

1 A bill to be entitled
2 An act relating to elections; creating the
3 "Military and Overseas Voter Protection Act;"
4 providing definitions; stating legislative
5 intent; providing for registration of certain
6 recently discharged or separated military
7 personnel, or individuals separated from
8 employment outside the territorial United
9 States, and family members; requiring the
10 Department of State to adopt rules specifying
11 eligibility; providing a state write-in
12 absentee ballot for overseas voters; providing
13 for absentee ballots for overseas voters;
14 providing for advance ballots; providing for
15 absentee ballot requests and voting via
16 electronic transmission by overseas voters
17 under certain circumstances; directing the
18 promulgation of emergency rules to facilitate
19 voting by overseas voters; providing a
20 presumption that absentee ballots were mailed
21 on the date stated on the outside of the
22 absentee return envelopes of absentee voters;
23 authorizing the Elections Canvassing Commission
24 to adopt emergency rules during crises to
25 facilitate absentee voting; amending s. 101.62,
26 F.S., to conform, amending s. 101.64, F.S.;
27 modifying absentee ballot certificates;
28 amending s. 101.65, F.S.; modifying
29 instructions to absentee voters; amending s.
30 102.112, F.S.; extending the deadline for
31 submission of county returns to the Department

1 of State; amending s. 102.111, F.S.; providing
2 an effective date.

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

5
6 Section 1. This act may be cited as the "Military and
7 Overseas Voter Protection Act."

8 Section 2. Definitions.--As used in this act, the
9 term:

10 (1) "Uniformed services" means the Army, Navy, Air
11 Force, Marine Corps, and Coast Guard, the commissioned corps
12 of the Public Health Service, and the commissioned corps of
13 the National Oceanic and Atmospheric Administration.

14 (2) "Member of the Merchant Marine" means an
15 individual, other than a member of a uniformed service or an
16 individual employed, enrolled, or maintained on the Great
17 Lakes for the inland waterways, who is:

18 (a) Employed as an officer or crew member of a vessel
19 documented under the laws of the United States, a vessel owned
20 by the United States, or a vessel of foreign-flag registry
21 under charter to or control of the United States; or

22 (b) Enrolled with the United States for employment or
23 training for employment, or maintained by the United States
24 for emergency relief service, as an officer or crew member of
25 such vessel.

26 (3) "Overseas voter" means:

27 (a) Members of the uniformed services while in the
28 active service who are permanent residents of the state and
29 are temporarily residing outside the territorial limits of the
30 United States and the District of Columbia;

31

1 (b) Members of the Merchant Marine of the United
2 States who are permanent residents of the state and are
3 temporarily residing outside the territorial limits of the
4 United States and the District of Columbia; and

5 (c) Other citizens of the United States who are
6 permanent residents of the state and are temporarily residing
7 outside the territorial limits of the United States and the
8 District of Columbia,

9
10 who are qualified and registered to vote as provided by law.

11 Section 3. It is the intent of the Legislature to
12 facilitate the provisions of the federal Uniformed and
13 Overseas Citizens Absentee Voting Act.

14 Section 4. An individual or accompanying family member
15 who has been discharged or separated from the uniformed
16 services, Merchant Marine, or from employment outside the
17 territorial limits of the United States, after the book
18 closing for an election pursuant to s. 97.055, who is
19 otherwise qualified, may register to vote in such election
20 until 5 p.m. on the Friday before that election. Such persons
21 must produce sufficient documentation showing evidence of
22 qualifying for late registration pursuant to this section.
23 The Department of State shall adopt rules specifying
24 documentation that is sufficient to determine eligibility.

25 Section 5. State write-in ballot.--

26 (1) An overseas voter may request, not earlier than
27 180 days before a general election, a state write-in absentee
28 ballot from the supervisor of elections in the county of
29 registration. In order to receive a state write-in ballot, the
30 voter shall state that due to military or other contingencies
31 that preclude normal mail delivery, the voter cannot vote an

1 absentee ballot during the normal absentee voting period.
2 State write-in absentee ballots shall be made available to
3 voters 90 to 180 days prior to a general election. The
4 Department of State shall prescribe by rule the form of the
5 state write-in ballot.

