

1 STATE OF OKLAHOMA

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

3 COMMITTEE SUBSTITUTE  
4 FOR  
5 SENATE BILL NO. 1637

By: Haste of the Senate

and

Lepak of the House

6  
7  
8 COMMITTEE SUBSTITUTE

9 An Act relating to election fraud; amending 26 O.S.  
10 2021, Sections 14-108.1, 16-105, and 16-123, which  
11 relate to notaries public, fraud, and voter  
12 registration or voting crimes; requiring notification  
13 of certain potential fraud to Attorney General;  
14 authorizing Attorney General to conduct certain  
15 investigation; requiring Attorney General to submit  
16 certain notification to district attorney; requiring  
17 investigation by district attorney under certain  
18 circumstances; modifying contents of required letter  
19 to complainant; requiring Attorney General to make  
20 determination upon certain notification; requiring  
21 Attorney General to submit certain notification to  
22 district attorney under certain circumstances;  
23 requiring certain investigation by Attorney General  
24 or district attorney; modifying certain reporting  
requirements; amending 74 O.S. 2021, Section 18b,  
which relates to duties of Attorney General;  
authorizing Attorney General to investigate and  
prosecute certain violations; updating statutory  
reference; and providing an effective date.

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

SECTION 1. AMENDATORY 26 O.S. 2021, Section 14-108.1, is  
amended to read as follows:

1 Section 14-108.1. A. Neither a notary public nor an agent  
2 working on behalf of a notary public shall be authorized to:

3 1. Request absentee ballots on behalf of a voter other than  
4 himself or herself;

5 2. Assist a voter in requesting absentee ballots, other than  
6 for himself or herself or a member of his or her household;

7 3. Receive by mail an absentee ballot on behalf of a voter,  
8 other than for himself or herself or a member of his or her  
9 household; or

10 4. Submit a completed absentee ballot on behalf of a voter  
11 other than for himself or herself.

12 B. A notary public shall maintain a log of all absentee ballot  
13 affidavits that he or she notarizes for a period of at least two (2)  
14 years after the date of the election.

15 C. 1. A notary public shall be authorized to notarize a  
16 maximum of twenty absentee ballot affidavits for a single election,  
17 except as provided in paragraphs 2 and 3 of this subsection.

18 2. A notary public may be authorized to notarize more than  
19 twenty absentee ballot affidavits at a single election with the  
20 written approval of the secretary of the county election board.  
21 Such approval shall apply for affidavits notarized within the county  
22 served by the county election board secretary.

23 3. The limitation required by this subsection shall not apply  
24 to the notarizing of absentee ballot affidavits at the place of

1 business of a notary public that is open to the general public  
2 during the normal business hours of the notary public.

3 D. 1. If more than ten absentee ballots for a single election  
4 are requested to be mailed to a single mailing address, the  
5 secretary of the county election board shall immediately notify the  
6 ~~district attorney for that county~~ Attorney General and the Secretary  
7 of the State Election Board.

8 2. Upon receipt of such notification, the ~~district attorney~~  
9 Attorney General, or a member of law enforcement designated by the  
10 ~~district attorney~~ Attorney General, shall ~~may~~ investigate any  
11 possible criminal violation of the law related to the absentee  
12 ballot requests. If the Attorney General declines to investigate,  
13 the Attorney General shall submit the notification from the county  
14 election board to the district attorney for that county. The  
15 district attorney, or a member of law enforcement designated by the  
16 district attorney, shall then investigate any possible criminal  
17 violation of the law related to the absentee ballot requests.

18 3. Provided, this notification requirement shall not apply to  
19 requests for absentee ballots to be sent to the addresses of nursing  
20 homes, veterans centers, medical facilities, multiunit housing,  
21 installations of the Armed Forces of the United States where  
22 uniformed or overseas voters, as defined by the federal Uniformed  
23 and Overseas Citizens Absentee Voting Act of 1986, are stationed or  
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1 other locations authorized in writing by the Secretary of the State  
2 Election Board.

3 E. The provisions of this section shall only apply to an  
4 election conducted by a county election board, the State Election  
5 Board or a political subdivision of this state.

6 SECTION 2. AMENDATORY 26 O.S. 2021, Section 16-105, is  
7 amended to read as follows:

8 Section 16-105. A. Any person who knowingly conspires to  
9 commit fraud or perpetrates fraud, or who steals supplies used to  
10 conduct an election, in order to change a voter's vote, or to change  
11 the composition of the official ballot or ballots, or to change the  
12 counting of the ballots, or to change the certification of the  
13 results of an election, shall be deemed guilty of a felony.

