

1 STATE OF OKLAHOMA

2 2nd Session of the 58th Legislature (2022)

3 COMMITTEE SUBSTITUTE
4 FOR ENGROSSED
5 HOUSE BILL NO. 3364

By: Roberts (Eric) and
Crosswhite Hader of the
House

6 and

7 Haste of the Senate

8
9 COMMITTEE SUBSTITUTE

10 [elections - absentee voting - effective date -
11 emergency]

12
13 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

14 SECTION 1. AMENDATORY 26 O.S. 2021, Section 14-105, is
15 amended to read as follows:

16 Section 14-105. A. Any registered voter may apply for an
17 absentee ballot in person at the county election board, by United
18 States mail, ~~by telegraph,~~ by facsimile device as defined in Section
19 1862 of Title 21 of the Oklahoma Statutes or by a means of
20 electronic communication designated by the Secretary of the State
21 Election Board. The Secretary of the State Election Board shall
22 prescribe a form to be used for the application, although any
23 application setting forth substantially the same facts shall be
24 valid.

1 B. 1. A registered voter applying for an absentee ballot by
2 means of electronic communication shall provide his or her name,
3 birth date, an identification number, and other information as may
4 be prescribed by the Secretary of the State Election Board. The
5 name, birth date, and identification number provided on the
6 application must match the name, birth date, and identification
7 number in the voter registration record in order to apply for an
8 absentee ballot pursuant to this subsection.

9 2. If the voter does not recall which identification number he
10 or she included in the voter registration record, the voter may
11 provide multiple identification numbers, at least one of which must
12 match the identification number in the voter registration record if
13 such record included an identification number. If the name, birth
14 date, or any identification number provided does not match the voter
15 registration record, the voter shall be informed of the failure to
16 match the voter registration record and shall be provided
17 information and instruction to contact the county election board.

18 3. If the voter registration record on file with the county
19 election board does not contain a birth date or identification
20 number, the voter shall not be eligible to apply for an absentee
21 ballot by means of electronic communication but may apply for an
22 absentee ballot pursuant to subsection C of this section. To become
23 eligible to apply for an absentee ballot by means of electronic
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1 communication, the voter shall submit a new voter registration
2 application that includes a birth date and an identification number.

3 4. Identifying information such as birth date and
4 identification number shall not be modified online in an existing
5 voter registration except as provided in Section 4-109.4 of this
6 title.

7 5. No later than January 1, 2023, a registered voter applying
8 for an absentee ballot pursuant to this subsection who meets the
9 criteria provided in Section 7-115.1 of this title shall be required
10 to confirm his or her address prior to submitting an application for
11 absentee ballot by means of electronic communication.

12 C. 1. A registered voter applying for an absentee ballot in
13 person, by United States mail, or by facsimile device shall provide
14 his or her name, birth date, an identification number, and other
15 information as may be prescribed by the Secretary of the State
16 Election Board. The name, birth date, and identification number
17 provided on the application must match the name, birth date, and
18 identification number in the voter registration record.

19 2. If the voter does not recall which identification number he
20 or she included in the voter registration record, the voter may
21 provide multiple identification numbers, at least one of which must
22 match the identification number in the voter registration record if
23 such record included an identification number. If the voter
24 registration record does not have an identification number, the

1 absentee ballot application shall be accepted without a match of an
2 identification number.

3 D. For purposes of this section, "identification number" means
4 a number submitted on the registration application pursuant to
5 paragraph 3 of subsection A of Section 4-112 of this title.

