



# 2021 ELECTION LAW CHANGES

Presented here is a list of election law changes from Senate File 413 arranged by category, showing the bill section where each appeared and the Code section amended.

## *categories...*

**ABSENTEE VOTING**

**VOTING AT THE POLLS**

**VOTER REGISTRATION**

**NOMINATIONS**

**VACANCIES**

**SECRETARY OF STATE/COUNTY AUDITOR DUTIES**

**VIOLATIONS AND PENALTIES**

## **IMPORTANT NOTICES**

- As of this writing, the 2021 Iowa General Assembly is still in session. At least two more election bills will likely be passed, and when they are, their provisions will be incorporated into this list of changes.
- The online Code of Iowa will probably not show the changes from the 2021 legislative session until the fall of 2021.

## **ABSENTEE VOTING**

- The first day to submit an Absentee Ballot Request form to your county auditor is 70 days before election. SF413 Sec. 43; Code Sec. 53.2(1)(a)
- County auditors may not send absentee ballot request forms to voters unless a voter specifically requests one. SF413 Sec. 43; Code Sec. 53.2(1)(c). SF413 Sec. 49; Code Sec. 53.8(4)
- The Secretary of State may send absentee ballot request forms to voters only during a public health disaster declared by the governor and only at the direction of the legislature. SF413 Sec. 43; Code Sec. 53.2(1)(d). SF413 Sec. 49; Code Sec. 53.8(4)
- Third parties may still send absentee ballot request forms to voters, but no form fields may be prefilled except for type and date of election. SF413 Sec. 44; Code Sec. 53.2(2)(d)
- The first day county auditors may mail absentee ballots to voters is 20 days before election. SF413 Sec. 47; Code Sec. 53.8(1)(a)
- The first day to vote absentee in person at the Auditor's Office is 20 days before election. SF413 Sec. 50; Code Sec. 53.10(1)
- The first day to vote absentee in person at a satellite location is 20 days before the election, and satellite voting locations may only be established by a public petition with a minimum of 100 signatures. SF413 Sec. 51; Code Sec. 53.11(1)(a)&(b)
- The only people who may return a voted absentee ballot other than the voter are:
  - someone living in the voter's household
  - the voter's immediate family members
  - someone serving as a caretaker for the voter
  - the two special precinct election officials who deliver a ballot to the resident of a health care facility, dementia-specific assisted living program, or hospital.

Exceptions: No person required to file campaign finance reports, or agents of persons or organizations that must file campaign finance reports, may receive absentee ballots on behalf of voters. SF413 Sec. 65; Code Sec. 53.33. SF413 Sec. 8; Code Sec. 39A.4(1)(c)(10)&(11). SF413 Sec. 48; Code Sec. 53.8(2)(a). SF413 Sec. 56; Code Sec. 53.17(5).

## ABSENTEE VOTING CONTINUED...

- Someone returning an absentee ballot (including to a drop box) who is not allowed to, or someone who lies about it, commits a serious misdemeanor. (A serious misdemeanor is punishable by 0-1 years in prison AND a fine of from \$315 to \$1,875.) SF413 Sec. 8; Code Sec. 39A.4(1)(c)(10)&(11)
- Absentee ballot return drop boxes:
  - Not required, and only one permitted per county.
  - Must be at the county auditor's office or on the grounds where the office is located.
  - Must be under 24-hour video surveillance which creates a recording.
  - May be open for use only from 20 days before the election until 8:00 pm on election day.
  - Must be securely fastened to a stationary surface or an immovable object.
  - Must be emptied at least four times a day.
  - May only collect absentee ballots.
  - Must be locked with tamper-evident seal.
  - Auditor must maintain a log of when materials are retrieved.

