

State Regulation of Election-Related Speech in the U.S.: An Overview and Comparative Analysis

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I. Executive Summary

The last two presidential election cycles have brought increased attention to the extent of misinformation – and outright lies – peddled by political candidates, their surrogates, and others who seek to influence election outcomes. Given the ubiquity of this speech, especially online, one might assume that there are no laws against lying in politics. It turns out that the opposite is true. Although the federal government has largely stayed out of regulating the content of election-related speech, the states have been surprisingly active in passing laws that prohibit false statements associated with elections.

In 2014, when the Supreme Court last took up a case addressing restrictions on election-related speech in *Susan B. Anthony List v. Driehaus*, 573 U.S. 149 (2014), sixteen states had statutes that directly targeted false statements in the context of local and national elections. Today, thirty-eight states have such laws and when we include statutes prohibiting fraud and intimidation in elections, the number rises to forty-eight states and the District of Columbia (Maine and Vermont are the exceptions).

As part of this project, we reviewed more than 125 state statutes that regulate the content of election-related speech. These laws take one of two basic forms: statutes that directly target the content of election-related speech, and generally applicable statutes that indirectly implicate election-related speech by prohibiting intimidation or fraud associated with an election.

Statutes that Directly Target the Content of Election-Related Speech

Statutes that directly target the content of election-related speech vary widely in the types of false speech they prohibit (note that most states have more than one type of statute):

- *Sixteen states* have statutes that **prohibit false statements about a candidate for public office.**
- *Fourteen states* have statutes that **prohibit false statements about a ballot measure, proposal, referendum, or petition before the electorate.**
- *Thirteen states* have statutes that **prohibit false statements about voting requirements or procedures.**
- *Eleven states* have statutes that **prohibit false statements about the source, authorization, or sponsorship of a political advertisement or about a speaker's affiliation with an organization, candidate, or party.**
- *Nine states* have statutes that **prohibit false statements that a candidate, party, or ballot measure has the endorsement or support of a person or organization.**
- *Seven states* have statutes that **prohibit false statements about incumbency.**

As this summary shows, the most common type of statute targeting the content of election-related speech prohibits false statements about candidates for public office. While a few of these statutes merely affirm that liability for defamation applies in the context of political

speech, many statutes impose liability for false statements about a candidate regardless of whether the statement meets the specific requirements of defamation:

- *Three states* have statutes that affirm that defamation law (libel or slander) applies to political ads or campaign communications.
- *Fifteen states* have statutes that extend liability to any false statement about a candidate, even if it does not meet the requirements of defamation.

This highlights an important point about these statutes, as well as other statutes in this report. **In significant ways, election-speech statutes deviate from longstanding theories of liability for false speech.**

First, the statutes cover a broader range of speech than has traditionally been subject to government restriction: the statutes cover everything from merely derogatory statements about candidates (defamation requires false statements that create a degree of moral opprobrium) to false information about ballot measures, voting procedures, and incumbency. Apart from the liability created by these election-speech statutes, false statements regarding most of these topics would not otherwise put a speaker at risk of liability.

Second, a substantial number of statutes impose liability regardless of whether the speaker knew the information was false or acted negligently. In fact, the states varied considerably with regard to the requisite degree of fault required for liability:

- *Thirty-three states* have statutes that impose liability if the speaker knew at the time of publication that the information was false or acted with reckless disregard as to the truth.
- *Two states* have statutes that impose liability if the speaker should have known that the information was false, which is often referred to as “constructive knowledge.”
- *Seventeen states* have statutes that impose liability regardless of whether the speaker knew or should have known of the statement’s falsity, which is referred to as “strict liability.”

The following table shows which states have statutes that fall within these categories of fault.

| | Statutes requiring knowledge of falsity | Statutes requiring constructive knowledge of falsity | Statutes imposing strict liability without regard to knowledge |
|----|---|--|--|
| AL | X | | |
| AK | X | | |
| AZ | | | X |
| AR | | | |
| CA | X | | X |
| CO | X | | |
| CT | X | | X |
| DE | | | |
| DC | | | |

| | Statutes requiring knowledge of falsity | Statutes requiring constructive knowledge of falsity | Statutes imposing strict liability without regard to knowledge |
|----|---|--|--|
| FL | X | | X |
| GA | | | |
| HI | X | | X |
| ID | X | | X |
| IL | | | |
| IN | X | | |
| IA | X | | |
| KS | | | |
| KY | | | |
| LA | X | X | X |
| ME | | | |
| MD | X | | |
| MA | | | X |
| MI | | | X |
| MN | X | | X |
| MS | X | | X |
| MO | X | | |
| MT | X | | |
| NE | | | |
| NV | X | X | |
| NH | X | | X |
| NJ | X | | |
| NM | X | | |
| NY | X | | X |
| NC | X | | X |
| ND | X | | |
| OH | X | | X |
| OK | X | | |
| OR | X | | |
| PA | | | |
| RI | X | | |
| SC | | | |
| SD | X | | |
| TN | X | | |
| TX | X | | X |
| UT | X | | X |
| VT | | | |
| VA | | | |
| WA | | | |
| WV | X | | |
| WI | X | | |
| WY | | | |

Statutes that create civil or criminal liability without fault raise significant First Amendment issues. In the context of defamation, the Supreme Court has held that states cannot impose liability for defamatory speech on matters of public concern without some evidence of fault on the part of the speaker, either in the form of actual malice (*i.e.*, the speaker had knowledge of falsity at the time of publication or acted with reckless disregard as to the truth) or negligence (*i.e.*, the speaker failed to act reasonably and should have known or discovered that the information was false). The courts have applied similar fault requirements to other types of speech-based liability as well, including the disclosure of private facts, false light, and infliction of emotional distress torts.

For purposes of this report, we have not made any assessment as to whether these statutes are constitutional. Because they target speech based on its content, we expect that many of the statutes we discuss below could be subject to First Amendment challenges. Indeed, the handful of statutes that have already faced a court challenge did not fare well. We plan to assess the constitutionality of these statutes in a later phase of this project.

General Statutes that Prohibit Intimidation or Fraud Associated with an Election

While the preceding laws explicitly target the content of election-related speech, a second set of state laws may indirectly regulate the content of election speech through the prohibition of intimidation or fraud associated with an election. Many of these laws were passed to prevent physical acts of voter intimidation. However, at least one state attorney general has used a voter intimidation statute to [prosecute political operatives](#) for the distribution of false statements relating to an election, suggesting that these laws could potentially apply to election-related speech more generally.

Thirty-eight states and the District of Columbia have laws that prohibit intimidation and/or fraud in elections (note that most states have more than one type of statute):

- *Twenty-nine states* have statutes that impose liability if the speaker made **intimidating, threatening, or coercive statements with the purpose or intent of influencing or interfering with an election.**
- *Seventeen states and the District of Columbia* have statutes that impose strict liability if the speaker made **intimidating, threatening, or coercive statements that influence or interfere with an election, regardless of whether the individual actually intended to influence or interfere with an election.**
- *Seven states* have statutes that prohibit statements that **deceive, defraud, or bribe a person to vote, refrain from voting, sign a petition, register to vote, or choose who or what to vote for that the speaker knows to be false or corrupt.**
- *Fifteen states and the District of Columbia* have statutes that impose liability for statements that **deceive, defraud, or bribe a person to vote, refrain from voting, sign a petition, register to vote, or choose who or what to vote without any explicit mention that the speaker must know or have reason to know of the statement's falsity or corrupt nature.**

As these descriptions show, the fraud and intimidation statutes conceivably cover a broad range of conduct and speech related to elections. And, like the statutes that target specific categories of false speech, they vary in the level of knowledge (and intent) they require for a finding of liability. As a result, enforcement of these statutes is also likely to raise significant First Amendment issues.

Political speech has long been viewed as residing at the core of the First Amendment's protections for speech. Yet it has become increasingly clear that lies and other forms of misinformation associated with elections are corrosive to democracy. Regardless of whether

individual statutes survive First Amendment scrutiny, it is useful to catalog the breadth and depth of state efforts to deal with lies, misinformation, intimidation, and fraud in elections. The surprising number of statutes already on the books clearly demonstrate that state legislatures see a problem that needs to be addressed.

Moreover, apart from government efforts to impose civil and criminal liability for election-related speech, these statutes (and the taxonomy we describe in this report) can be useful to social media platforms and other intermediaries that facilitate election-related speech. If nothing else, the statutes provide a partial roadmap for identifying the types of speech – and election harms – that may warrant intervention.

II. Introduction

Despite public outcry over the rise of mis- and disinformation in political campaigns, there is little federal regulation of the content of election-related speech. Other than in the context of campaign finance, federal law is largely absent in this space. Existing federal laws governing political speech focus primarily on advertising, but even with regard to political advertising federal law is minimal and directed largely at [traditional mediums of communication](#) such as broadcast and print. Although federal agencies like the Federal Trade Commission (FTC) have “[truth in advertising](#)” laws that target false or misleading content in advertisements, those laws apply only to advertisements affecting “[commerce](#),” which the FTC has [interpreted](#) as precluding its ability to regulate the content of political advertisements.

The states, however, have not held back. Forty-eight states and the District of Columbia have statutes that potentially regulate election-related speech, including the content of political advertising. Those statutes basically take one of two forms: statutes that directly target the content of election-related speech, and generally applicable statutes that indirectly implicate election-related speech by prohibiting intimidation or fraud associated with an election.

The statutes, though mostly unenforced so far, vary widely in scope. For example, Alaska punishes false statements about a candidate “made as part of a telephone poll or an organized series of calls, and made with the intent to convince potential voters concerning the outcome of an election.” Alaska Stat. Ann. § 15.13.095(a). North Dakota’s statute, which is much broader, reads as follows:

A person is guilty of a class A misdemeanor if that person knowingly, or with reckless disregard for its truth or falsity, publishes any political advertisement or news release that contains any assertion, representation, or statement of fact, including information concerning a candidate’s prior public record, which is untrue, deceptive, or misleading, whether on behalf of or in opposition to any candidate for public office, initiated measure, referred measure, constitutional amendment, or any other issue, question, or proposal on an election ballot, and whether the publication is by radio, television, newspaper, pamphlet, folder, display cards, signs, posters, billboard advertisements, websites, electronic transmission, or by any other public means. N.D. Cent. Code Ann. § 16.1-10-04.

As these examples show, state laws can target the content of election-related speech in multiple ways. Some statutes prohibit false and misleading factual statements about candidates for public office, while others target false statements about ballot measures, voting requirements, or voting procedures. Several states have statutes that prohibit false statements of source or authorization in a political communication or that prohibit false statements of endorsement or incumbency. Many states have statutes that cover more than one type of content.

State laws can also indirectly regulate election-related speech by prohibiting fraud and intimidation in elections. Although these laws are often geared towards actual physical intimidation and coercion, they often contain language that is broad enough to implicate campaign and election speech. At least one state attorney general has used voter intimidation laws to [target false and misleading political communications](#).

As part of this project, we reviewed more than 125 state statutes that regulate the content of election-related speech. To aid in the analysis and comparison of these statutes, we created a multi-level taxonomy of the types of speech the statutes target. In the sections that follow, we go through each taxonomy classification and describe which states have statutes that fall within each category. In the appendix, we provide a summary page for each state that outlines the relevant statutory provisions and provides a brief description of the restrictions the statutes impose as well as the types of speakers to which they apply.

For purposes of this report, we have not made any assessment as to whether these statutes are constitutional. Because they target speech based on its content, we expect that many of the statutes we discuss below could be subject to significant First Amendment challenges. Indeed, the handful of statutes that have already faced a court challenge did not fare well.¹

The analysis in *Commonwealth v. Lucas* (Mass. 2015) is illustrative of the First Amendment challenges these statutes are likely to face. The *Lucas* case involved a Massachusetts statute that attempted to regulate false campaign and election speech, stating:

No person shall make or publish, or cause to be made or published, any false statement in relation to any candidate for nomination or election to public office, which is designed or tends to aid or to injure or defeat such candidate.

No person shall publish or cause to be published in any letter, circular, advertisement, poster or in any other writing any false statement in relation to any question submitted to the voters, which statement is designed to affect the vote on said question. Mass. Gen. Laws ch. 56, § 42 (2017).

¹ See, e.g., 281 Care Comm. v. Arneson, 766 F.3d 774, 796 (8th Cir. 2014) (invalidating Minnesota law criminalizing the dissemination of false information pertaining to ballot initiatives); *Lair v. Murry*, 871 F. Supp. 2d 1058 (D. Mont. 2012) (holding that Montana statute prohibiting misrepresentation of a candidate's voting record is unconstitutionally vague); *Commonwealth v. Lucas*, 34 N.E.3d 1242, 1257 (Mass. 2015) (striking Massachusetts statute that criminalized speech relating to candidates or issues before the electorate); *Rickert v. State, Pub. Disclosure Comm'n*, 168 P.3d 826 (Wash. 2007) (holding Washington statute prohibiting false statements of material fact about a candidate unconstitutional in that the state's purported interest is not compelling and statute is not narrowly tailored to further that interest). Only a few cases have come out the other way. See *United States v. Tan Duc Nguyen*, 673 F.3d 1259 (9th Cir. 2012) (upholding California statute prohibiting intentional voter intimidation as a content-based restriction that regulates a true threat); *Doe v. Mortham*, 708 So. 2d 929 (Fla. 1998) (finding Florida statute prohibiting false statements of incumbency and endorsement is not overbroad and is "grounded in valid state concerns").

The statute was challenged by a PAC that published brochures in opposition to a state representative, who in turn brought a criminal complaint under the statute against the PAC's chairwoman. The Supreme Judicial Court of Massachusetts held that strict scrutiny was the appropriate standard of review, rejecting the state's argument that a more deferential standard was appropriate because the speech the statute proscribed could be characterized as fraud or defamation. As to fraud, the court wrote that most fraud statutes require a showing of materiality, an element absent in the Massachusetts statute. The court also concluded that even if the statute was intended to prohibit fraudulent speech, this would not be dispositive "because it also reaches speech that is not fraudulent."²

The court found the state's characterization of the proscribed speech as defamatory to be "similarly flawed." First, the court noted that a defamatory statement about a candidate for public office is actionable only if it is made with "actual malice," which was not a requirement of the Massachusetts statute. Second, the court found the statute criminalized speech well outside the boundaries of defamation: "Although [the statute] is capable of reaching . . . defamatory statements, it is also capable of reaching statements regarding ballot questions and statements by a candidate about himself designed to enhance his own candidacy, i.e., statements that are clearly not defamatory."³

Applying strict scrutiny to the statute, the court wrote that the state's interest in the maintenance of free and fair elections was a compelling one, but given the breadth of the statute's prohibitions, the state had failed to establish that the statute was actually necessary to serve that interest. "As the facts of this case demonstrate, the danger of such breadth is that the statute may be manipulated easily into a tool for subverting its own justification."⁴ The court also found it problematic that anyone could initiate a complaint under the statute, noting that this threatened to "create lingering uncertainties of a criminal investigation and chill political speech by virtue of the process itself."⁵

Despite the high burden the First Amendment imposes on laws regulating election-related speech, some of the statutes described in this report are likely to be constitutionally permissible. We plan to assess the constitutionality of the statutes in a later phase of this project in an effort to identify which types of false election-related speech – and statutory approaches – justify government regulation. These issues are doctrinally complex, as they involve evolving views regarding the treatment of false and/or fraudulent speech and implicate difficult questions of efficacy, overbreadth, underinclusiveness, and potential partisan abuse.

It is our hope that the taxonomy we have created will be beneficial in sorting and comparing the many state statutes that purport to regulate election-related speech. In the pages that

² *Lucas*, 34 N.E.3d at 1249.

³ *Id.* at 1250.

⁴ *Id.* at 1255.

⁵ *Id.* at 1247.

follow we highlight some of the similarities and distinctions among the statutes that might (or might not) matter when they are subject to First Amendment scrutiny. We do not intend this as an exhaustive or perfect taxonomy. We encourage others to expand and improve upon it.

III. Taxonomy of Types of Speech Targeted by State Election Laws

The following taxonomy identifies the types of speech implicated by state laws that purport to regulate the content of election-related speech. The top-level categories are not exclusive. Many statutes will fall within more than one category. We apply this taxonomy to existing state statutes in Part IV.

1. **Statement About Candidate:** Statutes that prohibit false statements about a candidate for public office that name or otherwise identify the candidate (e.g., statements about a candidate's qualifications, past actions, voting record, or policy positions). The statement must be factual in nature in order to be actionable. Pure statements of opinion would not be covered (e.g., the candidate is a "jerk").
 - 1.1. **Defamatory Statement About Candidate:** False statement about a candidate that constitutes defamation, libel, or slander.
 - 1.2. **Other False Statement About Candidate:** False statement about a candidate that is not required to meet the definition of a defamatory statement.
 - 1.2.1. **Other False Statement Made Knowingly:** False statement about a candidate made with knowledge of its falsity or recklessly.
 - 1.2.2. **Other False Statement Made with Constructive Knowledge:** False statement about a candidate that the speaker should reasonably know to be false.
 - 1.2.3. **Other False Statement Regardless of Knowledge (Strict Liability):** False statement about a candidate regardless of whether the speaker knows or has reason to know of its falsity.
2. **Ballot Measures:** Statutes that prohibit false statements about a ballot measure, proposal, referendum, or petition before the electorate (e.g., statements about ballot issues before the electorate, not specific to a candidate, including contents, purpose, or effect of a proposal, referendum, amendment, or petition, including efforts to instigate recall petitions).
 - 2.1. **False Statement About Ballot Measures Made Knowingly:** False statement about ballot measure or petition before the electorate made with knowledge of its falsity or recklessly.
 - 2.2. **False Statement About Ballot Measures Made with Constructive knowledge:** False statement about ballot measure or petition before the electorate the speaker should reasonably know to be false.

