

ENROLLED SENATE
BILL NO. 4

By: Ford, Sykes, Coffee, Lamb,
Brogdon, Crain, Newberry,
Myers, Halligan,
Stanislawski, Schulz,
Bingman, Barrington,
Russell, Justice, Marlatt,
Brown, Johnson (Mike),
Reynolds and Branan of the
Senate

and

Tibbs, Trebilcock,
Reynolds, Martin (Steve),
Nelson, Derby, Ortega,
Wright (Harold), and Moore
of the House

An Act relating to elections; amending 26 O.S. 2001, Sections 4-117, 7-114, Section 8, Chapter 545, O.S.L. 2004, 14-103, 14-115.1, 14-115.4, as last amended by Section 8, Chapter 307, O.S.L. 2004, 14-121, as last amended by Section 23, Chapter 545, O.S.L. 2004 and 16-120 (26 O.S. Supp. 2008, Sections 7-116.1, 14-115.4 and 14-121), which relate to voting procedures; modifying time period for and requirements for early voting; requiring persons appearing to vote to provide proof of identity; defining term; providing exception to certain requirements; providing procedure if person declines to or is unable to provide proof of identity; allowing certain persons to cast provisional ballots; modifying time for requesting absentee ballot; modifying time period in which return of certain persons from overseas entitles such persons to vote provisional ballots at subsequent election; modifying certain penalties;

repealing Section 7, Chapter 545, O.S.L. 2004 (26 O.S. Supp. 2008, Section 7-115.2), which relates to certain applications for voter registration; and providing an effective date.

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

SECTION 1. AMENDATORY 26 O.S. 2001, Section 4-117, is amended to read as follows:

Section 4-117. If a registered voter of a county has changed name or residence within the same county, and has not executed a transfer as hereinbefore provided, the voter shall be entitled to a change upon executing an application on a form to be prescribed by the Secretary of the State Election Board and presenting such form along with the voter identification card to the inspector of the precinct in which the voter is registered or to a member of an ~~in-person absentee~~ early voting board of the county in which the voter is registered on the day of the next ensuing election or of ~~in-person absentee~~ early voting. Upon doing so, such registered voter shall be permitted to vote on the ballots of such precinct, and only of such precinct, for the election being conducted on that day only. The inspector or ~~in-person absentee~~ early voting board member shall deliver such form to the secretary of the county election board, who shall change the registration in the manner prescribed by the Secretary of the State Election Board.

SECTION 2. AMENDATORY 26 O.S. 2001, Section 7-114, is amended to read as follows:

Section 7-114. A. 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. As used in this section, "proof of identity" shall mean a document that satisfies all of the following:

1. The document shows the name of the person to whom the document was issued, and the name substantially conforms to the name in the precinct registry;

2. The document shows a photograph of the person to whom the document was issued;

3. The document includes an expiration date, which is after the date of the election in which the person is appearing to vote. The provisions of this paragraph shall not apply to an identification card issued to a person sixty-five (65) years of age or older which is valid indefinitely, as provided in Section 6-105.3 of Title 47 of the Oklahoma Statutes; and

4. The document was issued by the United States, the State of Oklahoma or the government of a federally recognized Indian tribe or nation.

Provided, if the person presents a voter identification card issued by the appropriate county election board, such card may serve as proof of identity without meeting the requirements of paragraphs 2 and 3 of this subsection.

B. 1. If a person declines to or is unable to produce proof of identity, the person may sign a statement under oath, in a form approved by the Secretary of the State Election Board, swearing or affirming that the person is the person identified on the precinct registry, and shall be allowed to cast a provisional ballot as provided in Section 7-116.1 of this title.

2. False swearing or affirming under oath shall be punishable as a felony as provided in Section 16-103 of this title, and the penalty shall be distinctly set forth on the face of the statement.

SECTION 3. AMENDATORY Section 8, Chapter 545, O.S.L. 2004 (26 O.S. Supp. 2008, Section 7-116.1), is amended to read as follows:

Section 7-116.1 A. Provisional ballots shall be available for all elections conducted by the county election board. Provisional ballots shall include all offices, candidates and questions and shall be identical to the regular ballots for each precinct. The

Secretary of the State Election Board shall promulgate rules and shall prescribe materials necessary for the implementation of provisional ballots.

