

By the Committee on Ethics and Elections; and Senators Posey, Smith, Carlton, Brown-Waite, Dyer, Lawson, Sebesta, Jones, Constantine and Bronson

313-526-01

1 A bill to be entitled

2 An act relating to absentee ballots; amending

3 s. 97.021, F.S.; redefining the term "absent

4 elector"; amending s. 101.657, F.S.; conforming

5 provisions; amending s. 101.64, F.S.; modifying

6 absentee ballot certificates; amending s.

7 101.65, F.S.; modifying instructions to absent

8 electors; amending s. 101.68, F.S.; modifying

9 information that must be included on an

10 absentee ballot; amending s. 101.647, F.S.;

11 prescribing information that an absent

12 elector's designee must include with an

13 absentee ballot; amending s. 104.047, F.S.;

14 deleting a prohibition against persons

15 witnessing more than five ballots in an

16 election and the penalty therefor; repealing s.

17 101.685, F.S., relating to absentee ballot

18 coordinators; providing an effective date.

19

20 Be It Enacted by the Legislature of the State of Florida:

21

22 Section 1. Subsection (1) of section 97.021, Florida

23 Statutes, is amended to read:

24 97.021 Definitions.--For the purposes of this code,

25 except where the context clearly indicates otherwise, the

26 term:

27 (1) "Absent elector" means any registered and

28 qualified voter who casts an absentee ballot.+

29 ~~(a) Is unable without another's assistance to attend~~

30 ~~the polls.~~

31

1 ~~(b) Is an inspector, a poll worker, a deputy voting~~
2 ~~machine custodian, a deputy sheriff, a supervisor of~~
3 ~~elections, or a deputy supervisor who is assigned to a~~
4 ~~different precinct than that in which he or she is registered~~
5 ~~to vote.~~

6 ~~(c) On account of the tenets of his or her religion,~~
7 ~~cannot attend the polls on the day of the general, special, or~~
8 ~~primary election.~~

9 ~~(d) May not be in the precinct of his or her residence~~
10 ~~during the hours the polls are open for voting on the day of~~
11 ~~the election.~~

12 ~~(e) Has changed his or her residency to another county~~
13 ~~in this state within the time period during which the~~
14 ~~registration books are closed for the election for which the~~
15 ~~ballot is requested.~~

16 ~~(f) Has changed his or her residency to another state~~
17 ~~and is ineligible under the laws of that state to vote in the~~
18 ~~general election; however, this pertains only to presidential~~
19 ~~ballots.~~

20 Section 2. Section 101.657, Florida Statutes, is
21 amended to read:

22 101.657 Voting absentee ballots in person.--

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

1 the supervisor is in doubt as to the identity of the elector,
2 the supervisor must follow the procedure prescribed in s.
3 101.49.

4 (2) As an alternative to the provisions of ss. 101.64,
5 101.647, and 101.65, the supervisor of elections may allow an
6 elector to cast an absentee ballot in the main or branch
7 office of the supervisor by depositing the voted ballot in a
8 voting device used by the supervisor to collect or tabulate
9 ballots. The results or tabulation may not be made before the
10 close of the polls on election day.

11 (a)~~(3)~~ The elector must provide picture identification
12 and must complete an In-Office Voter Certificate in
13 substantially the following form:

14
15 IN-OFFICE VOTER CERTIFICATE
16

17 I,, am a qualified elector in this election and
18 registered voter of County, Florida. I do solemnly swear
19 or affirm that I am the person so listed on the voter
20 registration rolls of County and that I reside at the
21 listed address. I understand that if I commit or attempt to
22 commit fraud in connection with voting, vote a fraudulent
23 ballot, or vote more than once in an election I could be
24 convicted of a felony of the third degree and both fined up to
25 \$5,000 and imprisoned for up to 5 years. I understand that my
26 failure to sign this certificate and have my signature
27 witnessed invalidates my ballot. ~~I am entitled to vote an
28 absentee ballot because I am unable to attend the polls on
29 election day.~~

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

2

3 ...(Address)...

4

5 ...(City/State)...

