

TABLE SHOWING DISPOSITION OF ALL SECTIONS OF FORMER TITLE 3—Continued

Table with 3 columns: Title 3 Former Sections, Revised Statutes Statutes at Large, Title 3 New Sections. Rows include sections 50 through 67 with their corresponding statute references and new section numbers.

CHAPTER 1—PRESIDENTIAL ELECTIONS AND VACANCIES

- Sec. 1. Time of appointing electors.
2. Failure to make choice on prescribed day.1
3. Number of electors.
4. Vacancies in electoral college.
5. Certificate of ascertainment of appointment of electors.
6. Duties of Archivist.
7. Meeting and vote of electors.
8. Manner of voting.
9. Certificates of votes for President and Vice President.
10. Sealing and endorsing certificates.
11. Transmission of certificates by electors.
12. Failure of certificates of electors to reach President of Senate or Archivist of the United States; demand on State for certificate.2
13. Same; demand on district judge for certificate.
[14. Repealed.]
15. Counting electoral votes in Congress.
16. Same; seats for officers and Members of two Houses in joint session.
17. Same; limit of debate in each House.
18. Same; parliamentary procedure at joint session.
19. Vacancy in offices of both President and Vice President; officers eligible to act.
20. Resignation or refusal of office.
21. Definitions.
22. Severability.

Editorial Notes

AMENDMENTS

2022—Pub. L. 117-328, div. P, title I, §§ 102(c), 104(c)(2), 105(b), 107(b), 108(c)(2), 109(b), 110(c)(3), 111(b), Dec. 29, 2022, 136 Stat. 5234, 5236, 5237, 5240, 5241, added items 1, 5, 6, 11, 15, and 22, substituted "session" for "meeting" in items 16 and 18, and struck out former items 1 "Time of appointing electors", 5 "Determination of controversy as to appointment of electors", 6 "Credentials of electors; transmission to Archivist of the United States and to Congress; public inspection", 11 "Disposition of certificates", 14 "Forfeiture for messenger's neglect of duty", and 15 "Counting electoral votes in Congress" repealed by Pub. L. 117-328 without corresponding amendment in Title I, § 107(e)(3), Oct. 19, 1984, 98 Stat. 2292, and struck out "Archivist of the United States"

for "Administrator of General Services" in items 6 and 12.

1961—Pub. L. 87-389, §2(b), Oct. 4, 1961, 75 Stat. 820, added item 21.

1951—Act Oct. 31, 1951, ch. 655, §5, 65 Stat. 711, substituted "Administrator of General Services" for "Secretary of State" in items 6 and 12.

§ 1. Time of appointing electors

The electors of President and Vice President shall be appointed, in each State, on election day, in accordance with the laws of the State enacted prior to election day.

(Added Pub. L. 117-328, div. P, title I, §102(a), Dec. 29, 2022, 136 Stat. 5233.)

Editorial Notes

PRIOR PROVISIONS

A prior section 1, act June 25, 1948, ch. 644, 62 Stat. 672, related to time of appointing electors, prior to repeal by Pub. L. 117-328, div. P, title I, §102(a), Dec. 29, 2022, 136 Stat. 5233.

Statutory Notes and Related Subsidiaries

SHORT TITLE OF 2022 AMENDMENT

Pub. L. 117-328, div. P, §1, Dec. 29, 2022, 136 Stat. 5233, provided that: "This division [enacting this section and section 22 of this title, amending sections 6, 7, 9 to 13, 15 to 18, and 21 of this title, repealing this section and sections 2 and 14 of this title, enacting provisions set out as notes under this section, and amending provisions set out as a note under section 102 of this title] may be cited as the 'Electoral Count Reform and Presidential Transition Improvement Act of 2022'."

Pub. L. 117-328, div. P, title I, §101, Dec. 29, 2022, 136 Stat. 5233, provided that: "This title [enacting this section and section 22 of this title, amending sections 6, 7, 9 to 13, 15 to 18, and 21 of this title, and repealing this section and sections 2 and 14 of this title] may be cited as the 'Electoral Count Reform Act of 2022'."

Pub. L. 117-328, div. P, title II, §201, Dec. 29, 2022, 136 Stat. 5241, provided that: "This title [amending provisions set out as a note under section 102 of this title] may be cited as the 'Presidential Transition Improvement Act'."

SHORT TITLE OF 2020 AMENDMENT

Pub. L. 116-121, §1, Mar. 3, 2020, 134 Stat. 138, provided that: "This Act [amending provisions set out as a note under section 102 of this title] may be cited as the 'Presidential Transition Enhancement Act of 2019'."

SHORT TITLE OF 2010 AMENDMENT

Pub. L. 111-283, §1, Oct. 15, 2010, 124 Stat. 3045, provided that: "This Act [enacting provisions set out as a note under section 102 of this title and amending provisions set out as notes under section 102 of this title, section 1101 of Title 5, Government Organization and Employees, and section 435b of Title 50, War and National Defense] may be cited as the 'Pre-Election Presidential Transition Act of 2010'."

