



## Ohio Revised Code

### Section 3505.183 Testing and counting of provisional ballots - rejection.

Effective: April 7, 2023

Legislation: House Bill 458 (GA 134), House Bill 45 (GA 134)

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(A) When the ballot boxes are delivered to the board of elections from the precincts, the board shall separate the provisional ballot envelopes from the rest of the ballots. Teams of employees of the board consisting of one member of each major political party shall place the sealed provisional ballot envelopes in a secure location within the office of the board. The sealed provisional ballot envelopes shall remain in that secure location until the validity of those ballots is determined under division (B) of this section. While the provisional ballot is stored in that secure location, and prior to the counting of the provisional ballots, if the board receives information regarding the validity of a specific provisional ballot under division (B) of this section, the board may note, on the sealed provisional ballot envelope for that ballot, whether the ballot is valid and entitled to be counted.

(B)(1) To determine whether a provisional ballot is valid and entitled to be counted, the board shall examine its records and determine whether the individual who cast the provisional ballot is registered and eligible to vote in the applicable election. The board shall examine the information contained in the written affirmation executed by the individual who cast the provisional ballot under division (B)(2) of section 3505.181 of the Revised Code. The following information shall be included in the written affirmation in order for the provisional ballot to be eligible to be counted:

- (a) The individual's printed name, signature, date of birth, and current address;
- (b) A statement that the individual is a registered voter in the precinct in which the provisional ballot is being voted;
- (c) A statement that the individual is eligible to vote in the election in which the provisional ballot is being voted.

(2) In addition to the information required to be included in an affirmation under division (B)(1) of this section, in determining whether a provisional ballot is valid and entitled to be counted, the board also shall examine any additional information for determining ballot validity provided by the



provisional voter on the affirmation, provided by the provisional voter to an election official under section 3505.182 of the Revised Code, or provided to the board of elections during the four days after the day of the election under division (B)(7) or (8) of section 3505.181 of the Revised Code, to assist the board in determining the individual's eligibility to vote.

(3) If, in examining a provisional ballot affirmation and additional information under divisions (B)(1) and (2) of this section and comparing the information required under division (B)(1) of this section with the individual's information in the statewide voter registration database, the board determines that all of the following apply, the provisional ballot envelope shall be opened, and the ballot shall be placed in a ballot box to be counted:

(a) The individual named on the affirmation is properly registered to vote.

(b) The individual named on the affirmation is eligible to cast a ballot in the precinct and for the election in which the individual cast the provisional ballot.

(c) The individual provided all of the information required under division (B)(1) of this section in the affirmation that the individual executed at the time the individual cast the provisional ballot.

(d) One of the following applies:

(i) The individual provided photo identification at the time of casting the provisional ballot or appeared at the office of the board within four days after the day of the election and provided photo identification. If the individual provided the individual's Ohio driver's license or state identification card or an interim identification form, the individual provided the individual's driver's license number or state identification card number and the number is not different from the individual's driver's license number or state identification card number contained in the statewide voter registration database.

(ii) The individual completed an affidavit of religious objection under section 3505.19 of the Revised Code at the time of casting the provisional ballot or at the office of the board within four days after the day of the election and the affidavit is valid under that section.



(e) Except as otherwise provided in this division, the month and day of the individual's date of birth are not different from the day and month of the individual's date of birth contained in the statewide voter registration database.

This division does not apply to an individual's provisional ballot if either of the following is true:

(i) The individual's date of birth contained in the statewide voter registration database is January 1, 1800.

(ii) The board of elections has found, by a vote of at least three of its members, that the individual has met all other requirements of division (B)(3) of this section.

(f) The individual's current address is not different from the individual's address contained in the statewide voter registration database, unless the individual indicated that the individual is casting a provisional ballot because the individual has moved and has not submitted a notice of change of address, as described in division (A)(6) of section 3505.181 of the Revised Code.

(g) If applicable, the individual provided any additional information required under division (B)(8) of section 3505.181 of the Revised Code within four days after the day of the election.

(4)(a) Except as otherwise provided in division (D) of this section, if, in examining a provisional ballot affirmation and additional information under divisions (B)(1) and (2) of this section and comparing the information required under division (B)(1) of this section with the individual's information in the statewide voter registration database, the board determines that any of the following applies, the provisional ballot envelope shall not be opened, and the ballot shall not be counted:

(i) The individual named on the affirmation is not qualified or is not properly registered to vote.

(ii) The individual named on the affirmation is not eligible to cast a ballot in the precinct or for the election in which the individual cast the provisional ballot.

(iii) The individual did not provide all of the information required under division (B)(1) of this



section in the affirmation that the individual executed at the time the individual cast the provisional ballot.

(iv) The individual has already cast a ballot for the election in which the individual cast the provisional ballot.

(v) If applicable, the individual did not provide any additional information required under division (B)(8) of section 3505.181 of the Revised Code within four days after the day of the election.

