

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Ethics and Elections

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BILL: SB 1170

INTRODUCER: Senator Yarborough

SUBJECT: Conduct in Polling Places

DATE: March 13, 2025

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Cleary	Roberts	EE	<b>Pre-meeting</b>
2.			JU	
3.			RC	

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**I. Summary:**

SB 1170 permits members of the public to photograph in the polling room, or early voting area, before the polls open and after the polls close.

The bill prohibits the mounting of any camera or recording device that remains inside a polling room, or early voting area, during the time in which a voter is voting.

The bill takes effect July 1, 2025.

**II. Present Situation:**

In Florida, each election board<sup>1</sup> is charged with the full authority to maintain order at the polls and enforce compliance with its lawful commands during an election and canvass of the votes.<sup>2</sup> On election day, the polls are open from 7 a.m. until 7 p.m. (local time); any voters waiting in line at 7p.m. will have the opportunity to cast a ballot.<sup>3</sup>

In order to maintain order at the polls the law provides certain restrictions. For example, current law restricts those who can enter polling rooms or early voting areas.<sup>4</sup> Further, a zone must be

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<sup>1</sup> Section 97.021(14), F.S. (“Election board” means the clerk and inspectors appointed to conduct an election).

<sup>2</sup> Section 102.031(1), F.S.

<sup>3</sup> See Florida Division of Elections: Early Day Voting Webpage (last updated: September 13, 2024), <https://dos.fl.gov/elections/for-voters/voting/election-day-voting/>. (For early voting period, opening and closing hours may vary by site).

<sup>4</sup> See s. 102.031(3)(a), F.S. (Individuals allowed in polling room during voting hours: Official poll watchers; Inspectors; Election clerks; The supervisor of elections or his or her deputy; Persons there to vote, Persons in the care of voter, or Persons caring for such voter; or A person, whether or not a registered voter, who is assisting with or participating in a simulated election for minors, as approved by the supervisor of elections).

established prohibiting the solicitation of voters while voting.<sup>5</sup> Florida law generally prohibits photography<sup>6</sup> in polling places but allows a voter to photograph his or her own ballot.<sup>7</sup>

With respect to photography, because of concerns about election security, courts have upheld restrictions inside the polling locations.<sup>8</sup> The Florida Supreme Court, in a case involving a challenge made by a newspaper whose photographer was rejected from a polling place for attempting to secure a photo of a candidate at the polls, held that the state law barring non-voters within 50 feet of a polling place was unconstitutional as applied to outside of the voting room, but constitutional as applied within the room itself.<sup>9</sup> A California Court of Appeals found that a policy prohibiting photography and videotaping within polling places was constitutional based on the state's interest in maintaining ballot secrecy and an orderly voting process.<sup>10</sup>

Regarding laws prohibiting voters from taking photographs of their own ballots, referred to as a “ballot selfie,” the First U.S. Circuit Court of Appeals heard a case involving a New Hampshire law that prohibited ballot selfies and held that the law was an unconstitutional violation of the voters' free speech, striking down the law.<sup>11</sup>

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<sup>5</sup> See s. 102.031(4), F.S. (No person, political committee, or other group or organization may solicit voters inside the polling place or within 150 feet of a secure ballot intake station or the entrance to any polling place, a polling room where the polling place is also a polling room, an early voting site, or an officer of the supervisor where vote-by mail-ballots are requested and printed on demand. The clerk or supervisor must designate the no-solicitation zone and mark the boundaries before the opening of a secure ballot intake station location, a polling place, or an early voting site); *But see League of Women Voters of Florida Inc. v. Florida Secretary of State*, 66 F.4<sup>th</sup> 905, 947 (11th Cir. 2023) (In 2023, the U.S. Court of Appeals for the Eleventh Circuit evaluated, among other provisions, the constitutionality of the final clause of Section 102.031(4)(b), which prohibited “engaging in any activity with the intent to influence or effect of influencing a voter.” The Court upheld the district court’s determination that the clause “engaging in any activity with the ... effect of influencing a voter,” as written, was unconstitutionally vague and overbroad because it failed to put an individual on notice of what acts it forbids.).

<sup>6</sup> See National Conference of State Legislatures, *Secrecy of the Ballot and Ballot Selfies*, NCSL Webpage (updated November 8, 2024), available at <https://www.ncsl.org/elections-and-campaigns/secrecy-of-the-ballot-and-ballot-selfies><https://www.rcfp.org/resources/election-legal-guide/>.

(44 states have constitutional provisions that guarantee secrecy in voting, and the remaining states have statutory provisions to do so. Many states prohibit or limit the use of cameras in polling places. These laws have been enacted both to protect the privacy of voters and to limit disruptions in the polling place.).