- 2.3. False Statement About Ballot Measures Regardless of Knowledge (Strict Liability):** False statement about ballot measure or petition before the electorate regardless of whether the speaker knows or has reason to know of its falsity.
- 3. Voting Requirements / Procedures:** Statutes that prohibit false statements about voting requirements or procedures (e.g., statements about what is required to vote or register, who can vote, when to vote, how to vote, or providing bogus ballots).
- 3.1. False Statement About Voting Requirements / Procedures Made Knowingly:** False statement about voting requirements or procedures made with knowledge of its falsity or recklessly.
- 3.2. False Statement About Voting Requirements / Procedures Made with Constructive Knowledge:** False statement about voting requirements or procedures that the speaker should reasonably know to be false.
- 3.3. False Statement About Voting Requirements / Procedures Regardless of Knowledge (Strict Liability):** False statement about voting requirements or procedures regardless of whether the speaker knows or has reason to know of its falsity.
- 4. Source, Authorization, or Sponsorship:** Statutes that prohibit false statements about source, authorization, or sponsorship of an advertisement or a speaker's affiliation with an organization, candidate, or party (e.g., express or implied statements about who is speaking, their affiliation, or sponsorship, including "this ad approved by...").
- 4.1. False Representation of Source, Authorization, or Sponsorship Made Knowingly:** False statement about source of ad or speaker's affiliation made with knowledge of its falsity or recklessly.
- 4.2. False Representation of Source, Authorization, or Sponsorship Made with Constructive Knowledge:** False statement about source of ad or speaker's affiliation that the speaker should know to be false.
- 4.3. False Representation of Source, Authorization, or Sponsorship Regardless of Knowledge (Strict Liability):** False statement about source of ad or speaker's affiliation regardless of whether the speaker knows or has reason to know of its falsity.
- 5. Endorsement:** Statutes that prohibit false statements that a candidate, party, or ballot measure has the endorsement or support of a person or organization (e.g., express or implied statements of endorsement by another person, organization, political party or committee). This category is distinguished from the Source, Authorization, or Sponsorship category because the endorsement is directed at a candidate, party, or ballot measure rather than endorsement of an advertisement.

- 5.1. **False Statement of Endorsement Made Knowingly:** False statement about endorsement made with knowledge of its falsity or recklessly.
 - 5.2. **False Statement of Endorsement Made with Constructive Knowledge:** False statement about endorsement that the speaker should know to be false.
 - 5.3. **False Statement of Endorsement Regardless of Knowledge (Strict Liability):** False statement about endorsement regardless of whether the speaker knows or has reason to know of its falsity.
6. **Incumbency:** Statutes that prohibit false statements that a candidate held or holds a public office (e.g., express or implied statements that a candidate is the incumbent, previously held a public office, or currently holds a public office, including use of the word "re-elect . . .").
 - 6.1. **False Statement About Incumbency Made Knowingly:** False statement about incumbency made with knowledge of its falsity or recklessly.
 - 6.2. **False Statement About Incumbency Made with Constructive Knowledge:** False statement about incumbency that the speaker should know to be false.
 - 6.3. **False Statement About Incumbency Regardless of Knowledge (Strict Liability):** False statement about incumbency regardless of whether the speaker knows or has reason to know of its falsity.
7. **Intimidation:** Statutes that prohibit statements that intimidate, threaten, or coerce a person to (or not to) vote, sign a petition, register to vote, or choose who or what to vote for (e.g., threats, including force, restraint, and economic harm, directed at a person, their family, or business). This category is distinguished from the Fraud or Corruption category because it involves the threat of force or coercion.
 - 7.1. **Intentional Intimidation:** Statement of intimidation made with the intent to influence an election.
 - 7.2. **Intimidation (Strict Liability):** Statement of intimidation made regardless of whether the speaker intends to influence an election.
8. **Fraud or Corruption:** Statutes that prohibit statements that deceive, defraud, or bribe a person to (or not to) vote, sign a petition, register to vote, or choose who or what to vote for (e.g., false statements, promises of bribes or rewards). This category is distinguished from the Intimidation category because it does not involve the threat of force or coercion.
 - 8.1. **Fraudulent or Corrupt Statement Made Knowingly:** Statement that deceives, defrauds, or bribes a person made knowingly.
 - 8.2. **Fraudulent or Corrupt Statement Made with Constructive Knowledge:** Statement that deceives, defrauds, or bribes a person that the speaker should know to be false.

- 8.3. Fraudulent or Corrupt Statements Regardless of Knowledge (Strict Liability):** Statement that deceives, defrauds, or bribes a person regardless of whether the speaker knows or has reason to know of its falsity or corrupt nature.

IV. Applying the Taxonomy to Existing State Statutes

Forty-eight states and the District of Columbia have statutes that potentially regulate the content of election-related speech; Maine and Vermont do not have such laws. This table summarizes which states have statutes that fall into each of the taxonomy categories outlined in Part III.

| | Taxonomy Category | | | | | | | |
|----|-------------------|-------------------|------------------------|-------------------------|----------------|---------------|-----------------|-----------------------|
| | 1: Candidate | 2: Ballot Measure | 3: Voting Requirements | 4: Source / Sponsorship | 5: Endorsement | 6: Incumbency | 7: Intimidation | 8: Fraud / Corruption |
| AL | | | | X | | | X | X |
| AK | X | | | | | | | |
| AZ | | | | X | | | X | X |
| AR | | | | | | | X | |
| CA | X | | X | | X | X | X | X |
| CO | X | X | | | | | X | |
| CT | | X | X | | | | X | X |
| DE | | | | | | | X | |
| DC | | | | | | | X | X |
| FL | X | | | | X | X | X | X |
| GA | | | | | | | X | |
| HI | X | | X | | | | X | X |
| ID | | X | | | | | | |
| IL | | | | | | | X | X |
| IN | | | | | | X | X | |
| IA | | | | X | | | X | X |
| KS | | | | | | | X | |
| KY | | | | | | | X | |
| LA | X | X | | X | X | | X | X |
| ME | | | | | | | | |
| MD | | X | X | | | | X | X |
| MA | | | | | X | | | |
| MI | | | | | | X | X | |
| MN | | X | X | | X | X | X | X |
| MS | X | X | | | | | X | X |
| MO | | | X | | | | | |
| MT | X | | X | X | | | X | X |
| NE | | | | | | | X | |
| NV | | X | | | | | X | X |
| NH | | | | X | X | | X | |
| NJ | | | | X | | | X | X |
| NM | | X | X | | | | X | |
| NY | | | X | X | | | X | X |
| NC | X | | | X | | | X | X |
| ND | X | | | | | | | |
| OH | | X | | X | X | | | |

| | Taxonomy Category | | | | | | | |
|----|-------------------|-------------------|------------------------|-------------------------|----------------|---------------|-----------------|-----------------------|
| | 1: Candidate | 2: Ballot Measure | 3: Voting Requirements | 4: Source / Sponsorship | 5: Endorsement | 6: Incumbency | 7: Intimidation | 8: Fraud / Corruption |
| OK | | | X | | | | X | |
| OR | X | | | | | X | | |
| PA | | | | | | | X | X |
| RI | | | X | | | | X | |
| SC | | | | | | | X | X |
| SD | | X | | | | | X | X |
| TN | X | | X | | X | | X | |
| TX | | X | | X | | X | | |
| UT | X | X | | | X | | X | X |
| VT | | | | | | | | |
| VA | | | X | | | | | |
| WA | X | | | | | | X | X |
| WV | X | | | | | | X | X |
| WI | X | X | | | | | | |
| WY | | | | | | | X | |

The following sections describe the statutes and provide examples of the statutory language in each category.

The statutes take one of two forms: (A) statutes that directly target the content of election-related speech; and (B) generally applicable statutes that indirectly implicate election-related speech by prohibiting intimidation or fraud associated with an election.

A. Statutes that Directly Target the Content of Election-Related Speech

Thirty-eight states have statutes that directly target the content of election-related speech (note that most states have more than one type of statute):

- *Sixteen states* have statutes that **prohibit false statements about a candidate for public office.**
- *Fourteen states* have statutes that **prohibit false statements about a ballot measure, proposal, referendum, or petition before the electorate.**
- *Thirteen states* have statutes that **prohibit false statements about voting requirements or procedures.**
- *Eleven states* have statutes that **prohibit false statements about the source, authorization, or sponsorship of a political advertisement or about a speaker's affiliation with an organization, candidate, or party.**
- *Nine states* have statutes that **prohibit false statements that a candidate, party, or ballot measure has the endorsement or support of a person or organization.**
- *Seven states* have statutes that **prohibit false statements about incumbency.**

1. False Statements About a Candidate

Sixteen states have statutes that expressly prohibit false statements about a candidate for public office (note that states can have more than one type of statute).

- *Three states* have statutes that expressly state that defamation law (libel or slander) applies to political ads or campaign communications.
- *Fifteen states* have statutes that extend liability to any false statement about a candidate, even if it does not meet the requirements of defamation.

1.1. Defamatory Statements About a Candidate

Three states have statutes that prohibit false statements in political ads or campaign communications that constitute defamation (libel or slander):

- **California**, for example, states: “libel and slander, are fully applicable to any campaign advertising or communication.” Cal. Elec. Code §§ 20500, 20501.
- Both the **Alaska** and **Washington** statutes require that a false statement be made with “actual malice,” Alaska Stat. Ann. § 15.13.090(f), Wash. Rev. Code Ann. § 42.17A.335(1), while the **California** statute requires “willful[]” or “knowing[]” behavior. Ca. Elec. Code § 20501.
- **Washington** covers only three specific categories of defamatory statements in political advertisements or electioneering communications: (1) false statements of material fact about a candidate; (2) false representations of incumbency; and (3) false statements or false implications of support or endorsement, Wash. Rev. Code Ann. § 42.17A.335(1). **Alaska** and **California** refer to defamation more broadly. See Alaska Stat. Ann. § 15.13.090(f), Ca. Elec. Code § 20501.

These statutes expressly state that liability for defamation applies in the context of political speech. It should be recognized, however, that all fifty states and the District of Columbia permit defamation claims under either common law or statutory law. Accordingly, even in states that do not have a statute that expressly states that defamation law applies to political advertisements, these states will likely still apply defamation liability to false statements in online political advertisements that meet the state’s requirements for defamation.

1.2. Other False Statements About a Candidate

Fifteen states have statutes that impose liability for false statements about a candidate, regardless of whether the statement meets the specific requirements of defamation.

- *Fourteen states* impose liability only if the speaker knew at the time of publication that the information was false or acted with reckless disregard at the truth.
- *Two states* impose liability if the speaker should have known that the information was false, which is often referred to as “constructive knowledge.”

- *Three states* impose liability regardless of whether the speaker knew or should have known of the statement's falsity, which is referred to as "strict liability."

1.2.1. Other False Statements About a Candidate Made Knowingly

Fourteen states have statutes that prohibit false statements about a candidate made knowingly or with reckless disregard as to the truth: **Alaska, California, Colorado, Florida, Hawaii, Louisiana, Montana, North Carolina, North Dakota, Oregon, Tennessee, Utah, West Virginia, and Wisconsin.**

Of these fourteen states, *five states* create broad liability for any knowingly false or reckless statement made about a candidate in any medium:

- **Colorado** prohibits any person from "knowingly [or recklessly] mak[ing] . . . any false statement designed to affect the vote on any issue submitted to the electors at any election or relating to any candidate for election to public office." Colo. Rev. Stat. Ann. § 1-13-109
- **Louisiana** prohibits any person from publishing "any statement which he knows . . . makes a false statement about a candidate for election . . . or about a proposition to be submitted to the voters." La. Stat. Ann. § 18:1463(C).
- **Utah** prohibits any person from "knowingly mak[ing] or publish[ing], or caus[ing] to be made or published, any false statement in relation to any candidate, proposed constitutional amendment, or other measure . . ." Utah Code Ann. § 20A-11-1103.
- **West Virginia** prohibits any person from "knowingly mak[ing] or publish[ing], or caus[ing] to be made or published, any false statement in regards to any candidate . . ." W. Va. Code Ann. § 3-8-11(c).
- **Wisconsin** prohibits any person from "knowingly mak[ing] or publish[ing], or caus[ing] to be made or published, a false representation pertaining to a candidate or referendum . . ." Wis. Stat. Ann. § 12.05.

The other *nine states* require that the knowingly false or reckless statement be about a specific topic, be made by a specific person, be published in a specific medium, or occur in a specific time frame:

- **Alaska** requires that the false statement is "made as part of a telephone call or an organized series of calls." Alaska Stat. Ann. § 15-13-095.
- **California** prohibits distribution of "materially deceptive audio or visual media" specifically in the 60 day period before an election. Cal. Code § 20010.

- **Florida** prohibits false statements made by a candidate about an opposing candidate. The statute prohibits general false statements about an opposing candidate that are made with actual malice, Fla. Stat. Ann. § 104.271(2), as well as false statements that accuse an opposing candidate of violating any provision of the state election code. *Id.* § 104.271(1).
- **Hawaii** requires that the false statement be about “the withdrawal of any candidate at the election.” Haw. Rev. Stat. Ann. § 19.3.
- **Montana** requires that the false statement refer specifically to a candidate’s voting record. Mont. Code Ann. § 13-37-131(1), (2).
- **North Carolina** requires that the false statement about a candidate be “derogatory.” N.C. Gen. Stat. Ann. § 163-274(9).
- **North Dakota** prohibits “any political advertisement or news release that contains any assertion, representation, or statement of fact, including information concerning a candidate’s prior public record, which is untrue, deceptive, or misleading.” N.D. Cent. Code Ann. § 16.1-10-04.
- **Oregon** specifies that the false statement must be in a “letter, circular, bill, placard, poster, or other publication” including a paid advertisement. Or. Rev. Stat. Ann. § 260.532.
- **Tennessee** prohibits publication of any false “statement, charge, allegation, or other matter” in “any campaign literature in opposition to any candidate.” Tenn. Code Ann. § 2-19-142.

Four states also require that the false statement be made with the intent to injure a candidate, deceive voters, or affect an election:

- **Alaska** prohibits false statements about a candidate that are “made with the intent to convince potential voters concerning the outcome of an election.” Alaska Stat. Ann. § 15-13-095.
- **California** requires that the statement be “materially deceptive” and distributed “with the intent to injure the candidate’s reputation or to deceive a voter into voting for or against the candidate.” Cal. Code § 20010.
- **Colorado** prohibits any person from knowingly making any false statement “designed to affect the vote on any issue submitted to the electors at any election or relating to any candidate for election to public office.” Colo. Rev. Stat. Ann. § 1-13-109

- **North Carolina** prohibits the publication of “derogatory reports” about any candidate that are “calculated or intended to affect the chances of such candidate for nomination or election.” N.C. Gen. Stat. § 163-274(9).

Three states limit liability to instances where the false statement is either intended to affect an election or merely has that effect:

- **Utah, West Virginia, and Wisconsin** have similar statutes that prohibit any false statement that is “intended or tends to affect any voting” at an election. Utah Code Ann. § 20A-11-1103; W. Va. Code Ann. § 3-8-11(c); Wis. Stat. Ann. § 12.05.

1.2.2. Other False Statements About a Candidate Made with Constructive Knowledge

One state has a statute that prohibits false statements about a candidate that the speaker should reasonably know to be false:

- **Louisiana** prohibits publication of “oral, visual, or written material containing . . . a false statement about a candidate for election . . . or about a proposition to be submitted to the voters” that the speaker should reasonably know to be false. La. Stat. Ann. § 18:1463(C).

1.2.3. Other False Statements About a Candidate Regardless of Knowledge (Strict Liability)

Three states have statutes that impose liability for false statements made about a candidate regardless of whether the speaker knows or has reason to know of its falsity:

- **Florida** limits liability to candidates who falsely represent their current or former military service. Fla. Stat. Ann. § 104.2715.
- **Mississippi** imposes liability for statements made by any person about a candidate’s “honesty, integrity, or moral character . . . so far as his or her private life is concerned, unless the charge be in fact true and actually capable of proof.” Miss. Code Ann. § 23-15-875.

One state imposes liability regardless of whether the statement about a candidate is false if the speaker is anonymous:

- **North Carolina** makes it unlawful for “any person to publish in a newspaper or pamphlet or otherwise, any charge derogatory to any candidate or calculated to affect the candidate's chances of nomination or election, unless such publication be signed by the party giving publicity to and being responsible for such charge.” N.C. Gen. Stat. § 163-274: (8).

2. False Statements About Ballot Measures

Fourteen states have statutes that prohibit false statements about a ballot measure, proposal, referendum, amendment, or petition before the electorate. (Note that some states have more than one type of statute.)

- *Thirteen* of these fourteen states have statutes that impose liability only if the speaker knew at the time of publication that the information was false.
- *Three states* have statutes that impose liability if the speaker should have known that the information was false.
- *Three states* have statutes that impose liability regardless of whether the speaker knew or should have known of the statement's falsity.

2.1. False Statements About Ballot Measures Made Knowingly

The question of knowledge can be complicated. Most statutes require that the defendant know, at the time of publication, that the relevant information is false (or act with reckless disregard as to its falsity). Many statutes, however, are poorly drafted, and some may impose liability if the defendant knowingly *publishes or distributes* the relevant information without regard to his or her state of knowledge regarding falsity.

Thirteen states have statutes that prohibit knowingly false statements about a ballot measure, proposal, referendum, or petition before the electorate made knowingly or recklessly: **Colorado, Connecticut, Idaho, Louisiana, Maryland, Minnesota, Mississippi, Nevada, New Mexico, Ohio, South Dakota, Utah, and Wisconsin.**

Of these thirteen states, *eight* require that the person making a false statement have knowledge of the statement's falsity or act with reckless disregard of whether it is false:

- **Connecticut** prohibits any person from "intentionally misrepresent[ing] the contents of a petition." Conn. Gen. Stat. Ann. § 9-368(c).
- **Louisiana** prohibits any person from making a statement "which he knows . . . makes a false statement . . . about a proposition to be submitted to the voters." La. Stat. Ann. § 16-401(a)(3).
- **Minnesota** prohibits any person from "alleg[ing] any material fact in support of [a] petition that the person knows is false or . . . with reckless disregard of whether it is false." Minn. Stat. Ann. § 211C.09.
- **Mississippi** prohibits anyone to obtain a person's signature on a petition "by intentionally misleading such person as to the substance or effect of the petition, or .

. . . by intentionally causing such person to be misled as to the substance or effect of the petition.” Miss. Code Ann. § 23-17-57(5).

- **Ohio** prohibits any person from making “a false statement . . . knowing the same to be false or acting with reckless disregard of whether it was false or not.” Ohio Rev. Code Ann. § 3517.22(B)(2).⁶

Five states have statutes that could impose liability if the person knowingly or recklessly published, broadcast, or circulated the false information, regardless of the person’s state of knowledge regarding the falsity of the statement itself:

- **Colorado** prohibits any person from knowingly or recklessly “mak[ing], publish[ing], broadcast[ing], or circular[ing] or caus[ing] to be made, published, broadcasted, or circulated in any letter, circular, advertisement, or poster or in any other communication any false statement designed to affect the vote on any issue submitted to the electors at any election” Colo. Rev. Stat. Ann. § 1-13-109(1)(a), (2)(a).
- **Idaho** prohibits any person from “knowingly circulat[ing], publish[ing], or exhibit[ing] any false statement or representation concerning the contents, purport or effect of any recall petition.” Idaho Code Ann. § 34-1714(1)(d).
- **South Dakota** prohibits any person from “knowingly printing, publishing, or delivering to any voter of this state a document containing any purported constitutional amendment, question, law, or measure to be submitted to the voters at any election, in which such constitutional amendment, question, law, or measure is misstated, erroneously printed, or by which false or misleading information is given to the voters” S.D. Codified Laws § 12-13-16.
- **Utah** and **Wisconsin** prohibit any person from “knowingly mak[ing] or publish[ing], or caus[ing] to be made or published, any false statement” relating to a ballot measure. Utah Code Ann. § 20A-11-1103; Wis. Stat. Ann. § 12.05.

