
Amendment to the Constitution.⁹ In concluding otherwise, the majority misperceives the inquiry before us and fails to narrow the scope of its review, instead insisting on acting as a *de novo* trial court. That, of course, is not our role.

I would therefore affirm the judgment of the district court and must respectfully dissent from the majority opinion.

BYBEE, Circuit Judge, with whom O’SANNLAIN, CLIFTON, and CALLAHAN, Circuit Judges, join, dissenting:

The right to vote is the most fundamental of our political rights and the basis for our representative democracy. “No right is more precious” because it is a meta-right: it is the means by which we select “those who make the laws under which, as good citizens, we must live.” *Wesberry v. Sanders*, 376 U.S. 1, 17 (1964). “Other rights, even the most basic, are illusory if the right to vote is undermined.” *Id.* Almost as fundamental as the right to vote is the need for the electorate to have confidence in the rules by which elections are conducted.

⁹ Because the majority concludes that the OOP policy and the ballot-collection policy violate § 2 of the Voting Rights Act and the Fifteenth Amendment to the United States Constitution, it does not reach DNC’s claim that such policies also violate the First and Fourteenth Amendments to the United States Constitution. I will not belabor such claims here; for these purposes, it is sufficient to say that—for many of the reasons and based on much of the evidence cited above—I would also conclude that neither practice violates the First and Fourteenth Amendments.

I write separately to make a simple point: The Arizona rules challenged here are part of an “electoral process that is necessarily structured to maintain the integrity of the democratic system.” *Burdick v. Takushi*, 504 U.S. 428, 441 (1992).¹ The Constitution entrusts the “Times, Places and Manner of holding Elections” to state legislatures, subject to laws enacted by Congress to “make or alter such Regulations.” U.S. Const. art. I, § 4, cl. 1. “‘Times, Places, and Manner,’ . . . are ‘comprehensive words,’ which ‘embrace authority to provide a complete code for . . . elections.’” *Arizona v. Inter Tribal Council of Ariz., Inc.*, 570 U.S. 1, 8–9 (2013) (quoting *Smiley v. Holm*, 285 U.S. 355, 366 (1932)); see *Rucho v. Common Cause*, 139 S. Ct. 2484, 2495 (2019).

“[A]s a practical matter, there must be a substantial regulation of elections if they are to be fair and honest and if some sort of order, rather than chaos, is to accompany the democratic processes.” To achieve these necessary objectives, States have enacted comprehensive and sometimes complex election codes. Each provision of these schemes, whether it governs the registration and qualifications of voters, the selection and eligibility of candidates, or the voting process itself, inevitably affects—at least in some degree—the individual’s right to vote and his right to associate with others for political ends. Nevertheless, the State’s important

¹ I join in full Judge O’Scannlain’s dissent. I write separately to place the majority’s decision today in context of the American democratic tradition.

regulatory interests are generally sufficient to justify reasonable, nondiscriminatory restrictions.

Anderson v. Celebrezze, 460 U.S. 780, 788 (1983) (citation omitted) (quoting *Storer v. Brown*, 415 U.S. 724, 730 (1974)).

Time, place, and manner restrictions are fundamentally differently from provisions that affect the “Qualifications requisite for Electors,” U.S. Const. art. I, § 2, cl. 1, and state apportionments “according to their respective Numbers,” *id.* art. I, § 2, cl. 3. The Constitution restricts with exactness the qualifications states may require of their voters. *See id.* amend. XV, § 1 (“race, color, or previous condition of servitude”); amend. XIX (sex); amend. XXIV (“failure to pay any poll tax or other tax”); amend. XXVI (those “eighteen years of age or older, . . . on account of age”); *Kramer v. Union Free Sch. Dist. No. 15*, 395 U.S. 621 (1969) (property ownership). Similarly, the constitutional imperative for one person, one vote demands that apportionment be subject to precision approaching “absolute population equality,” *Karcher v. Daggett*, 462 U.S. 725, 732 (1983), “as nearly as practicable,” *Kirkpatrick v. Preisler*, 394 U.S. 526, 531 (1969).

Time, place, and manner restrictions stand on different footing from status-based restraints on vote qualifications and legislative malapportionment. State requirements respecting when and where we vote and how ballots will be counted are “generally-applicable and evenhanded restrictions that protect the integrity and reliability of the electoral process itself.” *Anderson*, 460 U.S. at 788 n.9. By contrast, for example, “redistricting differs from other kinds of state decisionmaking

in that the legislature always is *aware* of race when it draws district lines, just as it is aware of age, economic status, religions and political persuasion, and a variety of other demographic factors.” *Shaw v. Reno*, 509 U.S. 630, 646 (1993). Time, place, and manner restrictions are the rules of the game, announced in advance, so that all voters will know what they must do. Parties of all stripes should have an equal interest in rules that are both fair on their face and fairly administered.

Two such rules are challenged here: the rule about how Arizona will count out-of-precinct votes (OOP) and the rule about who may file another person’s absentee ballot (H.B. 2023). As rules of general applicability, they apply to all voters, without “account of race or color.” 52 U.S.C. § 10301(a).² Rather than simply recognizing that Arizona has enacted neutral, color-blind rules, the majority has embraced the premise that § 2 of the VRA is violated when any minority voter appears to be adversely affected by Arizona’s election laws. Although the majority abjures this premise for now, claiming that it does “not need to go so far” as equating “the case of an individually targeted single minority voter who is denied the right to vote and the case where a facially neutral policy affects a single voter,” Maj. Op. at 45, its analysis necessarily rests on that premise. The majority has

² In relevant part, § 2 of the Voting Rights Act provides that “[n]o voting qualification or prerequisite to voting or standard, practice, or procedure shall be imposed or applied by any State . . . in a manner which results in a denial or abridgement of the right of any citizen of the United States to vote on account of race or color.” 52 U.S.C. § 10301(a). A violation of § 2(a) may be shown “based on the totality of the circumstances . . . [if] the political processes leading to nomination or election in the State . . . are not equally open to participation by members of a class of citizens [on account of race or color].” *Id.* § 10301(b).

no limiting principle for identifying a de minimis effect in a facially neutral time, place, or manner rule. The premise finds its clearest expression in the Fourth Circuit’s opinion in *League of Women Voters of N.C. v. North Carolina*, 769 F.3d 224, 244 (4th Cir. 2014) (emphasis added): “[W]hat matters for purposes of Section 2 is not how many minority voters are being denied equal electoral opportunities *but simply that ‘any’ minority voter is being denied equal electoral opportunities.*” See Maj. Op. at 41–42, 45–46, 107 (relying on *League of Women Voters*). Such a premise insists on a precision that we have never demanded before.

By contrast, the Supreme Court explained that following *City of Mobile v. Bolden*, 446 U.S. 55 (1980), “Congress substantially revised § 2 to make clear that a violation could be proved by showing discriminatory effect alone and to establish as the relevant legal standard the ‘results test,’ applied . . . in *White v. Regester*, 412 U.S. 755 (1973).” *Thornburg v. Gingles*, 478 U.S. 30, 35 (1986). Yet in *White*, the Court made clear that it “did not hold . . . that *any* deviations from absolute equality, however small, must be justified to the satisfaction of the judiciary to avoid invalidation under the Equal Protection Clause.” 412 U.S. at 763–64. Rather, the Court recognized that any rule in an election scheme might suffer “relatively minor population deviations . . . ‘based on legitimate considerations incident to the effectuation of a rational state policy.’” *Id.* at 764 (quoting *Reynolds v. Sims*, 377 U.S. 533, 579 (1964)).

A “rational state policy” surely includes the need for a consistent, neutral set of time, place, and manner rules. The majority’s reading of the Voting Rights Act turns § 2 into a “one-minority-vote-veto rule” that may undo any number of time, place, and manner rules. It is entirely results-bound, so

much so that under the majority's reading of the Voting Rights Act, the same rules the majority strikes down in Arizona may be perfectly valid in every other state, even states within our circuit. It all depends on the numbers. Indeed, so diaphanous is the majority's holding, that it may be a temporary rule for Arizona. If Arizona were to reenact these provisions again in, say, 2024, the numbers might come out differently and the OOP and ballot collection rules would be lawful once again.

The two Arizona rules at issue here—OOP and H.B. 2023—are rules of general applicability, just like the rules governing voting on the day of the election, registering with the Secretary of State, and bringing identification with you. Such ““evenhanded restrictions that protect the integrity and reliability of the electoral process itself” are not invidious.” *Crawford v. Marion Cty. Election Bd.*, 553 U.S. 181, 189–90 (2008) (plurality opinion) (quoting *Anderson*, 460 U.S. at 788 n.9). Both rules the majority strikes down today have widely-held, well-recognized—even distinguished—pedigrees. As I show in Part I, the OOP is a long-standing rule that remains in place in a majority of American jurisdictions. The rule the majority prefers is a minority rule in the United States and, more importantly, disregards Arizona's interest in encouraging voting in local elections and, in application, may actually disadvantage minority voters. In Part II, I demonstrate that, although H.B. 2023 is of more recent vintage, similar rules are in place in other American jurisdictions, and H.R. 2023 follows carefully the recommendation of a bi-partisan commission on the integrity of American elections.

I

It has long been a feature of American democracy that, on election day, voters must vote in person at an assigned polling venue—an election precinct.

[I]t is the well established practice in nearly every state to divide the county or city into a number of geographical districts for the purpose of holding elections. Each elector is required to vote at the polling place of his own precinct, which by custom is ordinarily located within the precinct, and, in cities, within a few blocks of his residence.

Joseph P. Harris, *Election Administration in the United States* 206–07 (1934). Like most American jurisdictions, Arizona’s election rules require a non-absentee voter’s personal presence at the polling place. Ariz. Rev. Stat. § 16-411(A) (“The board of supervisors of each county . . . shall establish a convenient number of election precincts in the county and define the boundaries of the precincts.”). The reasons for such a venue rule are

significant and numerous: it caps the number of voters attempting to vote in the same place on election day; it allows each precinct ballot to list all of the votes a citizen may cast for all pertinent federal, state, and local elections, referenda, initiatives, and levies; it allows each precinct ballot to list only those votes a citizen may cast, making ballots less confusing; it makes it easier for election officials to monitor votes and prevent election

fraud; and generally puts polling places in closer proximity to voter residences.

Sandusky Cty. Democratic Party v. Blackwell, 387 F.3d 565, 569 (6th Cir. 2004).³ Precincts help to secure the orderly administration of elections, which then assures all voters of the integrity of the election.

A

Arizona’s out of precinct rule (OOP) is a standard feature of American democracy. Under Arizona’s election code,

³ “One of the major voting innovations in certain states was the increase in the number of polling places.” Robert J. Dinkin, *Voting in Revolutionary America: A Study of Elections in the Original Thirteen States, 1776–1789*, at 96 (1982). Among the states, New York led the way, “enacting a law in 1778 which stated that all future elections should be held ‘not by counties but by boroughs, towns, manors, districts, and precincts.’” *Id.* at 97 (quoting Laws of New York, sess. 1, chap. 16 (1778)). In early America, polling places were located where the people were:

voting . . . in barns, private homes, country stores, and churches—almost anything that could separate voters from the election officials and the ballot boxes they tended. On the frontier, where buildings were even harder to find, votes were sometimes cast in sodhouse saloons, sutler stores near army forts, the front porches of adobe houses, and temporary lean-tos thrown together at desolate desert crossroads. In the larger cities, fire stations, warehouses, and livery stables were commonly used. One of the most common venues was liquor establishments. . . . Such an arrangement made an election noisy and, sometimes, violent.

Richard Franklin Bensel, *The American Ballot Box in the Mid-Nineteenth Century* 9 (2004).

“[n]o person shall be permitted to vote unless such person’s name appears as a qualified elector in both the general county register and in the precinct register.” Ariz. Rev. Stat. § 16-122. The election code provides extensive instructions for electors who have changed their residence or whose name does not appear on the precinct register; if there is any question of the elector’s eligibility to vote in that precinct, Arizona authorizes the filing of a provisional ballot. *See, e.g.*, Ariz. Rev. Stat. §§ 16-135, 16-583, 16-584, 16-592.

There is nothing unusual about Arizona’s OOP rule.⁴ Although there are variations in the way the rule is formulated, by my count, twenty-six states, the District of Columbia, and three U.S. territories disqualify ballots cast in the wrong precinct.⁵ These states represent every region of the country: The Northeast (Connecticut, Vermont), the mid-Atlantic (Delaware, District of Columbia, West Virginia), the

⁴ For many years, a voter was not even permitted to cast a provisional ballot in a precinct other than her own. *See Harris, Election Administration in the United States*, at 287–88. The Help America Vote Act (HAVA) now requires states to permit voters to cast a provisional ballot. 52 U.S.C. § 21082(a). HAVA, however, does not affect a state’s rules about how to process a provisional ballot. It does provide that states must create a toll-free number that “any individual who casts a provisional ballot may access to discover whether the vote of that individual was counted, and, if the vote was not counted, the reasons that the vote was not counted.” 52 U.S.C. § 21082(a)(5)(B); *see Blackwell*, 387 F.3d at 576 (“HAVA is quintessentially about being able to *cast* a provisional ballot. . . . [B]ut the ultimate legality of the vote cast provisionally is generally a matter of state law.”).

