

By: Buckingham

S.B. No. 1535

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the practices and procedures related to early voting by
3 mail, including the participation of watchers; modifying and
4 increasing criminal penalties.

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

6 SECTION 1. Section 33.004(b), Election Code, is amended to
7 read as follows:

8 (b) To be eligible to participate in the appointment under
9 this section of a watcher for a precinct polling place, ~~[a person
10 must be a registered voter of the precinct. To be eligible to
11 participate in the appointment under this section of a watcher for]~~
12 an early voting polling place, a countywide polling place, the
13 meeting place of an early voting ballot board or signature
14 verification committee, or a central counting station, a person
15 must be a registered voter of the territory served by that facility.

16 SECTION 2. Section 33.006(b), Election Code, is amended to
17 read as follows:

18 (b) A certificate of appointment must:

19 (1) be in writing and signed by the appointing
20 authority or, for an appointment for a write-in candidate under
21 Section 33.004, by each of the voters making the appointment;

22 (2) indicate the capacity in which the appointing
23 authority is acting;

24 (3) state the name, residence address, and voter

1 registration number of the appointee and be signed by the
2 appointee;

3 (4) identify the election and the precinct polling
4 place or other location at which the appointee is to serve;

5 (5) in an election on a measure, identify the measure
6 if more than one is to be voted on and state which side of the
7 measure the appointee represents; and

8 (6) contain an affidavit executed by the appointee
9 stating that the appointee will not use [~~have possession of~~] a
10 device capable of recording images or sound [~~or that the appointee~~
11 ~~will disable or deactivate the device~~] while serving as a watcher,
12 except as provided by Section 61.014(b).

13 SECTION 3. Section 33.007(a), Election Code, is amended to
14 read as follows:

15 (a) Each appointing authority may appoint not more than two
16 watchers for each precinct polling place, meeting place for an
17 early voting ballot board or signature verification committee, or
18 central counting station involved in the election.

19 SECTION 4. Section 33.051(a), Election Code, is amended to
20 read as follows:

21 (a) A watcher appointed to serve at a precinct polling
22 place, a meeting place for an early voting ballot board or signature
23 verification committee, or a central counting station must deliver
24 a certificate of appointment to the presiding judge at the time the
25 watcher reports for service. A watcher appointed to serve at an
26 early voting polling place must deliver a certificate of
27 appointment to the early voting clerk or deputy clerk in charge of

1 the polling place when the watcher first reports for service.

2 SECTION 5. Section 33.054, Election Code, is amended to
3 read as follows:

4 Sec. 33.054. HOURS OF SERVICE AT MEETING OF EARLY VOTING
5 BALLOT BOARD OR SIGNATURE VERIFICATION COMMITTEE [~~MEETING~~]. (a) A
6 watcher serving at the meeting place of an early voting ballot board
7 or signature verification committee may be present at any time the
8 board or committee is processing or counting ballots and until the
9 board or committee completes its duties. The watcher may serve
10 during the hours the watcher chooses, except as provided by
11 Subsection (b).

12 (b) A watcher serving at the meeting place of an early
13 voting ballot board may not leave during voting hours on election
14 day without the presiding judge's permission if the board has
15 recorded any votes cast on voting machines or counted any ballots,
16 unless the board has completed its duties and has been dismissed by
17 the presiding judge.

18 SECTION 6. Section 33.060(a), Election Code, is amended to
19 read as follows:

20 (a) On request of a watcher, an election officer who
21 delivers election records from a precinct polling place, an early
22 voting polling place, a meeting place for an early voting ballot
23 board or signature verification committee, or a central counting
24 station shall permit the watcher appointed to serve at that
25 location to accompany the officer in making the delivery.

26 SECTION 7. Section 61.014(b), Election Code, is amended to
27 read as follows:

1 (b) A person, other than a watcher solely recording the
2 counting of ballots, may not use any mechanical or electronic means
3 of recording images or sound within 100 feet of a voting station.

4 SECTION 8. Section 64.036(d), Election Code, is amended to
5 read as follows:

6 (d) An offense under this section is a state jail felony
7 [~~Class A misdemeanor~~].

8 SECTION 9. Sections 82.002(a) and (b), Election Code, are
9 amended to read as follows:

10 (a) A qualified voter is eligible for early voting by mail
11 if the voter cannot appear at the polling place during the early
12 voting period and on election day without assistance due to:

- 13 (1) illness;
14 (2) injury;
15 (3) medical confinement as directed by a health care
16 professional; or

17 (4) mental or physical impairment [~~has a sickness or~~
18 ~~physical condition that prevents the voter from appearing at the~~
19 ~~polling place on election day without a likelihood of needing~~
20 ~~personal assistance or of injuring the voter's health~~].

21 (b) An application for a ballot to be voted by mail under
22 Subsections (a)(1) through (3) must include or be accompanied by a
23 certificate of a licensed physician or chiropractor or accredited
24 Christian Science practitioner in substantially the following
25 form:

26 "This is to certify that I personally know that
27 _____ has a sickness or physical condition that will prevent

1 him or her from appearing at a polling place without a likelihood of
2 needing personal assistance or of injuring his or her health.