In addition to requiring knowledge or reckless disregard of falsity, *five states* also require that the false statement be made with the intent to affect the vote or to influence voters regarding the ballot measure:

- **Colorado** prohibits knowingly or recklessly making “any false statement designed to affect the vote on any issue submitted to the electors at any election” Colo. Rev. Stat. Ann. § 1-13-109(1)(a), (2)(a).

⁶ In 2015, the U.S. District Court for the Southern District of Ohio held that section 3517(B)(2) of the Ohio Revised Code violates the First Amendment and permanently enjoined enforcement of this provision. See *COAST Candidates, PAC v. Ohio Elections Comm’n*, No. 1:11-CV-775, 2015 WL 5562307, at *2 (S.D. Ohio Sept. 22, 2015).

- **Idaho** prohibits knowingly making “any false statement or representation . . . for the purpose of obtaining any signature to any [recall] petition[] or for the purpose of persuading any person to sign any such recall petition.” Idaho Code Ann. § 34-1714(1)(d).
- **Maryland** prohibits the willful and knowing misrepresentation of “any fact for the purpose of inducing another person to sign or not to sign any petition.” Md. Code Ann., Elec. Law § 16-401(a).
- **New Mexico** prohibits “knowingly misrepresenting the purpose and effect of [a] petition or law thereby affected, for the purpose of causing anyone to sign the petition in reliance on such misrepresentation.” N.M. Stat. Ann. § 1-17-4(D).
- **Ohio** prohibits any person from knowingly or recklessly making a false statement “that is designed to promote the adoption or defeat of any ballot proposition or issue.” Ohio Rev. Code Ann. § 3517.22(B)(2).

Two states limit liability to instances where the false statement is either intended to affect an election or merely has that effect:

- **Utah** prohibits any false statement “that is intended or tends to affect any voting at any primary, convention, or election.” Utah Code Ann. § 20A-11-1103.
- **Wisconsin** prohibits any false statement “which is intended or tends to affect voting at an election.” Wis. Stat. Ann. § 12.05.

2.2. False Statements About Ballot Measures Made with Constructive Knowledge

Two states have statutes that prohibit false statements about a ballot measure or petition before the electorate the speaker should reasonably know to be false:

- **Louisiana** prohibits any person from publishing any “oral, visual, or written material containing any statement which he . . . should be reasonably expected to know makes a false statement about . . . a proposition to be submitted to the voters.” La. Stat. Ann. § 18:1463(C).
- **Nevada’s** statute states that “[a] person shall not . . . under circumstances amounting to criminal negligence . . . [m]isrepresent, attempt to misrepresent or assist or conspire with another person to misrepresent or attempt to misrepresent the intent or content of a petition for the recall of a public officer which is circulated pursuant to the provisions of this chapter” Nev. Rev. Stat. Ann. § 306.210(a).

2.3. False Statements About Ballot Measures Regardless of Knowledge (Strict Liability)

Two states have statutes that impose strict liability for any false statement about a ballot measure or petition before the electorate, regardless of whether the speaker knows or has reason to know of its falsity:

- **Idaho** creates felony liability for anyone who “[w]illfully . . . circulates, publishes or exhibits any false statement or representation concerning the contents, purport or effect of any recall petition for the purpose of obtaining any signature to any such petition, or for the purpose of persuading any person to sign any such recall petition.” Idaho Code Ann. § 34-1714(1)(d).
- **Texas** creates an offense for anyone who “misrepresents the purpose or effect of a petition issued under this chapter.” Tex. Elec. Code Ann. § 501.029(a).

One state imposes liability regardless of whether a statement of endorsement is false if the express consent of the endorser has not been received:

- **Utah** prohibits any statement of endorsement made “in connection with any question submitted to the voters . . . in any political advertisement, circular, poster, or publication without the express consent of that person.” Utah Code Ann. § 20A-11-901(5).

3. False Statements About Voting Requirements and Procedures

Thirteen states have statutes that prohibit false statements about voting requirements or procedures.

- All *thirteen states* have statutes that impose liability only if the speaker knew at the time of publication that the information was false or acted recklessly in publishing the false information.
- *Two states* have statutes that impose liability regardless of whether the speaker knew or should have known of the statement’s falsity.
- No state currently has a statute that would impose liability if the speaker should have known that the information was false.

3.1. False Statements About Voting Requirements / Procedures Made Knowingly

Thirteen states have statutes that prohibit false statements about voting requirements or procedures made knowingly or recklessly: **California, Connecticut, Hawaii, Maryland, Minnesota, Missouri, Montana, New Mexico, New York, Oklahoma, Rhode Island, Tennessee, and Virginia.** The states vary in the type of information they prohibit:

- Six states prohibit false information about voter registration or qualifications;
- Four states prohibit false information regarding the time, place, or manner of an election;
- Three states prohibit false information about voting instructions or election procedures;
- Two states prohibit false or misleading instructions regarding the use of voting machinery; and
- Two states prohibit publication of false information on a ballot itself.

Six states prohibit false information about voter registration or qualifications:

- **California** prohibits “fraudulently advis[ing] any person that he or she is not eligible to vote or is not registered to vote when in fact that person is eligible or is registered” Cal. Elec. Code § 18543.
- **Maryland** broadly prohibits “misrepresent[ing] any fact relating to registration.” Md. Code Ann. § 16-101(a).
- **Minnesota** prohibits “knowingly deceiv[ing] another person regarding . . . the qualifications for or restrictions on voter eligibility for an election” Minn. Stat. Ann. § 204C.035.
- **Oklahoma** prohibits “knowingly attempt[ing] to prevent a qualified elector from becoming registered, or a registered voter from voting” Okla. Stat. Ann. § 16-109.
- **Tennessee** prohibits “false or misleading information regarding the qualifications to vote, the requirements to register to vote, whether an individual voter is currently registered to vote or eligible to register to vote, [and] voter registration deadlines” Tenn. Code Ann. § 2-19-133(a).
- **Virginia** prohibits knowingly false statements made about “the voter’s precinct, polling place, or voter registration status.” Va. Code Ann. § 24.2-1005.1.

Four states prohibit false information regarding the time, place, or manner of an election:

- **Hawaii** prohibits “false information about the time, date, place, or means of voting” Haw. Rev. Stat. Ann. § 19.3(12).
- **Minnesota** prohibits “knowingly deceiv[ing] another person regarding the time, place, or manner of conducting an election” Minn. Stat. Ann. § 204C.035.
- **Tennessee** prohibits “false or misleading information regarding . . . polling dates, times, and locations.” Tenn. Code Ann. § 2-19-133(a).

- **Virginia** prohibits knowingly false statements “about the date, time, and place of the election” Va. Code Ann. § 24.2-1005.1.

Three states prohibit false information about voting instructions or election procedures:

- **Missouri** prohibits “[k]nowingly providing false information about election procedures” Mo. Ann. Stat. § 115.631.
- **Montana** prohibits “knowingly or purposely disseminat[ing] to any elector information about election procedures that is incorrect or misleading” Mont. Code Ann. § 13-35-235(1).
- **New Mexico** prohibits “printing, causing to be printed, distributing or displaying false or misleading instructions pertaining to voting or the conduct of the election[.]” N.M. Stat. Ann. § 1-20-9(A).

Two states prohibit false or misleading instructions regarding the use of voting machinery that would cause a voter to either lose or incorrectly register his or her vote:

- **Connecticut** prohibits the intentional production or distribution of “any improper, false, misleading or incorrect instructions or advice or suggestions as to the manner of voting on any tabulator” Conn. Gen. Stat. Ann. § 9-363.
- **Rhode Island** prohibits the intentional production or distribution of “any improper, false, misleading, or incorrect instructions or advice or suggestions of how to vote by computer ballot in conjunction with the optical scan precinct count unit” R.I. Gen. Laws Ann. § 17-19-46.

New York does not prohibit the publication of any specific false information about voting requirements or procedures but broadly prohibits “[a]ny acts intended to hinder or prevent any eligible person from registering to vote, enrolling to vote or voting.” N.Y. Elec. Law § 3-106(d).

Two states prohibit publication of false information on a ballot:

- **Missouri** prohibits anyone from “knowingly furnishing any voter with a false or fraudulent or bogus ballot” Mo. Ann. Stat. § 115.631(7).
- **New Mexico** prohibits publication of “any official ballot, sample ballot, facsimile diagram or pretended ballot that includes the name of any person not entitled by law to be on the ballot, or omits the name of any person entitled by law to be on the ballot, or otherwise contains false or misleading information or headings.” N.M. Stat. Ann. § 1-20-9(B).

Nine of the thirteen states that prohibit false statements about voting requirements or procedures made knowingly or recklessly also require that the false statement be made with the intent to interfere with an election:

- **Connecticut** requires “intent to defraud any elector of his or her vote or cause any elector to lose his or her vote or any part thereof” Conn. Gen. Stat. Ann. § 9-363.
- **Hawaii** prohibits the publication of false information “with the purpose of impeding, preventing, or otherwise interfering with the free exercise of the elective franchise.” Haw. Rev. Stat. Ann. § 19.3(12).
- **Minnesota** requires “intent to prevent [an] individual from voting in [an] election.” Minn. Stat. Ann. § 204C.035.
- **Missouri** prohibits the publication of false information “for the purpose of preventing any person from going to the polls.” Mo. Ann. Stat. § 115.631(26).
- **New Mexico** requires “intent to deceive or mislead any voter, precinct board, canvassing board or other election official” N.M. Stat. Ann. § 1-20-9.
- **New York** requires “inten[t] to hinder or prevent any eligible person from registering to vote, enrolling to vote or voting.” N.Y. Elec. Law § 3-106(d).
- **Rhode Island** requires “intent to defraud a voter of his or her vote, or to cause a voter to lose his or her vote” R.I. Gen. Laws Ann. § 17-19-46.
- **Tennessee** requires “intent to deceive or disseminate information that [a] person knows to be incorrect” Tenn. Code Ann. § 2-19-133(a).
- **Virginia** requires “inten[t] to impede the voter in the exercise of his right to vote.” Va. Code Ann. § 24.2-1005.1.

3.2. False Statements About Voting Requirements / Procedures Made with Constructive Knowledge

No state currently has a statute that prohibits false statements about voting requirements or procedures that the speaker should reasonably know to be false.

3.3. False Statements About Voting Requirements / Procedures Regardless of Knowledge (Strict Liability)

Two states have statutes that impose strict liability for any false statement about voting requirements or procedures regardless of whether the speaker knows or has reason to know of its falsity:

- **Connecticut** prohibits any misrepresentation of the eligibility requirements for voting by absentee ballot. Conn. Gen. Stat. Ann. § 9-135(b).
- **Hawaii's** statute applies more broadly to prohibit any advertisement that contains "false information about the time, date, place, or means of voting." Haw. Rev. Stat. Ann. § 11-391(a)(3).

4. False Representation of Source, Authorization, or Sponsorship

Eleven states have statutes that prohibit false statements about the source, authorization, or sponsorship of a political advertisement or about a speaker's affiliation with an organization, candidate, or party.

- *Eight states* have statutes that impose liability if the speaker knew at the time of publication that the information was false or acted recklessly in publishing the false information.
- *Six states* have statutes that impose liability regardless of whether the speaker knew or should have known of the statement's falsity ("strict liability").
- No state currently has a statute that would impose liability if the speaker should have known that the information was false ("constructive knowledge").

4.1. False Representation of Source, Authorization, or Sponsorship Made Knowingly

Eight states have statutes that prohibit false statements about the source, authorization, or sponsorship of an advertisement or about a speaker's affiliation with an organization, candidate, or party made knowingly or recklessly:

- **Alabama** prohibits any person from "fraudulently [] misrepresent[ing] himself or herself, or any other person or organization with which he or she is affiliated, as speaking or writing or otherwise acting for or on behalf of any candidate, principal campaign committee, political action committee, or political party, or agent or employee thereof." Ala. Code § 17-5-16(a).
- In addition, **Alabama** prohibits "misrepresent[ing], in any automated or pre-recorded communication that is a political advertisement and that is initiated via an automated telephone dialing service, the identification of the person, nonprofit corporation, entity, principal campaign committee, or political action committee that paid for such communication." Ala. Code § 17-5-16(c).

- **Iowa** prohibits any person from “knowingly us[ing] or provid[ing] to another person . . . [f]alse caller identification information . . . related to expressly advocating the nomination, election, or defeat of a clearly identified candidate or for the passage or defeat of a clearly identified ballot issue” or “[c]aller identification information pertaining to an actual person with that person’s consent” Iowa Code Ann. § 68A.506.
- **Louisiana** prohibits any person from “willfully and knowingly participat[ing] in or conspir[ing] to participate in a plan, scheme, or design to misrepresent himself or any committee or organization under his control or under the control of any other participant in the plan, scheme, or design as speaking, writing, or otherwise acting for or on behalf of any candidate, political committee, or political party, or any employee or agent thereof.” La. Stat. Ann. § 18:1463(B)(2)(b).
- **Montana** prohibits any person from “knowingly or purposely disseminat[ing] to any elector information about election procedures that . . . gives the impression that the information has been officially disseminated by an election administrator.” Mont. Code Ann. § 13-35-235(1).
- **New Hampshire** prohibits any person from “without authority, sign[ing] the name of any other person to any letter or other document, or falsely represent[ing] that any other has written such letter or document, knowing such representation to be false” N.H. Rev. Stat. Ann. § 666:6.
- **New Jersey** prohibits any person from “knowingly produc[ing] . . . any mass communication in any medium . . . which purports to or appears to originate from, or be on behalf of, the campaign of a candidate for public office or party position . . . while failing to reveal specifically in such communication that he is acting under the instructions of, or on behalf of, another candidate or such other candidate's paid or volunteer campaign staff.” N.J. Stat. Ann. § 19:34-66.
- **Ohio** prohibits any person from “[f]alsely identify[ing] the source of a statement [or] issu[ing] statements under the name of another person without authorization” Ohio Rev. Code Ann. § 3517.22(B)(1).
- **Texas** prohibits any person from “represent[ing] in a campaign communication that the communication emanates from a source other than its true source.” Tex. Elec. Code Ann. § 225.004(b).

*One state, **Montana**, limits liability to misrepresentations regarding a government source.*

- **Montana** prohibits any person from “knowingly or purposely disseminat[ing] to any elector information about election procedures that . . . gives the impression that the information has been officially disseminated by an election administrator.” Mont. Code Ann. § 13-35-235(1).

Six states require that the false representation be made with the intent to interfere with an election:

- **Alabama** requires false information to be published “in a manner which is damaging or is intended to be damaging to [a] candidate, principal campaign committee, political action committee, or political party.” Ala. Code § 17-5-16(a).
- **Iowa** more specifically requires “intent to defraud for purposes related to expressly advocating the nomination, election, or defeat of a clearly identified candidate or for the passage or defeat of a clearly identified ballot issue.” Iowa Code Ann. § 68A.506(a).
- **New Hampshire** prohibits false representations made “for the purpose of influencing votes . . .” N.H. Rev. Stat. Ann. § 666:6.
- **New Jersey** prohibits false representations made “for the purpose of impeding the campaign of [a] candidate . . .” N.J. Stat. Ann. § 19:34-66.
- **Ohio** requires “intent to affect the outcome of [a] campaign . . .” Ohio Rev. Code Ann. § 3517.22(B).
- **Texas** requires “intent to injure a candidate or influence the result of an election . . .” Tex. Elec. Code Ann. § 225.004(b).

4.2. False Representation of Source, Authorization, or Sponsorship Made with Constructive Knowledge

No state currently has a statute that prohibits false statements about the source of an advertisement or the speaker’s affiliation that the speaker should know to be false.

4.3. False Representation of Source, Authorization, or Sponsorship Regardless of Knowledge (Strict Liability)

Six states have statutes that prohibit false statements about the source of an advertisement or a speaker’s affiliation regardless of whether the speaker knows or has reason to know of its falsity:

- **Arizona’s** statute is limited to false representation of a government source and specifically prohibits “any document that falsely purports to be a mailing authorized, approved, required, sent or reviewed by or that falsely simulates a document from the government of this state, a county, city or town or any other political subdivision.” Ariz. Rev. Stat. Ann. § 19-119(A).

- **Louisiana** prohibits any person from “mak[ing] or caus[ing] to be made any telephone call or automated call that states or implies that the caller represents any candidate, political committee, or any other person or organization unless the candidate, political committee, person, or organization so represented has given specific approval to the person paying for the call in writing to make such representation.” La. Stat. Ann. § 1463.1(C)(1).
- **New Hampshire** prohibits any person from “plac[ing] a telephone call during which the person falsely represents himself or herself as a candidate for office” N.H. Rev. Stat. Ann. § 666-7-a.
- **New York** prohibits any “person, political party, or committee” from “engag[ing] in . . . the preparation or distribution of any fraudulent, forged or falsely identified writing or the use of any employees or agents who falsely represent themselves as supporters of a candidate, political party or committee.” N.Y. Elec. Law § 6201.1.
- **North Carolina’s** statute is limited to any print, television, or radio advertisements “bearing any legend . . . that misrepresents the sponsorship or authorization of the advertisement.” N.C. Gen. Stat. Ann. § 163-278.39.
- **Texas** prohibits any person from “enter[ing] into a contract or other agreement to print, publish, or broadcast political advertising that purports to emanate from a source other than its true source.” Tex. Elec. Code Ann. § 255.004(a).
- Additionally, **Texas** prohibits any person from “misrepresent[ing] [a] person’s identity, or, if acting or purporting to act as an agent, misrepresent[ing] the identity of the agent’s principal, in political advertising or a campaign communication.” Tex. Elec. Code Ann. § 255.005.

One state requires that the false representation be made with the intent to injure a candidate or influence an election.

- **Texas** requires that the false representation be made “with intent to injure a candidate or influence the results of an election.” Tex. Elec. Code Ann. § 225.004(a), 225.005.