⁵ I have listed all fifty states, the District of Columbia, and U.S. territories, with relevant citations to their treatment of out of precinct votes, in Appendix A. In Appendix B, I have categorized the jurisdictions by rule.

South (Alabama, Florida, Kentucky, Mississippi, South Carolina, Tennessee, Virginia, Virgin Islands), the mid-West (Illinois, Indiana, Iowa, Michigan, Missouri, Nebraska, South Dakota, Wisconsin), the Southwest (Arizona, Oklahoma, Texas), the Mountain States (Montana, Wyoming), and the West (American Samoa, Hawaii, Nevada, Northern Mariana Islands). Twenty states and two territories will count out of precinct ballots, although the states are not uniform in what they will count.⁶ They also represent a broad spectrum of the country: The Northeast (Maine, Massachusetts, New York, Rhode Island), the mid-Atlantic (Maryland, New Jersey, Pennsylvania), the South (Arkansas, Louisiana, North Carolina, Georgia, Puerto Rico), the mid-West (Ohio, Kansas), the Southwest (New Mexico), the Mountain States (Colorado, Utah), and the West (Alaska, California, Guam, Oregon, Washington).⁷

Nowhere in its discussion of the “totality of the circumstances” has the majority considered that Arizona’s OOP provision is a widely held time, place, or manner rule. It is not a redistricting plan, *see Cooper v. Harris*, 137 S. Ct. 1455 (2017); *League of United Latin Am. Citizens v. Perry*, 548 U.S. 399 (2006); *Shaw v. Reno*, 509 U.S. 630 (1993); a multimember district, *see Chisom v. Roemer*, 501 U.S. 380 (1991); *Gingles*, 478 U.S. 30; or an at-large system, *see*

⁶ For example, five states will count an out-of-precinct vote, but only if the ballot is filed in the voter’s county (Kansas, New Mexico, Pennsylvania, Utah) or town (Massachusetts). Louisiana and Rhode Island will only count votes for federal office. Puerto Rico will count only votes for Governor and Resident Commissioner.

⁷ Four states (Idaho, Minnesota, New Hampshire, North Dakota) are not accounted for in either list because they allow same-day registration and do not use provisional ballots.

Rogers v. Lodge, 458 U.S. 613 (1982). Those “circumstances” are as unique as a fingerprint, subject to manipulation, and require “an intensely local appraisal” of the state’s plan. *Gingles*, 478 U.S. at 78 (internal quotation marks and citation omitted). Arizona’s OOP applies statewide; it is not a unique rule, but a traditional rule, common to the majority of American states. The OOP rule, as a rule of general applicability, is part of a “political process[] . . . equally open to participation” by all Arizona voters. 52 U.S.C. § 10301(b).

B

The majority asserts that “counting or partially counting OOP ballots would [not] threaten the integrity of Arizona’s precinct-based system.” Maj. Op. at 78. Effectively, the majority holds that Arizona must abandon its traditional polling venue rules and accept the ballots of voters who cast their ballot in the wrong precinct, at least for national and state-wide offices. *Id.* at 76–78 (citing the rules of California, Utah, and New Mexico as an example of states partially counting OOP ballots). Under the majority’s preferred scheme, Arizona must count all votes for offices that are not precinct dependent. As to the remainder of the ballot, Arizona may—in accordance with its traditional rule—disqualify the ballot for all offices for which the political geography of the precinct matters. The majority has failed to take into account that the rule it prefers has its own consequences, including adverse consequences for minority voters.

Let’s review an example to consider the unintended consequences of the majority’s haste. Under Arizona’s traditional rules, the state would disqualify the ballot of a

voter from Tucson who votes in any precinct other than his assigned precinct. Under the majority's new rule, a voter from Tucson may cross precinct lines and vote in any precinct in Arizona—for instance, in Phoenix. His cross-precinct ballot will be counted for those offices which are common to ballots in his precinct-in-law in Tucson and his new precinct-in-fact in Phoenix—such offices would include the presidency, the U.S. Senate, and any statewide offices. His ballot will be disqualified, however, for all state and local offices defined by geographic boundaries that are not common to the two precincts—for example, the U.S. House of Representatives, the state legislature, and municipal offices such as mayor, city council, and school board.

The majority's rule will skew future elections in Arizona in two predictable ways. First, it *overvalues* national elections. Ballots for the presidency, the U.S. Senate, and any state offices that would otherwise be disqualified must be counted. Voters—whether intentionally or carelessly—may vote with impunity in the wrong precinct, knowing that their vote will count for the national and statewide offices.

Second, it *undervalues* local elections. Those same ballots will not be counted toward those federal, state, and local offices that are defined by geographic boundaries and for which the voters from the outside precinct are not eligible. Non-conscientious voters—voters who care more about a national or a statewide race than the local races—are permitted to vote wherever they please, while conscientious voters—those concerned with all the offices on the ballot—are burdened by the requirement that they find their way to their proper precinct. And if the conscientious voter can't get to the polling place on time, he will have cast no ballot for any office, national, state, or local.

The net result is that the majority has lowered the cost to voters of determining where they are supposed to vote, but only as to presidential, U.S. Senate, and statewide races. As the majority no doubt intends, persons who didn't know or were confused about their polling place will have their vote counted, but only in select races. But as the majority may not have thought through, anyone in Arizona, including people who know where they are supposed to vote in an election (but for one reason or another would not have otherwise voted because it was inconvenient or impossible to vote at their home precinct), will also be able to vote—but again, only in select races. Arizona can thus expect more votes in the presidential, senatorial, and state races than would be cast under its traditional rules. I suppose that in theory that's a good thing. What the majority has not counted on is the effect its order will have on the races that depend on geographic boundaries within Arizona: congressional, state-legislative, and local offices. When voters do not go to their local precincts to vote, they cannot vote in those races. Voters who do not take the time to determine their appropriate precinct—for whatever reason—and vote out of precinct have disenfranchised themselves with respect to the local races. That's a bad thing.

Arizona's longstanding, neutral rule gives voters an incentive to figure out where their polling place is, which, in turn, encourages voters to cast ballots in national, state, and local elections. In effect, Arizona has stapled national and statewide elections to other state and local elections. The opportunity to vote in any one race is the opportunity to vote in all races. It's strong medicine, but Arizona's rule is a self-protective rule; it helps encourage voting and, presumably, interest in local elections. The majority's preferred rule gives voters an incentive to vote wherever it is convenient for them

which increases the likelihood they will vote in certain national and statewide races, but decreases the likelihood they will vote in other state and local races. It places a burden on voters who wish to exercise their right to vote on all matters to which they are entitled, a burden that simply would not exist for the less-engaged voter. The majority's rule contradicts our most basic principles of federalism by deeming elections for national and statewide offices more important than those for lesser offices.

The majority's concern is based on the fact that voters who vote in the wrong precinct are more likely to be minorities. *Maj. Op.* at 42–44. If that fact holds true in the future—and it may not because, as I have explained, any voter in Arizona (including those who know where to vote) may take advantage of the majority's new rule—then minority ballots will be underrepresented in the local races. Under the majority's preferred scheme, it is thus likely that more minorities will fail to vote in local elections—elections that most directly affect the daily lives of ordinary citizens, and often provide the first platform by which citizen-candidates, not endowed with personal wealth or name recognition, seek on the path to obtaining higher office. In any event, the court has just put a big thumb on the scale of the Arizona elections—national, state, and local—with unclear results.

These concerns are magnified when we consider the relatively small number of OOP ballots. *See Democratic Nat'l Comm. v. Reagan*, 329 F. Supp. 3d 824, 873 (D. Ariz. 2018). It is more likely that these ballots would make a difference in a local election than in a national or statewide election. Arizona's rule encourages its OOP voters—white, African-American, Hispanic, or other—to vote in the correct

precinct. Under Arizona's current OOP rule, a voter, having gone to the trouble of going to a precinct to vote in person and suffering the indignity of having to fill out a provisional ballot, is less likely to make the same mistake the next year.⁸ A voter who has had a ballot disqualified is more likely to figure out the correct precinct next time—or, better yet, sign up for the convenience of early voting, a measure that avoids the conundrum of OOP altogether.⁹ The voter who only votes

⁸ The Majority dismisses this point by highlighting how Arizona has frequently changed polling places in some localities. Maj. Op. at 111 (referring to Arizona's high rate of OOP voting). But there is no evidence in the record that the same voters's ballots are excluded as OOP year after year. My point is that a voter who has had her ballot excluded as OOP is more likely to exercise greater care in finding the right polling location next time.

⁹ The Majority worries that OOP voters may never come to know that their votes were in fact rejected and, hence, will never learn from the situation. Maj. Op. at 110. Whatever the cause for the Majority's concern, Arizona's statutory law is not to blame. Arizona law specifically requires county recorders to establish "a method of notifying the provisional ballot voter at no cost to the voter whether the voter's ballot was verified and counted and, if not counted, the reason for not counting the ballot." Ariz. Rev. Stat. Ann. § 16-584(F) (2019). Thus, voters should have the opportunity to find out whether their vote was counted.

Further, to the extent that voters inadvertently vote in the wrong precinct, that is not a failing of Arizona law. Instead, the law requires that voters' names be checked on the precinct register. If a voter's name does not appear on the register, then the address is checked to confirm that the voter resides within that jurisdiction. *Id.* § 16-584(B). Once the address is confirmed to be in the precinct or the voter affirms in writing that the voter is eligible to vote in that jurisdiction, the voter "shall be allowed to vote a provisional ballot." *Id.* Accordingly, under Arizona law, no voter should inadvertently vote at the wrong precinct without some indication that something is amiss.

where it is convenient has disenfranchised himself from local elections.

States such as California, Utah, and New Mexico have made the same choice the majority forces on Arizona. Those states may or may not have made the calculus I have set out here and they may or may not have measured the costs and benefits of their new rule; it's theirs to experiment with. They may conclude that the new rule is the right one; they may not. And if any of those states decides that the count-the-ballots-partially rule is not the best rule, those states will be free to adopt a different rule, including the OOP rule the majority strikes down today. After today's decision, Arizona has no such recourse.

II

H.B. 2023 presents a different set of considerations. There is no constitutional or federal statutory right to vote by absentee ballot. *See McDonald v. Bd. of Election Comm'rs of Chi.*, 394 U.S. 802, 807–08 (1969) (“It is thus not the right to vote that is at stake here but a claimed right to receive absentee ballots. . . . [T]he absentee statutes, which are designed to make voting more available to some groups who cannot easily get to the polls, do not themselves deny . . . the exercise of the franchise”); *see also Crawford*, 553 U.S. at 209 (Scalia, J., concurring in the judgment) (“That the State accommodates some voters by permitting (not requiring) the casting of absentee or provisional ballots, is an indulgence—not a constitutional imperative that falls short of what is required.”); *Griffin v. Roupas*, 385 F.3d 1128, 1130 (7th Cir. 2004) (rejecting the claim that there is “a blanket right of registered voters to vote by absentee ballot” because “it is obvious that a federal court is not going to decree

weekend voting, multi-day voting, all-mail voting, or Internet voting”).¹⁰ Nevertheless, if a state is going to offer absentee ballots, it must do so on an equal basis. Arizona’s absentee ballot rule, like its OOP rule, is a neutral time, place, or manner provision to help ensure the integrity of the absentee voting process. In fact, what is at issue here is not the right of Arizona voters to obtain and return an absentee ballot, but the question of who can physically return the ballot.

A

H.B. 2023 provides that “[a] person who knowingly collects voted or unvoted early ballots from another person is guilty of a class 6 felony.” Ariz. Rev. Stat. Ann. § 16-1005(H) (codifying H.B. 2023). The law does not apply to three classes of persons: (1) “[a]n election official,” (2) “a United States postal service worker or any other person who is allowed by law to transmit United States mail,” and (3) “[a]

¹⁰ “The exercise of a public franchise by proxy was illegal at common law.” Cortlandt F. Bishop, *History of Elections in the American Colonies* 129 (1893). The Colonies experimented with proxy votes, with varying degrees of success. Proxy voting was not a success in at least one colony. A 1683 letter to the Governor of South Carolina warned:

Wee are informed that there are many undue practices in the choyce of members of Parlmt, and that men are admitted to bring papers for others and put in their votes for them, wh is utterly illegal & contrary to the custome of Parliaments & will in time, if suffered, be very mischeevious: you are therefore to take care that such practices be not suffered for the future, but every man must deliver his own vote & noe man suffered to bring the votes of another

Id. at 139 (spelling in original) (citation omitted).

family member, household member or caregiver of the voter.”
Id. § 16-1005(H)–(I)(2).

