

REFERENCE TITLE: **early ballots; notarization; identification**

State of Arizona  
House of Representatives  
Fifty-fifth Legislature  
First Regular Session  
2021

## **HB 2369**

Introduced by  
Representative Payne

**AN ACT**

**AMENDING SECTIONS 16-547, 16-548 AND 16-1005, ARIZONA REVISED STATUTES;  
RELATING TO 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 16-547, Arizona Revised Statutes, is amended to  
3 read:

4 16-547. Ballot affidavit; form

5 A. The early ballot shall be accompanied by an envelope bearing on  
6 the front the name, official title and post office address of the recorder  
7 or other officer in charge of elections and on the other side a printed  
8 affidavit in substantially the following form:

9 I declare the following under penalty of perjury: I am  
10 a registered voter in \_\_\_\_\_ county Arizona, I have not  
11 voted and will not vote in this election in any other county  
12 or state, I understand that knowingly voting more than once in  
13 any election is a class 5 felony and I voted the enclosed  
14 ballot and signed this affidavit personally unless noted  
15 below.

16 If the voter was assisted by another person in marking  
17 the ballot, complete the following:

18 I declare the following under penalty of perjury: At  
19 the registered voter's request I assisted the voter identified  
20 in this affidavit with marking the voter's ballot, I marked  
21 the ballot as directly instructed by the voter, I provided the  
22 assistance because the voter was physically unable to mark the  
23 ballot solely due to illness, injury or physical limitation  
24 and I understand that there is no power of attorney for voting  
25 and that the voter must be able to make their selection even  
26 if they cannot physically mark the ballot.

27 Name of voter assistant: \_\_\_\_\_

28 Address of voter assistant: \_\_\_\_\_

29 B. THE AFFIDAVIT ON THE ENVELOPE REQUIRES THAT THE VOTER'S  
30 SIGNATURE BE NOTARIZED OR THAT THE SIGNATURE OF THE PERSON SIGNING THE  
31 AFFIDAVIT ON BEHALF OF AND AT THE DIRECTION OF THE VOTER BE NOTARIZED.

32 ~~B.~~ C. The face of each envelope in which a ballot is sent to a  
33 federal postcard applicant or in which a ballot is returned by ~~such~~ THE  
34 applicant to the recorder or other officer in charge of elections shall be  
35 in the form prescribed in accordance with the uniformed and overseas  
36 citizens absentee voting act of 1986 (P.L. 99-410; ~~42~~ 52 United States  
37 Code section ~~1973ff~~ 20301). Otherwise, the envelopes shall be the same as  
38 those used to send ballots to, or receive ballots from, other early  
39 voters.

40 ~~C.~~ D. The county recorder or other officer in charge of elections  
41 shall supply printed instructions to early voters that direct them to sign  
42 the affidavit **IN FRONT OF A NOTARY PUBLIC**, mark the ballot and return both  
43 in the enclosed self-addressed envelope that complies with section 16-545.  
44 The instructions shall include the following statement:

45 In order to be valid and counted, the ballot and  
46 affidavit must be delivered to the office of the county

1 recorder or other officer in charge of elections or may be  
2 deposited at any polling place in the county no later than  
3 7:00 p.m. on election day.

4 WARNING-It is a felony to offer or receive any compensation  
5 for a ballot.

6 Sec. 2. Section 16-548, Arizona Revised Statutes, is amended to  
7 read:

8 16-548. Preparation and transmission of ballot

9 A. The early voter shall make and sign the affidavit **IN FRONT OF A**  
10 **NOTARY PUBLIC** and shall then mark ~~his~~ **THE** ballot in ~~such~~ a manner that ~~his~~  
11 **THE VOTER'S** vote cannot be seen. The early voter shall fold the ballot,  
12 if a paper ballot, so as to conceal the vote and deposit the voted ballot  
13 in the envelope provided for that purpose, which shall be securely sealed  
14 and, together with the affidavit, delivered or mailed to the county  
15 recorder or other officer in charge of elections of the political  
16 subdivision in which the elector is registered or deposited by the voter  
17 or the voter's agent at any polling place in the county. **FOR A BALLOT**  
18 **THAT IS DELIVERED TO A POLLING PLACE OR OTHER LOCATION THAT IS DESIGNATED**  
19 **TO RECEIVE VOTED EARLY BALLOTS, THE VOTER SHALL PRESENT IDENTIFICATION TO**  
20 **THE ELECTION BOARD WORKER AS PRESCRIBED BY SECTION 16-579, SUBSECTION A.**  
21 **IF DELIVERY BY A VOTER'S AGENT IS ALLOWED PURSUANT TO SECTION 16-1005, THE**  
22 **VOTER'S AGENT SHALL PRESENT TO THE ELECTION BOARD WORKER THE AGENT'S**  
23 **IDENTIFICATION THAT COMPLIES WITH SECTION 16-579, SUBSECTION A.** In order  
24 to be counted and valid, the ballot must be received **BY MAIL** by the county  
25 recorder or other officer in charge of elections or ~~deposited at~~ **DELIVERED**  
26 **TO** any polling place in the county ~~no~~ **NOT** later than 7:00 p.m. on election  
27 day, **AND IF DELIVERED, MAY ONLY BE ACCEPTED IF THE VOTER OR VOTER'S AGENT**  
28 **PROVIDES PROPER IDENTIFICATION.**