Two states limit liability to false representations made via telephone or automated call:

- **Louisiana** prohibits any person from making “any telephone call or automated call that states or implies that the caller represents any candidate, political committee, or any other person or organization unless the candidate, political committee, person, or organization so represented has given specific approval to the person paying for the call in writing to make such representation.” La. Stat. Ann. § 1463.1(C)(1).

- **New Hampshire** prohibits any person from “plac[ing] a telephone call during which the person falsely represents himself or herself as a candidate for office.” N.H. Laws § 666-7-a.

5. False Statements of Endorsement

Nine states have statutes that prohibit false statements that a candidate, party, or ballot measure has the endorsement or support of a person or organization.

- *Four states* have statutes that impose liability if the speaker knew at the time of publication that the information was false or acted recklessly in publishing the false information.
- *Six states* have statutes that impose liability regardless of whether the speaker knew or should have known of the statement’s falsity.
- No state currently has a statute that would impose liability if the speaker should have known that the information was false.

5.1. False Statements of Endorsement Made Knowingly

Four states have statutes that prohibit false statements that a candidate, party, or ballot measure has the endorsement or support of a person or organization made knowingly or recklessly: **Louisiana**, **Minnesota**, **New Hampshire**, and **Tennessee**. While each statute generally prohibits false claims of endorsement, there is a high degree of variation in each statute’s applicability:

- **Louisiana’s** statute is limited to false representations of endorsement on official or unofficial ballots that contain “a photograph, or likeness of any person which falsely alleges . . . that any person or candidate, or group of candidates in an election is endorsed by or supported by another candidate, group of candidates or other person.” La. Stat. Ann. § 18:1463(B)(2).
- **Minnesota’s** statute applies broadly and prohibits anyone from “knowingly mak[ing] . . . a false claim stating or implying that a candidate or ballot question has the support or endorsement of a major political party or party unit or of an organization.” Minn. Stat. Ann. § 211B.02.
- **New Hampshire** prohibits any person from “us[ing], employ[ing] or assign[ing] the name of any other person, or a fictitious name on a radio or television broadcast or other means of communication, to signify endorsement of a political party, candidates or programs” N.H. Rev. Stat. Ann. § 666:6.

- **Tennessee** prohibits publication of “any facsimile of an official ballot, any unofficial sample ballot, writing, pamphlet, paper, photograph or other printed material which contains the endorsement of a particular candidate, group of candidates or proposition by an organization, group, candidate or other individual, whether existent or not” Tenn. Code Ann. § 2-19-116(a).

Two of the four states also require an intent to misrepresent or mislead:

- **Louisiana** requires “intent to misrepresent[] that any person or candidate, or group of candidates in an election is endorsed by or supported by another candidate, group of candidates or other person.” La. Stat. Ann. § 18:1463(B)(2).
- **Tennessee** requires “intent that [a] person receiving such printed material mistakenly believe that the endorsement of such candidate, candidates or proposition was made by an organization, group, candidate or entity other than the one or ones appearing on the printed material.” Tenn. Code Ann. § 2-19-116(a).

One state, New Hampshire, also requires that a false statement be made with the intent to interfere with an election.

- **New Hampshire** requires a false representation to be made “for the purpose of influencing votes.” N.H. Laws § 666:6.

5.2. False Statements of Endorsement Made with Constructive Knowledge

No state currently has a statute that prohibits false representations of endorsement that the speaker should know to be false.

5.3. False Statements of Endorsement Regardless of Knowledge (Strict Liability)

Six states have statutes that impose strict liability for false representations of endorsement regardless of whether the speaker knows or has reason to know of its falsity:

- **California** prohibits any “candidate or committee in his or her behalf” from “represent[ing] . . . that the candidate has the support of a committee or organization that includes as part of its name the name or any variation upon the name of a qualified political party with which the candidate is not affiliated, together with the words “county committee,” “central committee,” “county,” or any other term that might tend to mislead the voters into believing that the candidate has the support of that party’s county central committee or state central committee, when that is not the case.” Ca. Elec. Code § 20007.

- **Florida** prohibits “any candidate or person on behalf of a candidate” from “represent[ing] that any person or organization supports such candidate” Fla. Stat. Ann. § 106.143.
- **Louisiana** prohibits any person from “misrepresent[ing] himself or any committee or organization under his control as speaking, writing, or otherwise acting for or on behalf of any candidate, political committee, or political party, or any employee or agent thereof.” La. Stat. Ann. § 18:1463(C)(4)(a).
- **Massachusetts** prohibits any person from “includ[ing] or caus[ing] to be included in any political advertisement, circular, poster or publication, the name of any person as an endorser or supporter except with the express consent of such person.” Mass. Gen. Laws Ann. § 41A.
- **Ohio** prohibits any person from “falsely identify[ing] the source of a statement, issu[ing] statements under the name of another person without authorization, or falsely stat[ing] the endorsement of or opposition to a ballot proposition or issue by a person or publication[.]” Ohio Rev. Code Ann. § 3517.22(B)(1).
- **Utah** prohibits any person from “includ[ing] or caus[ing] to be included the name of any person as endorser or supporter in any political advertisement, circular, poster, or publication without the express consent of that person.” Utah Code Ann. § 20A-11-901(5).

Three of these states impose liability unless the endorsing party gives permission in writing or provides express consent:

- **Florida** imposes liability “unless the person or organization so represented has given specific approval in writing to the candidate to make such representation.” Fla. Stat. Ann. § 106.143.
- **Massachusetts** imposes liability “except with the express consent of such [endorser or supporter].” Mass. Gen. Laws Ann. § 41A
- **Utah** imposes liability “without the express consent of that [endorser or supporter].” Utah Code Ann. § 20A-11-901(5).

6. False Statements of Incumbency

Seven states have statutes that prohibit false statements about incumbency. These statutes target false representations that a candidate currently holds or previously held public office.

- Four states have statutes that prohibit false statements about incumbency made with knowledge of its falsity or recklessly.

- *Three states* have statutes that prohibit false statements about incumbency regardless of whether the speaker knows or has reason to know of its falsity.
- No state currently has a statute that prohibits false statements about incumbency that the speaker should know to be false.

6.1. False Statements About Incumbency Made Knowingly

Four states have statutes that prohibit false statements about incumbency made with knowledge of its falsity or recklessly:

- **California** prohibits any person from “[a]ssum[ing], pretend[ing], or imply[ing], by his or her statements, conduct, or campaign materials, that he or she is the incumbent of a public office when that is not the case.” Cal. Elec. Code § 18350.
- **Indiana** prohibits any person from “knowingly or intentionally authoriz[ing], financ[ing], sponsor[ing], or participat[ing] in the preparation, distribution, or broadcast of paid political advertising or campaign material that falsely represents that a candidate in any election is or has been an officeholder.” Ind. Code Ann. § 3-9-3-5.
- **Oregon** prohibits any person from “describ[ing] a candidate as the incumbent in the office to which the candidate seeks nomination or election in any material, statement or publication supporting the election of the candidate, with knowledge or with reckless disregard that the description is a false statement of material fact.” Or. Rev. Stat. Ann. § 260.550(1).
- **Texas** prohibits any person from “knowingly represent[ing] in a campaign communication that a candidate holds a public office that the candidate does not hold at the time the representation is made.” Tex. Elec. Code Ann. § 255.006(b).
- Additionally, **Texas** prohibits any person from “knowingly enter[ing] into a contract or other agreement to print, publish, or broadcast political advertising with the intent to represent to an ordinary and prudent person that a candidate holds a public office that the candidate does not hold at the time the agreement is made.” Tex. Elec. Code Ann. § 255.006(a).

One state, California, requires that a false statement about incumbency be made with the intent to influence an election:

- **California** requires a false statement to be made “with intent to mislead the voters in connection with [a] campaign.” Cal. Elec. Code § 18350.

6.2. False Statement About Incumbency Made with Constructive Knowledge

No state currently has a statute that prohibits false statements about incumbency that the speaker should know to be false.

6.3. False Statement About Incumbency Regardless of Knowledge (Strict Liability)

Three states have statutes that prohibit false statements about incumbency regardless of whether the speaker knows or has reason to know of its falsity:

- **Florida** states that “[n]o political advertisement of a candidate who is not an incumbent of the office for which the candidate is running shall use the word “re-elect.” Additionally, such advertisement must include the word “for” between the candidate’s name and the office for which the candidate is running, in order that incumbency is not implied.” Fla. Stat. Ann. § 106.143(6).
- **Michigan** imposes liability for “[a]ny person who advertises or uses in any campaign material . . . or otherwise indicates, represents, or gives the impression that a candidate for public office is the incumbent, when in fact the candidate is not the incumbent.” Mich. Comp. Laws Ann. § 168.944.
- **Minnesota’s** statute is limited to “the event of redistricting” and prohibits any person from “us[ing] the term “reelect” in a campaign for elective office unless the candidate is the incumbent of that office and the office represents any part of the new district.” Minn. Stat. Ann. § 211B.03.

B. General Statutes that Prohibit Intimidation or Fraud Associated with an Election

While the preceding laws explicitly target the content of election-related speech, a second set of state laws may indirectly regulate the content of election speech through the prohibition of intimidation or fraud associated with an election. Many of these laws were passed to prevent physical acts of voter intimidation. However, at least one state attorney general has used a voter intimidation statute to prosecute political operatives for the distribution of false statements relating to an election, suggesting that these laws could potentially apply to the content of digital political advertisements.

Thirty-eight states and the District of Columbia have laws that prohibit intimidation and/or fraud in elections. These statutes can be broken into two separate but related categories. The first category, “Intimidation,” contains statutes that prohibit threats, duress, or coercion associated with an election. These statutes would likely cover statements that threaten or coerce a person to (or not to) vote, sign a petition, or register to vote. The second category, “Fraud or Corruption,” contains statutes that prohibit deception or fraudulent statements associated with an election, as well as inducement or corruption. These statutes would likely

cover statements that deceive, defraud, or induce a person to (or not to) vote, sign a petition, register to vote, or choose who or what to vote for.

The main distinction between the two categories is that the “Fraud or Corruption” category would only include false or deceptive statements, while the “Intimidation” category would include statements regardless of their falsity if they constitute a threat or coercion. As with statutes that directly target the content of election-related speech, these categories are not necessarily mutually exclusive (i.e., a state statute that prohibits “coercion or any fraudulent device or contrivance” would fall into both the “Intimidation” and “Fraud or Corruption” categories).

In addition, statutes that directly target specific types of false election-related speech, like statutes prohibiting false statements about voting procedures or ballot measures, would likely also fall within the “Fraud or Corruption” category which prohibits deceptive or fraudulent statements associated with an election. For purposes of this analysis, we placed statutes that broadly prohibit deceptive statements or conduct related to an election in the “Fraud or Corruption” category, while statutes that specifically identify the type of prohibited speech were placed within one of the direct-targeting categories discussed in the prior section (e.g., Statements about Ballot Measures; Statements about Incumbency).

For consistency and ease of reference to the statutory taxonomy we developed, we are continuing to use the taxonomy numbering system for the following subsections.

7. Intimidation

Thirty-eight states and the District of Columbia have statutes prohibiting intimidation, duress, or coercion associated with an election. Prohibited statements include threats of force, restraint, or economic harm directed at a person, their family, or business.

- *Twenty-nine states* have statutes that impose liability only if the speaker made intimidating, threatening, or coercive statements with the purpose or intent of influencing or interfering with an election.
- *Seventeen states and the District of Columbia* have statutes that impose strict liability if the speaker made intimidating, threatening, or coercive statements that influence or interfere with an election, regardless of whether the individual actually intended to influence or interfere with an election.

7.1. Intentional Intimidation

Twenty-nine states have statutes that impose liability if the speaker made intimidating, threatening, or coercive statements with the purpose or intent of influencing or interfering with an election: **Alabama, Arizona, Arkansas, California, Delaware, Florida, Georgia, Hawaii, Illinois, Indiana, Kansas, Kentucky, Louisiana, Maryland, Michigan, Montana, New Hampshire, New Jersey, New Mexico, New York, North Carolina, Pennsylvania,**

Rhode Island, South Dakota, Tennessee, Washington, West Virginia, and Wyoming. For example:

- **Alabama** prohibits any person from “obstruct[ing], intimidat[ing], threaten[ing], or coerc[ing] any other person for the purpose of interfering with the right of such other person to vote or to vote as he or she may choose, or for the purpose of causing such other person to vote for, or not to vote for, any candidate for state or local office or any other proposition at any election.” Ala. Code § 17-17-33.
- **Delaware** prohibits any person from using “force, threat, menace, intimidation, bribery or reward or offer to or promise thereof, or otherwise unlawfully either directly or indirectly, influenc[ing] or attempt[ing] to influence any elector in giving that person’s vote.” Del. Code Ann. § 3166(a)(9).
- **Florida** imposes liability for any person who “by bribery, menace, threat, or other corruption whatsoever, either directly or indirectly, attempts to influence, deceive, or deter any elector in voting . . .” Fla. Stat. Ann. § 104.061(1).
- **Illinois** has three such statutes. The first imposes broad liability for “[a]ny person who, by force, intimidation, [or] threat . . . knowingly prevents any other person from (a) registering to vote, or (b) lawfully voting, supporting or opposing the nomination or election of any person for public office or any public question voted upon at any election” 10 Ill. Comp. Stat. Ann. § 5/29-4.
- In addition, **Illinois** prohibits two or more people from conspiring to use intimidation “to prevent . . . any person from registering to vote, or preventing any person lawfully entitled to vote from voting, or preventing any person from supporting or opposing, in a legal manner, the nomination or election of any person for public or political party office, or a proposition voted upon at any election, or to injure any person or such person's property on account of such vote, support or advocacy” 10 Ill. Comp. Stat. Ann. § 5/29-18.
- Finally, **Illinois** specifically singles out mail ballots by prohibiting any person from knowingly “intimidat[ing] or unduly influenc[ing] another person to cast a vote by mail ballot in a manner inconsistent with the voter’s intent” 10 Ill. Comp. Stat. Ann. § 5/29-20.
- **Indiana** prohibits any person from “knowingly or intentionally intimidat[ing], threaten[ing], or coerc[ing] an individual for: (1) voting or attempting to vote; (2) urging or aiding another individual to vote or attempt to vote; or (3) exercising any power or duty under this title concerning registration or voting.” Ind. Code Ann. § 3-14-3-21.5.
- **Kentucky** prohibits any person from “unlawfully prevent[ing] or attempt[ing] to prevent any voter from casting his ballot, or intimidat[ing] or attempt[ing] to

intimidate any voter so as to prevent him from casting his ballot." Ky. Rev. Stat. Ann. § 119.155.

- **New Mexico** imposes liability for "[w]hoever commits intimidation," which is defined as "inducing or attempting to induce fear in any member of a precinct board, voter, challenger or watcher by use of or threatened use of force, violence, infliction of damage, harm or loss or any form of economic retaliation, upon any voter, precinct board member, challenger or watcher for the purpose of impeding or preventing the free exercise of the elective franchise or the impartial administration of the election or Election Code." N.M. Stat. Ann. § 1-20-14.
- **North Carolina** limits liability to any person who "misrepresent[s] the law to the public through mass mailing or any other means of communication where the intent and the effect is to intimidate or discourage potential voters from exercising their lawful right to vote." N.C. Gen. Stat. Ann. § 163-275(17).
- **Montana** prohibits any person from using intimidation "directly or indirectly, individually or through any other person, in order to induce or compel a person to vote or refrain from voting . . ." Mont. Code Ann. § 13-35-218(1).
- **Rhode Island** prohibits any person from "us[ing] any threat or employ[ing] any means of intimidation for the purpose of influencing the elector to vote or withhold that elector's vote for or against any candidate or candidates or proposition pending at an election." R.I. Gen. Laws § 17-23-5.
- **West Virginia** prohibits any person from "directly or indirectly, by himself, or by any other person on his behalf, mak[ing] use of, or threaten[ing] to make use of, any force, violence or restraint, or inflict[ing], or threaten[ing] to inflict, any damage, harm or loss, upon or against any person, or by any other means attempt[ing] to intimidate or exert any undue influence, in order to induce such person to vote or refrain from voting, or on account of such person having voted or refrained from voting, at any election . . ." W. Va. Code Ann. § 3-8-11(a).

While most statutes prohibit the use of intimidation to prevent someone from voting, *seven states* also prohibit the use of intimidation on account of someone having voted in a certain way: **California, Hawaii, New Jersey, New York, Pennsylvania, Tennessee, and West Virginia**. For example:

- **California** prohibits the use or threat "of any force, violence, or tactic of coercion or intimidation . . . because any person voted or refrained from voting at any election or voted or refrained from voting for any particular person or measure at any election[.]" Cal. Elec. Code § 18540(a).

- **Hawaii** prohibits intimidation “on account of [a] person having voted or refrained from voting, or voted or refrained from voting for any particular person or party[.]” Haw. Rev. Stat. Ann. § 19.3(4).
- **New York** and **Pennsylvania** both prohibit intimidation “on account of [a] person having voted or refrained from voting in [an] election, or having voted or refrained from voting for or against any particular person or persons, or for or against any proposition [or question] submitted to voters at such election” N.Y. Elec. Law § 17-150; 25 Pa. Stat. and Cons. Stat. § 3547.

One state, **Georgia**, has a relatively broad definition of the targeted conduct, prohibiting any person from “act[ing] in any other manner to intimidate,” and defines this activity as:

- “[U]ndertak[ing] or pursu[ing] a knowing and willful course of conduct which causes emotional distress by placing another person in reasonable fear for such person's safety or for the safety of another person and which serves no legitimate purpose.” Ga. Code Ann. § 21-2-567(a), (b).

7.2. Intimidation (Strict Liability)

Seventeen states and the District of Columbia have statutes that prohibit statements that intimidate, threaten, or coerce a person to vote, refrain from voting, sign a petition, register to vote, or choose whom or what to vote for, regardless of whether the speaker intends to influence an election: **Alabama, California, Colorado, Connecticut, Delaware, District of Columbia, Florida, Iowa, Minnesota, Mississippi, Montana, Nebraska, Nevada, New York, Oklahoma, South Carolina, Utah, and Washington**. For example:

- **Alabama** prohibits any person from “disturb[ing] or prevent[ing] or attempt[ing] to prevent any elector from freely casting his ballot” on election day. Ala. Code § 11-46-68(l).
- **California** prohibits any person from “in any manner interfer[ing] with the officers holding an election or conducting a canvass, or with the voters lawfully exercising their rights of voting at an election, as to prevent the election or canvass from being fairly held and lawfully conducted.” Ca. Elec. Code § 18502.
- **Minnesota**’s statute is limited to recall petitions and prohibits any person from “us[ing] threat, intimidation, [or] coercion to interfere or attempt to interfere with the right of any eligible voter to sign or not to sign a recall petition of their own free will.” Minn. Stat. Ann. § 211C.09.
- **Oklahoma** imposes liability for “any person . . . who interferes with a registered voter who is attempting to vote, or any person who attempts to influence the vote of another by means of force or intimidation, or any person who interferes with the orderly and lawful conduct of an election.” Okla. Stat. Ann. § 16-113.

