

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 58th Legislature (2021)

4 COMMITTEE SUBSTITUTE
5 FOR ENGROSSED
6 SENATE BILL NO. 714

By: Jech of the Senate

and

Newton and **Pae** of the House

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10 COMMITTEE SUBSTITUTE

11 An Act relating to elections; amending 26 O.S. 2011,
12 Sections 14-103, as amended by Section 2, Chapter
13 151, O.S.L. 2020, 14-108, as amended by Section 2,
14 Chapter 237, O.S.L. 2016, 14-113.2, 14-115, as
15 amended by Section 9, Chapter 151, O.S.L. 2020, 14-
16 115.1, as amended by Section 10, Chapter 151, O.S.L.
17 2020 and Section 6, Chapter 200, O.S.L. 2013 (26 O.S.
18 Supp. 2020, Sections 14-103, 14-108, 14-115, 14-115.1
19 and 14-115.6), which relate to absentee ballots;
20 modifying deadline for requests for absentee ballots;
21 modifying procedures for return of absentee ballots;
22 defining term; modifying requirements for marking and
23 returning of absentee ballots for certain persons;
24 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 and procedures by the
 Secretary of the State Election Board; modifying
 procedures for request and return of emergency
 incapacitated absentee ballots; requiring the
 Secretary of the 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 ballots for blind or visually

1 impaired voters; establishing procedures for return
2 of spoiled absentee ballots and issuance of
3 replacement ballots; authorizing the Secretary of the
4 State Election Board to promulgate certain rules and
5 procedures; providing for codification; providing an
6 effective date; and declaring an emergency.

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

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

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

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

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

23 2. The voter to whom the absentee ballot was issued shall
24 return both envelopes, sealed inside the return envelope, by ~~hand~~

1 ~~delivery,~~ one of the following methods, to the county election
2 board:

3 a. United States mail or ~~by a private mail~~ or delivery
4 service, provided such service has delivery
5 documentation, ~~to the county election board~~ or

6 b. in-person delivery as provided in subsection C of this
7 section.

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

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

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

23 C. 1. Any voter ~~who may hand delivers~~ deliver his or her
24 absentee ballot sealed in the plain opaque envelope with the

1 properly executed absentee ballot affidavit in person to the county
2 election board as provided in subsection A of this section and shall
3 provide proof of identity to the secretary of the county election
4 board and shall hand deliver the ballot no later than the end of
5 regular business hours on the day prior to the date of the election
6 or the secretary's designee at the time of delivery.

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

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

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

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

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

21 Section 14-113.2 A. The 1. A voter who receives an absentee
22 ballot pursuant to Section 14-110.1 of this title shall be
23 responsible for marking the ~~ballots~~ ballot or directing a person
24 chosen by the voter to mark the ~~ballots~~ ballot in accordance with

1 the provisions of Section 7-123.3 of this title and as prescribed by
2 the Secretary of the State Election Board~~7~~.

3 2. The voter shall seal the ballots in the plain opaque
4 envelope~~7~~.

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

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

13 5. The voter shall seal the plain opaque envelope inside the
14 envelope bearing the affidavit and return both envelopes, sealed
15 inside the return envelope, ~~by United States mail or by a private~~
16 ~~mail service, provided such service has delivery documentation, to~~
17 ~~the county election board~~ in the same manner described in Section
18 14-108 of this title.

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

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

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

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

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

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

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

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

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

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

1 2. An administrator or employee of a nursing facility or
2 veterans center who prevents or attempts to prevent a person
3 residing in or confined to that facility from voting pursuant to
4 this section shall be deemed to be in violation of Section 16-113 of
5 this title.

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

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

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

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

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

22 3. The voter's request must be accompanied by a sworn statement
23 by a duly licensed physician. ~~Expected or likely confinement for~~
24 ~~childbirth on election day is sufficient cause to entitle a voter to~~

1 ~~vote absentee pursuant to this section.~~ The physician's statement
2 must attest to the fact that the voter is in fact unable to vote in
3 person at the appropriate precinct on the day of the election
4 because of a physical incapacity and that the physical incapacity
5 originated after ~~5:00 p.m. on Tuesday preceding an election~~ the
6 deadline to request an absentee ballot as provided in Section 14-103
7 of this title. The Secretary of the State Election Board shall
8 prescribe forms to be used for the physician's statement.

