An Act

ENROLLED SENATE
BILL NO. 1779

By: Treat, Bergstrom, Boggs, Bullard, David and Boren of the Senate

and

McCall, Steagall, West (Kevin) Crosswhite Hader, Roberts (Sean), Grego, Boles, McDugle, Davis, West (Josh), Gann, Smith and Fugate of the House

An Act relating to elections; defining term; prohibiting absentee ballot harvesting in certain elections; providing exceptions; amending 26 O.S. 2011, Section 14-103, which relates to absentee voting; modifying deadline for requesting absentee ballots; providing for alternative procedures for absentee voting for certain elections; authorizing administrative leave for certain purposes; providing for additional polling places for certain precincts; authorizing combining multiple precincts for certain elections; requiring Secretary of the State Election Board to develop certain protocols; amending Section 1, Chapter 26, O.S.L. 2012, as last amended by Section 1, Chapter 333, O.S.L. 2015 and 26 O.S. 2011, Sections 14-115, 14-115.1 and 14-123, as amended by Section 10, Chapter 200, O.S.L. 2013 (26 O.S. Supp. 2019, Sections 14-108.1 and 14-123), which relate to absentee voting; modifying notary public restrictions; requiring investigation of certain violations; authorizing certain assistance by absentee voting board members; establishing violations for certain coercion; modifying deadline for requesting absentee ballot for certain registered voters; authorizing county election board to

designate special absentee voting boards; amending 26 O.S. 2011, Section 16-106, which relates to penalties; providing exception; establishing felony offense; establishing misdemeanor offense; providing for noncodification; providing for codification; and declaring an emergency.

SUBJECT: Elections

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 14-101.1 of Title 26, unless there is created a duplication in numbering, reads as follows:

A. For the purposes of this section, "absentee ballot harvesting" means:

1. Collecting or obtaining an absentee ballot from another person with the intent to submit, transmit or return the ballot to election officials on behalf of that person;

2. Submitting, returning or transmitting an absentee ballot to election officials on behalf of another person;

3. Collecting or obtaining an absentee ballot from another person under a false pretense or promise of transmitting, returning or submitting it to election officials on behalf of that person;

4. Requesting or receiving an absentee ballot on behalf of another person;

5. Partially or fully completing an application for an absentee ballot on behalf of another person without that person's prior consent; or

6. Notarizing or witnessing more absentee ballots than allowed by law.

B. Absentee ballot harvesting shall be unlawful at any election conducted by a county election board, the State Election Board or any political subdivision of this state; provided, the following shall not be deemed to be ballot harvesting:

1. A voter's assistant or agent acting pursuant to law as otherwise allowed by Title 26 of the Oklahoma Statutes;

2. An absentee voting board member, as described in Title 26 of the Oklahoma Statutes, who assists a voter confined to a nursing home or veterans center pursuant to law;

3. An employee of the Federal Voting Assistance Program, the United States Department of Defense or the Oklahoma National Guard who assists a uniformed-services voter in returning or transmitting an absentee ballot;

4. A spouse, relative in the first or second degree of consanguinity or affinity or cohabitant of a voter who forwards an absentee ballot to the voter when absent from the home;

5. A voter's spouse who, with the voter's consent, returns the voter's absentee ballot by mail; or

6. An official action by an election official that is required or authorized by law.

SECTION 2. AMENDATORY 26 O.S. 2011, Section 14-103, is amended to read as follows:

Section 14-103. Absentee ballots must be requested no later than 5:00 p.m. on ~~Wednesday~~ Tuesday preceding an election.

SECTION 3. NEW LAW A new section of law not to be codified in the Oklahoma Statutes reads as follows:

The following alternative procedures for absentee voting, as set forth in Sections 3 through 7 of this act, shall be in place for elections to be held during calendar year 2020 and shall supersede such procedures that are provided by statute.

A. Subject to available funding, and due to anticipated increased election administration costs related to the COVID-19 pandemic, the Secretary of the State Election Board is authorized to use federal or state funds under the control of the State Election Board to reimburse county election boards for election-related expenses at the Primary Election, Runoff Primary Election and General Election to be conducted in calendar year 2020; provided that such reimbursements are only for expenses that exceed those incurred for the equivalent election in calendar year 2016. Such expenses may include:

1. Postage for outgoing absentee ballots;

2. Additional absentee voting boards or precinct officials;

3. Additional personnel expenses related to processing absentee ballot requests, processing and counting absentee ballots or to assist with in-person absentee voting; or

4. Other election administration expenses deemed appropriate by the Secretary of the State Election Board.

B. Subject to available funding, the Secretary of the State Election Board is authorized to expend federal or state funds under the control of the State Election Board to purchase the following items for use by county election boards:

1. Personal protective equipment for use by election officials;

2. Disinfectant supplies or services for use at in-person Election Day voting locations and in-person absentee voting locations;

3. Education materials regarding social distancing in-person voting procedures; or

4. Other items related to the COVID-19 pandemic that are deemed appropriate and necessary by the Secretary of the State Election Board.

