

ELECTION CODE

TITLE 6. CONDUCT OF ELECTIONS

CHAPTER 66. DISPOSITION OF RECORDS AND SUPPLIES AFTER ELECTION

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 66.001. GENERAL CUSTODIAN OF ELECTION RECORDS. The general custodian of election records is:

(1) the county clerk of each county wholly or partly situated in the territory covered by the election, for an election ordered by the governor or by a county authority or for a primary election;

(2) the city secretary, for an election ordered by a city authority; and

(3) the secretary of the political subdivision's governing body or, if the governing body has no secretary, the governing body's presiding officer, for an election ordered by an authority of a political subdivision other than a county or city.

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

Sec. 66.002. PRECINCT ELECTION RECORDS. In this chapter, "precinct election records" means the precinct election returns, voted ballots, and other records of an election that are assembled and distributed under this chapter.

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

Sec. 66.0021. ELECTION DAY VOTE TOTAL FOR CERTAIN ELECTIONS. (a) This section applies only to a primary election or the general election for state and county officers.

(b) The general custodian of election records for a primary election or the general election for state and county officers shall maintain a list that states the total number of votes cast in each precinct by personal appearance on election day that is available for public inspection not later than the day after election day.

(c) Each vote total shall be maintained in a downloadable format approved by the secretary of state and posted on the Internet

website of the secretary of state.

(d) The secretary of state shall create a system for an early voting clerk for a primary election or the general election for state and county officers to provide the information to the secretary of state for posting on the secretary of state's Internet website under Subsection (c).

Added by Acts 2019, 86th Leg., R.S., Ch. 1215 (S.B. 902), Sec. 2, eff. September 1, 2019.

Sec. 66.003. ENVELOPES FOR DISTRIBUTION OF RECORDS. (a) Four envelopes shall be furnished to each polling place for use in assembling and distributing the precinct election records.

(b) The envelopes shall be labeled and addressed as follows:

(1) "Envelope No. 1," addressed to the presiding officer of the local canvassing authority;

(2) "Envelope No. 2," addressed to the general custodian of election records;

(3) "Envelope No. 3," addressed to the presiding judge; and

(4) "Envelope No. 4," addressed to the voter registrar.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 54, Sec. 12(b), eff. Sept. 1, 1987; Acts 1997, 75th Leg., ch. 1078, Sec. 14, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 1315, Sec. 36, eff. Jan. 1, 2004.

SUBCHAPTER B. ASSEMBLING RECORDS FOR DISTRIBUTION

Sec. 66.021. ASSEMBLING ELECTION RECORDS. (a) On completing the election returns for the precinct, the presiding judge shall assemble the precinct election records and place them in the appropriate envelopes and ballot boxes for distribution.

(b) The judge shall seal envelopes no. 1, no. 2, and no. 4 and lock ballot boxes no. 3 and no. 4 as soon as they are ready for distribution.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 54, Sec. 12(b), eff. Sept. 1, 1987; Acts

1997, 75th Leg., ch. 1078, Sec. 15, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 1315, Sec. 37, eff. Jan. 1, 2004.

Sec. 66.022. CONTENTS OF ENVELOPE NO. 1. Envelope no. 1 must contain:

(1) the original of the election returns for the precinct; and

(2) a tally list.

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

Sec. 66.023. CONTENTS OF ENVELOPE NO. 2. Envelope no. 2 must contain:

(1) a copy of the precinct returns;

(2) a tally list;

(3) the original of the poll list;

(4) the signature roster;

(5) the precinct early voting list;

(6) any affidavits completed at the polling place except affidavits required to be placed in envelope no. 4; and

(7) any certificates of appointment of watchers.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 54, Sec. 12(b), eff. Sept. 1, 1987; Acts 1991, 72nd Leg., ch. 203, Sec. 2.50; Acts 1991, 72nd Leg., ch. 554, Sec. 21, eff. Sept. 1, 1991.

Sec. 66.024. CONTENTS OF ENVELOPE NO. 3. Envelope no. 3 must contain:

(1) a copy of the precinct returns;

(2) a copy of the poll list; and

(3) a copy of the ballot register.