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

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

22 SECTION 6. AMENDATORY Section 6, Chapter 200, O.S.L.
23 2013 (26 O.S. Supp. 2020, Section 14-115.6), is amended to read as
24 follows:

1 Section 14-115.6 A. A registered voter who, ~~within ten (10)~~
2 ~~days preceding an election~~ after the deadline to request an absentee
3 ballot as provided in Section 14-103 of this title, is deployed as a
4 first responder or emergency worker to assist with the rescue,
5 recovery, or relief efforts of a declared natural disaster or state
6 of emergency, may make a written request for an emergency absentee
7 ballot in a form prescribed by the Secretary of the State Election
8 Board. The request shall be signed by the voter and shall be
9 provided by the voter to the secretary of the county election board
10 in the county where the voter is registered. The request shall be
11 accompanied by proof of the voter's deployment.

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

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

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1 D. Upon return of the emergency absentee ballots, the secretary
2 of the county election board shall cause the ballots to be processed
3 in the same manner as is prescribed for other absentee ballots.

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

6 SECTION 7. NEW LAW A new section of law to be codified
7 in the Oklahoma Statutes as Section 14-115.12 of Title 26, unless
8 there is created a duplication in numbering, reads as follows:

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

16 b. The Secretary of the State Election Board shall
17 establish a system to accommodate the electronic
18 delivery of accessible absentee ballots to voters who
19 are blind or visually impaired as described in this
20 section, subject to available funding and subject to a
21 determination that such a system is sufficiently
22 secure. The Secretary of the State Election Board
23 shall determine the date the system is activated.
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1 2. An accessible absentee voting packet for blind or visually
2 impaired voters, which shall include all necessary materials except
3 the accessible absentee ballot, shall be prescribed by the Secretary
4 of the State Election Board. The accessible absentee voting packet
5 may be delivered to the voter by United States mail or
6 electronically.

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

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

15 3. The voter shall return the absentee ballot and executed
16 affidavit to the secretary of the county election board in the same
17 manner provided in Section 14-113.2 of Title 26 of the Oklahoma
18 Statutes. Nothing in this section shall allow for an accessible
19 absentee ballot to be returned to the county election board
20 electronically, and no accessible absentee ballot returned
21 electronically shall be eligible to be counted by a county election
22 board.

23 C. A registered voter who is blind or visually impaired may
24 choose to request the assistance of another person to complete any

1 requirements of this section, as provided in Section 7-123.3 of
2 Title 26 of the Oklahoma Statutes.

3 D. Upon return of an accessible absentee ballot described in
4 this section, the secretary of the county election board shall cause
5 it to be processed in the same manner as prescribed by law for other
6 absentee ballots.

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

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

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

16 A. If a voter spoils the absentee ballot, the voter may be
17 issued a replacement absentee ballot by the secretary of the county
18 election board.

19 B. 1. To receive a replacement absentee ballot, the voter
20 shall swear or affirm that the voter spoiled the absentee ballot and
21 return the spoiled absentee ballot to the secretary of the county
22 election board by United States mail or in person.

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

1 3. A spoiled absentee ballot returned by United States mail
2 shall include an affidavit prescribed by the Secretary of the State
3 Election Board in which the voter swears or affirms that he or she
4 spoiled the original absentee ballot, that the spoiled ballot is
5 being returned to the secretary of the county election board and
6 that the voter requests a replacement absentee ballot. The
7 affidavit shall be personally signed by the voter and acknowledged
8 before a notary public or witnesses in the same manner required for
9 affidavits for the return of the type of absentee ballot originally
10 requested.

11 4. A spoiled absentee ballot returned in person shall be
12 returned by the voter who requested the absentee ballot. The voter
13 shall provide proof of identity as described in subsection A of
14 Section 7-114 of Title 26 of the Oklahoma Statutes to the secretary
15 of the county election board or a designee. The voter shall execute
16 an affidavit prescribed by the Secretary of the State Election Board
17 in which the voter swears or affirms that he or she spoiled the
18 original ballot, that the spoiled absentee ballot has been returned
19 to the secretary of the county election board and that the voter
20 requests a replacement absentee ballot.

21 5. A replacement absentee ballot shall be transmitted by United
22 States mail for a spoiled absentee ballot returned by the voter by
23 United States mail. A replacement absentee ballot shall be provided
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1 in person for a spoiled absentee ballot returned by the voter in
2 person.

3 C. The Secretary of the State Election Board may promulgate
4 rules and procedures to implement the requirements of this section.

5 SECTION 9. Sections 1, 2, 3, 5, 6, 7 and 8 of this act shall
6 become effective July 1, 2021.

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

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12 COMMITTEE REPORT BY: COMMITTEE ON ELECTIONS AND ETHICS, dated
13 04/06/2021 - DO PASS, As Amended and Coauthored.
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