

By Senators Latvala, Silver, Lee, Clary, Bronson, Childers and Meadows

19-927C-98

1 A bill to be entitled
2 An act relating to elections; amending s.
3 97.012, F.S.; providing an additional duty of
4 the Secretary of State; amending s. 97.021,
5 F.S.; revising the definition of absent
6 elector; amending s. 97.041, F.S.; providing
7 that holders of a homestead exemption may be
8 registered only in the county and precinct in
9 which is located the property for which the
10 homestead exemption has been granted; providing
11 an exception; amending s. 97.052, F.S.;
12 requiring that certain information relating to
13 homestead exemptions be included in the uniform
14 statewide voter registration application;
15 requiring that the last four digits of the
16 applicant's social security number and the
17 applicant's driver license number be included
18 in the uniform statewide voter registration
19 application; amending s. 97.053, F.S.;
20 requiring that the last four digits of the
21 applicant's social security number be included
22 on a voter registration application for the
23 application to be complete; creating s. 97.056,
24 F.S.; requiring persons who register by mail to
25 vote in person the first time; providing
26 exceptions; amending s. 97.071, F.S.; providing
27 for the mailing of a registration
28 identification card to the voter; amending s.
29 98.015, F.S.; providing an additional duty of
30 the supervisor of elections; creating s.
31 98.0975, F.S.; requiring the division to

1 compare information in the central voter file
2 with other computer databases; amending s.
3 98.461, F.S.; revising the contents of the
4 precinct register; amending s. 98.471, F.S.;
5 requiring a voter to show a picture
6 identification at the polls; amending s.
7 101.62, F.S.; restricting telephone requests
8 for absentee ballots; revising the methods of
9 delivery of absentee ballots; amending s.
10 101.64, F.S.; revising the Voter's Certificate;
11 providing reasons for voting absentee;
12 requiring additional information of a witness;
13 creating s. 101.645, F.S.; requiring persons
14 witnessing absentee ballots to be certified by
15 the supervisor of elections; providing for
16 removal of a name of a certified witness for
17 cause; creating s. 101.647, F.S.; providing for
18 the return of absentee ballots; amending s.
19 101.65, F.S.; revising the instructions to
20 absent electors to conform; creating s.
21 101.657, F.S.; providing for in-person absentee
22 voting; creating s. 101.66, F.S.; requiring
23 absent electors to personally vote the ballot;
24 providing exceptions; amending s. 101.68, F.S.,
25 relating to canvassing of absentee ballots;
26 revising the requirement for legal ballots;
27 requiring the supervisor of elections to notify
28 certain absent electors whose ballots were
29 rejected; creating s. 104.047, F.S.; providing
30 penalties for offenses relating to absentee
31 ballots and voting; amending s. 104.012, F.S.;

1 increasing the penalty for interfering with
2 registration and for altering a voter
3 registration application; amending s. 104.013,
4 F.S.; increasing the penalty for the
5 unauthorized use, possession, or destruction of
6 a voter registration identification card;
7 amending s. 104.031, F.S.; increasing the
8 penalty for making a false declaration to
9 secure assistance in voting; amending s.
10 104.045, F.S.; increasing the penalty for
11 corruptly influencing voting; amending s.
12 104.0515, F.S.; increasing the penalty for
13 interfering with voting rights; amending s.
14 104.081, F.S.; increasing the penalty for
15 employers who threaten employees regarding
16 voting; amending s. 104.24, F.S.; increasing
17 the penalty for a person who fraudulently uses
18 the name of another in voting; amending s.
19 104.42, F.S.; authorizing the supervisor of
20 elections to investigate fraud in registration
21 and voting; creating s. 104.45, F.S.;
22 disqualifying candidates and public officers
23 from holding office upon a finding of guilt for
24 certain violations; amending s. 114.01, F.S.,
25 relating to vacancy in office, to conform;
26 amending s. 117.05, F.S.; requiring a notary
27 public to witness an absentee ballot at no
28 charge; amending ss. 106.25, 106.26, 106.265,
29 106.27, F.S.; authorizing the Florida Elections
30 Commission to investigate violations of chapter
31 104, F.S.; providing procedures; providing for

1 civil penalties; providing an appropriation;
2 providing effective dates.

3
4 Be It Enacted by the Legislature of the State of Florida:

5
6 Section 1. Subsection (12) is added to section 97.012,
7 Florida Statutes, to read:

8 97.012 Secretary of State as chief election
9 officer.--The Secretary of State is the chief election officer
10 of the state, and it is his or her responsibility to:

11 (12) Maintain a voter fraud hotline and provide
12 election-fraud education to the public.

13 Section 2. Subsection (1) of section 97.021, Florida
14 Statutes, is amended to read:

15 97.021 Definitions.--For the purposes of this code,
16 except where the context clearly indicates otherwise, the
17 term:

18 (1) "Absent elector" means any registered and
19 qualified voter who ~~is unable to attend the polls on election~~
20 ~~day.~~

21 (a) Is unable without another's assistance to attend
22 the polls.

23 (b) Is an inspector, a poll worker, a deputy voting
24 machine custodian, a deputy sheriff, a supervisor of
25 elections, or a deputy supervisor who is assigned to a
26 different precinct than that in which he or she is registered
27 to vote.

28 (c) On account of the tenets of his or her religion,
29 cannot attend the polls on the day of the general, special, or
30 primary election.

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1 (d) Will not be in the precinct of his or her
2 residence during the hours the polls are open for voting on
3 the day of the election.

4 (e) Has changed his or her residency to another county
5 in this state within the time period during which the
6 registration books are closed for the election for which the
7 ballot is requested.

8 (f) Has changed his or her residency to another state
9 and is ineligible under the laws of that state to vote in the
10 general election; however, this pertains only to presidential
11 ballots.

12 Section 3. Subsection (1) of section 97.041, Florida
13 Statutes, is amended to read:

14 97.041 Qualifications to register or vote.--

15 (1)(a) A person may become a registered voter only if
16 that person:

- 17 1. Is at least 18 years of age;
- 18 2. Is a citizen of the United States;
- 19 3. Is a legal resident of the State of Florida;
- 20 4. Is a legal resident of the county in which that
21 person seeks to be registered; and
- 22 5. Registers pursuant to the Florida Election Code.

23 (b) For purposes of the residency requirements of
24 paragraph (a), a person who has been granted a homestead
25 exemption in this state may register to vote only in the
26 county and precinct where the property for which that
27 homestead exemption has been granted is located, unless the
28 homestead is being maintained as the permanent residence of a
29 legal or natural dependent of the owner and the owner resides
30 elsewhere.

31

1 ~~(c)(b)~~ A person who is otherwise qualified may
2 preregister on or after that person's 17th birthday and may
3 vote in any election occurring on or after that person's 18th
4 birthday.

5 Section 4. Effective July 1, 1999, subsections (2) and
6 (3) of section 97.052, Florida Statutes, are amended to read:

7 97.052 Uniform statewide voter registration
8 application.--

9 (2) The uniform statewide voter registration
10 application must be designed to elicit the following
11 information from the applicant:

12 (a) Full name.

13 (b) Date of birth.

14 (c) Address of legal residence.

15 (d) Mailing address, if different.

16 (e) County of legal residence.

17 ~~(f)~~ Address of property for which the applicant has
18 been granted a homestead exemption, if any.

19 ~~(g)(f)~~ Race or ethnicity that best describes the
20 applicant:

21 1. American Indian or Alaskan Native.

