

House Engrossed

~~mail ballot elections; technical correction~~
(now: voting; procedures; electors in detention)

State of Arizona
House of Representatives
Fifty-sixth Legislature
First Regular Session
2023

HOUSE BILL 2325

AN ACT

AMENDING TITLE 16, CHAPTER 4, ARTICLE 8, ARIZONA REVISED STATUTES, BY
ADDING SECTION 16-549.01; RELATING TO ELECTION PROCEDURES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 16, chapter 4, article 8, Arizona Revised
3 Statutes, is amended by adding section 16-549.01, to read:

4 16-549.01. Special election boards; detained voters;
5 violation; classification; definition

6 A. NOTWITHSTANDING ANY OTHER LAW, A QUALIFIED ELECTOR WHO IS IN
7 PRETRIAL DETENTION IN A JAIL SHALL BE ALLOWED TO MAKE A SIGNED WRITTEN
8 REQUEST TO THE COUNTY RECORDER OR OTHER OFFICER IN CHARGE OF ELECTIONS TO
9 HAVE A BALLOT PERSONALLY DELIVERED TO THE ELECTOR BY A SPECIAL ELECTION
10 BOARD AT THE ELECTOR'S PLACE OF PRETRIAL DETENTION WITHIN THE COUNTY OR
11 OTHER POLITICAL SUBDIVISION. THE SIGNED WRITTEN REQUEST MUST INCLUDE THE
12 ELECTOR'S FULL NAME, SIGNATURE AND PLACE OF DETENTION AND SHALL BE MADE
13 NOT LATER THAN TEN CALENDAR DAYS BEFORE THE ELECTION IN WHICH THE ELECTOR
14 WISHES TO VOTE OR IT IS INVALID. A JAIL OFFICIAL SHALL DELIVER A COPY OF
15 THE SIGNED WRITTEN REQUEST TO THE COUNTY RECORDER OR OTHER OFFICER IN
16 CHARGE OF ELECTIONS WITHIN FIVE CALENDAR DAYS AFTER RECEIVING THE
17 REQUEST. THE METHOD OF VOTING SHALL BE AS FOLLOWS:

18 1. THE JAIL SHALL MAKE PROVISIONS FOR A SECURED, RESTRICTED AND
19 PRIVATE AREA TO BE SET ASIDE FOR THE EXPRESS PURPOSE OF ALLOWING DETAINED
20 ELECTORS TO VOTE. CAMERAS SHALL NOT BE ALLOWED IN THE AREA, WITHOUT
21 REGARD TO WHETHER THEY ARE RECORDING, EXCEPT THAT THE ELECTIONS OFFICIAL
22 AND POLITICAL PARTY DESIGNEES SHALL BE ALLOWED TO BRING WITH THEM THEIR
23 CELLULAR TELEPHONES. THE JAIL MAY REQUIRE THE POLITICAL PARTY DESIGNEES'
24 CELLULAR TELEPHONES TO BE KEPT IN A SECURE LOCATION, BUT THE JAIL MUST
25 PROVIDE ACCESS TO THE CELLULAR TELEPHONES IMMEDIATELY ON REQUEST.

26 2. THE COUNTY RECORDER OR OTHER OFFICER IN CHARGE OF ELECTIONS
27 SHALL PROVIDE AND SEND A FULL-TIME DEPARTMENTAL EMPLOYEE TO JAILS TO
28 FACILITATE VOTING IN STRICT COMPLIANCE WITH THIS SECTION.

