

ELECTION CODE

TITLE 2. VOTER QUALIFICATIONS AND REGISTRATION

CHAPTER 16. CANCELLATION OF REGISTRATION

SUBCHAPTER A. OFFICIAL NOTICE TO REGISTRAR

Sec. 16.001. DEATH. (a) Each month the local registrar of deaths shall prepare an abstract of each death certificate issued in the month for a decedent 18 years of age or older who was a resident of the state at the time of death. The local registrar of deaths shall file each abstract with the voter registrar of the decedent's county of residence and the secretary of state not later than the 10th day of the month following the month in which the abstract is prepared.

(b) Each month the clerk of each court having probate jurisdiction shall prepare an abstract of each application for probate of a will, administration of a decedent's estate, or determination of heirship, and each affidavit under Chapter 205, Estates Code, that is filed in the month with a court served by the clerk. The clerk shall file each abstract with the voter registrar and the secretary of state not later than the 10th day of the month following the month in which the abstract is prepared.

(c) Once each week, on a day specified by the secretary of state, the Bureau of Vital Statistics shall furnish to the secretary of state available information specified by the secretary relating to deceased residents of the state. Periodically, the secretary shall furnish to the appropriate voter registrars information obtained from the bureau that will assist in identifying the deceased registered voters of each county.

(d) The secretary of state shall quarterly obtain from the United States Social Security Administration available information specified by the secretary relating to deceased residents of the state.

(e) The information required to be filed with the secretary of state under this section must be filed electronically. The secretary of state may waive this requirement on application for a waiver submitted by the appropriate entity.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by:

Acts 2005, 79th Leg., Ch. 1105 (H.B. 2280), Sec. 4, eff. January 1, 2006.

Acts 2007, 80th Leg., R.S., Ch. 607 (H.B. 343), Sec. 1, eff. September 1, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 650 (S.B. 1046), Sec. 1, eff. June 17, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 683 (H.B. 174), Sec. 1, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 5.003, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1178 (S.B. 910), Sec. 4, eff. September 1, 2013.

Acts 2017, 85th Leg., R.S., Ch. 324 (S.B. 1488), Sec. 22.012, eff. September 1, 2017.

Sec. 16.002. MENTAL INCAPACITY. (a) Each month the clerk of each court having proper jurisdiction to adjudge a person mentally incapacitated shall prepare an abstract of each final judgment of a court served by the clerk, occurring in the month:

(1) adjudging a person 18 years of age or older who is a resident of the state to be:

(A) totally mentally incapacitated; or

(B) partially mentally incapacitated without the right to vote;

(2) adjudging the mental capacity of a person 18 years of age or older who is a resident of this state to be completely restored; or

(3) modifying the guardianship of a person 18 years of age or older to include the right to vote.

(b) The clerk shall file each abstract with the voter registrar of the person's county of residence not later than the 10th day of the month following the month in which the abstract is prepared.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 614 (H.B. 417), Sec. 25, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 614 (H.B. 417), Sec. 26, eff. September 1, 2007.

Sec. 16.003. FELONY CONVICTION. Each weekday the Department of Public Safety is regularly open for business, the department shall:

(1) prepare an abstract of each final judgment received by the department convicting a person 18 years of age or older who is a resident of the state of a felony; and

(2) file each abstract with the secretary of state.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1993, 73rd Leg., ch. 916, Sec. 12, eff. Sept. 1, 1993; Acts 1999, 76th Leg., ch. 1366, Sec. 1, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1178, Sec. 2, eff. Jan. 1, 2002.

Amended by:

Acts 2005, 79th Leg., Ch. 1105 (H.B. 2280), Sec. 5, eff. January 1, 2006.

Sec. 16.004. DISQUALIFICATION IN ELECTION CONTEST. Not later than the 10th day after the date a judgment in an election contest in which a person is adjudged not to be a qualified voter becomes final, the district clerk shall prepare an abstract of the judgment, which shall include each disqualified person's name, and file it with the voter registrar of each county in which a person adjudged disqualified was registered on the date of the contested election.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Sec. 16.005. PRESERVATION OF ABSTRACT. If an abstract received under this subchapter affects a registered voter of the county, the registrar shall retain a copy of the abstract on file with the affected voter's registration application.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

SUBCHAPTER B. CANCELLATION

Sec. 16.031. CANCELLATION ON OFFICIAL NOTICE OF INELIGIBILITY. (a) The registrar shall cancel a voter's registration immediately on receipt of:

(1) notice under Section 13.072(b) or 15.021 or a response under Section 15.053 that the voter's residence is outside the county;

(2) an abstract of the voter's death certificate under Section 16.001(a) or an abstract of an application indicating that the voter is deceased under Section 16.001(b);

(3) an abstract of a final judgment of the voter's total mental incapacity, partial mental incapacity without the right to vote, conviction of a felony, or disqualification under Section 16.002, 16.003, or 16.004;

(4) notice under Section 112.012 that the voter has applied for a limited ballot in another county;

(5) notice from a voter registration official in another state that the voter has registered to vote outside this state;

(6) notice from the early voting clerk under Section 101.053 that a federal postcard application submitted by an applicant states a voting residence address located outside the registrar's county; or

(7) notice from the secretary of state that the voter has registered to vote in another county, as determined by the voter's driver's license number or personal identification card number issued by the Department of Public Safety or social security number.

