

CHAPTER 1083

ELECTIONS AND VOTER REGISTRATION

S.F. 2269

AN ACT relating to elections and voter registration, including implementing requirements of federal law, adjusting language to reflect current practice, making changes related to voting machines, making changes related to absentee voting, providing penalties, and providing effective and applicability dates.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 39A.4, subsection 1, paragraph c, Code 2003, is amended by adding the following new subparagraphs:

NEW SUBPARAGRAPH. (11) Returning a voted absentee ballot, by mail or in person, to the commissioner's office and the person returning the ballot is not the voter, an absentee ballot courier, a special precinct election official designated pursuant to section 53.22, subsection 1, or the designee of a voter described in section 53.22, subsection 5.

NEW SUBPARAGRAPH. (12) Making a false or untrue statement reporting that a voted absentee ballot was returned to the commissioner's office, by mail or in person, by a person other than the voter, an absentee ballot courier, a special precinct election official designated pursuant to section 53.22, subsection 1, or the designee of a voter described in section 53.22, subsection 5.

Sec. 2. Section 46.21, unnumbered paragraph 1, Code 2003, is amended to read as follows:

At least sixty-nine days before each judicial election, the state commissioner of elections shall certify to the county commissioner of elections of each county a list of the judges of the supreme court, court of appeals, and district court including district associate judges, full-time associate juvenile judges, and full-time associate probate judges, and clerks of the district court to be voted on in each county at that election. The county commissioner of elections shall place the names upon the ballot in the order in which they appear in the certificate, ~~unless only one county is voting thereon.~~ The state commissioner of elections shall rotate the names in the certificate by county, ~~or the county commissioner of elections shall rotate them upon the ballot by precinct if only one county is voting thereon.~~ The names of all judges and clerks to be voted on shall be placed upon one ballot, which shall be in substantially the following form:

Sec. 3. Section 47.1, Code Supplement 2003, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The state commissioner shall adopt rules pursuant to chapter 17A, for the implementation of uniform and nondiscriminatory administrative complaint procedures for resolution of grievances relating to violations of Title III of Pub. L. No. 107-252. In complaint proceedings in which all of the respondents are local election officials, the presiding officer shall be the state commissioner of elections. In complaint proceedings in which one of the respondents is the state commissioner of elections, the presiding officer shall be a panel consisting of all members of the state voter registration commission appointed pursuant to section 47.8, except the state commissioner of elections or the state commissioner's designee.

Sec. 4. Section 47.7, subsections 2, 3, and 4, Code Supplement 2003, are amended by striking the subsections and inserting in lieu thereof the following:

2. a. On or before January 1, 2006, the state registrar of voters shall implement in a uniform and nondiscriminatory manner, a single, uniform, official, centralized, interactive computerized statewide voter registration file defined, maintained, and administered at the state level that contains the name and registration information of every legally registered voter in the

state and assigns a unique identifier to each legally registered voter in the state. The state voter registration system shall be coordinated with other agency databases within the state, including, but not limited to, the department of transportation driver's license records, judicial records of convicted felons and persons declared incompetent to vote, and department of public health records of deceased persons.

b. On or after January 1, 2006, a county shall not establish or maintain a voter registration system separate from the state voter registration system. Each county shall provide to the state registrar the names, voter registration information, and voting history of each registered voter in the county in the form required by the state registrar.

c. A state or local election official may obtain immediate electronic access to the information contained in the computerized voter registration file. All voter registration information obtained by a local election official shall be electronically entered into the computerized voter registration file on an expedited basis at the time the information is provided to the local election official. The state registrar shall provide such support as may be required to enable local election officials to electronically enter the information into the computerized voter registration file on an expedited basis. The list generated from the computerized file shall serve as the official voter registration list for the conduct of all elections for federal office in the state.

d. The state registrar shall prescribe by rule the procedures for access to the state voter registration file, security requirements, and access protocols for adding, changing, or deleting information from the state voter registration file.

