

Witnesses, Assistants, and Agents



Texas Secretary of State – Elections Division
Webinar



TOPICS COVERED

1. Witnessing of and “Assistance” completing and submitting with VR Apps
2. Witnessing of and Assistance completing and submitting with ABBMs
3. Witnessing of and Assistance completing and submitting By-Mail Ballots & Carrier Envelopes



Witnesses



Witnessing – General Rule

- **Defined by Sec. 1.011 of the Texas Election Code.**
 - Witness can be used if the person required to sign a document is unable to do so because of a **physical disability or illiteracy**.
- Actions by Voter
 - Person who cannot sign, must affix their mark to the document
- Actions by Witness
 - If person cannot make a mark, witness must state that fact
 - Witness must:
 - Print the name of the person that cannot sign
 - Affix their own signature to the document
 - Print their own name
 - State their residence address or official title, if election officer.
- **MUST** be conducted **in the presence** of the person who cannot sign.



What Can Be Witnessed

- Voter Registration Application – Sec. 1.011
- ABBM – Secs. 1.011 & 84.003
- Carrier Envelope – Sec. 1.011



Witnessing – VR Apps

- VR application requires the witness to print the applicant's name in the signature box
 - There are no instructions informing the witness that they must also print and sign their own name, add residence address, etc.
- Occurs in the applicant's presence, when the voter is unable to sign due to a disability or illiteracy
 - Witness ≠ Agent
- **No limit on the number of VR applications a person can witness, as long as the witness information is completed each time**



Witnessing - ABBMs

- Witness other than EV Clerk or Deputy EV Clerk **must** indicate relation to the applicant or, if unrelated, indicate that fact. Sec. 84.003(a)
- It is a criminal offense for witness to fail to provide the required information, (printed name, signature, residence address, etc.), unless:
 - Witness is a relative within the 2nd degree by affinity or 3rd degree by consanguinity OR
 - Witness is the EV Clerk or Deputy EV Clerk. Sec. 84.003(d)



Witnessing - ABBMs

- **Limited** – A person may only witness 1 single-use ABBM per election or 1 Annual ABBM, unless an exception applies. [Sec. 84.004]
 - May witness more than one ABBM if it is for a parent, grandparent, spouse, child, or sibling.
 - Early Voting Clerk or Deputy Early Voting Clerk may serve as witness for multiple individuals.
- Witnessing more than one application is an offense unless one of the exceptions applies, **but it does not affect the validity of the ABBM.**



Witnessing - Carrier

- It is a criminal offense for witness to fail to provide the required information, (printed name, signature, residence address, etc.), unless:
 - witness is a relative within the 2nd degree by affinity or 3rd degree by consanguinity OR
 - witness was physically living in the same dwelling as the voter at the time of witnessing the carrier. Sec. 86.0051(a),(e)
- **Unlimited** – a person can serve as a witness on any number of carrier envelopes, as long as the witness information is completed each time.



Defect in Witness with Carrier Envelope – Early Voting Clerk

- If an early voting clerk receives a timely carrier envelope that does not comply with the applicable requirements, including the witness information, then the EVC can use one of the following forms to notify the voter of the defect:
 - [Form 6-11](#): EVC Notice of Carrier Defect Mailed with Corrective Action Form
 - [Form 6-12](#): EVC Notice of Carrier Defect Phone with Corrective Action Form
 - Deliver the carrier to the voter in person per Section 86.011(d)
- Voter can cancel their mail ballot application and vote in person. If voter surrenders their mail ballot, they should be given a regular ballot. If the voter does not surrender their mail ballot, they must vote provisionally.



Defect in Witness with Carrier Envelope – EVBB or SVC

- If the EVBB or SVC receives a carrier envelope that does not comply with the applicable requirements, including the witness information, then the EVBB or SVC can use one of the following forms to notify the voter of the defect:
 - [Form 8-23](#): Notice of Carrier Defect – Carrier Envelope Returned to Voter by Mail
 - [Form 8-24](#): Notice of Carrier Defect – Voter Notified by Phone or Email
- Voter can cancel their mail ballot application and vote in person. If voter surrenders their mail ballot, they should be given a regular ballot. If the voter does not surrender their mail ballot, they must vote provisionally.



