

STATE OF OKLAHOMA

1st Session of the 58th Legislature (2021)

COMMITTEE SUBSTITUTE
FOR

SENATE BILL 714

By: Jech

COMMITTEE SUBSTITUTE

An Act relating to elections; amending 26 O.S. 2011, Sections 14-103, as amended by Section 2, Chapter 151, O.S.L. 2020, 14-108, as amended by Section 2, Chapter 237, O.S.L. 2016, 14-113.2, 14-115, as amended by Section 9, Chapter 151, O.S.L. 2020, 14-115.1, as amended by Section 10, Chapter 151, O.S.L. 2020 and Section 6, Chapter 200, O.S.L. 2013 (26 O.S. Supp. 2020, Sections 14-103, 14-108, 14-113.2, 14-115, 14-115.1 and 14-115.6), which relate to absentee ballots; modifying deadline for requests for absentee ballots; modifying procedures for return of absentee ballots; defining term; modifying requirements for marking and returning of absentee ballots for certain persons; modifying requirements for marking and returning of absentee ballots for certain persons; modifying time for delivery of certain absentee ballots; establishing alternative procedures for delivery of absentee ballots under certain circumstances; requiring certain training program for acting absentee voting board; authorizing promulgation of certain rules by Secretary of State Election Board; modifying procedures for request and return of emergency incapacitated absentee ballots; requiring Secretary of State Election Board to prescribe certain forms; modifying requirements for emergency absentee ballots for certain deployments; establishing procedures for request for and return of accessible absentee ballot for blind or visually impaired voters; establishing procedures for return of spoiled absentee ballots and issuance of replacement ballots; authorizing the Secretary of the State Election Board to promulgate certain rules; updating statutory reference; providing for

1 codification; providing an effective date; and
2 declaring an emergency.

3
4 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

5 SECTION 1. AMENDATORY 26 O.S. 2011, Section 14-103, as
6 amended by Section 2, Chapter 151, O.S.L. 2020 (26 O.S. Supp. 2020,
7 Section 14-103), is amended to read as follows:

8 Section 14-103. ~~Absentee~~ Requests for absentee ballots must be
9 ~~requested~~ received by the appropriate election officials no later
10 than 5:00 p.m. on ~~Tuesday~~ the third Monday preceding an election.

11 SECTION 2. AMENDATORY 26 O.S. 2011, Section 14-108, as
12 amended by Section 2, Chapter 237, O.S.L. 2016 (26 O.S. Supp. 2020,
13 Section 14-108), is amended to read as follows:

14 Section 14-108. A. 1. The voter to whom the absentee ballot
15 was issued shall be required to mark the absentee ballot in ink or
16 other manner as prescribed by the Secretary of the State Election
17 Board; seal the ballots in the plain opaque envelope; fill out
18 completely and sign the affidavit, such signature to be notarized at
19 no charge by a notary public; and seal the plain opaque envelope
20 inside the envelope bearing the affidavit ~~and;~~

21 2. The voter to whom the absentee ballot was issued shall
22 return both envelopes, sealed inside the return envelope, ~~by hand~~
23 ~~delivery,~~ one of the following methods:

1 a. United States mail or ~~by~~ a private mail or delivery
2 service, provided such service has delivery

3 documentation, ~~to the county election board~~ or

4 b. in-person delivery as provided in subsection C of this
5 section; and

6 3. No person other than the voter to whom the absentee ballot
7 was issued may return or submit the absentee ballot to the county
8 election board; provided, however, the spouse of the voter may
9 return the voter's absentee ballot with the permission of the voter
10 by United States mail or private mail or delivery service as
11 described in subparagraph a of paragraph 2 of this subsection.

12 B. No person who is a candidate for an office on the ballot or
13 who is the chair or treasurer of the campaign of a candidate for
14 office or who is related within the third degree of consanguinity or
15 affinity to a candidate on the ballot may notarize or witness any
16 absentee ballot affidavit.

17 ~~B. The ballot shall not be notarized by any person whose name~~
18 ~~appears on the ballot as a candidate or by any campaign chairperson~~
19 ~~or campaign treasurer for a candidate whose name appears on the~~
20 ~~ballot.~~

21 C. 1. Any voter ~~who~~ may hand ~~delivers~~ deliver his or her
22 absentee ballot sealed in the plain opaque envelope with the
23 properly executed absentee ballot affidavit in person to the county
24 election board as provided in subsection A of this section and shall

1 provide proof of identity to the secretary of the county election
2 board ~~and shall hand deliver the ballot no later than the end of~~
3 ~~regular business hours on the day prior to the date of the election~~
4 or the secretary's designee at the time of delivery.

5 2. An absentee ballot may be delivered in person during the
6 regular business hours of the county election board on any day prior
7 to the date of the election but may not be delivered on the day of
8 the election.

