

SESSION OF 2007

SUPPLEMENTAL NOTE ON SENATE BILL NO. 133

As Amended by Senate Committee on
Judiciary

Brief*

SB 133, as amended, would create the new crime of advance voting suppression, a level 9, nonperson felony. The bill would define advance voting suppression as knowingly, with intent to impede, obstruct or influence the election process:

- Destroying or altering another person's advance ballot without written consent of the registered voter;
- Obstructing the delivery of the advance ballot to the voter, or obstructing the return of the completed ballot to the county election officer;
- Failing to deliver an advance ballot to the county election officer within two business days or before the close of polls on election day;
- Delivering or causing delivery of an advance ballot to any place other than the county election office;
- Using undue influence on an advance voter in applying for, delivering, or marking an advance ballot; or
- Opening an advance ballot envelope sealed by the voter, examining or disclosing the contents except as required by official duties as prescribed by law.

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

Delivery of an advance ballot in the United States mail at least five calendar days prior to the election day for deliver to the county election officer would not be a violation of the new crime of advance voting suppression. The bill defines the term “undue influence” to mean coercion, compulsion or restraint as to diminish the voter’s free agency, and by overcoming the power of resistance, obliges or causes such voter to adopt the will of another. The bill defines the term “deliver” to mean hand-deliver, mail, or otherwise transmit an advance voting ballot.

Background

SB 133 was referred separately to the Judiciary and to Elections and Local Government Committees. The Elections and Local Government Committee passed the bill out of Committee with a favorable recommendation and without amendment on February 13, 2007.

The proponent of the bill, as introduced, included Brad Bryant, Elections Director, Secretary of State’s Office. Mr. Bryant testified the Secretary of State’s Office has received complaints of activities regarding advance voting ballots which are currently not technically illegal. These activities would be made illegal with the passage of this bill.

There was no testimony in opposition to the bill.

The Judiciary Committee amended the bill to:

- Add the intent to impede, obstruct or influence the election process to the intent requirement of the bill;
- Clarify that the crime of advance voting suppression requires the destruction or altering of another person’s advance ballot;
- Clarify that there is no violation if the voter consents, in writing, to the destruction or alteration of his or her advance ballot;

- Clarify that a violation occurs if the advance ballot is not delivered to the county election officer before the close of polls on election day;
- Clarify that it is not a violation to deliver an advance ballot to the United States mail, with first class postage attached, at least five calendar days prior to the election day for delivery to the county election officer; and
- Define the terms “undue influence” and “deliver”.

The fiscal note from the Division of Budget states that passage of the bill, as introduced, would have no fiscal effect on the Secretary of State’s Office. The Sentencing Commission indicates that passage of the bill would have a negligible effect on the agency’s workload in making journal entries related to the offense created in the bill. The creation of a new crime has the potential to increase costs in the correctional system, although the Sentencing Commission estimates the bill would not have an immediate effect on the prison system.

If the bill contributes to an increase in the inmate population sufficient to require additional facility capacity, one-time construction and equipment costs would be needed. Additionally, annual costs to staff and operate the additional capacity would be required. If the bill does not require additional facility capacity, the fiscal note indicated an annual increase of approximately \$2,000 per inmate for basic support would be needed.