- **South Carolina** imposes liability for any person “who by force, intimidation . . . or undue influence obtains, procures, or controls the vote of any voter to be cast for any candidate or measure other than as intended or desired by such voter.” S.C. Code Ann. § 7-25-190.

8. Fraudulent or Corrupt Statements

Twenty-three states and the District of Columbia have statutes that prohibit statements that deceive, defraud, or bribe a person to (or not to) vote, sign a petition, register to vote, or choose who or what to vote for.

In addition to the statutes listed below that broadly prohibit deceptive statements or conduct related to an election, many states have statutes that directly target specific types of false election-related speech, like statutes prohibiting false statements about voting procedures or ballot measures. Statutes that specifically identify the type of prohibited speech were placed within one of the direct-targeting categories discussed in a prior section of this report (e.g., Statements about Ballot Measures; Statements about Incumbency).

8.1. Fraudulent or Corrupt Statements Made Knowingly

Seven states have statutes that prohibit statements that deceive, defraud, or bribe a person to vote, refrain from voting, sign a petition, register to vote, or choose who or what to vote for that the speaker knows to be false or corrupt: **Arizona, California, Illinois, Iowa, Louisiana, Maryland,** and **South Dakota**. For example:

- **Arizona** prohibits any person from knowingly using “any corrupt means, either directly or indirectly to defraud an elector” Ariz. Rev. Stat. Ann. § 16-1006(3).
- **Illinois** imposes liability for “[a]ny person who, by . . . deception or forgery, knowingly prevents any other person from (a) registering to vote, or (b) lawfully voting, supporting or opposing the nomination or election of any person for public office or any public question voted upon at any election.” 10 Ill. Comp. Stat. Ann. § 5/29-4
- **Iowa** prohibits any person who “willfully . . . deprives, defrauds, or attempts to deprive or defraud the citizens of [the] state of a fair and impartially conducted election process.” Iowa Code Ann. § 39A.2(b)(5).
- **Louisiana** prohibits any person from “intimidat[ing], deceiv[ing], or misinform[ing], directly or indirectly, any voter or prospective voter in matters concerning voting or nonvoting or voter registration or nonregistration, or the signing or not signing of a petition” La. Stat. Ann. § 1461.4.

- **Maryland** prohibits any person from “willfully and knowingly . . . influenc[ing] or attempt[ing] to influence a voter’s voting decision . . . [or] a voter’s decision whether to go to the polls to cast a vote through the use of . . . fraud . . . bribery, reward, or offer of reward.” Md. Code Ann., Elec. Law § 16-201(5), (6).
- **South Dakota** prohibits any person from “directly or indirectly, intentionally, by . . . any forcible or fraudulent contrivance . . . for the purpose of preventing, causing, or intimidating a voter to vote or refrain from voting for or against any person or question” S.D. Codified Laws § 12-26-12.

Two of the seven states also require that the fraudulent or corrupt statement be made with the intent to influence an election:

- **California** imposes liability for anyone “who knowingly challenges a person’s right to vote . . . on fraudulent or spurious grounds . . . solely for the purpose of preventing voters from voting or to delay the process of voting.” Ca. Elec. Code § 18543.
- **South Dakota** prohibits fraudulent or corrupt statements made “for the purpose of preventing, causing, or intimidating a voter to vote or refrain from voting for or against any person or question.” S.D. Codified Laws § 12-26-12.

8.2. Fraudulent or Corrupt Statements Made with Constructive Knowledge

This category includes statements that deceive, defraud, or bribe a person that the speaker should know to be false. No state has a statute that prohibits statements that deceive, defraud, or bribe a person that the speaker should know to be false or corrupt.

8.3. Fraudulent or Corrupt Statements Regardless of Knowledge (Strict Liability)

Fifteen states and the District of Columbia have statutes that impose liability for statements that deceive, defraud, or bribe a person to vote, refrain from voting, sign a petition, register to vote, or choose who or what to vote without any explicit mention that the speaker must know or have reason to know of the statement’s falsity or corrupt nature: **Alabama, Connecticut, District of Columbia, Florida, Hawaii, Minnesota, Mississippi, Montana, Nevada, New Jersey, New York, Pennsylvania, South Carolina, Utah, Washington,** and **West Virginia.**

Many of these statutes use the phrase “fraudulent device or contrivance” or “corrupt means” as a trigger for liability. It is possible that these terms limit liability only to those instances where the speaker has knowledge that they are engaging in fraud or corruption. However, the language in these statutes does not make this requirement clear. For example:

- **Alabama** imposes liability on any person who “by any other corrupt means, attempts to influence any elector in giving his or her vote, deter the elector from

giving the same, or disturb or hinder the elector in the free exercise of the right of suffrage, at any election." Ala. Code § 17-17-38.

- **District of Columbia** imposes a criminal penalty on any person “who by any other corrupt means or practice . . . interferes with, or attempts to interfere with, the right of any qualified registered elector to sign or not to sign any initiative, referendum, or recall petition, or to vote for or against, or to abstain from voting on any initiative, referendum, or recall measure.” D.C. Code Ann. § 1-1001.14: (b)(3)(C).
 - **Florida** imposes liability on any person who “by . . . other corruption whatsoever, either directly or indirectly . . . interferes with [any elector] in the free exercise of the elector's right to vote at any election” Fla. Stat. Ann. § 104.061(1).
 - **Hawaii, New Jersey, New York, Pennsylvania, and Utah** prohibit any person from using fraudulent or corrupt means to “impede[], prevent[], or otherwise interfere[] with the free exercise of the elective franchise by any voter.” Haw. Rev. Stat. Ann. § 19.3(4); N.J. Stat. Ann. § 19:34-29; N.Y. Elec. Law § 17-150; Pa. Stat. and Cons. Stat. Ann. § 3547; Utah Code Ann. § 20A-3a-502.
 - **Washington** imposes liability on any person “who in any way, directly or indirectly, by . . . unlawful means, attempts to influence any person in refusing to give his or her vote in any primary or special or general election.” Washington also has two other statutory provisions that impose liability specifically for interference with recall or referendum petitions by “any other corrupt means or practice” Wa. Rev. Code Ann. § 29A.84.220, 250.
 - **West Virginia** prohibits any person from using a “fraudulent device or contrivance [to] impede or prevent the free exercise of suffrage by any elector.” W. Va. Code Ann. § 3-8-11(a).
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V. Appendix

A. Individual State Summaries

Alabama

What state election laws may apply to the content of election-related speech?

Alabama has four statutory provisions that may apply to the content of election-related speech:

- [Alabama Code § 17-5-16](#) (Fraudulent misrepresentation as acting for candidate, etc., prohibited)
- [Alabama Code § 11-46-68](#) (Miscellaneous Offenses)
- [Alabama Code § 17-17-33](#) (Obstruction, intimidation, etc., of voting rights of others)
- [Alabama Code § 17-17-38](#) (Bribing or attempting to influence voter)

What restrictions do these statutes place on the content of election-related speech?

In Alabama, three of four relevant statutes indirectly implicate election-related speech by prohibiting intimidation and fraud associated with an election. However, the state does have one election statute directly targeting the content of speech related to an election ([§ 17-5-16](#)).

Alabama law prevents any individual from **fraudulently misrepresenting themselves as speaking or acting on behalf of any candidate** in a manner “damaging or . . . intended to be damaging” to the candidate or another political entity. ([§ 17-5-16\(a\)](#)). Individuals and entities are also prevented from **knowingly misrepresenting the source** of an automated or pre-recorded communication ([§ 17-5-16\(c\)](#)).

It is illegal in Alabama to disturb, prevent, or attempt to **prevent anyone from “freely casting his ballot”** on the day of an election ([§ 11-46-68\(l\)](#)). It is also illegal to **obstruct, intimidate, threaten, or coerce** anyone for the purpose of interfering with an individual’s right to vote for a particular person ([§ 17-17-33](#)). Using bribery or **“other corrupt means”** to influence or deter an elector in voting is a misdemeanor in Alabama ([§ 17-17-38](#)).

Who do these restrictions apply to?

Each of the relevant statutes apply to **“any person.”** [§ 17-5-16\(c\)](#) also applies to **“any entity.”** There are no candidate-specific restrictions on speech in Alabama’s electoral code.

Alaska

What state election laws may apply to the content of election-related speech?

Alaska has two statutory provisions that may apply to the content of election-related speech:

- [Alaska Statutes § 15.13.090](#) (Identification of communication)
- [Alaska Statutes § 15.13.095\(a\)](#) (False statements in telephone polling and calls to convince)

What restrictions do these statutes place on the content of election-related speech?

In Alaska, both relevant statutes directly target the content of speech related to an election.

Alaska law explicitly states that **a political candidate can recover damages for a defamatory remark** made as part of a “telephone poll or . . . organized series of calls,” as long as the remark was intended to convince potential voters relating to the outcome of an election ([§ 15.13.095\(a\)](#)). A remark is considered defamatory if it was made with knowledge that it was false or with reckless disregard for whether it was false or not ([§ 15.13.095\(a\)](#)). The candidate can bring a civil action against the individual who made the phone call, the individual’s employer, and the person who authorized the call ([§ 15.13.095\(a\)](#)).

Individuals in Alaska who make an election communication **may not include a defamatory statement about a political candidate** ([§ 15.13.090\(f\)](#)). For the purpose of this Alaska election law, a false statements of material fact made with actual malice are prohibited ([§ 15.13.090\(f\)](#)). A statement defames a candidate if it (1) exposes a candidate to “strong disapproval, contempt, ridicule, or reproach” ([§ 15.13.090\(f\)\(1\)](#)) or (2) deprives the candidate of the “benefit of public confidence” ([§ 15.13.090\(f\)\(2\)](#)).

Who do these restrictions apply to?

Both of these statutes govern specific interactions between an individual and a candidate. **Any individual** is prevented from making defamatory statements about a candidate ([§ 15.13.090\(f\)](#)), while **the defamed candidate** can bring a suit against **the individual or entity** that defamed them ([§ 15.13.095\(a\)](#)).

Arizona

What state election laws may apply to the content of election-related speech?

Arizona has three statutory provisions that may apply to the content of election-related speech:

- [Arizona Revised Statutes § 16-1006](#) (Changing vote of elector by corrupt means or inducement)
- [Arizona Revised Statutes § 16-1013](#) (Coercion or intimidation of elector)
- [Arizona Revised Statutes § 19-119](#) (Deceptive mailings)

What restrictions do these statutes place on the content of election-related speech?

In Arizona, two of three relevant statutes indirectly implicate election-related speech by prohibiting intimidation and fraud associated with an election. However, the state does have one election statute directly targeting the content of speech related to an election ([§ 19-119](#)).

Arizona law prohibits individuals from knowingly **interfering with the “free exercise of the elective franchise” of any voter through duress or any fraudulent “device or contrivance”** ([§ 16-1013](#)). This interference includes inducing a voter to vote for or against a particular person or measure ([§ 16-1013](#)). Individuals are also prevented from using **threats, menaces, or bribery** to influence voters ([§ 16-1006](#)).

Arizona also prohibits the **dissemination of any document “falsely proport[ing]” to be an authorized mailing from the government**; this prohibition only applies if the document was created to influence the outcome of an election ([§ 19-119](#)).

Who do these restrictions apply to?

Each of these statutes apply to **any individual** in Arizona, while [§ 19-119](#) also applies to **committees**. There are no candidate-specific restrictions on speech in Arizona’s electoral code.

Arkansas

What state election laws may apply to the content of election-related speech?

Arkansas has one statutory provision that may apply to content of election-related speech:

- [Arkansas Code § 7-1-104](#) (Felonies)

What restrictions do these statutes place on the content of election-related speech?

In Arkansas, the one applicable statutory provision is focused generally on election-related intimidation and interference. There are no statutes directly targeting the content of speech related to an election in the Arkansas Code.

Arkansas law prohibits individuals from **making threats or trying to intimidate** any elector ([§ 7-1-104\(5\)](#)). Individuals may not intimidate or threaten an elector's family, business, or profession. ([§ 7-1-104\(5\)](#)). Arkansas also prevents individuals from **interfering with an elector's right to vote**, though there is an explicit carveout for "good faith" challenges of ballots or voters ([§ 7-1-104\(6\)](#)).

Who do these restrictions apply to?

§ 7-1-104 applies to "**any person**," while the election challenge carveout applies to **candidates, authorized representatives of candidates, and political parties**. There are no candidate-specific restrictions on speech in Arkansas' electoral code.

California

What state election laws may apply to the content of election-related speech?

California has ten statutory provisions that may apply to the content of election-related speech:

- [California Election Code § 18350](#) (Implication that candidate is incumbent or acting in capacity of public officer)
- [California Election Code § 18502](#) (Interference with officers or voters)
- [California Election Code § 18540](#) (Use of force, violence, tactic of coercion or intimidation)
- [California Election Code § 18543](#) (Challenging right to vote without probable cause)
- [California Election Code § 18573](#) (Deceiving voter unable to read; causing voter to vote for different person than intended through fraud)
- [California Election Code § 20007](#) (Misrepresentation as to support of candidate)
- [California Election Code § 20010](#) (Campaign materials containing materially deceptive audio or visual media; effective Jan. 1, 2020-Dec. 31, 2022)
- [California Election Code § 20010](#) (Campaign materials containing superimposed imagery of candidate; effective Jan. 1, 2023)
- [California Election Code § 20500](#) (Campaign advertising or communication; application of Civil Code provisions (for libel and slander))
- [California Election Code § 20501](#) (Liability)

For information on California's disclosure and recordkeeping requirements for digital political advertisements, visit [this page](#).

What restrictions do these statutes place on the content of election-related speech?

In California, six of the ten applicable election statutes directly target the content of speech related to an election (this is the most of any state). There are also four statutes that indirectly implicate election-related speech by prohibiting intimidation and fraud associated with an election.

California law prevents individuals, committees, or other entities from distributing, with actual malice, "**materially deceptive audio or visual media**" of a candidate for office ([§ 20010](#)). This limitation applies if the speaker intends to "injure the candidate's reputation or . . . deceive a voter into voting for or against the candidate" ([§ 20010](#)). A speaker can avoid liability by including an explicit disclaimer that the content is altered ([§ 20010](#)). The current statute will expire on December 31, 2022 unless the California legislature enacts additional restrictions on deceptive audio or visual media.

On January 1, 2023, a new statute comes into effect prohibiting any individual or entity from producing or distributing, with actual malice, campaign material featuring either an image of a candidate superimposed onto another person or the image of an individual superimposed onto a candidate ([§ 20010](#)). This change significantly narrows the scope of the current

statute; rather than encompassing all audio or visual media, the statute will only apply to superimposed pictures or photographs.

California prevents individuals from stating or implying with intent to **mislead that they are an incumbent of a public office** ([§ 18350](#)). Individuals also cannot falsely state or imply that they are acting on behalf of a public officer ([§ 18350](#)).

California prohibits candidates for office and their committees from **misrepresenting that the candidate has the support of a political party's state or county committee** ([§ 20007](#)).

California has two statutory provisions confirming that existing **civil libel and slander laws apply to political advertisements** ([§ 20500](#), [§ 20501](#)). A candidate is liable for any libel or slander committed by a committee under their control if the candidate willfully and knowingly “directs or permits” such a statement ([§ 20501](#)).

California law also indirectly implicates election-related speech by prohibiting individuals from **interfering with voters** “in any matter . . . as to prevent the election from being fairly held and lawfully conducted” ([§ 18502](#)). An individual may not use or threaten to use any tactic of coercion or intimidation to convince anyone to vote for or against a particular candidate ([§ 18540](#)). Individuals are also prohibited from fraudulently telling any voter that they are not eligible to vote or registered to vote ([§ 18543](#)) or causing a voter to vote for a different person than he or she intended or desired to vote for ([§ 18573](#)).

Who do these restrictions apply to?

California’s prohibitions on false claims of incumbency, misleading claims of endorsement, and election-related libel or slander place speech restrictions on **candidates** for public office within the state and on **committees**. ([§ 18350](#), [§ 20007](#), [§ 20500](#), [§ 20501](#)).

California’s statute limiting materially deceptive audio or visual media applies more broadly to any “**person, committee, or other entity**” ([§ 20010](#)).

The remaining state statutes apply to **any person**.

Colorado

What state election laws may apply to the content of election-related speech?

Colorado has two statutory provisions that may apply to the content of election-related speech:

- [Colorado Election Code § 1-13-109](#) (False or reckless statements relating to candidates or questions submitted to electors)
- [Colorado Election Code § 1-13-713](#) (Intimidation)

What restrictions do these statutes place on the content of election-related speech?

Colorado's election code contains one statute that directly targets the content of speech related to an election ([§ 1-13-109](#)). There is also one statute that indirectly implicates election-related speech by prohibiting intimidation associated with an election ([§ 1-13-713](#)).

Colorado law prohibits any person or organization from **communicating or causing to be communicated any false statement** that is (1) "designed to affect the vote on any issue submitted to . . . voters" or (2) "relating to any candidate for election to public office" ([§ 1-13-109\(1\)\(a\)](#)). This prohibition applies if the person acts "knowingly" or "recklessly" in making the false statement ([§ 1-13-109](#)). The statute defines recklessly as acting in "conscious disregard of the truth or falsity of the statement made" ([§ 1-13-109\(2\)\(a\)](#)).

It is a misdemeanor in Colorado to **"impede, prevent, or otherwise interfere" with any voter** ([§ 1-13-713](#)). Colorado also prohibits individuals from **"compel[ling], induc[ing], or prevail[ing] upon any elector"** to vote, not vote, or vote for a particular candidate or measure ([§ 1-13-713](#)).

Who do these restrictions apply to?

Each of these statutes apply to **any person** in Colorado. [§ 1-13-109](#) uses a broader definition of person, expanding the statute's applicability to **any "partnership, committee, association, corporation, labor organization, political party, or other organization or group of persons."** There are no candidate-specific restrictions on speech in Colorado's electoral code.

Connecticut

What state election laws may apply to the content of election-related speech?