Sec. 5. Section 47.8, Code Supplement 2003, is amended by adding the following new subsection:

NEW SUBSECTION. 5. In complaint proceedings held pursuant to section 47.1 in which one of the respondents is the state commissioner of elections, the presiding officer shall be a panel consisting of all members of the state voter registration commission, except the state commissioner of elections or the state commissioner's designee.

Sec. 6. Section 48A.8, Code 2003, is amended to read as follows:

48A.8 REGISTRATION BY MAIL.

1. An eligible elector may register to vote by completing a mail registration form. The form may be mailed or delivered by the registrant or the registrant's designee to the commissioner in the county where the person resides. A separate registration form shall be signed by each individual registrant.

2. An eligible elector who registers by mail and who has not previously voted in an election for federal office in the county of registration shall be required to provide identification documents when voting for the first time in the county, unless the registrant provided on the registration form the registrant's Iowa driver's license number, or the registrant's Iowa nonoperator's identification card number, or the last four numerals of the registrant's social security number and the driver's license, nonoperator's identification, or partial social security number matches an existing state or federal identification record with the same number, name, and date of birth. If the registrant under this subsection votes in person at the polls, or by absentee ballot at the commissioner's office or at a satellite voting station, the registrant shall provide a current and valid photo identification card, or shall present to the appropriate election official one of the following current documents that shows the name and address of the registrant:

a. Utility bill.

b. Bank statement.

c. Paycheck.

d. Government check.

e. Other government document.

3. If the registrant under subsection 2 votes an absentee ballot by mail, the registrant shall provide a photocopy of one of the documents listed in subsection 2 when returning the absentee ballot.

4. A registrant under subsection 2 who is required to present identification when casting a ballot in person shall be permitted to vote a provisional ballot if the voter does not provide the required identification documents. If a voter who is required to present identification when casting a ballot votes an absentee ballot by mail, the ballot returned by the voter shall be considered a provisional ballot pursuant to sections 49.81 and 53.31.

Sec. 7. Section 48A.11, subsection 1, paragraph b, Code 2003, is amended to read as follows:

b. The registrant's name, including first name and any family forename or surname.

Sec. 8. Section 48A.11, subsection 1, paragraph e, Code 2003, is amended by striking the paragraph and inserting in lieu thereof the following:

e. Iowa driver's license number if the registrant has a current and valid Iowa driver's license, Iowa nonoperator's identification card if the registrant has a current and valid Iowa nonoperator's identification card, or the last four numerals of the registrant's social security number. If the registrant does not have an Iowa driver's license number, an¹ nonoperator's identification card number, or a social security number, the form shall provide space for a number to be assigned as provided in subsection 7.

Sec. 9. Section 48A.11, subsection 1, paragraph f, Code 2003, is amended to read as follows:

f. Date of birth, including month, date, and year.

Sec. 10. Section 48A.11, Code 2003, is amended by adding the following new subsection: NEW SUBSECTION. 2A. The following questions and statement regarding eligibility shall be included on forms that may be used for registration by mail:

- a. Are you a citizen of the United States of America?
- b. Will you be eighteen years of age on or before election day?
- c. If you checked "no" in response to either of these questions, do not complete this form.

Sec. 11. Section 48A.11, subsection 5, Code 2003, is amended to read as follows:

5. All forms for voter registration shall be prescribed ~~by rule adopted~~ by the state voter registration commission.

Sec. 12. Section 48A.11, Code 2003, is amended by adding the following new subsection: NEW SUBSECTION. 7. A voter registration application lacking the registrant's name, sex, date of birth, or residence address or description shall not be processed. A voter registration application lacking the registrant's driver's license number, Iowa nonoperator's identification card number, or the last four digits of the registrant's social security number shall not be processed. A registrant whose registration is not processed pursuant to this subsection shall be notified pursuant to section 48A.26, subsection 3. A registrant who does not have an Iowa driver's license number, an Iowa nonoperator's identification number, or a social security number and who notifies the registrar of such shall be assigned a unique identifying number that shall serve to identify the registrant for voter registration purposes.

Sec. 13. NEW SECTION. 48A.25A VERIFICATION OF VOTER REGISTRATION INFORMATION.