22 2. Asian or Pacific Islander.

23 3. Black, not Hispanic.

24 4. White, not Hispanic.

25 5. Hispanic.

26 ~~(h)(g)~~ Sex.

27 ~~(i)(h)~~ Party affiliation.

28 ~~(j)(i)~~ Whether the applicant needs assistance in
29 voting.

30 ~~(k)(j)~~ Name and address where last registered.

31

1 ~~(l)(k)~~ Last four digits of the applicant's social
2 security number~~(optional)~~.
3 ~~(m)~~ Driver's license number.
4 ~~(n)(l)~~ Telephone number (optional).
5 ~~(o)(m)~~ Signature of applicant under penalty for false
6 swearing pursuant to s. 104.011, by which the person
7 subscribes to the oath required by s. 3, Art. VI of the State
8 Constitution and s. 97.051, and swears or affirms that the
9 information contained in the registration application is true.
10 ~~(p)(n)~~ Whether the application is being used for
11 initial registration, to update a voter registration record,
12 or to request a replacement registration identification card.
13 ~~(q)(o)~~ Whether the applicant is a citizen of the
14 United States.
15 ~~(r)(p)~~ That the applicant has not been convicted of a
16 felony or, if convicted, has had his or her civil rights
17 restored.
18 ~~(s)(q)~~ That the applicant has not been adjudicated
19 mentally incapacitated with respect to voting or, if so
20 adjudicated, has had his or her right to vote restored.
21
22 The registration form must ~~shall~~ be in plain language and
23 designed so that convicted felons whose civil rights have been
24 restored and persons who have been adjudicated mentally
25 incapacitated and have had their voting rights restored are
26 not required to reveal their prior conviction or adjudication.
27 (3) The uniform statewide voter registration
28 application must also contain:
29 (a) The oath required by s. 3, Art. VI of the State
30 Constitution and s. 97.051.
31

1 (b) A statement specifying each eligibility
2 requirement under s. 97.041, including the requirement with
3 respect to registration and homestead exemption under s.
4 97.041(1)(b).

5 (c) The penalties provided in s. 104.011 for false
6 swearing in connection with voter registration.

7 ~~(d) A statement that the disclosure of a social~~
8 ~~security number is voluntary, a citation of the statutory~~
9 ~~authority under which the social security number is being~~
10 ~~solicited, a delineation of the uses that will be made of the~~
11 ~~social security number, and a notice that the social security~~
12 ~~number will be open to public inspection.~~

13 (d)(e) A statement that, if an applicant declines to
14 register to vote, the fact that the applicant has declined to
15 register will remain confidential and may be used only for
16 voter registration purposes.

17 ~~(e)(f)~~ A statement that informs the applicant who
18 chooses to register to vote or update a voter registration
19 record that the office at which the applicant submits a voter
20 registration application or updates a voter registration
21 record will remain confidential and may be used only for voter
22 registration purposes.

23 Section 5. Effective July 1, 1999, subsection (5) of
24 section 97.053, Florida Statutes, is amended to read:

25 97.053 Acceptance of voter registration
26 applications.--

27 (5)(a) A voter registration application is complete if
28 it contains:

- 29 1. The applicant's name.
30 2. The applicant's legal residence address.
31 3. The applicant's date of birth.

1 4. An indication that the applicant is a citizen of
2 the United States.

3 5. The last four digits of the applicant's social
4 security number.

5 ~~6.5.~~ An indication that the applicant has not been
6 convicted of a felony or that, if convicted, has had his or
7 her civil rights restored.

8 ~~7.6.~~ An indication that the applicant has not been
9 adjudicated mentally incapacitated with respect to voting or
10 that, if so adjudicated, has had his or her right to vote
11 restored.

12 ~~8.7.~~ Signature of the applicant swearing or affirming
13 under the penalty for false swearing pursuant to s. 104.011
14 that the information contained in the registration application
15 is true and subscribing to the oath required by s. 3, Art. VI
16 of the State Constitution and s. 97.051.

17 (b) An applicant who fails to designate party
18 affiliation must be registered without party affiliation. The
19 supervisor must notify the voter by mail that the voter has
20 been registered without party affiliation and that the voter
21 may change party affiliation as provided in s. 97.1031.

22 Section 6. Effective July 1, 1999, section 97.056,
23 Florida Statutes, is created to read:

24 97.056 Registration by mail; persons required to vote
25 in person.--

26 (1) Any registered voter who has registered by mail
27 and has not previously voted in the county in which he or she
28 is registered must vote:

29 (a) In person at the precinct in which he or she is
30 registered to vote; or
31

1 (b) In person at the office of the supervisor of
2 elections, as provided in s. 101.657.

3 (2) The provisions of this section do not apply to a
4 person who is entitled to vote by absentee ballot under the
5 Uniformed and Overseas Citizens Absentee Voting Act, the
6 Voting Accessibility for the Elderly and Handicapped Act, or
7 any other federal law, or an elector who is absent from the
8 county and does not plan to return before the day of the
9 election.

10 Section 7. Present subsections (2) and (3) of section
11 97.071, Florida Statutes, are redesignated as subsections (3)
12 and (4), respectively, and a new subsection (2) is added to
13 that section to read:

14 97.071 Registration identification card.--

15 (2)(a) Except as provided in paragraph (b), the
16 supervisor of elections shall mail a registration
17 identification card to the voter at the address listed as the
18 legal residence on the voter's registration application. The
19 card must be sent by nonforwardable, return-if-undeliverable
20 mail. If the identification card is returned as undeliverable
21 and the voter has indicated a different mailing address on the
22 registration application, the supervisor must mail a notice to
23 the mailing address, notifying the voter that his or her
24 registration identification card was returned and that the
25 voter may appear in person at the supervisor's office to pick
26 up the identification card. The supervisor must surrender the
27 identification card to the elector upon presentation of a
28 Florida driver's license, a Florida identification card issued
29 under s. 322.051, or another form of picture identification
30 approved by the Department of State. If the elector fails to
31 furnish the required identification, or if the supervisor has

1 doubts as to the identity of the elector, the supervisor must
2 require the elector to swear an oath substantially similar to
3 the one prescribed in s. 101.49 prior to surrendering the
4 identification card.

5 (b) The supervisor shall mail the voter identification
6 card by forwardable mail to voters who are covered by the
7 Uniformed and Overseas Citizens Absentee Voting Act.

8 Section 8. Subsection (11) is added to section 98.015,
9 Florida Statutes, to read:

10 98.015 Supervisor of elections; election, tenure of
11 office, compensation, custody of books, office hours,
12 successor, seal; appointment of deputy supervisors; duties.--

13 (11) The supervisor of elections must provide for
14 adequate training in handwriting comparison for members of the
15 county canvassing board and employees who verify signatures of
16 voters.

17 Section 9. Section 98.0975, Florida Statutes, is
18 created to read:

19 98.0975 Central voter file; periodic list
20 maintenance.--

21 (1) By August 15, 1998, the division shall provide to
22 each county supervisor of elections a list containing the
23 name, address, date of birth, race, gender, and any other
24 available information identifying the voter of each person
25 included in the central voter file as a registered voter in
26 the supervisor's county who:

27 (a) Is deceased;

28 (b) Has been convicted of a felony and has not had his
29 or her civil rights restored; or

30
31

1 (c) Has been adjudicated mentally incompetent and
2 whose mental capacity with respect to voting has not been
3 restored.