(b) The registrar shall cancel a voter's registration immediately if the registrar:

(1) determines from information received under Section 16.001(c) that the voter is deceased;

(2) has personal knowledge that the voter is deceased;

(3) receives from a person related within the second degree by consanguinity or affinity, as determined under Chapter 573, Government Code, to the voter a sworn statement by that person indicating that the voter is deceased; or

(4) receives notice from the secretary of state under Section 18.068 that the voter is deceased.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 436, Sec. 6, eff. Sept. 1, 1987; Acts 1991, 72nd Leg., ch. 561, Sec. 14, eff. Aug. 26, 1991; Acts 1995, 74th Leg., ch. 76, Sec. 5.95(27), eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 797, Sec. 16, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 454, Sec. 6, eff. Sept. 1, 1997.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 614 (H.B. 417), Sec. 27, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 1235 (S.B. 1970), Sec. 6, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 650 (S.B. 1046), Sec. 2, eff. June 17, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 683 (H.B. 174), Sec. 2, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 5.004, eff. September 1, 2013.

Acts 2017, 85th Leg., R.S., Ch. 713 (H.B. 4034), Sec. 2, eff. June 12, 2017.

Sec. 16.032. CANCELLATION FOLLOWING END OF SUSPENSE LIST PERIOD. If on November 30 following the second general election for state and county officers that occurs after the date the voter's name is entered on the suspense list a registered voter's name appears on the suspense list, the registrar shall cancel the voter's registration unless the name is to be deleted from the list under Section 15.023.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1995, 74th Leg., ch. 797, Sec. 17, eff. Sept. 1, 1995.

Sec. 16.033. CANCELLATION FOLLOWING INVESTIGATION BY REGISTRAR. (a) The registrar may use any lawful means to investigate whether a registered voter is currently eligible for registration in the county. This section does not authorize an investigation of eligibility that is based solely on residence.

(b) If the registrar has reason to believe that a voter is no longer eligible for registration, the registrar shall deliver written notice to the voter indicating that the voter's registration status is being investigated by the registrar. The notice shall be delivered by forwardable mail to the mailing address on the voter's registration application and to any new address of the voter known to the registrar. If the secretary of state has adopted or recommended a form for a written notice under this section, the registrar must use that form.

(c) The notice must include:

(1) a request for information relevant to determining the voter's eligibility for registration; and

(2) a warning that the voter's registration is subject to cancellation if the registrar does not receive an appropriate reply on or before the 30th day after the date the notice is mailed.

(d) Except as provided by Subsection (e), the registrar shall cancel a voter's registration if:

(1) after considering the voter's reply, the registrar determines that the voter is not eligible for registration;

(2) no reply is received from the voter on or before the 30th day after the date the notice is mailed to the voter under Subsection (b); or

(3) each notice mailed under Subsection (b) is returned undelivered to the registrar with no forwarding information available.

(e) A voter's registration may not be canceled under Subsection (d) if the voter's name appears on the suspense list unless the notice mailed to the voter indicated that the registrar had reason to believe that the voter is not eligible for registration because of a ground other than a ground based on residence.

(f) The registrar shall retain a copy of the notice mailed to a voter under this section on file with the voter's registration application. If the voter's reply to the notice is in writing, the registrar shall also retain the reply on file with the application. If the reply is oral, the registrar shall prepare a memorandum of the reply, indicating the substance and date of the reply, and shall

retain the memorandum on file with the application.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1995, 74th Leg., ch. 797, Sec. 18, eff. Sept. 1, 1995; Acts 2003, 78th Leg., ch. 1316, Sec. 8, eff. Sept. 1, 2003.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1093 (H.B. 3593), Sec. 1, eff. September 1, 2013.

Sec. 16.0331. CANCELLATION ON REQUEST BY VOTER. (a) A voter desiring to cancel the voter's registration must submit to the registrar a written, signed request for the cancellation. A request may not be submitted by an agent.

(b) The registrar shall cancel a voter's registration immediately on receipt of a request under Subsection (a).