Upon receipt of an application for voter registration by mail, the state registrar of voters shall compare the driver's license number, the Iowa nonoperator's identification card number, or the last four numerals of the social security number provided by the registrant with the records of the state department of transportation. To be verified, the voter registration record shall contain the same name, date of birth, and driver's license² or whole or partial social security number as the records of the department of transportation. If the information cannot be verified, the application shall be rejected and the registrant shall be notified of the reason for the

¹ See chapter 1175, §355 herein

² See chapter 1175, §356 herein

rejection. If the information can be verified, a record shall be made of the verification and the application shall be accepted.

The voter registration commission shall adopt rules in accordance with chapter 17A to provide procedures for processing registration applications if the department of transportation does not, before the close of registration for an election for which the voter registration would be effective, if verified, provide a report that the information on the application has matched or not matched the records of the department.

This section does not apply to persons entitled to register to vote and to vote pursuant to section 48A.5, subsection 4.

Sec. 14. Section 48A.26, subsection 3, Code 2003, is amended to read as follows:

3. If the registration form is missing required information pursuant to section 48A.11, subsection 7, the acknowledgment shall advise the applicant what additional information is required. The commissioner shall enclose a new registration by mail form for the applicant to use. If the registration form has no address, the commissioner shall make a reasonable effort to determine where the acknowledgment should be sent. If the incomplete application is received during the twelve days before the close of registration for an election, the commissioner shall provide the registrant with an opportunity to complete the form before the close of registration.

Sec. 15. Section 48A.26, Code 2003, is amended by adding the following new subsections:

NEW SUBSECTION. 3A. If the registrant applied by mail to register to vote and did not answer either "yes" or "no" to the question in section 48A.11, subsection 2A, paragraph "a", the application shall be processed, but the registration shall be designated as valid only for elections that do not include candidates for federal offices on the ballot. The acknowledgment shall advise the applicant that the status of the registration is local and the reason for the registration being assigned local status. The commissioner shall enclose a new registration by mail form for the applicant to use. If the original application is received during the twelve days before the close of registration for an election that includes candidates for federal offices on the ballot, the commissioner shall provide the registrant with an opportunity to complete the form before the close of registration.

NEW SUBSECTION. 3B. If the registrant applied by mail to register to vote and answered "no" to the question in section 48A.11, subsection 2A, paragraph "a", the application shall not be processed. The acknowledgement shall advise the applicant that the registration has been rejected because the applicant indicated on the registration form that the applicant is not a citizen of the United States.

Sec. 16. Section 48A.28, subsection 2, unnumbered paragraph 2, Code 2003, is amended to read as follows:

A commissioner participating in the national change of address program, in the first quarter of each calendar year, shall send a notice and preaddressed, postage paid return card by forwardable mail to each registered voter whose name was not reported by the national change of address program and who has not voted, in two or more consecutive general elections and has not registered again, or who has not reported a change to an existing registration, or who has not responded to a notice from the commissioner or registrar during the preceding four calendar years period between and following the previous two general elections. The form and language of the notice and return card shall be specified by the state voter registration commission by rule. A registered voter shall not be sent a notice and return card under this subsection more frequently than once in a four-year period.

Sec. 17. Section 48A.36, subsection 2, Code 2003, is amended to read as follows:

2. Upon receipt of electronic registration data under subsection 1, the state registrar of voters may shall cause the updating of registration records for registrants in counties which have arranged for data processing services under section 47.7, subsection 2. The registrar shall notify the appropriate commissioner of the actions taken.

Sec. 18. Section 48A.37, subsection 2, Code 2003, is amended to read as follows:

2. Electronic records shall include a status code designating whether the records are active, or inactive, local, or pending. Inactive records are records of registered voters to whom notices have been sent pursuant to section 48A.28, subsection 3, and who have not returned the card or otherwise responded to the notice, and those records have been designated inactive pursuant to section 48A.29. Local records are records of applicants who did not answer either "yes" or "no" to the question in section 48A.11, subsection 2A, paragraph "a". Pending records are records of applicants whose applications have not been verified pursuant to section 48A.25A. All other records are active records. An inactive record shall be made active when the registered voter votes at an election, registers again, or reports a change of name, address, telephone number, or political party affiliation. A pending record shall be made active upon verification. A local record shall be valid for any election for which no candidates for federal office appear on the ballot, but the registrant³ may not vote in a federal election unless the registrant submits a new voter registration application before election day indicating that the applicant is a citizen of the United States.