29 3. THE COUNTY RECORDER OR OTHER OFFICER IN CHARGE OF ELECTIONS
30 SHALL NOTIFY THE COUNTY CHAIRPERSONS OF THE THREE LARGEST COUNTY POLITICAL
31 PARTIES IN THE STATE AND THE STATE CHAIRPERSONS OF THOSE PARTIES AT LEAST
32 SIXTY CALENDAR DAYS BEFORE THE ELECTIONS OFFICIAL'S VISIT TO THE JAIL AS
33 PRESCRIBED BY THIS SECTION TO ALLOW SUCH QUALIFIED ELECTORS TO VOTE AND
34 SHALL PROVIDE THE POLITICAL PARTY CHAIRPERSONS WITH COPIES OF ALL SIGNED
35 WRITTEN REQUESTS FROM QUALIFIED ELECTORS IN THEIR POSSESSION, THE DATE AND
36 TIME THAT THE VISIT WILL OCCUR AND INSTRUCTIONS TO FACILITATE THE
37 ATTENDANCE OF THE POLITICAL PARTY CHAIRPERSON'S DESIGNEES. THE COUNTY
38 CHAIRPERSON OF EACH POLITICAL PARTY AND OF EACH SUCH STATE PARTY SHALL BE
39 ALLOWED TO DESIGNATE ONE PERSON OF THEIR CHOOSING TO ACCOMPANY THE
40 ELECTIONS OFFICIAL VISITING THE JAIL. THE COUNTY RECORDER OR OTHER
41 OFFICER IN CHARGE OF ELECTIONS SHALL BE NOTIFIED OF THE NAMES OF THE
42 DESIGNEES NOT LATER THAN TEN CALENDAR DAYS BEFORE THE TIME SET FOR THE
43 DETAINED QUALIFIED ELECTOR TO VOTE. THE PARTY DESIGNEES SHALL BE ALLOWED
44 THE SAME ACCESS TO THE QUALIFIED ELECTORS AS THE ELECTIONS OFFICIAL. THE
45 COUNTY RECORDER OR OTHER OFFICER IN CHARGE OF ELECTIONS OR ANY OTHER

1 OFFICIAL SHALL NOT REJECT THE DESIGNEE OF A POLITICAL PARTY FOR ANY REASON
2 OTHER THAN A FELONY CONVICTION WITHIN THE PRECEDING TEN YEARS. A PERSON
3 WHO IS IN PRETRIAL DETENTION AND WHO IS NOT A QUALIFIED ELECTOR SHALL NOT
4 BE PERMITTED TO VOTE. A MAXIMUM OF THREE DATES FOR VOTING PER ELECTION
5 CYCLE SHALL BE PROVIDED FOR DETAINEES IN A GIVEN FACILITY, AND NOTICE OF
6 ALL DATES SHALL BE GIVEN TO THE POLITICAL PARTY CHAIRPERSONS NOT LATER
7 THAN NINETY DAYS BEFORE THE ELECTION. ALL NOTIFICATIONS REQUIRED BY THIS
8 PARAGRAPH AND PARAGRAPH 8 OF THIS SUBSECTION SHALL BE PROVIDED BY BOTH
9 CERTIFIED AND ELECTRONIC MAIL.

10 4. BEFORE BEING GIVEN A BALLOT, THE PERSON VOTING MUST PRESENT TO
11 THE ELECTIONS OFFICIAL AND THE POLITICAL PARTY DESIGNEES IDENTIFICATION
12 THAT COMPLIES WITH SECTION 16-579, SUBSECTION A THAT IS SUFFICIENT TO VOTE
13 A COMPLETE, NON-FEDERAL ONLY BALLOT. THE ELECTIONS OFFICIAL AND THE
14 POLITICAL PARTY DESIGNEES SHALL VERIFY THAT THE PERSON IS A DULY QUALIFIED
15 ELECTOR BEFORE PROVIDING THE PERSON WITH A BALLOT AND SHALL BE ALLOWED TO
16 BRING INTO THE JAIL SUCH PAPERS AND EQUIPMENT AS ARE NEEDED TO SATISFY
17 THEMSELVES THAT THE PERSON VOTING IS A DULY QUALIFIED ELECTOR. FEDERAL
18 ONLY BALLOTS SHALL NOT BE PROVIDED TO PERSONS VOTING FROM JAIL.

