

ELECTION CODE

TITLE 11. PRESIDENTIAL ELECTIONS

CHAPTER 192. PRESIDENTIAL ELECTORS AND CANDIDATES

SUBCHAPTER A. PRESIDENTIAL ELECTORS

Sec. 192.001. TIME OF ELECTION. Electors for president and vice-president of the United States shall be elected at the general election for state and county officers held in a presidential election year.

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

Sec. 192.002. ELIGIBILITY. (a) To be eligible to serve as a presidential elector, a person must:

(1) be a qualified voter of this state; and

(2) not hold the office of United States senator, United States representative, or any other federal office of profit or trust.

(b) To be eligible to serve as a presidential elector for a political party, a person must be affiliated with the party.

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

Sec. 192.003. METHOD OF BECOMING ELECTOR CANDIDATE. To become a presidential elector candidate, a person must be nominated as a political party's elector candidate in accordance with party rules or named as an elector candidate by an independent or write-in candidate for president.

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

Sec. 192.004. ELECTOR CANDIDATE WITHDRAWAL. An elector candidate may withdraw from the presidential election before presidential election day, by delivering written notice of the withdrawal to:

(1) the secretary of state; and

(2) the state chair of the party that nominated the elector candidate or to the independent or write-in candidate for president who named the elector candidate.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1997, 75th Leg., ch. 864, Sec. 200, eff. Sept. 1, 1997.

Amended by:

Acts 2023, 88th Leg., R.S., Ch. 998 (H.B. 87), Sec. 1, eff. June 18, 2023.

Sec. 192.005. VOTE REQUIRED FOR ELECTION. The set of elector candidates that is elected is the one that corresponds to the candidates for president and vice-president receiving the most votes.

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

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 688, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 192.006. MEETING OF ELECTORS. (a) The electors shall convene at the State Capitol at 2 p.m. on the first Monday after the second Wednesday in December following their election and shall perform their duties as prescribed by federal law.

(b) The secretary of state shall arrange for the meeting place, notify the electors, and call the meeting to order.

(c) If an elector is absent at the time for convening the meeting, the electors may declare the elector position vacant by a majority vote of those present at the meeting.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1997, 75th Leg., ch. 864, Sec. 201, eff. Sept. 1, 1997.

Amended by:

Acts 2023, 88th Leg., R.S., Ch. 998 (H.B. 87), Sec. 2, eff. June 18, 2023.

Sec. 192.008. ELECTOR EXPENSES. (a) In performing their official duties, presidential electors are entitled to the same allowances for travel expenses as those granted to state employees.

(b) The secretary of state shall provide assistance to the electors in submitting vouchers for travel expenses.

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

Sec. 192.009. REPLACEMENT NOMINEE. An elector shall consider a replacement candidate certified under Subchapter C to be the presidential or vice-presidential candidate for whom the elector is the corresponding presidential elector candidate. Added by Acts 2023, 88th Leg., R.S., Ch. 998 (H.B. 87), Sec. 3, eff. June 18, 2023.

SUBCHAPTER B. PRESIDENTIAL AND VICE-PRESIDENTIAL CANDIDATES

Sec. 192.031. PARTY CANDIDATE'S ENTITLEMENT TO PLACE ON BALLOT. (a) A political party is entitled to have the names of its nominees for president and vice-president of the United States placed on the ballot in a presidential general election if:

(1) the nominees possess the qualifications for those offices prescribed by federal law;

(2) the party's state chair signs a written certification of:

(A) the names of the party's nominees for president and vice-president; and

(B) the names and residence addresses of presidential elector candidates nominated by the party, in a number equal to the number of presidential electors that federal law allocates to this state;

(3) the party's state chair delivers the written certification to the secretary of state before the later of:

(A) 5 p.m. of the 71st day before presidential election day; or

(B) 5 p.m. of the first business day after the date of final adjournment of the party's national presidential nominating convention; and

(4) the party is:

(A) required or authorized by Subchapter A of Chapter 172 to make its nominations by primary election; or

(B) entitled to have the names of its nominees placed on the general election ballot under Chapter 181.