Sec. 19. Section 48A.38, subsection 1, paragraph f, Code 2003, is amended to read as follows:

f. The county commissioner of registration and the state registrar of voters shall remove a voter's social security number, driver's license number, or Iowa nonoperator's identification card number from a voter registration list prepared pursuant to this section.

Sec. 20. Section 49.81, Code 2003, is amended to read as follows:

49.81 PROCEDURE FOR CHALLENGED VOTER TO CAST PROVISIONAL BALLOT.

1. A prospective voter who is prohibited under section 48A.8, subsection 4, section 49.77, subsection 4, or section 49.80 from voting except under this section shall be permitted to notified by the appropriate precinct election official that the voter may cast a paper provisional ballot. If a booth meeting the requirement of section 49.25 is not available at that polling place, the precinct election officials shall make alternative arrangements to insure the challenged voter the opportunity to vote in secret. The marked ballot, folded as required by section 49.84, shall be delivered to a precinct election official who shall immediately seal it in an envelope of the type prescribed by subsection 4. The sealed envelope shall be deposited in a special an envelope marked "ballots for special precinct" "provisional ballots" and shall be considered as having been cast in the special precinct established by section 53.20 for purposes of the post-election canvass.

2. Each person who casts a special provisional ballot under this section shall receive a printed statement in substantially the following form:

Your qualifications as a registered voter have been challenged for the following reasons:

- I.
- II.
- III.

You must show identification before your ballot can be counted. Please bring or mail a copy of a current and valid photo identification card to the county commissioners⁴ office or bring or mail a copy of one of the following current documents that show your name and address:

- a. Utility bill.
- b. Bank statement.
- c. Paycheck.
- d. Government check.
- e. Other government document.

PARAGRAPH DIVIDED. Your right to vote will be reviewed by the special precinct counting board on You have the right and are encouraged to make a written statement and submit additional written evidence to this board supporting your qualifications as a registered voter. This written statement and evidence may be given to an election official of this precinct

³ See chapter 1175, §357 herein

⁴ See chapter 1175, §358 herein

on election day or mailed or delivered to the county commissioner of elections, but must be received before a.m./p.m. on at If your ballot is not counted you will receive, by mail, notification of this fact and the reason that the ballot was not counted.

3. Any elector may present written statements or documents, supporting or opposing the counting of any special provisional ballot, to the precinct election officials on election day, until the hour for closing the polls. Any statements or documents so presented shall be delivered to the commissioner when the election supplies are returned.

4. The individual envelopes used for each paper provisional ballot cast pursuant to subsection 1 shall have printed on them ~~the format of the face of the registration form under section 48A.8 and the following:~~

I believe I am a registered voter of this precinct county and I am eligible to vote in this election. I registered to vote in county on or about at My name at that time was I have not moved to a different county since that time. I am a United States citizen, at least eighteen years of age.

.....
(signature of voter) (date)

The following information is to be provided by the precinct election official:
Reason for challenge:

.....
.....

Did not present required identification form.

.....
(signature of precinct
election official)

The precinct election official shall attach a completed voter registration form from each provisional voter unless the person's registration status is listed in the election register as pending.

Sec. 21. Section 49.98, Code 2003, is amended to read as follows:
49.98 COUNTING BALLOTS.

The ballots shall be counted according to the voters' marks on them as provided in sections 49.92 to 49.97, and not otherwise. If, for any reason, it is impossible to determine from a ballot, as marked, the choice of the voter for any office, the vote for that office shall not be counted. When there is a conflict between a straight party or organization vote for one political party or nonparty political organization and the vote cast by marking the voting target next to the name of a candidate for another political party or nonparty political organization on the ballot, the mark next to the name of the candidate shall be held to control, and the straight party or organization vote in that case shall not apply as to that office. Any ballot shall be rejected if it is marked in any other manner than authorized in sections 49.92 to 49.97. A ballot shall be rejected if the voter used a mark to identify the voter's ballot. For each voting system, the state commissioner shall, by rule adopted pursuant to chapter 17A, develop uniform definitions of what constitutes a vote.

