

## Alabama Rules of Evidence

### Article V. Privileges

#### Rule 506.

##### Political vote.

(a) *General rule of privilege.* Every person has a privilege to refuse to disclose the tenor of such person's vote at a political election conducted by secret ballot.

(b) *Exceptions.* This privilege does not apply if the vote was cast illegally or if disclosure is compellable pursuant to election laws.

#### Advisory Committee's Notes

**Section (a). General rule of privilege.** Alabama has long recognized that the tenor of one's vote, lawfully cast, is privileged from disclosure. Rule 506 is intended to continue that privilege unchanged. See *Black v. Pate*, 130 Ala. 514, 30 So. 434 (1901); C. Gamble, McElroy's Alabama Evidence § 361.03 (4th ed. 1991); J. Colquitt, Alabama Law of Evidence § 5.8 (1990). The rule is based upon Unif.R.Evid. 506. The privilege applies only to votes cast in governmental elections.

**Section (b). Exceptions.** There are two exceptions to the privilege protecting the tenor of a secret ballot. (1) In all elections, the privacy of the vote may be invaded if it is shown that the vote was cast illegally. This principle is recognized under preexisting Alabama practice, by both statutory law and case law. See Ala. Code 1975, § 17-15-3 (a statute illustrating this principle as applied in general elections); *Black v. Pate*, 130 Ala. 514, 30 So. 434 (1901). Compare *Ex parte Bullen*, 236 Ala. 56, 181 So. 498 (1938). (2) Even without a showing of illegality, however, the disclosure of one's vote may be rendered compellable by election laws. As of the date the committee proposed this rule for adoption, the only Alabama election law that compelled disclosure was the statute regarding the compellability of disclosure regarding a vote in a primary election when the vote is inquired about in the contest of a nomination. Ala. Code 1975, § 17-16-75.