

ELECTION CODE
TITLE 7. EARLY VOTING
SUBTITLE A. EARLY VOTING
CHAPTER 86. CONDUCT OF VOTING BY MAIL

Sec. 86.001. REVIEWING APPLICATION AND PROVIDING BALLOT.

(a) The early voting clerk shall review each application for a ballot to be voted by mail.

(b) If the applicant is entitled to vote an early voting ballot by mail, the clerk shall provide an official ballot to the applicant as provided by this chapter.

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

(d) If the application does not include the applicant's correct voter registration number or county election precinct of residence, the clerk shall enter the appropriate information on the application before providing a ballot to the applicant.

(e) If the applicant does not have an effective voter registration for the election, the clerk shall reject the application unless the clerk can determine from the voter registrar that the applicant has submitted a voter registration application and the registration will be effective on election day.

(f) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 1178, Sec. 23, eff. September 1, 2013.

(g) If a ballot is provided to the applicant, the clerk shall indicate beside the applicant's name on the list of registered voters that a ballot to be voted by mail was provided to the applicant and the date of providing the ballot unless the form of the list makes it impracticable to do so.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 472, Sec. 26, eff. Sept. 1, 1987; Acts 1991, 72nd Leg., ch. 203, Sec. 2.12; Acts 1991, 72nd Leg., ch. 554,

Sec. 1, eff. Sept. 1, 1991; Acts 1997, 75th Leg., ch. 1381, Sec. 13, eff. Sept. 1, 1997.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1178 (S.B. 910), Sec. 23, eff. September 1, 2013.

Sec. 86.0015. ANNUAL BALLOTS BY MAIL. (a) This section applies only to an application for a ballot to be voted by mail that:

(1) indicates the ground of eligibility is age or disability; and

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

(b) An application described by Subsection (a) is considered to be an application for a ballot for each election, including any ensuing runoff:

(1) in which the applicant is eligible to vote; and

(2) that occurs before the earlier of:

(A) except as provided by Subsection (b-2), the end of the calendar year in which the application was submitted;

(B) the date the county clerk receives notice from the voter registrar under Subsection (f) that the voter has changed residence to another county; or

(C) the date the voter's registration is canceled.

(b-1) An application submitted under this section must be submitted before the close of regular business in the early voting clerk's office or 12 noon, whichever is later, on the 11th day before election day unless that day is a Saturday, Sunday, or legal state or national holiday, in which case the last day is the first preceding regular business day.

(b-2) An application is considered to be submitted in the following calendar year for purposes of this section if:

(1) the applicant is eligible to vote in an election occurring in January or February of the next calendar year; and

(2) the application is submitted in the last 60 days of

a calendar year but not earlier than the 60th day before the date of the January or February election.

(c) In an election of a political subdivision located in a county in which the county clerk is not the early voting clerk, the county clerk shall provide the early voting clerk of the political subdivision that is holding the election a list of voters in the portion of the political subdivision located in the county who have ballot applications on file under this section. The early voting clerk shall provide a ballot to be voted by mail to each voter on the list.

(d) The secretary of state shall provide a method by which counties and political subdivisions located in the county can exchange and update information on applications received under this section.

(e) An application described by Subsection (a) shall be preserved for the period for preserving the precinct election records for the last election for which the application is effective.

(f) The voter registrar shall notify the county clerk when a voter's voter registration has been canceled or a voter's address or name has changed. The county clerk must update any list of voters who have ballot applications on file under this section based on the information received from the voter registrar. A voter's ballot application on file under this section may not be canceled if a correction in registration information for the voter is a change of address within the county in which the voter is registered or a change of the voter's name.

Added by Acts 2013, 83rd Leg., R.S., Ch. 53 (H.B. 666), Sec. 1, eff. January 1, 2014.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1050 (H.B. 1927), Sec. 6, eff. September 1, 2015.

Sec. 86.002. ADDITIONAL BALLOTING MATERIALS. (a) The early voting clerk shall provide an official ballot envelope and carrier envelope with each ballot provided to a voter. If the voter's name appears on the list of registered voters with the

notation "S", or a similar notation, or the residence address on the voter's early voting ballot application is not the same as the voter's residence address on the list of registered voters, the clerk shall provide a form for a statement of residence to the voter.