The Arizona provision is substantially similar to the laws in effect in many other states. In Indiana, for example, it is a felony for anyone to collect a voter’s absentee ballot, with exceptions for members of the voter’s household, the voter’s designated attorney in fact, certain election officials, and mail carriers. Ind. Code § 3-14-2-16(4). Connecticut also restricts ballot collection, permitting only the voter, a designee of an ill or disabled voter, or the voter’s immediate family members to mail or return an absentee ballot. Conn. Gen. Stat. § 9-140b(a). New Mexico likewise permits only the voter, a member of the voter’s immediate family, or the voter’s caregiver to mail or return an absentee ballot. N.M. Stat. Ann. § 1-6-10.1. At least seven other states (Georgia, Missouri, Nevada, North Carolina, Oklahoma, Ohio, and Texas) similarly restrict who can personally deliver an absentee ballot to a voting location. Ga. Code Ann. § 21-2-385(a) (limiting who may personally deliver an absentee ballot to designees of ill or disabled voters or family members); Mo. Rev. Stat. § 115.291(2) (restricting who can personally deliver an absentee ballot); Nev. Rev. Stat. Ann. § 293.330(4) (making it a felony for anyone other than the voter or the voter’s family member to return an absentee ballot); Okla. Stat. tit. 26, § 14-108(C) (voter delivering a ballot must provide proof of identity); Ohio Rev. Code Ann. § 3509.05(A) (limiting who may personally deliver an absent voter’s ballot); Tex. Elec. Code Ann. § 86.006(a) (permitting only the voter to personally deliver the ballot).¹¹

¹¹ Until recently, two other states had similar provisions on the books. California formerly limited who could return mail ballots to the voter’s family or those living in the same household. *Compare* Cal. Elec. Code

Other states are somewhat less restrictive than Arizona because they permit a broader range of people to collect early ballots from voters but restrict how many ballots any one person can collect and return. Colorado forbids anyone from collecting more than ten ballots. Colo. Rev. Stat. § 1-7.5-107(4)(b). North Dakota prohibits anyone from collecting more than four ballots, N.D. Cent. Code § 16.1-07-08(1); New Jersey, N.J. Stat. Ann. § 19:63-4(a), and Minnesota, Minn. Stat. Ann. § 203B.08 subd. 1, three; Arkansas, Ark. Code Ann. § 7-5-403(a)(1), Nebraska, Neb. Rev. Stat. § 32-943(2), and West Virginia, W. Va. Code § 3-3-5(k), two. South Dakota prohibits anyone from collecting more than one ballot without notifying “the person in charge of the election of all voters for whom he is a messenger.” S.D. Codified Laws § 12-19-2.2.

Still other states have adopted slightly different restrictions on who may collect early ballots. California, Maine, and North Dakota, for example, make it illegal to collect an absentee ballot for compensation. Cal. Elec. Code § 3017(e)(1); Me. Rev. Stat. Ann. tit. 21-A, § 791(2)(A) (making it a crime to receive compensation for collecting absentee ballots); N.D. Cent. Code § 16.1-07-08(1) (prohibiting a person from receiving compensation for acting as an agent for an elector). Florida and Texas make it a crime to receive compensation for collecting certain numbers of

§ 3017(a)(2) (West 2019), *with* Cal. Elec. Code § 3017(a) (West 2015). It only amended its law in 2016. 2016 Cal. Legis. Serv. ch. 820 (West). Illinois also used to make it a felony for anyone but the voter, his or her family, or certain licensed delivery companies to mail or deliver an absentee ballot. 10 Ill. Comp. Stat. Ann. 5/19-6 (1996); 10 Ill. Comp. Stat. 5/29-20(4). Illinois amended that provision in 2015 to let voters authorize others to mail or deliver their ballots. 10 Ill. Comp. Stat. Ann. 5/19-6 (2015).

ballots. Fla. Stat. Ann. § 104.0616(2) (making it a misdemeanor to receive compensation for collecting more than two vote-by-mail ballots); Tex. Elec. Code Ann. § 86.0052(a)(1) (criminalizing compensation schemes based on the number of ballots collected for mailing).

Some of these laws are stated as a restriction on how the early voter may return a ballot. In those states, the voter risks having his vote disqualified. *See, e.g., Wrinn v. Dunleavy*, 440 A.2d 261, 272 (Conn. 1982) (disqualifying ballots and ordering a new primary election when an unauthorized individual mailed absentee ballots). In other states, as in Arizona, the statute penalizes the person collecting the ballot. *See* Ind. Code Ann. § 3-14-2-16 (making it a felony knowingly to receive a ballot from a voter); Nev. Rev. Stat. Ann. § 293.330(4) (making it a felony for unauthorized persons to return an absentee ballot); Tex. Elec. Code Ann. § 86.006(f)–(g) (making it a crime for an unauthorized person to possess an official ballot); *see also* *Murphy v. State*, 837 N.E.2d 591, 594–96 (Ind. Ct. App. 2005) (affirming a denial of a motion to dismiss a charge for unauthorized receipt of a ballot from an absentee voter); *People v. Deganutti*, 810 N.E.2d 191, 198 (Ill. App. Ct. 2004) (affirming conviction for absentee ballot violation). In those states, the ballot, even if collected improperly, may be valid. *See In re Election of Member of Rock Hill Bd. of Educ.*, 669 N.E.2d 1116, 1122–23 (Ohio 1996) (holding that a ballot will not be disqualified for a technical error).

In sum, although states have adopted a variety of rules, Arizona’s ballot collection rule is fully consonant with the broad range of rules throughout the United States.¹²

B

Even more striking than the number of other states with similar provision is that H.B. 2023 follows precisely the recommendation of the bi-partisan Carter-Baker Commission on Federal Election Reform.¹³ The Carter-Baker Commission found:

Absentee ballots remain the largest source of potential voter fraud. . . . Absentee balloting is vulnerable to abuse in several ways: . . . Citizens who vote at home, at nursing homes, at the workplace, or in church are more susceptible to pressure, overt and subtle, or to intimidation. Vote buying schemes are far more difficult to detect when citizens vote by mail. States therefore should reduce the risks of fraud and abuse in absentee voting by prohibiting “third-party” organizations,

¹² For context, Appendix C provides the relevant provisions of the laws from all fifty states, the District of Columbia, and the U.S. territories regarding the collection and mailing of absentee ballots.

¹³ The Commission on Federal Election Reform was organized by American University’s Center for Democracy and Election Management and supported by the Carnegie Corporation of New York, The Ford Foundation, the John S. and James L. Knight Foundation, and the Omidyar Network. It was co-chaired by former President Jimmy Carter and former Secretary of State James Baker.

candidates, and political party activists from handling absentee ballots.

Comm’n on Fed. Elections Reform, *Building Confidence in U.S. Elections* 46 (2005) (“*Building Confidence*”) (footnote omitted). The Carter-Baker Commission recommended that “States . . . should reduce the risks of fraud and abuse in absentee voting by prohibiting ‘third-party’ organizations, candidates, and political party activists from handling absentee ballots.” *Id.* It made a formal recommendation:

State and local jurisdictions should prohibit a person from handling absentee ballots other than the voter, an acknowledged family member, the U.S. Postal Service or other legitimate shipper, or election officials. The practice in some states of allowing candidates or party workers to pick up and deliver absentee ballots should be eliminated.

Id. at 47 (Recommendation 5.2.1).

The Carter-Baker Commission recommended that states limit the persons, other than the voter, who handle or collect absentee ballots to three classes of persons: (1) family members, (2) employees of the U.S. Postal Service or another recognized shipper, and (3) election officials. H.B. 2013 allows two classes of persons to collect absentee ballots: (1) election officials and (2) employees of the U.S. Postal Service “or any other person who is allowed by law to transmit United States mail.” Ariz. Rev. Stat. § 16-1005(H). H.B. 2023 also provides that the prior restriction on collection of ballots does not apply to “[a] family member, household member or caregiver of the voter.” *Id.* § 16-1005(I)(2). With

respect to election officials and mail delivery workers, Arizona tracks exactly the recommendation from the Commission. With respect to family, however, Arizona's provision is *more generous* than the Carter-Baker Commission's recommendation. Whereas the Commission recommended that only family members be permitted to handle a voter's absentee ballot, Arizona expanded the class of absentee ballot handlers to "household member[s]" and "caregiver[s]."

I don't see how Arizona can be said to have violated the VRA when it followed bipartisan recommendations for election reform in an area the Carter-Baker Commission found to be fraught with the risk of voter fraud. Nothing could be more damaging to confidence in our elections than fraud at the ballot box. And there is evidence that there is voter fraud in the collecting of absentee ballots. As the Seventh Circuit described it: "Voting fraud is a serious problem in U.S. elections generally . . . and it is facilitated by absentee voting. . . . [A]bsentee voting is to voting in person as a take-home exam is to a proctored one." *Griffin*, 385 F.3d at 1130–31; *see also Wrinn*, 440 A.2d at 270 ("[T]here is considerable room for fraud in absentee voting and . . . a failure to comply with the regulatory provision governing absentee voting increases the opportunity for fraud." (citation omitted)); *Qualkinbush v. Skubisz*, 826 N.E.2d 1181, 1197 (Ill. App. Ct. 2004) ("[T]he integrity of a vote is even more susceptible to influence and manipulation when done by absentee ballot."); Adam Liptak, *Error and Fraud at Issue as Absentee Voting Rises*, N.Y. Times (Oct. 6, 2012),

<http://nyti.ms/QUbcrg> (discussing a variety of problems in states).¹⁴

Organized absentee ballot fraud of sufficient scope to corrupt an election is no doomsday hypothetical: it happened as recently as 2018 in North Carolina. In the state’s Ninth Congressional District, over 282,000 voters cast ballots, either in person or absentee. *See* Brief of Dan McCready at 7, *In re Investigation of Election Irregularities Affecting Cty. Within the 9th Cong. Dist.* (N.C. State Bd. of Elections Feb. 12, 2019) [hereinafter McCready Br.]. North Carolina permits “[a]ny qualified voter” in the state to vote by absentee ballot. N.C. Gen. Stat. § 163A-1295. However, like Arizona, the state adheres to the Commission’s recommendations and restricts the categories of persons who may collect a voter’s absentee ballot. It is a Class I felony in North Carolina for “any person except the voter’s near relative or the voter’s verifiable legal guardian to assist the voter to vote an absentee ballot.” *Id.* § 163A-1298.

In last year’s election in the Ninth Congressional District, evidence suggested that a political activist hired by the Republican nominee paid employees to collect absentee ballots—possibly more than 1,000—from voters in violation of § 163A-1298. *See* Indictment, *State v. Dowless*, No. 19CRS001934 (N.C. Super. Ct. July 30, 2019); McCready Br. at app. 2–3. An employee of the suspected

¹⁴ Pressure on absentee voters has long been noted. *See* Harris, *Election Administration in the United States*, at 302 (“The amount of intimidation now exercised by the precinct captain in many sections of large cities is very great; with mail voting it would be enormously increased. The overbearing and dominant precinct captain would insist upon seeing how each voter under obligation to him had marked his ballot, and the voter would have no protection against such tactics.”).

activist testified that she personally collected about three dozen ballots. *See* Transcript of Evidentiary Hearing at 150, *In re Investigation of Election Irregularities Affecting Ctys. Within the 9th Cong. Dist.* (N.C. State Bd. of Elections Feb. 18, 2019). She also helped fill in about five or ten incomplete, unsealed ballots in favor of Republican candidates. *Id.* at 67, 99, 152–53. The ballots were kept at the activist’s home and office for days or longer before they were turned in. *Id.* at 69. A voter testified that she turned over her blank ballot to the activist’s employees in an unsealed envelope, trusting that the activist would make a good decision for her. *Id.* at 207–08, 214–15.

This coordinated ballot fraud led the state Board of Elections to invalidate the results of the election, which had been decided by only 905 votes—fewer than the amount of suspected fraudulent ballots. Order at 10, 44–45, *In re Investigation of Election Irregularities Affecting Ctys. Within the 9th Cong. Dist.* (N.C. State Bd. of Elections Mar. 13, 2019). The residents of the district—some 778,447 Americans—were thus unrepresented in the House of Representatives for the better part of a year. Perhaps the more devastating injury will be the damage this episode does to North Carolinians’ confidence in their election system.

The majority acknowledges that the Democratic Party disproportionately benefits from get-out-the-vote efforts by collecting mail-in ballots. *See, e.g.,* Maj. Op. at 83 (quoting *Reagan*, 329 F. Supp. 3d at 870). Further, the majority acknowledges that Democratic activists have often led such collection efforts. *Id.* Yet the experience of North Carolina with Republican activists shows starkly the inherent danger to allowing political operatives to conduct collections of mail-in ballots. Arizona is well within its right to look at the

perils endured by its sister states and enact prophylactic measures to curtail any similar schemes. By prohibiting overtly political operatives and activists from playing a role in the ballot-collection process, Arizona mitigates this risk. And the State's well-acknowledged past sins should not prevent it from using every available avenue to keep safe the public's trust in the integrity of electoral outcomes.

