

By: Menéndez, et al.

S.B. No. 40

A BILL TO BE ENTITLED

AN ACT

relating to early voting by mail by any qualified voter.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 13.002(e), Election Code, is amended to read as follows:

(e) Notwithstanding Section 82.005, a [A] person who is certified for participation in the address confidentiality program administered by the attorney general under Subchapter B, Chapter 58, Code of Criminal Procedure, is not eligible for early voting by mail ~~[under Section 82.007]~~ unless the person submits an application under this section by personal delivery. The secretary of state may adopt rules to implement this subsection.

SECTION 2. Section 82.005, Election Code, is amended to read as follows:

Sec. 82.005. ELIGIBILITY FOR EARLY VOTING ~~[BY PERSONAL APPEARANCE]~~. Any qualified voter is eligible for early voting by mail or personal appearance.

SECTION 3. Section 82.007, Election Code, is amended to read as follows:

Sec. 82.007. PARTICIPATION IN ADDRESS CONFIDENTIALITY PROGRAM. Notwithstanding Section 82.005, a [A] qualified voter who, ~~[is eligible for early voting by mail if:~~

~~(1) the voter submitted a registration application by personal delivery as required by Section 13.002(e), and~~

1 ~~[(2)]~~ at the time the voter's early voting ballot
2 application is submitted, ~~[the voter]~~ is certified for
3 participation in the address confidentiality program administered
4 by the attorney general under Subchapter B, Chapter 58, Code of
5 Criminal Procedure, is eligible for early voting by mail only if the
6 voter submitted a registration application by personal delivery as
7 required by Section 13.002(e).

8 SECTION 4. Section 84.001(a), Election Code, is amended to
9 read as follows:

10 (a) To be entitled to vote an early voting ballot by mail, a
11 person ~~[who is eligible for early voting]~~ must make an application
12 for an early voting ballot to be voted by mail as provided by this
13 title.

14 SECTION 5. Section 84.002(a), Election Code, is amended to
15 read as follows:

16 (a) An early voting ballot application must include:

17 (1) the applicant's name and the address at which the
18 applicant is registered to vote;

19 (2) for an application for a ballot to be voted by mail
20 by an applicant who will be absent from the applicant's ~~[on the~~
21 ~~ground of absence from the]~~ county of residence on election day, the
22 address outside the applicant's county of residence to which the
23 ballot is to be mailed;

24 (3) for an application for a ballot to be voted by mail
25 by an applicant who is 65 years of age or older on election day or
26 has a sickness or physical condition that requires the applicant to
27 reside in a hospital or nursing home or other long-term care

1 facility, or with a relative [~~on the ground of age or disability~~],
2 the address of the hospital, nursing home or other long-term care
3 facility, or retirement center, or of a person related to the
4 applicant within the second degree by affinity or the third degree
5 by consanguinity, as determined under Chapter 573, Government Code,
6 if the applicant is living at that address and that address is
7 different from the address at which the applicant is registered to
8 vote;

9 (4) for an application for a ballot to be voted by mail
10 by an applicant who is confined [~~on the ground of confinement~~] in
11 jail as described by Section 84.009(a), the address of the jail or
12 of a person related to the applicant within the degree described by
13 Subdivision (3); and

14 (5) [~~for an application for a ballot to be voted by~~
15 ~~mail on any ground,~~] an indication of each election for which the
16 applicant is applying for a ballot[~~, and~~

17 [~~(6) an indication of the ground of eligibility for~~
18 ~~early voting~~].

19 SECTION 6. Section 84.009, Election Code, is amended by
20 amending Subsection (a) and adding Subsection (b) to read as
21 follows:

22 (a) This section applies only to an applicant who, at the
23 time the application for a ballot to be voted by mail is submitted,
24 is confined in jail:

25 (1) serving a misdemeanor sentence for a term that
26 ends on or after election day;

27 (2) pending trial after denial of bail;

1 (3) without bail pending an appeal of a felony
2 conviction; or

3 (4) pending trial or appeal on aailable offense for
4 which release on bail before election day is unlikely.