4 (2) The division shall annually update the information
5 required in subsection (1), and forward a like list to each
6 supervisor by November 1 in odd-numbered years and by August 1
7 in even-numbered years.

8 (3)(a) In order to meet its obligations under this
9 section, the division shall annually contract with a private
10 entity to compare information in the central voter file with
11 available information in other computer databases, including,
12 without limitation, databases containing reliable criminal
13 records and records of deceased persons.

14 (b) The entity contracted by the division is
15 designated as an agent of the division for purposes of
16 administering the contract, and must be limited to seeking
17 only that information which is necessary for the division to
18 meet its obligations under this section. Information obtained
19 under this section may not be used for any purpose other than
20 determining voter eligibility.

21 (4) Upon receiving the list from the division, the
22 supervisor must remove from the registration books by the next
23 subsequent election the name of any person who is deceased,
24 convicted of a felony, or adjudicated mentally incapacitated
25 with respect to voting.

26 Section 10. Section 98.461, Florida Statutes, is
27 amended to read:

28 98.461 Registration form, precinct register;
29 contents.--A registration form, approved by the Department of
30 State, containing the information required in s. 97.052 shall
31 be filed alphabetically in the office of the supervisor as the

1 master list of electors of the county. However, the
2 registration forms may be microfilmed and such microfilms
3 substituted for the original registration forms; or, when
4 voter registration information, including the voter's
5 signature, is maintained digitally or on electronic, magnetic,
6 or optic media, such stored information may be substituted for
7 the original registration form. Such microfilms or stored
8 information shall be retained in the custody of the supervisor
9 of elections. In the event the original registration forms are
10 microfilmed or maintained digitally or on electronic or other
11 media, such originals may be destroyed in accordance with the
12 schedule approved by the Bureau of Archives and Records
13 Management of the Division of Library and Information Services
14 of the Department of State. As an alternative, the information
15 from the registration form, including the signature, may be
16 electronically reproduced and stored as provided in s. 98.451.
17 A computer printout may be used at the polls as a precinct
18 register in lieu of the registration books. The precinct
19 register shall contain the date of the election, the precinct
20 number, and the following information concerning each
21 registered elector: last name, first name, and middle name or
22 initial; party affiliation; residence address; registration
23 number; date of birth; sex, if provided; race, if provided;
24 whether the voter needs assistance in voting; and such other
25 additional information as to readily identify the elector. The
26 precinct register may also contain a list of the forms of
27 identification ~~approved by the Department of State~~, which must
28 ~~shall~~ include, but is not be limited to, a the voter
29 ~~registration identification card and Florida driver's license,~~
30 a Florida identification card issued under s. 322.051, or
31 another form of picture identification approved by the

1 Department of State. The precinct register may also contain a
2 space for the elector's signature, a space for the initials of
3 the witnessing clerk or inspector, and a space for the
4 signature slip or ballot number.

5 Section 11. Section 98.471, Florida Statutes, is
6 amended to read:

7 98.471 Use of precinct register at polls.--The
8 precinct register, as prescribed in s. 98.461, may be used at
9 the polls in lieu of the registration books for the purpose of
10 identifying the elector at the polls prior to allowing him or
11 her to vote. The clerk or inspector shall require each
12 elector, upon entering the polling place, to present a Florida
13 driver's license, a Florida identification card issued under
14 s. 322.051, or another form of picture identification ~~one of~~
15 ~~the forms of identification which are on the list of forms~~
16 approved by the Department of State pursuant to ~~s. 98.461~~.
17 The elector shall sign his or her name in the space provided,
18 and the clerk or inspector shall compare the signature with
19 that on the identification provided by the elector and enter
20 his or her initials in the space provided and allow the
21 elector to vote if the clerk or inspector is satisfied as to
22 the identity of the elector. If the elector fails to furnish
23 the required identification, or if the clerk or inspector is
24 in doubt as to the identity of the elector, such clerk or
25 inspector shall follow the procedure prescribed in s. 101.49.
26 The precinct register may also contain the information set
27 forth in s. 101.47(8) and, if so, the inspector shall follow
28 the procedure required in s. 101.47, except that the
29 identification provided by the elector shall be used for the
30 signature comparison.

31

1 Section 12. Subsections (1) and (4) of section 101.62,
2 Florida Statutes, are amended to read:

3 101.62 Request for absentee ballots.--

4 (1)(a) The supervisor may accept a request for an
5 absentee ballot from an elector in person or by mail, ~~or for~~
6 ~~an elector from any person designated by such elector. Such~~
7 ~~request may be made in person, by mail, or by telephone. One~~
8 ~~request shall be deemed sufficient to receive an absentee~~
9 ~~ballot for all elections which are held within a calendar~~
10 ~~year, unless~~ The elector shall designate ~~or the elector's~~
11 ~~designee indicates at the time the request is made the~~
12 election or elections within the next year for which the
13 elector will be eligible ~~desires~~ to receive an absentee
14 ballot. Such request may be considered canceled when any
15 first-class mail sent by the supervisor to the elector is
16 returned as undeliverable.

17 (b) The supervisor may accept a telephone request for
18 an absentee ballot from the elector, a member of the elector's
19 immediate family, or the elector's legal guardian. For
20 purposes of this section, the term "immediate family" has the
21 same meaning as specified in paragraph (4)(b). The person
22 making the telephone request must disclose:

23 1. The name of the elector for whom the ballot is
24 requested;

25 2. The elector's address;

26 3. The last four digits of the elector's social
27 security number;

28 4. The registration number on the elector's
29 registration identification card;

30 5. The requester's name;

31 6. The requester's address;

1 7. The requester's social security number and, if
2 available, driver's license number; and

3 8. The requester's relationship to the elector.

4 (4)(a) To each absent qualified elector overseas who
5 has requested an absentee ballot, the supervisor of elections
6 shall, not fewer than 35 days before the first primary
7 election, mail an absentee ballot. Not fewer than 45 days
8 before the second primary and general election, the supervisor
9 of elections shall mail an advance absentee ballot to those
10 persons requesting ballots for such elections. The advance
11 absentee ballot for the second primary shall be the same as
12 the first primary absentee ballot as to the names of
13 candidates, except that for any offices where there are only
14 two candidates, those offices and all political party
15 executive committee offices shall be omitted. The advance
16 absentee ballot for the general election shall be as specified
17 in s. 101.151, except that in the case of candidates of
18 political parties where nominations were not made in the first
19 primary, the names of the candidates placing first and second
20 in the first primary election shall be printed on the advance
21 absentee ballot. The advance absentee ballot or advance
22 absentee ballot information booklet shall be of a different
23 color for each election and also a different color from the
24 absentee ballots for the first primary, second primary, and
25 general election. The supervisor shall mail an advance
26 absentee ballot for the second primary and general election to
27 each qualified absent elector for whom a request is received
28 until the absentee ballots are printed. The supervisor shall
29 enclose with the advance second primary absentee ballot and
30 advance general election absentee ballot an explanation
31 stating that the absentee ballot for the election will be

1 mailed as soon as it is printed; and, if both the advance
2 absentee ballot and the absentee ballot for the election are
3 returned in time to be counted, only the absentee ballot will
4 be counted.