6 (2) In completing the ballot, the overseas voter may
7 designate his or her choice by writing in the name of the
8 candidate or by writing in the name of a political party, in
9 which case the ballot must be counted for the candidate of
10 that political party, if there is such a party candidate on
11 the ballot.

12 (3) Any abbreviation, misspelling, or other minor
13 variation in the form of the name of a candidate or a
14 political party must be disregarded in determining the
15 validity of the ballot if there is a clear indication that the
16 voter has made a definite choice.

17 (4) The state write-in ballot shall contain all
18 offices, federal, state, and local, for which the voter would
19 otherwise be entitled to vote.

20 Section 6. Absentee ballots for overseas voters.--

21 (1) Not fewer than 35 days prior to the first primary
22 and not fewer than 45 days prior to the second primary and the
23 general election, the supervisor of elections shall mail an
24 absentee ballot to each overseas voter who has made a request
25 for an absentee ballot.

26 (2) If the regular absentee ballots for the second
27 primary or general election are not available for mailing by
28 the times prescribed in subsection (1), the supervisor of
29 elections shall mail an advance ballot.

30 (a) The advance ballot for the second primary must be
31 the same as the first primary ballot as to the names of

1 candidates, except that for any offices where there are only
2 two candidates, those offices and all political party
3 executive committee offices shall be omitted.

4 (b) Except as provided in section 99.063(4), Florida
5 Statutes, the advance absentee ballot for the general election
6 shall include the same information as the general election
7 ballot, except that in the case of candidates of political
8 parties when nominations were not made in the first primary,
9 the names of the candidates placing first and second in the
10 first primary election must be printed on the advance absentee
11 ballot.

12 (c) The advance absentee ballot shall be a different
13 color for each election and also a different color from the
14 absentee ballots for the first primary, second primary, and
15 general election.

16 (d) The supervisor shall enclose with the advance
17 ballot an explanation stating that the absentee ballot for the
18 election will be mailed as soon as it is printed; and, if both
19 the advance absentee ballot and the absentee ballot for the
20 election are returned in time to be counted, only the absentee
21 ballot will be counted.

22 (e) In the event that the Elections Canvassing
23 Commission is unable to certify the results of an election for
24 a state office in time to comply with the provisions of the
25 subsection, the Department of State is authorized to prescribe
26 rules for a ballot to be sent to overseas voters.

27 (3) If an overseas voter's request for an absentee
28 ballot includes an e-mail address, the supervisor of elections
29 shall inform the voter of the names of candidates who will be
30 on the ballots via electronic transmission. The supervisor of
31 elections shall e-mail to the voter the list of candidates for

1 the first primary not later than 30 days before the first
2 primary; the list of candidates for the second primary not
3 later than eight days after the first primary, and the list of
4 candidates for the general election not later than four days
5 after the second primary.

6 (4) For absentee ballots received from overseas
7 voters, there is a presumption that the envelope was mailed on
8 the date stated and witnessed on the outside of the return
9 envelope, regardless of the absence of a postmark on the
10 mailed envelope or the existence of a postmark date that is
11 later than the date of the election.

12 Section 7. Electronic transmission of election
13 materials.--The Department of State shall adopt rules to
14 authorize a supervisor of elections to accept a request for an
15 absentee ballot and a voted absentee ballot by facsimile
16 machine or other electronic means from overseas voters. The
17 rules must provide that in order to accept a voted ballot, the
18 verification of the voter must be established, the security of
19 the transmission must be established, and each ballot received
20 must be recorded.

