

SENATE BILL 1029

By Bowling

AN ACT to amend Tennessee Code Annotated, Title 2,
Chapter 6, Part 5, relative to absentee ballots.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 2, Chapter 6, Part 5, is amended by
adding the following as a new section:

As used in this part:

(1) "Civilian overseas voter" means a United States citizen who:

(A) Was last domiciled in this state;

(B) Temporarily resides outside of the United States or is
temporarily absent from the United States during the period when the
polls are open;

(C) Is not registered to vote in another state;

(D) Maintains a residence in this state; and

(E) Otherwise satisfies the voter eligibility requirements in this
state;

(2) "Federal-only voter" means a United States citizen who:

(A) Was last domiciled in this state;

(B) Indefinitely or permanently resides outside of the United
States; and

(C) Before establishing a principal place of residence outside the
United States, established a principal place of residence in this state;

(D) Did not, after leaving this state, register to vote in another state other or establish a principal place of residence in another state; and

(E) Otherwise satisfies the voter eligibility requirements in this state;

(3) "Military voter" means United States citizen who:

(A) Is:

(i) A member of the:

(a) Active or reserve components of the army, navy, air force, marine corps, space force, or coast guard of the United States;

(b) National guard or the Tennessee national guard; or

(c) Merchant marine of the United States; or

(ii) Is a spouse or dependent of a person identified in subdivision (3)(A)(i);

(B) Maintains a residence in this state; and

(C) Otherwise satisfies the voter eligibility requirements in this state; and

(4) "UOCAVA ballot" means an absentee ballot issued to an eligible voter pursuant to the Uniformed and Overseas Citizens Absentee Voting Act (52 U.S.C.A. § 20301 et seq.).

SECTION 2. Tennessee Code Annotated, Section 2-6-502, is amended by adding the following new subsections:

(h)

(1) An application for temporary registration must include a copy of documentary proof of United States citizenship and, if the voter is a civilian overseas voter or a federal-only voter, documentary proof of overseas residence.

(2) As used in this subsection (h), "documentary proof of United States citizenship" means:

(A) A form of identification issued consistent with the requirements of the REAL ID Act of 2005 (Public Law 109-13) that indicates the applicant is a citizen of the United States;

(B) A valid, unexpired United States passport;

(C) The applicant's official United States military identification card, together with a United States military record of service showing that the applicant's place of birth was in the United States;

(D) A valid government-issued photo identification card issued by a federal, state, or tribal government showing that the applicant's place of birth was in the United States;

(E) A valid government-issued photo identification card issued by a federal, state, or tribal government other than an identification described in subdivisions (h)(2)(A) – (D), but only if presented together with one (1) or more of the following:

(i) A certified birth certificate issued by a state, a unit of local government in a state, or a tribal government that:

(a) Was issued by the state, unit of local government, or tribal government in which the applicant was born;

(b) Was filed with the office responsible for keeping vital records in the state;

(c) Includes the full name, date of birth, and place of birth of the applicant;

(d) Lists the full names of one (1) or both of the parents of the applicant;

(e) Has the signature of an individual who is authorized to sign birth certificates on behalf of the state, unit of local government, or tribal government in which the applicant was born;

(f) Includes the date that the certificate was filed with the office responsible for keeping vital records in the state; and

(g) Has the seal of the state, unit of local government, or tribal government that issued the birth certificate;

(ii) A final adoption decree showing the applicant's name and that the applicant's place of birth was in the United States;

(iii) A consular report of birth abroad of a citizen of the United States or a certification of the applicant's report of birth of a United States citizen issued by the United States secretary of state;

(iv) A naturalization certificate or certificate of citizenship issued by the United States secretary of homeland security or any other document or method of proof of United States citizenship

issued by the federal government pursuant to the Immigration and Nationality Act (8 U.S.C. § 1101-1537); or

(v) An American Indian card issued by the department of homeland security with the classification "KIC".

