

# Election Statute Navigator: Florida

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 March 1, 2021. 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://ebenchmarkbook.org/florida/covid/#tracker>.

## Voter Registration

- Voters (other than above) register prior to Election Day
  - Registration books must be closed 29 days before each election – [§ 97.055\(1\)\(a\)](#)
  - Applications are accepted if postmarked by the book-closing date – [§ 97.053\(4\)](#)
- Online registration available – [§ 97.0525](#)
- Registration via mail available – [§ 97.053\(4\)](#)
- In-Person registration available – [§ 97.053\(1\)](#)
  - Supervisor of Elections' offices
  - Driver's license offices
  - Voter registration agencies
  - Armed forces recruitment offices
- Preregistration allowed – [§ 97.041\(b\)](#)
- Residency requirement
  - Must be a legal resident of Florida and the county in which that person seeks to be registered – [§ 97.041\(1\)\(a\)](#)
  - Must inform department if residence has changed to outside the state to be removed from registration list – [§ 98.0655\(1\)\(b\)](#)
- Prior conviction eligibility – [§ 97.041\(2\)\(b\)](#)
- Voters judged mentally incompetent or under guardianship for a mental disability cannot vote – [§ 97.041\(2\)\(a\)](#)
  - Each month, the clerk of the circuit court provides the department of state with a list of persons who have been adjudicated mentally incapacitated with respect to voting, and the department of state forwards the info to county election supervisors – [§ 98.075](#)
- Voter list maintenance guidelines
  - Electors can change their residence, name, and party affiliation – [§ 97.1031](#)
  - Registration list maintenance forms – [§ 98.0655](#)
  - Election supervisor receives info from the Dept. of Highway Safety and Motor Vehicles when a registered voter's legal residence may have changed, and then the supervisor changes the registration records to reflect the new address and sends the voter an address change notice – [§ 98.065](#)

## State Absentee, Early, and Mail Voting

- Early voting allowed – [§ 101.657\(1\)\(d\)](#)
  - Early voting begins 10 days before an election and ends the 3<sup>rd</sup> day before the election for state or federal races; the supervisor of elections may provide it on the 15<sup>th</sup>, 14<sup>th</sup>, 13<sup>th</sup>, 12<sup>th</sup>, 11<sup>th</sup>, or 2<sup>nd</sup> day before an election that contains state or federal races; and the superior may provide early voting subject to their discretion for elections not with state or federal elections
- No-excuse absentee voting – [§ 101.62](#)
- Online absentee ballot application available – [§ 101.62](#)
- Absentee ballot application is verified – [§ 101.62](#)
  - Info and eligibility checked against voter registration
- Absentee ballot verification details – [§ 101.68](#)
  - Absentee ballot return envelopes are printed with voters certificate, which must be signed by the voter, and election officials compare the signature of the elector on the voter’s certificate or on the vote-by-mail ballot cure affidavit with the signature of the elector in the registration books or the precinct register to see that the elector is duly registered in the county and determine the legality of that vote-by-mail ballot.
- State allows voters to correct signature discrepancies – [§ 101.68](#)
  - If an elector returns a vote-by-mail ballot that doesn’t include a signature or the signature doesn’t match the one in the registration books, the supervisor allows the elector to complete and submit an affidavit to cure the vote-by-mail until 5 pm on the 2<sup>nd</sup> day after the election and must be submitted with a photocopy of the voter’s ID if the signature doesn’t match the one on file and an affidavit.
- Someone other than the voter can return an absentee or mail ballot on behalf of the voter
  - Any person or third party may collect and submit an absentee request form on behalf of a voter – [§ 101.62](#)
  - Any elector applying to cast a vote by mail ballot in the office of the supervisor, in any election, who requires assistance to vote by reason of blindness, disability, or inability to read or write may request the assistance of some person of their choice other than their employer, an agent of their employer, or an officer or agent of their union – [§ 101.051](#)
- Deadline by which election official must receive absentee/mailed ballots – [§ 101.67](#)
  - Must be received by 7 pm the day of the election
- State accepts postmarked ballots that arrive after election day
  - Must be postmarked on Election Day by 7 pm – [§ 101.67](#)
  - A vote-by-mail ballot from an overseas voter in a presidential preference primary or general election postmarked or dated by the date of the election and received by the supervisor of the election no later than 10 days after the election can be accepted – [§ 101.6952\(5\)](#)
- State is required to provide secrecy sleeve for absentee/mail ballot – [§ 101.64](#)
- Absentee/Mail ballot processing and counting procedures – [§ 101.68](#)
  - Signature verification can begin at 7 am 22 days before Election Day

