

REFERENCE TITLE: **early ballots; mail return prohibited**

State of Arizona  
Senate  
Fifty-fifth Legislature  
First Regular Session  
2021

# **SB 1503**

Introduced by  
Senator Townsend

**AN ACT**

**AMENDING SECTIONS 16-542, 16-547, 16-551 AND 16-558.01, 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 16-542, Arizona Revised Statutes, is amended to  
3 read:

4 16-542. Request for ballot; civil penalties; violation;  
5 classification

6 A. Within ninety-three days before any election called pursuant to  
7 the laws of this state, an elector may make a verbal or signed request to  
8 the county recorder, or other officer in charge of elections for the  
9 applicable political subdivision of this state in whose jurisdiction the  
10 elector is registered to vote, for an official early ballot. In addition  
11 to name and address, the requesting elector shall provide the date of  
12 birth and state or country of birth or other information that if compared  
13 to the voter registration information on file would confirm the identity  
14 of the elector. If the request indicates that the elector needs a primary  
15 election ballot and a general election ballot, the county recorder or  
16 other officer in charge of elections shall honor the request. For any  
17 partisan primary election, if the elector is not registered as a member of  
18 a political party that is entitled to continued representation on the  
19 ballot pursuant to section 16-804, the elector shall designate the ballot  
20 of only one of the political parties that is entitled to continued  
21 representation on the ballot and the elector may receive and vote the  
22 ballot of only that one political party, which also shall include any  
23 nonpartisan offices and ballot questions, or the elector shall designate  
24 the ballot for nonpartisan offices and ballot questions only and the  
25 elector may receive and vote the ballot that contains only nonpartisan  
26 offices and ballot questions. The county recorder or other officer in  
27 charge of elections shall process any request for an early ballot for a  
28 municipal election pursuant to this subsection. The county recorder may  
29 establish on-site early voting locations at the recorder's office, which  
30 shall be open and available for use beginning the same day that a county  
31 begins to send out the early ballots. The county recorder may also  
32 establish any other early voting locations in the county the recorder  
33 deems necessary. **AN ELECTOR WHO RECEIVES AN EARLY BALLOT BY MAIL MAY**  
34 **RETURN THE ELECTOR'S VOTED EARLY BALLOT ONLY BY DELIVERING IT BY HAND TO A**  
35 **DESIGNATED VOTING LOCATION.** Any on-site early voting location or other  
36 early voting location shall require each elector to present identification  
37 as prescribed in section 16-579 before receiving a ballot.  
38 Notwithstanding section 16-579, subsection A, paragraph 2, at any on-site  
39 early voting location or other early voting location the county recorder  
40 or other officer in charge of elections may provide for a qualified  
41 elector to update the elector's voter registration information as provided  
42 for in the secretary of state's ~~instruction~~ **INSTRUCTIONS** and procedures  
43 manual adopted pursuant to section 16-452.

44 B. Notwithstanding subsection A of this section, a request for an  
45 official early ballot from an absent uniformed services voter or overseas

1 voter as defined in the uniformed and overseas citizens absentee voting  
2 act of 1986 (P.L. 99-410; 52 United States Code section 20310) or a voter  
3 whose information is protected pursuant to section 16-153 that is received  
4 by the county recorder or other officer in charge of elections more than  
5 ninety-three days before the election is valid. If requested by the  
6 absent uniformed services or overseas voter, or a voter whose information  
7 is protected pursuant to section 16-153, the county recorder or other  
8 officer in charge of elections shall provide to the requesting voter early  
9 ballot materials through the next regularly scheduled general election for  
10 federal office immediately following receipt of the request unless a  
11 different period of time, which does not exceed the next two regularly  
12 scheduled general elections for federal office, is designated by the  
13 voter.

14 C. The county recorder or other officer in charge of elections  
15 shall mail the early ballot and ~~the ITS AFFIDAVIT envelope for its return~~  
16 ~~postage prepaid~~ to the address provided by the requesting elector within  
17 five days after receipt of the official early ballots from the officer  
18 charged by law with the duty of preparing ballots pursuant to section  
19 16-545, except that early ballot distribution shall not begin more than  
20 twenty-seven days before the election. If an early ballot request is  
21 received on or before the thirty-first day before the election, the early  
22 ballot shall be distributed not earlier than the twenty-seventh day before  
23 the election and not later than the twenty-fourth day before the election.

24 D. Only the elector may be in possession of that elector's unvoted  
25 early ballot. If a complete and correct request is made by the elector  
26 within twenty-seven days before the election, the mailing must be made  
27 within forty-eight hours after receipt of the request. Saturdays, Sundays  
28 and other legal holidays are excluded from the computation of the  
29 ~~forty-eight hour~~ FORTY-EIGHT-HOUR period prescribed by this subsection.  
30 If a complete and correct request is made by an absent uniformed services  
31 voter or an overseas voter before the election, the regular early ballot  
32 shall be transmitted by mail, by fax or by other electronic format  
33 approved by the secretary of state within twenty-four hours after the  
34 early ballots are delivered pursuant to section 16-545, subsection B,  
35 excluding Sundays.