(b) If the state chair's certification of the party's

nominees is delivered by mail, it is considered to be delivered at the time of its receipt by the secretary of state.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1997, 75th Leg., ch. 864, Sec. 203, eff. Sept. 1, 1997.

Amended by:

Acts 2005, 79th Leg., Ch. 1109 (H.B. [2339](#)), Sec. 21, eff. September 1, 2005.

Acts 2009, 81st Leg., R.S., Ch. 355 (H.B. [1193](#)), Sec. 1, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1235 (S.B. [1970](#)), Sec. 17, eff. September 1, 2009.

Acts 2015, 84th Leg., R.S., Ch. 84 (S.B. [1703](#)), Sec. 24, eff. September 1, 2015.

Sec. 192.032. INDEPENDENT CANDIDATE'S ENTITLEMENT TO PLACE ON BALLOT. (a) To be entitled to a place on the general election ballot, an independent candidate for president of the United States must make an application for a place on the ballot.

(b) An application must:

(1) comply with Section [141.031](#), except that:

(A) the application is not required to include a candidate's occupation, length of residence, or statement that the candidate is aware of the nepotism law; and

(B) the application must contain the applicable information required by Section [141.031](#)(a)(4) with respect to both the presidential candidate and the running mate;

(2) state the names and residence addresses of presidential elector candidates in a number equal to the number of presidential electors that federal law allocates to the state; and

(3) be accompanied by:

(A) a petition that satisfies the requirements prescribed by Section [141.062](#); and

(B) written statements signed by the vice-presidential candidate and each of the presidential elector candidates indicating that each of them consents to be a candidate.

(c) The application must be filed with the secretary of state not later than the second Monday in May of the presidential

election year.

(d) The minimum number of signatures that must appear on the petition is one percent of the total vote received in the state by all candidates for president in the most recent presidential general election.

(e) A petition signer's voter registration is not required to be in any particular territory.

(f) The following statement must appear at the top of each page of the petition: "I did not vote this year in a presidential primary election."

(g) A signature on the petition is invalid if the signer:

(1) signs the petition on or before the date of the presidential primary election in the presidential election year; or

(2) voted in a presidential primary election during the presidential election year.

(h) A candidate in a presidential primary election is ineligible to be an independent candidate for president or vice-president of the United States in the succeeding general election.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1986, 69th Leg., 3rd C.S., ch. 14, Sec. 27, eff. Sept. 1, 1987; Acts 1987, 70th Leg., ch. 427, Sec. 7, eff. Sept. 1, 1987.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 614 (H.B. [417](#)), Sec. 32, eff. September 1, 2007.

Sec. 192.033. CERTIFICATION OF CANDIDATES FOR PLACEMENT ON BALLOT. (a) Except as provided by Subsection (c), the secretary of state shall certify in writing for placement on the general election ballot the names of the candidates for president and vice-president who are entitled to have their names placed on the ballot.

(b) The secretary of state shall deliver the certification to the authority responsible for having the official ballot prepared in each county before the later of the 68th day before presidential election day or the second business day after the date

of final adjournment of the party's national presidential nominating convention.

(c) A candidate's name may not be certified if, before delivering the certification, the secretary of state learns that the name is to be omitted from the ballot under Subchapter C.

(d) In conjunction with the certification required under Subsection (a), the secretary of state shall include appropriate ballot translation language, as applicable, for each language certified statewide or in a specific county by the director of the census under the federal Voting Rights Act (52 U.S.C. Section 10503).

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

Amended by:

Acts 2005, 79th Leg., Ch. 1109 (H.B. [2339](#)), Sec. 22, eff. September 1, 2005.

Acts 2009, 81st Leg., R.S., Ch. 355 (H.B. [1193](#)), Sec. 2, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1235 (S.B. [1970](#)), Sec. 18, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 1014 (H.B. [2477](#)), Sec. 3, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1318 (S.B. [100](#)), Sec. 38, eff. September 1, 2011.

Acts 2021, 87th Leg., R.S., Ch. 711 (H.B. [3107](#)), Sec. 86, eff. September 1, 2021.