Connecticut has four statutory provisions that may apply to the content of election-related speech:

- [Connecticut Election Code § 9-135](#) (Absentee voting eligibility – misrepresentation prohibited)
- [Connecticut Election Code § 9-363](#) (Circulation of misleading instructions)
- [Connecticut Election Code § 9-364a](#) (Acts prohibited in elections, primaries, referenda, caucuses and conventions)
- [Connecticut Election Code § 9-368c](#) (Misrepresentation of contents of a petition)

What restrictions do these statutes place on the content of election-related speech?

Connecticut's election code contains three statutes that directly target the content of speech related to an election. There is also one statute that indirectly implicates election-related speech by prohibiting intimidation associated with an election ([§ 9-364a](#)).

Connecticut law prohibits any person from **misrepresenting the eligibility requirements for voting by absentee ballot** ([§ 9-135](#)). It is illegal to **misrepresent the contents of any state petition** ([§ 9-368c](#)).

Connecticut prohibits the **dissemination of any "false, misleading, or incorrect" instructions** or advice regarding how to use a state voting machine. ([§ 9-363](#)). That prohibition applies to any person who has "intent to defraud" a voter of his or her vote ([§ 9-363](#)).

It is a felony in Connecticut to **influence the vote of any person "by force or threat"** ([§ 9-364a](#)).

Who do these restrictions apply to?

Each of these statutes apply to **any person** in Connecticut. There are no candidate-specific restrictions on speech in Connecticut's electoral code.

Delaware

What state election laws may apply to the content of election-related speech?

Delaware has two statutory provisions that may apply to the content of election-related speech:

- [Delaware Election Code § 3166](#) (Illegal election conduct)
- [Delaware Election Code § 5162](#) (Circulation of misleading instructions)

What restrictions do these statutes place on the content of election-related speech?

In Delaware, both applicable statutory provisions are focused generally on election-related intimidation and interference. There are no statutes directly targeting the content of speech related to an election in the Delaware Code.

Delaware law prohibits any person from **influencing or attempting to influence any voter by “force, threat, menace, intimidation, bribery or reward”** ([§ 3166\(9\)](#)). It is also illegal to **prevent or attempt to prevent any qualified voter from voting** or to hinder them in doing so ([§ 3166\(11\)](#)).

Delaware law creates a private right of action against any person or corporation who **“hinders, controls, coerces or intimidates” any voter** ([§ 5162](#)). That prohibition also applies to an unsuccessful attempt ([§ 5162](#)).

Who do these restrictions apply to?

Each of these statutes apply to **any person** in Delaware. [§ 5162](#) also applies to **any corporation existing or doing business in Delaware**. There are no candidate-specific restrictions on speech in Delaware’s electoral code.

District of Columbia

What state election laws may apply to the content of election-related speech?

The District of Columbia has one statutory provision that may apply to content of election-related speech:

- [D.C. Code § 1-1001.14](#) (Corrupt election practices)

What restrictions do these statutes place on the content of election-related speech?

In the District of Columbia, the one applicable statutory provision is focused generally on election-related intimidation and interference. There are no statutes directly targeting the content of speech related to an election in the District of Columbia Code.

D.C. law prohibits individuals from using **any corrupt means or practice, threats, or intimidation** to interfere with any person registering to vote or exercising their right to vote ([§ 1-1001.14\(b\)\(3\)\(C\)](#)). The prohibition on intimidation also extends to voters signing any initiative, referendum, or recall petition.

Who do these restrictions apply to?

[§ 1-1001.14](#) applies to **any person**. There are no candidate-specific restrictions on speech in the District of Columbia's electoral code.

Florida

What state election laws may apply to the content of election-related speech?

Florida has six statutory provisions that may apply to the content of election-related speech:

- [Florida Election Code § 104.0515](#) (Voting rights; deprivation of, or interference with, prohibited)
- [Florida Election Code § 104.061](#) (Corruptly influencing voting)
- [Florida Election Code § 104.0615](#) (Voter intimidation or suppression prohibited)
- [Florida Election Code § 104.271](#) (False or malicious charges against, or false statements about, opposing candidates)
- [Florida Election Code § 104.2715](#) (False representations of military service)
- [Florida Election Code § 106.143](#) (Political advertisements circulated prior to election)

What restrictions do these statutes place on the content of election-related speech?

Florida has three applicable election statutes that directly target the content of speech related to an election. There are also three statutes that indirectly implicate election-related speech by prohibiting intimidation and fraud associated with an election.

Florida law prevents any candidate for office from **falsely representing that they are a member or veteran of the military** ([§ 104.2715](#)). The statute applies regardless of whether the candidate “indirectly or directly” suggests that they are in the armed forces. Candidates are also prohibited from **falsely charging an opposing candidate with violating state law** ([§ 104.271\(1\)](#)). In addition, candidates may not, with actual malice, **“make or cause to be made” any false statement about an opposing candidate** ([§ 104.271\(2\)](#)).

Florida law prohibits any candidate or person acting on behalf of a candidate from **representing that another person or organization has endorsed the candidate without “specific [written] approval”** ([§ 106.143\(4\)](#)). Political advertisements **must not contain the term “re-elect” unless a candidate is an incumbent** of the specific office being contested ([§ 106.143\(6\)](#)).

It is illegal in Florida for any person to **“intimidate, threaten, or coerce” a voter** to vote, not vote, or vote for a particular candidate or measure ([§ 104.0515](#)). It is also illegal for a person to **“knowingly use false information” to induce or attempt to induce a voter to refrain from voting or registering to vote** ([§ 104.0615](#)). Florida law also prohibits any person from trying to influence an individual’s vote through “bribery, menace, threat, or other corruption whatsoever” ([§ 104.061](#)).

Who do these restrictions apply to?

Florida’s provisions prohibiting false representations of military service ([§ 104.2715](#)), false statements about an opposing candidate ([§ 104.271](#)), and unauthorized claims of

endorsement ([§ 106.143\(4\)](#)) all apply specifically to **candidates** running for office in the state.

The Florida provisions prohibiting unauthorized use of endorsement ([§ 106.143\(4\)](#)) and false claims of incumbency ([§ 106.143\(6\)](#)) apply both to **candidates** and to **persons acting on the candidate's behalf**.

The remaining Florida statutes apply to **any person**.

Georgia

What state election laws may apply to the content of election-related speech?

Georgia has one statutory provision that may apply to content of election-related speech:

- [Georgia Code § 21-2-567](#) (Intimidation of elector)

What restrictions do these statutes place on the content of election-related speech?

In Georgia, the one applicable statutory provision is focused generally on election-related intimidation and interference. There are no statutes directly targeting the content of speech related to an election in the Georgia Code.

Georgia law prohibits individuals from using or threatening to use “force and violence” or acting to intimidate a voter in “any other manner” ([§ 21-2-567](#)). A person may not intimidate a voter into voting or refraining from voting in any election ([§ 21-2-567](#)). It is also illegal to intimidate a voter into voting for or against a particular candidate or issue ([§ 21-2-567](#)).

For purposes of the statute, acting in “any other matter” to intimidate means “to undertake or pursue a knowing and willful course of conduct which causes emotional distress by placing another person in reasonable fear for such person’s safety or for the safety of another person and which serves no legitimate purpose” ([§ 21-2-567\(b\)](#)).

Who do these restrictions apply to?

§ 21-2-567 applies to **any person**. There are no candidate-specific restrictions on speech in Georgia’s electoral code.

Hawaii

What state election laws may apply to the content of election-related speech?

Hawaii has two statutory provisions that may apply to the content of election-related speech:

- [Hawaii Government Code § 11-391](#) (Advertisements)
- [Hawaii Government Code § 19-3](#) (Election frauds)

What restrictions do these statutes place on the content of election-related speech?

Hawaii's election code contains one statute that directly targets the content of speech related to an election ([§ 11-391](#)). There is also one statute that both directly targets the content of speech related to an election and indirectly implicates election-related speech by prohibiting intimidation associated with an election ([§ 19-3](#)).

Hawaii law prohibits any **advertisement from containing "false information about the time, date, place, or means of voting"** ([§ 11-391\(a\)\(3\)](#)). This prohibition applies to any advertisement "broadcast . . . circulated . . . distributed, or otherwise communicated, including by electronic means . . ." ([§ 11-391\(a\)](#)). Any individual who communicates this type of advertisement with the purpose of interfering with voting is guilty of election fraud ([§ 19-3\(12\)](#)).

Any person who **knowingly publishes a "false statement of the withdrawal of any candidate"** in an election is guilty of election fraud ([§ 19-3\(6\)](#)).

It is illegal in Hawaii to **use or threaten to practice intimidation against any person** in order to persuade them to vote or refrain from voting ([§ 19-3\(4\)](#)). It is also illegal to intimidate a person to vote or refrain from voting for a particular person ([§ 19-3\(4\)](#)).

Who do these restrictions apply to?

Each of these statutes apply to **any person**. There are no candidate-specific restrictions on speech in Hawaii's electoral code.

Idaho

What state election laws may apply to the content of election-related speech?

Idaho has one statutory provision that may apply to content of election-related speech:

- [Idaho Code § 34-1714](#) (Prohibited acts)

What restrictions do these statutes place on the content of election-related speech?

Idaho has one applicable statutory provision directly targeting the content of speech related to an election ([§ 34-1714](#)).

Idaho law prohibits any person from willfully or knowingly distributing **“any false statement” concerning the contents or effect of a recall petition** ([§ 34-1714\(1\)\(d\)](#)). This prohibition applies if the false statement is intended to obtain a signature for a recall petition ([§ 34-1714\(1\)\(d\)](#)).

Who do these restrictions apply to?

[§ 34-1714](#) applies to **any person**. There are no candidate-specific restrictions on speech in Idaho’s electoral code.

Illinois

What state election laws may apply to the content of election-related speech?

Illinois has three statutory provisions that may apply to the content of election-related speech:

- [Illinois Election Code § 5/29-4](#) (Prevention of voting or candidate support)
- [Illinois Election Code § 5/29-18](#) (Conspiracy to prevent vote)
- [Illinois Election Code § 5/29-20](#) (Vote by Mail ballots)

What restrictions do these statutes place on the content of election-related speech?

Illinois' election code contains three statutes that indirectly implicate election-related speech by prohibiting intimidation and fraud associated with an election. There are no statutes directly targeting the content of speech related to an election in the Illinois Code.

Illinois law prohibits any person from knowingly using **“force, intimidation, threat, deception, or forgery” to prevent another person from registering to vote or lawfully voting** ([§ 5/29-4](#)). Another statutory provision establishes civil liability when two or more people conspire to use intimidation to prevent another person from voting or to affect that person's vote ([§ 5/29-18](#)).

It is also illegal in Illinois to **“intimidate or unduly influence” another person to cast a vote by mail ballot** in a “manner inconsistent” with the voter's original intent ([§ 5/29-20](#)).

Who do these restrictions apply to?

Each of these statutes apply to **any person**, while [§ 5/29-18](#) applies specifically to groups of two or more people. There are no candidate-specific restrictions on speech in Illinois' electoral code.

Indiana

What state election laws may apply to the content of election-related speech?

Indiana has two statutory provisions that may apply to the content of election-related speech:

- [Indiana Code § 3-9-3-5](#) (Advertising or campaign material falsely representing candidate as current or former office holder)
- [Indiana Code § 3-14-3-21.5](#) (Conspiracy to prevent vote)

What restrictions do these statutes place on the content of election-related speech?

Indiana's election code contains one statute that directly targets the content of speech related to an election ([§ 3-9-3-5](#)). There is also one statute that indirectly implicates election-related speech by prohibiting intimidation associated with an election ([§ 3-14-3-21.5](#)).

Indiana law prohibits any person from knowingly or intentionally distributing **“political advertising or campaign material” falsely claiming that a candidate for state office is an incumbent or has been an officeholder** ([§ 3-9-3-5](#)). Liability also extends to any person who “authorize[s], finance[s], or sponsor[s]” the preparation or broadcast of the false statement ([§ 3-9-3-5](#)).

Any person in Indiana who knowingly or intentionally **“intimidate[s], threaten[s], or coerce[s]”** another person for voting or attempting to vote or for “exercising any power or duty . . . concerning registration or voting” has committed the felony of voter intimidation ([§ 3-14-3-21.5](#)).

Who do these restrictions apply to?

Each of these statutes apply to **any person**. There are no candidate-specific restrictions on speech in Indiana's electoral code.

Iowa

What state election laws may apply to the content of election-related speech?

Iowa has two statutory provisions that may apply to the content of election-related speech:

- [Iowa Code § 39A.2](#) (Election misconduct in the first degree)
- [Iowa Code § 68A.506](#) (Use of false caller identification for campaign purposes prohibited)

What restrictions do these statutes place on the content of election-related speech?

Iowa's election code contains one statute that directly targets the content of speech related to an election ([§ 68A.506](#)). There is also one statute that indirectly implicates election-related speech by prohibiting intimidation associated with an election ([§ 39A.2](#)).

Iowa law prohibits any person from **intentionally providing fraudulent caller identification** for the purposes of advocating the "nomination, election, or defeat" of a candidate for office. ([§ 68A.506](#)). For purposes of the statute, caller identification is defined as information "regarding the origination of the telephone call, such as the name or telephone number of the caller" ([§ 68A.506](#)).

A person has committed voter fraud in Iowa if they "**deprive or defraud**" Iowans of a "**fair and impartially conducted election**" or attempt to do so ([§ 39A.2\(1\)\(b\)\(5\)](#)). It is also illegal for any person to "**intimidate, threaten, or coerce**" a voter to vote, not vote, or vote for a particular candidate or measure ([§ 39A.2\(1\)\(c\)](#)).

Who do these restrictions apply to?

Each of these statutes apply to **any person**. There are no candidate-specific restrictions on speech in Iowa's electoral code.

Kansas

What state election laws may apply to the content of election-related speech?

Kansas has one statutory provision that may apply to content of election-related speech:

- [Kansas Election Code § 25-2415](#) (Intimidation of voters)

What restrictions do these statutes place on the content of election-related speech?

In Kansas, the one applicable statutory provision is focused generally on election-related intimidation and interference. There are no statutes directly targeting the content of speech related to an election in the Kansas Code.

Kansas law classifies voter intimidation as a felony and defines the intimidation of voters as **“intimidating, threatening, [or] coercing . . . any person” for the purposes of interfering with a person’s right to vote** as they choose ([§ 25-2415](#)).

Kansas also includes the dissemination of false information in the definition of voter intimidation. According to [§ 25-2415\(a\)\(2\)](#), voter intimidation includes the **transmission of “false information** intended to keep one or more voters from casting a ballot or applying for or returning an advance voting ballot.”

Who do these restrictions apply to?

§ 25-2415 applies to **any person**. There are no candidate-specific restrictions on speech in Kansas’ electoral code.

Kentucky

What state election laws may apply to the content of election-related speech?

Kentucky has one statutory provision that may apply to content of election-related speech:

- [Kentucky Code § 119.155](#) (Preventing voter from casting ballot; interfering with election)

What restrictions do these statutes place on the content of election-related speech?

In Kentucky, the one applicable statutory provision is focused generally on election-related intimidation and interference. There are no statutes directly targeting the content of speech related to an election in the Kentucky Code.

Kentucky law prohibits any person from **intimidating or attempting to intimidate any voter** “so as to prevent him from casting his ballot” ([§ 119.155](#)).

Who do these restrictions apply to?

§ 119.155 applies to **any person**. There are no candidate-specific restrictions on speech in Kentucky’s electoral code.

Louisiana

What state election laws may apply to the content of election-related speech?

Louisiana has three statutory provisions that may apply to the content of election-related speech:

- [Louisiana Election Code § 1461.4](#) (Election offenses involving threats or intimidation of voters)
- [Louisiana Election Code § 1463](#) (Political material; ethics)
- [Louisiana Election Code § 1463.1](#) (Telephone campaign communications)

What restrictions do these statutes place on the content of election-related speech?

Louisiana has two applicable election statutes that directly target the content of speech related to an election. There is also one statute that both directly targets the content of speech related to an election and indirectly implicates election-related speech by prohibiting intimidation associated with an election ([§ 1461.4](#)).

Louisiana law prohibits any individual from printing or distributing any material which he “knows or should be reasonably expected to know” contains **a false statement about a candidate for election** ([§ 1463\(C\)\(1\)](#)). It is also illegal to falsely suggest, with “intent to misrepresent,” that **a candidate or group of candidates is endorsed by any person or group** ([§ 1463\(B\)\(2\)](#)). Individuals are prohibited from **falsely representing themselves or any group under their control as acting on behalf** of any “candidate, political committee, or political party” ([§ 1463\(C\)\(4\)](#)).

Louisiana prohibits any person from stating or implying in a phone call that they are representing a “candidate, political committee, or any other person or organization” without specific approval from the party in question ([§ 1463.1\(C\)\(1\)](#)).

It is illegal in Louisiana to intentionally “intimidate, deceive or misinform” any voter in regards to matters of voting or registration ([§ 1461.4\(A\)\(1\)](#)). It is also illegal to use threats “with the intent to influence” a person’s decision to vote ([§ 1461.4\(A\)\(3\)](#)).

Who do these restrictions apply to?

Each of these statutes apply to **any person**. There are no candidate-specific restrictions on speech in Louisiana’s electoral code.

Maine

What state election laws may apply to the content of election-related speech?

Maine has no statutory provisions that expressly target the content of election-related speech.

Maryland

What state election laws may apply to the content of election-related speech?

Maryland has three statutory provisions that may apply to the content of election-related speech:

- [Maryland Election Code § 16-101](#) (Offenses relating to voter registration)
- [Maryland Election Code § 16-201](#) (Offenses relating to voting)
- [Maryland Election Code § 16-401](#) (Improper actions for purpose of inducing another to sign petitions)

For information on Maryland's disclosure and recordkeeping requirements for digital political advertisements, visit [this page](#).

What restrictions do these statutes place on the content of election-related speech?

Maryland's election code contains two statutes with provisions that directly target the content of speech related to an election ([§ 16-101](#)) ([§ 16-401](#)). There are also two statutes with provisions that indirectly implicate election-related speech by prohibiting intimidation associated with an election ([§ 16-101](#)) ([§ 16-201](#)).

Maryland law prohibits any person from "willfully and knowingly" **misrepresenting a fact to induce a person to sign or not sign a petition** ([§ 16-401](#)). It is illegal to **misrepresent any fact relating to voter registration** ([§ 16-101\(a\)\(8\)](#)).

Maryland also prohibits any person from using **intimidation, menace, or threat** to influence a voter's voting decision ([§ 16-201\(a\)\(5\)](#)); a voter's "decision whether to go to the polls to cast a vote" ([§ 16-201\(a\)\(6\)](#)); or a potential voter's registration ([§ 16-101\(a\)\(6\)](#)).