5 (b) As soon as the remainder of the absentee ballots
6 are printed, the supervisor shall provide ~~deliver or mail~~ an
7 absentee ballot to each elector by whom a request for that
8 ballot has been made by one of the following means:-

9 1. By nonforwardable, return-if-undeliverable mail to
10 the elector's current residence address on file with the
11 supervisor, unless the elector specifies in the request that:

12 a. Mail delivery is unavailable at his or her
13 residence;

14 b. The elector is absent from the county and does not
15 plan to return before the day of the election;

16 c. The elector is temporarily unable to occupy the
17 residence because of hurricane, tornado, flood, fire, or other
18 emergency or natural disaster; or

19 d. The elector is in a hospital, assisted-living
20 facility, nursing home, short-term medical or rehabilitation
21 facility, or correctional facility.

22 2. By personal delivery to the elector, upon
23 presentation of the identification required in s. 101.657.

24 3. By delivery to a designee on election day or the
25 day before an election.Any elector may designate in writing a
26 person to pick up the ballot for the elector; however, the
27 person designated may not pick up more than two absentee
28 ballots per election, other than the designee's own ballot,
29 except that additional ballots may be picked up for members of
30 the designee's immediate family. For purposes of this
31 section, "immediate family" means the designee's spouse or the

1 parent, child, grandparent, or sibling of the designee or of
2 the designee's spouse. The designee shall provide to the
3 supervisor the written authorization by the elector and a
4 picture identification of the designee and must complete an
5 affidavit. The designee shall state in the affidavit that the
6 designee is authorized by the elector to pick up that ballot
7 and shall indicate if the elector is a member of the
8 designee's immediate family and, if so, the relationship. The
9 department shall prescribe the form of the affidavit. If the
10 supervisor is satisfied that the designee is authorized to
11 pick up the ballot and that the signature of the elector on
12 the written authorization matches the signature of the elector
13 on file, the supervisor shall give the ballot to that designee
14 for delivery to the elector.

15 Section 13. Subsection (1) of section 101.64, Florida
16 Statutes, is amended to read:

17 101.64 Delivery of absentee ballots; envelopes;
18 form.--

19 (1) The supervisor shall enclose with each absentee
20 ballot two envelopes: a secrecy envelope, into which the
21 absent elector shall enclose his or her marked ballot; and a
22 mailing envelope, into which the absent elector shall then
23 place the secrecy envelope, which shall be addressed to the
24 supervisor and also bear on the back side a certificate in
25 substantially the following form:

26
27 Note: Please Read Instructions Carefully Before
28 Marking Ballot and Completing Voter's Certificate.

29 VOTER'S CERTIFICATE

30 I,, am a qualified and registered voter of
31 County, Florida. I understand that failure to sign this

1 certificate and have my signature witnessed will invalidate my
2 ballot. I am entitled to vote an absentee ballot for one of
3 the following reasons:

4
5 1. I am unable without another's assistance to attend
6 the polls.

7 2. I will not be in the precinct of my residence
8 during the hours the polls are open for voting on election
9 day.

10 3. I am an inspector, a poll worker, a deputy voting
11 machine custodian, a deputy sheriff, a supervisor of
12 elections, or a deputy supervisor who is assigned to a
13 different precinct than that in which I am registered.

14 4. On account of the tenets of my religion, I cannot
15 attend the polls on the day of the general, special, or
16 primary election.

17 5. I have changed my permanent residency to another
18 county in Florida within the time period during which the
19 registration books are closed for the election. I understand
20 that I am allowed to vote only for national and statewide
21 offices and on statewide issues.

22 6. I have changed my permanent residency to another
23 state and am unable under the laws of such state to vote in
24 the general election. I understand that I am allowed to vote
25 only for President and Vice President.

26 7. I am unable to attend the polls on election day and
27 am voting this ballot in person at the office of, and under
28 the supervision of, the county supervisor of elections.

29 ...(Voter's Signature)...

30
31 Note: Your Signature Must Be Witnessed By Either:

1 a. A Notary or Officer Defined in Item 6.b. of the
2 Instruction Sheet.
3
4 STATE OF FLORIDA
5 COUNTY OF
6
7 ...(Signature of Applicant)...
8 Sworn to (or affirmed) and subscribed before me this
9 day of, ...(year)..., by ...(name of person
10 making statement)....
11
12 ...(Signature of Official)...
13 ...(Print, Type, or Stamp Name)...
14 ...(Address)...
15 Personally Known OR Produced Identification
16
17 Type of Identification Produced.....
18
19 OR
20
21 b. Two Witnesses, Both of Whom Are Registered Voters
22 in the County and Both of Whom Are Immediate Family Members of
23 the Elector or Certified to Witness Ballots By the Supervisor
24 of Elections.
25
26 WITNESS ONE: CHECK APPROPRIATE BOX
27 [] Immediate Family Member of Elector
28 [] Certified by Supervisor of Elections
29
30
31

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

1 I swear or affirm that the voter signed this Voter's
2 Certificate in my presence and that I have not witnessed more
3 than 5 ballots for this election.
4
5 ...(Signature of Witness)...
6 ...(Printed Name of Witness)...
7
8 ...(Voter I.D. Number of Witness)...
9
10 ...(Address)...
11 ...(City/State)...
12
13 WITNESS TWO: CHECK APPROPRIATE BOX
14 [] Immediate Family Member of Elector
15 [] Certified by Supervisor of Elections
16
17
18 I swear or affirm that the voter signed this Voter's
19 Certificate in my presence and that I have not witnessed more
20 than 5 ballots for this election.
21
22 ...(Signature of Witness)...
23 ...(Printed Name of Witness)...
24
25 ...(Voter I.D. Number of Witness)...
26
27 ...(Address)...
28 ...(City/State)...
29
30 ELECTION FRAUD IS A SERIOUS OFFENSE
31

1 Vote buying, vote selling, vote brokering, and marking the
2 ballot of another may subject you to civil penalties of up to
3 \$5,000 and up to 5 years in prison. Consult your local
4 supervisor of elections if you have questions regarding the
5 laws governing absentee voting.

6
7 ~~Note: Please Read Instructions Carefully Before~~
8 ~~Marking Ballot and Completing Voter's Certificate.~~

9 ~~VOTER'S CERTIFICATE~~

10 ~~I, ... (print name) ..., do solemnly swear or affirm that~~
11 ~~I am a qualified elector in this election, that I am unable to~~
12 ~~attend the polls on election day, and that I have not and will~~
13 ~~not vote more than one ballot in this election. I understand~~
14 ~~that failure to sign this certificate and have my signature~~
15 ~~witnessed will invalidate my ballot.~~

16 ~~... (Voter's Signature) ...~~

17
18 ~~Note: Your Signature Must Be Witnessed By One Witness 18~~
19 ~~Years of Age or Older as provided in Item 7. of the~~
20 ~~Instruction Sheet.~~

21
22 ~~I swear or affirm that the elector signed this Voter's~~
23 ~~Certificate in my presence.~~

24 ~~... (Signature of Witness) ...~~

25 ~~... (Address) ...~~

~~... (City/State) ...~~

26 Section 14. Section 101.645, Florida Statutes, is
27 created to read:

28 101.645 Certification of absentee ballot witnesses.--

29 (1) Any qualified, registered elector who has not been
30 convicted of an election law violation may apply in person at
31 the office of the elector's supervisor of elections for

1 certification as an absentee ballot witness. The supervisor
2 shall prescribe and make available an application form which
3 must require, at a minimum, the applicant's signature, name,
4 address, and phone number, the last four digits of the
5 applicant's social security number, the applicant's voter
6 identification number, a sworn statement attesting to the
7 accuracy of the information provided, and a statement that
8 false swearing will subject an applicant to up to \$5,000 in
9 civil fines and up to 5 years in prison. In addition, the
10 applicant must present a Florida driver's license, a Florida
11 identification card issued under s. 322.051, or another form
12 of picture identification approved by the Department of State.