Sec. 192.034. LISTING CANDIDATES ON BALLOT. (a) The names of a presidential candidate and the candidate's running mate shall be placed on the ballot as one race.

(b) The names of presidential elector candidates may not be placed on the ballot.

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

Sec. 192.035. VOTE FOR CANDIDATE COUNTS FOR CORRESPONDING ELECTORS. A vote for a presidential candidate and the candidate's running mate shall be counted as a vote for the corresponding presidential elector candidates.

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

Sec. 192.036. WRITE-IN CANDIDATE. (a) With respect to a write-in candidacy for the office of president of the United States, this section supersedes Subchapter B, Chapter 146, to the extent of any conflict.

(b) A declaration of write-in candidacy for president must satisfy the requirements prescribed by Section 192.032(b) for an independent presidential candidate's application for a place on the ballot, except that a petition is not required.

(c) The certification for placement on the list of write-in candidates must include the names of both the presidential candidate and the vice-presidential candidate.

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

Sec. 192.037. RULES FOR COUNTING VOTES NOT CAST FOR BOTH CANDIDATES. (a) If a voter writes in the name of a write-in candidate for president or vice-president but does not write in a name for a running mate, the vote shall be counted as a vote for the candidate and the candidate's running mate.

(b) A vote shall be counted for both candidates of a set of candidates for president and vice-president if:

(1) the ballot is marked to indicate that the voter is voting for one of the two candidates;

(2) the ballot is marked to indicate that the voter is not voting for the other candidate in the set; and

(3) the voter has not:

(A) indicated a vote for a presidential or vice-presidential candidate of another set; or

(B) written in the name of a person for whom the voter desires to vote instead of the candidate for whom the voter is not voting under Subdivision (2).

(c) The secretary of state shall prescribe guidelines consistent with this code to assist counting officers in counting ballots in which the presidential race is irregularly marked.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1997, 75th Leg., ch. 864, Sec. 204, eff. Sept. 1, 1997.

SUBCHAPTER C. WITHDRAWAL, DEATH, AND INELIGIBILITY OF PRESIDENTIAL
AND VICE-PRESIDENTIAL CANDIDATES; CERTIFICATION OF INABILITY TO
SERVE

Sec. 192.061. WITHDRAWAL, DEATH, OR INELIGIBILITY
GENERALLY. With respect to withdrawal, death, or ineligibility of
a presidential or vice-presidential candidate in a general
election, this subchapter supersedes Subchapter A, Chapter 145, to
the extent of any conflict.

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

Sec. 192.062. PRESIDENTIAL OR VICE-PRESIDENTIAL PARTY
NOMINEE. (a) The secretary of state shall certify in writing the
name of a political party's replacement nominee for president or
vice-president of the United States as follows:

(1) for placement on the ballot for an original
nominee who withdraws, dies, or is declared ineligible on or before
the 74th day before presidential election day if the party's state
chair delivers certification of the replacement nominee's name,
signed by the state chair, to the secretary of state not later than
5 p.m. of the 71st day before presidential election day; or

(2) to the nominating party's presidential elector
candidates for an original nominee who withdraws, dies, or is
declared ineligible after the 74th day before presidential election
day if the party's state chair delivers certification of the
replacement nominee's name, signed by the state chair, to the
secretary of state not later than 2 p.m. on the Monday after the
second Wednesday in December of a presidential election year.

(b) If the state chair's certification of a replacement
nominee is delivered by mail, it is considered to be delivered at
the time of its receipt by the secretary of state.

(c) The name of a nominee who has withdrawn, died, or been
declared ineligible shall be omitted from the ballot and the name of
the replacement nominee placed on the ballot if a replacement
nominee is certified for placement on the ballot as provided by this
section. Otherwise, the withdrawn, deceased, or ineligible

nominee's name shall be placed on the ballot.

(d) A vote for a withdrawn, deceased, or ineligible nominee whose name appears on the ballot shall be counted as a vote for the nominating political party's presidential elector candidates.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1997, 75th Leg., ch. 864, Sec. 205, eff. Sept. 1, 1997.

Amended by:

Acts 2005, 79th Leg., Ch. 1109 (H.B. 2339), Sec. 23, eff. September 1, 2005.