(b) Before providing the balloting materials to the voter, the clerk shall enter on the carrier envelope the identity and date of the election.

(c) The clerk shall enter on a carrier envelope the voter's name in printed form, a notation that a statement of residence is enclosed, if applicable, and any other information the clerk determines necessary for proper processing of the ballot.

(d) The secretary of state shall prescribe instructions to be printed on the balloting materials for the execution and return of a statement of residence. The instructions must include an explanation of the circumstances under which the ballot must be rejected with respect to the statement.

(e) If the clerk determines that the carrier envelope and other balloting materials will weigh more than one ounce when returned by mail to the clerk, the clerk shall include with the balloting materials a notice of the amount of first class postage that will be required for the return by mail of the carrier envelope and enclosed materials.

(f) The clerk shall include with the balloting materials a notice of the clerk's physical address for purposes of return by common or contract carrier.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 54, Sec. 8(b), eff. Sept. 1, 1987; Acts 1987, 70th Leg., ch. 472, Sec. 27, eff. Sept. 1, 1987; Acts 1991, 72nd Leg., ch. 203, Sec. 2.12; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991; Acts 1993, 73rd Leg., ch. 916, Sec. 25, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 797, Sec. 41, eff. Sept. 1, 1995; Acts 2003, 78th Leg., ch. 620, Sec. 1, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1315, Sec. 43, eff. Jan. 1, 2004.

Sec. 86.003. METHOD OF PROVIDING BALLOT TO VOTER: REQUIRED ADDRESS. (a) The balloting materials for voting by mail shall be

provided to the voter by mail. A ballot provided by any other method may not be counted.

(b) Subject to Subsection (c), the balloting materials shall be addressed to the applicable address specified in the voter's application. The election officer providing the ballot may not knowingly mail the materials to an address other than that prescribed by this section.

(c) The address to which the balloting materials must be addressed is the address at which the voter is registered to vote, or the registered mailing address if different, unless the ground for voting by mail is:

(1) absence from the county of residence, in which case the address must be an address outside the voter's county of residence;

(2) confinement in jail, in which case the address must be the address of the jail or of a relative described by Section 84.002(a)(4); or

(3) age or disability and the voter is living at a hospital, nursing home or other long-term care facility, or retirement center, or with a relative described by Section 84.002(a)(3), in which case the address must be the address of that facility or relative.

(d) If the applicable address specified in a voter's application is an address other than that prescribed by Subsection (c), the voter's application shall be rejected in accordance with Section 86.001(c).

(e) Repealed by Acts 2017, 85th Leg., 1st C.S., Ch. 1 (S.B. 5), Sec. 18, eff. December 1, 2017.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 2.12; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991; Acts 1997, 75th Leg., ch. 565, Sec. 4, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1381, Sec. 14, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 1316, Sec. 23, eff. Sept. 1, 2003.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 980 (H.B. 658), Sec. 2, eff. September 1, 2017.

Acts 2017, 85th Leg., 1st C.S., Ch. 1 (S.B. 5), Sec. 8, eff. December 1, 2017.

Acts 2017, 85th Leg., 1st C.S., Ch. 1 (S.B. 5), Sec. 18, eff. December 1, 2017.

Sec. 86.004. TIME FOR PROVIDING BALLOT TO VOTER.

(a) Except as provided by Subsection (b), the balloting materials for voting by mail shall be mailed to a voter entitled to vote by mail not later than the seventh calendar day after the later of the date the clerk accepts the voter's application for a ballot to be voted by mail or the date the ballots become available for mailing, except that if that mailing date is earlier than the 37th day before election day, the balloting materials shall be mailed not later than the 30th day before election day.

(b) For an election to which Section 101.104 applies, the balloting materials for a voter who indicates on the application for a ballot to be voted by mail or the federal postcard application that the voter is eligible to vote early by mail as a consequence of the voter's being outside the United States shall be mailed on or before the later of the 45th day before election day or the seventh calendar day after the date the clerk receives the application. However, if it is not possible to mail the ballots by the deadline of the 45th day before election day, the clerk shall notify the secretary of state within 24 hours of knowing that the deadline will not be met. The secretary of state shall monitor the situation and advise the clerk, who shall mail the ballots as soon as possible in accordance with the secretary of state's guidelines.

