

Disabled Electors: Analysis of Statutes and Rules

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by Sheri Scurr, Research Analyst
Montana Legislative Services Division

Statute Catchline and Summary	Year statute last amended	Rule	Year rule last amended	Comments
CONCERNING DISABLED ELECTORS				
13-1-116. Fingerprint, mark, or agent for disabled electors — rulemaking. Disabled elector may designate an agent to provide signature or identifying mark whenever a signature is needed in voter registration and election process (i.e., registering to vote, requesting an absentee ballot, signing a poll book or signing the signature envelop when voting absentee or by mail)	2017	44.3.115	2006	See comments under 13-13-119, MCA.
13-3-205. Adoption of standards for polling place accessibility — rulemaking authority. Secretary of State must adopt rules about accessibility standards for polling places that are in compliance with federal ADA.	2009	44.3.101	2012	(1) Rule refers to federal Voting Accessibility for the Elderly and Handicapped Act, but statute does not.
		44.3.104	2010	(2) Other federal laws in addition to the ADA contain requirements on voting accessibility e.g., HAVA, Voting Rights Act, and others.
		44.3.102	2008	(3) ARM 44.3.102 is "advisory only" and describes role of Sec. of State, references assistance provided under section 208 of Voting Rights Act of 1965, does not mention other applicable federal laws.
		44.3.113	2008	(4) ARM 44.3.113 is "advisory only" and states the Sec. of State shall install a toll-free telecommunication devise for hearing impaired.
		44.3.114	2008	(5) ARM 44.3.114 is "advisory only" and relates only to physical accessibility of polling place and how a complaint is handled.
		44.3.109	2008	(6) ARM 44.3.109 is "advisory only" and authorizes county election administrators to establish one or more voting accessibility advisory committees.

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13-3-206. Survey of polling places to determine accessibility — procedures. County election administrators must conduct survey of polling place accessibility	2006	44.3.105	2010	
13-3-207. Polling place classifications. County election administrator must classify each polling place as accessible or inaccessible	2007	44.3.108	2008	
13-3-211. Emergency exemption. Polling place does not have to be accessible if there is an emergency/disaster within 10 days prior to election.	2009	44.3.107	2008	The rule is "advisory only".
13-3-212. Exemption if no accessible polling place is reasonably available. County election administrator may apply to Sec. of State for an exemption to ADA if accessible polling place not available and it cannot be reasonably or safely made accessible, or if in rural area would cause excessive travel or hardship for majority of electors	2007	44.3.106	2010	
13-3-213. Alternative means for casting ballot. Election administrator must provide disabled and elderly individuals with alternative means for casting ballot if they are assigned an inaccessible polling place. Alternative methods and procedures outlined in section.	2017	44.3.110	2015	(1) Statute applies only if the disabled or elderly person is assigned to an inaccessible polling place. (2) Alternative means does not list a ballot marking machine such as an Automark.
13-13-118. Taking ballot to disabled elector. Allows appointment of two elections judges of different political parties to take a ballot to an elector who comes to premises but unable to enter the polling place because of a disability.	2013	44.3.110	2015	Commonly referred to as "curbside voting".

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<p>13-13-119. Aid to disabled elector. When disabled elector enters polling place, election judge must ask if person wants assistance. Disabled person may designate their own assistant. Disabled elector must take oath of disability. If election judge assistance is desired, must be assisted by two judges of different political parties.</p>	2011			<p>(1) Nothing in the statute refers to offering use of a voting system or ballot marking devise/machine (e.g., AutoMark or other system).</p> <p>(2) No rule regarding this statute specifically. ARM 44.3.102 on role of Sec. of State might cover because it refers to assistance to be provided under Voting Rights Act.</p> <p>(3) The designation or an agent under 13-3-116 is for a mark or signature, but 13-13-119(5) allows an individual designated at the polling place to sign the precinct register. How do they work together?</p>
<p>The following statutes do not specifically mention disabled or elderly electors, but a rule that applies to elderly or disabled electors references the statute:</p> <p>13-1-202. Forms and rules prescribed by secretary of state.</p> <p>13-13-111. Provision and use of voting stations.</p> <p>13-13-112. Display of instructions for electors. This section mentions that instructions need to be posted on "how to prepare their ballots or use a voting system"</p>	<p>2007</p> <p>2011</p> <p>2013</p>	<p>44.3.111</p> <p>44.3.112</p>	<p>1986</p> <p>1986</p>	<p>44.3.111 ARM</p> <p>(1) is "advisory only". Regarding elderly electors. Refers to "voting devise ballots" and "easily graspable" stylus and oversize pen or pencil.</p> <p>(2) does not refer to disabled electors or use of a "voting system"</p> <p>44.3.112 ARM</p> <p>(3) is "advisory only". Regarding visually impaired electors.</p> <p>(4) does not mention use of "voting system" or ballot marking devise/machine.</p>

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CONCERNING BALLOT UNIFORMITY				
<p>13-12-202. Ballot form and uniformity. (1) The secretary of state shall adopt statewide uniform rules that prescribe the ballot form for each type of ballot used in this state. The rules must conform to the provisions of this title unless the voting system used clearly requires otherwise.</p> <p>But subsection (5) states "it must be impossible to distinguish any one of the ballots from another ballot for the same office or issue."</p>	2011	44.3.2408	2013	<p>(1) In section 13-12-202, subsection (2) seems to have an intent that there can be an exception to uniformity, but subsection (5) states the ballots must be "impossible to distinguish".</p> <p>(2) Rule simply adopts statute "by reference" and points to Sec. of State's web page with forms.</p>