9 3. For purposes of this ~~section~~, subsection:

10 a. "proof of identity" shall have the same meaning as
11 ~~used~~ means a photo identification document or voter
12 identification card described in subsection A of
13 Section 7-114 of this title, and

14 b. "regular business hours" means the time the office of
15 the county election board is open for business to the
16 general public on a given day.

17 SECTION 3. AMENDATORY 26 O.S. 2011, Section 14-113.2, is
18 amended to read as follows:

19 Section 14-113.2 A. ~~The~~ 1. A voter who receives an absentee
20 ballot pursuant to Section 14-110.1 of this title shall be
21 responsible for marking the ~~ballots~~ ballot or directing a person
22 chosen by the voter to mark the ~~ballots~~ ballot in accordance with
23 the provisions of Section 7-123.3 of this title and as prescribed by
24 the Secretary of the State Election Board.

1 2. The voter shall seal the ballots in the plain opaque
2 envelope~~+~~.

3 3. The voter shall fill out completely and sign the affidavit
4 or direct a person chosen by the voter to sign the affidavit, ~~such~~
5 whose name and address of residence shall be printed on the
6 affidavit.

7 4. The signature ~~to~~ of the voter shall be witnessed by two
8 persons, who did not sign the affidavit on behalf of the voter,
9 whose printed name, signature and address of residence shall appear
10 on the affidavit~~+~~.

11 5. The voter shall seal the plain opaque envelope inside the
12 envelope bearing the affidavit and return both envelopes, sealed
13 inside the return envelope, ~~by United States mail or by a private~~
14 ~~mail service, provided such service has delivery documentation, to~~
15 ~~the county election board~~ in the same manner described in Section
16 14-108 of this title.

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

1 SECTION 4. AMENDATORY 26 O.S. 2011, Section 14-115, as
2 amended by Section 9, Chapter 151, O.S.L. 2020 (26 O.S. Supp. 2020,
3 Section 14-115), is amended to read as follows:

4 Section 14-115. A. If the secretary of a county election board
5 receives a request from an incapacitated elector confined to a
6 nursing facility, as defined in Section 1-1902 of Title 63 of the
7 Oklahoma Statutes, or a veterans center established pursuant to
8 Title 72 of the Oklahoma Statutes within the county of the
9 jurisdiction of the secretary, the secretary shall cause to be
10 implemented the following procedures:

11 1. On ~~the Thursday, Friday, Saturday or Monday preceding~~ any
12 day following the deadline to request an absentee ballot as provided
13 in Section 14-103 of this title, but prior to the date of the
14 election, the absentee voting board shall deliver to each registered
15 voter who is confined to a nursing facility, as defined in Section
16 1-1902 of Title 63 of the Oklahoma Statutes, or a veterans center
17 established pursuant to Title 72 of the Oklahoma Statutes and who
18 requested ballots for an incapacitated voter the ballots and
19 materials as may be necessary to vote same. The date and time of
20 such delivery shall be determined by the secretary of the county
21 election board.

22 2. The voter must mark the ballots in the manner hereinbefore
23 provided in the presence of the absentee voting board, but in such a
24 manner as to make it impossible for any person other than the voter

1 to ascertain how the ballots are marked. Insofar as is possible,
2 the voting procedure shall be the same as if the voter were casting
3 a vote in person at a precinct.

4 3. The voter shall then seal the ballots in the plain opaque
5 envelope and shall seal the plain opaque envelope in the envelope
6 bearing an affidavit. The voter must complete the affidavit, and
7 the signature of the voter on same must be witnessed by both members
8 of the absentee voting board.

9 4. The envelope bearing an affidavit then must be sealed in the
10 return envelope, which shall be returned by the absentee voting
11 board to the secretary of the county election board on the same day
12 the affidavit was executed.

13 5. Ballots cast in such manner shall be counted in the same
14 manner as regular mail absentee ballots.

15 B. The voter may request the assistance of the absentee voting
16 board members to mark a ballot, complete the affidavit or seal the
17 envelopes as described in this section.

18 C. 1. An administrator or employee of a nursing facility or
19 veterans center who attempts to coerce or influence the vote of a
20 person residing in or confined to that facility shall be deemed to
21 be in violation of Section 16-109 of this title.

22 2. An administrator or employee of a nursing facility or
23 veterans center who prevents or attempts to prevent a person
24 residing in or confined to that facility from voting pursuant to

1 this section shall be deemed to be in violation of Section 16-113 of
2 this title.