14 B. At every precinct there shall be posted information,  
15 provided by the State Election Board, which states the penalties for  
16 voter fraud and states that, if voter fraud is suspected, complaints  
17 should be reported to the State Election Board.

18 C. The State Election Board shall, upon receiving the  
19 complaint:

20 1. Document such complaint and request the name and mailing  
21 address of the person making the complaint;

22 2. Send a letter to the person making the complaint, stating  
23 the penalties for voter fraud and the option of contacting the  
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1 ~~district attorney in the county where such fraud is suspected~~

2 Attorney General; and

3 3. Provide the ~~district attorney's~~ Attorney General's name and  
4 office phone number.

5 D. All information relating to voter complaints shall remain  
6 confidential until after the complaint has resulted in a conviction  
7 or a plea of guilty or nolo contendere.

8 SECTION 3. AMENDATORY 26 O.S. 2021, Section 16-123, is  
9 amended to read as follows:

10 Section 16-123. A. The Secretary of the State Election Board  
11 or any county election board who has documents that appear to be  
12 evidence of voter registration or voting crimes shall notify the  
13 Attorney General, who shall determine whether to investigate or to  
14 submit the documentation to the district attorney for the county or  
15 counties involved. If the Attorney General declines to investigate,  
16 the Attorney General shall submit the notification and documentation  
17 within thirty (30) days of receipt to the district attorney for the  
18 county or counties involved.

19 B. When presented with documentation of possible voter  
20 registration or voting crimes by the Secretary of the State Election  
21 Board or any county election board, the Attorney General or a  
22 district attorney who received notification and documentation  
23 pursuant to subsection A of this section shall investigate and,  
24 within thirty (30) days and each thirty (30) days thereafter

1 following receipt of such documentation, report in writing to the  
2 Secretary of the State Election Board or county election board the  
3 status of the investigation until charges are filed or ~~the district~~  
4 ~~attorney declines~~ the determination is made not to file charges.

5 SECTION 4. AMENDATORY 74 O.S. 2021, Section 18b, is  
6 amended to read as follows:

7 Section 18b. A. The duties of the Attorney General as the  
8 chief law officer of the state shall be:

9 1. To appear for the state and prosecute and defend all actions  
10 and proceedings, civil or criminal, in the Supreme Court and Court  
11 of Criminal Appeals in which the state is interested as a party;

12 2. To appear for the state and prosecute and defend all actions  
13 and proceedings in any of the federal courts in which the state is  
14 interested as a party;

15 3. To initiate or appear in any action in which the interests  
16 of the state or the people of the state are at issue, or to appear  
17 at the request of the Governor, the Legislature, or either branch  
18 thereof, and prosecute and defend in any court or before any  
19 commission, board or officers any cause or proceeding, civil or  
20 criminal, in which the state may be a party or interested; and when  
21 so appearing in any such cause or proceeding, the Attorney General  
22 may, if the Attorney General deems it advisable and to the best  
23 interest of the state, take and assume control of the prosecution or  
24 defense of the state's interest therein;

1       4. To consult with and advise district attorneys, when  
2 requested by them, in all matters pertaining to the duties of their  
3 offices, when the district attorneys shall furnish the Attorney  
4 General with a written opinion supported by citation of authorities  
5 upon the matter submitted;

6       5. To give an opinion in writing upon all questions of law  
7 submitted to the Attorney General by the Legislature or either  
8 branch thereof, or by any state officer, board, commission or  
9 department, provided, that the Attorney General shall not furnish  
10 opinions to any but district attorneys, the Legislature or either  
11 branch thereof, or any other state official, board, commission or  
12 department, and to them only upon matters in which they are  
13 officially interested;

14       6. At the request of the Governor, State Auditor and Inspector,  
15 State Treasurer, or either branch of the Legislature, to prosecute  
16 any official bond or any contract in which the state is interested,  
17 upon a breach thereof, and to prosecute or defend for the state all  
18 actions, civil or criminal, relating to any matter connected with  
19 either of their Departments;

20       7. Whenever requested by any state officer, board or  
21 commission, to prepare proper drafts for contracts, forms and other  
22 writing which may be wanted for the use of the state;

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1           8. To prepare drafts of bills and resolutions for individual  
2 members of the Legislature upon their written request stating the  
3 gist of the bill or resolution desired;