13 (2) After the supervisor of elections confirms that
14 the information provided by the applicant is correct and that
15 the applicant is a qualified, registered elector of the
16 county, the supervisor shall mail or deliver to the applicant
17 a certified absentee ballot witness card that is valid for up
18 to 1 year from the date issued. The mailing or delivery must
19 also include instructions on how to properly witness and
20 complete the applicable section of the absentee ballot voter's
21 certificate. The instructions and the card must also
22 conspicuously state: "You are limited to witnessing only 5
23 ballots per election. Witnessing more than 5 ballots is a
24 third-degree felony, punishable by up to \$5,000 in fines and 5
25 years in prison."

26 (3) The supervisor shall maintain a list of active
27 certified absentee ballot witnesses.

28 (4) The supervisor may remove the name of a certified
29 witness from the active list for cause. The supervisor shall
30 notify the witness by certified mail that the witness's
31 certification has been revoked.

1 Section 15. Section 101.647, Florida Statutes, is
2 created to read:

3 101.647 Return of absentee ballots.--

4 (1) Absentee ballots must be returned to the
5 supervisor of elections by the elector, either in person or by
6 mail.

7 (2) If the elector is unable to mail or personally
8 deliver the ballot, the elector may designate in writing a
9 person who may return the ballot for the elector; however, the
10 person designated may not return more than two absentee
11 ballots per election, other than the designee's own ballot,
12 except that additional ballots may be returned for members of
13 the designee's immediate family. For purposes of this
14 section, the term "immediate family" means the designee's
15 spouse or the parent, child, grandparent, or sibling of the
16 designee or of the designee's spouse. The designee must
17 provide to the supervisor the written authorization by the
18 elector and a picture identification of the designee and must
19 complete an affidavit. The designee must state in the
20 affidavit that the designee is authorized by the elector to
21 return that ballot and must indicate whether the elector is a
22 member of the designee's immediate family and, if so, the
23 relationship. The department shall prescribe the form of the
24 affidavit. If the supervisor is satisfied that the designee
25 is authorized to return the ballot and that the signature of
26 the elector on the written authorization matches the signature
27 of the elector on file, the supervisor must accept the ballot
28 from the designee.

29 Section 16. Section 101.65, Florida Statutes, is
30 amended to read:

31

1 101.65 Instructions to absent electors.--The
2 supervisor shall enclose with each absentee ballot separate
3 printed instructions in substantially the following form:

4
5 READ THESE INSTRUCTIONS CAREFULLY BEFORE MARKING BALLOT.

6 1. VERY IMPORTANT. In order to ensure that your
7 absentee ballot will be counted, it should be completed and
8 returned as soon as possible so that it can reach the
9 supervisor of elections of the county in which your precinct
10 is located no later than 7 p.m. on the day of the election.

11 2. Mark your ballot in secret as instructed on the
12 ballot. You must mark your own ballot unless you are unable to
13 do so because of blindness, disability, or inability to read
14 or write.

15 3. Place your marked ballot in the enclosed secrecy
16 envelope.

17 4. Insert the secrecy envelope into the enclosed
18 mailing envelope which is addressed to the supervisor.

19 5. Seal the mailing envelope and completely fill out
20 the Voter's Certificate on the back of the mailing envelope.

21 6. VERY IMPORTANT. In order for your absentee ballot
22 to be counted, you must sign your name on the line above
23 “(Voter's Signature), and your ballot must be witnessed in
24 either of the following manners:--”

25 a. Two witnesses, both of whom are registered voters
26 in the county and both of whom are either immediate family
27 members of the elector or persons certified by the supervisor
28 of elections to serve as attesting witnesses, must affix their
29 signatures, printed names, addresses, and voter identification
30 numbers on the voter's certificate and check the appropriate
31 witness categorization box. A candidate may not serve as an

1 attesting witness. Witnesses certified by the supervisor of
2 elections or immediate family members are limited to
3 witnessing 5 ballots per election.

4 b. Any notary or other officer entitled to administer
5 oaths or any Florida supervisor of elections or deputy
6 supervisor of elections, other than a candidate, may serve as
7 an attesting witness. The attesting witness must affix his or
8 her signature, official title, and address to the voter's
9 certificate.

10 ~~7. VERY IMPORTANT. In order for your absentee ballot~~
11 ~~to be counted, it must include the signature and address of a~~
12 ~~witness 18 years of age or older affixed to the Voter's~~
13 ~~Certificate. No candidate may serve as an attesting witness.~~

14 ~~7.8. Mail, deliver, or have delivered the completed~~
15 ~~mailing envelope. Be sure there is sufficient postage if~~
16 ~~mailed.~~

17 Section 17. Section 101.657, Florida Statutes, is
18 created to read:

19 101.657 Voting absentee ballots in
20 person.--Notwithstanding s. 97.021(1), any qualified and
21 registered elector who is unable to attend the polls on
22 election day may pick up and vote an absentee ballot in person
23 at the office of, and under the supervision of, the supervisor
24 of elections. Before receiving the ballot, the elector must
25 present a Florida driver's license, a Florida identification
26 card issued under s. 322.051, or another form of picture
27 identification approved by the Department of State. If the
28 elector fails to furnish the required identification, or if
29 the supervisor is in doubt as to the identity of the elector,
30 the supervisor must follow the procedure prescribed in s.
31 101.49.

1 Section 18. Section 101.66, Florida Statutes, is
2 created to read:

3 101.66 Voting absentee ballots.--All electors must
4 personally mark or designate their choices on the absentee
5 ballot, except:

6 (1) Electors who require assistance to vote because of
7 blindness, disability, or inability to read or write, who may
8 have some person of the elector's choice, other than the
9 elector's employer, an agent of the employer, or an officer or
10 agent of the elector's union, mark the elector's choices or
11 assist the elector in marking his or her choices on the
12 ballot.

13 (2) As otherwise provided in s. 101.051 or s. 101.655.

14 Section 19. Section 101.68, Florida Statutes, is
15 amended to read:

16 101.68 Canvassing of absentee ballot.--

17 (1) The supervisor of the county where the absent
18 elector resides shall receive the voted ballot, at which time
19 the supervisor may compare the signature of the elector on the
20 voter's certificate with the signature of the elector in the
21 registration books to determine whether the elector is duly
22 registered in the county and may record on the elector's
23 registration certificate that the elector has voted. The
24 supervisor may also compare the signature of any certified
25 witness with the list of active certified witnesses who are
26 qualified to sign the voter's certificate.The supervisor
27 shall safely keep the ballot unopened in his or her office
28 until the county canvassing board canvasses the vote.

29 (2)(a) The county canvassing board may begin the
30 canvassing of absentee ballots at 7 a.m. on the fourth day
31 before the election, but not later than noon on the day

1 following the election. In addition, for any county using
2 electronic tabulating equipment, the processing of absentee
3 ballots through such tabulating equipment may begin upon the
4 opening of the polls on election day. However,
5 notwithstanding any such authorization to begin canvassing or
6 otherwise processing absentee ballots early, no result or
7 tabulation of absentee ballots shall be made until after the
8 close of the polls on election day.