Who do these restrictions apply to?

Each of these statutes apply to **any person**. There are no candidate-specific restrictions on speech in Maryland's electoral code.

Massachusetts

What state election laws may apply to the content of election-related speech?

Massachusetts has one statutory provision that may apply to content of election-related speech:

- [Massachusetts Code 56 § 41A](#) (Unauthorized use of endorsements)

What restrictions do these statutes place on the content of election-related speech?

Massachusetts has one applicable statutory provision directly targeting the content of speech related to an election ([56 § 41A](#)).

Massachusetts law prohibits individuals from **using the name of any person as an “endorser or supporter”** in any political advertisement or publication without the “express consent” of that person ([56 § 41A](#)). This provision applies if the person is using the name to “promote his success or the success of another as a candidate” for office or in connection with a question submitted to the voters ([56 § 41A](#)).

Who do these restrictions apply to?

[56 § 41A](#) applies to **any person**. There are no candidate-specific restrictions on speech in Massachusetts’ electoral code.

Michigan

What state election laws may apply to the content of election-related speech?

Michigan has two statutory provisions that may apply to the content of election-related speech:

- [Michigan Election Law § 168.932](#) (Prohibited conduct)
- [Michigan Election Law § 168.944](#) (False designation of incumbency)

What restrictions do these statutes place on the content of election-related speech?

Michigan's election code contains one statute that directly targets the content of speech related to an election ([§ 168.944](#)). There is also one statute that indirectly implicates election-related speech by prohibiting intimidation associated with an election ([§ 168.932](#)).

Michigan law prohibits any person from advertising or otherwise **representing that a candidate for public office is an incumbent when they are not** ([§ 168.944](#)). This prohibition includes inaccurately using the words "incumbent, re-elect, [or] re-election" ([§ 168.944](#)). The statute also prohibits any other inaccurate "indicat[ion], represent[ation], or . . . impression" of incumbency, regardless of whether there is any intent to deceive ([§ 168.944](#)).

Any person in Michigan who uses "**bribery, menace, or other corrupt means or device**" whether direct or indirect, to influence, deter, or interrupt an elector has committed a felony ([§ 168.932](#)).

Who do these restrictions apply to?

Each of these statutes apply to **any person**. There are no candidate-specific restrictions on speech in Michigan's electoral code.

Minnesota

What state election laws may apply to the content of election-related speech?

Minnesota has four statutory provisions that may apply to the content of election-related speech:

- [Minnesota Code § 204C.035](#) (Deceptive practices in elections)
- [Minnesota Code § 211B.02](#) (False claim of support)
- [Minnesota Code § 211B.03](#) (Use of the term reelect)
- [Minnesota Code § 211C.09](#) (Recall petition; corrupt practices)

What restrictions do these statutes place on the content of election-related speech?

Minnesota's election code contains four statutes with provisions that directly target the content of speech related to an election. One of those statutes ([§ 211C.09](#)) also contains a provision indirectly implicates election-related speech by prohibiting intimidation associated with an election.

Minnesota law prohibits any person from knowingly deceiving another person **“regarding the time, place, or manner of conducting an election”** with the intent to prevent an individual from voting ([§ 204C.035](#)). That prohibition extends to deceptive statements about the qualifications for voter eligibility ([§ 204C.035](#)).

Minnesota also prohibits any person from knowingly making a **false claim “stating or implying that a candidate or ballot question” has the support of a major political party** ([§ 211B.02](#)). A person or candidate is prohibited from stating in written campaign material that the candidate is supported by an individual without first receiving written permission ([§ 211B.02](#)).

When a voting district has been altered, Minnesota law forbids a person or candidate for office from **using the term “reelect” unless the candidate is “the incumbent of that office and the office represents any part of the new district”** ([§ 211B.03](#)).

A person proposing a petition in Minnesota **may not “allege any material fact in support” that the person knows is false** ([§ 211C.09](#)). This restriction also applies if the person has acted with “reckless disregard of whether [the material fact] is false” ([§ 211C.09](#)). A person is forbidden from using **“threat, intimidation, coercion, or other corrupt means”** to interfere with the right of a voter to sign (or not sign) a petition; the statutory provision also restricts attempts to interfere with that right ([§ 211C.09](#)).

Who do these restrictions apply to?

Each of these statutes apply to **any person**. The prohibitions on statements of support without permission ([§ 211B.02](#)) and improper use of the term “re-elect” ([§ 211B.03](#)) also apply to **candidates for office**.

Mississippi

What state election laws may apply to the content of election-related speech?

Mississippi has three statutory provisions that may apply to the content of election-related speech:

- [Mississippi Code § 23-15-875](#) (Charges against private life)
- [Mississippi Code § 23-17-57](#) (Inducements to voters; unlawful acts relating to petitions)
- [Mississippi Code § 23-17-59](#) (Interfering with or influencing voters)

What restrictions do these statutes place on the content of election-related speech?

Mississippi's election code contains two statutes that directly target the content of speech related to an election ([§ 23-15-875](#)) ([§ 23-17-57](#)). There is also one statute that indirectly implicates election-related speech by prohibiting intimidation associated with an election ([§ 23-17-59](#)).

Mississippi law prohibits any person, including a candidate, from "publicly or privately" **making any charge reflecting upon the "honesty, integrity or moral character of any candidate**, so far as his or her private life is concerned" unless the statements are both truthful and provable ([§ 23-15-875](#)). The statute places the burden of proof on the person making the statement ([§ 23-15-875](#)). Liability also extends to statements that would "clearly and unmistakably" imply such a charge ([§ 23-15-875](#)).

Mississippi prohibits any person circulating a petition from trying to obtain a signature by either "**intentionally misleading . . . as to the substance or effect of the petition**" or causing a person to be misled ([§ 23-17-57](#)).

Individuals are prohibited from using "**threats, intimidation . . . [threatening] a person's conditions of employment or other corrupt means**" to interfere with or influence a voter ([§ 23-17-59](#)).

Who do these restrictions apply to?

Each of these statutes apply to **any person**. [§ 23-15-875](#) also extends liability to statements made by **candidates for office**.

Missouri

What state election laws may apply to the content of election-related speech?

Missouri has one statute that may apply to the content of election-related speech:

- [Missouri Code § 115.631](#) (Class one election offenses)

What restrictions do these statutes place on the content of election-related speech?

Missouri's election code contains one statute that directly targets the content of speech related to an election ([§ 115.631](#)). That statute also contains a provision that indirectly implicates election-related speech by prohibiting fraud associated with an election.

Missouri law prohibits any person from “**knowingly providing false information about election procedures**” for the purposes of “preventing any person from going to the polls” ([§ 115.631\(26\)](#)). Missouri also prohibits “defrauding” any individual of their vote ([§ 115.631\(7\)](#)).

Who do these restrictions apply to?

[§ 115.631](#) applies to **any person**. There are no candidate-specific restrictions on speech in Missouri's electoral code.

Montana

What state election laws may apply to the content of election-related speech?

Montana has three statutory provisions that may apply to the content of election-related speech:

- [Montana Statutes § 13-35-218](#) (Coercion or undue influence of voters)
- [Montana Statutes § 13-35-235](#) (Incorrect election procedures information)
- [Montana Statutes § 13-37-131](#) (Misrepresentation of voting record)

What restrictions do these statutes place on the content of election-related speech?

Montana's election code contains two statutes that directly targets the content of speech related to an election ([§ 13-35-235](#)) ([§ 13-37-131](#)). Montana's election code also contains one statute that indirectly implicates election-related speech by prohibiting coercion and fraud associated with an election ([§ 13-35-218](#)).

Montana law prohibits any person from **"knowingly or purposely [providing] information about election procedures that is incorrect or misleading"** ([§ 13-35-235](#)). Persons are also prohibited from giving the impression that election information has been "officially disseminated by an election administrator" ([§ 13-35-235](#)).

Montana prevents a person from, with knowledge or reckless disregard, **misrepresenting a candidate's public voting record** ([§ 13-37-131](#)).

It is illegal in Montana to directly or indirectly threaten to use **"coercion . . . [threats of] any temporal or spiritual injury . . . [or] any fraudulent contrivance"** to induce or compel a person to vote or refrain from voting in any election ([§ 13-35-218 \(1\)-\(2\)](#)).

Who do these restrictions apply to?

Each of these statutes apply to **any person**. There are no candidate-specific restrictions on speech in Montana's electoral code.

Nebraska

What state election laws may apply to the content of election-related speech?

Nebraska has one statutory provision that may apply to content of election-related speech:

- [Nebraska Code § 32-1503](#) (Registration of voters; prohibited acts)

What restrictions do these statutes place on the content of election-related speech?

In Nebraska, the one applicable statutory provision is focused generally on election-related intimidation and interference. There are no statutes directly targeting the content of speech related to an election in the Nebraska Code.

Nebraska law prohibits individuals from using **threat, intimidation, or other unlawful means to “prevent, hinder, or delay”** any person from registering to vote or exercising their right to vote ([§ 32-1503\(7\)](#)).

Who do these restrictions apply to?

[§ 32-1503](#) applies to **any person**. There are no candidate-specific restrictions on speech in Nebraska’s electoral code.

Nevada

What state election laws may apply to the content of election-related speech?

Nevada has two statutory provisions that may apply to the content of election-related speech:

- [Nevada Statute § 306.210](#) (Prohibited conduct)
- [Nevada Statute § 293.710](#) (False designation of incumbency)

For information on Nevada's disclosure and recordkeeping requirements for digital political advertisements, visit [this page](#).

What restrictions do these statutes place on the content of election-related speech?

Nevada's election code contains one statute that directly targets the content of speech related to an election ([§ 293.710](#)). There is also one statute that indirectly implicates election-related speech by prohibiting intimidation associated with an election ([§ 306.210](#)).

Nevada law prohibits any person from knowingly **misrepresenting the contents of a petition for recall of a public officer** ([§ 293.710](#)). This prohibition also prohibits any attempts to misrepresent and conspiracies to misrepresent the contents of a recall petition ([§ 293.710](#)).

Any person in Nevada who uses **"intimidation, coercion . . . or undue influence"** in connection with any election or petition has violated state law ([§ 306.210](#)). Nevada law also prohibits any fraudulent efforts to impede the "free exercise of the franchise" by any voter ([§ 306.210](#)).

Who do these restrictions apply to?

Each of these statutes apply to **any person**. There are no candidate-specific restrictions on speech in Nevada's electoral code.

New Hampshire

What state election laws may apply to the content of election-related speech?

New Hampshire has three statutory provisions that may apply to the content of election-related speech:

- [New Hampshire Statutes § 659:40](#) (Bribing; Intimidation; Suppression)
- [New Hampshire Statutes § 666:6](#) (False Documents, Names or Endorsement)
- [New Hampshire Statutes § 667:7-a](#) (Impersonation of Candidates)

What restrictions do these statutes place on the content of election-related speech?

New Hampshire's election code contains two statutes that directly targets the content of speech related to an election ([§ 666:6](#)) ([§ 667:7-a](#)). New Hampshire's election code also contains one statute that indirectly implicates election-related speech by prohibiting coercion and fraud associated with an election ([§ 659:40](#)).

New Hampshire law prohibits any person from **falsely representing themselves as a candidate for office** if they are not actually a candidate ([§ 666:6](#)). New Hampshire also prohibits any person from knowingly **falsely using the name of any person to imply endorsement or for the purpose of influencing votes** ([§ 667:7-a](#)).

A person in New Hampshire is forbidden from knowingly **attempting to prevent another person from voting through "fraudulent, deceptive, misleading, or spurious grounds or information"** ([§ 659:40](#)). This statutory provision also prevents the use of any "tactic of coercion or intimidation" to knowingly induce or compel any person in their vote.

Who do these restrictions apply to?

Each of these statutes apply to **any person**. There are no candidate-specific restrictions on speech in New Hampshire's electoral code.

New Jersey

What state election laws may apply to the content of election-related speech?

New Jersey has four statutory provisions that may apply to the content of election-related speech:

- [New Jersey Election Law § 19:34-1.1](#) (Violations; penalties)
- [New Jersey Election Law § 19:34-28](#) (Threatening or intimidating voters)
- [New Jersey Election Law § 19:34-29](#) (Obstructing or interfering with voter)
- [New Jersey Election Law § 19:34-66](#) (Knowing production, transmittal or dissemination of mass communication which appears to originate from or be on behalf of campaign of candidate for purpose of impeding campaign)

For information on New Jersey's disclosure and recordkeeping requirements for digital political advertisements, visit [this page](#).

What restrictions do these statutes place on the content of election-related speech?

New Jersey's election code contains one statute with provisions that directly target the content of speech related to an election ([§ 19:34-66](#)). New Jersey's election code also contains three statute that indirectly implicates election-related speech by prohibiting intimidation, coercion, and fraud associated with an election ([§ 19:34-1.1](#)) ([§ 19:34-28](#)) ([§ 19:34-29](#)).

New Jersey law prohibits any person from knowingly **producing or disseminating any advertisement or communication which appears to originate from a candidate** if the individual is acting on the behalf of another candidate ([§ 19:34-66](#)). That prohibition applies only if the individual has the "purpose of impeding the campaign" of the misrepresented individual and does not apply if the individual specifically reveals that they are acting on behalf of another candidate ([§ 19:34-66](#)).

New Jersey also prohibits any person from knowingly and willingly **intimidating, threatening, or coercing** an individual for voting or registering to vote ([§ 19:34-1.1](#)). An individual is also forbidden from practicing intimidation "upon or against any person" to compel that person in their vote ([§ 19:34-28](#)).

An individual in New Jersey may not use any fraudulent device or contrivance to impede or interfere with the "free exercise of the elective franchise" by any voter ([§ 19:34-29](#)).

Who do these restrictions apply to?

Each of these statutes apply to **any person**. The prohibition on misrepresentation of source in campaign advertisements ([§ 19:34-66](#)) applies to **those acting on behalf of candidates for office or their staff**.

New Mexico

What state election laws may apply to the content of election-related speech?

New Mexico has three statutory provisions that may apply to the content of election-related speech:

- [New Mexico Statutes § 1-17-14](#) (Referendum petitions; penalty)
- [New Mexico Statutes § 1-20-9](#) (Falsifying election documents)
- [New Mexico Statutes § 1-20-14](#) (Intimidation)

What restrictions do these statutes place on the content of election-related speech?

New Mexico's election code contains two statutes that directly targets the content of speech related to an election ([§ 1-17-14](#)) ([§ 1-20-9](#)). New Mexico's election code also contains one statute that indirectly implicates election-related speech by prohibiting intimidation and coercion associated with an election ([§ 1-20-14](#)).

New Mexico law prohibits any person from **printing or distributing false or misleading instructions** pertaining to voting or election conduct ([§ 1-20-9](#)). This prohibition also applies to sample ballots with any false or misleading information ([§ 1-20-9](#)).

A person is forbidden from knowingly **misrepresenting the "purpose and effect" of a petition** in order to obtain a signature ([§ 1-17-14](#)).

New Mexico prevents any individual from **using any threat** of damage, harm or loss for the purpose of impeding the "free exercise of the elective franchise" ([§ 1-20-14](#)).

Who do these restrictions apply to?

Each of these statutes apply to **any person**. There are no candidate-specific restrictions on speech in New Mexico's electoral code.

New York

What state election laws may apply to the content of election-related speech?

New York has four statutory provisions that may apply to the content of election-related speech:

- [New York Election Law § 3-106](#) (Fair campaign code)
- [New York Election Law § 17-102](#) (Misdemeanors at, or in connection with, primary elections, caucuses, enrollment in political parties, committees, and conventions)
- [New York Election Law § 17-150](#) (Duress and intimidation of voters)
- [New York Election Law § 17-154](#) (Pernicious political activities)

For information on New York's disclosure and recordkeeping requirements for digital political advertisements, visit [this page](#).

What restrictions do these statutes place on the content of election-related speech?

New York's election code contains one statute with provisions that directly target the content of speech related to an election ([§ 3-106](#)). New York's election code also contains three statutes that indirectly implicates election-related speech by prohibiting intimidation, coercion, and fraud associated with an election ([§ 17-102](#)) ([§ 17-150](#)) ([§ 17-154](#)).

New York's "fair election code," adopted by the State Board of Elections, imposes a series of limitations on ethically questionable campaign practices ([§ 3-106](#)). These prohibitions include the **distribution of any fraudulent or falsely identified writing** and the use of employees or agents who **falsely represent themselves as supporters** of a candidate or political party ([§ 3-106](#)). The code also prevents the deliberate **misrepresentation of the contents or results of a poll**, along with any acts "intended to **hinder or prevent**" any person from **registering to vote or voting** ([§ 3-106](#)).

New York law prevents any individual or corporation from **using any threat** of damage, harm or loss for the purpose of impeding the "free exercise of the elective franchise" ([§ 17-150](#)). This provision also prevents the use of any **fraudulent device or contrivance** to interfere with voting ([§ 17-150](#)).

It is unlawful in New York to **fraudulent or wrongfully do any act "tending to affect the result** of any primary election, caucus or convention" ([§ 17-102](#)). It is also illegal to prohibits any person from purposefully **intimidating, threatening, or coercing** to affect an individual's voting or registering to vote ([§ 17-154](#)).

Who do these restrictions apply to?

Each of these statutes apply to **any person**. The fair campaign code also applies to any **political party or committee** ([§ 3-106](#)) while one of the intimidation provisions also applies to **corporations** ([§ 17-150](#)).

North Carolina

What state election laws may apply to the content of election-related speech?

North Carolina has three statutory provisions that may apply to the content of election-related speech:

- [North Carolina Election Statutes § 163-274](#) (Certain acts declared misdemeanors)
- [North Carolina Election Statutes § 163-275](#) (Certain acts declared felonies)
- [North Carolina Election Statutes § 163-278.39](#) (Basic disclosure requirements for all political advertisements)

What restrictions do these statutes place on the content of election-related speech?

North Carolina's election code contains three statutes that directly target the content of speech related to an election.

North Carolina law prohibits any person from **publishing any charge “derogatory to any candidate or calculated to affect the candidate's chances of nomination or election”** unless the publication is signed by the party responsible for the charge ([§ 163-274\(8\)](#)). This provision also prevents the publication of such charges when the charging party **knows it to be false or is in reckless disregard of** the charge's truth or falsity ([§ 163-274\(9\)](#)).

A person is forbidden from **misrepresenting the law through any communication** where the “intent and . . . effect” is to intimidate or discourage potential voters from voting ([§ 163-275\(17\)](#)).