21 Section 8. If a national or local emergency or other
22 situation arises which makes substantial compliance with the
23 provisions of state or federal law relating to the methods of
24 voting for overseas voters impossible or unreasonable, such as
25 an armed conflict involving United States Armed Forces or
26 mobilization of those forces, including state National Guard
27 and reserve components, the Elections Canvassing Commission
28 may adopt by emergency rules, such special procedures or
29 requirements necessary to facilitate absentee voting by those
30 persons directly affected who are otherwise eligible to vote
31 in the election.

1 Section 9. Subsections (4), (5), (6), and (7) of
2 section 101.62, Florida Statutes, are amended to read:

3 101.62 Request for absentee ballots.--

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. Except as~~
16 ~~provided in s. 99.063(4), the advance absentee ballot for the~~
17 ~~general election shall be as specified in s. 101.151, except~~
18 ~~that in the case of candidates of political parties where~~
19 ~~nominations were not made in the first primary, the names of~~
20 ~~the candidates placing first and second in the first primary~~
21 ~~election shall be printed on the advance absentee ballot. The~~
22 ~~advance absentee ballot or advance absentee ballot information~~
23 ~~booklet shall be of a different color for each election and~~
24 ~~also a different color from the absentee ballots for the first~~
25 ~~primary, second primary, and general election. The supervisor~~
26 ~~shall mail an advance absentee ballot for the second primary~~
27 ~~and general election to each qualified absent elector for whom~~
28 ~~a request is received until the absentee ballots are printed.~~
29 ~~The supervisor shall enclose with the advance second primary~~
30 ~~absentee ballot and advance general election absentee ballot~~
31 ~~an explanation stating that the absentee ballot for the~~

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

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

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

12 **1.a.** The elector is absent from the county and does
13 not plan to return before the day of the election;

14 **2.b.** The elector is temporarily unable to occupy the
15 residence because of hurricane, tornado, flood, fire, or other
16 emergency or natural disaster; or

17 **3.c.** The elector is in a hospital, assisted-living
18 facility, nursing home, short-term medical or rehabilitation
19 facility, or correctional facility,

20
21 in which case the supervisor shall mail the ballot by
22 nonforwardable, return-if-undeliverable mail to any other
23 address the elector specifies in the request.

24 **(b)**~~2.~~ By forwardable mail to voters who are entitled
25 to vote by absentee ballot under the Uniformed and Overseas
26 Citizens Voting Act.

27 **(c)**~~3.~~ By personal delivery to the elector, upon
28 presentation of the identification required in s. 101.657.

29 **(d)**~~4.~~ By delivery to a designee on election day or up
30 to 4 days prior to the day of an election. Any elector may
31 designate in writing a person to pick up the ballot for the

1 elector; however, the person designated may not pick up more
2 than two absentee ballots per election, other than the
3 designee's own ballot, except that additional ballots may be
4 picked up for members of the designee's immediate family. For
5 purposes of this section, "immediate family" means the
6 designee's spouse or the parent, child, grandparent, or
7 sibling of the designee or of the designee's spouse. The
8 designee shall provide to the supervisor the written
9 authorization by the elector and a picture identification of
10 the designee and must complete an affidavit. The designee
11 shall state in the affidavit that the designee is authorized
12 by the elector to pick up that ballot and shall indicate if
13 the elector is a member of the designee's immediate family
14 and, if so, the relationship. The department shall prescribe
15 the form of the affidavit. If the supervisor is satisfied that
16 the designee is authorized to pick up the ballot and that the
17 signature of the elector on the written authorization matches
18 the signature of the elector on file, the supervisor shall
19 give the ballot to that designee for delivery to the elector.

20 ~~(5) In the event that the Elections Canvassing~~
21 ~~Commission is unable to certify the results of an election for~~
22 ~~a state office in time to comply with subsection (4), the~~
23 ~~Department of State is authorized to prescribe rules for a~~
24 ~~ballot to be sent to absent electors overseas.~~

25 (5)(6) Nothing other than the materials necessary to
26 vote absentee shall be mailed or delivered with any absentee
27 ballot.