36 E. In order to be complete and correct and to receive an early  
37 ballot by mail, an elector's request that an early ballot be mailed to the  
38 elector's residence or temporary address must include all of the  
39 information prescribed by subsection A of this section and must be  
40 received by the county recorder or other officer in charge of elections ~~no~~  
41 NOT later than 5:00 p.m. on the eleventh day preceding the election. An  
42 elector who appears personally ~~no~~ NOT later than 5:00 p.m. on the Friday  
43 preceding the election at an on-site early voting location that is  
44 established by the county recorder or other officer in charge of elections  
45 shall be given a ballot after presenting identification as prescribed in

1 section 16-579 and shall be ~~permitted~~ ALLOWED to vote at the on-site  
2 location. Notwithstanding section 16-579, subsection A, paragraph 2, at  
3 any on-site early voting location the county recorder or other officer in  
4 charge of elections may provide for a qualified elector to update the  
5 elector's voter registration information as provided for in the secretary  
6 of state's ~~instruction~~ INSTRUCTIONS and procedures manual adopted pursuant  
7 to section 16-452. If an elector's request to receive an early ballot is  
8 not complete and correct but complies with all other requirements of this  
9 section, the county recorder or other officer in charge of elections shall  
10 attempt to notify the elector of the deficiency of the request.

11 F. Unless an elector specifies that the address to which an early  
12 ballot is to be sent is a temporary address, the recorder may use the  
13 information from an early ballot request form to update voter registration  
14 records.

15 G. The county recorder or other officer in charge of early  
16 balloting shall provide an alphabetized list of all voters in the precinct  
17 who have requested and have been sent an early ballot to the election  
18 board of the precinct in which the voter is registered not later than the  
19 day before the election.

20 H. As a result of experiencing an emergency between 5:00 p.m. on  
21 the Friday preceding the election and 5:00 p.m. on the Monday preceding  
22 the election, qualified electors may request to vote in the manner  
23 prescribed by the board of supervisors of their respective county. Before  
24 voting pursuant to this subsection, an elector who experiences an  
25 emergency shall provide identification as prescribed in section 16-579 and  
26 shall sign a statement under penalty of perjury that states that the  
27 person is experiencing or experienced an emergency after 5:00 p.m. on the  
28 Friday immediately preceding the election and before 5:00 p.m. on the  
29 Monday immediately preceding the election that would prevent the person  
30 from voting at the polls. Signed statements received pursuant to this  
31 subsection are not subject to inspection pursuant to title 39, chapter 1,  
32 article 2. For the purposes of this subsection, "emergency" means any  
33 unforeseen circumstances that would prevent the elector from voting at the  
34 polls.

35 I. Notwithstanding section 16-579, subsection A, paragraph 2, for  
36 any voting pursuant to subsection H of this section, the county recorder  
37 or other officer in charge of elections may allow a qualified elector to  
38 update the elector's voter registration information as provided for in the  
39 secretary of state's instructions and procedures manual adopted pursuant  
40 to section 16-452.

41 J. A candidate, political committee or other organization may  
42 distribute early ballot request forms to voters. If the early ballot  
43 request forms include a printed address for return, the addressee shall be  
44 the political subdivision that will conduct the election. Failure to use  
45 the political subdivision as the return addressee is punishable by a civil

1 penalty of up to three times the cost of the production and distribution  
2 of the request.

3 K. All original and completed early ballot request forms that are  
4 received by a candidate, political committee or other organization shall  
5 be submitted within six business days after receipt by a candidate,  
6 political committee or other organization or eleven days before the  
7 election day, whichever is earlier, to the political subdivision that will  
8 conduct the election. Any person, political committee or other  
9 organization that fails to submit a completed early ballot request form  
10 within the prescribed time is subject to a civil penalty of up to \$25 per  
11 day for each completed form withheld from submittal. Any person who  
12 knowingly fails to submit a completed early ballot request form before the  
13 submission deadline for the election immediately following the completion  
14 of the form is guilty of a class 6 felony.

15 Sec. 2. Section 16-547, Arizona Revised Statutes, is amended to  
16 read:

17 16-547. Ballot affidavit; form

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

22 I declare the following under penalty of perjury: I am  
23 a registered voter in \_\_\_\_\_ county Arizona, I have not  
24 voted and will not vote in this election in any other county  
25 or state, I understand that knowingly voting more than once in  
26 any election is a class 5 felony and I voted the enclosed  
27 ballot and signed this affidavit personally unless noted  
28 below.