3 "Witness my hand at _____, Texas, this _____
4 day of _____, 20_____.

5 _____
6 (signature of physician,
7 chiropractor, or practitioner)

8 _____
9 (printed name of physician,
10 chiropractor, or practitioner)"

11 ~~[Expected or likely confinement for childbirth on election day is~~
12 ~~sufficient cause to entitle a voter to vote under Subsection (a)].~~

13 SECTION 10. Chapter 82, Election Code, is amended by adding
14 Section 82.008 to read as follows:

15 Sec. 82.008. GUIDANCE ON ELIGIBILITY. (a) A public
16 official may not issue a communication concerning eligibility for
17 early voting by mail without approval from the secretary of state.

18 (b) The secretary of state may direct a public official to
19 use a preapproved communication under Subsection (e).

20 (c) A public official who issues a communication without
21 approval under Subsection (a) shall:

- 22 (1) retract the communication; and
23 (2) provide an alternative approved communication in
24 the same manner as the unapproved communication was provided.

25 (d) A violation of this section is enforceable exclusively
26 through a petition for a writ of mandamus under Section 273.061.

27 (e) The secretary of state may prescribe approved

1 communications regarding eligibility for early voting by mail. A
2 public official who issues these communications without
3 modification or addition is considered to be issuing an approved
4 communication.

5 SECTION 11. Sections 84.001(b) and (c), Election Code, are
6 amended to read as follows:

7 (b) An application must be in writing and signed in ink by
8 the applicant. An electronic or photocopied signature is not
9 permitted.

10 (c) An applicant is [~~not~~] required to use an official
11 application form.

12 SECTION 12. Section 84.002, Election Code, is amended by
13 adding Subsection (c) to read as follows:

14 (c) An application may not be accepted if the application
15 was provided to the voter with the grounds for eligibility already
16 marked.

17 SECTION 13. The heading to Section 84.004, Election Code,
18 is amended to read as follows:

19 Sec. 84.004. UNLAWFULLY ASSISTING OR WITNESSING
20 APPLICATION FOR MORE THAN ONE APPLICANT.

21 SECTION 14. Sections 84.004(a), (b), and (c), Election
22 Code, are amended to read as follows:

23 (a) A person commits an offense if:

24 (1) the person signs an application for a ballot to be
25 voted by mail as a witness for more than one applicant in the same
26 election; [~~or~~]

27 (2) the person assists more than one applicant, in the

1 applicant's presence, in completing an early voting ballot
2 application for the same election; or

3 (3) the person signs an application for annual ballots
4 by mail as a witness for more than one applicant in the same
5 calendar year.

6 (b) It is an exception to the application of Subsection (a)
7 that the person [~~signed early voting ballot applications for more~~
8 ~~than one applicant~~]:

9 (1) acted as an early voting clerk or deputy early
10 voting clerk; or

11 (2) [~~and the person~~] is related to the additional
12 applicants as a parent, grandparent, spouse, child, or sibling.

13 (c) An application made in [A] violation of this section is
14 not valid [~~does not affect the validity of an application involved~~
15 ~~in the offense~~].

16 SECTION 15. Section 84.012, Election Code, is amended to
17 read as follows:

18 Sec. 84.012. CLERK TO MAIL APPLICATION FORM ON REQUEST. (a)
19 The early voting clerk shall mail without charge an appropriate
20 official application form for an early voting ballot to each
21 applicant requesting the clerk to send the applicant an application
22 form.

23 (b) The early voting clerk may only mail an application form
24 to a voter if:

25 (1) the voter requests an application form; or

26 (2) the clerk confirms that the voter is eligible for
27 early voting by mail on the grounds of age.

1 SECTION 16. Section 84.031, Election Code, is amended by
2 amending Subsection (b) and adding Subsection (c) to read as
3 follows:

4 (b) A person whose application is canceled by returning the
5 person's ballot in accordance with Section 84.032, if otherwise
6 eligible, may vote in the same manner as if the application had not
7 been submitted.

8 (c) A person whose application is canceled in any other
9 manner may cast a provisional ballot under Section 63.011.

10 SECTION 17. Section 84.032, Election Code, is amended by
11 amending Subsection (c) and adding Subsections (g), (h), and (i) to
12 read as follows:

13 (c) An applicant may submit a request after the close of
14 early voting by personal appearance by appearing in person and:

15 (1) returning the ballot to be voted by mail to the
16 early voting clerk; or

17 (2) executing an affidavit that the applicant:

18 (A) has not received the ballot to be voted by
19 mail; ~~or~~

20 (B) never requested a ballot to be voted by mail;
21 or

22 (C) received notice of a defect under Section
23 87.028(b) or 87.0411(b).

24 (g) The early voting clerk shall deliver each request for
25 cancellation to the early voting ballot board to ensure a canceled
26 ballot is not counted.