Acts 2015, 84th Leg., R.S., Ch. 84 (S.B. 1703), Sec. 25, eff. September 1, 2015.

Acts 2023, 88th Leg., R.S., Ch. 998 (H.B. 87), Sec. 5, eff. June 18, 2023.

Sec. 192.063. INDEPENDENT PRESIDENTIAL CANDIDATE. (a) The name of an independent presidential candidate and the name of the candidate's running mate shall be omitted from the ballot if the presidential candidate withdraws, dies, or is declared ineligible on or before the 74th day before presidential election day.

(b) A vote for an independent presidential candidate who has withdrawn, died, or been declared ineligible may not be counted.

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

Amended by:

Acts 2005, 79th Leg., Ch. 1109 (H.B. 2339), Sec. 24, eff. September 1, 2005.

Sec. 192.064. INDEPENDENT VICE-PRESIDENTIAL CANDIDATE. (a) The secretary of state shall certify in writing the name of a replacement vice-presidential running mate for an independent candidate for president of the United States as follows:

(1) for placement on the ballot for an original running mate who withdraws, dies, or is declared ineligible on or before the 74th day before presidential election day if the independent presidential candidate delivers certification of the replacement running mate's name, signed by the presidential candidate, to the secretary of state not later than 5 p.m. of the 71st day before presidential election day; or

(2) to the presidential candidate's corresponding presidential elector candidates for an original running mate who withdraws, dies, or is declared ineligible after the 74th day before presidential election day if the independent presidential candidate delivers certification of the replacement running mate's name, signed by the presidential candidate, to the secretary of state not later than 2 p.m. on the Monday after the second Wednesday in December of a presidential election year.

(b) If the presidential candidate's certification of a replacement running mate is delivered by mail, it is considered to be delivered at the time of its receipt by the secretary of state.

(c) The name of a vice-presidential candidate who has withdrawn, died, or been declared ineligible shall be omitted from the ballot and the name of the replacement candidate placed on the ballot if a replacement candidate is certified for placement on the ballot as provided by this section. Otherwise, the withdrawn, deceased, or ineligible candidate's name shall be placed on the ballot.

(d) The fact that the name of an independent vice-presidential candidate who has withdrawn, died, or been declared ineligible is placed on the ballot does not affect the counting of votes for the candidate's running mate.

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

Amended by:

Acts 2005, 79th Leg., Ch. 1109 (H.B. [2339](#)), Sec. 25, eff. September 1, 2005.

Acts 2015, 84th Leg., R.S., Ch. 84 (S.B. [1703](#)), Sec. 26, eff. September 1, 2015.

Acts 2023, 88th Leg., R.S., Ch. 998 (H.B. [87](#)), Sec. 6, eff. June 18, 2023.

Sec. 192.065. CERTIFICATION OF WINNING CANDIDATE'S INABILITY TO SERVE; AFFIRMATION OR DENIAL BY ELECTORS. (a) The secretary of state shall certify on the seventh day before the meeting of electors that a candidate for president or vice president who received the most votes in this state in the general presidential election is willing and able to serve in the position

for which the candidate was elected, unless the secretary of state has received a written certification from one of the following individuals, in order of precedence, that the candidate is unable or unwilling to serve:

- (1) the candidate;
- (2) the executive director of the candidate's campaign; or
- (3) the candidate's spouse or, if the candidate does not have a surviving spouse, the person to whom the candidate's estate would descend under Section 201.001, Estates Code.

(b) Upon receipt of a certification under Subsection (a), the secretary of state shall notify the party of the candidate who submitted the certification and post the certification on the secretary of state's Internet website.

(c) The secretary of state may promulgate a form for a certification under this section of inability or unwillingness to serve.

(d) If before the meeting of electors the secretary of state receives a certification under Subsection (a) that a candidate is unwilling or unable to serve, the electors shall first vote on the issue of whether that candidate is willing and able to serve in the position for which the candidate was elected. If a majority of electors vote that the candidate is not willing or able to serve in the position for which the candidate was elected, Sections 192.102, 192.103(b), 192.103(d), and 192.104(d) and (e) do not apply to that meeting of electors with respect to that candidate.