- Counting can begin after the polls close on Election Day, and releasing the results early is a felony
- Spoiling/Replacement/Correction ballot restrictions
  - Voters can receive up to 2 replacement ballots if they make a mistake prior to the ballot being cast – [§ 101.031\(2\)](#)
  - For mail ballots, voters can receive a replacement ballot upon signing a sworn statement prior to 7 pm on the day of the election – [§ 101.6103\(4\)](#)
- Other:
  - Absentee ballot application deadlines: 10 days before the election at 5 pm, and election day at 7 pm if in-person or delivery by designee – [§ 101.62](#)
  - Mail ballots are mailed between the 20<sup>th</sup> day and the 10<sup>th</sup> day before the date of the election – [§ 101.6103\(1\)](#)
  - Certain small election can be conducted by mail – [§ 101.6102](#)
  - Candidates and their representatives are allowed to be present during mail-in ballot inspection by the public and may file protests with the canvassing board – [§ 101.572](#)

## In-Person Voter ID

- Photo ID requirements – [§ 101.043](#)
  - Picture IDs that are accepted:
    - FL driver's license
    - FL ID card issued by the Dept. of Highway Safety and Motor Vehicles
    - US passport
    - Debit or credit card
    - Military ID
    - Student ID
    - Retirement center ID
    - Neighborhood association ID
    - Public assistance ID
    - Veteran health ID card issued by the VA
    - License to carry a concealed weapon or firearm
    - Employee ID card issued by any branch, department, agency, or entity of the federal government, the state, a county, or a municipality
  - If the picture ID doesn't contain the signature of the elector, an additional ID that provides the elector's signature is required
- Options for voters without ID – [§ 101.043](#)
  - If the elector fails to furnish the required photo ID with signature, the elector can vote by provisional ballot

## Provisional Voting

- Provisional ballot availability – [§ 101.048](#)
  - Reasons voters can cast a provisional ballot

- Voter eligibility cannot be immediately established
  - Voter's eligibility is challenged by a poll watcher
  - Voter didn't present ID as required
  - Address and/or name has changed
- Time allotted to determine the status of provisional ballot – [§ 97.053\(6\)](#); [§ 101.048\(1\)](#)
  - Counted only if provides sufficient identification no later than 5 pm of the second day following the election
- Provisional ballot rejection reasons – [§ 101.048](#)
  - Provisional ballot is cast in the wrong precinct
  - Voter is not registered
- Method for informing voters whether provisional vote was counted – [§ 101.048\(7\)\(a\)](#)
  - Each election supervisor must establish a free access system that allows electors to determine whether their ballot was counted
- Other
  - Canvassing board determines the validity of the ballot by determining whether the elector is entitled to vote at the precinct where the ballot was cast and the elector had not already cast a ballot, and then compares the signature on the provisional ballot envelope with the signature in the voter registration records – [§ 101.043](#)
  - Election supervisor shall notify an elector as soon as practicable if the elector's signature isn't included or doesn't match the signature in the registration books or precinct register – [§ 101.048\(6\)\(a\)](#)

## Polling Place

- Polling Place availability and requirements – [§ 101.001](#); [§ 101.71](#)
- Electioneering or campaigning must not be closer than 100 feet to the entrance of the polling place – [§ 102.031\(4\)](#)
  - No person, political committee, committee of continuous existence, or other group or organization may solicit voters inside the polling place or within 100 ft of the polling place or polling room or early voting site (solicitation includes seeking or attempting to seek any vote, fact, opinion, or contribution; distributing or attempting to distribute any political or campaign material, leaflet, or handout; conducting a poll except as specified; seeking or attempting to seek a signature on any petition; and selling or attempting to sell any item).
- Poll watcher qualifications – [§ 101.131](#)
- Police presence
  - No sheriff, deputy sheriff, police officer, or other officer of the law shall be allowed within the polling place without permission from the clerk or a majority of the inspectors, except to cast their ballot – [§ 102.101](#)
  - No sheriff, deputy sheriff, police officer, or other law enforcement officer may be designated as a poll watcher – [§ 101.131\(3\)](#)
- Photography restrictions – [§ 102.031\(5\)](#)

- No photography is permitted in the polling room or early voting area, except an elector may photograph their own ballot

