



# Research Memorandum

## POLL WATCHERS AND ELECTOR INTIMIDATION

August 2023

Kelly Lower, Associate Research Analyst

### OVERVIEW

Partisan poll watchers and challengers play a role in election transparency across the nation. Terminology, qualifications, and responsibilities vary by state. However, in general, poll watchers are appointed by political parties and their primary purpose is to ensure that their party has a fair chance of winning an election. Poll watchers closely monitor election administration and may keep track of voter turnout for their parties. They are prohibited from interfering in the electoral process apart from reporting issues to polling place authorities and party officials.

Political parties, candidates, and issue committees in most states can appoint poll watchers. Poll watchers are often required to be registered voters, but states differ on whether the poll watcher must be registered in the county or precinct rather than just in the state. Often, states will specify that candidates or family members of candidates may not be poll watchers. Furthermore, states may limit the number of poll watchers at a voting location to ensure the voting process is not disrupted and may be explicit about what a poll watcher may and may not do at a polling location.

Poll watchers are generally prohibited from:

- Disrupting the election process;
- Intimidating or harassing voters;
- Interfering with the counting of ballots;
- Writing down any ballot numbers or any other personally identifying information;
- Taking photographs or videos of the election process.

Several federal laws prohibit elector intimidation by any person, including poll watchers:

- 18 U.S. Code § 594: This statute makes it a crime to intimidate, threaten, or coerce any person for the purpose of interfering with their right to vote. The statute also prohibits attempts to intimidate, threaten, or coerce voters.
- 52 U.S.C.S. § 10307, Section 11(b); Voting Rights Act (VRA) of 1965: This section of the VRA prohibits voter intimidation at polling places. It makes it illegal to intimidate, threaten, or coerce any person at a polling place or in the vicinity of a polling place.
- Section 12 of the National Voter Registration Act of 1993: Imposes criminal penalties upon any person who intimidates, threatens, or coerces any person for registering, voting, or

exercising any right under the Act; or deprives or defrauds the inhabitants of a State of a fair and impartially conducted election process.

### **Wyoming**

Poll watchers must be a member of the political party they represent and a registered voter in the county. Watchers must be certified by the county chairman prior to election day. Poll watchers may: serve only at the polling location specified on their certificate; observe voter turnout; and take written notes. A poll watcher shall not: challenge voters; conduct electioneering activities; or disrupt the polling process.<sup>1</sup> Elector intimidation is a felony crime in Wyoming, "punishable by not more than five (5) years' imprisonment in the state penitentiary or a fine of not more than ten thousand dollars (\$10,000.00), or both."<sup>2</sup> Intimidation is described as:

- i. Inducing, or attempting to induce, fear in an election official or elector by use of threats of force, violence, harm or loss, or any form of economic retaliation, for the purpose of impeding or preventing the free exercise of the elective franchise or the impartial administration of the Election Code; or
  - ii. Soliciting the contribution of funds, other items of value or election assistance to the campaign of any candidate, candidate's committee, political action committee or sponsors of a ballot proposition, by use of threats of physical violence or any form of economic or official retaliation.
- (b) It is not a defense to a prosecution under this section that the defendant did not in fact possess the ability to carry out the threat made.<sup>3</sup>

### **Colorado**

Poll watchers must receive a Certificate of Appointment from the applicable party, to be presented at the polling location on election day.<sup>4</sup> Additionally, poll watchers must complete training by the Colorado Secretary of State's office and receive a Certificate of Training, valid for one year after issuance.<sup>5</sup> Poll watchers may be removed from polling locations if they are found by an election official to have, among other reasons: committed fraud in connection with their duties, violated their oath, or were abusive or threatening to election officials or voters.<sup>6</sup> Poll watchers are subject to all laws regarding elector intimidation in Colorado, for example:

It is unlawful for any person directly or indirectly, by himself or herself or by any other person on his or her behalf, to impede, prevent, or otherwise interfere with the free exercise of the elective franchise of any elector or to compel, induce, or prevail upon any elector either to give or refrain from giving the elector's vote at any election provided by law or to give or refrain from giving the elector's vote for any particular person or measure at any such election. Each such offense is a class 1 misdemeanor.<sup>7</sup>

---

<sup>1</sup> W.S. § 22-15-109.

<sup>2</sup> W.S. § 22-26-101 (a) (x).

<sup>3</sup> W.S. § 22-26-111.

<sup>4</sup> **Election Rules § 8.4, Colorado Secretary of State.**

<sup>5</sup> **Election Rules § 8.1.5, Colorado Secretary of State.**

<sup>6</sup> **Election Rules § 8.6.1, Colorado Secretary of State.**

<sup>7</sup> Colorado Revised Statutes § 1-13-713.