(c) Repealed by Acts 2017, 85th Leg., 1st C.S., Ch. 1 (S.B. 5), Sec. 18, eff. December 1, 2017.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 2.12; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991; Acts 2003, 78th Leg., ch. 393, Sec. 12, eff. Sept. 1, 2003.

Amended by:

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

Acts 2011, 82nd Leg., R.S., Ch. 1318 (S.B. 100), Sec. 8, eff.

September 1, 2011.

Acts 2017, 85th Leg., R.S., Ch. 980 (H.B. 658), Sec. 3, eff. September 1, 2017.

Acts 2017, 85th Leg., 1st C.S., Ch. 1 (S.B. 5), Sec. 9, eff. December 1, 2017.

Acts 2017, 85th Leg., 1st C.S., Ch. 1 (S.B. 5), Sec. 18, eff. December 1, 2017.

Acts 2019, 86th Leg., R.S., Ch. 712 (H.B. 273), Sec. 1, eff. September 1, 2019.

Sec. 86.005. MARKING AND SEALING BALLOT. (a) A voter must mark a ballot voted by mail in accordance with the instructions on the ballot envelope.

(b) A voter may mark the ballot at any time after receiving it.

(c) After marking the ballot, the voter must place it in the official ballot envelope and then seal the ballot envelope, place the ballot envelope in the official carrier envelope and then seal the carrier envelope, and sign the certificate on the carrier envelope.

(d) Failure to use the official ballot envelope does not affect the validity of the ballot.

(e) After the carrier envelope is sealed by the voter, it may not be opened except as provided by Chapter 87.

(f) Expired.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 2.12; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991; Acts 2003, 78th Leg., ch. 1315, Sec. 44, eff. Jan. 1, 2004.

Sec. 86.0051. UNLAWFUL CARRIER ENVELOPE ACTION BY PERSON OTHER THAN VOTER. (a) A person commits an offense if the person acts as a witness for a voter in signing the certificate on the carrier envelope and knowingly fails to comply with Section 1.011.

(b) A person other than the voter who assists a voter by depositing the carrier envelope in the mail or with a common or contract carrier or who obtains the carrier envelope for that

purpose must provide the person's signature, printed name, and residence address on the reverse side of the envelope.

(c) A person commits an offense if the person knowingly violates Subsection (b). It is not a defense to an offense under this subsection that the voter voluntarily gave another person possession of the voter's carrier envelope.

(d) An offense under this section is a Class A misdemeanor, unless it is shown on the trial of an offense under this section that the person committed an offense under Section 64.036 for providing unlawful assistance to the same voter in connection with the same ballot, in which event the offense is a state jail felony.

(e) This section does not apply if the person is related to the voter within the second degree by affinity or the third degree by consanguinity, as determined under Subchapter B, Chapter 573, Government Code, or was physically living in the same dwelling as the voter at the time of the event.

(f) If conduct that constitutes an offense under this section also constitutes an offense under any other law, the actor may be prosecuted under this section, the other law, or both.

Added by Acts 2003, 78th Leg., ch. 393, Sec. 13, eff. Sept. 1, 2003.

Amended by:

Acts 2017, 85th Leg., 1st C.S., Ch. 1 (S.B. 5), Sec. 10, eff. December 1, 2017.

Acts 2017, 85th Leg., 1st C.S., Ch. 1 (S.B. 5), Sec. 11, eff. December 1, 2017.

Sec. 86.0052. COMPENSATION FOR CARRIER ENVELOPE ACTION PROHIBITED. (a) A person commits an offense if the person:

(1) compensates another person for depositing the carrier envelope in the mail or with a common or contract carrier as provided by Section 86.0051(b), as part of any performance-based compensation scheme based on the number of ballots deposited or in which another person is presented with a quota of ballots to deposit as provided by Section 86.0051(b);

(2) engages in another practice that causes another person's compensation from or employment status with the person to be dependent on the number of ballots deposited as provided by

Section 86.0051(b); or

(3) with knowledge that accepting compensation for such activity is illegal, accepts compensation for an activity described by Subdivision (1) or (2).