Sec. 22. Section 50.20, Code 2003, is amended to read as follows:
50.20 NOTICE OF NUMBER OF SPECIAL PROVISIONAL BALLOTS.

The commissioner shall compile a list of the number of special provisional ballots cast under section 49.81 in each precinct. The list shall be made available to the public as soon as possible, but in no case later than nine o'clock a.m. on the second day following the election. Any elector may examine the list during normal office hours, and may also examine the affidavit envelopes bearing the ballots of challenged electors until the reconvening of the special precinct board as required by this chapter. Only those persons so permitted by section 53.23, subsection 4, shall have access to the affidavits while that board is in session. Any elector may present written statements or documents, supporting or opposing the counting of any special ballot, at the commissioner's office until the reconvening of the special precinct board.

Sec. 23. Section 50.21, unnumbered paragraph 2, Code 2003, is amended to read as follows:

If no ~~special~~ provisional ballots were cast in the county pursuant to section 49.81 at any election, the special precinct election board need not be so reconvened. If the number of ~~special~~ provisional ballots so cast at any election is not sufficient to require reconvening of the entire election board of the special precinct, the commissioner may reconvene only the number of members required. If the number of ~~special~~ provisional ballots cast at any election exceeds the number of absentee ballots cast, the size of the special precinct election board may be increased at the commissioner's discretion. The commissioner shall observe the requirements of sections 49.12 and 49.13 in making adjustments to the size of the special precinct election board.

Sec. 24. Section 52.1, subsection 2, paragraph h, Code 2003, is amended to read as follows:

h. "Voting machine" means a mechanical or electronic device, meeting the requirements of section 52.7, designated for use in casting, registering, recording, and counting votes at an election. "Voting machine" includes, but is not limited to, direct recording electronic devices.

Sec. 25. Section 52.2, Code 2003, is amended to read as follows:

52.2 PURCHASE.

The board of supervisors of ~~any a~~ county may, by a majority vote, authorize, purchase, and order the use of ~~either~~ voting machines or an electronic voting system in any one or more voting precincts within ~~said the~~ county until otherwise ordered by ~~said the~~ board of supervisors. Voting machines and an electronic voting system may be used concurrently ~~at different precincts within any county, but not at the same precinct.~~

Sec. 26. Section 52.5, unnumbered paragraph 2, Code 2003, is amended to read as follows:

The state commissioner shall formulate, with the advice and assistance of the examiners, and adopt rules governing the testing and examination of any voting machine or electronic voting system by the board of examiners. The rules shall prescribe the method to be used in determining whether the machine or system is suitable for use within the state and performance standards for voting equipment in use within the state. The rules shall provide that all electronic voting systems and voting machines approved for use by the examiners after April 9, 2003, shall meet voting systems performance and test standards, as adopted by the federal election commission on April 30, 2002, and as deemed adopted by Pub. L. No. 107-252, section 222. The rules shall include standards for determining when recertification is necessary following modifications to the equipment or to the programs used in tabulating votes, and a procedure for rescinding certification if a system or machine is found not to comply with performance standards adopted by the state commissioner.

Sec. 27. Section 52.7, unnumbered paragraphs 2 and 4, Code 2003, are amended to read as follows:

It must also be so constructed as to prevent voting for more than one person for the same office, except where the voter is lawfully entitled to vote for more than one person for that office; and it must afford the voter an opportunity to vote for any or all persons for that office as the voter is by law entitled to vote for and no more, at the same time preventing the voter from voting for the same person twice. The voting machine must be so constructed as to provide the voter with an opportunity to change a vote before the ballot is recorded and counted.

Such machine shall be so constructed as to accurately account for every vote cast upon it. The machine shall be so constructed as to remove information from the ballot identifying the voter before the ballot is recorded and counted. If the machine is a direct electronic recording⁵ device, the machine shall be so constructed as to store each ballot cast separate from the ballot tabulation function, which ballot may be reproduced on paper in the case of a recount, manual audit, or machine malfunction.

