

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 Repealed.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