(b) Except as provided by Subsection (c), an offense under this section is a misdemeanor punishable by:

(1) confinement in jail for a term of not more than one year or less than 30 days; or

(2) confinement described by Subdivision (1) and a fine not to exceed \$4,000.

(c) An offense under this section is a state jail felony if it is shown on the trial of an offense under this section that the defendant was previously convicted two or more times under this section.

(d) An officer, director, or other agent of an entity that commits an offense under this section is punishable for the offense.

(e) For purposes of this section, compensation means any form of monetary payment, goods, services, benefits, or promises or offers of employment, or any other form of consideration offered to another person in exchange for depositing ballots.

Added by Acts 2013, 83rd Leg., R.S., Ch. 846 (H.B. 148), Sec. 1, eff. September 1, 2013.

Sec. 86.006. METHOD OF RETURNING MARKED BALLOT. (a) A marked ballot voted under this chapter must be returned to the early voting clerk in the official carrier envelope. The carrier envelope may be delivered in another envelope and must be transported and delivered only by:

(1) mail;

(2) common or contract carrier; or

(3) subject to Subsection (a-1), in-person delivery by the voter who voted the ballot.

(a-1) The voter may deliver a marked ballot in person to the early voting clerk's office only while the polls are open on election day. A voter who delivers a marked ballot in person must present an acceptable form of identification described by Section

63.0101.

(b) Except as provided by Subsection (c), a carrier envelope may not be returned in an envelope or package containing another carrier envelope.

(c) The carrier envelopes of persons who are registered to vote at the same address may be returned in the same envelope or package.

(d) Each carrier envelope that is delivered by a common or contract carrier must be accompanied by an individual delivery receipt for that particular carrier envelope that indicates the name and residence address of the individual who actually delivered the envelope to the carrier and the date, hour, and address at which the carrier envelope was received by the carrier. A delivery of carrier envelopes is prohibited by a common or contract carrier if the delivery originates from the address of:

(1) an office of a political party or a candidate in the election;

(2) a candidate in the election unless the address is the residence of the early voter;

(3) a specific-purpose or general-purpose political committee involved in the election; or

(4) an entity that requested that the election be held, unless the delivery is a forwarding to the early voting clerk.

(e) Carrier envelopes may not be collected and stored at another location for subsequent delivery to the early voting clerk. The secretary of state shall prescribe appropriate procedures to implement this subsection and to provide accountability for the delivery of the carrier envelopes from the voting place to the early voting clerk.

(f) A person commits an offense if the person knowingly possesses an official ballot or official carrier envelope provided under this code to another. Unless the person possessed the ballot or carrier envelope with intent to defraud the voter or the election authority, this subsection does not apply to a person who, on the date of the offense, was:

(1) related to the voter within the second degree by affinity or the third degree by consanguinity, as determined under

Subchapter B, Chapter 573, Government Code;

(2) physically living in the same dwelling as the voter;

(3) an early voting clerk or a deputy early voting clerk;

(4) a person who possesses a ballot or carrier envelope solely for the purpose of lawfully assisting a voter who was eligible for assistance under Section 86.010 and complied fully with:

(A) Section 86.010; and

(B) Section 86.0051, if assistance was provided in order to deposit the envelope in the mail or with a common or contract carrier;

(5) an employee of the United States Postal Service working in the normal course of the employee's authorized duties; or

(6) a common or contract carrier working in the normal course of the carrier's authorized duties if the official ballot is sealed in an official carrier envelope that is accompanied by an individual delivery receipt for that particular carrier envelope.

(g) An offense under Subsection (f) is a Class A misdemeanor unless the defendant possessed the ballot or carrier envelope without the request of the voter, in which case it is a felony of the third degree. If conduct that constitutes an offense under this section also constitutes an offense under any other law, the actor may be prosecuted under this section, the other law, or both.

(g-1) An offense under Subsection (g) is increased to the next higher category of offense if it is shown on the trial of an offense under this section that:

(1) the defendant was previously convicted of an offense under this code;

(2) the offense involved an individual 65 years of age or older; or

(3) the defendant committed another offense under this section in the same election.