27 (h) The early voting clerk and presiding election judge

1 shall keep a log of each ballot returned and shall provide a copy of
2 the log to the early voting ballot board to ensure that the canceled
3 ballot is not counted in the election. Returned ballots must be kept
4 in a secure container with a chain of custody maintained by the
5 early voting clerk.

6 (i) The log under Subsection (h) shall include for each
7 entry:

8 (1) the voter's name;

9 (2) an identification number unique to the voter;

10 (3) the voter's signature; and

11 (4) the date and time the application was returned.

12 SECTION 18. Section 84.033, Election Code, is amended by
13 adding Subsection (e) to read as follows:

14 (e) The election officer shall electronically submit a
15 record to the secretary of state of each application canceled in a
16 primary, a runoff primary, a general election, or any special
17 election ordered by the governor on the day the application is
18 canceled.

19 SECTION 19. Section 86.001(a), Election Code, is amended to
20 read as follows:

21 (a) The early voting clerk shall review each application for
22 a ballot to be voted by mail and verify the eligibility of the
23 applicant to vote by mail.

24 SECTION 20. Chapter 86, Election Code, is amended by adding
25 Section 86.0011 to read as follows:

26 Sec. 86.0011. SIGNATURE VERIFICATION. (a) Consistent with
27 guidance and training from the secretary of state, the early voting

1 clerk or early voting ballot board, as appropriate, shall compare
2 the signature on each voter's ballot application, except those
3 signed for a voter by a witness, with the signature on the voter's
4 voter registration application to determine whether the signatures
5 are those of the voter. The clerk or board may also compare the
6 signatures with any two or more signatures of the voter made within
7 the preceding six years and on file with the county clerk or voter
8 registrar to determine whether the signatures are those of the
9 voter. Except as provided by Subsection (b), a determination under
10 this subsection by an early voting ballot board that the signature
11 on the application is not that of the voter must be made by a
12 majority vote of the board's membership. The board shall place the
13 applications of voters whose signatures are not those of the voter
14 in separate containers from those of voters whose signatures are
15 those of the voter. The presiding judge or chair, as applicable,
16 shall deliver the accepted applications to the early voting clerk
17 for processing under Section 86.001. All other applications
18 reviewed by the early voting ballot board shall be processed under
19 Section 86.0012.

20 (b) If more than 12 members are appointed to serve on the
21 early voting ballot board, as applicable, the early voting clerk
22 may designate two or more subcommittees of not less than six
23 members. If subcommittees have been designated, a determination
24 under Subsection (a) is made by a majority of the subcommittee.

25 (c) If ballot materials or ballot applications are recorded
26 electronically as provided by Section 87.126, the early voting
27 ballot board may use an electronic copy of a signature or the

1 voter's ballot application in making the comparison under
2 Subsection (a).

3 (d) While the board is reviewing signatures, an equal number
4 of members from each political party that submitted names under
5 Section 87.002(c) shall be present to the extent practicable.

6 (e) If a signature verification committee has been
7 appointed under Section 87.027, the signature verification
8 committee performs the duties assigned by this section to the early
9 voting ballot board.

10 SECTION 21. Chapter 86, Election Code, is amended by adding
11 Section 86.0012 to read as follows:

12 Sec. 86.0012. OPPORTUNITY TO CORRECT APPLICATION DEFECT.

13 (a) This section applies to an early voting ballot application
14 that:

15 (1) the voter did not sign, unless the application was
16 signed by a witness;

17 (2) cannot immediately be determined to contain the
18 signature of the voter;

19 (3) is missing any required information; or

20 (4) contains incomplete information concerning a
21 witness.

22 (b) Before rejecting a timely delivered application, the
23 early voting clerk or early voting ballot board, as appropriate,
24 may:

25 (1) return the application to the voter by mail, if the
26 clerk or board determines that it would be possible to correct the
27 defect and return the application by the deadline under Section

1 84.007;

2 (2) notify the voter of the defect by telephone or
3 e-mail and inform the voter that the voter may submit a new
4 application before the deadline under Section 84.007; or

5 (3) if the defect is related to the voter's signature,
6 notify the voter that the voter may either appear in person and
7 present an acceptable form of identification under Section 63.0101
8 to sign the application in the presence of the early voting clerk or
9 submit a copy of an acceptable form of identification described by
10 Section 63.0101 with a new or corrected application submitted by
11 mail.

12 (c) The early voting clerk or early voting ballot board may
13 not resolve the defect in a manner not described by Subsection (b),
14 including in-person visits to the voter at a location other than the
15 early voting clerk's office, or communication that is entirely
16 electronic or telephonic.

17 (d) The early voting clerk shall keep a log of all
18 applications corrected under this section, which shall include:

- 19 (1) the name of the voter;
- 20 (2) an identification number unique to the voter;
- 21 (3) the voter's signature;
- 22 (4) the date and time the application was received;

23 and

- 24 (5) the action taken under Subsection (b).