6

7 ...(Name of Witness)...

8

9 ...(Signature of Witness)...

10

11 ...(Type of identification provided)...

12

13 (b)~~(4)~~ Any elector may challenge an elector seeking to
14 cast an absentee ballot under the provisions of s. 101.111.
15 Any challenged ballot must be placed in a regular absentee
16 ballot envelope. The canvassing board shall review the ballot
17 and decide the validity of the ballot by majority vote.

18 (c)~~(5)~~ The canvass of returns for ballots cast under
19 this subsection ~~section~~ shall be substantially the same as
20 votes cast by electors in precincts, as provided in s.
21 101.5614.

22 Section 3. Section 101.64, Florida Statutes, is
23 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

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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, , do solemnly swear or affirm that I am a
8 qualified elector in this election and that I have not and
9 will not vote more than one ballot in this election ~~registered~~
10 ~~voter of County, Florida.~~ I understand that if I commit
11 or attempt to commit any fraud in connection with voting, vote
12 a fraudulent ballot, or vote more than once in an election, I
13 can be convicted of a felony of the third degree and fined up
14 to \$5,000 and/or imprisoned for up to 5 years. I also
15 understand that failure to sign this certificate and have my
16 signature properly witnessed will invalidate my ballot. ~~I am~~
17 ~~entitled to vote an absentee ballot for one of the following~~
18 ~~reasons:~~

19

20 1. ~~I am unable without another's assistance to attend~~
21 ~~the polls.~~

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

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26 3. ~~I am an inspector, a poll worker, a deputy voting~~
27 ~~machine custodian, a deputy sheriff, a supervisor of~~
28 ~~elections, or a deputy supervisor who is assigned to a~~
29 ~~different precinct than that in which I am registered.~~

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

1 ~~5. I have changed my permanent residency to another~~
2 ~~county in Florida within the time period during which the~~
3 ~~registration books are closed for the election. I understand~~
4 ~~that I am allowed to vote only for national and statewide~~
5 ~~offices and on statewide issues.~~

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

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

13
14 ~~...(Voter's Signature)...~~

15
16 ~~...(Last four digits of voter's social security number)...~~

17 Note: Your Signature Must Be Witnessed By ~~Either:~~

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

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

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

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

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

28 ~~Personally Known OR Produced Identification~~

29 ~~.....~~
30 ~~Type of Identification Produced.....~~

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OR

~~b.~~ One Witness 18 Years of Age or Older as provided in
item 7 of the Instruction Sheet, ~~who is a registered voter in~~
~~the State.~~

I swear or affirm that the elector ~~voter~~ signed this Voter's
Certificate in my presence ~~and that, unless certified as an~~
~~absentee ballot coordinator, I have not witnessed more than 5~~
~~ballots for this election.~~

WITNESS:

...(Signature of Witness)...

...(Printed Name of Witness)...

...(Voter I.D. Number of Witness and County of
Registration)...

...(Address)...

...(City/State)...

(2) The certificate shall be arranged on the back of
the mailing envelope so that the lines for the signatures of
the absent elector and the attesting witness are across the
seal of the envelope; however, no statement shall appear on
the envelope which indicates that a signature of the voter or
witness must cross the seal of the envelope. The absent
elector and the attesting witness shall execute the
certificate on the envelope.

1 Section 4. Section 101.65, Florida Statutes, is
2 amended to read:

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

6
7 READ THESE INSTRUCTIONS CAREFULLY BEFORE MARKING BALLOT.

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

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

17 3. Place your marked ballot in the enclosed secrecy
18 envelope.

19 4. Insert the secrecy envelope into the enclosed
20 mailing envelope which is addressed to the supervisor.

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

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

28 a. ~~One witness, who is a registered voter in the~~
29 ~~state, must affix his or her signature, printed name, address,~~
30 ~~voter identification number, and county of registration on the~~
31 ~~voter's certificate. Each witness is limited to witnessing~~

1 ~~five ballots per election unless certified as an absentee~~
2 ~~ballot coordinator. A candidate may not serve as an attesting~~
3 ~~witness.~~

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.~~

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

12 8.7. Mail, deliver, or have delivered the completed
13 mailing envelope. Be sure there is sufficient postage if
14 mailed.

