~
29 *advocates the nomination, election or defeat of any candidate*, unless such
30 matter is followed by a statement ~~that the preceding was an advertisement~~
31 ~~together with the name of the chairman of the~~ *which states: “Paid for”*
32 *or “Sponsored by” followed by the name of the sponsoring organization*
33 *and the name of the chairperson or treasurer of the* political or other
34 organization sponsoring the same or the name of the person who is re-
35 sponsible therefor; or

36 ~~(c)~~ **(3)** publishing or causing to be published in a newspaper or other
37 periodical any paid matter which is intended to influence the vote of any
38 person or persons for or against any question submitted for a proposition
39 to amend the constitution or to authorize the issuance of bonds or any
40 other question submitted at an election, unless such matter is followed
41 by the word “advertisement” or the abbreviation “adv.” in a separate line
42 together with the name of the chairman of the political or other organi-
43 zation inserting the same or the name of the person who is responsible

1 therefor; or

2 ~~(4)~~ (4) broadcasting or causing to be broadcast by any radio or tel-
3 evision station any paid matter which is intended to influence the vote of
4 any person or persons for or against any question submitted for a prop-
5 osition to amend the constitution or to authorize the issuance of bonds
6 or any other question submitted at an election, unless such matter is
7 followed by ~~the a statement that the preceding was an advertisement~~
8 ~~together with the name of the chairman of the~~ *which states: "Paid for"*
9 *or "Sponsored by" followed by the name of the sponsoring organization*
10 *and the name of the chairperson or treasurer of the* political or other
11 organization sponsoring the same or the name of the person who is re-
12 sponsible therefor.

13 (b) Corrupt political advertising is a class C misdemeanor.

14 (c) (1) *Whenever any vendor or other person provides any of*
15 *the services defined in subsection (a), such vendor or other person*
16 *shall keep and maintain records showing the name and address of*
17 *the person who purchased or requested such services and the*
18 *amount paid for such services. The records required by this sub-*
19 *section shall be kept for a period of one year after the date upon*
20 *which payment was received for such services.*

21 (2) *Failure to keep and maintain the records required by this*
22 *subsection is a class C misdemeanor.*

23 (d) *For the purposes of this section, the term "expressly advo-*
24 *cate the nomination, election or defeat of a candidate" shall have*
25 *the meaning ascribed to it in K.S.A. 25-4143 and amendments*
26 *thereto.*

27 **Sec. 2. K.S.A. 25-4156 is hereby amended to read as follows:**
28 **25-4156. (a) (1) Whenever any person sells space in any newspaper,**
29 **magazine or other periodical to a candidate or to a candidate com-**
30 **mittee, party committee or political committee, the charge made for**
31 **the use of such space shall not exceed the charges made for com-**
32 **parable use of such space for other purposes.**

33 (2) *Intentionally charging an excessive amount for political ad-*
34 *vertising is a class A misdemeanor.*

35 (b) (1) *Corrupt political advertising of a state or local office is:*

36 (A) *Publishing or causing to be published in a newspaper or*
37 *other periodical any paid matter which expressly advocates the*
38 *nomination, election or defeat of a clearly identified candidate for*
39 *a state or local office, unless such matter is followed by the word*
40 *"advertisement" or the abbreviation "adv." in a separate line to-*
41 *gether with the name of the chairperson or treasurer of the political*
42 *or other organization sponsoring the same or the name of the indi-*
43 *vidual who is responsible therefor;*

1 ***(B) broadcasting or causing to be broadcast by any radio or***
2 ***television station any paid matter which expressly advocates the***
3 ***nomination, election or defeat of a clearly identified candidate for***
4 ***a state or local office, unless such matter is followed by a statement***
5 ***which states: “Paid for” or “Sponsored by” followed by the name***
6 ***of the sponsoring organization and the name of the chairperson or***
7 ***treasurer of the political or other organization sponsoring the same***
8 ***or the name of the individual who is responsible therefor; or***

9 ***(C) publishing or causing to be published any brochure, flier***
10 ***or other political fact sheet which expressly advocates the nomi-***
11 ***nation, election or defeat of a clearly identified candidate for a state***
12 ***or local office, unless such matter is followed by the name of the***
13 ***chairperson or treasurer of the political or other organization spon-***
14 ***soring the same or the name of the individual who is responsible***
15 ***therefor.***

16 ***The provisions of this subsection (C) requiring the disclosure of***
17 ***the name of an individual shall not apply to individuals making***
18 ***expenditures in an aggregate amount of less than \$2,500 within a***
19 ***calendar year.***

20 ***(2) Corrupt political advertising of a state or local office is a***
21 ***class C misdemeanor.***

22 ***(c) If any provision of this section or application thereof to any***
23 ***person or circumstance is held invalid, such invalidity does not af-***
24 ***fect other provisions or applications of this section which can be***
25 ***given effect without the invalid application or provision, and to this***
26 ***end the provisions of this section are declared to be severable.***