5 (b) On request of the applicant, an application for a ballot
6 to be voted by mail [~~on the ground of confinement in jail~~] may be
7 submitted to the early voting clerk, at the discretion of the
8 authority in charge of the jail, by personal delivery by the jail
9 authority or by a designated subordinate of the authority.

10 SECTION 7. Section 84.011(a), Election Code, is amended to
11 read as follows:

12 (a) The officially prescribed application form for an early
13 voting ballot must include:

14 (1) immediately preceding the signature space the
15 statement: "I certify that the information given in this
16 application is true, and I understand that giving false information
17 in this application is a crime.";

18 (2) a statement informing the applicant of the
19 offenses prescribed by Sections 84.003 and 84.004;

20 (3) spaces for entering an applicant's voter
21 registration number and county election precinct of registration,
22 with a statement informing the applicant that failure to furnish
23 that information does not invalidate the application; and

24 (4) on an application for a ballot to be voted by mail:

25 (A) a space for an applicant [~~applying on the~~
26 ~~ground of absence from the county of residence~~] to indicate whether
27 the applicant will be absent from the applicant's county of

1 residence on election day and, if applicable, the date on or after
2 which the applicant can receive mail at the address outside the
3 county;

4 (B) a space for indicating the fact that an
5 applicant whose application is signed by a witness cannot make the
6 applicant's mark and a space for indicating the relationship or
7 lack of relationship of the witness to the applicant;

8 (C) a space for entering an applicant's telephone
9 number, with a statement informing the applicant that failure to
10 furnish that information does not invalidate the application;

11 (D) a space or box for an applicant who is 65
12 years of age or older on election day or has a sickness or physical
13 condition that requires the applicant to reside in a hospital or
14 nursing home or other long-term care facility, or with a relative,
15 ~~[applying on the ground of age or disability]~~ to indicate that the
16 address to which the ballot is to be mailed is the address of a
17 facility or relative described by Section 84.002(a)(3), if
18 applicable;

19 (E) a space or box for an applicant confined
20 ~~[applying on the ground of confinement]~~ in jail as described by
21 Section 84.009(a) to indicate that the address to which the ballot
22 is to be mailed is the address of a relative described by Section
23 84.002(a)(4), if applicable;

24 (F) a space for an applicant ~~[applying on the~~
25 ~~ground of age or disability]~~ to indicate if the application is an
26 application under Section 86.0015;

27 (G) spaces for entering the signature, printed

1 name, and residence address of any person assisting the applicant;

2 (H) a statement informing the applicant of the
3 condition prescribed by Section 81.005; and

4 (I) a statement informing the applicant of the
5 requirement prescribed by Section 86.003(c).

6 SECTION 8. Sections 86.001(b) and (c), Election Code, are
7 amended to read as follows:

8 (b) If the application complies with the applicable
9 requirements prescribed by this title [~~applicant is entitled to~~
10 ~~vote an early voting ballot by mail~~], the clerk shall provide an
11 official ballot to the applicant as provided by this chapter.

12 (c) Except as provided by Section 86.008, if the applicant
13 is not entitled to vote in the election [~~by mail~~], the clerk shall
14 reject the application, enter on the application "rejected" and the
15 reason for and date of rejection, and deliver written notice of the
16 reason for the rejection to the applicant at both the residence
17 address and mailing address on the application. A ballot may not be
18 provided to an applicant whose application is rejected.

19 SECTION 9. Section 86.0015(a), Election Code, is amended to
20 read as follows:

21 (a) This section applies only to an application for a ballot
22 to be voted by mail that [+

23 [~~(1) indicates the ground of eligibility is age or~~
24 ~~disability, and~~

25 [~~(2)~~] does not specify the election for which a ballot
26 is requested or has been marked by the applicant as an application
27 for more than one election.