9 (b) To ensure that all absentee ballots to be counted
10 by the canvassing board are accounted for, the canvassing
11 board shall compare the number of ballots in its possession
12 with the number of requests for ballots received to be counted
13 according to the supervisor's file or list.

14 (c)1. The canvassing board shall, if the supervisor
15 has not already done so, compare the signature of the elector
16 on the voter's certificate with the signature of the elector
17 in the registration books to see that the elector is duly
18 registered in the county and to determine the legality of that
19 absentee ballot. The canvassing board shall, if the supervisor
20 has not done so, compare the signature of any certified
21 witness with the supervisor's list of active certified
22 witnesses to determine whether the witness is qualified to
23 sign the voter's certificate. An absentee ballot shall be
24 considered illegal if it does not include the signature of the
25 elector, as shown by the registration records, and either:

26 a. The subscription of a notary or officer defined in
27 Item 6.b. of the instruction sheet, or

28 b. The signature, printed name, address, and voter
29 identification number of two attesting witnesses, both of whom
30 are registered voters in the county and both of whom are
31 either immediate family members of the elector or persons

1 certified by the supervisor of elections to witness ballots.
2 ~~the signature and address of an attesting witness.~~

3
4 However, an absentee ballot shall not be considered illegal if
5 the signature of the elector or attesting witness does not
6 cross the seal of the mailing envelope or if the person
7 witnessing the ballot is in violation of s. 104.047(3)(b). If
8 the canvassing board determines that any ballot is illegal, a
9 member of the board shall, without opening the envelope, mark
10 across the face of the envelope: "rejected as illegal." The
11 envelope and the ballot contained therein shall be preserved
12 in the manner that official ballots voted are preserved.

13 2. If any elector or candidate present believes that
14 an absentee ballot is illegal due to a defect apparent on the
15 voter's certificate, he or she may, at any time before the
16 ballot is removed from the envelope, file with the canvassing
17 board a protest against the canvass of that ballot, specifying
18 the precinct, the ballot, and the reason he or she believes
19 the ballot to be illegal. A challenge based upon a defect in
20 the voter's certificate may not be accepted after the ballot
21 has been removed from the mailing envelope.

22 (d) The canvassing board shall record the ballot upon
23 the proper record, unless the ballot has been previously
24 recorded by the supervisor. The mailing envelopes shall be
25 opened and the secrecy envelopes shall be mixed so as to make
26 it impossible to determine which secrecy envelope came out of
27 which signed mailing envelope; however, in any county in which
28 an electronic or electromechanical voting system is used, the
29 ballots may be sorted by ballot styles and the mailing
30 envelopes may be opened and the secrecy envelopes mixed

31

1 separately for each ballot style. The votes on absentee
2 ballots shall be included in the total vote of the county.

3 (3) The supervisor or the chair of the county
4 canvassing board shall, after the board convenes, have custody
5 of the absentee ballots until a final proclamation is made as
6 to the total vote received by each candidate.

7 (4) The supervisor of elections shall, on behalf of
8 the county canvassing board, notify each elector whose ballot
9 was rejected as illegal because of a difference between the
10 elector's signature on the ballot and that on the elector's
11 voter registration record. The supervisor shall mail a voter
12 registration application to the elector to be completed
13 indicating the elector's current signature. This section does
14 not prohibit the supervisor from providing additional methods
15 for updating an elector's signature.

16 Section 20. Effective July 1, 1999, subsection (5) is
17 added to section 101.68, Florida Statutes, to read:

18 101.68 Canvassing of absentee ballot.--

19 (5) The supervisor of elections shall report to the
20 state attorney and the Florida Elections Commission any
21 absentee ballot witness who is in violation of s.
22 104.047(3)(b) for witnessing more than 5 ballots.

23 Section 21. Section 104.047, Florida Statutes, is
24 created to read:

25 104.047 Absentee voting.--

26 (1) Any person who provides or offers to provide, and
27 any person who accepts, a pecuniary or other benefit in
28 exchange for a promise to distribute, order, request, collect,
29 deliver, or otherwise physically possess absentee ballots,
30 except as provided in ss. 101.6105-101.694, is guilty of a
31

1 felony of the third degree, punishable as provided in s.
2 775.082, s. 775.083, or s. 775.084.

3 (2) Any person who requests an absentee ballot on
4 behalf of an elector without the elector's permission is
5 guilty of a felony of the third degree, punishable as provided
6 in s. 775.082, s. 775.083, or s. 775.084.

7 (3)(a) Any person not authorized to witness an
8 absentee ballot under ss. 101.64 and 101.65 who signs the
9 voter's certificate as a witness to such ballot is guilty of a
10 felony of the third degree, punishable as provided in s.
11 775.082, s. 775.083, or s. 775.084.

12 (b) Any person, other than a notary or other officer
13 entitled to administer oaths or a supervisor of elections or
14 deputy supervisor of elections, who witnesses more than 5
15 ballots in any single election, is guilty of a felony of the
16 third degree, punishable as provided in s. 775.082, s.
17 775.083, or s. 775.084.

18 (4) Any person who marks or designates a choice on the
19 ballot of another person, except as provided in s. 101.051, s.
20 101.655, or s. 101.66, is guilty of a felony of the third
21 degree, punishable as provided in s. 775.082, s. 775.083, or
22 s. 775.084.

23 Section 22. Subsections (2) and (4) of section
24 104.012, Florida Statutes, are amended to read:

25 104.012 Consideration for registration; interference
26 with registration; soliciting registrations for compensation;
27 alteration of registration application.--

28 (2) A person who by bribery, menace, threat, or other
29 corruption, directly or indirectly, influences, deceives, or
30 deters or attempts to influence, deceive, or deter any person
31 in the free exercise of that person's right to register to

1 vote at any time, ~~upon the first conviction, commits a~~
2 ~~misdemeanor of the first degree, punishable as provided in s.~~
3 ~~775.082 or s. 775.083, and, upon any subsequent conviction,~~
4 commits a felony of the third degree, punishable as provided
5 in s. 775.082, s. 775.083, or s. 775.084.

6 (4) A person who alters the voter registration
7 application of any other person, without the other person's
8 knowledge and consent, commits a felony ~~misdemeanor~~ of the
9 third first degree, punishable as provided in s. 775.082, or
10 s. 775.083, or s. 775.084.

11 Section 23. Section 104.013, Florida Statutes, is
12 amended to read:

13 104.013 Unauthorized use, possession, or destruction
14 of voter registration identification card.--

15 (1) It is unlawful for any person knowingly to have in
16 his or her possession any blank, forged, stolen, fictitious,
17 counterfeit, or unlawfully issued voter registration
18 identification card unless possession by such person has been
19 duly authorized by the supervisor.

20 (2) It is unlawful for any person to barter, trade,
21 sell, or give away a voter registration identification card
22 unless said person has been duly authorized to issue a
23 registration identification card.

24 (3) It is unlawful for any person willfully to destroy
25 or deface the registration identification card of a duly
26 registered voter.

27 (4) Any person who violates any of the provisions of
28 this section commits a felony ~~misdemeanor~~ of the third first
29 degree, punishable as provided in s. 775.082, or s. 775.083,
30 or s. 775.084.