4           9. To enforce the proper application of monies appropriated by  
5 the Legislature and to prosecute breaches of trust in the  
6 administration of such funds;

7           10. To institute actions to recover state monies illegally  
8 expended, to recover state property and to prevent the illegal use  
9 of any state property, upon the request of the Governor or the  
10 Legislature;

11           11. To pay into the State Treasury, immediately upon its  
12 receipt, all monies received by the Attorney General belonging to  
13 the state;

14           12. To settle, compromise and dispose of an action in which the  
15 Attorney General represents the interests of the state, so long as  
16 the consideration negotiated for such settlement, compromise or  
17 disposition is payable to the state or one of its agencies which is  
18 a named party of the action and any monies, any property or other  
19 item of value is paid first to the State Treasury;

20           13. To keep and file copies of all opinions, contracts, forms  
21 and letters of the office, and to keep an index of all opinions,  
22 contracts and forms according to subject and section of the law  
23 construed or applied;

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1 14. To keep a register or docket of all actions, demands and  
2 investigations prosecuted, defended or conducted by the Attorney  
3 General in behalf of the state. The register or docket shall give  
4 the style of the case or investigation, where pending, court number,  
5 office number, the gist of the matter, result and the names of the  
6 assistants who handled the matter;

7 15. To keep a complete office file of all cases and  
8 investigations handled by the Attorney General on behalf of the  
9 state;

10 16. To report to the Legislature or either branch thereof  
11 whenever requested upon any business relating to the duties of the  
12 Attorney General's office;

13 17. To institute civil actions against members of any state  
14 board or commission for failure of such members to perform their  
15 duties as prescribed by the statutes and the Constitution and to  
16 prosecute members of any state board or commission for violation of  
17 the criminal laws of this state where such violations have occurred  
18 in connection with the performance of such members' official duties;

19 18. To respond to any request for an opinion of the Attorney  
20 General's office, submitted by a member of the Legislature,  
21 regardless of subject matter, by written opinion determinative of  
22 the law regarding such subject matter;

23 19. To convene multicounty grand juries in such manner and for  
24 such purposes as provided by law; provided, such grand juries are

1 composed of citizens from each of the counties on a pro rata basis  
2 by county;

3 20. To investigate any report by the State Auditor and  
4 Inspector filed with the Attorney General pursuant to Section 223 of  
5 this title and prosecute all actions, civil or criminal, relating to  
6 such reports or any irregularities or derelictions in the management  
7 of public funds or property which are violations of the laws of this  
8 state;

9 21. To represent and protect the collective interests of all  
10 utility consumers of this state in rate-related proceedings before  
11 the Corporation Commission or in any other state or federal judicial  
12 or administrative proceeding;

13 22. To represent and protect the collective interests of  
14 insurance consumers of this state in rate-related proceedings before  
15 the Insurance Commissioner or in any other state or federal judicial  
16 or administrative proceeding;

17 23. To investigate and prosecute any criminal action relating  
18 to insurance fraud, if in the opinion of the Attorney General a  
19 criminal prosecution is warranted, or to refer such matters to the  
20 appropriate district attorney; ~~and~~

21 24. To monitor and evaluate any action by the federal  
22 government including, but not limited to, executive orders by the  
23 President of the United States, rules or regulations promulgated by  
24 an agency of the federal government or acts of Congress to determine

1 if such actions are in violation of the Tenth Amendment to the  
2 Constitution of the United States; and

3 25. To investigate and prosecute any criminal action relating  
4 to a violation of the provisions of Title 26 of the Oklahoma  
5 Statutes, if in the opinion of the Attorney General a criminal  
6 prosecution is warranted.

7 B. Nothing in this section shall be construed as requiring the  
8 Attorney General to appear and defend or prosecute in any court any  
9 cause or proceeding for or on behalf of the Oklahoma Tax Commission,  
10 the Board of Managers of the State Insurance Fund, or the  
11 Commissioners of the Land Office.

12 C. In all appeals from the Corporation Commission to the  
13 Supreme Court of Oklahoma in which the state is a party, the  
14 Attorney General shall have the right to designate counsel of the  
15 Corporation Commission as the Attorney General's legally appointed  
16 representative in such appeals, and it shall be the duty of the  
17 Corporation Commission counsel to act when so designated and to  
18 consult and advise with the Attorney General regarding such appeals  
19 prior to taking action therein.

20 SECTION 5. This act shall become effective January 1, 2023.

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