

REFERENCE TITLE: elections; ballot chain of custody

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

# HB 2691

Introduced by  
Representatives Heap: Gillette, Jones, Parker B, Pingerelli, Smith

AN ACT

AMENDING SECTIONS 16-564, 16-608 AND 16-621, ARIZONA REVISED STATUTES;  
RELATING CONDUCT OF ELECTIONS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 16-564, Arizona Revised Statutes, is amended to  
3 read:

4 16-564. Opening, exhibiting and locking ballot box before  
5 receipt of ballots; removal and opening of box

6 A. Before receiving any ballots the election board, in the presence  
7 of the persons assembled at the polling place, shall open, exhibit and  
8 lock the ballot box WITH A TAMPER EVIDENT SEAL, and thereafter ~~it~~ THE  
9 BALLOT BOX shall not be removed from the polling place or presence of the  
10 bystanders until all ballots are counted, ~~it~~ AND SHALL NOT BE opened  
11 until after the polls are finally closed, except in the case of an  
12 emergency that renders the polling place unusable to the point where it  
13 can no longer function as a polling place because law enforcement or other  
14 emergency personnel have ordered that the polling place be evacuated or as  
15 determined by the officer in charge of elections to allow voting to  
16 continue while awaiting an evacuation order from law enforcement or other  
17 emergency personnel.

18 B. If a locked AND SEALED ballot box must be moved from a polling  
19 place due to an emergency, at least two members of the election board from  
20 that polling place who are not members of the same political party shall  
21 accompany the locked AND SEALED ballot box to a new polling place  
22 designated by the officer in charge of elections, subject to the  
23 following:

24 1. ~~if practicable and available,~~ A law enforcement officer shall  
25 aid in the transfer of the locked AND SEALED ballot box.

26 2. If two members of the election board from that polling place are  
27 not available, one member of the election board and one law enforcement  
28 officer may accompany the locked AND SEALED ballot box to the new polling  
29 place.

30 C. If a ballot box was moved due to an emergency, two additional  
31 board members shall verify whether the locked AND SEALED ballot box  
32 arrived at the new polling place location and that ~~it~~ THE TAMPER EVIDENT  
33 SEAL was not opened or damaged.

34 D. All election board members who accompanied the locked AND SEALED  
35 ballot box to the new location and the one or two election board members  
36 who verified the ballot box's arrival shall file a report with the officer  
37 in charge of elections that describes the actions taken by the election  
38 board members. This report shall be filed on the day of the emergency.

39 E. On the day that an emergency occurs as prescribed in subsection  
40 A OF THIS SECTION, all election board members, including those who aided  
41 in the transfer and verification of the locked AND SEALED ballot box,  
42 shall indicate on the official documents containing their oath whether  
43 they witnessed the transfer of the ballot box and whether the ballot box  
44 remained locked AND SEALED.

1 F. If during the course of an election day the LOCKED AND SEALED  
2 ballot box can no longer accommodate additional ballots, the board members  
3 may remove a sufficient number of ballots from the ballot box and shall  
4 place the removed ballots into the case that will be used for the transfer  
5 of the ballots to the officer in charge of elections. The inspector and  
6 both judges shall oversee the transfer and the following shall apply:

7 1. An immediate count of the number of ballots removed shall be  
8 made by the election board members and a ~~sheet~~ CHAIN OF CUSTODY RECORD  
9 indicating the count and signed by the board members supervising the count  
10 shall be placed in ~~the~~ A TAMPER EVIDENT transfer case with the removed  
11 ballots and shall be kept sealed for the remainder of the election day.

12 2. Once the removed ballots are sealed in the TAMPER EVIDENT  
13 transfer case, the original ballot box shall be relocked and RESEALED AND  
14 voting may continue.

15 3. At the close of the polls, the removed ballots and the ballots  
16 in the locked AND RESEALED ballot box shall be moved together to the  
17 tabulating place designated by the officer in charge of elections.

18 G. At the close of the polls, if a ballot box has been transferred  
19 to a new polling place or a ballot box has been opened, a report detailing  
20 those events, INCLUDING THE DATE, TIME AND NAME OF ANY ELECTION OFFICER  
21 THAT WITNESSED THE TRANSFER OR OPENING OF A BALLOT BOX, and other  
22 pertinent information shall be made by the officer in charge of elections  
23 to the chairpersons of all recognized political parties in that county.