SHORT TITLE OF 1996 AMENDMENT

Pub. L. 104-331, §1(a), Oct. 26, 1996, 110 Stat. 4053, provided that: "This Act [enacting sections 401, 402, 411 to 417, 421, 425, 431, 435, 451 to 456, and 471 of this title and sections 1296, 1413, and 3901 to 3908 of Title 28, Judiciary and Judicial Procedure, amending sections 1346 and 2402 of Title 28, repealing section 1219 of Title 2, The Congress, and enacting provisions set out as notes under section 401 of this title, section 1219 of Title 2, and section 1296 of Title 28] may be cited as the 'Presidential and Executive Office Accountability Act'."

SHORT TITLE OF 1988 AMENDMENT

Pub. L. 100-398, §1, Aug. 17, 1988, 102 Stat. 985, provided that: "This Act [amending sections 3345, 3348, and

5723 of Title 5, Government Organization and Employees, and enacting and amending provisions set out as notes under section 102 of this title] may be cited as the ‘Presidential Transitions Effectiveness Act.’”

CONSTITUTIONAL PROVISIONS

Time of choosing electors, see Const. Art. 2, §1, cl. 3.

[§ 2. Repealed. Pub. L. 117-328, div. P, title I, § 102(a), Dec. 29, 2022, 136 Stat. 5233]

Section, act June 25, 1948, ch. 644, 62 Stat. 672, related to failure to make choice on prescribed day.

§ 3. Number of electors

The number of electors shall be equal to the number of Senators and Representatives to which the several States are by law entitled at the time when the President and Vice President to be chosen come into office; except, that where no apportionment of Representatives has been made after any enumeration, at the time of choosing electors, the number of electors shall be according to the then existing apportionment of Senators and Representatives.

(June 25, 1948, ch. 644, 62 Stat. 672.)

§ 4. Vacancies in electoral college

Each State may, by law enacted prior to election day, provide for the filling of any vacancies which may occur in its college of electors when such college meets to give its electoral vote.

(June 25, 1948, ch. 644, 62 Stat. 673; Pub. L. 117-328, div. P, title I, §103, Dec. 29, 2022, 136 Stat. 5234.)

Editorial Notes

AMENDMENTS

2022—Pub. L. 117-328 inserted “enacted prior to election day” after “by law”.

§ 5. Certificate of ascertainment of appointment of electors

(a) IN GENERAL.—

(1) CERTIFICATION.—Not later than the date that is 6 days before the time fixed for the meeting of the electors, the executive of each State shall issue a certificate of ascertainment of appointment of electors, under and in pursuance of the laws of such State providing for such appointment and ascertainment enacted prior to election day.

(2) FORM OF CERTIFICATE.—Each certificate of ascertainment of appointment of electors shall—

(A) set forth the names of the electors appointed and the canvass or other determination under the laws of such State of the number of votes given or cast for each person for whose appointment any and all votes have been given or cast;

(B) bear the seal of the State; and

(C) contain at least one security feature, as determined by the State, for purposes of verifying the authenticity of such certificate.

(b) TRANSMISSION.—It shall be the duty of the executive of each State—

(1) to transmit to the Archivist of the United States, immediately after the issuance of a

certificate of ascertainment of appointment of electors and by the most expeditious method available, such certificate of ascertainment of appointment of electors; and

(2) to transmit to the electors of such State, on or before the day on which the electors are required to meet under section 7, six duplicate-originals of the same certificate.

(c) TREATMENT OF CERTIFICATE AS CONCLUSIVE.—For purposes of section 15:

(1) IN GENERAL.—

(A) CERTIFICATE ISSUED BY EXECUTIVE.—Except as provided in subparagraph (B), a certificate of ascertainment of appointment of electors issued pursuant to subsection (a)(1) shall be treated as conclusive in Congress with respect to the determination of electors appointed by the State.

(B) CERTIFICATES ISSUED PURSUANT TO COURT ORDERS.—Any certificate of ascertainment of appointment of electors required to be issued or revised by any State or Federal judicial relief granted prior to the date of the meeting of electors shall replace and supersede any other certificates submitted pursuant to this section.

(2) DETERMINATION OF FEDERAL QUESTIONS.—The determination of Federal courts on questions arising under the Constitution or laws of the United States with respect to a certificate of ascertainment of appointment of electors shall be conclusive in Congress.

(d) VENUE AND EXPEDITED PROCEDURE.—

(1) IN GENERAL.—Any action brought by an aggrieved candidate for President or Vice President that arises under the Constitution or laws of the United States with respect to the issuance of the certification required under section (a)(1), or the transmission of such certification as required under subsection (b), shall be subject to the following rules:

(A) VENUE.—The venue for such action shall be the Federal district court of the Federal district in which the State capital is located.

(B) 3-JUDGE PANEL.—Such action shall be heard by a district court of three judges, convened pursuant to section 2284 of title 28, United States Code, except that—

(i) the court shall be comprised of two judges of the circuit court of appeals in which the district court lies and one judge of the district court in which the action is brought; and

(ii) section 2284(b)(2) of such title shall not apply.

(C) EXPEDITED PROCEDURE.—It shall be the duty of the court to advance on the docket and to expedite to the greatest possible extent the disposition of the action, consistent with all other relevant deadlines established by this chapter and the laws of the United States.

(D) APPEALS.—Notwithstanding section 1253 of title 28, United States Code, the final judgment of the panel convened under subparagraph (B) may be reviewed directly by the Supreme Court, by writ of certiorari granted upon petition of any party to the