1 SECTION 10. Section 86.003(c), Election Code, is amended to
2 read as follows:

3 (c) The address to which the balloting materials must be
4 addressed is the address at which the voter is registered to vote,
5 or the registered mailing address if different, unless the
6 application to vote early by mail indicates that the voter [~~ground~~
7 ~~for voting by mail is~~]:

8 (1) will be absent from the voter's [~~absence from the~~
9 county of residence on election day, in which case the address must
10 be an address outside the voter's county of residence;

11 (2) is confined [~~confinement~~] in jail as described by
12 Section 84.009(a), in which case the address must be the address of
13 the jail or of a relative described by Section 84.002(a)(4); or

14 (3) is 65 years of age or older on election day or has a
15 sickness or physical condition that requires the applicant to
16 reside in a hospital or nursing home or other long-term care
17 facility, or with a relative, [~~age or disability~~] and [~~the voter~~] is
18 living at a hospital, nursing home or other long-term care
19 facility, or retirement center, or with a relative described by
20 Section 84.002(a)(3), in which case the address must be the address
21 of that facility or relative.

22 SECTION 11. Section 86.004(b), Election Code, is amended to
23 read as follows:

24 (b) For an election to which Section 101.104 applies, the
25 balloting materials for a voter who indicates on the application
26 for a ballot to be voted by mail or the federal postcard application
27 that the voter seeks [~~is eligible~~] to vote early by mail as a

1 consequence of the voter's being outside the United States shall be
2 mailed on or before the later of the 45th day before election day or
3 the seventh calendar day after the date the clerk receives the
4 application. However, if it is not possible to mail the ballots by
5 the deadline of the 45th day before election day, the clerk shall
6 notify the secretary of state within 24 hours of knowing that the
7 deadline will not be met. The secretary of state shall monitor the
8 situation and advise the clerk, who shall mail the ballots as soon
9 as possible in accordance with the secretary of state's guidelines.

10 SECTION 12. Section 87.041(b), Election Code, is amended to
11 read as follows:

12 (b) A ballot may be accepted only if:

13 (1) the carrier envelope certificate is properly
14 executed;

15 (2) neither the voter's signature on the ballot
16 application nor the signature on the carrier envelope certificate
17 is determined to have been executed by a person other than the
18 voter, unless signed by a witness;

19 ~~(3) [the voter's ballot application states a legal
20 ground for early voting by mail,~~

21 ~~[(4)]~~ the voter is registered to vote, if registration
22 is required by law;

23 (4) ~~[(5) the address to which the ballot was mailed
24 to the voter, as indicated by the application, was outside the
25 voter's county of residence, if the ground for early voting is
26 absence from the county of residence,~~

27 ~~[(6)]~~ for a voter to whom a statement of residence form

1 was required to be sent under Section 86.002(a), the statement of
2 residence is returned in the carrier envelope and indicates that
3 the voter satisfies the residence requirements prescribed by
4 Section 63.0011; and

5 (5) [~~(7)~~] the address to which the ballot was mailed
6 to the voter is an address [~~that is otherwise~~] required by Sections
7 84.002 and 86.003.

8 SECTION 13. Section 102.001(a), Election Code, is amended
9 to read as follows:

10 (a) A qualified voter is eligible to vote a late ballot as
11 provided by this chapter if the voter has a sickness or physical
12 condition [~~described by Section 82.002~~] that prevents the voter
13 from appearing at the polling place on election day without a
14 likelihood of needing personal assistance or of injuring the
15 voter's health and originates on or after the day before the last
16 day for submitting an application for a ballot to be voted by mail.

17 SECTION 14. Sections 82.001, 82.002, 82.003, 82.004,
18 84.002(b), and 112.002(b), Election Code, are repealed.

19 SECTION 15. The changes in law made by this Act apply only
20 to an election ordered on or after September 1, 2021.

21 SECTION 16. This Act takes effect September 1, 2021.