Indeed, Arizona does not have to wait until it has proof positive that its elections have been tainted by absentee ballot fraud before it may enact neutral rules. "Legislatures . . . should be permitted to respond to potential deficiencies in the electoral process with foresight rather than reactively." *Munro v. Socialist Workers Party*, 479 U.S. 189, 195 (1986). In *Crawford*, the Supreme Court quoted with approval the Carter-Baker Commission:

There is no evidence of extensive fraud in U.S. elections or of multiple voting, but both occur, and it could affect the outcome of a close election. The electoral system cannot inspire public confidence if no safeguards exist to deter or detect fraud or to confirm the identity of voters.

Crawford, 553 U.S. at 194 (quoting *Building Confidence* at 18) (footnote omitted).

The majority today holds that, as a matter of federal law, Arizona may not enforce a neutrally drawn statute recommended by a bi-partisan commission criminalizing the very conduct that produced a fraudulent outcome in a race for Congress less than a year ago. When the Voting Rights Act requires courts to consider the "totality of the circumstances,"

it is a poor understanding of the Act that would strike common time, place, and manner restrictions designed to build confidence in the very voting system that it now leaves vulnerable.

III

As citizens of a democratic republic, we understand intuitively that we have a legal right and a moral duty to cast a ballot in free elections. The states have long had the power to fashion the rules by which its citizens vote for their national, state, and local officials. Once we consider that “totality of the circumstances” must take account of long-held, widely adopted measures, we must conclude that Arizona’s time, place, and manner rules are well within our American democratic-republican tradition. Nothing in the Voting Rights Act makes “evenhanded restrictions that protect the integrity and reliability of the electoral process’ . . . invidious.” *Crawford*, 553 U.S. at 189–90 (quoting *Anderson*, 460 U.S. at 788 n.9).

I would affirm the judgment of the district court, and I respectfully dissent.

Appendix A

**State and Territory Laws Regarding Treatment of
Out-of-Precinct Provisional Ballots**

Jurisdiction	Citation
Alabama	Ala. Code § 17-9-10 (2019) (providing that voters must vote in their “county and voting place” of domicile); <i>see also Davis v. Bennett</i> , 154 So. 3d 114, 131 (Ala. 2014) (affirming that Alabama law requires voters to cast ballots at the correct voting place).
Alaska	Alaska Stat. Ann. § 15.20.207(b) (West 2019) (failing to list out-of-precinct voting as grounds for rejecting a ballot); Alaska Stat. Ann. § 15.20.211(a) (West 2019) (providing that a voter may cast a vote in another house district for statewide and federal offices); <i>see also Hammond v. Hickel</i> , 588 P.2d 256, 264 (Alaska 1978) (“There is no constitutional requirement of precinct residency, and there is clear statutory authorization for persons claiming to be registered voters to vote a questioned ballot if there is no evidence of registration in the precinct in which the voter seeks to vote.”).
American Samoa	Am. Samoa Code Ann. § 6.0223(b)–(c) (providing that a voter’s right to vote may be challenged if the voter “is not

	entitled to vote in that district” and, if true, the ballot will be rejected).
Arizona	Ariz. Rev. Stat. Ann. § 16-584(D)–(E) (2018) (requiring confirmation that the voter resided in the precinct).
Arkansas	Ark. Code Ann. § 7-5-308(f) (West 2017) (requiring only that voters be registered to vote in the state).
California	Cal. Elec. Code § 14310(c)(3) (West 2019) (“The provisional ballot of a voter who is otherwise entitled to vote shall not be rejected because the voter did not cast his or her ballot in the precinct to which he or she was assigned by the elections official.”).
Colorado	8 Colo. Code Regs. § 1505-1:17.2.9 (2019) (providing that if an elector used the wrong ballot, then “only races and issues for which the elector [was] qualified to vote may be counted”).
Connecticut	Conn. Gen. Stat. Ann. §§ 9-232, 9-232n (West 2019) (requiring that only provisional ballots by applicants eligible to vote in a given town may be counted).
Delaware	Del. Code Ann. tit. 15, § 4948(h)(7)–(8) (West 2015) (explaining that provisional ballots may not be counted if cast by voters outside of their election districts).

District of Columbia	D.C. Code Ann. § 1-1001.09(b)(3) (West 2017) (providing that, aside from those requiring accessible entrances, “[n]o registered qualified elector of the District may cast a vote in a precinct that does not serve his or her current residence”); D.C. Mun. Regs. tit. 3, § 807 (2019) (stating that a provisional ballot may be tabulated if, <i>inter alia</i> , “the voter cast the Special Ballot at the precinct in which the voter maintains residence or at an early voting center designated by the Board”).
Florida	Fla. Stat. Ann. § 101.048(2)(a) (West 2019) (“The county canvassing board shall examine each Provisional Ballot Voter’s Certificate and Affirmation to determine if the person voting that ballot was entitled to vote at the precinct where the person cast a vote in the election . . .”).
Georgia	Ga. Code Ann. § 21-2-419(c)(2) (West 2019) (stating that if a voter voted in the wrong precinct, then races for which the voter was entitled to vote shall be counted).
Guam	3 Guam Code Ann. § 14105(a) (2016) (“When a provisional voter casts a provisional ballot in the incorrect precinct, election officials shall count the votes on that ballot in every race for which the voter would be entitled to

	vote if he or she had been in the correct precinct.”).
Hawai‘i	Haw. Code R. § 3-172-140(c)(3) (2017) (“If [the] county clerk determines the individual is not eligible to vote in the precinct where the provisional ballot was cast, the provisional ballot shall not be counted.”).
Idaho	Does not use provisional ballots because the state allows for election-day registration. <i>See</i> Idaho Code Ann. § 34-408A (West 2019).
Illinois	10 Ill. Comp. Stat. Ann. 5/18A-15(b)(1) (West 2015) (explaining that a provisional ballot is valid if, <i>inter alia</i> , “the provisional voter cast the provisional ballot in the correct precinct”).
Indiana	Ind. Code Ann. § 3-11.7-5-3(a) (West 2019) (providing that a ballot is invalid and may not be counted if “the provisional voter is not a qualified voter of the precinct”).
Iowa	Iowa Code Ann. § 49.9 (West 2019) (explaining that “a person shall not vote in any precinct but that of the person’s residence”).
Kansas	Kan. Stat. Ann. § 25-3002(b)(3) (West 2019) (explaining that if a voter cast a ballot for the wrong precinct, but was

	still within the same county, then votes for which the voter was eligible will be counted).
Kentucky	31 Ky. Admin. Regs. 6:020(14) (2019) (“If the county board of elections determines the individual is ineligible to vote in the precinct in the election, the vote shall not be counted . . .”).
Louisiana	La. Stat. Ann. § 18:556.2(F)(3)(a)–(b) (2017) (stating that a provisional ballot may be counted if the voter was a registered voter in the parish and was eligible to vote for the federal offices cast).
Maine	Me. Stat. tit. 11, § 50 (2019) (providing that all ballots cast in Maine will be counted so long as “challenged ballots are insufficient in number to affect the result of the election”).
Maryland	Md. Code Ann., Elec. Law § 11-303(e)(2) (West 2019) (stating that if the voter voted out of precinct, “only the votes cast by the voter for each candidate or question applicable to the precinct in which the voter resides” will get counted).
Massachusetts	Mass. Gen. Laws Ann. ch. 54, § 76C(d) (West 2004) (“A provisional ballot cast by a person whose name is not on the voting list for the city or town in which

	they are claiming the right to vote, but whom the city or town clerk determines to be eligible to vote in another precinct of the same city or town, shall be counted in the precinct in which the person cast the provisional ballot for all offices for which the person is eligible to vote.”).
Michigan	Mich. Comp. Laws Ann. § 168.813(1) (West 2018) (stating that provisional ballots may only be counted “if the identity and residence of the elector is established”).
Minnesota	Does not use provisional ballots because the state allows for election-day registration. <i>See</i> Minn. Stat. Ann. § 201.061 subd. 3(a) (West 2017).
Mississippi	1 Miss. Admin. Code Pt. 10, Exh. A (2019) (“Poll managers shall advise an affidavit voter his/her ballot will not count if he/she is voting at the wrong polling place.”).
Missouri	Mo. Ann. Stat. § 115.430(2)(1) (West 2019) (explaining that ballots voted in a polling place where the voter was not eligible to vote will not be counted).
Montana	Mont. Code Ann. § 13-15-107 (West 2019) (stating that a ballot must be rejected if the voter’s identity and eligibility cannot be verified).

Nebraska	Neb. Rev. Stat. Ann. § 32-1002(5)(e) (West 2019) (providing that a provisional ballot shall not be counted if “[t]he residence address provided on the registration application completed . . . is in a different county or in a different precinct than the county or precinct in which the voter voted”).
Nevada	Nev. Rev. Stat. Ann. § 293.3085 (West 2019) (“A provisional ballot must not be counted if the county or city clerk determines that the person who cast the provisional ballot cast the wrong ballot for the address at which the person resides.”).
New Hampshire	Does not use provisional ballots because the state allows for election-day registration. <i>See</i> N.H. Rev. Stat. Ann. § 654:7-a (2017).
New Jersey	N.J. Stat. Ann. § 19:53C-17 (West 2019) (“If, for any reason, a provisional ballot voter votes a ballot other than the ballot for the district in which the voter is qualified to vote, the votes for those offices and questions for which the voter would be otherwise qualified to vote shall be counted. All other votes shall be void.”).
New Mexico	N.M. Stat. Ann. § 1-12-25.4(F) (West 2019) (“If the voter is a registered voter in the county but has voted on a

	<p>provisional paper ballot other than the ballot of the voter’s correct precinct, the county canvassing board shall ensure that only those votes for the positions or measures for which the voter was eligible to vote are counted.”).</p>
New York	<p>N.Y. Elec. Law § 9-209(2)(a)(iii) (McKinney 2019) (“If the board of elections determines that a person was entitled to vote at such election, the board shall cast and canvass such ballot if such board finds that the voter appeared at the correct polling place, regardless of the fact that the voter may have appeared in the incorrect election district.”).</p>
North Carolina	<p>N.C. Gen. Stat. Ann. § 163A-1169(a)(4) (West 2019) (“If the county board of elections finds that an individual voting a provisional official ballot (i) was registered in the county as provided in G.S. 163A-1166, (ii) voted in the proper precinct under G.S. 163A-841 and G.S. 163A-842, and (iii) was otherwise eligible to vote, the provisional official ballots shall be counted by the county board of elections before the canvass. Except as provided in G.S. 163A-1184(e), if the county board finds that an individual voting a provisional official ballot</p>

	<p>(i) did not vote in the proper precinct under G.S. 163A-841 and G.S. 163A-842, (ii) is not registered in the county as provided in G.S. 163A-860, or (iii) is otherwise not eligible to vote, the ballot shall not be counted. If a voter was properly registered to vote in the election by the county board, no mistake of an election official in giving the voter a ballot or in failing to comply with G.S. 163A-1184 or G.S. 163A-1142 shall serve to prevent the counting of the vote on any ballot item the voter was eligible by registration and qualified by residency to vote.”).</p>
North Dakota	<p>North Dakota does not require voters to be registered and does not utilize provisional ballots. <i>See</i> N.D. Cent. Code Ann. § 16.1-01-04 (West 2019).</p>
Northern Mariana Islands	<p>1 N. Mar. I. Code § 6215(b)–(c) (2014) (providing that a voter’s right to vote may be challenged if the voter “is not entitled to vote in that election district” and, if true, the ballot will be rejected).</p>
Ohio	<p>Ohio Rev. Code Ann. § 3505.183(D) (West 2019) (stating that under certain circumstances, if a voter cast a ballot in the wrong precinct due to poll-worker error, then the votes for which the voter would have been eligible to cast are counted).</p>

Oklahoma	Okla. Stat. Ann. tit. 26, § 7-116.1(C) (West 2019) (“A provisional ballot shall be counted only if it is cast in the precinct of the voter’s residence . . .”).
Oregon	Or. Rev. Stat. Ann. § 254.408(6) (West 2018) (explaining that provisional votes will be counted according to whether “the elector is qualified to vote for the particular office or on the measure”).
Pennsylvania	25 Pa. Stat. and Cons. Stat. Ann. § 3050(a.4)(7) (West 2012) (providing that so long as a ballot is cast within the voter’s county, if it is cast in the wrong election district, then only votes which the voter was entitled to make will be counted).
Puerto Rico	P.R. Laws Ann. tit. 16, § 4062 (2011) (“If a voter votes in a precinct other than the one where he/she is registered, only the vote cast for the offices of Governor and Resident Commissioner shall be adjudicated during the general canvass.”).
Rhode Island	410 R.I. Code R. § 20-00-13.7(C)(1)(b) (2012) (stating that when a voter who cast a provisional ballot lives outside of the precinct, the ballot shall be marked “Federal Offices Only” and only votes for federal officials for whom the voter was eligible to vote shall be counted).