Assistance



Assistance in Completing and Submitting ...

- **Voter Registration Application**
 - Agent (Secs. 13.003, 13.005, 13.006)
 - High School Deputy Registrars & Volunteer Deputy Registrar (Subchapter B, Chapter 13)
 - Voter Registration Agency (Chapter 20)

- **Application to Vote by Mail** – Secs. 1.011(d), 84.003, 84.0041

- **Mail Ballot and Carrier Envelope** – Secs. 86.0051, 86.006, 86.010, 86.0105



Assistance with VR Application

- Anyone can assist a voter in completing a VR application, but only designated individuals (Agents) can sign for the voter or submit the application on behalf of the applicant.
- We will talk more about agents later...



Assistance with VR Application

- **High School Deputy Registrar**
 - High School Principal (or their designee) distributes VR Apps to students (who are or will be 18 that school year) and employees of the school, 2x per year
 - VR Apps must be accompanied by a notice informing applicant that VR App may be mailed to the VR, delivered in person, or submitted to the High School Deputy Registrar or to a Volunteer Deputy Registrar
 - High School Deputy Registrar accepts completed VR Apps and delivers them in person or by mail to voter registrar



Assistance with VR Application

- **Volunteer Deputy Registrar (VDR)**
 - VDR trained (online or in person) and certified by a county
 - Distributes VR Apps, reviews for completion, and hand delivers VR Apps to the VR
 - VDR must issue receipt to applicant
 - VDR must be eligible for registration (except for the requirement to be a resident of the county), but need not actually be registered to vote.



Assistance with VR Application

- **Other Registration Agencies**

- DPS, public libraries, state agencies that provide public assistance or services to persons with disabilities, marriage license office of county clerk, other agencies as designated by SOS
- Agency employee must inform clients of opportunity to complete VR App, assist with completion unless assistance is refused, review VR App submitted to agency employee, and deliver VR App to voter registrar on behalf of applicant if applicant so desires
- See Chapter 20 for additional requirements and procedures



Assistance with ABBM

- **Completing ABBM**

- Best practice is that applicant is only assisted if the applicant requests assistance.
- Candidates or campaigns that send pre-filled ABBMs to voters are not considered to be assisting those applicants.
- Assistant must put on ABBM their:
 - printed name,
 - signature, and
 - residence address (if assistant is an election officer, put title rather than residence address). Secs. 1.011(d), 84.003
- **No limit on the number of ABBMs a person may assist with, as long as assistant information is completed.**



Assistance with ABBM

- **Submitting ABBM**

- Mailing, faxing or emailing ABBM: An individual may assist the applicant by mailing, faxing, or emailing the ABBM for the applicant. The assistant must complete the assistance information.
- **CANNOT** assist via Hand Delivery: Only the voter can hand-deliver their own ABBM.
 - If another individual hand delivers the applicant's ABBM, that is improper delivery and the ABBM will be rejected.



Assistance with Mail Ballot and Carrier Envelope

- Guidelines (Sec. 86.010)
 - Assistant may be an individual authorized by Sec. **64.032(c)**
 - **Can't be voter's employer or agent of voter's employer**
 - **Can't be officer or agent of voter's labor union**
 - An assistant may also mail the carrier for the voter
 - Electioneering is prohibited throughout this process



Assistance with Mail Ballot and Carrier Envelope

- It is an offense for a person (non-relative) who assists a voter in mailing their ballot to fail to complete the assistance information on the carrier envelope. (Secs. 86.0051(b), (c), 86.010)
 - Assistant must provide printed name, signature, residence address, **and relationship to the voter (NEW LAW)**
 - Assistant must sign the oath of assistance that is part of the certificate on the carrier envelope
 - **NEW LAW:** Assistant must indicate whether they received compensation or other benefit from a candidate, campaign, or political committee in exchange for providing assistance



Assistance with Mail Ballot and Carrier Envelope

- Hand delivery of marked ballot in signed and sealed Carrier Envelope
 - Only the voter may hand deliver their by-mail ballot (in signed and sealed carrier, to the EV Clerk, on Election day only). Sec. 86.006(a-1)
 - If another individual hand-delivers the voter's ballot, it will be considered **improper delivery**, and the ballot will **not** be forwarded to the early voting ballot board.