C. Nothing in this section shall be deemed to waive the regular or emergency procedures for the expenditure of funds provided in state or federal law or regulations.

SECTION 4. NEW LAW A new section of law not to be codified in the Oklahoma Statutes reads as follows:

A. For calendar year 2020, full-time and part-time state employees may be granted up to three (3) days of paid administrative leave for the purposes of serving as a precinct official, absentee voting board member or other election worker authorized by law, if the employee is qualified by law to serve in such position. Such administrative leave shall require the written approval of the employee's appointing authority. An employee granted administrative leave as described herein shall not be eligible to receive the daily payment provided to precinct officials or absentee voting board members.

B. For calendar year 2020, full-time and part-time employees of a political subdivision of this state may be granted up to three (3) days of paid administrative leave for the purposes of serving as a precinct official, absentee voting board member or other election worker authorized by law, if the employee is qualified by law to serve in such position. Such administrative leave shall require the written approval of the employee's appointing authority. An employee granted administrative leave as described herein shall not be eligible to receive the daily payment provided to precinct officials or absentee voting board members.

SECTION 5. NEW LAW A new section of law not to be codified in the Oklahoma Statutes reads as follows:

A. For elections to be held during calendar year 2020, any state agency, board or commission that owns or leases a facility located in or near a precinct without a suitable polling place available, shall make space within the facility available for use as a polling place upon the written request of the secretary of the county election board.

B. For elections to be held during calendar year 2020, any political subdivision of this state that held an election that was conducted by a county election board on or after January 1, 2018,

and that owns, rents or leases a facility located in or near a precinct without a suitable polling place available, shall make space within the facility available for use as a polling place upon the written request of the secretary of the county election board.

C. For facilities described in subsection A or B of this section, a reasonable maintenance or cleaning fee may be charged to the county election board for use of the facility as a polling place.

SECTION 6. NEW LAW A new section of law not to be codified in the Oklahoma Statutes reads as follows:

For elections conducted during calendar year 2020, in the event of a shortage of suitable polling places or a shortage of available precinct officials, a secretary of the county election board shall have the authority to combine multiple precincts into a single polling place. Such action shall require the written permission of the Secretary of the State Election Board. When a polling place location is changed for an election, affected voters shall be mailed written notice by the secretary of the county election board, to be postmarked at least ten (10) days before the date of the election, and written notice shall also be posted at the previous polling place location on election day. Provided, in the event a polling place location becomes unavailable or unusable due to unforeseen circumstances occurring ten (10) or fewer days before the date of the election, then the mailed written notice shall be provided to affected voters, if practicable.

In the event precincts are combined into a single polling place as described in this section, the precincts may be treated in the same manner as subprecincts described in subsection B of Section 3-119 of Title 26 of the Oklahoma Statutes.

SECTION 7. NEW LAW A new section of law not to be codified in the Oklahoma Statutes reads as follows:

A. The Secretary of the State Election Board shall develop protocols for the following to be used in the event of an emergency declaration related to the COVID-19 pandemic:

1. Social distancing and disinfecting in-person absentee voting sites and Election Day polling places; and

2. Handling mail and absentee ballots for processing and counting by county election officials.

B. The protocols developed in compliance with this section shall be consistent with, as much as is practicable, recommendations of the Centers for Disease Control and Prevention (CDC).

SECTION 8. AMENDATORY Section 1, Chapter 26, O.S.L. 2012, as last amended by Section 1, Chapter 333, O.S.L. 2015 (26 O.S. Supp. 2019, Section 14-108.1), is amended to read as follows:

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

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

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

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

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

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

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

2. A notary public may be authorized to notarize more than twenty absentee ballot affidavits at a single election with the written approval of the secretary of the county election board.

Such approval shall apply for affidavits notarized within the county served by the county election board secretary.

3. The limitation required by this subsection shall not apply to the notarizing of ~~ballots~~ absentee ballot affidavits at the place of business of a notary public that is open to the general public during the normal business hours of the notary public~~; provided, however, such limitations shall apply to any agency or other entity that provides voter registration services as required by the National Voter Registration Act of 1993 or by Sections 4-109.2 and 4-109.3 of this title~~.

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

2. Upon receipt of such notification, the district attorney, or a member of law enforcement designated by the district attorney, shall investigate any possible criminal violation of the law related to the absentee ballot requests.

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

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

SECTION 9. AMENDATORY 26 O.S. 2011, 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, 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 ~~said~~ 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 ~~said~~ 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 ~~said~~ the ballots in the plain opaque envelope and shall seal ~~said~~ the plain opaque envelope in the envelope bearing an affidavit. The voter must complete ~~said~~ 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 ~~said~~ the affidavit was executed.