25 (e) If a new or corrected application is submitted under
26 Subsection (b)(3), the signature on the application shall be
27 accepted as that of the voter, and a copy of the signature shall be

1 retained by the early voting clerk for use in future elections.

2 (f) A poll watcher is entitled to observe any action taken
3 under Subsection (b).

4 (g) The secretary of state may prescribe procedures
5 necessary to implement this section.

6 SECTION 22. Section 86.0015(a), Election Code, is amended
7 to read as follows:

8 (a) This section applies only to an application for a ballot
9 to be voted by mail that:

10 (1) ~~[indicates the ground of eligibility is age or~~
11 ~~disability; and~~

12 [~~2~~] does not specify the election for which a ballot
13 is requested or has been marked by the applicant as an application
14 for more than one election; and

15 (2) contains an attestation that the voter:

16 (A) is not less than 65 years of age; or

17 (B) has a mental or physical impairment under
18 Section 82.002(a)(4) that:

19 (i) will persist for not less than one
20 calendar year; and

21 (ii) is supported by written documentation
22 under Section 13.002(i)(1).

23 SECTION 23. Section 86.009(e), Election Code, is amended to
24 read as follows:

25 (e) A voter's defective ballot that is timely returned to
26 the clerk as a marked ballot shall be treated as:

27 (1) a marked ballot not timely returned if the

1 corrected ballot is timely returned as a marked ballot by the close
2 of the polls on election day; or

3 (2) as the voter's ballot for the election if the
4 corrected ballot is not timely returned by the close of the polls on
5 election day.

6 SECTION 24. Section 86.010, Election Code, is amended by
7 amending Subsections (d) and (e) and adding Subsections (k) and (l)
8 to read as follows:

9 (d) A voter's ballot may not be counted if:

10 (1) the [If a] voter is assisted in violation of this
11 section; or

12 (2) a person who assists the voter to prepare a ballot
13 to be voted by mail fails to comply with Subsection (e)[, the
14 voter's ballot may not be counted].

15 (e) A person who assists a voter to prepare a ballot to be
16 voted by mail shall enter the person's signature, printed name,
17 [~~and~~] residence address, relationship to the voter, and the manner
18 in which the person assisted the voter on the official carrier
19 envelope of the voter.

20 (k) An employee of a state licensed care facility who
21 commits an offense under this section involving a voter who resides
22 in that facility shall be added to the employee misconduct registry
23 established under Section 253.007, Health and Safety Code.

24 (l) The text of the oath under Subsection (c) shall read as
25 follows:

26 "I swear (or affirm) that:

27 "I will not suggest, by word, sign, or gesture,

1 how the voter should vote;

2 "I will confine my assistance to answering the
3 voter's questions, to stating propositions on the ballot, and to
4 naming candidates and, if listed, their political parties;

5 "I will prepare the voter's ballot as the voter
6 directs;

7 "I am not the voter's employer, an agent of the
8 voter's employer, or an officer or agent of a labor union to which
9 the voter belongs; and

10 "I have not been compensated for assisting the
11 voter.

12 "I understand that if I violate these requirements, I am
13 committing a criminal offense."

14 SECTION 25. Section 86.013(b), Election Code, is amended to
15 read as follows:

16 (b) Spaces must appear on the reverse side of the official
17 carrier envelope for:

18 (1) indicating the identity and date of the election;
19 [~~and~~]

20 (2) entering the signature, printed name, and
21 residence address of a person other than the voter who deposits the
22 carrier envelope in the mail or with a common or contract carrier;
23 and

24 (3) indicating the manner of any assistance provided
25 by a person assisting the voter, and the relationship of that person
26 to the voter.

27 SECTION 26. Section 87.002, Election Code, is amended to

1 read as follows:

2 Sec. 87.002. COMPOSITION OF BOARD. (a) The early voting
3 ballot board consists of a presiding judge, an alternate presiding
4 judge, and at least two other members.

5 (b) Except as provided by Subsection (d), the presiding
6 judge and the alternate presiding judge are [~~is~~] appointed in the
7 same manner as a presiding election judge under Section 32.002.
8 Except as provided by Subsection (c), the other members are
9 appointed by the presiding judge in the same manner as the precinct
10 election clerks.

11 (c) In the general election for state and county officers,
12 each county chair of a political party with nominees on the general
13 election ballot shall submit to the county election board a list of
14 names of persons eligible to serve on the early voting ballot board.
15 The county election board shall appoint at least one person from
16 each list to serve as a member of the early voting ballot board. The
17 same number of members must be appointed from each list. If a county
18 chair does not submit a list, the state chair of the political party
19 shall, not later than the fifth day after being notified in writing
20 of the county chair's failure to submit a list, submit the list.

21 (d) In addition to the members appointed under Subsection
22 (c), the county election board shall appoint the presiding judge
23 from the list provided under that subsection by the political party
24 whose nominee for governor received the most votes in the county in
25 the most recent gubernatorial general election and the alternate
26 presiding judge from the list provided under that subsection by the
27 political party whose nominee for governor received the second most

1 votes in the county in the most recent gubernatorial election.

