

ALR 6th

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From the editor

As the calendar moves onward towards November and campaigns march forward, we take a look at election law in the upcoming volumes 33 A.L.R.6th and 34 A.L.R.6th. In volume 33, we discuss state statutory requirements concerning placement of independent candidates on a Presidential ballot (33 A.L.R.6th 513). In volume 34, the magnifying glass will be focused on the Elections Clause of the U.S. Constitution concerning congressional elections (34 A.L.R.6th). Volume 33 will also take a look at state statutes prohibiting child luring via electronic communications (33 A.L.R.6th 373) and state statutes that impose criminal penalties for failure to register (33 A.L.R.6th 91), while volume 34 will examine if sex offense convictions in one jurisdiction warrant registration in the forum jurisdiction.

Jason B. Binimow, J.D. and Michael T. Poccia, Editor

Highlights

ABDUCTION AND KIDNAPPING

Child Luring

Various statutes have been enacted to protect minors from sexual predators and other individuals who prey upon children with the intent to harm them. Some of these statutes make it a criminal offense to intentionally lure or entice, or attempt to lure or entice, a child into a structure, dwelling, or conveyance for an unlawful purpose, while others proscribe the luring of a child by means of the Internet. This annotation collects and discusses those cases in which courts have determined the validity of, and have construed and applied, the offense of child luring. [33 A.L.R.6th 373](#)



States, it is clear that allowing anyone who wants to appear on the ballot would cause excessive factionalism and would be exceedingly confusing to the average voter. Accordingly, the states have enacted legislation which greatly limits ballot access, usually by requiring that

the candidate submit nomination petitions containing the signatures of a fixed number or a percentage of the state's registered voters. As this is a great burden on independent candidates, who have to comply with each state's strict requirements, numerous challenges have been raised as to the validity of such statutes and as to the propriety of their construction and application. [33 A.L.R.6th 513](#)

BALLOTS

State Statutory Requirements Concerning Placement of Independent Candidate for President of the United States on Ballot

While the general ballot is theoretically open to all independent candidates for President of the United

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CRIMINAL LAW

Exclusion of Public from State Criminal Trial to Protect Witness

Although the United States Constitution guarantees the right to a public trial under the Sixth Amendment, that right is not absolute. In many cases, such as those

involving minor victims of sexual assault or witnesses who have reason to fear for their safety or who have been or feel intimidated, the Sixth Amendment right to a public trial has been abrogated in favor of the need to protect the witness. Trial courts must balance the competing rights and justifications, and the question is complicated further by questions concerning the duration of the closure, to whom the courtroom is closed, the adequacy of the judicial hearing, and the sufficiency of the trial judge's findings. This annotation collects and discusses the cases concerning the basis for exclusion of the public from a state criminal trial in order to preserve the safety, confidentiality, or well being of a witness who is not an undercover police officer. **33 A.L.R.6th 1**

RAPE

Offense of Rape after Withdrawal of Consent

A person may be convicted of rape if consent is withdrawn after the initial penetration but intercourse is continued by the use of force or fear, and in the case of consensual intercourse and withdrawn consent, a defendant is entitled to a reasonable time to act after consent is withdrawn and communicated to the defendant; a reasonable time depends upon the circumstances of each case and is judged by an objective reasonable person standard to be determined by the trier of fact on a case-by-case basis. This annotation collects and discusses those cases in which courts have ruled upon the offense of rape after the withdrawal of consent. **33 A.L.R.6th 353**

Coming Soon

Listed below are a few of the topics scheduled to be published in 34 A.L.R.6th in May 2008. Some of the annotations listed may be rescheduled. Advance copies of coming annotations may be obtained by customers, free of charge, by calling 1-800-225-7488 or by sending an e-mail message to ALRLCS-Rochester@thomson.com.



CRIMINAL LAW

Sex Offender Registration

Some states have enacted mandatory sex-offender registration laws requiring individuals convicted of sex offenses to register with local law-enforcement agencies upon release from confinement or upon moving. Many of these require registration based on crimes committed in another jurisdiction. Statutes typically provide that a person is required to register as a sex offender in the forum state either because he or she committed a crime substantially similar to a listed sex offense in the forum state or because he or she was required to register in the state or jurisdiction in which the offense was committed. This annotation collects and discusses cases which have considered the validity, construction, and application of a state statutory requirement that a person convicted of a sexual offense in another jurisdiction register or be classified as a sexual offender in the forum state. **34 A.L.R.6th**

ELECTIONS AND VOTING

Elections Clause

The Elections Clause of the United States Constitution (U.S. Const. Art. I, §4, cl. 1) provides that state legislatures shall prescribe the times, places, and manner of congressional elections; however, Congress is expressly given authority to make or alter such state regulations. This annotation collects and analyzes the cases that have construed or applied the Elections Clause or state constitutional provisions concerning congressional elections. **34 A.L.R.6th**

TELECOMMUNICATIONS

Authentication of Electronically Stored Evidence, Including Text Messages and E-mail

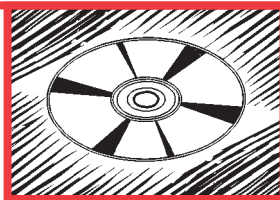
As a preliminary step to the admittance of documentary evidence, there must be authentication, which involves introduction of evidence sufficient to demonstrate that the writing is what the offering party claims it to be. This is of particular importance in connection with e-mails, instant messages, and other electronically-stored evidence, since although these items are increasingly important pieces of evidence in both civil and criminal cases, the sender and recipient may not even know each other and may find it hard to identify the sender and authenticate the document. Granted, increased use of and adherence to Internet security protocols has decreased the likelihood that an outsider can fool the systems completely so as to convince the recipient's system that the mail is being sent from the purported sender. However, this doesn't mean that a third party can't use the sender's e-mail without his knowledge or permission, or that electronic records can't be tampered with, so authentication is a serious issue. Courts have reached a variety of conclusions as to whether particular electronically-stored messages and other data were sufficiently authenticated, as this annotation illustrates. **34 A.L.R.6th**

ZERO TOLERANCE

Application of State "Zero Tolerance" Laws Relating to Underage Drinking and Driving

Many states have enacted "zero tolerance" laws in an effort to reduce underage drinking and driving. Such statutes may prohibit anyone under the age of 21 to drive with a specified blood alcohol content, i.e., 0.02 percent or higher, or in some instances, criminalize underage drinking and driving after consuming any amount of alcohol. Such statutes may provide for summary suspension of the motorist's license to operate a motor vehicle upon a finding of the requisite blood alcohol content or refusal to submit to a chemical test. This annotation collects and discusses those cases in which courts have determined the validity, construction, and application of state "zero tolerance" laws relating to underage drinking and driving. **34 A.L.R.6th**

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The following is a complete list, arranged alphabetically by topic, of annotations contained in the current volume 33 A.L.R.6th or scheduled for publication in 34 A.L.R.6th. Some of the annotations listed may be rescheduled.

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