South Carolina	S.C. Code Ann. § 7-13-830 (2019) (“If the board certifies the person challenged is not a qualified elector of the precinct, this certification is considered an administrative challenge and is clear and convincing evidence for the meeting authority to disallow the ballot.”).
South Dakota	S.D. Codified Laws § 12-20-5.1 (2019) (“Prior to the official canvass, the person in charge of the election shall determine if the person voting by provisional ballot was legally qualified to vote in the precinct in which the provisional ballot was cast.”).
Tennessee	Tenn. Code Ann. § 2-7-112(a)(3)(B)(v) (West 2018) (explaining that a ballot shall be rejected if it is determined that the voter should not have cast the ballot in the precinct).
Texas	Tex. Elec. Code Ann. § 65.054(b)(1) (West 2012) (stating that a provisional ballot shall be accepted only if the voter was qualified to cast it); <i>see also Morales v. Segura</i> , No. 04-15-365, 2015 WL 8985802, at *4 (Tex. App. Dec. 16, 2015) (upholding the rejection of a ballot voted in the wrong precinct).
Utah	Utah Code Ann. § 20A-4-107(a)–(c) (West 2019) (explaining that a ballot voted in the wrong precinct but the

	right county is able to have any votes counted for which the voter was eligible to vote).
Vermont	Vt. Stat. Ann. tit. 17, § 2121(a) (West 2019) (explaining that a voter is qualified to “register to vote in the town of his or her residence”); <i>see also id.</i> § 2557(a) (stating that a provisional ballot may be accepted once the town clerk “determine[s] whether the applicant meets all of the registration eligibility requirements”).
Virgin Islands	V.I. Code Ann. tit. 18, §§ 581(a), 587 (2019) (providing that voters must reside in their election districts and that poll workers must challenge an individual that they believe does not reside within the district).
Virginia	Va. Code Ann. § 24.2-653(B) (West 2015) (“The electoral board shall . . . determine whether each person having submitted such a provisional vote was entitled to do so as a qualified voter in the precinct in which he offered the provisional vote.”).
Washington	Wash. Admin. Code § 434-262-032 (2019) (listing situations where a ballot must be struck and failing to provide out-of-precinct voting as reason for disqualifying a ballot).

West Virginia	W. Va. Code Ann. § 3-1-41(d) (West 2016) (stating that poll clerks must warn “that if the voter is casting a ballot in the incorrect precinct, the ballot cast may not be counted for that election”).
Wisconsin	Wis. Stat. Ann. § 6.97(4) (West 2018) (providing that there must be a determination of whether the “individual who has voted under this section is qualified to vote in the ward or election district where the individual’s ballot is cast”).
Wyoming	Wyo. Stat. Ann. § 22-15-105(b) (West 2019) (requiring voters to swear that they are entitled to vote in the given precinct).

*Appendix B***State and Territory Treatment of Out-of-Precinct
Provisional Ballots¹⁵**

Do Not Tabulate Out-of-Precinct Ballots	Tabulate Out-of-Precinct Ballots
Alabama	Alaska
American Samoa	Arkansas
Arizona	California
Connecticut	Colorado
Delaware	Georgia
District of Columbia	Guam
Florida	Kansas*
Hawai‘i	Louisiana†
Illinois	Maine
Indiana	Maryland
Iowa	Massachusetts*
Kentucky	New Jersey
Michigan	New Mexico*

¹⁵ Idaho, Minnesota, New Hampshire, and North Dakota are not included because they do not use provisional ballots. *See supra* Appendix A.

Mississippi	New York
Missouri	North Carolina [†]
Montana	Ohio ^{††}
Nebraska	Oregon
Nevada	Pennsylvania [*]
Northern Mariana Islands	Puerto Rico ^{**}
Oklahoma	Rhode Island [†]
South Carolina	Utah [*]
South Dakota	Washington
Tennessee	
Texas	
Vermont	
Virgin Islands	
Virginia	
West Virginia	
Wisconsin	
Wyoming	

* Requires the voter to be in the correct county, city, or town.

† Tabulates votes for federal offices only.

‡ There is some divergence among secondary sources regarding whether North Carolina counts OOP ballots. *Compare Provisional Ballots*, Nat’l Conf. of St. Legislatures (Oct. 15, 2018), <http://www.ncsl.org/research/elections-and-campaigns/provisional-ballots.aspx>, with *What Is Provisional Voting? Explained*, democracy N.C., <https://democracync.org/resources/what-is-provisional-voting-explained> (last visited Oct. 15, 2019). North Carolina law generally disfavors counting only provisional ballots cast within the correct precinct. *See* N.C. Gen. Stat. Ann. § 163A-1169(a)(4) (West 2019) (“[I]f the county board finds that an individual voting a provisional official ballot (i) did not vote in the proper precinct . . . the ballot shall not be counted.”); *see also James v. Bartlett*, 607 S.E.2d 638, 642 (N.C. 2005) (“[V]oters must cast ballots on election day in their precincts of residence.”). Nevertheless, North Carolina law appears to allow an OOP vote to be tabulated in very narrow exceptions—such as election-official error. *See* N.C. Gen. Stat. Ann. § 163A-1169(a)(4) (“If a voter was properly registered to vote in the election by the county board, no mistake of an election official in giving the voter a ballot or in failing to comply with G.S. 163A-1184 or G.S. 163A-1142 shall serve to prevent the counting of the vote on any ballot item the voter was eligible by registration and qualified by residency to vote.”). This dissent resolves doubt in favor of listing North Carolina as a state that counts OOP ballots—even though its current law and practice are not entirely clear.

†† The ballot may be counted if, among other things, the casting of the wrong ballot was a result of poll-worker error. Only offices for which the voter would have been eligible to vote will be counted.

** Only the votes for Governor and Resident Commissioner will be canvassed.

*Appendix C***State and Territory Laws Regarding the
Collection of Absentee Ballots**

Jurisdiction	Citation
Alabama	<p>Ala. Code § 17-11-4 (2019):</p> <p>An application for a voter who requires emergency treatment by a licensed physician within five days before an election pursuant to Section 17-11-3 may be forwarded to the absentee election manager by the applicant or his or her designee.</p>
Alaska	<p>Alaska Stat. Ann. § 15.20.072 (West 2019) (providing a method a personal representative to handle and deliver ballots for a special needs voter).</p>
American Samoa	<p>Am. Samoa Code Ann. 6.1104(a):</p> <p>The reply envelope shall bear upon the face thereof the name, official title, and post office address of the Chief Election Officer and the words “Absentee Ballot Enclosed”. The back of the reply envelope shall contain a statement to be subscribed to by the qualified elector which affirms the fact that he is the person voting.</p>

Arizona	<p>Ariz. Rev. Stat. Ann. § 16-1005(H)–(I) (2016):</p> <p>H. A person who knowingly collects voted or unvoted early ballots from another person is guilty of a class 6 felony. An election official, a United States postal service worker or any other person who is allowed by law to transmit United States mail is deemed not to have collected an early ballot if the official, worker or other person is engaged in official duties.</p> <p>I. Subsection H of this section does not apply to:</p> <ol style="list-style-type: none">1. An election held by a special taxing district formed pursuant to title 481 for the purpose of protecting or providing services to agricultural lands or crops and that is authorized to conduct elections pursuant to title 48.2. A family member, household member or caregiver of the voter. For the purposes of this paragraph:<ol style="list-style-type: none">(a) “Caregiver” means a person who provides medical or health care assistance to the voter in a residence, nursing care institution, hospice facility, assisted living center, assisted
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	<p>living facility, assisted living home, residential care institution, adult day health care facility or adult foster care home.</p> <p>(b) “Collects” means to gain possession or control of an early ballot.</p> <p>(c) “Family member” means a person who is related to the voter by blood, marriage, adoption or legal guardianship.</p> <p>(d) “Household member” means a person who resides at the same residence as the voter.</p>
Arkansas	<p>Ark. Code Ann. § 7-5-403(a) (West 2019):</p> <p>(1) A designated bearer may obtain absentee ballots for no more than two (2) voters per election.</p> <p>(2)(A) A designated bearer shall not have more than two (2) absentee ballots in his or her possession at any time.</p> <p>(B) If the county clerk knows or reasonably suspects that a designated bearer has more than two (2) absentee ballots in his or her possession, the county clerk shall notify the prosecuting attorney.</p>

	<p>(3)(A) A designated bearer receiving an absentee ballot from the county clerk for a voter shall obtain the absentee ballot directly from the county clerk and deliver the absentee ballot directly to the voter.</p> <p>(B) A designated bearer receiving an absentee ballot from a voter shall obtain the absentee ballot directly from the voter and deliver the absentee ballot directly to the county clerk.</p> <p>(4)(A) A designated bearer may deliver to the county clerk the absentee ballots for not more than two (2) voters.</p> <p>(B) The designated bearer shall be named on the voter statement accompanying the absentee ballot.</p>
California	<p>Cal. Elec. Code § 3017(a)(2) (West 2019):</p> <p>A vote by mail voter who is unable to return the ballot may designate another person to return the ballot to the elections official who issued the ballot, to the precinct board at a polling place or vote center within the state, or to a vote by mail ballot dropoff location within the state that is provided pursuant to Section 3025 or 4005. The person designated shall return the ballot</p>

	<p>in person, or put the ballot in the mail, no later than three days after receiving it from the voter or before the close of the polls on election day, whichever time period is shorter. Notwithstanding subdivision (d), a ballot shall not be disqualified from being counted solely because it was returned or mailed more than three days after the designated person received it from the voter, provided that the ballot is returned by the designated person before the close of polls on election day.</p>
Colorado	<p>Colo. Rev. Stat. Ann. § 1-7.5-107(4)(b)(I) (West 2019)</p> <p>The eligible elector may:</p> <p>(A) Return the marked ballot to the county clerk and recorder or designated election official by United States mail or by depositing the ballot at the office of the county clerk and recorder or designated election official or at any voter service and polling center, drop box, or drop-off location designated by the county clerk and recorder or designated election official as specified in the election plan filed with the secretary of state. The ballot must be returned in the return envelope.</p>

	<p>(B) Deliver the ballot to any person of the elector's own choice or to any duly authorized agent of the county clerk and recorder or designated election official for mailing or personal delivery; except that no person other than a duly authorized agent of the county clerk and recorder or designated election official may receive more than ten mail ballots in any election for mailing or delivery; or</p> <p>(C) Cast his or her vote in person at the voter service and polling center.</p>
Connecticut	<p>Conn. Gen. Stat. Ann. § 9-140b(a) (West 2019):</p> <p>An absentee ballot shall be cast at a primary, election or referendum only if: (1) It is mailed by (A) the ballot applicant, (B) a designee of a person who applies for an absentee ballot because of illness or physical disability, or (C) a member of the immediate family of an applicant who is a student, so that it is received by the clerk of the municipality in which the applicant is qualified to vote not later than the close of the polls; (2) it is returned by the applicant in person to the clerk by the day before a regular election, special election or primary or prior to the opening of the polls on the day of a</p>

referendum; (3) it is returned by a designee of an ill or physically disabled ballot applicant, in person, to said clerk not later than the close of the polls on the day of the election, primary or referendum; (4) it is returned by a member of the immediate family of the absentee voter, in person, to said clerk not later than the close of the polls on the day of the election, primary or referendum; (5) in the case of a presidential or overseas ballot, it is mailed or otherwise returned pursuant to the provisions of section 9-158g; or (6) it is returned with the proper identification as required by the Help America Vote Act, P.L. 107-252,1 as amended from time to time, if applicable, inserted in the outer envelope so such identification can be viewed without opening the inner envelope. A person returning an absentee ballot to the municipal clerk pursuant to subdivision (3) or (4) of this subsection shall present identification and, on the outer envelope of the absentee ballot, sign his name in the presence of the municipal clerk, and indicate his address, his relationship to the voter or his position, and the date and time of such return. As used in this section, "immediate family" means a dependent relative who resides in the

	individual's household or any spouse, child or parent of the individual.
Delaware	<p>Del. Code Ann. tit. 15, § 5507(4) (West 2018):</p> <p>The elector shall return the sealed ballot envelope to the Department by:</p> <p>a. Depositing it in a United States postal mailbox, thereby mailing it to the Department; or</p> <p>b. Delivering it, or causing it to be delivered, to the Department before the polls close on the day of the election.</p>
District of Columbia	<p>D.C. Mun. Regs. tit. 3, § 722.2 (2019):</p> <p>A duly registered voter shall apply to vote by emergency absentee ballot according to the following procedure:</p> <p>(a) The registered voter shall, by signed affidavit on a form provided by the Board, set forth:</p> <p>(1) The reason why he or she is unable to be present at the polls on the day of the election; and</p> <p>(2) Designate a duly registered voter to serve as agent for the purpose of delivering the absentee ballot to the</p>

voter, except than an officer of the court in charge of a jury sequestered on election day may act as agent for any registered voter sequestered regardless of whether the officer is a registered voter in the District.

(b) Upon receipt of the application, the Executive Director, or his or her designee, if satisfied that the person cannot, in fact, be present at the polling place on the day of the election shall issue to the voter, through the voter's duly authorized agent, an absentee ballot which shall be marked by the voter, placed in a sealed envelope and returned to the Board before the close of the polls on election day.

(c) The person designated as agent shall, by signed affidavit on a form prescribed by the Board, state the following:

(1) That the ballot will be delivered by the voter who submitted the application for the ballot; and

(2) That the ballot shall be marked by the voter and placed in a sealed envelope in the agent's presence, and returned, under seal to the Board by the agent.