27 ***(d) (1) Whenever any vendor or other person provides any of the***
28 ***services defined in subsection (b), such vendor or other person shall keep***
29 ***and maintain a record showing the name and address of the person who***
30 ***purchased or requested such services and the amount paid for such serv-***
31 ***ices. The records required by this subsection shall be kept for a period of***
32 ***one year after the date upon which payment was received for such***
33 ***services.***

34 ***(2) Failure to keep and maintain the records required by this subsec-***
35 ***tion is a class C misdemeanor.***

36 ***New Sec. 3. Advance voting suppression is knowingly, with in-***
37 ***tent to impede, obstruct or influence the election process: (a) De-***
38 ***stroying or altering another person’s advance voting ballot applied***
39 ***for, or completed, by a registered voter, unless such registered voter***
40 ***consents in writing to such destruction or alteration;***

41 ***(b) obstructing the delivery of an advance voting ballot to a***
42 ***voter or a completed advance voting ballot to the county election***
43 ***officer;***

- 1 (c) *failing to deliver any such advance voting ballot to the ap-*
2 *propriate county election officer within two business days or before*
3 *the close of polls on election day, whichever first occurs;*
4 (d) *delivering an advance voting ballot to or causing the deliv-*
5 *ery of an advance voting ballot to any place other than the county*
6 *election office;*
7 (e) *exercising undue influence upon an advance voter in apply-*
8 *ing for, delivering or marking an advance voting ballot; or*
9 (f) *opening an advance voting ballot envelope sealed by the*
10 *voter or examining or disclosing the contents of such voter’s advance*
11 *voting ballot except as required to fulfill official duties as otherwise*
12 *prescribed by law.*
13 (g) *Delivering an advance voting ballot to the United States*
14 *mail, with first-class postage attached, at least five calendar days*
15 *prior to election day for delivery to the county election officer shall*
16 *not be a violation of this section.*
17 (h) *As used in this section:*
18 (1) *“Undue influence” means coercion, compulsion or restraint*
19 *as to diminish the voter’s free agency, and by overcoming the power*
20 *of resistance, obliges or causes such voter to adopt the will of an-*
21 *other; and*
22 (2) *“deliver” means hand-deliver, mail or otherwise transmit an*
23 *advance voting ballot.*
24 *Advance voting suppression is a severity level 9, nonperson*
25 *felony.*
26 Sec. 4. *K.S.A. 25-1121 is hereby amended to read as follows:*
27 *25-1121. It shall be the duty of the secretary of state to prescribe*
28 *the general forms of advance voting ballots to be used in all primary*
29 *and general elections and the form of the printed instructions to*
30 *voters containing a statement of all the requirements of this act, and*
31 *any other written forms or statements required by this act, to enable*
32 *voters to comply with such the requirements of this act. Such pre-*
33 *scribed forms shall be transmitted to the county election officers 35*
34 *days before each primary and general election.*
35 Sec. 5. *K.S.A. 2006 Supp. 25-1124 is hereby amended to read*
36 *as follows: 25-1124. (a) Upon receipt of the advance voting ballot,*
37 *the voter shall cast such voter’s vote as follows: The voter shall make*
38 *a cross or check mark in the square or parentheses opposite the*
39 *name of each candidate or question for whom the voter desires to*
40 *vote. The voter shall make no other mark, and shall allow no other*
41 *person to make any mark, upon such ballot. If the advance voting*
42 *ballot was transmitted by mail, the voter personally shall place the*
43 *ballot in the ballot envelope bearing the same number as the ballot*

1 *and seal the envelope. The voter shall complete the form on the*
2 *ballot envelope and shall sign the same. Except as provided by*
3 *K.S.A. 25-2908, and amendments thereto, the ballot envelope shall*
4 *be mailed or otherwise transmitted to the county election officer. If*
5 *the advance voting ballot was transmitted to the voter in person in*
6 *the office of the county election officer or at a satellite advance*
7 *voting site, the voter may deposit such ballot into a locked ballot*
8 *box without an envelope.*

9 *(b) Any ~~sick, physically disabled or illiterate~~ voter who has a tem-*
10 *porary illness or disability or who is not proficient in reading the English*
11 *language and is unable to apply for or mark or transmit an advance*
12 *voting ballot, may request assistance by a person who has signed a*
13 *statement required by subsection (d) in applying for or marking an*
14 *advance voting ballot.*

15 *(c) Any voted ballot may be transmitted to the county election officer*
16 *by the voter or by another person upon request of the voter. Any such*
17 *voted ballot shall be transmitted to the county election officer before the*
18 *close of the polls on election day.*

