

An Act

ENROLLED HOUSE
BILL NO. 3364

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

and

Haste of the Senate

An Act relating to elections; amending 26 O.S. 2021, Sections 14-105, 14-110.1, 14-114, 14-115, 14-115.1, 14-115.6, and 14-142, which relate to absentee voting; removing obsolete language; establishing procedures for application for absentee ballot by electronic communication; requiring matching of certain information to voter registration record for electronic application; allowing voter to provide multiple identification numbers under certain circumstances; requiring confirmation of address prior to submission of certain application; requiring matching of certain information to voter registration record for in-person or mail application for absentee ballot; providing exception; defining term; applying requirements for information matching to absentee ballot requests and applications; conforming language; updating statutory references; providing an effective date; and declaring an emergency.

SUBJECT: Elections

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

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

Section 14-105. A. Any registered voter may apply for an absentee ballot in person at the county election board, by United States mail, ~~by telegraph,~~ by facsimile device as defined in Section 1862 of Title 21 of the Oklahoma Statutes or by a means of

electronic communication designated by the Secretary of the State Election Board. The Secretary of the State Election Board shall prescribe a form to be used for the application, although any application setting forth substantially the same facts shall be valid.

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

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

3. If the voter registration record on file with the county election board does not contain a birth date or identification number, the voter shall not be eligible to apply for an absentee ballot by means of electronic communication but may apply for an absentee ballot pursuant to subsection C of this section.

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

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

C. 1. A registered voter applying for an absentee ballot in person, by United States mail, or by facsimile device shall provide his or her name, birth date, an identification number, and other

information as may be prescribed by the Secretary of the State Election Board. The name, birth date, and identification number provided on the application must match the name, birth date, and identification number in the voter registration record.

2. If the voter does not recall which identification number he or she included in the voter registration record, the voter may provide multiple identification numbers, at least one of which must match the identification number in the voter registration record if such record included an identification number. If the voter registration record does not contain a birth date or an identification number, the absentee ballot application shall be accepted without a match of a birth date or an identification number.

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

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

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

1. Physically incapacitated; or

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

may apply for an absentee ballot. Such applications may be made by United States mail, by facsimile device as defined by Section 1862 of Title 21 of the Oklahoma Statutes or by a means of electronic communication designated by the Secretary of the State Election Board or may be made in person at the office of the county election board by an agent of the voter. Such an agent shall be a person of the voter's choosing who is at least sixteen (16) years of age and who is not employed by or related within the third degree of consanguinity or affinity to any person whose name appears on the ballot. No person may be the agent for more than one voter at any election. The Secretary of the State Election Board shall prescribe a form to be used for the application, although any application setting forth substantially the same facts shall be valid. Requirements for matching of name, birth date, and identification

number established pursuant to Section 14-105 of this title shall apply to applications for absentee ballots under this section.

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

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

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

Section 14-115. A. If the secretary of a county election board receives a request from an incapacitated elector confined to a nursing facility, as defined in Section 1-1902 of Title 63 of the Oklahoma Statutes, or a veterans center established pursuant to Title 72 of the Oklahoma Statutes within the county of the jurisdiction of the secretary, and such request satisfies the requirements for matching of name, birth date, and identification number established pursuant to Section 14-105 of this title, the secretary shall cause to be implemented the following procedures:

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

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

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

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

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

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

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

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

SECTION 5. AMENDATORY 26 O.S. 2021, 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, 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. Requirements for matching of name, birth date, and identification number established pursuant to Section 14-105 of this title shall apply to a request for absentee ballots under this section. 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 the request on behalf of the voter may be anyone of the voter's choosing who is at least sixteen (16) years of age; provided, 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 the physical incapacity originated after 5:00 p.m. on Tuesday preceding an election. 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 the ballots to be processed in the same manner as is prescribed for other absentee ballots.

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

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

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

C. The ballots must be returned in person by the voter, by United States mail, or by other means of delivery approved by the

Secretary of the State Election Board, to the secretary of the county election board no later than 7:00 p.m. on the day of the election.

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

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

SECTION 7. AMENDATORY 26 O.S. 2021, Section 14-142, is amended to read as follows:

Section 14-142. A. A covered voter who is registered to vote in this state may apply for a military-overseas ballot using either the regular absentee ballot application in use in the voter's jurisdiction under Section 14-101 et seq. of ~~Title 26 of the Oklahoma Statutes~~ this title or the federal postcard application or the application's electronic equivalent. Requirements for matching of name, birth date, and identification number established pursuant to Section 14-105 of this title shall apply to applications for absentee ballots under this section.

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

C. The Secretary of the State Election Board shall ensure that the electronic transmission system described in subsection C of Section ~~4~~ 14-139 of this ~~act~~ title is capable of accepting the submission of both a federal postcard application and any other approved electronic military-overseas ballot application sent to the appropriate election official. The voter may use the electronic transmission system or any other approved method to apply for a military-overseas ballot.

D. A covered voter may use the declaration accompanying a federal write-in absentee ballot as an application for a military-overseas ballot simultaneously with the submission of the federal write-in absentee ballot, if the declaration is received by the appropriate election official by the last day for other voters in this state to apply for an absentee ballot for that election

pursuant to the provisions of Section 14-103 of ~~Title 26 of the Oklahoma Statutes~~ this title.

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

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

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

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

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

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

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

Passed the House of Representatives the 16th day of May, 2022.

Presiding Officer of the House
of Representatives

Passed the Senate the 27th day of April, 2022.

Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____

Approved by the Governor of the State of Oklahoma this _____

day of _____, 20_____, at _____ o'clock _____ M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____