B. Persons who are not listed in the precinct registry, but who claim to be registered voters in the precinct and eligible to vote in the election, shall be entitled to vote a provisional ballot upon execution of an affidavit prescribed by the Secretary of the State Election Board. Registered voters required to show identification ~~before voting for the first time in a federal election,~~ as described in Section ~~7 of the act~~ 7-114, 14-115.4 or 14-121 of this title and who are unable to show one of the acceptable forms of identification described in ~~said section~~ such sections, shall be entitled to cast a provisional ballot. Persons identified in Section 14-121 of ~~Title 26 of the Oklahoma Statutes~~ this title shall be entitled to vote a provisional ballot upon execution of an affidavit prescribed by the Secretary of the State Election Board. Persons who are listed in the precinct registry for a partisan primary election, but who dispute the political affiliation indicated by ~~said~~ such precinct registry, shall be entitled to vote a provisional ballot for a party other than the one indicated. However, such provisional ballot shall be counted only if evidence is found by the secretary of the county election board of the voter's valid voter registration in the party for which the provisional ballot was cast.

C. Provisional ballots shall be segregated from the regular ballots cast in the precinct in the manner prescribed by the Secretary of the State Election Board and shall not be inserted in the precinct voting device. Information provided by a person who votes a provisional ballot shall be investigated by the secretary of the county election board after the election. A provisional ballot shall be counted only if it is cast in the precinct of the voter's residence and if evidence of the provisional voter's valid voter registration, or of the voter's identity, is found, except a provisional ballot cast by a voter identified in Section 14-121 of ~~Title 26 of the Oklahoma Statutes~~ this title shall be counted.

D. No information concerning provisional ballots, except the number of provisional ballots cast in the county, shall be made public by any election official prior to 1:00 p.m. on Friday following the election. The county sheriff shall secure sealed ballot transfer cases containing provisional ballots that have been

counted after 1:00 p.m. on Friday following the election until 5:00 p.m. on Tuesday next succeeding the election or, in the event a recount contest is filed, until such times as ~~said~~ the transfer cases are delivered to the district courtroom.

E. In the event that the secretary of any county election board is unable to complete the investigation and verification of provisional ballots by 1:00 p.m. on Friday following the election, the Secretary of the State Election Board shall be authorized to extend the period for the investigation and verification of provisional ballots. When such an extension is required by any county for a statewide election, the extension shall apply statewide. The Secretary shall promulgate rules establishing procedures for requesting and granting such extensions.

F. All materials used for procuring and casting a provisional ballot shall be retained by the secretary of the county election board for a period of twenty-four (24) months after the day of the election.

SECTION 4. AMENDATORY 26 O.S. 2001, Section 14-103, is amended to read as follows:

Section 14-103. Absentee ballots for an election other than a General Election specified in Section 1-101 of this title must be requested no later than 5:00 p.m. on Wednesday preceding an election. Absentee ballots for a General Election specified in Section 1-101 of this title must be requested no later than 5:00 p.m. on the second Monday preceding the election.

SECTION 5. 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 other than a General Election specified in Section 1-101 of this title, or who becomes incapacitated after 5:00 p.m. on the second Friday preceding a General Election specified in Section 1-101 of this title, and who 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~~ the request on behalf of the voter may be anyone of the voter's choosing at least sixteen (16) years of age; provided, ~~said~~ the 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~~ physical incapacity originated after 5:00 p.m. on Tuesday preceding an election the date and time specified herein. 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 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~~ the ballots to be processed in the same manner as is prescribed for other absentee ballots.

SECTION 6. 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. 2008, Section 14-115.4), is amended to read as follows:

Section 14-115.4 A. A For an election other than a General Election specified in Section 1-101 of this title, a registered voter may ~~apply for an in-person absentee ballot~~ vote at a location designated by the secretary of the county election board from ~~8:00~~ a.m. to ~~6:00~~ p.m. on the Friday and Monday immediately preceding any election and from ~~8:00~~ a.m. to ~~1:00~~ p.m. on the Saturday immediately preceding a state or federal election.