Florida	<p>Fla. Stat. Ann. § 104.0616 (West 2016):</p> <p>(1) For purposes of this section, the term “immediate family” means a person’s spouse or the parent, child, grandparent, or sibling of the person or the person’s spouse.</p> <p>(2) Any person who provides or offers to provide, and any person who accepts, a pecuniary or other benefit in exchange for distributing, ordering, requesting, collecting, delivering, or otherwise physically possessing more than two vote-by-mail ballots per election in addition to his or her own ballot or a ballot belonging to an immediate family member, except as provided in ss. 101.6105–101.694, commits a misdemeanor of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.</p>
Georgia	<p>Ga. Code Ann. § 21-2-385 (West 2019):</p> <p>(a) . . . Such envelope shall then be securely sealed and the elector shall then personally mail or personally deliver same to the board of registrars or absentee ballot clerk, provided that mailing or delivery may be made by the elector’s mother, father, grandparent, aunt, uncle, brother, sister, spouse, son,</p>

daughter, niece, nephew, grandchild, son-in-law, daughter-in-law, mother-in-law, father-in-law, brother-in-law, sister-in-law, or an individual residing in the household of such elector. The absentee ballot of a disabled elector may be mailed or delivered by the caregiver of such disabled elector, regardless of whether such caregiver resides in such disabled elector's household. The absentee ballot of an elector who is in custody in a jail or other detention facility may be mailed or delivered by any employee of such jail or facility having custody of such elector. An elector who is confined to a hospital on a primary or election day to whom an absentee ballot is delivered by the registrar or absentee ballot clerk shall then and there vote the ballot, seal it properly, and return it to the registrar or absentee ballot clerk. . . .

(b) A physically disabled or illiterate elector may receive assistance in preparing his or her ballot from any person of the elector's choice other than such elector's employer or the agent of such employer or an officer or agent of such elector's union; provided, however, that no person whose name appears on the ballot as a candidate at a particular primary, election, or runoff

	<p>nor [specified relatives of a candidate] to any elector who is not related to such candidate. . . . The person rendering assistance to the elector in preparing the ballot shall sign the oath printed on the same envelope as the oath to be signed by the elector. Any person who willfully violates this subsection shall be guilty of a felony and, upon conviction thereof, shall be sentenced to imprisonment for not less than one nor more than ten years or to pay a fine not to exceed \$100,000.00, or both, for each such violation.</p>
Guam	<p>3 Guam Code Ann. § 10107 (2016):</p> <p>The Commission shall deliver a ballot to any qualified elector applying in person at the office of said Commission; provided, however, that such applicant shall complete and subscribe the application heretofore prescribed by this Chapter; provided further, that said application shall be made not more than thirty (30) days nor less than one (1) day before the date of the election for which the vote is being cast. It is provided further, that said ballot shall be immediately marked, enclosed in the ballot envelope, placed in the return envelope with the proper affidavit enclosed, and immediately returned to the Commission.</p>

Hawai‘i	<p>Haw. Rev. Stat. Ann. § 15-9 (West 2019):</p> <p>(a) The return envelope shall be:</p> <p>(1) Mailed and must be received by the clerk issuing the absentee ballot no later than the closing hour on election day in accordance with section 11-131; or</p> <p>(2) Delivered other than by mail to the clerk issuing the absentee ballot, or to a voter service center no later than the closing hour on election day in accordance with section 11-131.</p> <p>(b) Upon receipt of the return envelope from any person voting under this chapter, the clerk may prepare the ballots for counting pursuant to this section and section 15-10.</p> <p>(c) Before opening the return and ballot envelopes and counting the ballots, the return envelopes shall be checked for the following:</p> <p>(1) Signature on the affirmation statement;</p>
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	<p>(2) Whether the signature corresponds with the absentee request or register as prescribed in the rules adopted by the chief election officer; and</p> <p>(3) Whether the person is a registered voter and has complied with the requirements of sections 11-15 and 11-16.</p> <p>(d) If any requirement listed in subsection (c) is not met or if the return or ballot envelope appears to be tampered with, the clerk or the absentee ballot team official shall mark across the face of the envelope “invalid” and it shall be kept in the custody of the clerk and disposed of as prescribed for ballots in section 11-154.</p>
Idaho	<p>Idaho Code Ann. § 34-1005 (West 2019):</p> <p>The return envelope shall be mailed or delivered to the officer who issued the same; provided, that an absentee ballot must be received by the issuing officer by 8:00 p.m. on the day of election before such ballot may be counted.</p>

Illinois	<p>10 Ill. Comp. Stat. Ann. § 5/19-6 (West 2015):</p> <p>It shall be unlawful for any person not the voter or a person authorized by the voter to take the ballot and ballot envelope of a voter for deposit into the mail unless the ballot has been issued pursuant to application by a physically incapacitated elector under Section 3-3 or a hospitalized voter under Section 19-13, in which case any employee or person under the direction of the facility in which the elector or voter is located may deposit the ballot and ballot envelope into the mail. If the voter authorized a person to deliver the ballot to the election authority, the voter and the person authorized to deliver the ballot shall complete the authorization printed on the exterior envelope supplied by an election authority for the return of the vote by mail ballot.</p>
Indiana	<p>Ind. Code Ann. § 3-14-2-16(4) (West 2019):</p> <p>A person who knowingly does any of the following commits a Level 6 felony: . . .</p>

	<p>(4) Receives from a voter a ballot prepared by the voter for voting, except:</p> <p>(A) the inspector;</p> <p>(B) a member of the precinct election board temporarily acting for the inspector;</p> <p>(C) a member or an employee of a county election board (acting under the authority of the board and state law) or an absentee voter board member acting under IC 3-11-10; or</p> <p>(D) a member of the voter's household, an individual designated as attorney in fact for the voter, or an employee of:</p> <p>(i) the United States Postal Service; or</p> <p>(ii) a bonded courier company;</p> <p>(acting in the individual's capacity as an employee of the United States Postal Service or a bonded courier company) when delivering an envelope containing an absentee ballot under IC 3-11-10-1.</p>
Iowa	Iowa Code Ann. § 53.17(1) (West 2019):

	<p>a. The sealed return envelope may be delivered by the registered voter, by the voter's designee, or by the special precinct election officials designated pursuant to section 53.22, subsection 2, to the commissioner's office no later than the time the polls are closed on election day. However, if delivered by the voter's designee, the envelope shall be delivered within seventy-two hours of retrieving it from the voter or before the closing of the polls on election day, whichever is earlier.</p> <p>b. The sealed return envelope may be mailed to the commissioner by the registered voter or by the voter's designee. If mailed by the voter's designee, the envelope must be mailed within seventy-two hours of retrieving it from the voter or within time to be postmarked or, if applicable, to have the postal service barcode traced to a date of entry into the federal mail system not later than the day before the election, as provided in section 53.17A, whichever is earlier.</p>
Kansas	<p>Kan. Stat. Ann. § 25-1221 (West 2019):</p> <p>After such voter has marked the official federal services absentee ballot, he or she shall place it in the official ballot envelope and secretly seal the same.</p>

	<p>Such voter shall then fill out in full the form printed upon the official ballot envelope and sign the same. Such ballot envelope shall then be placed in the envelope provided for such purpose and mailed by the voter to the county election officer of the county of the voter's residence.</p> <p>Kan. Stat. Ann. § 25-1124(d) (West 2019):</p> <p>Any voted ballot may be transmitted to the county election officer by the voter or by another person designated in writing by the voter, except if the voter has a disability preventing the voter from writing and signing a statement, the written and signed statement required by subsection (e) shall be sufficient.</p>
Kentucky	<p>Ky. Rev. Stat. Ann. § 117.086(1) (West 2019):</p> <p>The voter returning his absentee ballot by mail shall mark his ballot, seal it in the inner envelope and then in the outer envelope, and mail it to the county clerk as shall be provided by this chapter. The voter shall sign the detachable flap and the outer envelope in order to validate the ballot. A person having power of attorney for the voter</p>

	<p>and who signs the detachable flap and outer envelope for the voter shall complete the voter assistance form as required by KRS 117.255. The signatures of two (2) witnesses are required if the voter signs the form with the use of a mark instead of the voter's signature. A resident of Kentucky who is a covered voter as defined in KRS 117A.010 who has received an absentee ballot transmitted by facsimile machine or by means of the electronic transmission system established under KRS 117A.030(4) shall transmit the voted ballot to the county clerk by mail only, conforming with ballot security requirements that may be promulgated by the state board by administrative regulation. In order to be counted, the ballots shall be received by the clerk by at least the time established by the election laws generally for the closing of the polls, which time shall not include the extra hour during which those voters may vote who were waiting in line to vote at the scheduled poll closing time.</p>
Louisiana	<p>La. Stat. Ann. § 18:1308(B) (2017):</p> <p>The ballot shall be marked as provided in R.S. 18:1310 and returned to the registrar by the United States Postal Service, a commercial courier, or hand</p>

	<p>delivery. If delivered by other than the voter, a commercial courier, or the United States Postal Service, the registrar shall require that the person making such delivery sign a statement, prepared by the secretary of state, certifying that he has the authorization and consent of the voter to hand deliver the marked ballot. For purposes of this Subsection, “commercial courier” shall have the same meaning as provided in R.S. 13:3204(D). No person except the immediate family of the voter, as defined in this Code, shall hand deliver more than one marked ballot to the registrar.</p>
Maine	<p>Me. Rev. Stat. Ann. tit. 21-A, § 791(2)(A) (2009):</p> <p>A person commits a Class D crime if that person [d]elivers, receives, accepts, notarizes or witnesses an absentee ballot for any compensation. This paragraph does not apply to a governmental employee handling ballots in the course of that employee’s official duties or a person who handles absentee ballots before the unvoted ballots are delivered to the municipality or after the voted ballots are returned to the clerk.</p>

Maryland	<p>Md. Code Ann., Elec. Law § 9-307 (West 2019):</p> <p>(a) A qualified applicant may designate a duly authorized agent to pick up and deliver an absentee ballot under this subtitle.</p> <p>(b) An agent of the voter under this section:</p> <p>(1) must be at least 18 years old;</p> <p>(2) may not be a candidate on that ballot;</p> <p>(3) shall be designated in a writing signed by the voter under penalty of perjury; and</p> <p>(4) shall execute an affidavit under penalty of perjury that the ballot was:</p> <p>(i) delivered to the voter who submitted the application;</p> <p>(ii) marked and placed in an envelope by the voter, or with assistance as allowed by regulation, in the agent's presence; and</p> <p>(iii) returned to the local board by the agent.</p>
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Massachusetts	<p>Mass. Gen. Laws Ann. ch. 54, § 92(a) (West 2019):</p> <p>A voter who receives the ballot by mail, as provided in subsection (a) of section ninety-one B, may return it by mail to the city or town clerk in the envelope provided pursuant to subsection (d) of section eighty-seven, or such voter or a family member may deliver it in person to the office of the city or town clerk. A voter to whom a ballot was delivered in person at the office of the clerk as provided in said subsection (a) of said section ninety-one B shall return it without removing the ballot from such office.</p>
Michigan	<p>Mich. Comp. Laws Ann. § 168.764a (West 2019):</p> <p>Step 5. Deliver the return envelope by 1 of the following methods:</p> <p>(a) Place the necessary postage upon the return envelope and deposit it in the United States mail or with another public postal service, express mail service, parcel post service, or common carrier.</p> <p>(b) Deliver the envelope personally to the office of the clerk, to the clerk, or to an authorized assistant of the clerk.</p>

(c) In either (a) or (b), a member of the immediate family of the voter including a father-in-law, mother-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, grandparent, or grandchild or a person residing in the voter's household may mail or deliver a ballot to the clerk for the voter.

(d) You may request by telephone that the clerk who issued the ballot provide assistance in returning the ballot. The clerk is required to provide assistance if you are unable to return your absent voter ballot as specified in (a), (b), or (c) above, if it is before 5 p.m. on the Friday immediately preceding the election, and if you are asking the clerk to pickup the absent voter ballot within the jurisdictional limits of the city, township, or village in which you are registered. Your absent voter ballot will then be picked up by the clerk or an election assistant sent by the clerk. All persons authorized to pick up absent voter ballots are required to carry credentials issued by the clerk. If using this absent voter ballot return method, do not give your ballot to anyone until you have checked their credentials. . . .