5. Ballots cast in ~~said~~ 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 10. AMENDATORY 26 O.S. 2011, 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. 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 ~~said~~ 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, ~~said~~ 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 ~~said~~ 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 ~~said~~ the ballots to be processed in the same manner as is prescribed for other absentee ballots.

SECTION 11. AMENDATORY 26 O.S. 2011, Section 14-123, as amended by Section 10, Chapter 200, O.S.L. 2013 (26 O.S. Supp. 2019, Section 14-123), is amended to read as follows:

Section 14-123. A. At ~~10~~ 10:00 a.m. on Thursday preceding the election, or at such time thereafter as the secretary of the county election board may desire, the county election board may meet and publicly remove the outer envelopes from all absentee ballots then received, examine and remove properly executed affidavits and place the plain opaque envelopes in a ballot box, locked with three locks. The procedure shall be repeated until such time as all ballots have been received. Provided, such procedure may begin at an earlier date upon the written approval of the Secretary of the State Election Board.

B. 1. The county election board may designate one or more special absentee voting boards to conduct the removal of outer envelopes and examination of affidavits described in subsection A of this section. A special absentee voting board shall consist of two members, neither of whom shall be of the same political party. Members of a special absentee voting board shall be designated by the county election board from a list provided by the secretary of the county election board. Members of a special absentee voting board shall meet the same eligibility requirements as a precinct judge or clerk and shall receive the same compensation as a nursing home absentee voting board.

2. The public shall have the right to be present when a special absentee voting board conducts the removal of outer envelopes and examination of affidavits, but these duties are not required to be performed during a public meeting of the county election board.

3. A special absentee voting board so designated shall organize the absentee ballot affidavits they have examined into three groups:

a. those the special absentee voting board agrees are properly executed,

b. those the special absentee voting board agrees are not properly executed, and

c. those absentee ballot affidavits about which the special absentee voting board members do not agree.

Each group shall be reported to the county election board at a public meeting of the board.

4. For absentee ballot affidavits that the special absentee voting board agrees are properly executed, upon approval of the county election board, the affidavits shall be removed and the plain opaque envelopes shall be eligible to be counted pursuant to law.

5. For absentee ballots that the special absentee voting board agrees are not properly executed pursuant to law, the county election board shall review the affidavits and make a determination as to whether the affidavits should be accepted or rejected pursuant to law.

6. For absentee ballot affidavits on which the special absentee voting board cannot agree about a properly executed affidavit, the county election board shall review the affidavits and make a determination as to whether the affidavits should be accepted or rejected pursuant to law.

C. When an examination of an absentee ballot affidavit is made to determine whether it has been properly executed, such determination shall be based only upon the requirements found in this title for the type of absentee ballot affidavit being examined. No person making such a determination shall substitute his or her own personal preference or judgment in place of the requirements provided by law.

SECTION 12. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 16-104.1 of Title 26, unless there is created a duplication in numbering, reads as follows:

A. It shall be a felony for any person to engage in or to conspire to engage in absentee ballot harvesting, as defined in Section 1 of this act, involving ten or more absentee ballots at any election conducted in this state by a county election board, the State Election Board or a political subdivision of this state.

B. It shall be a felony for any person to direct or cause another person or persons to commit acts of ballot harvesting, as defined in Section 1 of this act, involving ten or more absentee ballots at any election conducted in this state by a county election board, the State Election Board or a political subdivision of this state.

SECTION 13. AMENDATORY 26 O.S. 2011, Section 16-106, is amended to read as follows:

Any person who offers, solicits or accepts something of value intended to directly or indirectly influence the vote of the person soliciting or accepting same shall be deemed guilty of a felony; provided, the gifting of an envelope, stamp, or both an envelope and stamp for the purpose of mailing in a ballot shall not be considered something of value.

SECTION 14. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 16-126 of Title 26, unless there is created a duplication in numbering, reads as follows:

A. It shall be a misdemeanor for any person to engage in or to conspire to engage in absentee ballot harvesting, as defined in Section 1 of this act, involving fewer than ten absentee ballots at any election conducted in this state by a county election board, the State Election Board or a subdivision of this state.

B. It shall be a misdemeanor for any person to direct or cause another person or persons to commit acts of ballot harvesting, as defined in Section 1 of this act, involving fewer than ten absentee ballots at any election conducted in this state by a county election board, the State Election Board or a subdivision of this state.

SECTION 15. 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 Senate the 15th day of May, 2020.

Stephanie Bice
Presiding Officer of the Senate

Passed the House of Representatives the 15th day of May, 2020.

Presiding Officer of the House
of Representatives

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this 16th

day of May, 20 20, at 1:52 o'clock a. M.

By: Sumer Curry

Approved by the Governor of the State of Oklahoma this 21st

day of May, 20 20, at 9:24 o'clock a. M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this 21st

day of May, 20 20, at 1:41 o'clock P. M.

By: Nicole Rogers