2 SECTION 27. Section 87.027, Election Code, is amended by
3 amending Subsections (a-1), (d), and (i) and adding Subsection (n)
4 to read as follows:

5 (a-1) A signature verification committee shall be appointed
6 in the general election for state and county officers on submission
7 to the early voting clerk of a written request for the committee by
8 at least 15 registered voters of the county. The request must be
9 submitted not later than the preceding August [~~October~~] 1, and a
10 request submitted by mail is considered to be submitted at the time
11 of its receipt by the clerk.

12 (d) The early voting clerk shall determine the number of
13 members who are to compose the signature verification committee and
14 shall state that number in the order calling for the committee's
15 appointment. A committee must consist of not fewer than five
16 members. In an election in which party alignment is indicated on the
17 ballot, each county chair of a political party with a nominee or
18 aligned candidate on the ballot shall submit to the appointing
19 authority a list of names of persons eligible to serve on the
20 signature verification committee. The authority shall appoint at
21 least two persons from each list to serve as members of the
22 committee. The same number of members must be appointed from each
23 list. The authority shall appoint the chair of the committee from
24 the list provided by the political party whose nominee for governor
25 received the most votes in the county in the most recent
26 gubernatorial general election. The authority shall also appoint a
27 vice chair of the committee from the list provided by the political

1 party whose nominee for governor received the second most votes in
2 the county in the most recent gubernatorial general election. If a
3 county chair does not submit a list, the state chair of the
4 political party shall, not later than the fifth day after being
5 notified in writing of the county chair's failure to submit a list,
6 submit the list. A vacancy on the committee shall be filled by
7 appointment from the original list or from a new list submitted by
8 the appropriate county chair.

9 (i) Consistent with guidance and training from the
10 secretary of state, the [The] signature verification committee
11 shall compare the signature on each carrier envelope certificate,
12 except those signed for a voter by a witness, with the signature on
13 the voter's ballot application to determine whether the signatures
14 are those of the voter. The committee may also compare the
15 signatures with any two or more signatures of the voter made within
16 the preceding six years and on file with the county clerk or voter
17 registrar to determine whether the signatures are those of the
18 voter. Except as provided by Subsection (l), a determination under
19 this subsection that the signatures are not those of the voter must
20 be made by a majority vote of the committee's membership. If a tie
21 vote of the committee's membership occurs, the committee chair
22 shall determine whether the signatures are those of the voter and
23 affix the committee chair's determination and signature to the
24 carrier envelope. The committee shall place the jacket envelopes,
25 carrier envelopes, and applications of voters whose signatures are
26 not those of the voter in separate containers from those of voters
27 whose signatures are those of the voter. The committee chair shall

1 deliver the sorted materials to the early voting ballot board at the
2 time specified by the board's presiding judge.

3 (n) While the committee is reviewing signatures, an equal
4 number of committee members from each political party that
5 submitted names under Section 87.002(c) shall be present to the
6 extent practicable.

7 SECTION 28. Subchapter B, Chapter 87, Election Code, is
8 amended by adding Section 87.028 to read as follows:

9 Sec. 87.028. OPPORTUNITY TO CORRECT DEFECT: SIGNATURE
10 VERIFICATION COMMITTEE. (a) This section applies to an early voting
11 ballot voted by mail that:

12 (1) has a carrier envelope certificate that:

13 (A) the voter did not sign; or

14 (B) cannot immediately be determined to contain
15 the signature of the voter;

16 (2) is missing a required statement of residence; or

17 (3) contains incomplete information concerning a
18 witness or assistant.

19 (b) Before rejecting a timely delivered ballot under
20 Section 87.027, the signature verification committee may:

21 (1) return the carrier envelope to the voter by mail,
22 if the signature verification committee determines that it would be
23 possible to correct the defect and return the carrier envelope
24 before the time the polls are required to close on election day; or

25 (2) notify the voter of the defect by telephone or
26 e-mail and inform the voter that the voter may come to the early
27 voting clerk's office in person before the time the polls are

1 required to close on election day and present an acceptable form of
2 identification under Section 63.0101 to:

3 (A) correct the defect; or

4 (B) request to have the voter's application to
5 vote by mail canceled under Section 84.032.

6 (c) The signature verification committee may not resolve
7 the defect in a manner not described by Subsection (b), including
8 in-person visits to the voter at a location other than the early
9 voting clerk's office, or communication that is entirely electronic
10 or telephonic.

11 (d) The early voting clerk shall maintain a log of all
12 ballots corrected under this section, which shall include:

13 (1) the name of the voter;

14 (2) an identification number unique to the voter;

15 (3) the voter's signature;

16 (4) the date and time the ballot was received; and

17 (5) the action taken under Subsection (b).

18 (e) A poll watcher is entitled to observe any action taken
19 under Subsection (b).

20 (f) The secretary of state may prescribe procedures
21 necessary to implement this section.