SF413 Sec. 53; Code Sec. 53.17(1)(c)

- Absentee ballot requests for voting by mail must be received by the county auditor by 15 days before an election. By reference in Code Sec. 53.2(1)(b) to Sec. 48A.9, amended in SF413 Sec. 22
  - Exception: If a voter is admitted to a health care facility, dementia specific assisted living program, or hospital 14 or fewer days before the election, the voter may request an absentee ballot by telephone no later than 4:00 pm on election day. SF413 Sec. 61; Code Sec. 53.22(3). SF413 Sec. 62; Code Sec. 53.22(6)(a)
- If an absentee ballot request is received from the 14th day before the election through the 7th day before the election, the auditor must notify the voter, by phone, email or letter, that the request cannot be processed, and explain the ways that the voter may still vote. SF413 Sec. 45; Code Sec. 53.2(11)
- Absentee ballots must be returned to the Auditor's Office (or ballot drop box, if available) by 8:00 pm on election day. A postmark or postal service barcode prior to the election will NO LONGER make a ballot eligible for counting. (However, postal service barcodes are still required on ballot envelopes.) SF413 Sec. 52; Code Sec. 53.17(1)(b). SF413 Sec. 54; Code Sec. 53.17(2).

Exceptions:

- Ballots from individuals participating in the Safe at Home program will be eligible for counting if postmarked or barcoded before election day and received in the Secretary of State's Office in time to be transmitted to the appropriate county auditor not later than noon on the Monday following the election. SF413 Sec. 1; Code Sec. 9E.6(2)(b)
- Ballots from uniformed and overseas citizens will be eligible for counting if postmarked or barcoded before election day and received not later than noon on the Monday following the election. SF413 Sec. 66; Code Sec. 53.44(2). SF413 Sec. 67; Code Sec. 53.53(4)(b)&(c)
- If an absentee ballot affidavit envelope is not signed by the voter, the county auditor will contact the voter, who may then:
  - Request a replacement ballot and return it by 8:00 pm on election day.
  - Vote at the polls on election day.
  - Sign the affidavit in person at the county auditor's office by 8:00 pm on election day.

SF413 Sec. 58; Code Sec. 53.18(2)

- Absentee and Special Voter Precinct (ASVP) Boards may begin counting absentee ballots the day before any election, not just the general. SF413 Sec. 63; Code Sec. 53.23(3)(c)
- The ASVP Board must record its ballot procedures at the end of each of its meetings showing the following data:
  - Number of signed affidavits provided by the auditor
  - Number of absentee ballots counted and tabulated
  - Number of absentee ballots rejected prior to opening the affidavit envelope
  - Number of absentee ballots challenged and still unopened
  - Number of absentee ballots accepted for counting and tabulation
  - Number of provisional ballots provided by the auditor
  - Number of provisional ballots accepted for counting and tabulation
  - Number of provisional ballots rejected

SF413 Sec. 64; Code Sec. 53.30(1)

## VOTING AT THE POLLS

- PEOs who change parties must do so more than 30 days before an election. SF413 Sec. 34; Code Sec. 49.13(7)
- PEOs may not serve as poll watchers; doing so is a serious misdemeanor. (A serious misdemeanor is punishable by 0-1 years in prison AND a fine of from \$315 to \$1,875.) SF413 Sec. 5; Code Sec. 39A.4(1)(b)(1)
- Polling place changes for primaries and generals must notify voters by mail, posting at the auditor's office, and posting on the auditor's website, not more than twenty nor less than seven days before the day on which the election is to be held. SF413 Sec. 35; Code Sec. 49.23
- The polls close at 8:00 pm on election day for all elections, including primaries and generals. SF413 Sec. 36; Code Sec. 49.73(2)(a)
- The Legislative Services Agency website must show the hours that polling places are open on election days, until November 7, 2024. SF413 Sec. 36; Code Sec. 49.73(2)(b)
- The county treasurer must include on property tax statements the hours that polling places are open on election days, until November 7, 2024. SF413 Sec. 72; Code Sec. 445.5(1)(i)
- A candidate on the ballot may not occupy a voting booth with another voter. SF413 Sec. 38; Code Sec. 49.88(3). SF413 Sec. 39; Code Sec. 49.90
- Election officials may not interfere with poll watchers performing their proper role; to do so is a serious misdemeanor. (A serious misdemeanor is punishable by 0-1 years in prison AND a fine of from \$315 to \$1,875.) SF413 Sec. 40; Code Sec. 49.104(2)
- Employers must allow employees two consecutive hours to vote on election day, if they do not already have two consecutive hours off during the time the polls are open (reduced from three hours). SF413 Sec. 41; Code Sec. 49.109