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

Sec. 66.0241. CONTENTS OF ENVELOPE NO. 4. Envelope no. 4 must contain:

(1) the precinct list of registered voters;

(2) the registration correction list;

(3) any statements of residence executed under Section

63.0011; and

(4) any affidavits executed under Section 63.006 or 63.011.

Added by Acts 1987, 70th Leg., ch. 54, Sec. 12(b), eff. Sept. 1, 1987. Amended by Acts 1993, 73rd Leg., ch. 916, Sec. 24, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 797, Sec. 40, eff. Sept. 1, 1995; Acts 2003, 78th Leg., ch. 1315, Sec. 38, eff. Jan. 1, 2004.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 123 (S.B. 14), Sec. 19, eff. January 1, 2012.

Acts 2011, 82nd Leg., R.S., Ch. 1002 (H.B. 2194), Sec. 10, eff. January 1, 2012.

Reenacted by Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 5.006, eff. September 1, 2013.

Sec. 66.025. CONTENTS OF BALLOT BOX NO. 3. (a) Ballot box no. 3 must contain:

- (1) the voted ballots;
- (2) a copy of the precinct returns;
- (3) a tally list; and
- (4) a copy of the poll list.

(b) The copy of the poll list may be placed in a container other than ballot box no. 3 on approval by the secretary of state if the secretary determines that placement in the other container is more suitable for a particular election.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 472, Sec. 18, eff. Sept. 1, 1987; Acts 1987, 70th Leg., ch. 500, Sec. 1, eff. Sept. 1, 1987.

Sec. 66.026. CONTENTS OF BALLOT BOX NO. 4. Ballot box no. 4 must contain:

- (1) the original of the ballot register;
- (2) the register of spoiled ballots;
- (3) any spoiled ballots;
- (4) any defectively printed ballots;
- (5) any envelope containing cancellation requests and canceled ballots; and

(6) any other unused ballots.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1993, 73rd Leg., ch. 728, Sec. 20, eff. Sept. 1, 1993.

SUBCHAPTER C. DISPOSITION OF RECORDS AND SUPPLIES

Sec. 66.051. DISTRIBUTION OF ELECTION RECORDS. (a) The presiding judge shall deliver envelope no. 1 in person to the presiding officer of the local canvassing authority. If the presiding officer of the local canvassing authority is unavailable, the envelope shall be delivered to the general custodian of election records who shall then deliver it to the local canvassing authority before the time set for convening the local canvass.

(b) The presiding judge shall deliver envelope no. 2, ballot box no. 3, and ballot box no. 4 and its key in person to the general custodian of election records.

(c) The presiding judge shall retain envelope no. 3.

(d) The presiding judge shall deliver envelope no. 4 in person to the voter registrar. If the voter registrar is unavailable, the envelope shall be delivered to the general custodian of election records, who shall deliver it to the voter registrar on the next regular business day.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 54, Sec. 12(b), eff. Sept. 1, 1987; Acts 1993, 73rd Leg., ch. 728, Sec. 21, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 1078, Sec. 17, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 1315, Sec. 39, eff. Jan. 1, 2004.

Sec. 66.052. DELIVERY BY ELECTION CLERK. A delivery of election records or supplies that is to be performed by the presiding judge may be performed by an election clerk designated by the presiding judge.

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

Sec. 66.053. TIME FOR DELIVERING ELECTION RECORDS. (a) The precinct election records shall be delivered to the appropriate authorities immediately after the precinct returns are completed.

(b) If the presiding judge determines that the ballots will not be counted in time to allow delivery of the precinct election records by 2 a.m. of the day after election day, the presiding judge, between midnight of election day and 1 a.m. of the following day, shall notify the general custodian of election records by telephone of:

(1) the total number of voters who voted at the polling place as indicated by the poll list;

(2) the vote totals tallied for each candidate and for and against each measure at the time of notification; and

(3) the expected time of finishing the count.

(c) The precinct election records shall be delivered not later than 24 hours after the polls close in each election.

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

Sec. 66.054. FAILURE TO DELIVER ELECTION RETURNS AND VOTED BALLOTS. (a) An election officer responsible for delivering precinct election returns or voted ballots commits an offense if the officer:

(1) fails to make the delivery to the appropriate authority;

(2) fails to make the delivery by the deadline prescribed by Section 66.053(c); or

(3) fails to prevent another person from handling in an unauthorized manner the returns or voted ballots that the officer is responsible for delivering while they are in the officer's custody.