(h) A ballot returned in violation of this section may not be counted. If the early voting clerk determines that the ballot

was returned in violation of this section, the clerk shall make a notation on the carrier envelope and treat it as a ballot not timely returned in accordance with Section [86.011\(c\)](#). If the ballot is returned before the end of the period for early voting by personal appearance, the early voting clerk shall promptly mail or otherwise deliver to the voter a written notice informing the voter that:

(1) the voter's ballot will not be counted because of a violation of this code; and

(2) the voter may vote if otherwise eligible at an early voting polling place or the election day precinct polling place on presentation of the notice.

(i) In the prosecution of an offense under Subsection (f):

(1) the prosecuting attorney is not required to negate the applicability of the provisions of Subsections (f)(1)-(6) in the accusation charging commission of an offense;

(2) the issue of the applicability of a provision of Subsection (f)(1), (2), (3), (4), (5), or (6) is not submitted to the jury unless evidence of that provision is admitted; and

(3) if the issue of the applicability of a provision of Subsection (f)(1), (2), (3), (4), (5), or (6) is submitted to the jury, the court shall charge that a reasonable doubt on the issue requires that the defendant be acquitted.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 431, Sec. 1, eff. Sept. 1, 1987; Acts 1987, 70th Leg., ch. 472, Sec. 28, eff. Sept. 1, 1987; Acts 1991, 72nd Leg., ch. 203, Sec. 1.18; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991; Acts 1997, 75th Leg., ch. 1381, Sec. 15, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 393, Sec. 14, eff. Sept. 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 238 (H.B. [1987](#)), Sec. 1, eff. September 1, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 1159 (H.B. [2449](#)), Sec. 1, eff. September 1, 2011.

Acts 2015, 84th Leg., R.S., Ch. 1050 (H.B. [1927](#)), Sec. 7, eff. September 1, 2015.

Acts 2017, 85th Leg., 1st C.S., Ch. 1 (S.B. [5](#)), Sec. 12, eff.

December 1, 2017.

Sec. 86.007. DEADLINE FOR RETURNING MARKED BALLOT.

(a) Except as provided by Subsection (d), a marked ballot voted by mail must arrive at the address on the carrier envelope:

(1) before the time the polls are required to close on election day; or

(2) not later than 5 p.m. on the day after election day, if the carrier envelope was placed for delivery by mail or common or contract carrier before election day and bears a cancellation mark of a common or contract carrier or a courier indicating a time not later than 7 p.m. at the location of the election on election day.

(b) If the early voting clerk cannot determine whether a ballot arrived before the deadline, the ballot is considered to have arrived at the time the place at which the carrier envelopes are deposited was last inspected for removal of returned ballots. The clerk shall check for returned ballots, at least once before the deadline, after the normal delivery time on the last day at the place at which the carrier envelopes are deposited.

(c) A marked ballot that is not timely returned may not be counted.

(d) A marked ballot voted by mail that arrives after the time prescribed by Subsection (a) shall be counted if:

(1) the ballot was cast from an address outside the United States;

(2) the carrier envelope was placed for delivery before the time the ballot is required to arrive under Subsection (a)(1); and

(3) the ballot arrives at the address on the carrier envelope not later than the fifth day after the date of the election.

(d-1) If the deadline for the arrival of a ballot voted by mail falls on a Saturday, Sunday, or legal state or national holiday, then the deadline is extended to the next regular business day.

(e) A delivery under Subsection (a)(2) or (d) is timely,

except as otherwise provided by this title, if the carrier envelope or, if applicable, the envelope containing the carrier envelope:

(1) is properly addressed with postage or handling charges prepaid; and

(2) bears a cancellation mark of a recognized postal service or a receipt mark of a common or contract carrier or a courier indicating a time before the deadline.

(f) The envelope must bear the cancellation mark or receipt mark as required by Subsection (e)(2) to be timely under this section.

(g) The secretary of state shall prescribe procedures as necessary to implement Subsection (d).

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 472, Sec. 29, eff. Sept. 1, 1987; Acts 1991, 72nd Leg., ch. 203, Sec. 2.12; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991; Acts 1997, 75th Leg., ch. 1349, Sec. 38, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 1316, Sec. 24, eff. Sept. 1, 2003; Acts 2003, 78th Leg., 3rd C.S., ch. 1, Sec. 4, eff. Jan. 11, 2004.