## State Emergency Rules and How Elections are Affected

- Governor, Election Canvassing Commission, and other election officials have authority to set rules and procedures for election emergencies
  - Election Canvassing Commission may adopt rules that allow overseas citizens an opportunity to vote in an emergency – [§ 101.698](#)
  - Supervisor of elections must designate a new polling place accessible to the public on election day and notice must be posted at the old polling place advising electors of the new location – [§ 101.71\(3\)](#)
  - Governor can delay and reschedule an election in consultation with secretary of state – [§ 101.733](#)
  - Division of Elections and Department of State must adopt an emergency contingency plan – [§ 101.733](#)
  - In case of an emergency, the supervisor of elections may establish a new polling place outside the precinct – [§ 101.74](#)
  - Municipalities can move the date of their elections to conform with the statewide or county election – [§ 101.75](#)
  - Polling place procedure manual must contain emergency procedures – [§ 102.014](#)
  - Deadline for submission of returns may be moved back by the Election Canvassing Commission in an emergency – [§ 102.112](#)
  - Governor can suspend regulatory statutes prescribing the conduct of state business and issue orders, and governor can modify election – [§ 252.36\(5\)\(a\)](#); [§ 101.733](#)
- Listed triggers for Emergency Rules – [§ 101.732\(3\)](#)
  - Any occurrence, or threat thereof, whether accidental, natural, or caused by human beings, in war or in peace, that results or may result in substantial injury or harm to the population or substantial damage to or loss of property to the extent it will prohibit an election officer's ability to conduct a safe and orderly election
- Explicit remedies in election statute
  - Delay election – [§ 101.733](#); [§ 101.75](#)
  - Relocate polling place – [§ 101.71\(3\)](#); [§ 101.74](#)
- All can vote by absentee ballot in state of emergency – [§ 101.698](#)
  - For national or local emergencies or other situations which make substantial compliance with the code for overseas voters impossible or unreasonable, the Elections Canvassing Commission can adopt emergency rules to facilitate absentee voting by those directly affected who are otherwise eligible to vote
- Voters can request replacement ballot in case of emergency
  - Voters can receive up to 2 replacement ballots if they make a mistake prior to the ballot being cast – [§ 101.031\(2\)](#)

- For mail ballots, voters can receive a replacement ballot upon signing a sworn statement prior to 7 pm on the day of the election – [§ 101.6103\(4\)](#)
- Other
  - Vote-by-mail ballot can be picked up by a voter or their family member before 7 pm on Election Day in case of a personal emergency – [§ 101.62\(4\)\(c\)](#)

## Counting Rules

- Voting system requirements
  - Standards – [§ 101.015](#)
  - Purchase and sale – [§ 101.294](#)
  - Examination and approval of equipment – [§ 101.5605](#)
  - Standards for accessible voting systems – [§ 101.56062](#)
  - Procedures for voting by electronic methods – [§ 101.5608](#)
- Counting procedures
  - Department of State adopts rules concerning counting, tabulating, and recording votes by voting systems – [§ 101.015\(3\)](#)
  - Canvass of returns – [§ 101.5614](#)

## Contest/Protest, Recount Rules

- Voter protesting – [§ 101.6104](#)
  - If any elector believes that any ballot is illegal, the elector may at any time before the ballot is removed from the envelope file a protest against the canvass of such ballot with the canvassing board – [§ 101.6104](#)
  - If an elector or candidate believes a vote-by-mail ballot is illegal, they may at any time before the ballot is removed from the envelope file a protest against the canvass of that ballot with the canvassing board – [§ 101.68\(2\)\(c\)4](#)
- Contest filing guidelines
  - Contest of petition – [§ 99.097\(5\)](#)
  - Contest of election – [§ 102.168](#)
- Challenging a candidate – [§ 102.168](#)
- Challenging a voter – [§ 101.048](#); [§ 101.68](#); [§ 102.168\(8\)](#)
- Automatic recount – [§ 102.141](#)
  - Automatic recount takes place where a candidate was defeated by ½ of 1% or less of the votes cast for that office, and the recount must be completed by the 9<sup>th</sup> day after the election
- Other
  - County officials canvass local election returns and transmit results to the Dept. of State by the 12<sup>th</sup> day following the election, and the governor and 2 members of the governor’s cabinet canvass and certify election results for state and federal offices on the 14<sup>th</sup> day after the election – [§ 102.111](#); [§ 102.112](#)

- Manual recounts of overvotes and undervotes – [§ 102.166](#)