(b) If the officer is an election clerk, it is an exception to the application of Subsection (a)(2) that the election clerk did not receive the returns from the presiding judge in time to permit a timely delivery.

(c) An offense under this section is a Class B misdemeanor.
Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Sec. 66.055. JUDICIAL IMPOUNDMENT OF ELECTION RECORDS. (a) If the precinct election records are not delivered by the deadline prescribed by Section 66.053(c), on application by a member of the

canvassing authority, a district judge shall order the precinct election records to be impounded.

(b) The district judge shall supervise the activities necessary to complete the count, prepare the precinct returns, and distribute the records.

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

Sec. 66.056. UNOFFICIAL TABULATION OF PRECINCT RESULTS.

(a) As the general custodian of election records receives the precinct election records from each polling place, the custodian shall:

(1) open the envelopes and remove the precinct election returns; and

(2) prepare a tabulation stating for each candidate and for and against each measure:

(A) the total number of votes received in each precinct; and

(B) the sum of the precinct totals tabulated under Paragraph (A).

(b) The custodian shall periodically make a public announcement of the current state of the tabulation made under Subsection (a).

(c) The tabulation made under Subsection (a) is unofficial and does not affect the outcome of the election.

(d) The custodian shall preserve the unofficial tabulation for the period for preserving the precinct election records.

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

Sec. 66.057. REGULATING PUBLIC INSPECTION OF CERTAIN

ELECTION RECORDS. (a) The election returns for a particular precinct that are delivered to the general custodian of election records do not become public information until the custodian completes the unofficial tabulation of the results for that precinct.

(b) The general custodian of election records or the custodian's designee shall be present at all times when the records delivered in ballot box no. 4 are inspected.

(c) The election records in envelope no. 3 become public information when delivery of the precinct election records is completed.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1997, 75th Leg., ch. 864, Sec. 65, eff. Sept. 1, 1997.

Sec. 66.058. PRESERVATION OF PRECINCT ELECTION RECORDS.

(a) Except as otherwise provided by this code, the precinct election records shall be preserved by the authority to whom they are distributed for at least 22 months after election day.

(b) For a period of at least 60 days after the date of the election, the voted ballots shall be preserved securely in a locked room in the locked ballot box in which they are delivered to the general custodian of election records. On the 61st day after election day, the general custodian of election records may:

(1) require a person who has possession of a key that operates the lock on a ballot box containing voted ballots to return the key to the custodian; and

(2) unlock the ballot box and transfer the voted ballots to another secure container for the remainder of the preservation period.

(b-1) Except as permitted by this code, a ballot box or other secure container containing voted ballots may not be opened during the preservation period.

(c) If during the preservation period an authorized entry is made into a ballot box or other secure container containing voted ballots, when the purpose for the entry is fulfilled, the box or container shall be relocked or resecured, and the box and key or secure container returned to the custodian.

(d) A custodian of a ballot box or secure container containing voted ballots commits an offense if, during the preservation period prescribed by Subsection (a), the custodian:

(1) makes an unauthorized entry into the box or container; or

(2) fails to prevent another person from handling the box or container in an unauthorized manner or from making an unauthorized entry into the box or container.

(e) An offense under Subsection (d) is a Class A misdemeanor.

(f) The records in ballot box no. 4 may be preserved in that box or by any other method chosen by the custodian. If the records are removed from the box, they may not be commingled with any other election records kept by the custodian.

(g) Electronic records created under Chapter 129 shall be preserved in a secure container.

(h) For the preservation of precinct election records in an election involving a federal office, the secretary of state shall instruct the affected authorities on the actions necessary to comply with federal law and otherwise implement this section.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1997, 75th Leg., ch. 1078, Sec. 18, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 1315, Sec. 40, eff. Jan. 1, 2004.

Amended by:

Acts 2005, 79th Leg., Ch. 950 (H.B. 1580), Sec. 1, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 1197 (H.B. 1446), Sec. 1, eff. June 15, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1197 (H.B. 1446), Sec. 2, eff. June 15, 2007.