19 5. THE ELECTIONS OFFICIAL AND POLITICAL PARTY DESIGNEES SHALL BE
20 ALLOWED SUFFICIENT ACCESS TO TRUTHFULLY EXECUTE THE FOLLOWING DECLARATION:

21 I CERTIFY THAT THE AFFIANT EXHIBITED THE ENCLOSED BALLOT
22 TO ME UNMARKED. IN MY PRESENCE, THE AFFIANT PERSONALLY AND
23 PRIVATELY MARKED SUCH BALLOT IN SUCH MANNER THAT NEITHER I,
24 NOR ANY OTHER PERSON, WAS ABLE TO SEE THE AFFIANT VOTE (OR IT
25 WAS MARKED BY AN ELECTIONS OFFICIAL ACCORDING TO THE AFFIANT'S
26 INSTRUCTIONS) AND ENCLOSED OR SEALED IT IN THIS ENVELOPE. THE
27 AFFIANT WAS NOT SOLICITED OR ADVISED BY ANY PERSON TO VOTE FOR
28 OR AGAINST ANY CANDIDATE OR MEASURE.

29 _____
30 (SIGNATURE AND TITLE OF ELECTIONS OFFICIAL/POLITICAL
31 PARTY DESIGNEE AND POLITICAL PARTY OF THAT DESIGNEE.)
32

33 A BALLOT THAT LACKS THE SIGNED AND WRITTEN
34 CERTIFICATIONS OF THE ELECTIONS OFFICIAL AND ALL DESIGNEES IS
35 PRESUMPTIVELY INVALID. THE EXECUTED CERTIFICATIONS SHALL
36 THEREAFTER ACCOMPANY THE BALLOT ENVELOPE ALONG WITH THE NAMES
37 OF THE POLITICAL PARTY DESIGNEES. THE POLITICAL PARTY
38 DESIGNEES SHALL BE ALLOWED TO PHOTOGRAPH THEIR OWN
39 CERTIFICATIONS ONCE THEY HAVE LEFT THE JAIL.

40 6. THE PERSON VOTING SHALL BE REQUIRED TO SIGN THE FOLLOWING BALLOT
41 AFFIDAVIT:

42 I, _____, DO SOLEMNLY SWEAR THAT I AM A QUALIFIED
43 ELECTOR OF THE _____ PRECINCT OF THE COUNTY OF
44 _____, STATE OF ARIZONA. I FURTHER SWEAR
45 THAT I PERSONALLY VOTED THE ENCLOSED BALLOT OR THAT IT WAS

1 MARKED ACCORDING TO MY INSTRUCTIONS BECAUSE I WAS UNABLE TO DO
2 SO.

3 7. THE ELECTIONS OFFICIAL AND POLITICAL PARTY DESIGNEES SHALL NOT
4 SPEAK TO THE DETAINED PERSON AFTER THE DETAINED PERSON HAS BEEN GIVEN A
5 BALLOT UNTIL THE BALLOT IS SEALED IN THE ENVELOPE. DURING THIS TIME, JAIL
6 OFFICIALS SHALL SPEAK TO THE DETAINED PERSON ONLY TO GIVE COMMANDS
7 UNRELATED TO VOTING AND ONLY IF ABSOLUTELY NECESSARY.

8 8. THE ELECTIONS OFFICIAL SHALL TAKE THE ENVELOPES FOR ALL BALLOTS
9 RECEIVED FROM DETAINED VOTERS DIRECTLY TO THE ELECTIONS OFFICE. THE
10 POLITICAL PARTY DESIGNEES SHALL BE ALLOWED TO ACCOMPANY THE ELECTIONS
11 OFFICIAL. IF A VOTER RESIDES OUTSIDE OF THE COUNTY, THE BALLOT SHALL BE
12 HAND DELIVERED TO THE ELECTIONS OFFICE OF THE APPROPRIATE COUNTY BY A
13 FULL-TIME EMPLOYEE OF THE RECORDER OR OTHER OFFICER IN CHARGE OF
14 ELECTIONS. THE POLITICAL PARTY CHAIRPERSONS SHALL BE PROVIDED NOTICE AT
15 LEAST TEN DAYS IN ADVANCE OF ANY BALLOTS BEING TRANSPORTED TO THE
16 APPROPRIATE COUNTY ELECTIONS OFFICE AND SHALL BE ALLOWED TO DESIGNATE
17 PERSONS OF THEIR CHOOSING TO ACCOMPANY THE BALLOTS ACCORDING TO PARAGRAPH
18 3 OF THIS SUBSECTION. THE RECORDER OR OTHER OFFICER IN CHARGE OF
19 ELECTIONS SHALL BE ALLOWED TO MAKE ONLY ONE DELIVERY EACH ELECTION CYCLE
20 TO ELECTION OFFICES OUTSIDE OF THE COUNTY.

