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## A BILL FOR AN ACT

RELATING TO BALLOT HARVESTING.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. The legislature finds that ballot harvesting,  
2 also called vote harvesting, is the collecting and submitting of  
3 multiple absentee or mail-in voter ballots by volunteers or  
4 workers. It occurs in some areas of the United States where  
5 voting by mail is common but is illegal or restricted in most  
6 other states to prevent fraud. Hawaii is one of the thirteen  
7 states where the law does not address ballot harvesting.

8           The legislature also finds that fraud and other issues  
9 associated with ballot harvesting have occurred in other states.  
10 Stolen absentee ballots, in a North Carolina congressional race,  
11 left voters without a say in the democratic process. Other  
12 irregularities such as unsealed or partially filled out ballots  
13 are often issues which can skew election results in tight races.  
14 A Hawaii race in 2018 was marred with the appearance of  
15 impropriety after a complaint was filed due to a surge in last  
16 minute absentee ballots that pushed an incumbent to reelection.



1           The legislature further finds that Hawaii voter turnout is  
2 historically low. The state will transition to vote by mail in  
3 the upcoming 2020 election cycle. It is hoped that vote by mail  
4 will improve voter turnout, however voters need reassurance that  
5 the system will be fair and transparent. To prevent voter fraud  
6 and increase public trust rules must be developed to restrict  
7 ballot harvesting. Anyone violating the rules will be deemed  
8 guilty of election fraud. The purpose of this act is to prohibit  
9 ballot harvesting and clarify when an authorized agent is  
10 required to turn in a ballot on behalf of another.

11           SECTION 2. Section 11-139, Hawaii Revised Statutes, is  
12 amended to read as follows:

13           "       §11-139 Voting assistance. (a) Except as otherwise  
14 provided, any voter who requires assistance may be given  
15 assistance by a [~~person of the voter's choice~~] designated agent.  
16 A voter may designate an agent to pick up and deliver a ballot,  
17 provided that, an agent of the voter under this section: shall  
18 be a person who is caring for the applicant because of the  
19 applicant's illness or physical disability, including but not  
20 limited to, a licensed physician or a registered or practical  
21 nurse; a member of the applicant's family; or if no such person



1 consents or is available, then a police officer, chief election  
2 officer or their designee; shall be designated in a writing  
3 signed by the voter under penalty of perjury; and shall execute  
4 an affidavit under penalty of perjury that the ballot was:  
5 delivered to the voter who submitted the application; marked and  
6 placed in an envelope by the voter, or with assistance as  
7 allowed by regulation, in the agent's presence; and returned to  
8 the counting center by the agent.

9       A person with disabilities may be provided assistance at a  
10 voter service center pursuant to any state or federal law  
11 relating to persons with disabilities. The voter's employer or  
12 agent of that employer, agent of the voter's labor union, or a  
13 candidate for any office that is listed on the ballot shall not  
14 provide assistance. Written or oral instructions delivered via  
15 telephone, electronic means, or mail shall not be deemed  
16 assistance prohibited by this section; provided that the voter's  
17 employer or agent of that employer, agent of the voter's labor  
18 union, or a candidate for any office listed on the ballot is not  
19 physically present with the voter when the instructions are  
20 delivered.



1 (b) Violation of this section by an employer or agent of  
2 that employer, agent of the voter's labor union, or a candidate  
3 shall constitute election fraud as provided under section 19-3.

4 SECTION 3. Section 19-3, Hawaii Revised Statutes, is  
5 amended to read as follows:"

6 "§19-3 Election frauds. The following persons shall be  
7 deemed guilty of an election fraud:

8 (1) Every person who, directly or indirectly, personally  
9 or through another, gives, procures, or lends, or  
10 agrees or offers to give, procure, or lend, or who  
11 endeavors to procure, any money or office or place of  
12 employment or valuable consideration to or for any  
13 elector, or to or for any person for an elector, or to  
14 or for any person in order to induce any elector to  
15 vote or refrain from voting, or to vote or refrain  
16 from voting for any particular person or party, or who  
17 does any such act on account of any person having  
18 voted or refrained from voting for any particular  
19 person at any election;

20 (2) Every person who advances or pays, or causes to be  
21 paid, any money to, or to the use of, any other