North Carolina prevents any candidate, political party, committee, individual, or other sponsor from **misrepresenting the source or authorization of a political advertisement** ([§ 163-278.39\(c\)](#)).

Who do these restrictions apply to?

Each of these statutes apply to **any person**. The provision on misrepresentation of source also applies to any “**candidate, candidate campaign committee, political party organization, political action committee, referendum committee, individual, or other sponsor** making an advertisement” ([§ 163-278.39\(c\)](#)).

North Dakota

What state election laws may apply to the content of election-related speech?

North Dakota has one statutory provision that may apply to content of election-related speech:

- [North Dakota Election Code § 16.1-10-04](#) (Publication of false information in political advertisements–Penalty)

What restrictions do these statutes place on the content of election-related speech?

In North Dakota, the one applicable statutory provision directly targets the content of speech related to an election.

North Dakota law prohibits an individual from knowingly publishing a political advertisement or news release that is **“untrue, deceptive, or misleading”** ([§ 16.1-10-04](#)). The provision applies regardless of whether the advertisement is related to a candidate for office or an electoral question; however, the provision does not apply to any commercial entity that disseminates the political advertisement but is not the source of the advertisement ([§ 16.1-10-04](#)).

Who do these restrictions apply to?

§ 16.1-10-04 applies to **any person**. There are no candidate-specific restrictions on speech in North Dakota’s electoral code.

Ohio

What state election laws may apply to the content of election-related speech?

Ohio has two statutory provisions that may apply to the content of election-related speech:

- [Ohio Statute § 3517.22](#) (Unfair activities in issue campaign)
- [Ohio Statute § 3599.14](#) (Prohibitions relating to petitions)

What restrictions do these statutes place on the content of election-related speech?

Ohio's election code contains two statutes that directly target the content of speech related to an election.

Ohio law prohibits any person from knowingly and **falsely identifying the source of a statement** related to the adoption of any ballot proposition or issue ([§ 3517.22](#)). This provision also prohibits the **dissemination of a false statement designed to promote the adoption or defeat** of a ballot issue with either knowledge or reckless disregard of falsity ([§ 3517.22](#)).

Any person in Ohio who knowingly **misrepresents the content, purpose, or effect** of a political petition for the purpose of inducing an individual to sign the petition has violated state law ([§ 3599.14](#)).

However, a subsection of the statute prohibiting false statements about ballot issues ([§ 3517.22\(B\)\(2\)](#)) was invalidated and held to be in violation of the First Amendment. See [COAST Candidates, PAC v. Ohio Elections Comm'n](#), No. 1:11-CV-775, 2015 WL 5562307, at *2 (S.D. Ohio Sept. 22, 2015) (applying strict scrutiny and permanently enjoining § 3517.22(B)(2) as unconstitutionally overbroad).

Who do these restrictions apply to?

Each of these statutes apply to **any person**. There are no candidate-specific restrictions on speech in Ohio's electoral code.

Oklahoma

What state election laws may apply to the content of election-related speech?

Oklahoma has two statutory provisions that may apply to the content of election-related speech:

- [Oklahoma Election Law § 26-16-109](#) (Coercion prohibited)
- [Oklahoma Election Law § 26-16-113](#) (Interference with voter or conduct of election)

What restrictions do these statutes place on the content of election-related speech?

Oklahoma's election code contains one statute that directly targets the content of speech related to an election ([§ 26-16-109](#)). Oklahoma's election code also contains one statute that indirectly implicates election-related speech by prohibiting interference associated with an election ([§ 26-16-113](#)).

Oklahoma law prohibits any person from knowingly attempting to **prevent voters from registering or voting by "coercion, providing false or misleading information or any other method"** ([§ 26-16-109](#)).

Any person in Oklahoma who attempts to **influence the vote of another through intimidation** has violated state law ([§ 26-16-113](#)).

Who do these restrictions apply to?

Each of these statutes apply to **any person**. There are no candidate-specific restrictions on speech in Oklahoma's electoral code.

Oregon

What state election laws may apply to the content of election-related speech?

Oregon has two statutory provisions that may apply to the content of election-related speech:

- [Oregon Statute § 260.532](#) (Publication of false statement of material fact relating to candidate or measure; remedies)
- [Oregon Statute § 260.550](#) (Interference with voter or conduct of election)

What restrictions do these statutes place on the content of election-related speech?

Oregon's election code contains two statutes that directly target the content of speech related to an election.

Oregon law prohibits any person from knowingly "causing to be written . . . published, communicated, or circulated" any **false statement of material fact related to any candidate, political committee or measure** with knowledge or reckless disregard that the statement is false ([§ 260.532](#)). The provision also creates a right of action for a candidate or committee aggrieved by a false statement ([§ 260.532](#)).

Any person in Oregon who **wrongfully describes a candidate as an incumbent** with knowledge or reckless disregard that the statement of incumbency is false has violated state law ([§ 260.550](#)).

Who do these restrictions apply to?

Each of these statutes apply to **any person**. There are no candidate-specific restrictions on speech in Oregon's electoral code.

Pennsylvania

What state election laws may apply to the content of election-related speech?

Pennsylvania has one statutory provision that may apply to content of election-related speech:

- [Pennsylvania Statute § 3547](#) (Prohibiting duress and intimidation of voters and interference with the free exercise of the elective franchise)

What restrictions do these statutes place on the content of election-related speech?

In Pennsylvania, the one applicable statutory provision is focused generally on election-related intimidation and interference. There are no statutes directly targeting the content of speech related to an election in the Pennsylvania Code.

Pennsylvania law prohibits individuals and corporations from directly or indirectly using **threat, intimidation, or coercion to “induce or compel”** any person to vote or refrain from voting ([§ 3547](#)). Individuals are also prohibited from using any **fraudulent device or contrivance** to impede or interfere with the “free exercise of the elective franchise by any voter” ([§ 3547](#)).

Who do these restrictions apply to?

[§ 3547](#) applies to **any person or corporation**. There are no candidate-specific restrictions on speech in Pennsylvania’s electoral code.

Rhode Island

What state election laws may apply to the content of election-related speech?

Rhode Island has two statutory provisions that may apply to the content of election-related speech:

- [Rhode Island Statute § 17-19-46](#) (False instructions as to marking a computer ballot and the operation of optical scan precinct count units)
- [Rhode Island Statute § 17-23-5](#) (Bribery or intimidation of voters–Immunity of witnesses in bribery trials)

What restrictions do these statutes place on the content of election-related speech?

Rhode Island’s election code contains one statute that directly targets the content of speech related to an election ([§ 17-19-46](#)). There is also one statute that indirectly implicates election-related speech by prohibiting intimidation associated with an election ([§ 17-23-5](#)).

Rhode Island law prohibits any person from intentionally writing or circulating **false or misleading voting instructions** ([§ 17-19-46](#)). This prohibition applies if the inaccurate instructions would cause the voter to “fail to register or record [their] votes” ([§ 17-19-46](#)). Any person in Rhode Island who uses “**threat or . . . any means of intimidation**” for the purpose of influencing an elector’s vote has violated state law ([§ 17-23-5](#)).

Who do these restrictions apply to?

Each of these statutes apply to **any person**. There are no candidate-specific restrictions on speech in Rhode Island’s electoral code.

South Carolina

What state election laws may apply to the content of election-related speech?

South Carolina has one statutory provision that may apply to content of election-related speech:

- [South Carolina Statute § 7-25-70](#) (Procuring or offering to procure votes by threats)

What restrictions do these statutes place on the content of election-related speech?

In South Carolina, the one applicable statutory provision is focused generally on election-related intimidation and interference. There are no statutes directly targeting the content of speech related to an election in the South Carolina Code.

South Carolina law prohibits individuals from using **threats or intimidation** to “procure” votes for or against any candidate in an election. ([§ 7-25-70](#)).

Who do these restrictions apply to?

[§ 7-25-70](#) applies to **any person**. There are no candidate-specific restrictions on speech in South Carolina’s electoral code.

South Dakota

What state election laws may apply to the content of election-related speech?

South Dakota has two statutory provisions that may apply to the content of election-related speech:

- [South Dakota Statute § 12-13-16](#) (Publication of false or erroneous information on constitutional amendment or submitted question as misdemeanor)
- [South Dakota Statute § 12-26-12](#) (Persecution, threats, or intimidation to influence vote as misdemeanor–Obstruction of voter on way to polls)

What restrictions do these statutes place on the content of election-related speech?

South Dakota’s election code contains one statute that directly targets the content of speech related to an election ([§ 12-13-16](#)). There is also one statute that indirectly implicates election-related speech by prohibiting threats and intimidation associated with an election ([§ 12-26-12](#)).

South Dakota law prohibits any person from knowingly printing or publishing **false or misleading information about a ballot measure** in a document provided to voters ([§ 12-13-16](#)). This prohibition also applies if the ballot measure is “misstated [or] erroneously printed” ([§ 12-13-16](#)).

Any person in South Dakota who uses **threats or any fraudulent contrivance** for the purpose of influencing an elector’s vote has violated state law ([§ 12-26-12](#)).

Who do these restrictions apply to?

Each of these statutes apply to **any person**. There are no candidate-specific restrictions on speech in South Dakota’s electoral code.

Tennessee

What state election laws may apply to the content of election-related speech?

Tennessee has three statutory provisions that may apply to the content of election-related speech:

- [Tennessee Statutes § 2-19-115](#) (Violence and intimidation)
- [Tennessee Statutes § 2-19-116](#) (Endorsement misrepresentations)
- [Tennessee Statutes § 2-19-142](#) (False campaign literature)

What restrictions do these statutes place on the content of election-related speech?

Tennessee's election code contains two statutes that directly targets the content of speech related to an election ([§ 2-19-116](#)) ([§ 2-19-142](#)). Tennessee's election code also contains one statute that indirectly implicates election-related speech by prohibiting intimidation and coercion associated with an election ([§ 2-19-115](#)).

Tennessee law prohibits any person from printing or distributing any campaign literature "in opposition to any candidate" if the person knows the material contains **false or misleading charges** with respect to the candidate ([§ 2-19-142](#)).

Individuals are also forbidden from creating or circulating any written material which "contains the endorsement of a particular candidate . . . or proposition" with the intent to **mislead a voter as to who made the endorsement** ([§ 2-19-116](#)).

Tennessee prevents any individual from **practicing intimidation upon a voter** to "induce or compel" the voter to exercise their right to vote in a specific way ([§ 2-19-115](#)).

Who do these restrictions apply to?

Each of these statutes apply to **any person**. There are no candidate-specific restrictions on speech in Tennessee's electoral code.

Texas

What state election laws may apply to the content of election-related speech?

Texas has three statutory provisions that may apply to the content of election-related speech:

- [Texas Election Code § 255.004](#) (True Source of Communication)
- [Texas Election Code § 255.005](#) (Misrepresentation of Identity)
- [Texas Election Code § 255.006](#) (Misleading Use of Office Title)

What restrictions do these statutes place on the content of election-related speech?

Texas's election code contains three statutes with provisions that directly target the content of speech related to an election.

Texas law prohibits the knowing creation or dissemination of political advertising that **“purports to emanate from a source other than its true source”** ([§ 255.004](#)). This prohibition applies if the individual intended to “injure a candidate or influence the result of an election ([§ 255.004](#)). Individuals are also prevented from, with intent to injure or influence, **knowingly misrepresenting the source of an election communication** or **creating and publishing a deep fake video**, defined as a video “created with the intent to deceive that appears to depict a real person performing an action that did not occur in reality ([§ 255.004](#)).

Texas law prevents any individual from, with intent to injure a candidate or influence an election, **misrepresenting their own identity** ([§ 255.005](#)). This provision also prohibits the misidentification of an individual's superior or supervisor ([§ 255.005](#)).

It is unlawful in Texas for an individual to **knowingly and falsely represent that a candidate is an incumbent** ([§ 255.006](#)).

Who do these restrictions apply to?

Each of these statutes apply to **any person**. There are no candidate-specific restrictions on speech in Texas's electoral code.

Utah

What state election laws may apply to the content of election-related speech?

Utah has three statutory provisions that may apply to the content of election-related speech:

- [Utah Statute § 20A-3-502](#) (Intimidation—Undue Influence)
- [Utah Statute § 20A-11-901](#) (Political advertisements—Requirement that ads designate responsibility and authorization—Report to lieutenant governor—Unauthorized use of endorsements)
- [Utah Statute § 20A-11-1103](#) (False statements in relation to candidates forbidden)

What restrictions do these statutes place on the content of election-related speech?

Utah's election code contains two statutes that directly targets the content of speech related to an election ([§ 20A-11-901](#)) ([§ 20A-11-1103](#)). Utah's election code also contains one statute that indirectly implicates election-related speech by prohibiting intimidation and fraud associated with an election ([§ 20A-3-502](#)).

Utah law prohibits the advertisement of any political **endorsement without the “express consent”** of the endorser ([§ 20A-11-901](#)). Individuals are also forbidden from **knowingly making any false statements** about a proposed ballot measure that would affect a vote on the measure ([§ 20A-11-1103](#)).

It is unlawful in Utah for an individual to use **intimidation to induce or compel a voter** to refrain from voting or to vote for a specific candidate or ballot measure ([§ 20A-3-502](#)). This provision also prohibits any interference with the free exercise of an individual's voting right ([§ 20A-3-502](#)).

Who do these restrictions apply to?

Each of these statutes apply to **any person**. There are no candidate-specific restrictions on speech in Utah's electoral code.

Vermont

What state election laws may apply to the content of election-related speech?

Vermont has no statutory provisions that expressly target the content of election-related speech.

For information on Vermont's disclosure and recordkeeping requirements for digital political advertisements, visit [this page](#).

Virginia

What state election laws may apply to the content of election-related speech?

Virginia has one statutory provision that may apply to content of election-related speech:

- [Virginia Code § 24.2-1005.1](#) (Communication of false information to registered voter)

What restrictions do these statutes place on the content of election-related speech?

Virginia has one applicable statutory provision directly targeting the content of speech related to an election.

Virginia law prohibits any person from knowingly **communicating any false information intended to “impede the voter in the exercise of his right to vote** ([§ 24.2-1005.1](#)). This prohibition applies only to information about the “date, time and place of the election or the voter’s precinct, polling place, or voter registration status” ([§ 24.2-1005.1](#)).

Who do these restrictions apply to?

[§ 24.2-1005.1](#) applies to **any person**. There are no candidate-specific restrictions on speech in Virginia’s electoral code.

Washington

What state election laws may apply to the content of election-related speech?

Washington has four statutory provisions that may apply to the content of election-related speech:

- [Washington Statute § 29A.84.220](#) (Violations—Corrupt practices—Recall petitions)
- [Washington Statute § 29A.84.250](#) (Violations—Corrupt practices—Initiative, referendum petitions)
- [Washington Statute § 29A.84.630](#) (Influencing voter to withhold vote)
- [Washington Statute § 42.17A.335](#) (Political advertising or electioneering communication—Libel or defamation per se)

For information on Washington’s disclosure and recordkeeping requirements for digital political advertisements, visit [this page](#).

What restrictions do these statutes place on the content of election-related speech?

Washington’s election code contains one statute with provisions that directly target the content of speech related to an election ([§ 42.17A.335](#)). Washington’s election code also contains three statutes that indirectly implicates election-related speech by prohibiting intimidation, coercion, and fraud associated with an election ([§ 29A.84.220](#)) ([§ 29A.84.250](#)) ([§ 29A.84.630](#)).

Washington law prohibits an election communication made with actual malice that **contains a false statement of material fact about a candidate** ([§ 42.17A.335](#)). Individuals are also liable if they **falsely suggest that a candidate is an incumbent** ([§ 42.17A.335](#)). In addition, no individual may directly or indirectly make a **claim falsely suggesting endorsement** by any person or organization ([§ 42.17A.335](#)).

It is unlawful in Washington for an individual to **knowingly make a false statement about a candidate** that is “intended or tends to affect any voting at any election” ([§ 29A.84.630](#)). This provision also prevents any person from using **threats or intimidation** to interfere with an individual’s right to vote ([§ 29A.84.630](#)).

Washington law prevents any individual from using **corrupt means, threats or intimidation** to interfere with a voter’s signing or endorsement of a ballot measure ([§ 29A.84.220](#)) ([§ 29A.84.250](#)).

Who do these restrictions apply to?

Each of these statutes apply to **any person**. There are no candidate-specific restrictions on speech in Washington’s electoral code.

West Virginia

What state election laws may apply to the content of election-related speech?

West Virginia has one statutory provision that may apply to content of election-related speech:

- [West Virginia Statute § 3-8-11](#) (Specific acts forbidden; penalties)

What restrictions do these statutes place on the content of election-related speech?

West Virginia has one applicable statutory provision directly targeting the content of speech related to an election.

West Virginia law prohibits individuals from knowingly **making “any false statement” in regard to a candidate** that affects voting at an election ([§ 3-8-11](#)). Individuals are also prohibited from using **threats, intimidation, or any fraudulent device or contrivance** to prevent or influence voting ([§ 3-8-11](#)).

Who do these restrictions apply to?

[§ 3-8-11](#) applies to **any person**. There are no candidate-specific restrictions on speech in West Virginia’s electoral code.

Wisconsin

What state election laws may apply to the content of election-related speech?

Wisconsin has one statutory provision that may apply to content of election-related speech:

- [Wisconsin Statute § 12.05](#) (False representations affecting elections)

What restrictions do these statutes place on the content of election-related speech?

Wisconsin has one applicable statutory provision directly targeting the content of speech related to an election.

Wisconsin law prohibits individuals from knowingly **making a false statement in regard to a candidate or ballot question** that affects voting at an election ([§ 12.05](#)).

Who do these restrictions apply to?

[§ 12.05](#) applies to **any person**. There are no candidate-specific restrictions on speech in Wisconsin's electoral code.

Wyoming

What state election laws may apply to the content of election-related speech?

Wyoming has one statutory provision that may apply to content of election-related speech:

- [Wyoming Statute § 22-26-111](#) (intimidation)

For information on Wyoming's disclosure and recordkeeping requirements for digital political advertisements, visit [this page](#).

What restrictions do these statutes place on the content of election-related speech?

In Wyoming, the one applicable statutory provision is focused generally on election-related intimidation and interference. There are no statutes directly targeting the content of speech related to an election in the Wyoming Code.

Wyoming law prohibits individuals from using **threats or intimidation** for the purpose of "impeding or preventing the free exercise" of an individual's voting right ([§ 22-26-111](#)).

Who do these restrictions apply to?

[§ 22-26-111](#) applies to **any person**. There are no candidate-specific restrictions on speech in Wyoming's electoral code.