

COREY STAPLETON

SECRETARY OF STATE



STATE OF MONTANA

Election Directive #01-19*

Issued: March 15, 2019

**TOPIC: Implementation of the Montana Ballot Interference Prevention Act
(Mont. Code Ann. § 13-35-701 et seq.)**

AUTHORITY:

Pursuant to Mont. Code Ann. § 13-1-202(1)(a) and (b), the Secretary of State has the authority to issue written directives and instructions related to and based on election laws, to provide uniformity in the election process, and to provide forms.

The following is meant to provide guidance and uniformity on multiple scenarios that may occur regarding the handling of ballots and form as prescribed in Mont. Code Ann. § 13-35-701.

**This directive has been jointly issued by the Secretary of State and the Commissioner of Political Practices (COPP), Policy 5.0.*

OVERVIEW:

Legislative Referendum 129 was approved in the November 2018 General Election. This referendum added the [Montana Ballot Interference Prevention Act](#) as Part 7 under Title 13, Chapter 35. The Act limits who can collect and convey a ballot belonging to another person. It requires a person authorized to convey another person's ballot to sign a registry when delivering the ballot to a polling place or to the election administrator's office. It also sets a \$500 penalty for each ballot unlawfully collected. Investigations and enforcement of the Act are the responsibility of COPP in conjunction with the county attorneys. See Mont. Code Ann. § [13-37-111\(1\)](#).

County election administrators will need to establish processes to provide the registry for ballot collectors to sign when delivering ballots. A process is provided below, and a form to use for the registry is provided as Attachment A to this directive.

PROCESS:

Election administrators will collect and store the information provided by each ballot collector on the prescribed form, Attachment A. Election administrators will store the information first by

election, and then alphabetically by each ballot collector's last name. The individual forms will become individual pages of the registry. Election administrators will send copies of collected forms to COPP on a weekly basis starting when absentee ballots are available. Transmission to COPP may be done via electronic means or by mail. Election administrators will retain the original forms in the registry per their county records retention schedule for election records.

The ballot collection registry is per election. If a county is running two concurrent elections, election officials should ensure that the right registry form is signed by the person conveying ballots.

QUESTIONS:

Q: What is the enforcement responsibility of the local election official?

A: Enforcement and investigations of violations of the law are the responsibility of COPP in conjunction with local law enforcement. If an official notes something that appears to be a violation, he or she should report it in writing to COPP with as much detail as possible.

Q: Do election officials need to confirm the identity of the ballot collector using ID?

A: No, confirming the identity of a ballot collector is not required by statute.

Q: Do election officials need to confirm the data and enforce the completeness of the form?

A: No, election officials are not responsible for enforcing the statute. Election officials should discuss the required information with the person signing the registry. If a person insists on turning in an incomplete form or providing information the official knows is not correct, the official should still accept the form and ballots and let COPP determine whether any enforcement action is required.

Q: Can election officials reject ballots conveyed to them in violation of the six-ballot restriction, where the ballot conveyer doesn't sign the registry, or the ballots are simply dropped off with the person just leaving the office?

A: No, election officials should accept the ballots that are conveyed to them. They should process them the same way as ballots otherwise submitted to their office. They should report such apparent violations to COPP to investigate.

Q: Is the six-ballot restriction cumulative?

A: No, the six-ballot restriction is per election per person. A person may collect and convey up to six ballots per election.

Q: Do election officials need to provide a registry for ballot drop boxes?

A: No, a registry needs to be provided only when ballots are submitted at the election administrator's office or a designated polling place. If the drop box is located at a designated polling place, then a registry is required per the statute.

Q: Do election officials need to post information about the ballot collection restrictions at drop boxes?

A: This is not required under statute; however, we do suggest that counties consider posting this information at any drop box and other appropriate places.

Q: For school elections and people dropping ballots off at a principal's office, can the principal deliver those ballots back to the school district or county election office?

A: No, the exception is if the principal is a designated election official. Otherwise, a principal may only collect six ballots before the limitation is exceeded.

ATTACHMENT A – Ballot Collection Registry Form



Ballot Collection Registry

Montana Ballot Interference Prevention Act (Mont. Code Ann. 13-35-701 et al)

An individual permitted to collect and convey a ballot under 13-35-703(2)(c) through (2)(f) shall sign a registry when delivering the ballot to the polling place or the election administrator's office. In addition to the signature requirement, the individual collecting and conveying the ballot shall provide the following information: (1) the individual's name, address, and phone number; (2) the voter's name and address; and (3) the individual's relationship to the voter required to collect and convey a ballot pursuant to 13-35-703(2)(c) through (2)(f).

Ballot collection prohibited -- exceptions. (1) Except as provided in subsection (2), a person may not knowingly collect a voter's voted or unvoted ballot. (2) This section does not apply to: (a) an election official; (b) a United States postal service worker or other individual specifically authorized by law to transmit United States mail; (c) a caregiver; (d) a family member; (e) a household member; or (f) an acquaintance. (3) An individual authorized to collect a voter's ballot pursuant to subsections (2)(c) through (2)(f) may not collect and convey more than six ballots. An individual who violates any provision within LR-129 could be fined \$500 for each ballot unlawfully collected.

FOR ELECTION OFFICE USE
County _____ Election _____ Date of Election _____
Processed by _____

Ballot Collector Information (Please Print)

Name: _____

Address: _____ State: _____ Zip: _____

Phone Number: () _____ - _____

	Voter Name	Voter Address	Relationship to Voter (Check one) *
1			<input type="checkbox"/> Caregiver <input type="checkbox"/> Family <input type="checkbox"/> Household <input type="checkbox"/> Acquaintance
2			<input type="checkbox"/> Caregiver <input type="checkbox"/> Family <input type="checkbox"/> Household <input type="checkbox"/> Acquaintance
3			<input type="checkbox"/> Caregiver <input type="checkbox"/> Family <input type="checkbox"/> Household <input type="checkbox"/> Acquaintance
4			<input type="checkbox"/> Caregiver <input type="checkbox"/> Family <input type="checkbox"/> Household <input type="checkbox"/> Acquaintance
5			<input type="checkbox"/> Caregiver <input type="checkbox"/> Family <input type="checkbox"/> Household <input type="checkbox"/> Acquaintance
6			<input type="checkbox"/> Caregiver <input type="checkbox"/> Family <input type="checkbox"/> Household <input type="checkbox"/> Acquaintance

I declare under penalty of perjury that the foregoing is true and correct.

Signature: _____

Date: _____

*See reverse side for definitions

Ballot Collection Registry

Montana Ballot Interference Prevention Act

13-35-702. Definitions. As used in this part, the following definitions apply:

(1) "Acquaintance" means an individual known by the voter.

(2) "Caregiver" means an individual who provides medical or health care assistance to the voter in a residence, nursing care institution, hospice facility, assisted living center, assisted living home, residential care institution, adult day health care facility, or adult foster care home.

(3) "Collect" means to gain possession or control of a ballot.

(4) "Family member" means an individual who is related to the voter by blood, marriage, adoption, or legal guardianship.

(5) "Household member" means an individual who resides at the same residence as the voter.