15 9.8. FELONY NOTICE. It is a felony under Florida law
16 to accept any gift, payment, or gratuity in exchange for your
17 vote for a candidate. It is also a felony under Florida law to
18 vote in an election using a false identity or false address,
19 or under any other circumstances making your ballot false or
20 fraudulent.

21 Section 5. Paragraph (c) of subsection (2) of section
22 101.68, Florida Statutes, is amended to read:

23 101.68 Canvassing of absentee ballot.--

24 (2)

25 (c)1. The canvassing board shall, if the supervisor
26 has not already done so, compare the signature of the elector
27 on the voter's certificate with the signature of the elector
28 in the registration books to see that the elector is duly
29 registered in the county and to determine the legality of that
30 absentee ballot. An absentee ballot shall be considered
31 illegal if it does not include the signature ~~and the last four~~

1 ~~digits of the social security number~~ of the elector, as shown
2 by the registration records, and the signature and address of
3 an attesting witness.~~either:~~

4 a. ~~The subscription of a notary or officer defined in~~
5 ~~Item 6.b. of the instruction sheet, or~~

6 b. ~~The signature, printed name, address, voter~~
7 ~~identification number, and county of registration of one~~
8 ~~attesting witness, who is a registered voter in the state.~~

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

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

28 Section 6. Section 101.647, Florida Statutes, is
29 amended to read:

30 101.647 Return of absentee ballots.--

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

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

28 Section 7. Section 104.047, Florida Statutes, is
29 amended to read:

30 104.047 Absentee ballots and voting; violations.--

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1 (1) Any person who provides or offers to provide, and
2 any person who accepts, a pecuniary or other benefit in
3 exchange for distributing, ordering, requesting, collecting,
4 delivering, or otherwise physically possessing absentee
5 ballots, except as provided in ss. 101.6105-101.694, is guilty
6 of a felony of the third degree, punishable as provided in s.
7 775.082, s. 775.083, or s. 775.084.

8 (2) Except as provided in s. 101.62 or s. 101.655, any
9 person who requests an absentee ballot on behalf of an elector
10 is guilty of a felony of the third degree, punishable as
11 provided in s. 775.082, s. 775.083, or s. 775.084.

12 ~~(3) Any person, other than a notary or other officer~~
13 ~~entitled to administer oaths or an absentee ballot coordinator~~
14 ~~as provided by s. 101.685, who witnesses more than five~~
15 ~~ballots in any single election, is guilty of a misdemeanor of~~
16 ~~the first degree, punishable as provided in s. 775.082 or s.~~
17 ~~775.083.~~

18 (3)~~(4)~~ Any person who marks or designates a choice on
19 the ballot of another person, except as provided in s.
20 101.051, s. 101.655, or s. 101.661, is guilty of a felony of
21 the third degree, punishable as provided in s. 775.082, s.
22 775.083, or s. 775.084.

23 (4)~~(5)~~ Any person who returns more than two absentee
24 ballots to the supervisors of elections in violation of s.
25 101.647 is guilty of a misdemeanor of the first degree,
26 punishable as provided in s. 775.082 or s. 775.083.

27 Section 8. Section 101.685, Florida Statutes, is
28 repealed.

29 Section 9. This act shall take effect January 1, 2002.
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SENATE SUMMARY

Redefines the term "absent elector" for purposes of the Florida Election Code to mean any registered and qualified voter who casts an absentee ballot. Revises and simplifies information to be included on absentee ballot certificates. Revises printed instructions to be enclosed with each absentee ballot. Requires ballot to be witnessed and signed by a person who is not a candidate and who is 18 years of age or older. Provides that the ballot is considered illegal if it does not include the signature and address of an attesting witness. Prescribes the information that an absentee elector's designee must include with the ballot. Deletes the prohibition and penalty against a person witnessing more than five ballots in an election. Repeals s. 101.685, F.S., relating to absentee ballot coordinators.