22 SECTION 29. Section 87.041, Election Code, is amended by
23 adding Subsections (b-1) and (h) to read as follows:

24 (b-1) A ballot sent to an applicant following submission of
25 a federal postcard application under Chapter 101 may not be
26 accepted if it is determined after sending the ballot to the
27 applicant that the applicant was not eligible to be registered with

1 the information provided on the application.

2 (h) A poll watcher accepted for service under Chapter 33 may
3 challenge the acceptance of any early voting ballot voted by mail
4 under this section by bringing attention of an irregularity or a
5 violation of law to a chair of the early voting ballot board, who
6 shall resolve the challenge by majority vote of the early voting
7 ballot board.

8 SECTION 30. Subchapter C, Chapter 87, Election Code, is
9 amended by adding Section 87.0411 to read as follows:

10 Sec. 87.0411. OPPORTUNITY TO CORRECT DEFECT: EARLY VOTING
11 BALLOT BOARD. (a) This section applies to an early voting ballot
12 voted by mail that:

13 (1) has a carrier envelope certificate that:

14 (A) the voter did not sign; or

15 (B) cannot immediately be determined to contain
16 the signature of the voter;

17 (2) is missing a required statement of residence; or

18 (3) contains incomplete information concerning a
19 witness or assistant.

20 (b) Before rejecting a timely delivered ballot under
21 Section 87.041, the early voting ballot board may:

22 (1) return the carrier envelope to the voter by mail,
23 if the early voting ballot board determines that it would be
24 possible to correct the defect and return the carrier envelope
25 before the time the polls are required to close on election day; or

26 (2) notify the voter of the defect by telephone or
27 e-mail and inform the voter that the voter may come to the early

1 voting clerk's office in person before the time the polls are
2 required to close on election day and present an acceptable form of
3 identification under Section 63.0101 to:

4 (A) correct the defect; or

5 (B) request to have the voter's application to
6 vote by mail canceled under Section 84.032.

7 (c) The early voting ballot board may not resolve the defect
8 in a manner not described by Subsection (b), including in-person
9 visits to the voter at a location other than the early voting
10 clerk's office, or communication that is entirely electronic or
11 telephonic.

12 (d) The early voting clerk shall maintain a log of all
13 ballots corrected under this section, which shall include:

14 (1) the name of the voter;

15 (2) an identification number unique to the voter;

16 (3) the voter's signature;

17 (4) the date and time the ballot was received; and

18 (5) the action taken under Subsection (b).

19 (e) A poll watcher is entitled to observe any action taken
20 under Subsection (b).

21 (f) The secretary of state may prescribe procedures
22 necessary to implement this section.

23 SECTION 31. Section 87.042(b), Election Code, is amended to
24 read as follows:

25 (b) The [~~Except as provided by Subsection (c), the~~] board
26 shall place the ballot envelope containing an accepted ballot in a
27 separate container from the ballot box containing the early voting

1 ballots voted by personal appearance.

2 SECTION 32. Sections 87.062(a) and (c), Election Code, are
3 amended to read as follows:

4 (a) On the direction of the presiding judge, the early
5 voting ballot board, in accordance with Section 85.032(b), shall
6 open the containers [~~container~~] for the early voting ballots that
7 are to be counted by the board, remove the contents from the
8 containers [~~container~~], and remove any ballots enclosed in ballot
9 envelopes from their envelopes.

10 (c) Ballots voted by mail shall be tabulated separately from
11 ballots voted by personal appearance and shall be separately
12 reported on the returns [~~The results of all early voting ballots~~
13 ~~counted by the board under this subchapter shall be included in the~~
14 ~~same return~~].

15 SECTION 33. Section 87.103, Election Code, is amended to
16 read as follows:

17 Sec. 87.103. COUNTING BALLOTS AND PREPARING RETURNS. (a)
18 The early voting electronic system ballots counted at a central
19 counting station, the ballots cast at a precinct polling place, and
20 the ballots voted by mail shall be tabulated separately [~~from the~~
21 ~~ballots cast at precinct polling places~~] and shall be separately
22 reported on the returns.

23 (b) The early voting returns prepared at the central
24 counting station must include any early voting results obtained by
25 the early voting ballot board under Subchapter [~~Subchapters~~] D [~~and~~
26 ~~E~~].

27 SECTION 34. Section 87.126, Election Code, is amended by

1 adding Subsection (c) to read as follows:

2 (c) Electronic records made under this section shall record
3 both sides of any application, envelope, or ballot recorded, and
4 all such records shall be provided to the early voting ballot board,
5 the signature verification committee, or both.

6 SECTION 35. Section 101.001, Election Code, is amended to
7 read as follows:

8 Sec. 101.001. ELIGIBILITY. A person is eligible for early
9 voting by mail as provided by this chapter if:

10 (1) the person is qualified to vote in this state or,
11 if not registered to vote in this state, would be qualified if
12 registered; and

13 (2) the person is:

14 (A) a member of the armed forces of the United
15 States, or the spouse or a dependent of a member;

16 (B) a member of the merchant marine of the United
17 States, or the spouse or a dependent of a member; ~~[or]~~

18 (B-1) a member of the Texas State Guard, the
19 Texas National Guard, the National Guard of another state, or a
20 member of a reserve component of the armed forces of the United
21 States serving on active duty under an order of the president of the
22 United States or activated on state orders, or the spouse or
23 dependent of a member; or

24 (C) domiciled in this state but temporarily
25 living outside the territorial limits of the United States and the
26 District of Columbia.