28 ~~(7)(a) For the purposes of this section, "absent~~
29 ~~qualified elector overseas" means:~~

30 ~~1. Members of the Armed Forces while in the active~~
31 ~~service who are permanent residents of the state and are~~

1 ~~temporarily residing outside the territorial limits of the~~
2 ~~United States and the District of Columbia;~~

3 ~~2. Members of the Merchant Marine of the United States~~
4 ~~who are permanent residents of the state and are temporarily~~
5 ~~residing outside the territorial limits of the United States~~
6 ~~and the District of Columbia; and~~

7 ~~3. Other citizens of the United States who are~~
8 ~~permanent residents of the state and are temporarily residing~~
9 ~~outside the territorial limits of the United States and the~~
10 ~~District of Columbia,~~

11
12 ~~who are qualified and registered as provided by law.~~

13 ~~(b) Notwithstanding any other provision of law to the~~
14 ~~contrary, there shall appear on the ballots sent to absent~~
15 ~~qualified electors overseas, in addition to the names of the~~
16 ~~candidates for each office, the political party affiliation of~~
17 ~~each candidate for each office, other than a nonpartisan~~
18 ~~office.~~

19 ~~(c) With respect to marked ballots mailed by absent~~
20 ~~qualified electors overseas, only those ballots mailed with an~~
21 ~~APO, FPO, or foreign postmark shall be considered valid.~~

22 Section 10. Subsection (1) of section 101.64, Florida
23 Statutes, is amended to read:

24 101.64 Delivery of absentee ballots; envelopes;
25 form.--

26 (1) The supervisor shall enclose with each absentee
27 ballot two envelopes: a secrecy envelope, into which the
28 absent elector shall enclose his or her marked ballot; and a
29 mailing envelope, into which the absent elector shall then
30 place the secrecy envelope, which shall be addressed to the
31

1 supervisor and also bear on the back side a certificate in
2 substantially the following form:

3
4 Note: Please Read Instructions Carefully Before
5 Marking Ballot and Completing Voter's Certificate.

6 VOTER'S CERTIFICATE

7 I,, am a qualified and registered voter of
8 County, Florida. I understand that if I commit or attempt to
9 commit any fraud in connection with voting, vote a fraudulent
10 ballot, or vote more than once in an election, I can be
11 convicted of a felony of the third degree and fined up to
12 \$5,000 and/or imprisoned for up to 5 years. I also understand
13 that failure to sign this certificate and have my signature
14 witnessed will invalidate my ballot. I am entitled to vote an
15 absentee ballot for one of the following reasons:

16
17 1. I am unable without another's assistance to attend
18 the polls.

19 2. I may not be in the precinct of my residence during
20 the hours the polls are open for voting on election day.

21 3. I am an inspector, a poll worker, a deputy voting
22 machine custodian, a deputy sheriff, a supervisor of
23 elections, or a deputy supervisor who is assigned to a
24 different precinct than that in which I am registered.

25 4. On account of the tenets of my religion, I cannot
26 attend the polls on the day of the general, special, or
27 primary election.

28 5. I have changed my permanent residency to another
29 county in Florida within the time period during which the
30 registration books are closed for the election. I understand

31

1 that I am allowed to vote only for national and statewide
2 offices and on statewide issues.

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

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

10

11

12 ...(Date)...

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

13

14 ~~...(Last four digits of voter's social security number)...~~

15 Note: Your Signature Must Be Witnessed By Either:

16 a. ~~A Notary or Officer Defined in Item 6.b. of the~~
17 ~~Instruction Sheet.~~

18

19 ~~Sworn to (or affirmed) and subscribed before me this~~
20 ~~.... day of, ...(year)...., by ...(name of person~~
21 ~~making statement).... My commission expires this day of~~
22 ~~....., ...(year)....~~

23

~~...(Signature of Official)...~~

24

~~...(Print, Type, or Stamp Name)...~~

25

~~...(State or Country of Commission)...~~

26

~~Personally Known OR Produced Identification~~

27

~~.....~~

28

~~Type of Identification Produced.....~~

29

30

OR

31

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

5 3. Place your marked ballot in the enclosed secrecy
6 envelope.