Assistance with By-Mail Ballot and Carrier Envelope

- The ballot of a voter assisted in violation of Section 86.010 may **NOT** be counted. Sec. 86.010(d)
- The carrier envelope is not “properly executed” under Section 87.041.



Defect in Assistance with Carrier Envelope – Early Voting Clerk

- If an early voting clerk receives a timely carrier envelope that does not comply with the applicable requirements, including the assistance information, then the EVC can use one of the following forms to notify the voter of the defect:
 - [Form 6-11](#): EVC Notice of Carrier Defect Mailed with Corrective Action Form
 - [Form 6-12](#): EVC Notice of Carrier Defect Phone with Corrective Action Form
 - Deliver the carrier to the voter in person per Section 86.011(d)
- Voter can cancel their mail ballot application and vote in person. If voter surrenders their mail ballot, they should be given a regular ballot. If the voter does not surrender their mail ballot, they must vote provisionally.



Defect in Assistance with Carrier Envelope – EVBB or SVC

- Once the clerk delivers the carrier envelope to the EVBB or SVC, incomplete information about an assistant cannot be corrected using the prescribed forms for EVBB/SVC (Forms 8-23 and 8-24).
- However, the EVBB can relinquish custody of the defective carrier envelope and have the EVC use Section 86.011(d) to personally hand-deliver defective carriers to voters.



Assisting Voter – Criminal Penalties

- It is a criminal offense if:
 - Assistant does not provide name/address/signature/complete oath. Secs. 86.0051, 86.010
 - A person compensates or offers to compensate another person for assisting voters; or solicits, receives, or accepts compensation for an activity described by Section 86.0105(a)(1). Sec. 86.0105
 - Compensation means an economic benefit as defined by Section 38.01 of the Texas Penal Code.
 - Does not apply if the person assisting a voter is an attendant or caregiver previously known to the voter.
 - Unlawful assistance – Sec. 86.010
 - Prepares ballot other than how the voter directs
 - Suggests how voter should vote
 - Voter did not request assistance



FAQs

- **Q: Can someone other than the voter return a voter's corrected carrier envelope or corrective action form in person?**
- **A: No. Only the voter can hand-deliver their corrected carrier envelope on election day, or complete the Corrective Action Form for Defective Carrier Envelope, in person at the early voting clerk's office. If necessary, the voter may have someone accompany the voter to serve as a witness.**



Agents



Agents - VR Application

Sec. 13.003. APPLICATION BY AGENT.

- (a) An applicant may appoint, either **orally or in writing**, an agent to perform one or more of the following acts for the applicant:
- (1) complete and sign a registration application;
 - (2) submit an application;
 - (3) act on the applicant's behalf in the process of approving the application, including a challenge of the applicant;
 - (4) receive a registration certificate in person; and
 - (5) submit a notice or other applicable document for correcting registration information.
- (b) To be eligible for appointment as an agent, a person **must**:
- (1) be the applicant's **spouse, parent, or child**; and
 - (2) be a qualified voter of the county or have submitted a registration application and be otherwise eligible to vote.



Agents – VR Applications

- Agents may **NOT** cancel a registration application on behalf of a voter.
- May take delivery of **initial registration** certificate or **corrected registration** certificate.
- Agents **cannot** request a **replacement certificate**. but can pick up a replacement certificate that has been requested by voter per Section 13.003(4).



Questions?

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