	<p>All of the following actions are violations of the Michigan election law and are illegal in this state:</p> <p>(4) For a person other than those listed in these instructions to return, offer to return, agree to return, or solicit to return an absent voter ballot to the clerk.</p>
Minnesota	<p>Minn. Stat. Ann. § 203B.08 subd. 1 (West 2015):</p> <p>The voter may designate an agent to deliver in person the sealed absentee ballot return envelope to the county auditor or municipal clerk or to deposit the return envelope in the mail. An agent may deliver or mail the return envelopes of not more than three voters in any election. Any person designated as an agent who tampers with either the return envelope or the voted ballots or does not immediately mail or deliver the return envelope to the county auditor or municipal clerk is guilty of a misdemeanor.</p>
Mississippi	<p>Miss. Code Ann. § 23-15-631(f) (West 2019):</p> <p>Any voter casting an absentee ballot who declares that he or she requires assistance to vote by reason of</p>

	<p>blindness, temporary or permanent physical disability or inability to read or write, shall be entitled to receive assistance in the marking of his or her absentee ballot and in completing the affidavit on the absentee ballot envelope. The voter may be given assistance by anyone of the voter's choice other than a candidate whose name appears on the absentee ballot being marked, the spouse, parent or child of a candidate whose name appears on the absentee ballot being marked or the voter's employer, an agent of that employer or a union representative; however, a candidate whose name is on the ballot or the spouse, parent or child of such candidate may provide assistance upon request to any voter who is related within the first degree. In order to ensure the integrity of the ballot, any person who provides assistance to an absentee voter shall be required to sign and complete the "Certificate of Person Providing Voter Assistance" on the absentee ballot envelope.</p>
Missouri	<p>Mo. Ann. Stat. § 115.291(2) (West 2018):</p> <p>Except as provided in subsection 4 of this section, each absentee ballot that is not cast by the voter in person in the</p>

	<p>office of the election authority shall be returned to the election authority in the ballot envelope and shall only be returned by the voter in person, or in person by a relative of the voter who is within the second degree of consanguinity or affinity, by mail or registered carrier or by a team of deputy election authorities; except that covered voters, when sent from a location determined by the secretary of state to be inaccessible on election day, shall be allowed to return their absentee ballots cast by use of facsimile transmission or under a program approved by the Department of Defense for electronic transmission of election materials.</p>
Montana	<p>Mont. Code Ann. § 13-13-201 (West 2019):</p> <p>(1) A legally registered elector or provisionally registered elector is entitled to vote by absentee ballot as provided for in this part.</p> <p>(2) The elector may vote absentee by:</p> <p>(a) marking the ballot in the manner specified;</p>

(b) placing the marked ballot in the secrecy envelope, free of any identifying marks;

(c) placing the secrecy envelope containing one ballot for each election being held in the signature envelope;

(d) executing the affirmation printed on the signature envelope; and

(e) returning the signature envelope with all appropriate enclosures by regular mail, postage paid, or by delivering it to:

(i) the election office;

(ii) a polling place within the elector's county;

(iii) pursuant to 13-13-229, the absentee election board or an authorized election official; or

(iv) in a mail ballot election held pursuant to Title 13, chapter 19, a designated place of deposit within the elector's county.

(3) Except as provided in 13-21-206 and 13-21-226, in order for the ballot to be counted, each elector shall return it

	in a manner that ensures the ballot is received prior to 8 p.m. on election day.
Nebraska	<p>Neb. Rev. Stat. § 32-943(2) (West 2019):</p> <p>A candidate for office at such election and any person serving on a campaign committee for such a candidate shall not act as an agent for any registered voter requesting a ballot pursuant to this section unless such person is a member of the registered voter's family. No person shall act as agent for more than two registered voters in any election.</p>
Nevada	<p>Nev. Rev. Stat. Ann. § 293.330(4) (West 2017):</p> <p>[I]t is unlawful for any person to return an absent ballot other than the voter who requested the absent ballot or, at the request of the voter, a member of the voter's family. A person who returns an absent ballot and who is a member of the family of the voter who requested the absent ballot shall, under penalty of perjury, indicate on a form prescribed by the county clerk that the person is a member of the family of the voter who requested the absent ballot and that the voter requested that the person return the absent ballot. A</p>

	<p>person who violates the provisions of this subsection is guilty of a category E felony</p>
<p>New Hampshire</p>	<p>New Hampshire recently enacted legislation adding greater specificity to its provision governing the delivery of absentee ballots—N.H. Rev. Stat. Ann. § 657:17. The new statute will read:</p> <p>I. . . . The voter or the person assisting a blind voter or voter with a disability shall then endorse on the outer envelope the voter’s name, address, and voting place. The absentee ballot shall be delivered to the city or town clerk from whom it was received in one of the following ways:</p> <p>(a) The voter or the voter’s delivery agent may personally deliver the envelope; or</p> <p>(b) The voter or the person assisting the blind voter or voter with a disability may mail the envelope to the city or town clerk, with postage affixed.</p> <p>II. As used in this section, “delivery agent” means:</p>

	<p>(a) The voter's spouse, parent, sibling, child, grandchild, father-in-law, mother-in-law, son-in-law, daughter-in-law, stepparent, stepchild; or</p> <p>(b) If the voter is a resident of a nursing home as defined in RSA 151-A:1, IV, the nursing home administrator, licensed pursuant to RSA 151-A:2, or a nursing home staff member designated in writing by the administrator to deliver ballots; or</p> <p>(c) If the voter is a resident of a residential care facility licensed pursuant to RSA 151:2, I(e) and described in RSA 151:9, VII(a)(1) and (2), the residential care facility administrator, or a residential care facility staff member designated in writing by the administrator to deliver ballots; or</p> <p>(d) A person assisting a blind voter or a voter with a disability who has signed a statement on the affidavit envelope acknowledging the assistance.</p> <p>III. The city or town clerk, or ward clerk on election day at the polls, shall not accept an absentee ballot from a delivery agent unless the delivery agent completes a form provided by the</p>
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	<p>secretary of state, which shall be maintained by the city or town clerk, and the delivery agent presents a government-issued photo identification or has his or her identity verified by the city or town clerk. Absentee ballots delivered through the mail or by the voter's delivery agent shall be received by the town, city, or ward clerk no later than 5:00 p.m. on the day of the election. A delivery agent who is assisting a voter who is blind or who has a disability pursuant to this section may not personally deliver more than 4 absentee ballots in any election, unless the delivery agent is a nursing home or residential care facility administrator, an administrator designee, or a family member, each as authorized by this section.</p>
New Jersey	<p>N.J. Stat. Ann. § 19:63-4(a) (West 2015):</p> <p>A qualified voter is entitled to apply for and obtain a mail-in ballot by authorized messenger, who shall be so designated over the signature of the voter and whose printed name and address shall appear on the application in the space provided. The authorized messenger shall be a family member or a registered voter of the county in which the application is made and shall</p>

place his or her signature on the application in the space so provided in the presence of the county clerk or the designee thereof. No person shall serve as an authorized messenger or as a bearer for more than three qualified voters in an election. No person who is a candidate in the election for which the voter requests a mail-in ballot shall be permitted to serve as an authorized messenger or bearer. The authorized messenger shall show a photo identification card to the county clerk, or the designee thereof, at the time the messenger submits the application form. The county clerk or the designee thereof shall authenticate the signature of the authorized messenger in the event such a person is other than a family member, by comparing it with the signature of the person appearing on a State of New Jersey driver's license, or other identification issued or recognized as official by the federal government, the State, or any of its political subdivisions, providing the identification carries the full address and signature of the person. After the authentication of the signature on the application, the county clerk or the designee thereof is authorized to deliver to the authorized messenger a ballot to be delivered to the qualified voter.

New Mexico	<p>N.M. Stat. Ann. § 1-6-10.1 (West 2019):</p> <p>A. A voter, caregiver to that voter or member of that voter’s immediate family may deliver that voter’s absentee ballot to the county clerk in person or by mail; provided that the voter has subscribed the official mailing envelope of the absentee ballot.</p> <p>B. As used in this section, “immediate family” means the spouse, children, parents or siblings of a voter.</p>
New York	<p>N.Y. Elec. Law § 8-410 (McKinney 2019):</p> <p>The absentee voter shall mark an absentee ballot as provided for paper ballots or ballots prepared for counting by ballot counting machines. He shall make no mark or writing whatsoever upon the ballot, except as above prescribed, and shall see that it bears no such mark or writing. He shall make no mark or writing whatsoever on the outside of the ballot. After marking the ballot or ballots he shall fold each such ballot and enclose them in the envelope and seal the envelope. He shall then take and subscribe the oath on the envelope, with blanks properly filled in. The envelope, containing the ballot or</p>

	<p>ballots, shall then be mailed or delivered to the board of elections of the county or city of his residence.</p>
North Carolina	<p>N.C. Gen. Stat. Ann. § 163A-1310(b)(1) (West 2018):</p> <p>All ballots issued under the provisions of this Part and Part 2 of Article 21 of this Chapter shall be transmitted by mail or by commercial courier service, at the voter's expense, or delivered in person, or by the voter's near relative or verifiable legal guardian and received by the county board not later than 5:00 p.m. on the day of the statewide primary or general election or county bond election. Ballots issued under the provisions of Part 2 of Article 21 of this Chapter may also be electronically transmitted.</p>
North Dakota	<p>N.D. Cent. Code Ann. § 16.1-07-08(1) (West 2019):</p> <p>Upon receipt of an application for an official ballot properly filled out and duly signed, or as soon thereafter as the official ballot for the precinct in which the applicant resides has been prepared, the county auditor, city auditor, or business manager of the school district, as the case may be, shall send to the absent voter by mail, at the expense of</p>

the political subdivision conducting the election, one official ballot, or personally deliver the ballot to the applicant or the applicant's agent, which agent may not, at that time, be a candidate for any office to be voted upon by the absent voter. The agent shall sign the agent's name before receiving the ballot and deposit with the auditor or business manager of the school district, as the case may be, authorization in writing from the applicant to receive the ballot or according to requirements set forth for signature by mark. The auditor or business manager of the school district, as the case may be, may not provide an absent voter's ballot to a person acting as an agent who cannot provide a signed, written authorization from an applicant. No person may receive compensation, including money, goods, or services, for acting as an agent for an elector, nor may a person act as an agent for more than four electors in any one election. A voter voting by absentee ballot may not require the political subdivision providing the ballot to bear the expense of the return postage for an absentee ballot.

<p>Northern Mariana Islands</p>	<p>1 N. Mar. I. Code § 6212(a) (2010):</p> <p>The Commission shall provide to any registered voter entitled to vote by absentee ballot and who applied for one, an official ballot, a ballot envelope, an affidavit prescribed by the Commission, and a reply envelope. The absentee voter shall mark the ballot in the usual manner provided by law and in a manner such that no other person can know how the ballot is marked. The absentee voter shall then deposit the ballot in the ballot envelope and securely seal it. The absentee voter shall then complete and execute the affidavit. The ballot envelope and the affidavit shall then be enclosed and sealed in the covering reply envelope and mailed via standard U.S. First Class Mail only or sent by commercial courier service to the commission at the expense of the voter. Such ballots and affidavits will not be counted by the Commission unless mailed. For the purpose of this part, the word “mailed” includes ballots and affidavits sent through the postal or courier services.</p>
<p>Ohio</p>	<p>Ohio Rev. Code Ann. § 3509.05(A) (West 2016):</p> <p>The elector shall mail the identification envelope to the director from whom it</p>

	<p>was received in the return envelope, postage prepaid, or the elector may personally deliver it to the director, or the spouse of the elector, the father, mother, father-in-law, mother-in-law, grandfather, grandmother, brother, or sister of the whole or half blood, or the son, daughter, adopting parent, adopted child, stepparent, stepchild, uncle, aunt, nephew, or niece of the elector may deliver it to the director.</p>
Oklahoma	<p>Okla. Stat. Ann. tit. 26, § 14-108(C) (West 2019):</p> <p>Any voter who hand delivers his or her ballot as provided in subsection A of this section shall provide proof of identity to the county election board and shall hand deliver the ballot no later than the end of regular business hours on the day prior to the date of the election. For purposes of this section, “proof of identity” shall have the same meaning as used in subsection A of Section 7-114 of this title.</p>
Oregon	<p>Or. Rev. Stat. Ann. § 254.470(6) (West 2018):</p> <p>(6)(a) Upon receipt of any ballot described in this section, the elector shall mark the ballot, sign the return identification envelope supplied with</p>

	<p>the ballot and comply with the instructions provided with the ballot.</p> <p>(b) The elector may return the marked ballot to the county clerk by United States mail or by depositing the ballot at the office of the county clerk, at any place of deposit designated by the county clerk or at any location described in ORS 254.472 or 254.474.</p> <p>(c) The ballot must be returned in the return identification envelope. If the elector returns the ballot by mail, the elector must provide the postage.</p> <p>(d) Subject to paragraph (e) of this subsection, if a person returns a ballot for an elector, the person shall deposit the ballot in a manner described in paragraph (b) of this subsection not later than two days after receiving the ballot.</p>
Pennsylvania	<p>25 Pa. Stat. and Cons. Stat. Ann. § 3146.6(a)(1) (West 2019) (footnote omitted):</p> <p>Any elector who submits an Emergency Application and receives an absentee ballot in accordance with section 1302.1(a.2) or (c) shall mark the ballot on or before eight o'clock P.M. on the day of the primary or election. This</p>

	<p>envelope shall then be placed in the second one, on which is printed the form of declaration of the elector, and the address of the elector's county board of election and the local election district of the elector. The elector shall then fill out, date and sign the declaration printed on such envelope. Such envelope shall then be securely sealed and the elector shall send same by mail, postage prepaid, except where franked, or deliver it in person to said county board of election.</p>
Puerto Rico	<p>P. R. Laws Ann. tit. 16, § 4177 (2010):</p> <p>Any voter entitled to vote as an absentee voter in a specific election, as established in § 4176 of this title, shall cast his/her vote in accordance with the procedure provided by the Commission through regulations. Only those absentee ballots sent on or before an election, and received on or before the last day of general canvass for that election, shall be considered validly cast pursuant to this Section. The Commission shall establish through regulations the manner in which the mailing date of absentee ballots shall be validated.</p>
Rhode Island	<p>17 R.I. Gen. Laws Ann. § 17-20-2.1(d) (West 2019):</p>

In addition to those requirements set forth elsewhere in this chapter, a mail ballot, in order to be valid, must have been cast in conformance with the following procedures:

(1) All mail ballots issued pursuant to subdivision 17-20-2(1) shall be mailed to the elector at the Rhode Island address provided by the elector on the application. In order to be valid, the signature on all certifying envelopes containing a voted ballot must be made before a notary public or before two (2) witnesses who shall set forth their addresses on the form.

