

# Election Statute Navigator: Arkansas

The Election Law Program prepared this Election Law Navigator to highlight state election statutes particularly relevant to the 2020 cycle. The Election Law Navigator is updated as of October 19, 2020. Please contact [elect@wm.edu](mailto:elect@wm.edu) with questions or suggestions. To access COVID-specific legal information impacting this state's election process, please use this link: <https://ebenchbook.org/arkansas/covid/#tracker>.

## *Voter Registration*

See <https://www.sos.arkansas.gov/elections/voter-information/voter-registration-information>

- Voters (other than above) register prior to Election Day **7-5-201**
  - Deadline: 30 calendar days immediately prior to the election and in the manner set forth by the Arkansas Constitution, Amendment 51
- Registration via mail available **7-5-201(e)(1)**
- In-Person registration available
  - [See official Arkansas Voter Website](#)
- Preregistration allowed **7-5-32**
  - Must be 18 years of age at time of the next election and has timely submitted a voter registration application
- Residency requirement **7-5-201(b)**
- Prior conviction eligibility
  - [See Brennan Center Info](#)
  - Voting rights restored upon completion of sentence, including prison, parole, and probation
- Voters judged mentally incompetent cannot vote
  - [See official Arkansas Voter Website](#)
- Other:
  - Pursuant to Act 633 of 2017: Voters are now required to verify his or her voter registration
  - **7-5-903** - Voter notification requirements



## *State Absentee, Early, and Mail Voting*

- Early voting allowed **7-5-418**
- Listed excuses to vote absentee
  - **7-5-402** (suspended for special elections on June 9, 2020)
- Absentee application is verified **7-5-404(a)(1)(A)**
  - verified by the county clerk by checking the voter's name, address, date of birth, and signature from the registration records unless the application is sent by electronic means
- Copy of Voter ID required with absentee ballot **7-5-412**
- Absentee ballot verification **7-5-412**
- Someone other than the voter can return an absentee or mail ballot on behalf of the voter **7-5-403**
  - designated bearers, authorized agents
- Deadline by which election official must receive absentee/mailed ballots **7-5-411**
  - No later than 7:30 p.m. on election day
- Absentee ballot processing and counting procedures **7-5-416**
- Replacement ballot **7-5-604(a)(6)(C)(ii)**
- Spoiled ballot **7-5-602; 7-5-609**
- Other:
  - **7-5-412(b)(1)**: A voter who desires to cast an absentee ballot but who does not meet the identification requirements of subdivision (a)(2) of this section may cast his or her absentee ballot by mail, and the absentee ballot shall be considered as a provisional ballot.
  - **7-5-201(f)**: Any person who receives an absentee ballot according to the precinct voter registration list but who elects to vote by early voting or to vote at his or her polling site on election day shall be permitted to cast a provisional ballot.

## *In-Person Voter ID*

- Photo ID requirements **7-5-324**
- Options for voters without ID **7-5-306; 7-5-308**
- Other:



- **7-5-201(e)(1)(A)**: A person registering to vote by mail and who has not previously voted in a federal election in this state shall present valid photo ID or a copy of a current utility bill or other government document
- See **Arkansas Constitution Amendment 51, § 13** for verification of voter registration

## *Provisional Voting*

- Provisional ballot availability **7-5-308**
- Time allotted to determine the status of provisional ballot
  - See **Arkansas Administrative Rules** (Rules on Pole Watchers, Vote Challenges, and Provisional Voting)
  - Forty-eight hours to 15 days after the election
- Provisional ballot acceptance reasons:
  - See **Arkansas Administrative Rules** (Rules on Pole Watchers, Vote Challenges, and Provisional Voting)
  - It is cast by a registered voter and is the correct ballot for the precinct of the voter's residence
  - It is cast by a registered voter who presents proof of identity or an affidavit of indigence or religious objection to having his or her photograph made to the county clerk or the county board no later than the first Monday following the election; or
  - It is an absentee ballot and the county board determines that the voter is eligible to vote in the precinct
- Other:
  - **7-5-201(f)**: Any person who receives an absentee ballot according to the precinct voter registration list but who elects to vote by early voting or to vote at his or her polling site on election day shall be permitted to cast a provisional ballot.

## *Polling Place*

- Polling Place availability and requirements **7-5-101; 7-5-521**
- Electioneering must not be closer than **100** feet to the entrance of the polling place **7-1-103**
- Rules governing poll watchers **7-5-312(e)**
- Poll watcher qualifications **7-5-312(a)**



- Candidate in person, but only during the counting and tabulation of ballots and the processing of absentee ballots;
- Authorized representative of a candidate;
- Authorized representative of a group seeking the passage or defeat of a measure on the ballot; and
- Authorized representative of a political party with a candidate on the ballot
- Police presence **7-5-310(a)(3)(F)**
  - A person may not enter a polling site on election day during voting hours unless the person is a law enforcement officer or emergency service personnel who are acting in the line of duty
- Other:
  - **7-5-107** - Registration lists used by poll workers

## *State Emergency Rules and How Elections are Affected*

- Powers during Emergency:
  - **7-5-101(e)(2)(B)** - The county clerk or county board of election commissioners shall not change a vote center location for any precinct less than thirty (30) days before an election except in the event of an emergency
  - **7-5-101(b)(2)** - The county board of election commissioners by order may alter the boundaries of existing election precincts and establish new ones; a precinct shall not be altered and a new precinct shall not be created less than sixty (60) days before an election except in the event of an emergency as determined by unanimous vote of the county board of election commissioners
- Explicit remedies in election statute
  - **7-5-101(d)(3)(A)(iii)** - Changing in polling site due to an emergency arising less than fifteen days before election
- Other:
  - **AR Code § 12-75-114(e)(1)** - In addition to any other powers conferred upon the Governor by law, the Governor may suspend the provisions of any regulatory statutes prescribing the procedures for conduct of state business, or the orders, rules, or regulations of any state agency, if strict compliance with the provisions of any statute, order, rule, or regulation would in any way prevent, hinder, or delay necessary action in coping with the emergency



## Counting Rules

- Voting system requirements **7-5-301**; **7-5-504**; **7-5-604**
- Counting procedures
  - **7-5-416** - Counting of absentee ballots
  - **7-5-529** - Tabulation of returns
  - **7-5-603** - Counting paper ballots at the polling site
  - **7-5-613** - Counting ballots and write-in votes
- Other:
  - **7-5-315** - Counting votes for unopposed and deceased candidates
  - **7-5-316** - Candidate's presence at counting

## Contest/Protest, Recount Rules

- Candidate protesting **7-5-801**
- Challenging a voter **7-5-312**
- Protest recount **7-5-319**
  - Any candidate may request a recount no later than two days after county officials declare unofficial result or no later than completion of the county canvass. The candidate must pay for the recount unless it alters the outcome of the election.
- Other:
  - **7-5-417** - Challenge of absentee votes
  - **7-5-530** - Any voter who questions the count of any question posed at any election gives written notice to the county board of election commissioners that he or she desires a recount, then the applicable county board of election commissioners shall secure the audit logs and voter-verified paper audit trails and store them in a secure place in the county courthouse awaiting further orders of the applicable county board of election commissioners or court.