⁵ See chapter 1175, §359 herein

Sec. 28. Section 53.2, unnumbered paragraph 1, Code 2003, is amended to read as follows:

Any registered voter, under the circumstances specified in section 53.1, may on any day, except election day, and not more than seventy days prior to the date of the election, apply in person for an absentee ballot at the commissioner's office or at any location designated by the commissioner, ~~or. A registered voter may make written application to the commissioner for an absentee ballot. A written application for an absentee ballot must be received by the commissioner no later than five p.m. on the Friday before the election. A written application for an absentee ballot delivered to the commissioner and received by the commissioner more than seventy days prior to the date of the election shall be retained by the commissioner and processed in the same manner as a written application received not more than seventy days before the date of the election.~~

~~PARAGRAPH DIVIDED.~~ The state commissioner shall prescribe a form for absentee ballot applications. ~~However, if a registered voter submits an application that includes all of the information required in this section, the prescribed form is not required.~~ Absentee ballot applications may include instructions to send the application directly to the county commissioner of elections. However, no absentee ballot application shall be preaddressed or printed with instructions to send the applications to anyone other than the appropriate commissioner.

Sec. 29. Section 53.2, Code 2003, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. An application for an absentee ballot that is returned to the commissioner by a person acting as an actual or implied agent for a political party, candidate, or committee, all as defined by chapter 68A, shall be returned to the commissioner within seventy-two hours of the time the completed application was received from the applicant or no later than five p.m. on the Friday before the election, whichever is earlier.

Sec. 30. NEW SECTION. 53.3 RECEIPT REQUIRED FOR CERTAIN ABSENTEE BALLOT APPLICATIONS.

When an application for an absentee ballot is solicited by, and returned to the commissioner by, a person acting as an actual or implied agent for a political party, candidate, or committee, as defined by chapter 68A, the person shall issue to the applicant a receipt for the completed application.

The receipt shall contain the following information:

1. The name of the applicant.
2. The date and time the completed application was received from the applicant.
3. The name and date of the election for which the application is being completed.
4. The name of the political party, candidate, or committee for whom the person is soliciting and returning the application for the absentee ballot.
5. The name of the person acting as an actual or implied agent for the political party, candidate, or committee.
6. A statement that the application will be delivered to the appropriate commissioner within seventy-two hours of the date and time the completed application was received from the applicant or no later than five p.m. on the Friday before the election, whichever is earlier.
7. A statement that an absentee ballot will be⁶ mailed to the applicant within twenty-four hours after the ballot for the election is available.

The commissioner shall make receipt forms required by this section available for photocopying at the expense of the political party, candidate, or committee.

Sec. 31. Section 53.8, subsection 1, Code 2003, is amended to read as follows:

1. Upon receipt of an application for an absentee ballot and immediately after the absentee ballots are printed, the commissioner shall mail an absentee ballot to the applicant within twenty-four hours, except as otherwise provided in subsection 3. The absentee ballot shall be enclosed in an unsealed envelope bearing a serial number and affidavit. The absentee ballot and unsealed envelope shall be enclosed in or with a carrier envelope marked postage paid

⁶ See chapter 1175, §360 herein

which bears the same serial number as the unsealed envelope. The absentee ballot, unsealed envelope, and carrier envelope shall be enclosed in a third envelope to be sent to the registered voter. If the ballot cannot be folded so that all of the votes cast on the ballot will be hidden, the commissioner shall also enclose a secrecy envelope with the absentee ballot.

Sec. 32. Section 53.8, subsection 2, Code 2003, is amended to read as follows:

2. If an application is received so late that it is unlikely that the absentee ballot can be returned in time to be counted on election day, the commissioner shall enclose with the absentee ballot a statement to that effect. The statement shall also point out that it is possible for the applicant, or the applicant's designee if the absentee ballot is voted by a voter described in section 53.22, subsection 5, to personally deliver the completed absentee ballot to the office of the commissioner at any time before the closing of the polls on election day. The statement shall also point out that it is possible for an absentee ballot courier to personally deliver the completed absentee ballot to the office of the commissioner within seventy-two hours of retrieving the completed ballot or before the closing of the polls on election day, whichever is earlier.

