STATE OF OKLAHOMA

1st Session of the 50th Legislature (2005)

SENATE BILL 791 By: Laughlin

AS INTRODUCED

An Act relating to elections; amending 26 O.S. 2001, Sections 7-114, 14-113.2, as last amended by Section 11, Chapter 485, O.S.L. 2003, 14-115.1, 14-115.4, as last amended by Section 8, Chapter 307, O.S.L. 2004 (26 O.S. Supp. 2004, Sections 14-113.2 and 14-115.4), which relate to general administration of elections, conduct of elections, and absentee voting; requiring the voter to provide proof of identity; making language gender neutral; requiring proof of identity with absentee ballots; providing an effective date; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 26 O.S. 2001, Section 7-114, is amended to read as follows:

Section 7-114. Each person ~~presenting himself~~ appearing to vote shall announce ~~his~~ that person's name to the judge of the precinct and shall provide proof of identity, whereupon the judge shall determine whether ~~said~~ the person's name is in the precinct registry. A valid voter identification card, driver license, passport, or state identification card may be used as proof of identity.

SECTION 2. AMENDATORY 26 O.S. 2001, Section 14-113.2, as last amended by Section 11, Chapter 485, O.S.L. 2003 (26 O.S. Supp. 2004, Section 14-113.2), is amended to read as follows:

Section 14-113.2 A. The voter shall be responsible for marking the ballots or directing a person chosen by the voter to mark the ballots in accordance with the provisions of Section 7-123.3 of this title and as prescribed by the Secretary of the State Election Board; provide proof of identity; seal the ballots in the plain

opaque envelope; fill out completely and sign the affidavit or direct a person chosen by the voter to sign the affidavit, such signature to be witnessed by two persons, who did not sign the affidavit, whose signature and address shall appear on the affidavit; seal the plain opaque envelope inside the envelope bearing the affidavit and return both envelopes, sealed inside the return envelope, by United States mail or by a private mail service, provided such service has delivery documentation, to the county election board. A photocopy of the valid voter identification card, driver license, passport, or state identification card may be used as proof of identity.

B. No person, except members of absentee voting boards, shall witness the signature of more than five affidavits of persons who swear they are physically incapacitated and unable to vote in person at their precinct on election day. No person who is a candidate for an office on the ballot or who is related within the third degree of consanguinity or affinity to a candidate on the ballot may witness any absentee ballot affidavit.

SECTION 3. AMENDATORY 26 O.S. 2001, Section 14-115.1, is amended to read as follows:

Section 14-115.1 A registered voter who becomes incapacitated after 5:00 p.m. on Tuesday preceding an election, is unable to vote in person at the appropriate precinct on the day of the election may make a written request for an absentee ballot. The request shall be signed by the voter, or signed by a witness at the voter's direction if the voter is unable to sign his or her name, and shall be transmitted to the secretary of the county election board. The person transmitting said request on behalf of the voter may be anyone of the voter's choosing at least sixteen (16) years of age; provided, said person is not employed by nor related within the third degree of consanguinity or affinity to any person whose name appears on the ballot. The person becomes the voter's agent for

purposes of voting by absentee ballot. The voter's request must be accompanied by a sworn statement by a duly licensed physician. Expected or likely confinement for childbirth on election day is sufficient cause to entitle a voter to vote absentee pursuant to this section. The statement must attest to the fact that the voter is in fact unable to vote in person at the appropriate precinct on the day of the election because of a physical incapacity and that ~~said~~ the physical incapacity originated after 5:00 p.m. on Tuesday preceding an election. Upon receipt of the voter's request and accompanying sworn statement, the secretary of the county election board shall issue to the voter's agent the appropriate ballots and envelopes required for voting by incapacitated voters. The ballots and proof of identification must be returned by the agent to the secretary of the county election board no later than 7:00 p.m. on the day of the election. No person may be the agent for more than one voter at any election. Upon return of the absentee ballots, the secretary of the county election board shall cause ~~said~~ such ballots to be processed in the same manner as is prescribed for other absentee ballots. A photocopy of the valid voter identification card, driver license, passport, or state identification card may be used as proof of identity.

SECTION 4. AMENDATORY 26 O.S. 2001, Section 14-115.4, as last amended by Section 8, Chapter 307, O.S.L. 2004 (26 O.S. Supp. 2004, Section 14-115.4), is amended to read as follows:

Section 14-115.4 A. A registered voter may apply for an in-person absentee ballot at a location designated by the secretary of the county election board from 8 a.m. to 6 p.m. on Friday and Monday immediately preceding any election and from 8 a.m. to 1 p.m. on Saturday immediately preceding a state or federal election. As part of the application for an in-person absentee ballot such registered voter shall swear or affirm that the voter has not voted a regular mail absentee ballot and that the voter will not vote at the regular

polling place in the election for which the in-person absentee ballot is requested. The voter also shall provide proof of identity. A photocopy of the valid voter identification card, driver license, passport, or state identification card may be used as proof of identity.

B. One or more absentee voting boards shall be on duty from 8 a.m. to 6 p.m. at the in-person absentee polling place on Friday and Monday immediately preceding any election and from 8 a.m. to 1 p.m. on Saturday immediately preceding a state or federal election. If the secretary of a county election board receives an application from a registered voter requesting to vote by in-person absentee ballot the secretary shall cause to be implemented the following procedures:

1. An absentee voting board shall provide to each registered voter who applies for an in-person absentee ballot appropriate ballots and materials as may be necessary to vote;

2. The voter must sign an in-person absentee voter record, and the signature of the voter on such record must be certified by both members of the absentee voting board, except that the secretary of the county election board and one other member of the absentee voting board may certify the signature of another member of the absentee voting board;

3. The voter must mark the ballots of the voter in the manner provided by law in the presence of the absentee voting board, but in such a manner as to make it impossible for any person other than the voter to ascertain how said ballots are marked. Insofar as is possible, the voting procedure shall be the same as if the voter were casting a vote in person at a precinct;

4. The voter shall then deposit the ballot in a voting device designated for in-person absentee voting by the secretary of the county election board;

5. When the in-person polling place is closed on each day of in-person absentee voting the in-person absentee voting board shall, without obtaining a printout of results, remove the vote data pack from the voting device and seal ballots counted that day in a transfer case which shall be secured by the sheriff of the county in the same manner as provided in Section 8-110 of this title. The vote data pack shall be sealed in a container prescribed by the Secretary of the State Election Board. The sheriff shall secure the sealed vote data pack container and return it to the in-person absentee voting board no later than 7:45 a.m. on the next day of in-person absentee voting or to the secretary of the county election board at the time of the county election board meeting to count absentee ballots on election day;

6. The vote data pack or packs used for in-person absentee voting shall be used by the county election board to count absentee ballots on election day as provided in Section 14-125 of this title; and

7. If there is a malfunction in such a way that the vote data pack used for in-person absentee voting will not function, the sheriff is authorized to return the transfer cases containing in-person absentee ballots to the county election board to be recounted as provided in Section 7-134.1 of this title.

SECTION 5. This act shall become effective July 1, 2005.

SECTION 6. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

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