

# TEXAS

## Preventing and Responding to Illegal Armed Voter Intimidation and Election Interference

Local officials and law enforcement in Texas should be ready to act to ensure a free and fair election in 2020. Texas law prohibits guns in polling places. Anybody who shows up with a firearm at a polling place is liable for arrest, prosecution, and civil sanction, as is anybody who shows up with a firearm near a polling place to interfere with voting through threats of violence. In addition, anybody who does so as part of an armed group could be liable for further criminal and civil sanction under state prohibitions on unauthorized militia activity. Intimidating election personnel or interfering with the orderly conduct of the election is also a crime that officials should prepare to enforce vigorously.

### GUNS PROHIBITED IN POLLING PLACES

It is a felony to bring a gun to a polling place in Texas. Specifically, “[a] person commits an offense if the person intentionally, knowingly, or recklessly possesses or goes with a firearm ... on the premises of a polling place on the day of an election or while early voting is in progress.” Tex. Penal Code § 46.03(a)(2). For purposes of this section, “[p]remises’ means a building or a portion of a building. The term does not include any public or private driveway, street, sidewalk or walkway, parking lot, parking garage, or other parking area.” *Id.* § 46.035(f)(3); *see id.* § 46.03(c)(2). Violators are subject to between 2 and 10 years in prison and a fine of up to \$10,000. *See id.* §§ 46.03(g), 12.34.

### VOTER INTIMIDATION

Texas law, like federal law, makes it a crime to intimidate or threaten anybody to try to influence them in how to vote or not to vote. Under the Texas Penal Code, “[a] person commits an offense if by means of coercion he ... influences or attempts to influence a voter not to vote or to vote in a particular manner,” and “coercion” means, among other things, “a threat, however communicated ... to inflict bodily injury in the future on the person threatened or another.” Tex. Penal Code §§ 36.03(a)(2), 1.07(a)(9)(B). In addition, Texas’s Election Code provides that it is illegal to “knowingly or intentionally make[] any effort to influence the independent exercise of the vote of another in the presence of the ballot or during the voting process.” Tex. Elec. Code § 276.013(a)(1). And Texas law prohibits “loitering” and “a disruption of order or a contribution to a breach of the peace,” as well as electioneering, within 100 feet of a polling place entrance. *See* Election Advisory No. 2018-33, available [here](#); Tex. Elec. Code §§ 61.003(a), 32.075.

### ARMED INTIMIDATION

Texas law also criminalizes engaging in threatening behavior with a firearm. The Penal Code forbids intentionally or knowingly “display[ing] a firearm or other deadly weapon in a public place in a manner calculated to alarm.” Tex. Penal Code § 42.01(a)(8). It also forbids “intentionally or knowingly threaten[ing] another with imminent bodily injury.” *Id.* § 22.01(a)(2).

## UNAUTHORIZED MILITIA ACTIVITY

Texas broadly prohibits unauthorized militia activity. It is a crime for private individuals to engage in law-enforcement activities. *See* Tex. Penal Code § 37.11(a)(2), (b) (“knowingly purport[ing] to exercise, without legal authority, any function of a public servant or of a public office” is a felony). In addition, Texas law prohibits any “body of persons other than the regularly organized Texas military forces, the armed forces of the United States, or the active militia of another state” to “associate as a military company or organization or parade in public with firearms in a municipality of the state.” Tex. Gov’t Code § 437.208(a). More information regarding unauthorized militias in Texas is available [here](#).

## INTIMIDATING ELECTION OFFICIALS AND DISRUPTING THE ELECTORAL PROCESS

Finally, Texas law makes it illegal to “intentionally or knowingly harm[] or threaten[]” any public servant “to prevent or delay” his or her duties. Tex. Penal Code § 36.06(a)(2)(A). Texas law also prohibits “intentionally hinder[ing] an official proceeding by noise or violent or tumultuous behavior or disturbance.” *Id.* § 38.13(a).

**If you have questions, please contact [everytownlaw@everytown.org](mailto:everytownlaw@everytown.org)**

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