29 B. If the early voter is an overseas citizen, a qualified elector  
30 absent from the United States or in the United States service, a spouse or  
31 dependent residing with the early voter or a qualified elector of a  
32 special district mail ballot election as provided in article 8.1 of this  
33 chapter, the early voter may subscribe to the affidavit before and obtain  
34 the signature and military identification number or passport number, if  
35 available, of any person who is a United States citizen eighteen years of  
36 age or older.

37 Sec. 3. Section 16-1005, Arizona Revised Statutes, is amended to  
38 read:

39 16-1005. Ballot abuse; violation; classification; definitions

40 A. ~~Any~~ **A** person who knowingly marks a voted or unvoted ballot or  
41 ballot envelope with the intent to fix an election for that person's own  
42 benefit or for that of another person is guilty of a class 5 felony.

43 B. It is unlawful to offer or provide any consideration to acquire  
44 a voted or unvoted early ballot. A person who violates this subsection is  
45 guilty of a class 5 felony.

1 C. It is unlawful to receive or agree to receive any consideration  
2 in exchange for a voted or unvoted ballot. A person who violates this  
3 subsection is guilty of a class 5 felony.

4 D. It is unlawful to possess a voted or unvoted ballot with the  
5 intent to sell the voted or unvoted ballot of another person. A person  
6 who violates this subsection is guilty of a class 5 felony.

7 E. A person or entity that knowingly solicits the collection of  
8 voted or unvoted ballots by misrepresenting itself as an election official  
9 or as an official ballot repository or is found to be serving as a ballot  
10 drop off site, other than those established and staffed by election  
11 officials, is guilty of a class 5 felony.

12 F. A person who knowingly collects voted or unvoted ballots and who  
13 does not turn those ballots in to an election official, the United States  
14 postal service or any other entity ~~permitted~~ ALLOWED by law to transmit  
15 post is guilty of a class 5 felony.

16 G. A person who engages or participates in a pattern of ballot  
17 fraud is guilty of a class 4 felony. For the purposes of this subsection,  
18 "pattern of ballot fraud" means the person has offered or provided any  
19 consideration to three or more persons to acquire the voted or unvoted  
20 ballot of a person.

21 H. A person who knowingly collects voted or unvoted early ballots  
22 from another person is guilty of a class 6 felony. An election official,  
23 a United States postal service worker or any other person who is allowed  
24 by law to transmit United States mail is deemed not to have collected an  
25 early ballot if the official, worker or other person is engaged in  
26 official duties.

27 ~~I. Subsection H of This section~~ SUBSECTION does not apply to:

28 1. An election held by a special taxing district formed pursuant to  
29 title 48 for the purpose of protecting or providing services to  
30 agricultural lands or crops and that is authorized to conduct elections  
31 pursuant to title 48.

32 2. A ~~family member, household member or~~ caregiver of the voter.

33 I. For the purposes of this ~~paragraph~~ SECTION:

34 ~~(a)~~ 1. "Caregiver" means a person who provides medical or health  
35 care assistance to the voter in a residence, nursing care institution,  
36 hospice facility, assisted living center, assisted living facility,  
37 assisted living home, residential care institution, adult day health care  
38 facility or adult foster care home.

39 ~~(b)~~ 2. "Collects" means to gain possession or control of an early  
40 ballot.

41 ~~(c) "Family member" means a person who is related to the voter by~~  
42 ~~blood, marriage, adoption or legal guardianship.~~

43 ~~(d) "Household member" means a person who resides at the same~~  
44 ~~residence as the voter.~~