Amended by:

Acts 2005, 79th Leg., Ch. 1062 (H.B. [1414](#)), Sec. 1, eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 1107 (H.B. [2309](#)), Sec. 1.18, eff. September 1, 2005.

Acts 2017, 85th Leg., R.S., Ch. 818 (H.B. [1151](#)), Sec. 1, eff. September 1, 2017.

Sec. 86.008. DEFECTIVE APPLICATION. (a) If on reviewing an application for a ballot to be voted by mail that was received on or before the 18th day before election day the early voting clerk determines that the application does not fully comply with the applicable requirements prescribed by this title, the clerk shall mail or otherwise deliver an official application form to the applicant.

(b) The clerk shall include with the application form mailed or delivered to the applicant a written notice containing:

(1) a brief explanation of each defect in the

noncomplying application;

(2) a statement informing the voter that the voter is not entitled to vote an early voting ballot unless the application complies with all legal requirements; and

(3) instructions for submitting the second application.

(c) If an application that does not fully comply with the applicable requirements prescribed by this title is received after the 12th day before election day and before the end of the period for early voting by personal appearance, the clerk shall mail or otherwise deliver a notice to the voter containing the information prescribed by Subdivisions (1) and (2) of Subsection (b), including a statement that the application was late, if applicable.

(d) Notwithstanding any other provisions of this code, the clerk may deliver in person to the voter a second application if the defective original application is timely and may receive, before the deadline, the corrected application in person from the voter. If a procedure authorized by this subsection is used, it must be applied uniformly to all applications covered by this subsection. The clerk shall enter a notation on the application indicating any information added by the clerk under this subsection. A poll watcher is entitled to accompany the clerk and observe the procedures under this subsection. The secretary of state may prescribe any other procedures necessary to implement this subsection including requirements for posting notice of any deliveries.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 472, Sec. 30, eff. Sept. 1, 1987; Acts 1991, 72nd Leg., ch. 203, Sec. 2.12; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991; Acts 1997, 75th Leg., ch. 864, Sec. 75, eff. Sept. 1, 1997.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 84 (S.B. 1703), Sec. 6, eff. September 1, 2015.

Sec. 86.009. PROVIDING CORRECTED BALLOT TO VOTER. (a) If, after a ballot to be voted by mail is provided to a voter, the

official ballot is changed in a way that affects the choices available to the voter in the election or the validity of the ballot provided to the voter if cast, the early voting clerk shall mail a corrected ballot and corresponding balloting materials to the voter unless in the clerk's opinion there is not sufficient time for the voter to timely return the corrected ballot to the clerk.

(b) The clerk shall include with the balloting materials provided to the voter a written notice containing:

(1) a brief explanation of the reason for providing another ballot; and

(2) an instruction to destroy the defective ballot if it has not already been returned to the clerk.

(c) Before mailing the corrected ballot to the voter, the clerk shall place a notation on the carrier envelope indicating that the ballot is a corrected ballot being provided under this section. The clerk shall also indicate on the voter's application that the voter was provided a corrected ballot.

(d) The clerk shall prepare a list containing the name of each voter who is provided a corrected ballot under this section. The clerk shall preserve the list for the period for preserving the precinct election records.

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

(1) a marked ballot not timely returned if the corrected ballot is timely returned as a marked ballot; or

(2) as the voter's ballot for the election if the corrected ballot is not timely returned.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 2.12; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991; Acts 1997, 75th Leg., ch. 864, Sec. 76, eff. Sept. 1, 1997.

Sec. 86.010. UNLAWFULLY ASSISTING VOTER VOTING BALLOT BY MAIL. (a) A voter casting a ballot by mail who would be eligible under Section 64.031 to receive assistance at a polling place may select a person as provided by Section 64.032(c) to assist the voter in preparing the ballot.

(b) Assistance rendered under this section is limited to that authorized by this code at a polling place, except that a voter with a disability who is physically unable to deposit the ballot and carrier envelope in the mail may also select a person as provided by Section 64.032(c) to assist the voter by depositing a sealed carrier envelope in the mail.

(c) The person assisting the voter must sign a written oath prescribed by Section 64.034 that is part of the certificate on the official carrier envelope.