For a General Election specified in Section 1-101 of this title, a registered voter may vote at a location designated by the secretary of the county election board from 1:00 p.m. to 6:00 p.m. on the Wednesday immediately preceding the election, from 8:00 a.m.

to 6:00 p.m. on the Thursday, Friday and Monday immediately preceding the election, and from 8:00 a.m. to 1:00 p.m. on the Saturday immediately preceding the election.

As part of the ~~application for an in-person absentee ballot~~ early voting process, such registered voter shall swear or affirm in writing 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~~ voter is voting early.

B. 1. The voter also shall provide proof of identity as defined in Section 7-114 of this title. If the voter declines to or is unable to produce proof of identity, the voter may sign a statement under oath, in a form approved by the Secretary of the State Election Board, swearing or affirming that the person is the person identified on the precinct registry, and shall be allowed to cast a provisional ballot as provided in Section 7-116.1 of this title.

2. False swearing or affirming under oath shall be punishable as a felony as provided in Section 16-103 of this title, and the penalty shall be distinctly set forth on the face of the statement.

C. One or more absentee early voting boards as designated by the secretary of the county election board 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 during the time periods specified in subsection A of this section. 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~~ Early voting shall be conducted according to the following procedures:

1. An absentee The early voting board shall provide to each registered voter who applies for an in-person absentee ballot appropriate ballots and materials, as prescribed by the Secretary of the State Election Board, as may be necessary to vote to each registered voter who requests to vote early;

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

3. The voter must mark the ballots of the voter in the manner provided by law in the presence of the ~~absentee~~ early voting board, but in such a manner as to make it impossible for any person other than the voter to ascertain how ~~said~~ such 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~~ early voting by the secretary of the county election board;

5. When the ~~in-person~~ early voting polling place is closed on each day of ~~in-person absentee~~ early voting, the ~~in-person absentee~~ early 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~~ early voting board no later than ~~7:45 a.m.~~ fifteen (15) minutes prior to the first hour specified in subsection A of this section on the next day of ~~in-person absentee~~ early voting or to the secretary of the county election board at the time of the county election board meeting to count ~~absentee~~ early voting ballots on election day;

6. The vote data pack or packs used for ~~in-person absentee~~ early voting shall be used by the county election board to count ~~absentee~~ early voting 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~~ early voting will not function, the sheriff is authorized to return the transfer cases containing ~~in-~~

~~person absentee~~ early voting ballots to the county election board to be recounted as provided in Section 7-134.1 of this title.

SECTION 7. AMENDATORY 26 O.S. 2001, Section 14-121, as last amended by Section 23, Chapter 545, O.S.L. 2004 (26 O.S. Supp. 2008, Section 14-121), is amended to read as follows:

Section 14-121. Any person eligible to register, who has been honorably discharged or is on officially authorized leave from the Uniformed Services of the United States, or who has been terminated in such service or employment overseas, or who is the spouse or dependent of a person who has been honorably discharged, is on authorized leave from the Uniformed Services of the United States or who has been terminated in such service or employment overseas, and returned home ~~too late to register at the time when, and at the place where, registration is required, to vote at the next ensuing election~~ within ninety (90) days preceding an election, shall be entitled to vote a provisional ballot at such election in the precinct for which the person is a qualified elector without being registered. Such person shall be required to provide proof of identity as required in Section 7-114 of this title and shall be entitled to cast ~~the~~ a provisional ballot and to have the provisional ballot counted upon completion of an affidavit as required by Section ~~&~~ 7-116.1 of this ~~act~~ title.

SECTION 8. AMENDATORY 26 O.S. 2001, Section 16-120, is amended to read as follows:

Section 16-120. Any person who causes to be printed, or who has in his or her possession ballots or blank or fraudulent voter identification cards not authorized by law shall be deemed guilty of a ~~misdemeanor~~ felony.

SECTION 9. REPEALER Section 7, Chapter 545, O.S.L. 2004 (26 O.S. Supp. 2008, Section 7-115.2), is hereby repealed.

SECTION 10. This act shall become effective June 1, 2010.

Passed the Senate the 10th day of March, 2009.

Presiding Officer of the Senate

Passed the House of Representatives the 1st day of April, 2009.

Presiding Officer of the House
of Representatives