## VOTER REGISTRATION

- Voters must register to vote 15 days or more before the election to appear on the voter register on election day. (Voters may still register to vote on election day, or when voting absentee in person, with proper identification.) SF413 Sec. 22; Code Sec. 48A.9(1). SF413 Sec. 24; Code Sec. 48A.27(4)(c)(2). SF413 Sec. 27; Code Sec. 48A.29(1)(b). SF413 Sec. 28; Code Sec. 48A.29(3)(b)
- Voter identification cards sent to voters not listed in the DOT driver's license file must include the times that polling places will be open on election days. SF413 Sec. 23; Code Sec. 48A.10A(1)
- County auditors must participate in the National Change of Address list maintenance program, and may not alternatively send their own countywide mailing. SF413 Sec. 25; Code Sec. 48A.28(1)&(2)
- A voter who has moved and has therefore been sent mail by the county auditor to inquire of their proper address, AND who did not vote in the most recent general election, shall be marked inactive. (An inactive voter may still vote with proper identification, and their registration will not be canceled until two more general elections pass with no voter activity.) SF413 Sec. 25; Code Sec. 48A.28(2)(b)
- Willful failure to complete voter list maintenance is an aggravated misdemeanor. (An aggravated misdemeanor is punishable by 0-2 years in prison AND a fine of from \$625 to \$6,250.) SF413 Sec. 4; Code Sec. 39A.3(1)(b)(9)

## NOMINATIONS

- A candidate may not file to run both in a party primary and as a non-party political organization candidate. SF413 Sec. 12; Code Sec. 43.17
- Adjusts signature requirements for primary elections. SF413 Sec. 13; Code Sec. 43.20(1)
- Adjusts attendance requirements for non-party political organization caucuses or conventions. SF413 Sec. 15; Code Sec. 44.1
- Adjusts signature requirements for US Senate and US House candidates. SF413 Sec. 16; Code Sec. 45.1(1)&(2)
- Adjusts signature requirements for statewide candidates. SF413 Sec. 17; Code Sec. 45.1A

## VACANCIES

- For a vacancy in the office of county auditor, sheriff, treasurer, recorder, or attorney that is filled by appointment, the vacancy is for the period until the next general election. SF413 Sec. 69; Code Sec. 69.14A(2)(a)(1)
- In the case that the board of supervisors makes an appointment to fill a vacancy in the office of county auditor, sheriff, treasurer, recorder, or attorney, if a petition is filed requesting a special election, no signature on the petition will be valid if dated prior to the date of the appointment. SF413 Sec. 69; Code Sec. 69.14A(2)(a)(2)
- If the board of supervisors calls a special election to fill a vacancy in the office of county auditor, sheriff, treasurer, recorder, or attorney, the election may now be held on the same day as a school election. SF413 Sec. 70; Code Sec. 69.14A(2)(b)(1)

# SECRETARY OF STATE/COUNTY AUDITOR DUTIES

- The Secretary of State may issue guidance to clarify election laws that does not need to be approved for Administrative Rules. SF413 Sec. 18; Code Sec. 47.1(1)
- County auditors have no home rule authority in regards to elections. SF413 Sec. 19; Code Sec. 47.2(1)
- The Secretary of State must verify all voter registration records (using a 3rd-party vendor if desired) in the first quarter of each calendar year, and submit a report to the legislature by April 30. SF413 Sec. 20; Code Sec. 47.7(2)(f)(1)&(2)
- The Secretary of State must use the Electronic Registration Information Center (ERIC) to update IVoters. SF413 Sec. 21; Code Sec. 47.7(3)
- County auditors must annually report to the Secretary of State the number of voter registrations that were marked inactive or canceled, and the Secretary of State must publish the reports on the SOS website. SF413 Sec. 31; Code Sec. 48A.40(1)
- The Secretary of State must conduct an audit of voter registration maintenance by counties in April of odd-numbered years, and report violations to the Attorney General and county attorney. SF413 Sec. 32; Code Sec. 48A.41.
- The Secretary of State may oversee a county election from 60 days before the election to 60 days after the election. SF413 Sec. 33; Code Sec. 49.2
- For primaries and generals (and special elections for legislature or Congress), county auditors must provide to the Secretary of State a daily absentee report from 20 days before the election through election day that shows:
  - the number of absentee ballot requests received
  - the number of ballots mailed
  - the number of ballots received:
    - by mail
    - in a drop box
    - at a satellite
    - in person.