3 D. In the event an absentee voting board is prohibited from
4 entering a nursing facility or veterans center due to federal or
5 state regulations related to a pandemic, epidemic or outbreak of a
6 communicable disease affecting the facility, and if applications for
7 an absentee ballot have been submitted pursuant to this section by
8 voters confined to the facility, the secretary of the county
9 election board shall authorize the absentee voting board to deliver
10 the absentee ballots to designated officials at the nursing facility
11 or veterans center who shall serve as an acting absentee voting
12 board. The members of the acting absentee voting board shall sign
13 an oath acknowledging their duties and responsibilities and shall be
14 authorized to carry out the duties otherwise assigned by law to the
15 absentee voting board. The acting absentee voting board shall
16 complete a training program prescribed by the Secretary of the State
17 Election Board. The Secretary of the State Election Board may
18 promulgate such rules and procedures as necessary to implement the
19 requirements of this subsection, including election emergency
20 procedures prescribed pursuant to the provisions Section 22-101 of
21 this title.

22 SECTION 5. AMENDATORY 26 O.S. 2011, Section 14-115.1, as
23 amended by Section 10, Chapter 151, O.S.L. 2020 (26 O.S. Supp. 2020,
24 Section 14-115.1), is amended to read as follows:

1 Section 14-115.1. A. A registered voter who becomes physically
2 incapacitated after ~~5:00 p.m. on Tuesday preceding an election,~~ the
3 deadline to request an absentee ballot as provided in Section 14-103
4 of this title and is unable to vote in person at the appropriate
5 precinct on the day of the election may make a written request for
6 an emergency incapacitated absentee ballot. ~~The~~

7 B. 1. A request for an emergency incapacitated absentee ballot
8 shall be signed by the voter or signed by a witness at the voter's
9 direction if the voter is unable to sign his or her name, and shall
10 be transmitted to the secretary of the county election board.

11 2. The person transmitting the request on behalf of the voter
12 may be anyone of the voter's choosing who is at least sixteen (16)
13 years of age; provided, the person is not employed by nor related
14 within the third degree of consanguinity or affinity to any person
15 whose name appears on the ballot. The person becomes the voter's
16 agent for purposes of voting by absentee ballot. The agent shall
17 provide his or her legal name and address of residence to the
18 secretary of the county election board.

19 3. The voter's request must be accompanied by a sworn statement
20 by a duly licensed physician. ~~Expected or likely confinement for~~
21 ~~childbirth on election day is sufficient cause to entitle a voter to~~
22 ~~vote absentee pursuant to this section.~~ The physician's statement
23 must attest to the fact that the voter is in fact unable to vote in
24 person at the appropriate precinct on the day of the election

1 because of a physical incapacity and that the physical incapacity
2 originated after ~~5:00 p.m. on Tuesday preceding an election~~ the
3 deadline to request an absentee ballot as provided in Section 14-103
4 of this title. The Secretary of the State Election Board shall
5 prescribe forms to be used for the physician's statement.

6 4. Upon receipt of the voter's request and accompanying sworn
7 statement, the secretary of the county election board shall issue to
8 the voter's agent the appropriate ballots and envelopes required for
9 voting by incapacitated voters. The ballots must be returned by the
10 agent to the secretary of the county election board no later than
11 7:00 p.m. on the day of the election. No person may be the agent
12 for more than one voter at any election. Upon return of the
13 absentee ballots, the secretary of the county election board shall
14 cause the ballots to be processed in the same manner as is
15 prescribed for other absentee ballots.

16 C. The expected or likely confinement for childbirth on
17 election day is sufficient cause to qualify as "physically
18 incapacitated" for the purposes of this section.

19 SECTION 6. AMENDATORY Section 6, Chapter 200, O.S.L.
20 2013 (26 O.S. Supp. 2020, Section 14-115.6), is amended to read as
21 follows:

22 Section 14-115.6. A. A registered voter who, ~~within ten (10)~~
23 ~~days preceding an election~~ after the deadline to request an absentee
24 ballot as provided in Section 14-103 of this title, is deployed as a

1 first responder or emergency worker to assist with the rescue,
2 recovery, or relief efforts of a declared natural disaster or state
3 of emergency, may make a written request for an emergency absentee
4 ballot in a form prescribed by the Secretary of the State Election
5 Board. The request shall be signed by the voter and shall be
6 provided by the voter to the secretary of the county election board
7 in the county where the voter is registered. The request shall be
8 accompanied by proof of the voter's deployment.

9 B. Upon receipt of the voter's request, the secretary of the
10 county election board shall issue to the voter the appropriate
11 ballots and envelopes required for voting an emergency absentee
12 ballot. Provided, the voter shall present proof of identity as
13 required by Section 7-114 of this title.

14 C. The ballots must be returned ~~in person~~ by the voter, ~~by~~
15 ~~United States mail, or by other means of delivery approved by the~~
16 ~~Secretary of the State Election Board, to~~ in the same manner as
17 described in Section 14-108 of this title, and must be received by
18 the secretary of the county election board no later than 7:00 p.m.
19 on the day of the election.