(3) As used in this subsection (h), "documentary proof of overseas residence," with respect to a civilian overseas voter or a federal-only voter, includes:

(A) A copy of a current, valid lease or title to a residence not located in the United States, bearing the name and overseas address of the applicant;

(B) A copy of financial records, such as a bank account, tax return, or other record from a financial agency or institution bearing the name and overseas address of the applicant; and

(C) A document or official record of a foreign government bearing the name and overseas address of the applicant.

(4) The secretary of state shall notify the federal voting assistance program administrator that the proof of citizenship requirement for voter registration must be added to state specific instructions of the federal post card application for this state.

(i) If the application is missing a Tennessee residency address, overseas/current mailing address, identification, or documentary proof of citizenship, the county election commission shall notify the applicant of the application deficiency. If the application includes an email address or phone number, the county election commission must make a reasonable effort to contact the applicant by email or phone and document such attempts. The deficiency must be recorded and a written report prepared, including the

name of the administrator at the time the voter registration was filed, the nature of the deficiency, and date of contact attempts.

(j) If the applicant is ineligible to register to vote or does not provide documentary proof of United State citizenship or overseas residency, or if the application is not timely received, the county election commission shall deny the application by writing the reason for rejection in the proper space on the application and shall promptly notify the applicant in writing of the ground of ineligibility, a copy of which notification must be retained on file in the county election commission for at least two (2) years.

(k)

(1) A UOCAVA absentee ballot application must not be accepted if the applicant's voter registration application was rejected for failure to provide the required documentary proof of citizenship or overseas residency.

(2) A UOCAVA absentee ballot application must not be rejected solely due to a mismatch between the identifying information of the elector on the application and the identifying information of the elector on file with the county election commission. In such cases, the county election commission shall send the applicant a provisional absentee ballot with the designation "Provisional Ballot" on the outer envelope and prominently displayed on the UOCAVA affidavit and information prepared by the secretary of state as to the process to be followed to cure the discrepancy.

(3) If such ballot is returned to the election official prior to the closing of the polls on the day of the primary or election, the elector may cure the discrepancy by submitting an affidavit to the election official along with a copy of documentary proof of United States citizenship or overseas residency, as defined in subsection (h), before the close of the period for verifying provisional ballots.

(4) If the election official finds the affidavit and identification to be sufficient, the UOCAVA absentee ballot must be counted as other absentee ballots. If the election official finds the affidavit and identification to be insufficient, then the ballot must be rejected and the applicant notified of the reason for rejection.

(l) The secretary of state shall establish procedures that allow a military voter, civilian overseas voter, federal-only voter, or an eligible dependent thereof, to apply by electronic means to the county election commission of the county in which the person's voting residence is located for an absentee ballot.

(m) The applicants must complete all required sections of the federal postcard application and provide the documents necessary for verification of identity and eligibility for voter registration and UOCAVA voting privileges.

(n) The federal postcard application shall be processed as follows:

(1) A federal postcard application marked to request delivery of the absentee ballot by email must be processed as a request for electronic delivery of the blank absentee ballot;

(2) A federal postcard application marked to request delivery of the absentee ballot by mail or fax must be processed as a request for delivery by United States mail of the blank absentee ballot;

(3) A voter who chooses to have the blank absentee ballot transmitted electronically must designate that choice on the federal postcard application or on the state prescribed absentee ballot application. If the voter does not make such designation, the blank absentee ballot shall be delivered to the voter by mail.

(4) If the voter requests to have the blank absentee ballot transmitted electronically, the county election commission shall:

(A) Verify the voter registration status of the applicant;

(B) Record that the voter made the request for the UOCAVA absentee ballot and the category of the applicant: military, civilian overseas, federal-only, or dependent thereof;

(C) Deliver to the voter the blank UOCAVA ballot by electronic transmission utilizing email or a secure electronic blank ballot transmission system approved by the secretary of state; and

(D) Notify the voter that to be properly cast and counted, the voted absentee ballot must be received by the county election commission by the close of the polls on election day. Ballots received after the deadline will not be counted.