SF413 Sec. 46; Code Sec. 53.4(2)

- The Secretary of State must publish the above daily reports. SF413 Sec. 46; Code Sec. 53.4(1)
- After each primary and general, the county auditor must report to the Secretary of State the following data for each absentee ballot:
  - The serial number of the unsealed envelope
  - The date the ballot request was received
  - The date the ballot was sent to the voter
  - The date the ballot was received by the auditor
  - The date the ballot outer envelope was opened
  - Whether the ballot was:
    - Delivered by mail
    - Delivered in person
    - Delivered to a drop box
    - Voted at a satellite

SF413 Sec. 60; Code Sec. 53.19(1)

- After each primary and general, the county auditor must report to the Secretary of State the following data:
  - Number of absentee ballots received by the auditor
  - Number of absentee ballots counted and tabulated by the ASVP board
  - Number of absentee ballots rejected by the ASVP board
  - Number of provisional ballots cast
  - Number of provisional ballots counted and tabulated by the ASVP board
  - Number of provisional ballots rejected by the ASVP board

SF413 Sec. 64; Code Sec. 53.30(3)

## **VIOLATIONS AND PENALTIES**

- Willful violation of election law by an election official, formerly a serious misdemeanor, is now a Class D felony. (A class D felony is punishable by 0-5 years in prison AND a fine of from \$750 to \$7,500.) SF413 Sec. 3; Code Sec. 39A.2(1)(g)
- Willful failure to complete voter list maintenance is an aggravated misdemeanor. (An aggravated misdemeanor is punishable by 0-2 years in prison AND a fine of from \$625 to \$6,250.) SF413 Sec. 4; Code Sec. 39A.3(1)(b)(9)
- PEOs may not serve as poll watchers; doing so is a serious misdemeanor. (A serious misdemeanor is punishable by 0-1 years in prison AND a fine of from \$315 to \$1,875.) SF413 Sec. 5; Code Sec. 39A.4(1)(b)(1)
- Interfering with a person permitted at a polling place (including poll watchers) is a serious misdemeanor. SF413 Sec. 7; Code Sec. 39A.4(1)(b)(14)
- Someone returning an absentee ballot (including to a drop box) who is not allowed to, or someone who lies about it, commits a serious misdemeanor. SF413 Sec. 8; Code Sec. 39A.4(1)(c)(10)&(11)
- The Secretary of State may impose a fine of up to \$10,000 on a county auditor committing a technical infraction. The auditor has 60 days to pay the fine or file an appeal. If the fine is not paid or dismissed, the auditor shall be suspended from office for up to two years. If the auditor is suspended, the Secretary of State must direct the deputy auditor to oversee the office during the suspension, and the Secretary of State may direct the secretary's staff to assist with election duties. SF413 Sec. 9; Code Sec. 39A.6(3)(a), (b)&(c)
- If a technical infraction is willful, the Secretary of State must refer it to the Attorney General and the county attorney. SF413 Sec. 10; Code Sec. 39A.6(4)
- The Attorney General or county attorney must investigate any election misconduct referrals, and report their findings (and whether they will pursue charges) to the Secretary of State. SF413 Sec. 11; Code Sec. 39A.7
- State and local law enforcement are authorized to prevent violations of Chapter 50, Canvass of Votes. SF413 Sec. 42; Code Sec. 50.52
- Failure to pay a fine for a technical infraction is added to the list of reasons why the district court may remove an appointive or elective officer. SF413 Sec. 68; Code Sec. 66.1A(8)
- The county attorney must bring action against an election official for failure to pay a fine for a technical infraction. SF413 Sec. 71; Code Sec. 331.756(75)

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