6 SECTION 2. AMENDATORY 26 O.S. 2021, Section 14-110.1, is
7 amended to read as follows:

8 Section 14-110.1. A registered voter who swears or affirms that
9 the voter is physically unable to vote in person at the precinct on
10 the day of the election because the voter is:

11 1. Physically incapacitated; or

12 2. Charged with the care of another person who is physically
13 incapacitated and who cannot be left unattended;

14 may apply for an absentee ballot. Such applications may be made by

15 United States mail, by facsimile device as defined by Section 1862

16 of Title 21 of the Oklahoma Statutes or by a means of electronic

17 communication designated by the Secretary of the State Election

18 Board or may be made in person at the office of the county election

19 board by an agent of the voter. Such an agent shall be a person of

20 the voter's choosing who is at least sixteen (16) years of age and

21 who is not employed by or related within the third degree of

22 consanguinity or affinity to any person whose name appears on the

23 ballot. No person may be the agent for more than one voter at any

24 election. The Secretary of the State Election Board shall prescribe

1 a form to be used for the application, although any application
2 setting forth substantially the same facts shall be valid.
3 Requirements established pursuant to Section 14-105 of this title
4 shall apply to applications for absentee ballots under this section.

5 SECTION 3. AMENDATORY 26 O.S. 2021, Section 14-114, is
6 amended to read as follows:

7 Section 14-114. If the secretary of a county election board
8 receives such a request from an incapacitated elector confined to a
9 nursing facility, as defined in Section 1-1902 of Title 63 of the
10 Oklahoma Statutes, outside the county of jurisdiction of the
11 secretary, the secretary shall provide ballots and materials by mail
12 in the manner hereinbefore prescribed. Requirements established
13 pursuant to Section 14-105 of this title shall apply to applications
14 for absentee ballots under this section.

15 SECTION 4. AMENDATORY 26 O.S. 2021, Section 14-115, is
16 amended to read as follows:

17 Section 14-115. A. If the secretary of a county election board
18 receives a request from an incapacitated elector confined to a
19 nursing facility, as defined in Section 1-1902 of Title 63 of the
20 Oklahoma Statutes, or a veterans center established pursuant to
21 Title 72 of the Oklahoma Statutes within the county of the
22 jurisdiction of the secretary, and such request satisfies the
23 requirements established pursuant to Section 14-105 of this title,
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1 the secretary shall cause to be implemented the following
2 procedures:

3 1. On the Thursday, Friday, Saturday or Monday preceding the
4 election, the absentee voting board shall deliver to each registered
5 voter who is confined to a nursing facility, as defined in Section
6 1-1902 of Title 63 of the Oklahoma Statutes, or a veterans center
7 established pursuant to Title 72 of the Oklahoma Statutes and who
8 requested ballots for an incapacitated voter the ballots and
9 materials as may be necessary to vote same.

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

16 3. The voter shall then seal the ballots in the plain opaque
17 envelope and shall seal the plain opaque envelope in the envelope
18 bearing an affidavit. The voter must complete the affidavit, and
19 the signature of the voter on same must be witnessed by both members
20 of the absentee voting board.

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

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

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

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

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

15 SECTION 5. AMENDATORY 26 O.S. 2021, Section 14-115.1, is
16 amended to read as follows:

17 Section 14-115.1. A registered voter who becomes incapacitated
18 after 5:00 p.m. on Tuesday preceding an election, is unable to vote
19 in person at the appropriate precinct on the day of the election may
20 make a written request for an absentee ballot. Requirements
21 established pursuant to Section 14-105 of this title shall apply to
22 a request for absentee ballots under this section. The request
23 shall be signed by the voter or signed by a witness at the voter's
24 direction if the voter is unable to sign his or her name, and shall

1 be transmitted to the secretary of the county election board. The
2 person transmitting the request on behalf of the voter may be anyone
3 of the voter's choosing who is at least sixteen (16) years of age;
4 provided, the person is not employed by nor related within the third
5 degree of consanguinity or affinity to any person whose name appears
6 on the ballot. The person becomes the voter's agent for purposes of
7 voting by absentee ballot. The voter's request must be accompanied
8 by a sworn statement by a duly licensed physician. Expected or
9 likely confinement for childbirth on election day is sufficient
10 cause to entitle a voter to vote absentee pursuant to this section.
11 The statement must attest to the fact that the voter is in fact
12 unable to vote in person at the appropriate precinct on the day of
13 the election because of a physical incapacity and that the physical
14 incapacity originated after 5:00 p.m. on Tuesday preceding an
15 election. Upon receipt of the voter's request and accompanying
16 sworn statement, the secretary of the county election board shall
17 issue to the voter's agent the appropriate ballots and envelopes
18 required for voting by incapacitated voters. The ballots must be
19 returned by the agent to the secretary of the county election board
20 no later than 7:00 p.m. on the day of the election. No person may
21 be the agent for more than one voter at any election. Upon return
22 of the absentee ballots, the secretary of the county election board
23 shall cause the ballots to be processed in the same manner as is
24 prescribed for other absentee ballots.