27 SECTION 36. Section 101.003(1), Election Code, is amended

1 to read as follows:

2 (1) "Federal postcard application" means an
3 application for a ballot to be voted under this chapter submitted on
4 the official federal form prescribed under the federal Uniformed
5 and Overseas Citizens Absentee Voting Act (52 U.S.C. Sections
6 20301-20311) [~~(42 U.S.C. Section 1973ff et seq.)~~].

7 SECTION 37. Section 101.008, Election Code, is amended to
8 read as follows:

9 Sec. 101.008. STATUS OF APPLICATION OR BALLOT VOTED. The
10 secretary of state, in coordination with county [~~local~~] election
11 officials, shall implement an electronic free-access system by
12 which a person eligible for early voting by mail under this chapter
13 or Chapter 114 may determine by telephone, by e-mail, or over the
14 Internet whether:

15 (1) the person's federal postcard application or other
16 registration or ballot application has been received and accepted;
17 and

18 (2) the person's ballot has been received and the
19 current status of the ballot.

20 SECTION 38. Section 101.056(a), Election Code, is amended
21 to read as follows:

22 (a) The balloting materials provided under this subchapter
23 shall be airmailed to the voter free of United States postage, as
24 provided by the federal Uniformed and Overseas Citizens Absentee
25 Voting Act (52 U.S.C. Sections 20301-20311) [~~(42 U.S.C. Section~~
26 ~~1973ff et seq.)~~], in an envelope labeled "Official Election
27 Balloting Material - via Airmail." The secretary of state shall

1 provide early voting clerks with instructions on compliance with
2 this subsection.

3 SECTION 39. Section 101.057(b), Election Code, is amended
4 to read as follows:

5 (b) A ballot voted by a voter described by Section
6 101.001(2)(A), ~~[or]~~ (B), or (B-1) shall be counted if the ballot
7 arrives at the address on the carrier envelope not later than the
8 sixth day after the date of the election, except that if that date
9 falls on a Saturday, Sunday, or legal state or national holiday,
10 then the deadline is extended to the next regular business day.

11 SECTION 40. Section 101.058, Election Code, is amended to
12 read as follows:

13 Sec. 101.058. OFFICIAL CARRIER ENVELOPE. The officially
14 prescribed carrier envelope for voting under this subchapter shall
15 be prepared so that it can be mailed free of United States postage,
16 as provided by the federal Uniformed and Overseas Citizens Absentee
17 Voting Act (52 U.S.C. Sections 20301-20311) [~~(42 U.S.C. Section~~
18 ~~1973ff et seq.)~~], and must contain the label prescribed by Section
19 101.056(a) for the envelope in which the balloting materials are
20 sent to a voter. The secretary of state shall provide early voting
21 clerks with instructions on compliance with this section.

22 SECTION 41. Section 101.102(b), Election Code, is amended
23 to read as follows:

24 (b) The early voting clerk shall grant a request made under
25 this section for the e-mail transmission of balloting materials if:

26 (1) the requestor has submitted a valid federal
27 postcard application and:

1 (A) if the requestor is a person described by
2 Section 101.001(2)(C), has provided a current mailing address that
3 is located outside the United States; or

4 (B) if the requestor is a person described by
5 Section 101.001(2)(A), ~~[or]~~ (B), or (B-1), has provided a current
6 mailing address that is located outside the ~~[requestor's]~~ county
7 where the requestor is registered to vote [of residence];

8 (2) the requestor provides an e-mail address:

9 (A) that corresponds to the address on file with
10 the requestor's federal postcard application; or

11 (B) stated on a newly submitted federal postcard
12 application;

13 (3) the request is submitted on or before the deadline
14 prescribed by Section 84.007 ~~[seventh day before the date of the~~
15 ~~election]~~; and

16 (4) a marked ballot for the election from the
17 requestor has not been received by the early voting clerk.

18 SECTION 42. Section 101.107(a), Election Code, is amended
19 to read as follows:

20 (a) A voter described by Section 101.001(2)(A), ~~[or]~~ (B), or
21 (B-1) must be voting from outside the voter's county of residence. A
22 voter described by Section 101.001(2)(C) must be voting from
23 outside the United States.