Added by Acts 2023, 88th Leg., R.S., Ch. 998 (H.B. 87), Sec. 7, eff. June 18, 2023.

SUBCHAPTER D. REQUIRED ACTION BY PRESIDENTIAL ELECTORS; REPLACEMENT OF ELECTOR

Sec. 192.101. DESIGNATION OF STATE'S ELECTORS. Each elector position in this state must be nominated in accordance with political party rules or by an independent or write-in presidential candidate, as applicable. Except as otherwise provided in Sections 192.006, 192.103, and 192.104, this state's electors are

the winning elector nominees under the laws of this state.

Added by Acts 2023, 88th Leg., R.S., Ch. 998 (H.B. 87), Sec. 8, eff. June 18, 2023.

Sec. 192.102. OATH. (a) Not later than the seventh day before the meeting of electors, each elector nominee and alternate elector nominee of a political party shall execute the following oath: "If selected for the position of elector, I swear to serve and to mark my ballots for president and vice president for the nominees for those offices of the party that nominated me."

(b) Not later than the sixth day before the meeting of electors, each elector nominee and alternate elector nominee of an independent presidential candidate shall execute the following oath: "If selected for the position of elector as a nominee of an independent presidential candidate, I swear to serve and to mark my ballots for that candidate and for that candidate's vice-presidential running mate."

(c) The executed oaths must accompany the submission of the corresponding names to the secretary of state.

Added by Acts 2023, 88th Leg., R.S., Ch. 998 (H.B. 87), Sec. 8, eff. June 18, 2023.

Sec. 192.103. PRESIDING OFFICER; ELECTOR VACANCY. (a) The secretary of state shall preside at the meeting of electors described in Section 192.104.

(b) The position of an elector is vacant if the elector has failed to execute the oath under Section 192.102.

(c) The secretary of state shall fill a vacancy with a substitute elector nominated in accordance with political party rules or named by an independent or write-in candidate for president, as applicable. A substitute elector who is filling the position of an elector is considered an elector for purposes of this chapter. If a person's position as elector is determined to be vacant, the person may not serve as a substitute elector with respect to that meeting of electors.

(d) To qualify as a substitute elector under Subsection (c), an individual who has not executed the oath required under Section

192.102 shall execute the following oath: "I swear to serve and to mark my ballots for president and vice president consistent with the oath of the individual to whose elector position I have succeeded."

Added by Acts 2023, 88th Leg., R.S., Ch. 998 (H.B. 87), Sec. 8, eff. June 18, 2023.

Sec. 192.104. ELECTOR VOTING. (a) At the time designated for elector voting and after all vacant positions have been filled, the secretary of state shall provide each elector with a presidential and a vice-presidential ballot. The elector shall mark the elector's presidential and vice-presidential ballots with the elector's votes for the offices of president and vice president, respectively, along with the elector's signature and the elector's legibly printed name.

(b) Except as otherwise provided by law of this state other than this subchapter, each elector shall present both completed ballots to the secretary of state. The secretary of state shall examine the ballots and read each vote publicly.

(c) The secretary of state shall accept as cast all ballots of electors whose votes are consistent with their oaths executed under Section 192.102 or 192.103(d). Except as otherwise provided by law, the secretary of state may not accept and may not count either an elector's presidential or vice-presidential ballot if the elector has not marked both ballots or has marked a ballot in violation of the elector's oath.

(d) An elector who refuses to present a ballot, presents an unmarked ballot, or presents a ballot marked in violation of the elector's oath executed under Section 192.102 or 192.103(d) vacates the office of elector, creating a vacant position to be filled under Section 192.103.

(e) The secretary of state shall distribute ballots to and collect ballots from each elector and repeat the process under this section of examining ballots, publicly reading the votes, declaring and filling vacant positions as required, and recording appropriately completed ballots from the substituted electors, until all of this state's electoral votes have been cast and

recorded.

Added by Acts 2023, 88th Leg., R.S., Ch. 998 (H.B. [87](#)), Sec. 8, eff.

June 18, 2023.