1 SECTION 6. AMENDATORY 26 O.S. 2021, Section 14-115.6, is
2 amended to read as follows:

3 Section 14-115.6. A. A registered voter who, within ten (10)
4 days preceding an election, is deployed as a first responder or
5 emergency worker to assist with the rescue, recovery, or relief
6 efforts of a declared natural disaster or state of emergency, may
7 make a written request for an emergency absentee ballot in a form
8 prescribed by the Secretary of the State Election Board. The
9 request shall be signed by the voter and shall be provided by the
10 voter to the secretary of the county election board in the county
11 where the voter is registered. Requirements established pursuant to
12 Section 14-105 of this title shall apply to a request for an
13 absentee ballot under this section.

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

19 C. The ballots must be returned in person by the voter, by
20 United States mail, or by other means of delivery approved by the
21 Secretary of the State Election Board, to the secretary of the
22 county election board no later than 7:00 p.m. on the day of the
23 election.

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1 D. Upon return of the absentee ballots, the secretary of the
2 county election board shall cause the ballots to be processed in the
3 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. AMENDATORY 26 O.S. 2021, Section 14-142, is
7 amended to read as follows:

8 Section 14-142. A. A covered voter who is registered to vote
9 in this state may apply for a military-overseas ballot using either
10 the regular absentee ballot application in use in the voter's
11 jurisdiction under Section 14-101 et seq. of ~~Title 26 of the~~
12 ~~Oklahoma Statutes~~ this title or the federal postcard application or
13 the application's electronic equivalent. Requirements established
14 pursuant to Section 14-105 of this title shall apply to applications
15 for absentee ballots under this section.

16 B. A covered voter who is not registered to vote in this state
17 may use a federal postcard application or the application's
18 electronic equivalent to apply simultaneously to register to vote
19 under Section ~~6~~ 14-141 of this ~~act~~ title and for a military-overseas
20 ballot.

21 C. The Secretary of the State Election Board shall ensure that
22 the electronic transmission system described in subsection C of
23 Section ~~4~~ 14-139 of this ~~act~~ title is capable of accepting the
24 submission of both a federal postcard application and any other

1 approved electronic military-overseas ballot application sent to the
2 appropriate election official. The voter may use the electronic
3 transmission system or any other approved method to apply for a
4 military-overseas ballot.

5 D. A covered voter may use the declaration accompanying a
6 federal write-in absentee ballot as an application for a military-
7 overseas ballot simultaneously with the submission of the federal
8 write-in absentee ballot, if the declaration is received by the
9 appropriate election official by the last day for other voters in
10 this state to apply for an absentee ballot for that election
11 pursuant to the provisions of Section 14-103 of ~~Title 26 of the~~
12 ~~Oklahoma Statutes~~ this title.

13 E. To receive the benefits of the Uniform Military and Overseas
14 Voters Act, a covered voter must inform the appropriate election
15 official that the voter is a covered voter. Methods of informing
16 the appropriate election official that a voter is a covered voter
17 include:

18 1. The use of a federal postcard application or federal write-
19 in absentee ballot;

20 2. The use of an overseas address on an approved voter
21 registration application or ballot application; and

22 3. The inclusion on an approved voter registration application
23 or ballot application of other information sufficient to identify
24 the voter as a covered voter.

1 F. This act does not preclude a covered voter from voting under
2 the provisions of Section 14-101 et seq. of ~~Title 26 of the Oklahoma~~
3 ~~Statutes~~ this title.

4 SECTION 8. This act shall become effective July 1, 2022.

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

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