(d) If a voter is assisted in violation of this section, the voter's ballot may not be counted.

(e) A person who assists a voter to prepare a ballot to be voted by mail shall enter the person's signature, printed name, and residence address on the official carrier envelope of the voter.

(f) A person who assists a voter commits an offense if the person knowingly fails to comply with Subsections (c) and (e).

(g) An offense under this section is a state jail felony.

(h) Subsection (f) does not apply if the person is related to the voter within the second degree by affinity or the third degree by consanguinity, as determined under Subchapter B, Chapter 573, Government Code, or was physically living in the same dwelling as the voter at the time of the event.

(i) An offense under this section is increased to the next higher category of offense if it is shown on the trial of an offense under this section that:

(1) the defendant was previously convicted of an offense under this code;

(2) the offense involved a voter 65 years of age or older; or

(3) the defendant committed another offense under this section in the same election.

(j) If conduct that constitutes an offense under this section also constitutes an offense under any other law, the actor may be prosecuted under this section, the other law, or both.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 2.12; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991; Acts 1997, 75th Leg., ch. 1381,

Sec. 16, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 393, Sec. 15, eff. Sept. 1, 2003.

Amended by:

Acts 2017, 85th Leg., 1st C.S., Ch. 1 (S.B. 5), Sec. 13, eff. December 1, 2017.

Sec. 86.0105. COMPENSATION FOR ASSISTING VOTERS PROHIBITED.

(a) A person commits an offense if the person:

(1) compensates another person for assisting voters as provided by Section 86.010, as part of any performance-based compensation scheme based on the number of voters assisted or in which another person is presented with a quota of voters to be assisted as provided by Section 86.010;

(2) engages in another practice that causes another person's compensation from or employment status with the person to be dependent on the number of voters assisted as provided by Section 86.010; or

(3) with knowledge that accepting compensation for such activity is illegal, accepts compensation for an activity described by Subdivision (1) or (2).

(b) Except as provided by Subsection (c), an offense under this section is a misdemeanor punishable by:

(1) confinement in jail for a term of not more than one year or less than 30 days; or

(2) confinement described by Subdivision (1) and a fine not to exceed \$4,000.

(c) An offense under this section is a state jail felony if it is shown on the trial of an offense under this section that the defendant was previously convicted two or more times under this section.

(d) An officer, director, or other agent of an entity that commits an offense under this section is punishable for the offense.

(e) For purposes of this section, compensation means any form of monetary payment, goods, services, benefits, or promises or offers of employment, or any other form of consideration offered to another person in exchange for assisting voters.

Added by Acts 2013, 83rd Leg., R.S., Ch. 846 (H.B. 148), Sec. 2, eff. September 1, 2013.

Sec. 86.011. ACTION BY CLERK ON RETURN OF BALLOT. (a) The early voting clerk shall determine whether the return of a voter's official carrier envelope for a ballot voted by mail is timely.

(b) If the return is timely, the clerk shall enclose the carrier envelope and the voter's early voting ballot application in a jacket envelope. The clerk shall also include in the jacket envelope:

(1) a copy of the voter's federal postcard application if the ballot is voted under Chapter 101; and

(2) the signature cover sheet, if the ballot is voted under Chapter 105.

(c) If the return is not timely, the clerk shall enter the time of receipt on the carrier envelope and retain it for the period for preserving the precinct election records. The clerk shall destroy the unopened envelope and its contents after the preservation period.

(d) Notwithstanding any other provisions of this code, if the clerk receives a timely carrier envelope that does not fully comply with the applicable requirements prescribed by this title, the clerk may deliver the carrier envelope in person or by mail to the voter and may receive, before the deadline, the corrected carrier envelope from the voter, or the clerk may notify the voter of the defect by telephone and advise the voter that the voter may come to the clerk's office in person to correct the defect or cancel the voter's application to vote by mail and vote on election day. If the procedures authorized by this subsection are used, they must be applied uniformly to all carrier envelopes covered by this subsection. A poll watcher is entitled to observe the procedures under this subsection. The secretary of state may prescribe any other procedures necessary to implement this subsection including requirements for posting notice of any deliveries.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 472, Sec. 31, eff. Sept. 1, 1987; Acts 1991, 72nd Leg., ch. 203, Sec. 1.19; Acts 1991, 72nd Leg., ch. 554,

Sec. 1, eff. Sept. 1, 1991; Acts 1997, 75th Leg., ch. 864, Sec. 77, eff. Sept. 1, 1997.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1318 (S.B. 100), Sec. 9, eff. September 1, 2011.