(2) All applications for mail ballots pursuant to § 17-20-2(2) must state under oath the name and location of the hospital, convalescent home, nursing home, or similar institution where the elector is confined. All mail ballots issued pursuant to subdivision 17-20-2(2) shall be delivered to the elector at the hospital, convalescent home, nursing home, or similar institution where the elector is confined; and the ballots shall be voted and witnessed in conformance with the provisions of § 17-20-14.

(3) All mail ballots issued pursuant to subdivision 17-20-2(3) shall be mailed to the address provided by the elector on the application or sent to the board of canvassers in the city or town where the elector maintains his or her voting residence. In order to be valid, the signature of the elector on the certifying envelope containing voted ballots does not need to be notarized or witnessed. Any voter qualified to receive a mail ballot pursuant to subdivision 17-20-2(3) shall also be entitled to cast a ballot pursuant to the provisions of United States Public Law 99-410 (“UOCAVA Act”).

(4) All mail ballots issued pursuant to subdivision 17-20-2(4) may be mailed to the elector at the address within the United States provided by the elector on the application or sent to the board of canvassers in the city or town where the elector maintains his or her voting residence. In order to be valid, the signature on all certifying envelopes containing a voted ballot must be made before a notary public, or other person authorized by law to administer oaths where signed, or where the elector voted, or before two (2) witnesses who shall set forth their addresses on the form. In order to be valid, all ballots

	<p>sent to the elector at the board of canvassers must be voted in conformance with the provisions of § 17-20-14.2.</p>
<p>South Carolina</p>	<p>S.C. Code Ann. § 7-15-385 (2019):</p> <p>Upon receipt of the ballot or ballots, the absentee ballot applicant must mark each ballot on which he wishes to vote and place each ballot in the single envelope marked “Ballot Herein” which in turn must be placed in the return-addressed envelope. The applicant must then return the return-addressed envelope to the board of voter registration and elections by mail, by personal delivery, or by authorizing another person to return the envelope for him. The authorization must be given in writing on a form prescribed by the State Election Commission and must be turned in to the board of voter registration and elections at the time the envelope is returned. The voter must sign the form, or in the event the voter cannot write because of a physical handicap or illiteracy, the voter must make his mark and have the mark witnessed by someone designated by the voter. The authorization must be preserved as part of the record of the election, and the board of voter registration and elections must note the</p>

	<p>authorization and the name of the authorized returnee in the record book required by Section 7-15-330. A candidate or a member of a candidate's paid campaign staff including volunteers reimbursed for time expended on campaign activity is not permitted to serve as an authorized returnee for any person unless the person is a member of the voter's immediate family as defined in Section 7-15-310. The oath set forth in Section 7-15-380 must be signed and witnessed on each returned envelope. The board of voter registration and elections must record in the record book required by Section 7-15-330 the date the return-addressed envelope with witnessed oath and enclosed ballot or ballots is received by the board. The board must securely store the envelopes in a locked box within the office of the board of voter registration and elections.</p>
South Dakota	<p>S.D. Codified Laws § 12-19-2.2 (2019):</p> <p>If a person is an authorized messenger for more than one voter, he must notify the person in charge of the election of all voters for whom he is a messenger.</p>
Tennessee	<p>Tenn. Code Ann. § 2-6-202(e) (West 2017):</p>

	<p>After receiving the absentee voting supplies and completing the ballot, the voter shall sign the appropriate affidavit under penalty of perjury. The effect of the signature is to verify the information as true and correct and that the voter is eligible to vote in the election. The voter shall then mail the ballot.</p>
Texas	<p>Tex. Elec. Code Ann. § 86.006(f) (West 2017) (footnote omitted):</p> <p>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:</p> <p>(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;</p> <p>(2) physically living in the same dwelling as the voter;</p>

	<p>(3) an early voting clerk or a deputy early voting clerk;</p> <p>(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:</p> <p>(A) Section 86.010; and</p> <p>(B) Section 86.0051, if assistance was provided in order to deposit the envelope in the mail or with a common or contract carrier;</p> <p>(5) an employee of the United States Postal Service working in the normal course of the employee’s authorized duties; or</p> <p>(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.</p>
Texas	<p>Tex. Elec. Code Ann. § 86.0052(a)(1) (West 2013) (making it a crime if a person “compensates another person for depositing the carrier envelope in the mail or with a common or contract</p>

	<p>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”).</p>
Utah	<p>Utah Code Ann. § 20A-3-306 (West 2019):</p> <p>(1)(a) Except as provided by Section 20A-1-308, to vote a mail-in absentee ballot, the absentee voter shall:</p> <p>(i) complete and sign the affidavit on the envelope;</p> <p>(ii) mark the votes on the absentee ballot;</p> <p>(iii) place the voted absentee ballot in the envelope;</p> <p>(iv) securely seal the envelope; and</p> <p>(v) attach postage, unless voting in accordance with Section 20A-3-302, and deposit the envelope in the mail or deliver it in person to the election officer from whom the ballot was obtained.</p> <p>(b) Except as provided by Section 20A-1-308, to vote an absentee ballot in</p>

person at the office of the election officer, the absent voter shall:

(i) complete and sign the affidavit on the envelope;

(ii) mark the votes on the absent-voter ballot;

(iii) place the voted absent-voter ballot in the envelope;

(iv) securely seal the envelope; and

(v) give the ballot and envelope to the election officer.

(2) Except as provided by Section 20A-1-308, an absentee ballot is not valid unless:

(a) in the case of an absentee ballot that is voted in person, the ballot is:

(i) applied for and cast in person at the office of the appropriate election officer before 5 p.m. no later than the Tuesday before election day; or

(ii) submitted on election day at a polling location in the political subdivision where the absentee voter resides;

	<p>(b) in the case of an absentee ballot that is submitted by mail, the ballot is:</p> <p>(i) clearly postmarked before election day, or otherwise clearly marked by the post office as received by the post office before election day; and</p> <p>(ii) received in the office of the election officer before noon on the day of the official canvass following the election; or</p> <p>(c) in the case of a military-overseas ballot, the ballot is submitted in accordance with Section 20A-16-404.</p> <p>(3) An absentee voter may submit a completed absentee ballot at a polling location in a political subdivision holding the election, if the absentee voter resides in the political subdivision.</p> <p>(4) An absentee voter may submit an incomplete absentee ballot at a polling location for the voting precinct where the voter resides, request that the ballot be declared spoiled, and vote in person.</p>
Vermont	Vt. Stat. Ann. tit. 17, § 2543 (West 2019):

(a) After marking the ballots and signing the certificate on the envelope, the early or absentee voter to whom the same are addressed shall return the ballots to the clerk of the town in which he or she is a voter, in the manner prescribed, except that in the case of a voter to whom ballots are delivered by justices, the ballots shall be returned to the justices calling upon him or her, and they shall deliver them to the town clerk.

(b) Once an early voter absentee ballot has been returned to the clerk in the envelope with the signed certificate, it shall be stored in a secure place and shall not be returned to the voter for any reason.

(c) If a ballot includes more than one page, the early or absentee voter need only return the page upon which the voter has marked his or her vote.

(d)(1) All early voter absentee ballots returned as follows shall be counted:

(A) by any means, to the town clerk's office before the close of business on the day preceding the election;

	<p>(B) by mail, to the town clerk's office before the close of the polls on the day of the election; and</p> <p>(C) by hand delivery to the presiding officer at the voter's polling place.</p> <p>(2) An early voter absentee ballot returned in a manner other than those set forth in subdivision (1) of this subsection shall not be counted.</p>
Virgin Islands	<p>V.I. Code Ann. tit. 18, § 665 (2018):</p> <p>(a) An absentee who has received an absentee ballot may vote by mailing or causing to be delivered to the board of elections for the proper election district such ballot marked and sworn to, as follows:</p> <p>After marking the ballot, the voter shall enclose and seal it in the envelope provided for that purpose. He shall then swear and subscribe to a self-administered oath which shall be provided to the absentee on a printed form along with the absentee ballot and he shall further execute the affidavit on such envelope and shall enclose and seal the envelope containing the ballot in the return mailing envelope printed, as provided in paragraph 3 of subsection (a) of section 663 of this</p>

title, with the name and address of the board of elections for the election district in which he desires to vote, endorse thereon his name and return address, and shall then mail the envelope, or cause it to be delivered, to the board of elections; provided that such envelope must be received by the board no later than ten days after the day of election for the absentee vote to be counted. Absentee ballots received from overseas in franked envelopes, or from persons who are members of the Uniformed Services of the United States or a spouse of any member of the Uniformed Services of the United States, shall be counted if they are received by the board no later than ten (10) days after the day of the election. In the case of a recount authorized by the board, any ballot received by the board no later than 5 p.m. the day before the recount shall be counted.

(b) Any envelope containing an absentee ballot mistakenly mailed by the absentee voter to the Supervisor of Elections contrary to the provisions of this section shall be mailed or delivered by the Supervisor of Elections to the proper board of elections if it can be so mailed or delivered by him before the time for the closing of the polls on the

	<p>day of election, and if the proper board can be determined without breaking open the inner envelope containing the ballot.</p> <p>(c) All mailing envelopes containing absentee ballots received by a board of elections under this section, whether received in sufficient time for the ballots to be counted as provided in this chapter, or not, shall be stamped or endorsed by a member of the board or the clerk with the date of their receipt in the board's office, and, if received on the day of election, with the actual time of day received, and such record shall be signed or initialed by the board member or clerk making it.</p>
Virginia	<p>Va. Code Ann. § 24.2-707(A) (West 2019):</p> <p>After the voter has marked his absentee ballot, he shall (a) enclose the ballot in the envelope provided for that purpose, (b) seal the envelope, (c) fill in and sign the statement printed on the back of the envelope in the presence of a witness, who shall sign the same envelope, (d) enclose the ballot envelope and any required assistance form within the envelope directed to the general registrar, and (e) seal that envelope and mail it to the office of the general</p>

	<p>registrar or deliver it personally to the general registrar. A voter's failure to provide in the statement on the back of the envelope his full middle name or his middle initial shall not be a material omission, rendering his ballot void, unless the voter failed to provide in the statement on the back of the envelope his full first and last name. A voter's failure to provide the date, or any part of the date, including the year, on which he signed the statement printed on the back of the envelope shall not be considered a material omission and shall not render his ballot void. For purposes of this chapter, "mail" shall include delivery by a commercial delivery service, but shall not include delivery by a personal courier service or another individual except as provided by §§ 24.2-703.2 and 24.2-705.</p>
Washington	<p>Wash. Rev. Code Ann. § 29A.40.091(4) (West 2019):</p> <p>The voter must be instructed to either return the ballot to the county auditor no later than 8:00 p.m. the day of the election or primary, or mail the ballot to the county auditor with a postmark no later than the day of the election or primary. Return envelopes for all election ballots must include prepaid</p>

	<p>postage. Service and overseas voters must be provided with instructions and a privacy sheet for returning the ballot and signed declaration by fax or email. A voted ballot and signed declaration returned by fax or email must be received by 8:00 p.m. on the day of the election or primary.</p>
West Virginia	<p>W. Va. Code Ann. § 3-3-5(k) (West 2010):</p> <p>Absentee ballots which are hand delivered are to be accepted if they are received by the official designated to supervise and conduct absentee voting no later than the day preceding the election: Provided, That no person may hand deliver more than two absentee ballots in any election and any person hand delivering an absentee ballot is required to certify that he or she has not examined or altered the ballot. Any person who makes a false certification violates the provisions of article nine of this chapter and is subject to those provisions.</p>
Wisconsin	<p>Wis. Stat. Ann. § 6.87(4)(b) (West 2019):</p> <p>The envelope shall be mailed by the elector, or delivered in person, to the</p>

	municipal clerk issuing the ballot or ballots.
Wyoming	Wyo. Stat. Ann. § 22-9-113 (West 2019): Upon receipt, a qualified elector shall mark the ballot and sign the affidavit. The ballot shall then be sealed in the inner ballot envelope and mailed or delivered to the clerk.