<sup>7</sup> Section 102.031(5), F.S. (“No photography is permitted in the polling room or early voting area, except an elector may photograph his or her own ballot.”); See National Conference of State Legislatures, *Secrecy of the Ballot and Ballot Selfies*, NCSL Webpage (updated November 8, 2024), available at <https://www.ncsl.org/elections-and-campaigns/secrecy-of-the-ballot-and-ballot-selfies><https://www.rcfp.org/resources/election-legal-guide/>. (21 states allow or likely permits ballot selfies in a polling place; 19 states prohibit ballot selfies in the polling place).

<sup>8</sup> See *Election Legal Guide*, Reporters Committee Webpage (last visited March 6, 2025), available at <https://www.rcfp.org/resources/election-legal-guide/>.

<sup>9</sup> *Id.*; see *Firestone v. News-Press Publ’g Co.*, 538 So. 2d 457, 458 (Fla. 1989).

<sup>10</sup> *Id.*; see *Poniktera v. Seiler*, 104 Rptr. 3d 291, 304-05 (Cal. Ct. App. 2010); See also *N.J. Press Ass’n v. Guadagno*, No. 12-CV-06353, 2012 WL 5498019, at \*7-8 (D.N.J. Nov. 13, 2012) (The federal district court upheld restrictions on photography *outside* a polling place, rejecting the challenge brought by a news media organizations against an anti-loitering and solicitation law that effectively barred them from taking photographs and conducting interviews within 100 feet of a polling station.).

<sup>11</sup> *Rideout v. Gardner*, 838 F.3d 65, 76 (1st Cir. 2016) (finding ballot selfie was political speech and applying strict scrutiny to the law, the court held the state did not have compelling interest in restricting the photos and the law was not narrowly tailored. The court noted they believed the law would not survive under the lesser intermediate scrutiny as well.); *But see Silberg v. Board of Elections of the State of New York*, 216 F.Supp3d 411, 420 (S.D.N.Y. 2016) (Court refused to follow *Reid* in rejecting plaintiffs request for a preliminary injunction against a New York law that banned “ballot selfies,” holding New

State laws vary on an individual's ability to photograph inside a polling place - some states allow photography inside a polling location with minimal restrictions,<sup>12</sup> some allow photography in polling locations with some restrictions,<sup>13</sup> and others have strong restrictions or complete prohibitions on photography inside a polling location.<sup>14</sup>

### III. Effect of Proposed Changes:

SB 1170 permits members of the public to photograph in a polling room or early voting area before the polls open and after the polls close when voting has ended.

The bill prohibits the mounting of any camera or recording device that remains inside a polling room or early voting area during the time any voter is voting.

The bill takes effect July 1, 2025.

### IV. Constitutional Issues:

#### A. Municipality/County Mandates Restrictions:

None.

#### B. Public Records/Open Meetings Issues:

None.

#### C. Trust Funds Restrictions:

None.

#### D. State Tax or Fee Increases:

None.

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York's decision to prohibit voters from displaying their marked ballots was a reasonable means of ensuring the integrity of the election and the secrecy of the ballot.).

<sup>12</sup> AJ Willingham, Giulia Heyward, Christina Maxouris and Nakia McNabb, *Here's what each state says about taking photos while you vote*, CNN politics webpage (Updated: October 29, 2020, 10:03 PM EDT), available at <https://www.cnn.com/interactive/2020/10/politics/ballot-selfie-trnd/>. (**Washington** (vote-by-mail state); **Oregon** (vote-by-mail state); **California**; **Hawaii**; **Idaho**; **Utah**; **Montana**; **West Virginia**; **Colorado**; **New Mexico**; **North Dakota**; **Nebraska**; **Kansas**; **Oklahoma**; **Iowa**; **Arkansas**; **Indiana**; **Pennsylvania**; **Virginia**; **New Jersey**; **D.C.**; **Rhode Island**; **Connecticut**; **New Hampshire**); *See also* National Conference of State Legislatures, *Secrecy of the Ballot and Ballot Selfies*, NCSL Webpage (updated November 8, 2024), available at <https://www.ncsl.org/elections-and-campaigns/secrecy-of-the-ballot-and-ballot-selfieshttps://www.rcfp.org/resources/election-legal-guide/>.

<sup>13</sup> *Id.* (**Alaska**; **Nevada**; **Minnesota**; **Missouri**; **Louisiana**; **Kentucky**; **Tennessee**; **Mississippi**; **Wisconsin**; **South Carolina**; **New York** (Not in New York city); **Vermont**; **Maine**; **Massachusetts**).

<sup>14</sup> *Id.* (**Arizona**; **South Dakota**; **Texas**; **Illinois**; **Ohio**; **North Carolina**; **Georgia**; **Delaware**; **West Virginia**; **Alabama**; **Michigan**; **Maryland**; **Florida**).

E. Other Constitutional Issues:

None.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following section of the Florida Statutes: 102.031.

**IX. Additional Information:**

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.