Sec. 86.012. OFFICIAL BALLOT ENVELOPE. (a) "Ballot Envelope" must be printed on the face of each officially prescribed ballot envelope for a ballot to be voted by mail.

(b) The following textual material, as prescribed by the secretary of state, must be printed on the face of each official ballot envelope and may be continued on the reverse side if necessary:

(1) instructions for marking the ballot and returning the marked ballot to the early voting clerk;

(2) the deadline for returning the marked ballot to the clerk;

(3) limitations on assistance to the voter; and

(4) criminal penalties for unlawful assistance in preparing the ballot.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 2.12; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991.

Sec. 86.013. OFFICIAL CARRIER ENVELOPE. (a) "Carrier Envelope for Early Voting Ballot," the name and official title of the early voting clerk as addressee, and the clerk's official mailing address must be printed on the face of each official carrier envelope for a ballot to be voted by mail.

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

(1) indicating the identity and date of the election; and

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

(c) A certificate in substantially the following form must

be printed on the reverse side of the official carrier envelope in a manner that requires the voter to sign across the flap of the envelope:

"I certify that the enclosed ballot expresses my wishes independent of any dictation or undue persuasion by any person.

Signature of voter

By: _____

Signature of person assisting voter, if applicable (see Ballot Envelope for restrictions and penalties)

Printed name of person assisting voter, if applicable

Residence address of person assisting voter, if applicable"

(d) The following textual material, as prescribed by the secretary of state, must be printed on the reverse side of the official carrier envelope or on a separate sheet accompanying the carrier envelope when it is provided:

(1) the prohibition prescribed by Section 86.006(b);

(2) the conditions for delivery by common or contract carrier prescribed by Sections 81.005 and 86.006;

(3) the requirements for the legal execution and delivery of the carrier envelope, including the prohibition on compensation for depositing carrier envelopes containing ballots voted by other persons under Section 86.0052;

(4) the prohibition prescribed by Section 86.006(e);
and

(5) the offenses prescribed by Sections 86.006(f) and 86.010(f).

(e) The following notice must be printed on the reverse side of the official carrier envelope, near the space provided for the voter's signature: "This envelope must be sealed by the voter before it leaves the voter's hands. Do not sign this envelope

unless the ballot has been marked by you or at your direction."

(f) The oath of a person assisting a voter must be included on the official carrier envelope as part of the certificate prescribed by Subsection (c).

(g) The secretary of state by rule shall require that a notice informing voters of the telephone number established under Section [31.0055](#) and the purpose of the telephone number be printed on:

(1) the official carrier envelope; or

(2) an insert enclosed with the balloting materials for voting by mail sent to the voter.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 1.20; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991; Acts 1997, 75th Leg., ch. 1381, Sec. 17, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 393, Sec. 16, eff. Sept. 1, 2003.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 846 (H.B. [148](#)), Sec. 3, eff. September 1, 2013.

Sec. 86.014. PUBLIC INSPECTION OF EARLY VOTING RECORDS.

(a) A copy of an application for a ballot to be voted by mail is not available for public inspection, except to the voter seeking to verify that the information pertaining to the voter is accurate, until the first business day after the election day of the earliest occurring election for which the application is submitted.

(b) Originals of the applications and carrier envelopes are not available for public inspection until those materials are delivered to the general custodian of election records after the election.

Added by Acts 1987, 70th Leg., ch. 472, Sec. 32, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 2.12; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991; Acts 1997, 75th Leg., ch. 565, Sec. 5, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1381, Sec. 18, eff. Sept. 1, 1997.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1159 (H.B. [2449](#)), Sec. 2, eff.

September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 1178 (S.B. [910](#)), Sec. 11, eff.

September 1, 2013.

Acts 2017, 85th Leg., R.S., Ch. 484 (H.B. [2559](#)), Sec. 1, eff.

September 1, 2017.