7 4. Insert the secrecy envelope into the enclosed
8 mailing envelope which is addressed to the supervisor.

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

11 6. VERY IMPORTANT. In order for your absentee ballot
12 to be counted, you must sign your name on the line above
13 (Voter's Signature), ~~place the last four digits of your~~
14 ~~Social Security number in the space provided, and your ballot~~
15 ~~must be witnessed in either of the following manners:~~

16 a. ~~One witness, who is a registered voter in the~~
17 ~~state, must affix his or her signature, printed name, address,~~
18 ~~voter identification number, and county of registration on the~~
19 ~~voter's certificate. Each witness is limited to witnessing~~
20 ~~five ballots per election unless certified as an absentee~~
21 ~~ballot coordinator. A candidate may not serve as an attesting~~
22 ~~witness.~~

23 b. ~~Any notary or other officer entitled to administer~~
24 ~~oaths or any Florida supervisor of elections or deputy~~
25 ~~supervisor of elections, other than a candidate, may serve as~~
26 ~~an attesting witness.~~

27 7. VERY IMPORTANT. If you are an overseas voter, you
28 must include the date you signed the Voter's Certificate on
29 the line above (Date) or your ballot may not be counted.

30 8. VERY IMPORTANT. In order for your absentee ballot
31 to be counted, it must include the signature and address of a

1 witness 18 years of age or older affixed to the voter's
2 certificate. No candidate may serve as an attesting witness.

3 9.7. Mail, deliver, or have delivered the completed
4 mailing envelope. Be sure there is sufficient postage if
5 mailed.

6 10.8. FELONY NOTICE. It is a felony under Florida law
7 to accept any gift, payment, or gratuity in exchange for your
8 vote for a candidate. It is also a felony under Florida law to
9 vote in an election using a false identity or false address,
10 or under any other circumstances making your ballot false or
11 fraudulent.

12 Section 12. Subsection (1) of section 102.111, Florida
13 Statutes, is amended to read:

14 102.111 Elections Canvassing Commission.--

15 (1) Immediately after certification of any election by
16 the county canvassing board, the results shall be forwarded to
17 the Department of State concerning the election of any federal
18 or state officer. The Governor, the Secretary of State, and
19 the Director of the Division of Elections shall be the
20 Elections Canvassing Commission. The Elections Canvassing
21 Commission shall, as soon as the official results are compiled
22 from all counties, certify the returns of the election and
23 determine and declare who has been elected for each office. In
24 the event that any member of the Elections Canvassing
25 Commission is unavailable to certify the returns of any
26 election, such member shall be replaced by a substitute member
27 of the Cabinet as determined by the Director of the Division
28 of Elections. ~~If the county returns are not received by the~~
29 ~~Department of State by 5 p.m. of the seventh day following an~~
30 ~~election, all missing counties shall be ignored, and the~~
31 ~~results shown by the returns on file shall be certified.~~

1 Section 13. Subsection (1) of section 102.112, Florida
2 Statutes, is amended to read:

3 102.112 Deadline for submission of county returns to
4 the Department of State; penalties.--

5 (1) The county canvassing board or a majority thereof
6 shall file the county returns for the election of a federal or
7 state officer with the Department of State immediately after
8 certification of the election results. Returns must be filed
9 by 5 p.m. on the 7th day following the first primary,~~and by 5~~
10 p.m. on the 11th day following the general election,and by 3
11 p.m. on the 3rd day following the second primary. If the
12 returns are not received by the department by the time
13 specified, such returns may be ignored and the results on file
14 at that time may be certified by the department.

15 Section 14. This act shall take effect January 1,
16 2002.