(c) The registrar shall retain the request on file with the voter's registration application.

Added by Acts 1995, 74th Leg., ch. 797, Sec. 19, eff. Sept. 1, 1995.

Sec. 16.0332. CANCELLATION BECAUSE OF CITIZENSHIP STATUS.

(a) After the registrar receives a list under Section 18.068 of this code or Section 62.113, Government Code, of persons excused or disqualified from jury service because of citizenship status, the registrar shall deliver to each registered voter whose name appears on the list a written notice requiring the voter to submit to the registrar proof of United States citizenship in the form of a certified copy of the voter's birth certificate, United States passport, or certificate of naturalization or any other form prescribed by the secretary of state. The notice shall be delivered by forwardable mail to the mailing address on the voter's registration application and to any new address of the voter known to the registrar.

(b) If a voter fails to submit to the registrar proof of citizenship on or before the 30th day after the date the notice is mailed, the registrar shall cancel the voter's registration.

(c) The registrar shall retain a copy of the notice mailed to a voter under this section on file with the voter's registration application. The registrar shall also retain any proof of

citizenship received under this section on file with the application.

Added by Acts 1997, 75th Leg., ch. 640, Sec. 2, eff. Sept. 1, 1997.

Amended by Acts 2003, 78th Leg., ch. 1316, Sec. 9, eff. Sept. 1, 2003.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 683 (H.B. 174), Sec. 3, eff. September 1, 2011.

Sec. 16.034. RECORDING CANCELLATION. On cancellation of a voter's registration, the registrar shall enter the date of and reason for the cancellation on the voter's registration application and duplicate registration certificate and make any other appropriate corrections in the registration records.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Sec. 16.035. EFFECTIVE DATE OF CANCELLATION. A cancellation of a voter's registration takes effect immediately.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Sec. 16.036. NOTICE OF CANCELLATION TO VOTER. (a) Immediately after, but not later than the 30th day after the date a voter's registration is canceled under Section 16.031(a)(3), 16.033, 16.0331, or 16.0332, the registrar shall deliver written notice of the cancellation to the voter.

(b) The notice shall be delivered by mail to the mailing address on the voter's registration application and to any new address known to the registrar.

(c) The notice must include:

(1) the date of cancellation;

(2) the reason for cancellation; and

(3) a brief explanation of the voter's right to challenge the cancellation and to appeal the registrar's decision.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by

Acts 1995, 74th Leg., ch. 797, Sec. 20, eff. Sept. 1, 1995; Acts

2003, 78th Leg., ch. 1316, Sec. 10, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 568 (H.B. 1382), Sec. 1, eff. September 1, 2005.

Sec. 16.037. REINSTATEMENT OF REGISTRATION. (a) If the registrar determines after cancellation of a registration that the registration should not have been canceled, the registrar shall reinstate it.

(b) If, after canceling a voter's registration under Section 16.032, the registrar receives a statement of residence executed by the voter under Section 63.0011 at an election held before the date the voter's registration was required to be canceled, the registrar shall reinstate the registration.

(c) On reinstatement of a registration, the registrar shall enter the date of and reason for the reinstatement on the voter's registration application and duplicate registration certificate, make any appropriate corrections in the registration records, and take any other action necessary to give effect to the reinstatement.

(d) A reinstatement of a registration takes effect immediately.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1993, 73rd Leg., ch. 916, Sec. 13, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 797, Sec. 21, eff. Sept. 1, 1995.

Sec. 16.038. NOTICE OF REINSTATEMENT TO VOTER. (a) Immediately on reinstatement of a registration, the registrar shall deliver written notice of the reinstatement to the voter.

(b) The notice shall be delivered by mail to the mailing address on the voter's registration application and to any new address known to the registrar.

(c) The notice must include the date of and reason for the reinstatement.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

SUBCHAPTER C. CHALLENGE OF CANCELLATION

Sec. 16.061. RIGHT TO CHALLENGE CANCELLATION. A person

whose voter registration is canceled may challenge the cancellation at a hearing before the registrar.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Sec. 16.062. REQUEST FOR HEARING ON CHALLENGE. A person desiring to challenge the cancellation of the person's registration must file with the registrar a written, signed request for a hearing on the challenge.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1997, 75th Leg., ch. 864, Sec. 10, eff. Sept. 1, 1997.

Sec. 16.063. REINSTATEMENT PENDING CHALLENGE. (a) On the filing of a hearing request under Section 16.062, the registrar shall reinstate the challenging voter's registration pending determination of the challenge.

(b) Sections 16.037(c) and (d) apply to a reinstatement under this section.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Sec. 16.064. HEARING ON CHALLENGE. (a) On the filing of a hearing request, the registrar shall schedule a hearing on the challenge.

