

# Election Statute Navigator: Texas

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://ebenchmark.org/texas/covid/#tracker>.

## *Voter Registration*

- Voters (other than above) register prior to Election Day **§ 13.143**
  - Deadlines: 30 days before election
- Registration via mail available **§ 13.002**
- In-Person registration available **§ 12.004**
  - Locations: Registrar
- Preregistration allowed **§ 13.001**
  - Individuals 17 years and 10 months old may register
- Residency requirement **§ 11.002**
  - Resident of this state
- Prior conviction eligibility – See state code for specifics: **§ 11.002**
- Voters judged mentally incompetent or under guardianship for a mental disability cannot vote **§ 16.031**
- Voter list maintenance guidelines **§ 15.143**

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

- Early voting allowed **§ 85.001, § 85.002**
  - 17 days before election until 4 days before election
- Listed excuses to vote absentee **§ 82.001, § 82.002, § 82.003, § 82.004**
- Absentee ballot application is verified **§ 86.001**
- Absentee ballot verification details **§ 86.013**
  - Absentee ballot carrier envelopes are printed with a certificate which must be signed by the voter. A signature verification committee compares the signature on the envelope with the signature on the voter's ballot application or registration application to determine whether they were made by the same person. The committee may also compare the signatures with any two or more signatures of



the voter made within the preceding six years and on file with the county clerk or voter registrar to determine whether the signatures are those of the voter.

- Someone other than the voter can return an absentee or mail ballot on behalf of the voter **§ 86.006**
- Deadline by which election official must receive absentee/mailed ballots **§ 86.007**
  - The day after the election by 5 p.m. if postmarked on or before Election Day.
- State accepts postmarked ballots that arrive after election day **§ 86.007**
- State is required to provide secrecy sleeve for absentee/mail ballot **§ 86.012, § 86.013**
- Absentee/Mail ballot processing and counting procedures **§ 87.0241, § 87.041**
- Absentee and early in-person ballots are reported separately from precinct totals **§ 67.017**

### *In-Person Voter ID*

- Photo ID requirements **§ 63.001**
- Exceptions to Voter ID Requirements: **§ 65.054**
  - Voter has a religious objection to being photographed
- Options for voters without ID: **§ 65.054**
  - Provisional Ballot

### *Provisional Voting*

- Provisional ballot availability **§ 63.011**
  - A voter who does not present a voter registration certificate when offering to vote, and whose name is not on the list of registered voters for the precinct in which the voter is offering to vote
  - Voter did not present ID as required by the state
- Time allotted to determine the status of provisional ballot **§ 65.051**
  - Seven to thirteen days
- Reasons to count the provisional ballot: **§ 65.054**
  - The person is eligible to vote in the election and has not previously voted in that election; or
  - The person:
    - meets the identification requirements



- the voter executes an affidavit under penalty of perjury that states the voter has a religious objection to being photographed and the voter has consistently refused to be photographed for any governmental purpose from the time the voter has held this belief; or
  - executes an affidavit under penalty of perjury that states the voter does not have any identification as a result of a natural disaster that was declared by the president of the United States or the governor, occurred not earlier than 45 days before the date the ballot was cast; and
    - The voter has not been challenged for any reason other than lack of identification.
- Method for informing voters whether provisional vote was counted **§ 65.059**

### *Polling Place*

- Electioneering or campaigning must not be closer than 100 feet to the entrance of the polling place **§ 61.003**
- Rules governing poll observers **§ 213.013**
- Poll watcher qualifications **§ 33.031**
  - Poll watchers can be acting on behalf of a candidate, political party, or opponent or proponent of a ballot measure; must be from the jurisdiction; can't be a felon, candidate, public official or related within the second degree of consanguinity to an election judge/clerk at the site; maximum of seven per early voting site and two per Election Day voting site.
- Curbside voting **§ 64.009**

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

- The Governor has authority to set rules and procedures (after declaring “election emergency”) **§ 41.0011**
- Explicit remedies in election statute **§ 65.054**

### *Counting Rules*

- Voting system requirements **§ 122.001**
- Counting procedures **§ 214.002**

### *Contest/Protest, Recount Rules*

- Contest filing guidelines **§ 121.001**



- Challenging a candidate § 141.034
- Challenging a voter § 16.091
- Automatic recount § 216
  - Triggers: tie vote

