

53.22 Balloting by confined persons.

1. For purposes of [this section](#), “*assisted living program*” means a program certified pursuant to [section 231C.3](#) that meets the standards for a dementia-specific assisted living program, as established by rule by the department of inspections and appeals.

2. a. (1) A registered voter who has applied for an absentee ballot, in a manner other than that prescribed by [section 53.10](#) or [53.11](#), and who is a resident, tenant, or patient in a health care facility, assisted living program, or hospital located in the county to which the application has been submitted shall be delivered the appropriate absentee ballot by two special precinct election officers, one of whom shall be a member of each of the political parties referred to in [section 49.13](#), who shall be appointed by the commissioner from the election board panel for the special precinct established by [section 53.20](#). The special precinct election officers shall be sworn in the manner provided by [section 49.75](#) for election board members, shall receive compensation as provided in [section 49.20](#), and shall perform their duties during the ten calendar days after the ballots are printed if the commissioner so elects, during the fourteen calendar days preceding the election, and on election day if all ballots requested under [section 53.8, subsection 3](#), have not previously been delivered and returned.

(2) If materials are prepared for the two special precinct election officials, a list shall be made of all voters to whom ballots are to be delivered. The list shall be sent with the officials who deliver the ballots and shall include spaces to indicate whether the person was present at the hospital, assisted living program, or health care facility when the officials arrived, whether the person requested assistance from the officials, whether the person was assisted by another person of the voter’s choice, the time that the ballot was returned to the officials, and any other notes the officials deem necessary.

(3) The officials shall also be issued a supply of extra ballots to replace spoiled ballots. Receipts shall be issued in substantially the same form as receipts issued to precinct election officials pursuant to [section 49.65](#). All ballots shall be accounted for and shall be returned to the commissioner. Separate envelopes shall be provided for the return of spoiled ballots and unused ballots.

b. If an applicant under [this subsection](#) notifies the commissioner that the applicant will not be available at the health care facility, assisted living program, or hospital address at any time during the ten-day period after the ballots are printed, if applicable, or during the fourteen-day period immediately prior to the election, but will be available there at some other time prior to the election or on election day, the commissioner shall direct the two special precinct election officers to deliver the applicant’s ballot at an appropriate time preceding the election or on election day. If a person who so requested an absentee ballot has been dismissed from the health care facility or hospital, or is no longer a tenant of the assisted living program, the special precinct election officers may take the ballot to the voter if the voter is currently residing in the county.

c. The special precinct election officers shall travel together in the same vehicle and both shall be present when an applicant casts an absentee ballot. If either or both of the special precinct election officers fail to appear at the time the duties set forth in [this section](#) are to be performed, the commissioner shall at once appoint some other person, giving preference to persons designated by the respective county chairpersons of the political parties described in [section 49.13](#), to carry out the requirements of [this section](#). The persons authorized by [this subsection](#) to deliver an absentee ballot to an applicant, if requested, may assist the applicant in filling out the ballot as permitted by [section 49.90](#). After the voter has securely sealed the marked ballot in the envelope provided and has subscribed to the oath, the voted absentee ballots shall be deposited in a sealed container which shall be returned to the commissioner on the same day the ballots are voted. On election day the officers shall return the sealed container by the time the polls are closed.

3. Any registered voter who becomes a patient, tenant, or resident of a hospital, assisted living program, or health care facility in the county where the voter is registered to vote within three days prior to the date of any election or on election day may request an absentee ballot during that period or on election day. As an alternative to the application procedure prescribed by [section 53.2](#), the registered voter may make the request directly to the officers

who are delivering and returning absentee ballots under [this section](#). Alternatively, the request may be made by telephone to the office of the commissioner not later than four hours before the close of the polls. If the requester is found to be a registered voter of that county, these officers shall deliver the appropriate absentee ballot to the registered voter in the manner prescribed by [this section](#).

4. For any election except a primary or general election or a special election to fill a vacancy under [section 69.14](#), the commissioner may, as an alternative to [subsection 2](#), mail an absentee ballot to an applicant under [this section](#) to be voted and returned to the commissioner in accordance with [this chapter](#). [This subsection](#) only applies to applications for absentee ballots from a single health care facility, assisted living program, or hospital if there are no more than two applications from that facility, program, or hospital.

5. The commissioner shall mail an absentee ballot to a registered voter who has applied for an absentee ballot and who is a patient, tenant, or resident of a hospital, assisted living program, or health care facility outside the county in which the voter is registered to vote.

6. *a.* If the registered voter becomes a patient, tenant, or resident of a hospital, assisted living program, or health care facility outside the county where the voter is registered to vote within three days before the date of any election or on election day, the voter may designate a person to deliver and return the absentee ballot. The designee may be any person the voter chooses except that no candidate for any office to be voted upon for the election for which the ballot is requested may deliver a ballot under [this subsection](#). The request for an absentee ballot may be made by telephone to the office of the commissioner not later than four hours before the close of the polls. If the requester is found to be a registered voter of that county, the ballot shall be delivered by mail or by the person designated by the voter. An application form shall be included with the absentee ballot and shall be signed by the voter and returned with the ballot.

b. Absentee ballots voted under [this subsection](#) shall be delivered to the commissioner no later than the time the polls are closed on election day. If the ballot is returned by mail the return envelope must be received by the time the polls close, or be clearly postmarked by an officially authorized postal service or bear a postal service barcode traceable to a date of entry into the federal mail system not later than the day before the election, as provided in [section 53.17A](#), and received by the commissioner no later than the time established for the canvass by the board of supervisors for that election.

7. Observers representing candidates, political parties, or nonparty political organizations, or observers who are opponents or proponents of a ballot issue to be voted on at the election are prohibited from being present at a hospital, assisted living program, or health care facility during the time the special precinct election officers are delivering absentee ballots to the patients, tenants, or residents of such hospital, assisted living program, or health care facility.

8. The proof of identity requirements under [section 49.78](#) shall not apply to a voter casting a ballot pursuant to this section.

[C71, 73, 75, §53.17; C77, 79, 81, §53.22; 81 Acts, ch 34, §37]

84 Acts, ch 1291, §18, 19; 85 Acts, ch 67, §8; 87 Acts, ch 221, §27, 28; 88 Acts, ch 1119, §28; 93 Acts, ch 143, §34; 94 Acts, ch 1169, §65; 94 Acts, ch 1180, §23, 24; 2007 Acts, ch 59, §28, 38; 2009 Acts, ch 57, §68; 2009 Acts, ch 143, §2 – 4; 2016 Acts, ch 1121, §14, 17; 2017 Acts, ch 110, §32, 35, 36; 2017 Acts, ch 120, §6; 2019 Acts, ch 148, §68

Referred to in §39A.4, 48A.7A, 53.2, 53.8, 53.17, 53.17A, 53.20, 53.49, 135C.29, 231C.21

Subsection 8 takes effect July 1, 2017, and applies to elections held on or after that date; 2017 Acts, ch 110, §35, 36; 2017 Acts, ch 170, §26