29 If the voter was assisted by another person in marking  
30 the ballot, complete the following:

31 I declare the following under penalty of perjury: At  
32 the registered voter's request I assisted the voter identified  
33 in this affidavit with marking the voter's ballot, I marked  
34 the ballot as directly instructed by the voter, I provided the  
35 assistance because the voter was physically unable to mark the  
36 ballot solely due to illness, injury or physical limitation  
37 and I understand that there is no power of attorney for voting  
38 and that the voter must be able to make their selection even  
39 if they cannot physically mark the ballot.

40 Name of voter assistant: \_\_\_\_\_

41 Address of voter assistant: \_\_\_\_\_

42 B. The face of each envelope in which a ballot is sent to a federal  
43 postcard applicant or in which a ballot is returned by ~~such~~ THE applicant  
44 to the recorder or other officer in charge of elections shall be in the  
45 form prescribed in accordance with the uniformed and overseas citizens

1 absentee voting act of 1986 (P.L. 99-410; ~~42~~ 52 United States Code section  
2 ~~1973ff~~ 20301). Otherwise, the envelopes shall be the same as those used to  
3 send ballots to, or receive ballots from, other early voters.

4 C. The county recorder or other officer in charge of elections  
5 shall supply printed instructions to early voters that direct them to sign  
6 the affidavit, mark the ballot and ~~return~~ HAND DELIVER both in the  
7 enclosed ~~self-addressed~~ envelope that complies with section 16-545. The  
8 instructions shall include the following statement:

9 In order to be valid and counted, the ballot and  
10 affidavit MAY NOT BE MAILED BUT must be HAND delivered to the  
11 office of the county recorder or other officer in charge of  
12 elections or may be deposited at any polling place in the  
13 county ~~no~~ NOT later than 7:00 p.m. on election day.

14 WARNING-It is a felony to offer or receive any compensation  
15 for a ballot.

16 Sec. 3. Section 16-551, Arizona Revised Statutes, is amended to  
17 read:

18 16-551. Early election board; violation; classification

19 A. The board of supervisors or the governing body of the political  
20 subdivision shall appoint one or more early election boards to serve at  
21 places to be designated by the board of supervisors or the governing body  
22 to canvass and tally early election ballots. Members of early election  
23 boards shall be selected in accordance with the provisions for selecting  
24 members of regular election boards as provided in section 16-531.

25 B. If an electronic voting system is in use for early voting, the  
26 early election board shall consist of at least one inspector and two  
27 judges who shall perform the processing requirements in accordance with  
28 the rules issued by the secretary of state. The inspector and judges  
29 shall be appointed in the same manner by party as provided in section  
30 16-531.

31 C. All early ballots received by the county recorder or other  
32 officer in charge of elections before 7:00 p.m. on election day and the  
33 original affidavit of the voter shall be delivered to the early election  
34 boards for processing as provided in the rules of the secretary of state,  
35 EXCEPT THAT ANY EARLY BALLOTS THAT ARE RECEIVED BY MAIL ARE INVALID AND  
36 MAY NOT BE PROCESSED. The office of the county recorder or other officer  
37 in charge of elections shall remain open until 7:00 p.m. on election day  
38 for the purpose of receiving early ballots DELIVERED BY HAND. In no event  
39 shall partial or complete tallies of the early election board be released  
40 or divulged before all precincts have reported or one hour after the  
41 closing of the polls on election day, whichever occurs first, and any  
42 person who unlawfully releases information regarding vote tallies or who  
43 possesses a tally sheet or summary without authorization from the recorder  
44 or officer in charge of elections is guilty of a class 6 felony.

1 D. The necessary printed blanks for poll lists, tally lists, lists  
2 of voters, ballots, oaths and returns, together with envelopes in which to  
3 enclose the returns, shall be furnished by the board of supervisors or the  
4 governing body of the political subdivision to the early election board  
5 for each election precinct at the expense of the county or the political  
6 subdivision.

7 Sec. 4. Section 16-558.01, Arizona Revised Statutes, is amended to  
8 read:

9 16-558.01. Mailing of ballots

10 Not more than twenty-seven days before the election and not fewer  
11 than fifteen days before the election, the county recorder or other  
12 officer in charge of elections for the special district shall send by  
13 nonforwardable mail all official ballots with printed instructions and a  
14 return envelope bearing a printed ballot affidavit as described in section  
15 16-547 to each qualified elector entitled to vote in the election. The  
16 envelope in which the ballot is mailed shall be clearly marked with the  
17 statement required by the postmaster to receive an address correction and  
18 notification **AND SHALL INSTRUCT THE VOTER THAT THE VOTED BALLOT MUST BE**  
19 **RETURNED BY HAND AND CANNOT BE MAILED.** ~~The district governing board shall~~  
20 ~~determine whether the voter or the district governing board will pay for~~  
21 ~~the postage for the return of electors' marked ballots.~~ An elector who  
22 votes in a special district mail ballot election shall return the  
23 elector's marked ballot to the recorder or other officer in charge of the  
24 election or to a designated depository site as provided in section 16-411  
25 no later than 7:00 p.m. on the day of the election.