24 SECTION 43. Section 102.002, Election Code, is amended to
25 read as follows:

26 Sec. 102.002. CONTENTS OF APPLICATION. An application for
27 a late ballot must comply with the applicable provisions of Section

1 84.002 and must include or be accompanied by a certificate of a
2 licensed physician or chiropractor or accredited Christian Science
3 practitioner in substantially the following form:

4 "This is to certify that I know that _____ cannot appear
5 at the polling place during the early voting period or on election
6 day [~~has a sickness or physical condition that will prevent him or~~
7 ~~her from appearing at the polling place~~] for an election to be held
8 on the _____ day of _____, 20 [~~19~~]____, without [~~a~~
9 ~~likelihood of needing personal~~] assistance due to illness, injury,
10 prescribed medical confinement, or mental or physical impairment,
11 [~~or of injuring his or her health~~] and that the [~~sickness or~~
12 ~~physical~~] condition originated on or after _____.

13 "Witness my hand at _____, Texas, this _____ day of
14 _____, 20 [~~19~~]____.

15 _____
16 (signature of physician,
17 chiropractor, or practitioner)"

18 SECTION 44. Section 111.008, Election Code, is amended to
19 read as follows:

20 Sec. 111.008. NOTING RESTRICTED BALLOT VOTER ON POLL LIST
21 AND REGISTERED VOTER LIST. (a) For each voter accepted to vote a
22 restricted ballot, a notation shall be made beside the voter's name
23 on the early voting poll list indicating that a restricted ballot
24 was voted and the type of restricted ballot. If the voter's name
25 appears on the list of registered voters used for conducting early
26 voting, a similar notation shall be made on that list unless the
27 form of the list makes it impracticable to do so.

1 (b) The election officer accepting the voter shall
2 electronically submit a record to the secretary of state of each
3 voter accepted to vote a restricted ballot in a primary, a runoff
4 primary, a general election, or any special election ordered by the
5 governor not later than the day the voter is accepted.

6 SECTION 45. Chapter 112, Election Code, is amended by
7 adding Section 112.0075 to read as follows:

8 Sec. 112.0075. VERIFYING VOTING STATUS OF APPLICANT FOR
9 BALLOT. Before accepting an applicant to vote a limited ballot or,
10 in the case of an application for a limited ballot to be voted by
11 mail, before providing a ballot to the applicant, the early voting
12 clerk shall verify, if possible, using the system established by
13 the secretary of state, that the applicant has not previously voted
14 in any other county in the same election. If the person has applied
15 for a ballot to be voted by mail, or has been recorded as voting in
16 the same election, the limited ballot application shall be
17 rejected.

18 SECTION 46. Section 113.003, Election Code, is amended to
19 read as follows:

20 Sec. 113.003. SUBMITTING APPLICATION FOR MAIL BALLOT. An
21 application for a presidential ballot to be voted by mail must be
22 submitted to the early voting clerk serving the county of the
23 applicant's most recent registration to vote by the deadline under
24 Section 84.007.

25 SECTION 47. Section 127.126, Election Code, is amended by
26 amending Subsection (f) and adding Subsection (g) to read as
27 follows:

1 (f) The duplicate shall be substituted for the original
2 ballot in the ballots prepared for automatic counting. The original
3 must be clearly labeled "Original," must bear the serial number of
4 the duplicate ballot, and shall be preserved with the other voted
5 ballots for the same period.

6 (g) When duplicating damaged early voting ballots delivered
7 under Section 87.102, the early voting ballot board shall, at the
8 request of the central counting station manager, duplicate ballots
9 in teams consisting of an equal number of committee members from
10 each political party to the extent practicable. Poll watchers are
11 entitled to be present and observe the duplication process.

12 SECTION 48. Section 192.033(d), Election Code, is amended
13 to read as follows:

14 (d) In conjunction with the certification required under
15 Subsection (a), the secretary of state shall include appropriate
16 ballot translation language, as applicable, for each language
17 certified statewide or in a specific county by the director of the
18 census under the federal Uniformed and Overseas Citizens Absentee
19 Voting Act (52 U.S.C. Sections 20301-20311) [42 U.S.C. Section
20 1973aa-1a].

21 SECTION 49. Section 32.53(a)(2), Penal Code, is amended to
22 read as follows:

23 (2) "Exploitation" means the illegal or improper use
24 of a child, elderly individual, or disabled individual or of the
25 resources of a child, elderly individual, or disabled individual
26 for monetary or personal benefit, profit, or gain, and includes a
27 violation of Section 86.010 or 86.0105, Election Code, where the

1 offense involves a voter 65 years of age or older or a disabled
2 individual.

3 SECTION 50. The following provisions of the Election Code
4 are repealed:

- 5 (1) Section 33.051(c);
- 6 (2) Section 86.006(a-1);
- 7 (3) Section 87.042(c); and
- 8 (4) Section 105.002.

9 SECTION 51. The changes in law made by this Act in amending
10 the elements of an offense or repealing or amending the punishments
11 for existing criminal offenses apply only to an offense committed
12 on or after the effective date of this Act. An offense committed
13 before the effective date of this Act is governed by the law in
14 effect on the date the offense was committed, and the former law is
15 continued in effect for that purpose. For purposes of this section,
16 an offense was committed before the effective date of this Act if
17 any element of the offense occurred before that date.

18 SECTION 52. This Act takes effect September 1, 2021.