

STATEMENT OF EMERGENCY

31 KAR 4:200E.

This emergency administrative regulation is necessary following the General Assembly's passage of House Bill 574 in the 2021 regular legislative session, enacted in Kentucky Acts Chapter 197, effective June 29, 2021. The Kentucky Constitution requires free and fair elections; Chapter 197 mandates that the State Board of Elections promulgate certain new administrative regulations to help ensure that this requirement is met. Though there are no regularly scheduled elections in 2021, a special election could be required at any time after the effective date of June 29, 2021. This administrative regulation is being filed on an emergency basis pursuant to KRS 13A.190(1)(a)(3) in order to guarantee that should a special election become necessary after June 29, 2021, the new administrative regulations required by Chapter 197 are in place. This emergency administrative regulation is temporary in nature will be replaced by an ordinary administrative regulation as the regulations required under Chapter 197 will be statutorily required in perpetuity, absent any further action from the General Assembly. The companion ordinary administrative regulation is identical to this emergency administrative regulation.

ANDY BESHEAR, Governor

JARED DEARING, Director

STATE BOARD OF ELECTIONS
(New Emergency Administrative Regulation)

31 KAR 4:200E. Chain of custody for records during an election contest.

RELATES TO: KRS 120.205, 120.215

STATUTORY AUTHORITY: KRS 117.015(1)(a)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 117.015(1)(a) authorizes the State Board of Elections to promulgate administrative regulations necessary to properly carry out its duties. KRS 120.205 and KRS 120.215 require the State Board of Elections to promulgate administrative regulations to provide for a form on which documents any individuals transporting all voting equipment, ballots, boxes, precinct rosters, and other voting records related to an election contest involving an election of a Governor and Lieutenant Governor or a member of the General Assembly. This administrative regulation establishes that form.

Section 1. In the event that a board is established under KRS 120.205 or KRS 120.215 to try a contested election of a Governor and Lieutenant Governor or a member of the General Assembly, the possession of all voting equipment, ballots, boxes, precinct rosters, and any other voting records sent for by the board shall not transfer unless documented in writing on Form SBE 75, "Election Contest Chain-of-Custody."

Section 2. Incorporated by Reference.

(1) Election Contest Chain-of-Custody, Form SBE 75, 06/2021, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the State Board of Elections, 140 Walnut Street, Frankfort, Kentucky Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

JARED DEARING, Executive Director

APPROVED BY AGENCY: June 23, 2021

FILED WITH LRC: June 23, 2021 at 10:20 a.m.

PUBLIC HEARING AND COMMENT PERIOD: A public hearing on this temporary emergency administrative regulation shall be held on August 31, 2021, at 10:00 a.m. ET, at the Office of the State Board of Elections. Individuals interested in being heard at this hearing shall notify this agency in writing by five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing was received by that date, the hearing may be cancelled. This hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until August 31, 2021. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Taylor Brown, 140 Walnut Street, Frankfort, Kentucky 40601, phone (502) 782-9499, email TaylorA.Brown@ky.gov.