21 9. THE ELECTIONS OFFICIAL SHALL MAKE AND MAINTAIN CHAIN OF CUSTODY
22 DOCUMENTATION SUFFICIENT TO ACCOUNT FOR EVERY MOVEMENT OF EVERY BALLOT BY
23 EVERY PERSON HANDLING THE BALLOT PRESCRIBED BY THIS SUBSECTION FROM THE
24 TIME IT LEAVES THE OFFICE OF THE COUNTY RECORDER OR OTHER OFFICER IN
25 CHARGE OF ELECTIONS UNTIL IT IS RECEIVED BY THE APPROPRIATE COUNTY
26 RECORDER OR OTHER OFFICER IN CHARGE OF ELECTIONS.

27 B. JAIL OFFICIALS SHALL TAKE THE STEPS NECESSARY TO FACILITATE
28 STRICT COMPLIANCE WITH THIS SECTION, INCLUDING ASSISTING QUALIFIED
29 ELECTORS TO OBTAIN IDENTIFICATION THAT COMPLIES WITH SECTION 16-579. JAIL
30 OFFICIALS SHALL PROVIDE THE SECURITY REASONABLY NECESSARY TO FACILITATE
31 SAFE COMPLIANCE WITH THIS SECTION TO THE EXTENT THAT DOING SO DOES NOT
32 CONFLICT WITH STRICT COMPLIANCE WITH THIS SECTION.

33 C. STRICT COMPLIANCE WITH EVERY PORTION OF THIS SECTION IS REQUIRED
34 AND BALLOTS CAST IN VIOLATION OF ANY PART OF THIS SECTION ARE INVALID.

35 D. A GOVERNMENT EMPLOYEE OR CONTRACTOR WHO VIOLATES THIS SECTION IS
36 GUILTY OF A CLASS 3 FELONY. THIS SUBSECTION IS NOT INTENDED TO AFFECT ANY
37 OTHER RELIEF THAT MAY EXIST FOR A VIOLATION OF THIS SECTION. ANY
38 QUALIFIED ELECTOR IN THIS STATE MAY BRING A SPECIAL ACTION TO ENFORCE
39 STRICT COMPLIANCE WITH THIS SECTION.

40 E. NO PORTION OF THIS SECTION IS SEVERABLE FROM ANY OTHER PORTION
41 OF THIS SECTION. IF ANY PART OF THIS SECTION IS FOUND TO BE INVALID BY A
42 COURT OF COMPETENT JURISDICTION, THE REMAINDER OF THIS SECTION SHALL BE
43 NULL AND VOID AND PERSONS IN DETENTION SHALL NOT BE PERMITTED TO VOTE.

1 F. FEDERAL DETENTION FACILITIES MAY ALLOW VOTING IN STRICT
2 COMPLIANCE WITH THIS SECTION. IF THEY DECLINE TO DO SO, INDIVIDUALS
3 DETAINED AT FEDERAL FACILITIES SHALL NOT BE PERMITTED TO VOTE.

4 G. FOR THE PURPOSES OF THIS SECTION, "JAIL" MEANS ANY FACILITY OF A
5 STATE, COUNTY OR MUNICIPALITY IN WHICH PERSONS WHO HAVE NOT BEEN CONVICTED
6 OF A CRIME ARE DETAINED.