

# Determining Voter Intent

Minn. Stat. § 204C.22

HOUSE RESEARCH

The following standards are provided in statute for determining a voter's intent. The language provided here is a direct reproduction of the law.

## 204C.22. Determining Voter's Intent.

Subdivision 1. **Ballot valid if intent determinable.** A ballot shall not be rejected for a technical error that does not make it impossible to determine the voter's intent. In determining intent the principles contained in this section apply.

Subd. 2. **From face of ballot only.** Intent shall be ascertained only from the face of the ballot.

Subd. 3. **Votes for too many candidates.** If a voter places a mark (X) beside the names of more candidates for an office than are to be elected or nominated, the ballot is defective with respect only to that office. No vote shall be counted for any candidate for that office, but the rest of the ballot shall be counted if possible. At a primary, if a voter has not indicated a party preference and places a mark (X) beside the names of candidates of more than one party on the partisan ballot, the ballot is totally defective and no votes on it shall be counted. If a voter has indicated a party preference at a primary, only votes cast for candidates of that party shall be counted.

Subd. 3a. **Votes yes and no.** If a voter votes both yes and no on a question, no vote may be counted for that question, but the rest of the ballot must be counted if possible.

Subd. 4. **Name written in proper place.** If a voter has written the name of an individual in the proper place on a general or special election ballot a vote shall be counted for that individual whether or not the voter makes a mark (X) in the square opposite the blank.

Subd. 4a. **Write-in vote for candidate team.** A write-in vote cast for a candidate for governor without a write-in vote for a candidate for lieutenant governor must be counted as a vote for the candidate team including the lieutenant governor candidate selected by that candidate for governor.

Subd. 5. **Name written on primary ballot.** If a voter has written the name of an individual on a primary or special primary ballot, a vote shall not be counted for that office.

Subd. 6. **Mark out of place.** If a mark (X) is made out of its proper place, but so near a name or space as to indicate clearly the voter's intent, the vote shall be counted.

Subd. 7. **All written names or marks counted up to limit.** If a number of individuals are to be elected to the same office, the election judges shall count all names written in and all printed names with (X) marks in squares opposite them, not exceeding the whole number to be elected. When fewer names than the number to be elected are marked with

an (X) or written in, only the marked or written in names shall be counted. When more names than the number to be elected are marked or written in, the ballot is defective with respect to that office and no vote shall be counted for that office.

Subd. 8. **Misspelling; abbreviations.** Misspelling or abbreviations of the names of write-in candidates shall be disregarded if the individual for whom the vote was intended can be clearly ascertained from the ballot.

Subd. 9. **Votes for only some offices or questions determined.** If the voter's choice for only some of the offices or questions can be determined from a ballot, the ballot shall be counted for those offices or questions only.

Subd. 10. **Different marks.** If a voter uniformly uses a mark other than (X) which clearly indicates an intent to mark a name or to mark yes or no on a question, and the voter does not use (X) anywhere else on the ballot, a vote shall be counted for each candidate or response to a question marked. If a voter uses two or more distinct marks, such as (X) and some other mark, a vote shall be counted for each candidate or response to a question marked, unless the ballot is marked by distinguishing characteristics that make the entire ballot defective as provided in subdivision 13.

Subd. 11. **Attempted erasures.** If the names of two candidates have been marked, and an attempt has been made to erase or obliterate one of the marks, a vote shall be counted for the remaining marked candidate. If an attempt has been made to obliterate a write-in name a vote shall be counted for the remaining write-in name or marked candidate.

Subd. 12. **Soil; defacement.** A ballot shall not be rejected merely because it is slightly soiled or defaced.

Subd. 13. **Identifying ballot.** If a ballot is marked by distinguishing characteristics in a manner making it evident that the voter intended to identify the ballot, the entire ballot is defective.

Subd. 14. **No votes for certain offices.** If the number of candidates for an office is equal to the number of individuals to be elected to that office, and the voter has not marked any name, no vote shall be counted for any candidate for that office.

Subd. 15. **Blank ballot for one or more offices valid.** If no name or response to a question is marked and no name is written in, the ballot is blank with respect to that office or question. A ballot that is blank with respect to one or more offices or questions is not defective.