20 D. Upon return of the absentee ballots, the secretary of the
21 county election board shall cause the ballots to be processed in the
22 same manner as is prescribed for other absentee ballots.

23 E. The Secretary of the State Election Board shall promulgate
24 rules to implement the procedures described in this section.

SECTION 7. NEW LAW

A new section of law to be codified in the Oklahoma Statutes as Section 115.12 of Title 14, unless there is created a duplication in numbering, reads as follows:

A. 1. A registered voter who swears or affirms that the voter is physically unable to vote in person at the voter's precinct on the day of the election because the voter is blind or visually impaired may request that an accessible absentee ballot be delivered to the voter electronically in a manner prescribed by the Secretary of the State Election Board.

2. An accessible absentee voting packet for blind or visually impaired voters, which shall include all necessary materials except the absentee ballot, shall be prescribed by the Secretary of the State Election Board. The accessible absentee voting packet may be delivered to the voter by United States mail or electronically.

B. 1. The electronic delivery system shall provide the voter the opportunity to use the voter's personal computer to mark an accessible absentee ballot privately and independently and then print the marked ballot.

2. The absentee ballot shall be accompanied by an absentee ballot affidavit, which shall be executed in the same manner as provided for affidavits in Section 14-113.2 of Title 26 of the Oklahoma Statutes.

3. The voter shall return the absentee ballot and executed affidavit to the secretary of the county election board in the same

1 manner provided in Section 14-113.2 of Title 26 of the Oklahoma
2 Statutes. Nothing in this section shall allow for an absentee
3 ballot to be returned to the county election board electronically,
4 and no absentee ballot returned electronically shall be eligible to
5 be counted by a county election board.

6 C. A registered voter who is blind or visually impaired may
7 choose to request the assistance of another person to complete any
8 requirements of this section, as provided in Section 7-123.3 of
9 Title 26 of the Oklahoma Statutes.

10 D. Upon return of an absentee ballot described in this section,
11 the secretary of the county election board shall cause it to be
12 processed in the same manner as prescribed by law for other absentee
13 ballots.

14 E. Any person who is not blind or visually impaired according
15 to state law, but who applies for an absentee ballot described in
16 this section, shall be deemed guilty of a felony as provided in
17 Section 16-102.2 of Title 26 of the Oklahoma Statutes.

18 F. The Secretary of the State Election Board may promulgate
19 rules or procedures to implement the requirements of this section.

20 SECTION 8. NEW LAW A new section of law to be codified
21 in the Oklahoma Statutes as Section 14-121.2 of Title 26, unless
22 there is created a duplication in numbering, reads as follows:
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24

1 A. If a voter spoils the absentee ballot, the voter may be
2 issued a replacement absentee ballot by the secretary of the county
3 election board.

4 B. 1. To receive a replacement absentee ballot the voter shall
5 swear or affirm that the voter spoiled the absentee ballot and
6 return the spoiled absentee ballot to the secretary of the county
7 election board by United States mail or in person.

8 2. Upon receipt of a spoiled absentee ballot, the secretary of
9 the county election board shall cause the ballot to be destroyed.

10 3. A spoiled absentee ballot returned by United States mail
11 shall include an affidavit prescribed by the Secretary of the State
12 Election Board in which the voter swears or affirms that he or she
13 spoiled the original ballot, that the spoiled ballot is being
14 returned to the secretary of the county election board and that the
15 voter requests a replacement absentee ballot. The affidavit shall
16 be personally signed by the voter and acknowledged before a notary
17 public or witnesses in the same manner required for affidavits for
18 the return of the type of absentee ballot originally requested.

19 4. A spoiled absentee ballot returned in person shall be
20 returned by the voter who requested the absentee ballot. The voter
21 shall provide proof of identity as described in subsection A of
22 Section 7-114 of Title 26 of the Oklahoma Statutes to the secretary
23 of the county election board or a designee. The voter shall execute
24 an affidavit prescribed by the Secretary of the State Election Board

1 in which the voter swears or affirms that he or she spoiled the
2 original ballot, that the spoiled absentee ballot has been returned
3 to the secretary of the county election board and that the voter
4 requests a replacement absentee ballot.

5 5. A replacement absentee ballot shall be transmitted by United
6 States mail for a spoiled absentee ballot returned by the voter by
7 United States mail. A replacement absentee ballot shall be provided
8 in person for a spoiled absentee ballot returned by the voter in
9 person.

10 C. The Secretary of the State Election Board may promulgate
11 rules or procedures to implement the requirements of this section.

12 SECTION 9. Sections 1, 2, 4, 5, 6 and 7 of this act shall
13 become effective July 1, 2021.

14 SECTION 10. It being immediately necessary for the preservation
15 of the public peace, health or safety, an emergency is hereby
16 declared to exist, by reason whereof this act shall take effect and
17 be in full force from and after its passage and approval.

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