



ARIZONA STATE SENATE

Fifty-Sixth Legislature, First Regular Session

FACT SHEET FOR H.B. 2325

voting; procedures; electors in detention

Purpose

Allows a qualified elector in pretrial detention to make a written request to have a ballot personally delivered to a jail for voting and prescribes requirements and procedures for a qualified elector voting from jail.

Background

To be eligible to vote in Arizona the registrant must be a citizen of the United States ([A.R.S. § 16-101](#)). A person may be deemed a qualified elector if the person is qualified to register to vote, is properly registered to vote and is at least 18 years of age by the date of the election ([A.R.S. § 16-121](#)). Individuals held in pretrial detention or serving a sentence for a misdemeanor conviction remain eligible to register and vote. To the extent practicable, the county recorder must coordinate with the county sheriff's office, jail or detention facilities, the county public defender's office and other stakeholders to develop and implement procedures to facilitate the receipt and return of a mail ballot by eligible voters in jail or detention facilities. The procedures may include either or all of the following: 1) a means for secure and effective delivery and return of the mail ballots for those in custody; or 2) the use of special election boards ([EPM Ch. 2 \(VII\)](#)).

There is no anticipated fiscal impact to the state General Fund associated with this legislation.

Provisions

1. Allows a qualified elector who is in pretrial detention in a jail to make a signed written request to the county recorder or other officer in charge of elections to have a ballot personally delivered to the elector by a special election board at the elector's place of pretrial detention.
2. Requires the signed written request to:
 - a) include the elector's full name, signature and place of detention; and
 - b) be made within 10 days before the election, or it is invalid.
3. Requires a jail officer to deliver a copy of the signed written request to the county recorder or other officer in charge of elections within five days after receiving the written request.
4. Requires the jail to make provisions for a secured, restricted and private area to be set aside for the purpose of allowing detained electors to vote.
5. Prohibits cameras from being allowed in the voting area without regard to whether they are recording, except political party designees may bring cellular telephones.

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6. Allows the jail to require cellular telephones to be kept in a secure location and requires telephones to be accessible immediately upon request.
7. Requires the county recorder or other officer in charge of elections to provide and send a full-time employee to jails to facilitate voting in strict compliance with the prescribed requirements.
8. Requires the county recorder or other officer in charge of elections to notify the county chairpersons and state chairpersons of the three largest county political parties in the state at least 60 days before the election official's visit to the jail to allow qualified electors to vote.
9. Requires the county recorder or other officer in charge of elections to provide the political party chairpersons:
 - a) copies of all signed written requests from the electors in their possession;
 - b) the date and time during which the visit will occur; and
 - c) instructions to facilitate the attendance of the political party chairperson's designees.
10. Allows the county and chairperson of each political party to designate one person to accompany the elections official visiting the jail.
11. Requires that the county recorder or other officer in charge of elections be notified of the names of the designees at least 10 days before the time set for the detained qualified elector to vote.
12. Requires the party designees to be allowed the same access to the qualified elector as the elections official.
13. Prohibits the county recorder or other officer in charge of elections from rejecting the designee of a political party for any reason other than a felony conviction within the preceding ten years.
14. Prohibits a person who is in pretrial detention and not a qualified elector from voting.
15. Requires detainees to be provided up to three dates for voting per election cycle and requires notice of the dates to be given to the political party chairpersons at least 90 days before an election.
16. Requires all notifications regarding the dates of voting in jail be provided by both certified and electronic mail.
17. Requires, before voting, the person voting to present identification to the elections official and the political party designees that is sufficient to vote a complete, non-federal only ballot.
18. Requires the elections official and the political party designees to verify that the person is a qualified elector before providing the person with a ballot.
19. Allows the elections official and the political party designee to bring into the jail, any papers and equipment necessary to satisfy themselves that the person is a qualified elector
20. Prohibits federal only ballots from being provided to persons voting from jail.

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21. Prescribes a declaration that the elections official and political party designees sign and requires the elections official and political party designees to be allowed sufficient access within the jail to truthfully execute the declaration.
22. Prescribes a ballot affidavit that the person voting is required to sign.
23. Prohibits the elections official and political party designees from speaking to the detained person after the person has been given a ballot, until the ballot is sealed in the envelope.
24. Specifies that during the process of the detained person voting, jail officials may only speak to the detained person to give commands unrelated to voting and only if absolutely necessary.
25. Requires the elections official to take the envelopes from detained voters directly to the elections office and allow the political party designees to accompany the elections official.
26. Requires, for a voter who lives outside the county, the ballot to be hand delivered to the elections office by a full-time employee of the recorder or other officer in charge of elections.
27. Requires the political party chairpersons to receive notice of a ballot being transported to the county elections office at least 10 days in advance and allows the political party chairperson to designate persons of their choosing to accompany the ballots.
28. Caps the number of deliveries that the recorder or other officer in charge of elections may make at one delivery each election cycle.
29. Requires the elections officials to make and maintain chain of custody documentation sufficient to account for every movement of every ballot by every person handling the ballot from the time the ballot leaves the office of the county recorder or other officer in charge of elections until it is received by the appropriate county recorder or other officer in charge of elections.
30. Requires jail officials to take steps to facilitate strict compliance with the voting requirements for an elector in pretrial detention, including:
 - a) assisting electors with obtaining identification that comply with statute; and
 - b) providing the security necessary to facilitate safe compliance to the extent that doing so does not conflict with the prescribed requirements and procedures.
31. Requires strict compliance with the voting requirements for an elector in pretrial detention and deems ballots cast in violation of the requirements as invalid.
32. Classifies, as a class 3 felony, the violation of voting requirements for an elector in pretrial detention by a government employee or contractor and specifies that the classification is not intended to affect other relief that may exist for violation.
33. Allows any qualified elector to bring a special action to enforce compliance with the of voting requirements for an elector in pretrial detention.
34. Specifies that no part of voting requirements for an elector in pretrial detention is severable from any other portion and stipulates that if any part is found to be invalid by a court of competent jurisdiction, then the remainder of the requirements are null and void and persons in detention are prohibited from voting.

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35. Allows federal detention facilities to permit voting in strict compliance with the prescribed requirements and stipulates that if the federal detention facilities decline, then individuals detained at federal facilities are prohibited from voting.
36. Defines *jail* as any facility of a state, county or municipality in which persons who have not been convicted of a crime are detained.
37. Becomes effective on the general effective date.

House Action

MOE 2/16/23 DPA/SE 8-2-0-0
3rd Read 3/1/23 31-28-1

Prepared by Senate Research

March 23, 2023

AN/slp