(o) The secretary of state, in coordination with the county election commissions, shall establish a free access system by which a military voter, civilian overseas voter, federal-only voter, or an eligible dependent thereof, may determine the following:

(1) Whether that person's request for an absentee ballot was received and processed;

(2) If the person's request was received and processed, when the UOCAVA ballot was sent;

(3) Whether any UOCAVA ballot returned by that person has been received by election officials;

(4) Whether the board of elections found any error on the identification envelope containing the person's returned UOCAVA ballot and, if so, how the person may correct any error; and

(5) Whether the eligible person's UOCAVA absentee ballot was counted.

(p)

(1) The coordinator of elections shall create, by rule, an affidavit to include with each absentee ballot delivered to a voter pursuant to this section.

(2) The instructions to the voter regarding signing and witnessing of the UOCAVA affidavit shall read:

IF YOUR AFFIDAVIT IS NOT SIGNED (OR MARKED), AND IF YOUR AFFIDAVIT IS NOT WITNESSED BY TWO WITNESSES 18 YEARS OF AGE OR OLDER, PRIOR TO BEING DELIVERED OR MAILED TO THE ABSENTEE ELECTION OFFICE, YOUR BALLOT WILL NOT BE COUNTED.

(3) The affidavit does not need to be witnessed by a notary public.

(4) The affidavit must include:

I AM ENTITLED TO VOTE AN ABSENTEE BALLOT BECAUSE I AM A MEMBER OF OR A SPOUSE OR DEPENDENT OF A MEMBER OF THE ARMED FORCES OF THE UNITED STATES OR AM OTHERWISE ENTITLED TO VOTE PURSUANT TO THE FEDERAL UNIFORMED AND OVERSEAS CITIZENS ABSENTEE VOTING ACT, 52 U.S.C.A. § 20301, et seq.

(5) For voters requesting electronic transmission of the absentee ballot, the affidavit must be provided in electronic format to the voter; otherwise, the affidavit must be provided printed on the ballot return envelope.

(q) After the voter marks the ballot, the voter shall:

(1) Complete the affidavit, including the section for witnesses as required by subsection (p);

(2) If the voter has requested electronic transmission of the blank absentee ballot, insert and seal the ballot in a blank envelope for secrecy and not write any personally identifying information on the envelope and then insert and seal the blank envelope containing the voted ballot and the completed affidavit into a second envelope to be used for returning the absentee ballot to the appropriate county election commission by United States mail, or commercial air or ground carrier;

(3) If the voter has requested that the absentee ballot be delivered by mail or hand-delivery, insert and seal the voter's ballot into the secrecy envelope and then insert and seal the secrecy envelope into the envelope on which is printed the affidavit and which is used as the return envelope for delivering the ballot to the appropriate county election commission by United States mail, or commercial air or ground carrier; and

(4) Return the absentee ballot by United States mail, or commercial air or ground carrier, to the appropriate county election commission using the address information provided with the UOCAVA ballot.

(r) If a voter does not place the absentee ballot inside a secrecy envelope, the absentee election manager shall, immediately upon discovery, insert and seal the voter's ballot into a secrecy envelope and place inside an envelope of sufficient size the secrecy envelope, the UOCAVA affidavit, and the envelope used by the voter to deliver the ballot.

(s) In order to be valid and counted, the UOCAVA ballot and affidavit must be received by the county election commission not later than the close of the polls on election day.

(t) No person shall return by electronic means to the secretary of state, a board of elections, or any other entity a completed or UOCAVA absentee ballot. If a ballot is returned electronically, the ballot shall not be accepted, processed, or counted.

(u)

(1) All ballots sent and received under this section must be recorded to denote the defined category of such voters:

(A) Military personnel or dependent;

(B) Overseas individual/voter; or

(C) Federal-only voter.

(2) The numbers recorded for each category of voter's ballot in this subsection (u), including rejected ballots, must be available for public inspection.

(3) The recorded vote totals by candidate or ballot question must be reported as a separate tally tape for UOCAVA ballots only or coded in such a manner as to make the results visible.

SECTION 3. Tennessee Code Annotated, Section 2-6-502(b), is amended by deleting the language "Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. § 1973ff et seq.)" and substituting instead "Uniformed and Overseas Citizens Absentee Voting Act (52 U.S.C.A. § 20301 et seq.)".

SECTION 4. This act takes effect upon becoming a law, the public welfare requiring it.