Sec. 33. Section 53.17, Code 2003, is amended to read as follows:

53.17 MAILING OR DELIVERING BALLOT.

1. The sealed envelope containing the absentee ballot shall be enclosed in a carrier envelope which shall be securely sealed. The sealed carrier envelope shall be returned to the commissioner by one of the following methods:

1. a. The sealed carrier envelope may be delivered by the registered voter, by the special precinct election officials designated pursuant to section 53.22, subsection 1, or by the voter's designee if the absentee ballot is voted by a voter described in section 53.22, subsection 5, to the commissioner's office no later than the time the polls are closed on election day, except as otherwise provided in subsection 4.⁷

2. b. The sealed carrier envelope may be mailed to the commissioner by the registered voter, by an immediate family member of the voter, or by the voter's designee if the ballot is voted by a voter described in section 53.22, subsection 5. The carrier envelope shall indicate that greater postage than ordinary first class mail may be required. The commissioner shall pay any insufficient postage due on a carrier envelope bearing ordinary first class postage and accept the ballot.

c. The sealed carrier envelope may be delivered to the commissioner by an absentee ballot courier, but only as provided in subsection 4.

2. In order for the ballot to be counted, the carrier envelope must be received in the commissioner's office before the polls close on election day or be clearly postmarked by an officially authorized postal service not later than the day before the election and received by the commissioner not later than noon on the Monday following the election.

3. If the law authorizing the election specifies that the supervisors canvass the votes earlier than the Monday following the election, absentee ballots returned through the mail must be received not later than the time established for the canvass by the board of supervisors for that election. The commissioner shall contact the post office serving the commissioner's office at the latest practicable hour before the canvass by the board of supervisors for that election, and shall arrange for absentee ballots received in that post office but not yet delivered to the commissioner's office to be brought to the commissioner's office before the canvass for that election by the board of supervisors.

4. a. A person who acts as an actual or implied agent of a political party, candidate, or committee, as defined by chapter 68A, shall be registered with the commissioner as an absentee ballot courier in order to deliver completed absentee ballots to the commissioner. A candidate whose name is on the ballot or an elected official shall not be registered as an absentee ballot courier.

b. Absentee ballot couriers shall be registered with the commissioner by the person providing the training required in paragraph "c". The registration shall include the courier's name and address and the best means for contacting the person or the political party, candidate, or

⁷ See chapter 1175, §361 herein

committee for which the person is acting as an actual or implied agent. An absentee ballot courier must be registered with the commissioner prior to each election for which the person will be delivering completed absentee ballots to the commissioner. However, if a person has completed training as an absentee ballot courier and the trainer is unable to register the person because the commissioner's office is closed, the person may retrieve completed absentee ballots if the trainer registers the courier with the commissioner by facsimile transmission within twenty-four hours of completion of training or by personally delivering the registration information to the commissioner's office by the close of the next business day following completion of training or by mailing the registration information to the commissioner, in which case the mailing must be postmarked no later than the next business day following completion of training. For each election, the commissioner shall maintain a list of all persons who have been registered as absentee ballot couriers.

c. A person wishing to be registered as an absentee ballot courier must complete a training course in the laws, procedures, and penalties related to handling completed absentee ballots. The training course shall be conducted by the commissioner; the commissioner's designee; or, in the case of partisan elections, by the respective state or county central committees, or a member of the paid staff of such committees, or by the county party or the state party, or a member of the paid staff of such parties. The curriculum for the training course shall be established by the state commissioner by rule adopted pursuant to chapter 17A.

d. When an absentee ballot courier retrieves a completed absentee ballot from a voter, the courier shall fill out a receipt to be retained by the voter. The state commissioner shall prescribe a form for receipts required by this subsection. The receipt shall include all of the following:

(1) The name of the courier.

(2) The date and time the voted⁸ absentee ballot was received from the voter.