24 Sec. 2. Section 16-608, Arizona Revised Statutes, is amended to  
25 read:

26 16-608. Delivery of ballots; chain of custody

27 A. After the close of the polls and after compliance with section  
28 16-602 the members of the election board shall prepare a report in  
29 duplicate of the number of voters who have voted, as indicated on the poll  
30 list, and place this report in the ballot box or metal container, in which  
31 the voted ballots have been placed, which thereupon shall be sealed with a  
32 TAMPER EVIDENT numbered seal and delivered promptly by two members of the  
33 election board of different political parties to the central counting  
34 place or other receiving station designated by the board of supervisors or  
35 officer in charge of elections, which shall not be more than fifty miles  
36 from the polling place from which the ballots are delivered. The person  
37 in charge of receiving ballots shall give a numbered receipt acknowledging  
38 receipt of ~~such~~ THE ballots to the person in charge who delivers ~~such~~ THE  
39 ballots.

40 B. THE COUNTY RECORDER OR OTHER OFFICER IN CHARGE OF ELECTIONS  
41 SHALL PREPARE A CHAIN OF CUSTODY RECORD FOR THE TRANSPORTATION AND  
42 DELIVERY OF ALL VOTED BALLOTS. THE CHAIN OF CUSTODY RECORD SHALL INCLUDE  
43 THE TIME AND SIGNATURE FOR EACH POINT OF CONTACT, INCLUDING THE SIGNATURE  
44 OF THE VOTING LOCATION SUPERVISOR WHEN THE ELECTION BOARD MEMBERS LEAVE  
45 WITH THE VOTED BALLOTS, THE SIGNATURE OF EACH ELECTION BOARD MEMBER

1 DELIVERING THE VOTED BALLOTS AND THE SIGNATURE OF THE SUPERVISOR AT THE  
2 RECEIVING SITE WHO RECEIVES THE VOTED BALLOTS.

3 ~~B.~~ C. The ~~chairman~~ CHAIRPERSON of the county committee of each  
4 political party represented on the ballot may designate a member of ~~his~~  
5 THE CHAIRPERSON'S party to accompany the ballots from each polling place  
6 to the central counting place. ~~Such~~ THIS party representative shall serve  
7 without compensation.

8 Sec. 3. Section 16-621, Arizona Revised Statutes, is amended to  
9 read:

10 16-621. Proceedings at the counting center; report

11 A. All proceedings at the counting center shall be under the  
12 direction of the board of supervisors or other officer in charge of  
13 elections and shall be conducted in accordance with the approved  
14 instructions and procedures manual issued pursuant to section 16-452 under  
15 the observation of representatives of each political party and the public.  
16 The proceedings at the counting center may also be observed by up to three  
17 additional people representing a candidate for nonpartisan office, or  
18 representing a political committee in support of or in opposition to a  
19 ballot measure, proposition or question. A draw by lot shall determine  
20 which three groups or candidates shall have representatives participate in  
21 the observation at the counting center. Persons representing a candidate  
22 for nonpartisan office or persons or groups representing a political  
23 committee in support of or in opposition to a ballot measure, proposition  
24 or question, who are interested in participating in the observation, shall  
25 notify the officer in charge of elections of their desire to be included  
26 in the draw not later than seventeen days before the election. After the  
27 deadline to receive submissions from the interested persons or groups, but  
28 prior to fourteen days before the election, the county officer in charge  
29 of elections shall draw by lot, from the list of those that expressed  
30 interest, three persons or groups and those selected shall be notified and  
31 allowed to observe the proceedings at the counting center. If a group is  
32 selected the group may alter who represents that group for different days  
33 of observation but on any given observation day a selected group shall not  
34 send more than one observer. A group may rotate an observer throughout  
35 the day. Only those persons who are authorized for the purpose shall  
36 touch any ballot or ballot card or return. All persons who are engaged in  
37 processing and counting of the ballots shall be qualified electors, shall  
38 be deputized in writing and shall take an oath that they will faithfully  
39 perform their assigned duties. There shall be no preferential counting of  
40 ballots for the purpose of projecting the outcome of the election. If any  
41 ballot, including any ballot received from early voting, is damaged or  
42 defective so that it cannot properly be counted by the automatic  
43 tabulating equipment, a true duplicate copy ~~shall be made~~  
44 or defective ballot SHALL BE MADE in the presence of witnesses and  
45 substituted for the damaged or defective ballot. All duplicate ballots

1 created pursuant to this subsection shall be clearly labeled "duplicate"  
2 and shall bear a serial number that shall be recorded on the damaged or  
3 defective ballot. ALL DAMAGED AND DEFECTIVE BALLOTS THAT ARE REPLACED  
4 WITH A DUPLICATE BALLOT MUST BE INCLUDED IN A CHAIN OF CUSTODY RECORD THAT  
5 INCLUDES THE DATE, TIME, LOCATION AND SERIAL NUMBER.