31

1 Section 24. Section 104.031, Florida Statutes, is
2 amended to read:

3 104.031 False declaration to secure assistance in
4 preparing ballot.--Any person who makes a false declaration
5 for assistance in voting, or in the preparation of his or her
6 ballot, in any election is guilty of a felony ~~misdemeanor~~ of
7 the third ~~first~~ degree, punishable as provided in s. 775.082,
8 ~~or s. 775.083, or s. 775.084.~~

9 Section 25. Section 104.045, Florida Statutes, is
10 amended to read:

11 104.045 Vote selling.--Any person who:

12 (1) Corruptly offers to vote for or against, or to
13 refrain from voting for or against, any candidate in any
14 election in return for pecuniary or other benefit; or

15 (2) Accepts a pecuniary or other benefit in exchange
16 for a promise to vote for or against, or to refrain from
17 voting for or against, any candidate in any election,

18
19 is guilty of a felony ~~misdemeanor~~ of the third ~~first~~ degree,
20 punishable as provided in s. 775.082,~~or s. 775.083, or s.~~
21 775.084.

22 Section 26. Section 104.0515, Florida Statutes, is
23 amended to read:

24 104.0515 Voting rights; deprivation of, or
25 interference with, prohibited; penalty.--

26 (1) All citizens of this state who are otherwise
27 qualified by law to vote at any election by the people in this
28 state or in any district, county, city, town, municipality,
29 school district, or other subdivision of this state shall be
30 entitled and allowed to vote at all such elections without
31 distinction according to race, color, or previous condition of

1 servitude, notwithstanding any law, ordinance, regulation,
2 custom, or usage to the contrary.

3 (2) No person acting under color of law shall:

4 (a) In determining whether any individual is qualified
5 under law to vote in any election, apply any standard,
6 practice, or procedure different from the standards,
7 practices, or procedures applied under law to other
8 individuals within the same political subdivision who have
9 been found to be qualified to vote; or

10 (b) Deny the right of any individual to vote in any
11 election because of an error or omission on any record or
12 paper relating to any application, registration, or other act
13 requisite to voting, if such error or omission is not material
14 in determining whether such individual is qualified under law
15 to vote in such election. This paragraph shall apply to
16 absentee ballots only if there is a pattern or history of
17 discrimination on the basis of race, color, or previous
18 condition of servitude in regard to absentee ballots.

19 (3) No person, whether acting under color of law or
20 otherwise, shall intimidate, threaten, or coerce, or attempt
21 to intimidate, threaten, or coerce, any other person for the
22 purpose of interfering with the right of such other person to
23 vote or not to vote as that person may choose, or for the
24 purpose of causing such other person to vote for, or not vote
25 for, any candidate for any office at any general, special, or
26 primary election held solely or in part for the purpose of
27 selecting or electing any such candidate.

28 (4) No voting qualification or prerequisite to voting,
29 and no standard, practice, or procedure, shall be imposed or
30 applied by any political subdivision of this state to deny or
31

1 abridge the right of any citizen to vote on account of race or
2 color.

3 (5) Any person who violates the provisions of this
4 section is guilty of a felony ~~misdemeanor~~ of the third ~~first~~
5 degree, punishable as provided in s. 775.082, ~~or~~ s. 775.083,
6 or s. 775.084.

7 Section 27. Subsection (1) of section 104.061, Florida
8 Statutes, is amended to read:

9 104.061 Corruptly influencing voting.--

10 (1) Whoever by bribery, menace, threat, or other
11 corruption whatsoever, either directly or indirectly, attempts
12 to influence, deceive, or deter any elector in voting or
13 interferes with him or her in the free exercise of the
14 elector's right to vote at any election is guilty of a
15 ~~misdemeanor of the first degree, punishable as provided in s.~~
16 ~~775.082 or s. 775.083 for the first conviction, and a felony~~
17 ~~of the third degree, punishable as provided in s. 775.082, s.~~
18 ~~775.083, or s. 775.084, for any subsequent conviction.~~

19 Section 28. Section 104.081, Florida Statutes, is
20 amended to read:

21 104.081 Threats of employers to control votes of
22 employees.--It is ~~shall be~~ unlawful for any person having one
23 or more persons in his or her service as employees to
24 discharge or threaten to discharge any employee in his or her
25 service for voting or not voting in any election, state,
26 county, or municipal, for any candidate or measure submitted
27 to a vote of the people. Any person who violates the
28 provisions of this section is guilty of a felony ~~misdemeanor~~
29 of the third ~~first~~ degree, punishable as provided in s.
30 775.082, ~~or~~ s. 775.083, or s. 775.084.

31

1 Section 29. Section 104.24, Florida Statutes, is
2 amended to read:

3 104.24 Penalty for assuming name.--A person may not ~~No~~
4 ~~registered elector shall~~, in connection with any part of the
5 election process, fraudulently call himself or herself, or
6 fraudulently pass by, any other name than the name by which
7 the person ~~elector~~ is registered or fraudulently use the name
8 of another in voting. Any person who violates this section is
9 guilty of a felony ~~misdemeanor~~ of the third ~~first~~ degree,
10 punishable as provided in s. 775.082, or s. 775.083, or s.
11 775.084.

12 Section 30. Section 104.42, Florida Statutes, is
13 amended to read:

14 104.42 Fraudulent registration and illegal voting;
15 investigation.--

16 (1) The supervisor of elections is authorized to
17 investigate fraudulent registrations and illegal voting and to
18 report his or her findings to the local state attorney and the
19 Florida Elections Commission.

20 (2) The board of county commissioners in any county
21 may appropriate funds to the supervisor of elections for the
22 purpose of investigating fraudulent registrations and illegal
23 voting.

24 Section 31. Section 104.45, Florida Statutes, is
25 created to read:

26 104.45 Violations by candidates or public officers;
27 additional penalties.--In addition to any criminal penalty or
28 other civil penalty involved, any person found guilty of
29 committing a violation of this chapter which occurred while
30 the person was either a candidate or a public officer is
31 disqualified from holding office for a period of 5 years from

1 the date of disqualification or upon restoration of civil
2 rights, whichever occurs first.

3 Section 32. Paragraph (m) is added to subsection (1)
4 of section 114.01, Florida Statutes, to read:

5 114.01 Office deemed vacant in certain cases.--

6 (1) A vacancy in office shall occur:

7 (m) Upon the officer being found guilty of a violation
8 of chapter 104.

9 Section 33. Subsection (2) of section 117.05, Florida
10 Statutes, is amended to read:

11 117.05 Use of notary commission; unlawful use; notary
12 fee; seal; duties; employer liability; name change;
13 advertising; photocopies; penalties.--

14 (2)(a) The fee of a notary public may not exceed \$10
15 for any one notarial act, except as provided in s. 117.04.

16 (b) A notary public may not charge a fee for
17 witnessing an absentee ballot in an election, and must witness
18 such a ballot upon the request of an elector, provided the
19 notarial act is in accordance with the provisions of this
20 chapter.

21 Section 34. Section 106.25, Florida Statutes, is
22 amended to read:

23 106.25 Reports of alleged violations to Florida
24 Elections Commission; disposition of findings.--

25 (1) Jurisdiction to investigate and determine
26 violations of this chapter and chapter 104 is vested in the
27 Florida Elections Commission; however, nothing in this section
28 limits the jurisdiction of any other officers or agencies of
29 government empowered by law to investigate, act upon, or
30 dispose of alleged violations of this code.