## Idaho

A list of poll watchers must be submitted to the relevant county clerk's office 12 days before the election. Idaho poll watchers must always wear a name tag stating their title. Furthermore, "a watcher is entitled to observe any activity conducted at the location at which the watcher is serving, provided however, that the watcher does not interfere with the orderly conduct of the election."<sup>8</sup> Idaho law prohibits the intimidation of electors or interference by any person on another's right to vote, including poll watchers in the statute below:

Every person who, by force, threats, menaces, bribery, or any corrupt means, either directly or indirectly attempts to influence any elector in giving his vote, or to deter him from giving the same, or attempts by any means whatever, to awe, restrain, hinder or disturb any elector in the free exercise of the right of suffrage, ... or who, being officer, judge, or clerk of any election, while acting as such, induces, or attempts to induce, any elector, either by menace or reward, or promise thereof, to vote differently from what such elector intended or desired to vote, is guilty of a misdemeanor.<sup>9</sup>

## Montana

Poll watchers in Montana cannot be a candidate whose name is on the ballot.<sup>10</sup> At least one poll watcher from each political party must be permitted at each ballot deposit location for a mail ballot election.<sup>11</sup> The Polling Place Quick Reference Guide issued by the Montana Secretary of State's office has additional guidelines for election officials regarding poll watchers, including:

- Poll watchers and observers may speak to an election judge at a polling place to discuss application or interpretation of election procedures/laws, providing it does not interfere with election procedures as determined by the chief election judge.
- Ensure poll watchers and observers are not soliciting information or promoting an issue or candidate to electors in the polling place.<sup>12</sup>

A poll watcher, as well as any person, is prohibited from interfering with a voter exercising their right to vote, in any manner, or attempting to interfere, either directly or indirectly.<sup>13</sup> A person who knowingly violates a provision of the Montana election laws including those described above, is guilty of a misdemeanor if no other penalty is specified.<sup>14</sup>

## Nebraska

A candidate or spouse of a candidate is not eligible to be a poll watcher.<sup>15</sup> Nebraska law prohibits poll watchers from interfering with any voter in the preparation or casting of such voter's ballot or

---

<sup>8</sup> **Idaho Code § 34-304.**

<sup>9</sup> **Idaho Code § 18-2305.**

<sup>10</sup> **Mont. Code Ann. § 13-13-120 (2).**

<sup>11</sup> **Mont. Code Ann. § 13-19-307.**

<sup>12</sup> **Polling Place Quick Reference Guide**, Montana Secretary of State, Election and Voter Services Division.

<sup>13</sup> **Mont. Code Ann. § 13-35-218.**

<sup>14</sup> **Mont. Code Ann. § 13-35-103.**

<sup>15</sup> **Neb. Rev. Stat. § 32-961.**

preventing any election worker from performing the worker's duties. Poll watchers are also prohibited from engaging in electioneering while observing at a polling place. A person violating any of these provisions is guilty of a class V misdemeanor.<sup>16</sup>

### **South Dakota**

Any person besides a candidate who is on the ballot can be a poll watcher and may be present at the polling place for the purpose of observing the voting process.<sup>17</sup> Poll watchers may be ordered to position themselves where they cannot see into voting booths, read identifying numbers on photo identification cards, or interfere with voters in the act of voting or with the official actions of the election board.<sup>18</sup> Poll watchers as well as any other person, are prohibited from making threats, intimidating, influencing, or attempting any of the same, on another person when said person is in the process of voting. A person found to be in violation of this provision is guilty of a Class 2 misdemeanor.<sup>19</sup>

### **Utah**

A poll watcher may be any individual who is registered or preregistered to vote in Utah and may become a watcher in an election at any time by registering as a watcher with the administering election officer.<sup>20</sup> Elector intimidation is addressed by Utah law in the following statute and is applicable to any person including poll watchers:

- (1) It is unlawful for a person to induce or compel an individual to vote or refrain from voting at an election provided by law or to vote or refrain from voting for a particular individual or measure at an election provided by law, directly or indirectly, by:
  - a. using force, violence, or restraint;
  - b. inflicting or threatening to inflict injury, damage, harm, or loss; or
  - c. by intimidation.
- (2) It is unlawful for a person to, by abduction, force, or fraud, impede, prevent, or otherwise interfere with the free exercise of the elective franchise of any voter, either in voting at any election provided by law or voting or refraining from voting for a particular individual or measure at an election provided by law...
- (4) Violation of this section is a class B misdemeanor.<sup>21</sup>

If you have any further questions, please do not hesitate to contact LSO Research at 777-7881.

---

<sup>16</sup> **Neb. Rev. Stat. § 32-1525.**

<sup>17</sup> **S.D. Codified Laws § 12-18-9.**

<sup>18</sup> **S.D. Codified Laws § 12-18-9.1.**

<sup>19</sup> **S.D. Codified Laws § 12-26-12.**

<sup>20</sup> **Utah Code Ann. § 20A-3a-801 (2)(a).**

<sup>21</sup> **Utah Code Ann. § 20A-3a-502.**