(b) The registrar shall conduct the hearing not later than the 10th day after the date the request is filed or on a later date at the request of the challenging voter.

(c) The voter may appear personally at the hearing to offer evidence or argument. The voter may offer evidence or argument by affidavit without personally appearing if the voter submits the affidavit to the registrar before the hearing begins.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Sec. 16.065. NOTICE OF HEARING. The registrar shall deliver written notice of the date, hour, and place set for the hearing on the challenge to the challenging voter not later than the second day after the date the hearing request is filed.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Sec. 16.066. DETERMINATION OF CHALLENGE. (a) After hearing and considering the evidence or argument, the registrar shall promptly determine the challenge and issue a decision in writing.

(b) If the registrar determines that the registration should not have been canceled, the registration continues in effect.

(c) If the registrar determines that the cancellation of the registration was proper, the registrar shall cancel the registration on the 31st day after the date the registrar's decision is issued.

(d) The registrar shall retain a copy of the decision on file with the duplicate registration certificate of the challenging voter and shall deliver a copy to the voter.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

SUBCHAPTER D. CHALLENGE OF REGISTRATION

Sec. 16.091. RIGHT TO CHALLENGE REGISTRATION. Except as otherwise provided by this subchapter, a registered voter may challenge the registration of another voter of the same county at a hearing before the registrar.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1995, 74th Leg., ch. 797, Sec. 22, eff. Sept. 1, 1995.

Sec. 16.092. SWORN STATEMENT REQUIRED. A voter desiring to challenge a registration must file with the registrar a sworn statement of the grounds for the challenge that:

(1) identifies the voter whose registration is being challenged; and

(2) states a specific qualification for registration that the challenged voter has not met based on the personal knowledge of the voter desiring to challenge the registration.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 2003, 78th Leg., ch. 1165, Sec. 1, eff. Sept. 1, 2003.

Sec. 16.0921. CONFIRMATION NOTICE ON CHALLENGE BASED ON

RESIDENCE. (a) Except as provided by Subsection (c), on the filing of a sworn statement under Section 16.092 alleging a ground based on residence, the registrar shall promptly deliver to the voter whose registration is challenged a confirmation notice in accordance with Section 15.051.

(b) If the voter fails to submit a response to the registrar in accordance with Section 15.053, the registrar shall enter the voter's name on the suspense list.

(c) The registrar may not deliver a confirmation notice resulting from a sworn statement filed after the 75th day before the date of the general election for state and county officers until after the date of that election. This subsection does not apply to a person who submits a registration application after the 75th day and prior to the 30th day before the general election for state and county officers.

Added by Acts 1995, 74th Leg., ch. 797, Sec. 23, eff. Sept. 1, 1995.

Amended by Acts 1999, 76th Leg., ch. 62, Sec. 5.07, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 1166, Sec. 1, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 1107 (H.B. 2309), Sec. 1.07, eff. September 1, 2005.

Sec. 16.093. HEARING ON CHALLENGE. (a) On the filing of a sworn statement under Section 16.092 alleging a ground other than residence, the registrar shall schedule a hearing on the challenge. The hearing procedure does not apply to an allegation of a ground based on residence.

(b) The registrar shall conduct the hearing not later than the 20th day after the date the statement is filed or on a later date requested by either party and agreed to by both parties.

(c) A party may appear personally at the hearing to offer evidence or argument. A party may offer evidence or argument by affidavit without personally appearing if the party submits the affidavit to the registrar before the hearing begins.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1995, 74th Leg., ch. 797, Sec. 24, eff. Sept. 1, 1995.

Sec. 16.094. NOTICE OF HEARING. (a) The registrar shall deliver written notice of the hearing on the challenge to each party to the controversy not later than the 15th day before the date of the hearing.

(b) The notice must include:

(1) the date, hour, and place set for the hearing; and
(2) a brief explanation of the right to appeal the registrar's decision.

(c) The notice delivered to the voter whose registration is challenged must be accompanied by a copy of the sworn statement of the grounds for the challenge.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Sec. 16.095. DETERMINATION OF CHALLENGE. (a) After hearing and considering the evidence or argument, the registrar shall promptly determine the challenge and issue a decision in writing.

(b) If the registrar determines that the voter's registration should not be canceled, the registration continues in effect.

(c) If the registrar determines that the voter's registration should be canceled, the registrar shall cancel the registration on the 31st day after the date the registrar's decision is issued.

(d) The registrar shall retain a copy of the decision on file with the duplicate registration certificate of the voter whose registration was challenged and shall deliver a copy to each party to the challenge.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.