31

1 (2) The commission shall investigate all violations of
2 this chapter and chapter 104, but only after having received
3 either a sworn complaint or information reported to it by the
4 Division of Elections. Any person, other than the division,
5 having information of any violation of this chapter or chapter
6 104 shall file a sworn complaint with the commission. Such
7 sworn complaint shall state whether a complaint of the same
8 violation has been made to any state attorney. Within 5 days
9 after receipt of a sworn complaint, the commission shall
10 transmit a copy of the complaint to the alleged violator.

11 (3) For the purposes of commission jurisdiction, a
12 violation shall mean the willful performance of an act
13 prohibited by this chapter or chapter 104 or the willful
14 failure to perform an act required by this chapter or chapter
15 104.

16 (4) The commission shall undertake a preliminary
17 investigation to determine if the facts alleged in a sworn
18 complaint or a matter initiated by the division constitute
19 probable cause to believe that a violation has occurred. Upon
20 completion of the preliminary investigation, the commission
21 shall, by written report, find probable cause or no probable
22 cause to believe that this chapter or chapter 104 ~~s. 104.271~~
23 has been violated.

24 (a) If no probable cause is found, the commission
25 shall dismiss the case and the case shall become a matter of
26 public record, except as otherwise provided in this section,
27 together with a written statement of the findings of the
28 preliminary investigation and a summary of the facts which the
29 commission shall send to the complainant and the alleged
30 violator.

31

1 (b) If probable cause is found, the commission shall
2 so notify the complainant and the alleged violator in writing.
3 All documents made or received in the disposition of the
4 complaint shall become public records upon a finding by the
5 commission.

6
7 In a case where probable cause is found, the commission shall
8 make a preliminary determination to consider the matter or to
9 refer the matter to the state attorney for the judicial
10 circuit in which the alleged violation occurred.

11 (5) When there are disputed issues of material fact in
12 a proceeding conducted under ss. 120.569 and 120.57, a person
13 alleged by the Elections Commission to have committed a
14 violation of this chapter or chapter 104 ~~the Florida Election~~
15 ~~Code~~ may elect, within 30 days after the date of the filing of
16 the commission's allegations, to have a hearing conducted by
17 an administrative law judge in the Division of Administrative
18 Hearings.

19 (6) It is the duty of a state attorney receiving a
20 complaint referred by the commission to investigate the
21 complaint promptly and thoroughly; to undertake such criminal
22 or civil actions as are justified by law; and to report to the
23 commission the results of such investigation, the action
24 taken, and the disposition thereof. The failure or refusal of
25 a state attorney to prosecute or to initiate action upon a
26 complaint or a referral by the commission shall not bar
27 further action by the commission under this chapter.

28 (7) Every sworn complaint filed pursuant to this
29 chapter with the commission, every investigation and
30 investigative report or other paper of the commission with
31 respect to a violation of this chapter or chapter 104, and

1 every proceeding of the commission with respect to a violation
2 of this chapter or chapter 104 is confidential, is exempt from
3 the provisions of ss. 119.07(1) and 286.011, and is exempt
4 from publication in the Florida Administrative Weekly of any
5 notice or agenda with respect to any proceeding relating to
6 such violation, except under the following circumstances:

7 (a) As provided in subsection (6);

8 (b) Upon a determination of probable cause or no
9 probable cause by the commission; or

10 (c) For proceedings conducted with respect to appeals
11 of fines levied by filing officers for the late filing of
12 reports required by this chapter.

13
14 However, a complainant is not bound by the confidentiality
15 provisions of this section. In addition, confidentiality may
16 be waived in writing by the person against whom the complaint
17 has been filed or the investigation has been initiated. If a
18 finding of probable cause in a case is entered within 30 days
19 prior to the date of the election with respect to which the
20 alleged violation occurred, such finding and the proceedings
21 and records relating to such case shall not become public
22 until noon of the day following such election. When two or
23 more persons are being investigated by the commission with
24 respect to an alleged violation of this chapter or chapter
25 104, the commission may not publicly enter a finding of
26 probable cause or no probable cause in the case until a
27 finding of probable cause or no probable cause for the entire
28 case has been determined. However, once the confidentiality of
29 any case has been breached, the person or persons under
30 investigation have the right to waive the confidentiality of
31 the case, thereby opening up the proceedings and records to

1 the public. Any person who discloses any information or
2 matter made confidential by the provisions of this subsection
3 commits a misdemeanor of the first degree, punishable as
4 provided in s. 775.082 or s. 775.083.

5 (8) Any person who files a complaint pursuant to this
6 section while knowing that the allegations contained in such
7 complaint are false or without merit commits a misdemeanor of
8 the first degree, punishable as provided in s. 775.082 or s.
9 775.083.

10 Section 35. Subsection (11) of section 106.26, Florida
11 Statutes, is amended to read:

12 106.26 Powers of commission; rights and
13 responsibilities of parties; findings by commission.--

14 (11) At the conclusion of its hearings concerning an
15 alleged violation, the commission shall immediately begin
16 deliberations on the evidence presented at such hearings and
17 shall proceed to determine by affirmative vote of a majority
18 of the members present whether a violation of this chapter or
19 chapter 104 has occurred. Such determination shall promptly be
20 made public. The order shall contain a finding of violation or
21 no violation, together with brief findings of pertinent facts,
22 and the assessment of such civil penalties as are permitted by
23 this chapter or no such assessment and shall bear the
24 signature or facsimile signature of the chair or vice chair.

25 Section 36. Subsection (1) of section 106.265, Florida
26 Statutes, is amended to read:

27 106.265 Civil penalties.--

28 (1) The commission is authorized upon the finding of a
29 violation of this chapter or chapter 104 to impose civil
30 penalties in the form of fines not to exceed \$1,000 per count.
31 In determining the amount of such civil penalties, the

1 commission shall consider, among other mitigating and
2 aggravating circumstances:

3 (a) The gravity of the act or omission;

4 (b) Any previous history of similar acts or omissions;

5 (c) The appropriateness of such penalty to the
6 financial resources of the person, political committee,
7 committee of continuous existence, or political party; and

8 (d) Whether the person, political committee, committee
9 of continuous existence, or political party has shown good
10 faith in attempting to comply with the provisions of this
11 chapter or chapter 104.

12 Section 37. Subsections (1) and (3) of section 106.27,
13 Florida Statutes, are amended to read:

14 106.27 Determinations by commission; legal
15 disposition.--

16 (1) Criminal proceedings for violations of this
17 chapter or chapter 104 may be brought in the appropriate court
18 of competent jurisdiction. Any such action brought under this
19 chapter or chapter 104 shall be advanced on the docket of the
20 court in which filed and put ahead of all other actions.

21 (3) Civil actions may be brought to enjoin temporarily
22 the issuance of certificates of election to successful
23 candidates who are alleged to have violated the provisions of
24 this chapter or chapter 104. Such injunctions shall issue upon
25 a showing of probable cause that such violation has occurred.
26 Such actions shall be brought in the circuit court for the
27 circuit in which is located the officer before whom the
28 candidate qualified for office.

29 Section 38. The sum of \$4 million is appropriated from
30 the General Revenue Fund to the Division of Elections of the
31

1 Department of State for the purpose of meeting its obligations
2 under this act.

3 Section 39. Except as otherwise expressly provided in
4 this act, this act shall take effect July 1, 1998.

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SENATE SUMMARY

Revises various chapters of the Election Code. (See bill
for details.)