6 B. If the counting center automatic tabulating equipment includes  
7 an electronic vote adjudication feature that has been certified for use as  
8 prescribed by section 16-442 and the board of supervisors or officer in  
9 charge of elections authorizes the use of this feature at the counting  
10 center, all of the following apply:

11 1. The electronic vote adjudication feature shall be included in  
12 the tabulation system logic and accuracy testing prescribed by section  
13 16-449.

14 2. The board of supervisors or officer in charge of elections shall  
15 appoint an electronic vote adjudication board that consists of two judges  
16 who are overseen by an inspector, with the two judges equally divided  
17 between the two largest political parties as prescribed by section 16-531,  
18 subsection D to adjudicate and submit for tabulation a ballot that is read  
19 by the tabulation machine as blank in order to determine if voter intent  
20 is clear on a portion or all of the ballot, or any portion of any ballot  
21 as prescribed by section 16-610 or 16-611, or to tally write-in choices as  
22 prescribed by section 16-612.

23 3. The electronic vote adjudication process used by the electronic  
24 vote adjudication board shall provide for:

25 (a) A method to track and account for the original ballot and the  
26 digital duplicate of the ballot created by the electronic vote  
27 adjudication feature that includes a serial number on the digital image  
28 that can be used to track electronic vote adjudication board actions.

29 (b) The creation and retention of comprehensive logs of all digital  
30 duplication and adjudication actions performed by an electronic vote  
31 adjudication board.

32 (c) The retention of the original ballot and the digital duplicate  
33 of the ballot.

34 C. If for any reason it becomes impracticable to count all or a  
35 part of the ballots with tabulating equipment, the officer in charge of  
36 elections may direct that they be counted manually, following as far as  
37 practicable the provisions governing the counting of paper ballots.

38 D. For any statewide, county or legislative election, the county  
39 recorder or officer in charge of elections shall provide for a live video  
40 recording of the custody of all ballots while the ballots are present in a  
41 tabulation room in the counting center AND AT EACH STAGE OF THE SIGNATURE  
42 AND AFFIDAVIT VERIFICATION PROCESS, INCLUDING EACH SIGNATURE VERIFICATION  
43 WORK STATION. The live video AND recording shall ~~include~~ PROVIDE FOR FULL  
44 VISIBILITY OF THE BALLOTS AND date and time indicators and shall be linked  
45 to the secretary of state's website. The secretary of state shall post

1 links to the video coverage for viewing by the public. The county  
2 recorder or officer in charge of elections shall record the video coverage  
3 of the ballots at the counting center and shall retain those recordings as  
4 a public record for at least as long as the challenge period for the  
5 general election. If the live video feed is disrupted or disabled, the  
6 recorder or officer in charge of elections is not liable for the  
7 disruption but shall attempt to reinstate video coverage as soon as is  
8 practicable. Any disruption in video coverage shall not affect or prevent  
9 the continued tabulation of ballots. This subsection is contingent on  
10 legislative appropriation.

11 E. The county recorder or other officer in charge of elections  
12 shall maintain records that record the chain of custody for all election  
13 equipment and ballots during early voting through the completion of  
14 provisional voting tabulation. THE CHAIN OF CUSTODY RECORDS SHALL INCLUDE  
15 THE DATE, TIME, LOCATION AND NAME OF ANY ELECTION OFFICIAL WHO HANDLES OR  
16 PROCESSES A BALLOT.

17 F. THE COUNTY RECORDER OR OTHER OFFICER IN CHARGE OF ELECTIONS  
18 SHALL MAINTAIN A RECORD OF ALL VOTING IRREGULARITIES THAT OCCUR DURING  
19 EARLY VOTING, EMERGENCY VOTING AND ELECTION DAY VOTING. THE RECORD SHALL  
20 DESCRIBE THE IRREGULARITY, THE LOCATION WHERE IT OCCURRED, THE LOCATION  
21 WHERE IT WAS DISCOVERED, THE PERSONS WHO WERE PRESENT WHEN THE  
22 IRREGULARITY OCCURRED AND WHEN IT WAS DISCOVERED AND ANY RESPONSE TO THE  
23 IRREGULARITY FROM ELECTION OFFICIALS. WITHIN THIRTY DAYS AFTER ELECTION  
24 DAY, THE COUNTY RECORDER OR OTHER OFFICER IN CHARGE OF ELECTIONS SHALL  
25 PROVIDE THAT RECORD TO THE PRESIDENT OF THE SENATE AND THE SPEAKER OF THE  
26 HOUSE OF REPRESENTATIVES AND SHALL PROVIDE A COPY OF THE RECORD TO THE  
27 SECRETARY OF STATE.