(3) The name and date of the election for which the absentee ballot is being voted.

(4) The name of the political party, candidate, or committee for which the courier is acting as an actual or implied agent.

(5) A statement that the completed absentee ballot will be delivered to the commissioner's office within seventy-two hours or before the closing of the polls on election day, whichever is earlier.

(6) A statement informing the voter that the voter may verify that the person retrieving the completed ballot is a registered absentee ballot courier by contacting the county auditor's office.

e. An absentee ballot courier shall submit a cover sheet listing the names of persons whose ballots are being delivered each time the courier delivers ballots to the commissioner's office. A completed ballot and cover sheet shall only be delivered to the commissioner's office by the absentee ballot courier who retrieved the ballot or by one other absentee ballot courier designated by the political party, candidate, or committee for which the absentee ballot couriers are acting as actual or implied agents. The cover sheet shall include space for the name and signature of the absentee ballot courier who retrieved the ballot and the name and signature of any second absentee ballot courier designated to deliver the ballot and cover sheet to the commissioner's office.

f. A violation of any part of this subsection is election misconduct in the first degree, pursuant to section 39A.2, subsection 1, paragraph "b", subparagraph (1).

5. For purposes of this section, "immediate family member" means the spouse, adult child or stepchild, adult grandchild, parent or stepparent, grandparent, or adult sibling of the voter.

Sec. 34. NEW SECTION. 53.37A STATE COMMISSIONER DUTIES.

The state commissioner of elections shall provide information regarding voter registration procedures and absentee ballot procedures to be used by members of the armed forces of the United States. The state commissioner shall accept valid voter registration applications and absentee ballot applications and shall forward the applications to the appropriate county commissioner of elections in a timely manner.

⁸ See chapter 1175, §362 herein

Sec. 35. Section 53.40, unnumbered paragraph 1, Code 2003, is amended to read as follows:

A request in writing for a ballot may be made by any member of the armed forces of the United States who is or will be a qualified voter on the day of the election at which the ballot is to be cast, at any time before the election. Any member of the armed forces of the United States may request ballots for all elections to be held ~~within a calendar year~~ through the next two general elections. The request may be made by using the federal postcard application form and indicating that the applicant wishes to receive ballots for all elections as permitted by state law. The county commissioner shall send the applicant a ballot for each election held ~~during the calendar year in which~~ after the application is received and through the next two general elections. The commissioner shall forward a copy of the absentee ballot request to other commissioners who are responsible under section 47.2, subsection 2, for conducting elections in which the applicant is eligible to vote.

Sec. 36. Section 53.53, Code 2003, is amended by adding the following new unnumbered paragraphs:

NEW UNNUMBERED PARAGRAPH. A federal write-in ballot received by the state commissioner of elections shall be forwarded immediately to the appropriate county commissioner. However, if the state commissioner receives a federal write-in ballot after election day and before noon on the Monday following an election, the state commissioner shall at once verify that the voter has complied with the requirements of this section and that the voter's federal write-in ballot is eligible to be counted. If the ballot is eligible to be counted, the state commissioner shall notify the appropriate county commissioner and make arrangements for the ballot to be transmitted to the county for counting. If the ballot is not eligible to be counted, the state commissioner shall mail the ballot to the appropriate commissioner along with notification that the ballot is ineligible to be counted. The county commissioner shall keep the ballot with the other records of the election.

NEW UNNUMBERED PARAGRAPH. The county commissioner shall notify a voter when the voter's federal write-in ballot was not counted and shall give the voter the reason the ballot was not counted.

Sec. 37. IMMEDIATE EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment and applies to elections held on or after September 15, 2004.

Approved April 16, 2004

CHAPTER 1084

CONFINEMENT OF DANGEROUS OR MENTALLY INCOMPETENT PERSONS

S.F. 2272

AN ACT relating to detaining or the placement of criminal defendants who are mentally incompetent or dangerous.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 13B.4, subsection 1, Code 2003,¹ is amended to read as follows:

1. The state public defender shall coordinate the provision of legal representation of all

¹ "Code Supplement 2003" probably intended