19 ~~*(d) The county election officer shall allow a person to assist a*~~
20 ~~*sick, physically disabled or illiterate voter who has a temporary illness or*~~
21 ~~*disability or who is not proficient in reading the English language in*~~
22 ~~*applying for or marking an application or advance voting ballot,*~~
23 ~~*provided a written statement is signed by the person who renders*~~
24 ~~*assistance to the sick, physically disabled or illiterate voter who has a*~~
25 ~~*temporary illness or disability or who is not proficient in reading the*~~
26 ~~*English language and submitted to the county election officer with*~~
27 ~~*the application or ballot. The statement shall be on a form pre-*~~
28 ~~*scribed by the secretary of state and shall contain a statement from*~~
29 ~~*the person providing assistance that the person has not exercised*~~
30 ~~*undue influence on the voting decision of the sick, physically disabled*~~
31 ~~*or illiterate voter who has a temporary illness or disability or who is not*~~
32 ~~*proficient in reading the English language and that the person provid-*~~
33 ~~*ing assistance has completed the application or marked the ballot*~~
34 ~~*as instructed by the sick, physically disabled or illiterate voter.*~~

35 ~~*(e) (d) Any person assisting a sick, physically disabled or illiterate*~~
36 ~~*voter who has a temporary illness or disability or who is not proficient*~~
37 ~~*in reading the English language in applying for or marking an advance*~~
38 ~~*voting ballot who knowingly and willfully fails to sign and submit*~~
39 ~~*the statement required by this section or who exercises undue influ-*~~
40 ~~*ence on the voting decision of such voter shall be guilty of a severity*~~
41 ~~*level 9 nonperson felony.*~~

42 *Sec. 6. K.S.A. 2006 Supp. 25-1128 is hereby amended to read*
43 *as follows: 25-1128. (a) No voter shall mark or transmit to the*

1 *county election officer more than one advance voting ballot, or set*
2 *of one of each kind of ballot, if the voter is entitled to vote more*
3 *than one such ballot at a particular election.*

4 *(b) Except as provided in K.S.A. 25-1124, and amendments*
5 *thereto, no person shall interfere with or delay the transmission of*
6 *any advance voting ballot application from a voter to the county*
7 *election officer, nor shall any person mail, fax or otherwise cause*
8 *the application to be sent to a place other than the county election*
9 *office. Any person or group engaged in the distribution of advance*
10 *voting ballot applications shall mail, fax or otherwise deliver any*
11 *application signed by a voter to the county election office within*
12 *two days after such application is signed by the applicant.*

13 ~~*(c) Except as otherwise provided by law, no person other than the*~~
14 ~~*voter, shall mark, sign or transmit to the county election officer any ad-*~~
15 ~~*vance voting ballot or advance voting ballot envelope. Except as otherwise*~~
16 ~~*provided by law, no person other than the voter shall sign an application*~~
17 ~~*for an advance voting ballot.*~~

18 *(d) No person, unless authorized by K.S.A. 25-1122 or K.S.A.*
19 *25-1124, and amendments thereto, shall intercept, interfere with,*
20 *or delay the transmission of advance voting ballots from the county*
21 *election officer to the voter.*

22 *(e) No person shall willfully and falsely affirm, declare or sub-*
23 *scribe to any material fact in an affirmation form for an advance*
24 *voting ballot, or set of advance voting ballots if the voter is entitled*
25 *to vote more than one kind of advance voting ballot at a particular*
26 *election, or in a declaration form on an advance voting ballot*
27 *envelope.*

28 ~~*(f) Nothing in this section shall be construed to prohibit any person*~~
29 ~~*from mailing, carrying or otherwise conveying advance voting ballots or*~~
30 ~~*sets of advance voting ballots to the county election officer upon request*~~
31 ~~*of advance voting voters. A voter may return such voter's advance voting*~~
32 ~~*ballot to the county election officer by personal delivery or by mail. Upon*~~
33 ~~*written designation by the voter, a person other than the voter may return*~~
34 ~~*the advance voting ballot by personal delivery or mail. Any such person*~~
35 ~~*designated by the voter shall sign a statement that such person has not*~~
36 ~~*exercised undue influence on the voting decisions of the voter and agrees*~~
37 ~~*to deliver the ballot as directed by the voter. Any person designated by a*~~
38 ~~*voter to deliver such voter's advance voting ballot shall mail or deliver*~~
39 ~~*the ballot and the designation and statement required by this section to*~~
40 ~~*the county election office. Such delivery shall occur within two business*~~
41 ~~*days after receiving the ballot from the voter but not later than the close*~~
42 ~~*of polls on election day.*~~

43 ~~*(g) Violation of any provision of this section is a class C misde-*~~

- 1 ~~minor~~ *level 9 nonperson felony.*
- 2 Sec. ~~2~~ **7.** K.S.A. ~~25-2407~~ **is 25-1121, 25-2407 and 25-4156 and**
- 3 **K.S.A. 2006 Supp. 25-1124 and 25-1128 are** hereby repealed.
- 4 Sec. ~~3~~ **4.** This act shall take effect and be in force from and after its
- 5 publication in the statute book.