Acts 2009, 81st Leg., R.S., Ch. 682 (H.B. 2524), Sec. 1, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 1164 (H.B. 2817), Sec. 13, eff. September 1, 2011.

Acts 2017, 85th Leg., 1st C.S., Ch. 1 (S.B. 5), Sec. 2, eff. December 1, 2017.

Sec. 66.059. RETRIEVING ERRONEOUSLY PLACED ELECTION RECORDS. (a) On written application by the presiding officer of the local canvassing authority or the presiding judge of the election precinct, a district judge of the county in which a ballot box containing voted ballots is in custody may order the box opened to retrieve an election record that was erroneously placed in the box.

(b) If the political subdivision holding the election is not

a county or is a county that does not maintain an Internet website, the district judge shall post a notice of the date, hour, and place for opening the box on the bulletin board used for posting notices of the meetings of the governing body of the political subdivision served by the general custodian of election records. The notice must remain posted continuously for the 24 hours immediately preceding the hour set for opening the box.

(b-1) If the political subdivision holding the election is a county that maintains an Internet website, the district judge shall post a notice of the date, hour, and place for opening the box on the county's Internet website. The notice must remain posted continuously for the 24 hours preceding the hour set for opening the box.

(c) Any interested person may observe the opening of the box.

(d) The district judge shall issue the orders necessary to safeguard the contents of a ballot box opened under this section.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1997, 75th Leg., ch. 1078, Sec. 19, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 1315, Sec. 41, eff. Jan. 1, 2004.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1052 (H.B. [933](#)), Sec. 7, eff. September 1, 2019.

Sec. 66.060. DELIVERY AND PRESERVATION OF KEY TO BALLOT BOX NO. 3. (a) The presiding judge shall deliver the key to ballot box no. 3 in person to the following authority:

(1) the sheriff, for an election ordered by the governor or a county authority or for a primary election, except that in a year in which the office of sheriff is regularly on the ballot the presiding judge shall deliver the key to the county judge, and if both those offices are on the same ballot because of the filling of an unexpired term the key shall be delivered to the county auditor or to a designated member of the commissioners court who is not on the ballot and who is appointed by the court if the county does not have a county auditor;

(2) the chief of police or city marshal, for an

election ordered by a city authority; or

(3) the constable of the justice precinct in which the office of the political subdivision's governing body is located, or if the office of constable is vacant, the sheriff of the county in which the governing body's office is located, for an election ordered by an authority of a political subdivision other than a county or city.

(b) The ballot box key shall be delivered at the same time as the precinct election records.

(c) The custodian of the key to ballot box no. 3 shall keep the key for the period for preserving the precinct election records except for the time the key is temporarily out of the custodian's custody in accordance with this code.

(d) A person commits an offense if the person is the custodian of the key to a ballot box containing voted ballots and, during the period for keeping the key, the person knowingly relinquishes custody of the key except as permitted by law. An offense under this subsection is a Class B misdemeanor.

(e) After the period for keeping a key to ballot box no. 3 expires, the key's custodian shall return the key to the custodian of the ballot box.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1989, 71st Leg., ch. 430, Sec. 1, eff. Sept. 1, 1989; Acts 1997, 75th Leg., ch. 864, Sec. 66, eff. Sept. 1, 1997.

Sec. 66.061. CUSTODY OF LIST OF REGISTERED VOTERS TO BE REUSED IN SUBSEQUENT ELECTION. The custodian of a precinct list of registered voters that is to be reused in a subsequent election occurring during the preservation period shall return the list to the authority responsible for delivering the election supplies not earlier than the fourth day before the date it is needed for the subsequent election.

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

Sec. 66.062. RETURNING EQUIPMENT AND SUPPLIES. (a) At the same time the precinct election records are delivered, the unused election supplies shall be delivered to the authority responsible

for distributing the election supplies.

(b) The presiding judge shall follow the directions of the authority responsible for distributing the election supplies regarding the storage or return after the election of ballot boxes no. 1 and no. 2, the keys to those boxes, voting booths, and other election equipment.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.
Renumbered from Election Code Sec. 66.063 and amended by Acts 1987,
70th Leg., ch. 54, Sec. 12(b), eff. Sept. 1, 1987.