1 person, with the intent that the money, or any part  
2 thereof, shall be expended in bribery at any election,  
3 or for any purpose connected with or incidental to any  
4 election; or who knowingly pays or causes to be paid  
5 any money to any person in the discharge or repayment  
6 of any money wholly or partly expended in bribery at  
7 any election, or for any purpose connected with or  
8 incidental to any election;

9 (3) Every elector who, before, during, or after any  
10 election, directly or indirectly, personally or  
11 through another, receives, agrees, or contracts for  
12 any money, gift, loan, or valuable consideration,  
13 office, place, or employment for oneself or any other  
14 person for voting or agreeing to vote, or for  
15 refraining to vote or agreeing to refrain from voting,  
16 or for voting or refraining to vote for any particular  
17 person or party;

18 (4) Every person who, directly or indirectly, personally  
19 or through another, makes use of, or threatens to make  
20 use of, any force, violence, or restraint; or inflicts  
21 or threatens to inflict any injury, damage, or loss in



1 any manner, or in any way practices intimidation upon  
2 or against any person in order to induce or compel the  
3 person to vote or refrain from voting, or to vote or  
4 refrain from voting for any particular person or  
5 party, at any election, or on account of the person  
6 having voted or refrained from voting, or voted or  
7 refrained from voting for any particular person or  
8 party; or who by abduction, distress, or any device or  
9 contrivance impedes, prevents, or otherwise interferes  
10 with the free exercise of the elective franchise;

11 (5) Every person who, at any election, votes or attempts  
12 to vote in the name of any other person, living or  
13 dead, or in some fictitious name, or who, having once  
14 voted, votes or attempts to vote again, or knowingly  
15 gives or attempts to give more than one ballot for the  
16 same office at one time of voting;

17 (6) Every person who, before or during an election,  
18 knowingly publishes a false statement of the  
19 withdrawal of any candidate at the election;

20 (7) Every person who induces or procures any person to  
21 withdraw from being a candidate at an election in



1 consideration of any payment or gift or valuable  
2 consideration; or of any threat; and every candidate  
3 who withdraws from being a candidate in pursuance of  
4 such inducement or procurement;

5 (8) Every public officer by law required to do or perform  
6 any act or thing with reference to any of the  
7 provisions in any law concerning elections who  
8 wilfully fails, neglects, or refuses to do or perform  
9 the same, or who is guilty of any wilful violation of  
10 any of the provisions thereof;

11 (9) Any person wilfully tampering or attempting to tamper  
12 with, disarrange, deface, or impair in any manner  
13 whatsoever, or destroy any voting machine while the  
14 same is in use at any election, or who, after the  
15 machine is locked in order to preserve the  
16 registration or record of any election made by the  
17 same, tampers or attempts to tamper with any voting  
18 machine;

19 (10) Every person who, directly or indirectly, personally  
20 or through another, wilfully designs, alters,  
21 accesses, or programs any electronic voting system to



- 1           cause the system to inaccurately record, tally, or  
2           report votes cast on the electronic voting system;
- 3       (11) Every person who assists a voter in the completion of  
4           a ballot in violation of section 11-139; [and]
- 5       (12) Every person that picks up or delivers an absentee  
6           ballot that is not a designated agent under 11-139;
- 7       (13) Every person designated to return a vote by mail  
8           ballot that receives any form of compensation based on  
9           the number of ballots that the person returns and an  
10          individual, group, or organization that provides  
11          compensation on this basis; and
- 12       ~~(12)~~ (14) Every person who knowingly broadcasts, televises,  
13           circulates, publishes, distributes, or otherwise  
14           communicates, including by electronic means or  
15           advertisement, false information about the time, date,  
16           place, or means of voting with the purpose of  
17           impeding, preventing, or otherwise interfering with  
18           the free exercise of the elective franchise. "

19           SECTION 4. Statutory material to be repealed is bracketed  
20 and stricken. New statutory material is underscored.

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1 SECTION 5. This act shall take effect upon its approval.

INTRODUCED BY:

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JAN 13 2020



# H.B. NO. 1668

**Report Title:**

Vote Harvesting; Ballot Harvesting; Voter Fraud; Felony

**Description:**

Clarifies that only a designated agent can deliver a ballot on behalf of another. Prohibits ballot harvesting. Violators will be punishable under felony voter fraud statutes.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