(vi) The individual failed to provide photo identification, to provide the individual's driver's license or state identification card number if the individual provided photo identification in the form of an Ohio driver's license or state identification card or an interim identification form, or to complete an affidavit of religious objection.

(vii) The individual failed to execute an affirmation under division (B) of section 3505.181 of the Revised Code.

(viii) The individual provided photo identification in the form of an Ohio driver's license or state identification card or an interim identification form and the driver's license number or state identification card number the individual provided is different from the individual's driver's license number or state identification card number contained in the statewide voter registration database.

(ix) The individual completed an affidavit of religious objection under section 3505.19 of the Revised Code, but the affidavit is not valid under that section.

(x) Except as otherwise provided in this division, the month and day of the individual's date of birth are different from the day and month of the individual's date of birth contained in the statewide voter registration database.

This division does not apply to an individual's provisional ballot if either of the following is true:

(I) The individual's date of birth contained in the statewide voter registration database is January 1, 1800.



(II) The board of elections has found, by a vote of at least three of its members, that the individual has met all of the requirements of division (B)(3) of this section, other than the requirements of division (B)(3)(e) of this section.

(xi) The individual's current address is different from the individual's address contained in the statewide voter registration database, unless the individual indicated that the individual is casting a provisional ballot because the individual has moved and has not submitted a notice of change of address, as described in division (A)(6) of section 3505.181 of the Revised Code.

(b) If, in examining a provisional ballot affirmation and additional information under divisions (B)(1) and (2) of this section and comparing the information required under division (B)(1) of this section with the individual's information in the statewide voter registration database, the board is unable to determine either of the following, the provisional ballot envelope shall not be opened, and the ballot shall not be counted:

(i) Whether the individual named on the affirmation is qualified or properly registered to vote;

(ii) Whether the individual named on the affirmation is eligible to cast a ballot in the precinct or for the election in which the individual cast the provisional ballot.

(C) For each provisional ballot rejected under division (B)(4) of this section, the board shall record the name of the provisional voter who cast the ballot, the identification number of the provisional ballot envelope, the names of the election officials who determined the validity of that ballot, the date and time that the determination was made, and the reason that the ballot was not counted, unless the board has already recorded that information in another database.

(D)(1) If an individual cast a provisional ballot in a precinct in which the individual is not registered and eligible to vote, but in the correct polling location for the precinct in which the individual is registered and eligible to vote, and the election official failed to direct the individual to the correct precinct, the individual's ballot shall be remade under division (D)(2) of this section. The election official shall be deemed to have directed the individual to the correct precinct if the election official correctly completed the form described in division (C)(2) of section 3505.181 of the Revised Code.



(2) A board of elections that remakes a provisional ballot under division (D)(1) of this section shall remake the provisional ballot on a ballot for the appropriate precinct to reflect the offices, questions, and issues for which the individual was eligible to cast a ballot and for which the individual attempted to cast a provisional ballot. The remade ballot shall be counted for each office, question, and issue for which the individual was eligible to vote.

(3) If an individual cast a provisional ballot in a precinct in which the individual is not registered and eligible to vote and in the incorrect polling location for the precinct in which the individual is registered and eligible to vote, the provisional ballot envelope shall not be opened, and the ballot shall not be counted.

(E) Provisional ballots that are rejected under division (B)(4) of this section shall not be counted but shall be preserved in their provisional ballot envelopes unopened until the time provided by section 3505.31 of the Revised Code for the destruction of all other ballots used at the election for which ballots were provided, at which time they shall be destroyed.

(F) Provisional ballots that the board determines are eligible to be counted under division (B)(3) or (D) of this section shall be counted in the same manner as provided for other ballots under section 3505.27 of the Revised Code. No provisional ballots shall be counted in a particular county until the board determines the eligibility to be counted of all provisional ballots cast in that county under division (B) of this section for that election. Observers, as provided in section 3505.21 of the Revised Code, may be present at all times that the board is determining the eligibility of provisional ballots to be counted and counting those provisional ballots determined to be eligible. No person shall recklessly disclose the count or any portion of the count of provisional ballots in such a manner as to jeopardize the secrecy of any individual ballot.

(G)(1) Except as otherwise provided in division (G)(2) of this section, nothing in this section shall prevent a board of elections from examining provisional ballot affirmations and additional information under divisions (B)(1) and (2) of this section to determine the eligibility of provisional ballots to be counted during the seven days after the day of an election.

(2) A board of elections shall not examine the provisional ballot affirmation and additional



information under divisions (B)(1) and (2) of this section of any provisional ballot cast by an individual who must provide photo identification, complete an affidavit of religious objection, or provide additional information to the board of elections under division (B)(7) or (8) of section 3505.181 of the Revised Code for the board to determine the individual's eligibility until the individual does so or until the eighth day after the day of the election, whichever is earlier.

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*The Legislative Service Commission presents the text of this section as a composite of the section as amended by multiple acts of the General Assembly. This presentation recognizes the principle stated in R.C. 1.52(B) that amendments are to be harmonized if reasonably capable of simultaneous operation.*