

1 STATE OF OKLAHOMA

2 1st Session of the 58th Legislature (2021)

3 CONFERENCE COMMITTEE
4 SUBSTITUTE
5 FOR ENGROSSED
6 HOUSE BILL NO. 1752

By: Crosswhite Hader, Fugate,
7 Roberts (Eric), Davis,
8 Marti, McDugle, Hill,
9 Conley, Fetgatter and
10 Hardin (David) of the House

and

Rader of the Senate

11
12 CONFERENCE COMMITTEE SUBSTITUTE

13 An Act relating to elections; amending 26 O.S. 2011,
14 Section 4-120.3, as last amended by Section 3,
15 Chapter 377, O.S.L. 2016 (26 O.S. Supp. 2020, Section
16 4-120.3), which relates to cancellation of
17 registration of deceased persons; providing for
18 cancellation by certain time; requiring funeral
19 directors to execute certain form; amending 30 O.S.
20 2011, Section 3-113, as amended by Section 1, Chapter
21 86, O.S.L. 2019 (30 O.S. Supp. 2020, Section 3-113),
22 which relates to specific determinations of capacity;
23 requiring court to issue findings of fact on certain
24 capacity; and providing an effective date.

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

SECTION 1. AMENDATORY 26 O.S. 2011, Section 4-120.3, as
last amended by Section 3, Chapter 377, O.S.L. 2016 (26 O.S. Supp.
2020, Section 4-120.3), is amended to read as follows:

1 Section 4-120.3 A. The State Department of Health shall each
2 month transmit to the Secretary of the State Election Board a
3 certified list of all deaths of residents that have occurred within
4 the state for the immediately preceding month. The Secretary of the
5 State Election Board shall transmit such list to the secretary of
6 the county election board who shall then use ~~such~~ the list to
7 ascertain those voters who are deceased, and shall ~~thereafter~~ remove
8 such deceased person's name from the central registry and voter
9 registration database within thirty (30) days from the date the list
10 was received by the county election board. Such list shall be used
11 only for the purposes hereinbefore described.

12 B. The registration of a deceased voter may be canceled by the
13 secretary of a county election board upon the receipt of a certified
14 copy of a death certificate from any person or upon the execution by
15 the next of kin of such deceased voter of a form and upon the nature
16 of proof of the fact thereof as prescribed by the Secretary of the
17 State Election Board. Such form must be executed in person by the
18 deceased voter's next of kin at the county election board office, in
19 which case it shall be witnessed by the secretary or other
20 designated employees, at the deceased voter's precinct polling place
21 or at the next of kin's precinct polling place in the same county on
22 the day of any election, in which case it shall be witnessed by the
23 inspector of such precinct, or the form may be personally signed by
24 the next of kin, such signature to be notarized by a notary public

1 or witnessed by two persons whose signatures and addresses shall
2 appear on the form, and returned to the county election board.

3 C. The administrator of a nursing facility, as defined in
4 Section 1-1902 of Title 63 of the Oklahoma Statutes, or the
5 administrator of a veterans center established pursuant to Title 72
6 of the Oklahoma Statutes, also may execute a form prescribed by the
7 Secretary of the State Election Board to notify the secretary of the
8 county election board of the death of a nursing facility resident
9 who is a registered voter. The administrator's signature on such
10 form shall be witnessed by a member of the nursing home absentee
11 voting board, shall be notarized or shall be witnessed by two
12 persons whose signatures and addresses shall appear on the form.

13 D. A funeral director, as defined in Section 396.2 of Title 59
14 of the Oklahoma Statutes, may execute a form prescribed by the
15 Secretary of the State Election Board to notify the secretary of the
16 county election board of the death of a resident of the county. The
17 funeral director's signature on such form either shall be notarized
18 or shall be witnessed by two persons whose signatures and addresses
19 shall appear on the form. Upon receipt of such form or any notice
20 setting forth substantially the same facts and witnessed or
21 notarized as provided in this section, the secretary of the county
22 election board shall be authorized to cancel the voter registration
23 of such deceased person.

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1 E. The registration of a deceased voter who was a member of the
2 Oklahoma National Guard or the armed forces of the United States and
3 who died in the line of duty may be canceled by the secretary of a
4 county election board upon the receipt of notification of the
5 voter's death from the Oklahoma National Guard or the armed forces
6 of the United States. The Secretary of the State Election Board may
7 prescribe the forms of such notification to be accepted by the
8 county election board in order to cause the registration of the
9 voter to be canceled. The Secretary shall further request the
10 Oklahoma National Guard and the armed forces of the United States to
11 provide notifications to the county election board as provided for
12 in this section.

13 F. The Secretary of the State Election Board is authorized to
14 obtain official death records from the Social Security
15 Administration and from other states. The Secretary of the State
16 Election Board may compare such death records against the state's
17 voter registration database. Any possible match of a death record
18 to a registered voter shall be transmitted to the secretary of the
19 county election board in the county in which the voter is
20 registered. The secretary of the county election board shall
21 ascertain any voter who is deceased, and shall remove such deceased
22 person's name from the central registry and voter registration
23 database.

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1 SECTION 2. AMENDATORY 30 O.S. 2011, Section 3-113, as
2 amended by Section 1, Chapter 86, O.S.L. 2019 (30 O.S. Supp. 2020,
3 Section 3-113), is amended to read as follows:

4 Section 3-113. A. The order appointing a guardian, based upon
5 evidence adduced, shall set forth:

6 1. The determinations made by the court at the hearing;

7 2. The name and address of the individual, if any, appointed to
8 serve as the limited guardian or guardian;

9 3. The specific limitations imposed upon the ward, if the ward
10 is a partially incapacitated person;

11 4. Any authority granted a guardian of the person of the ward
12 to change the place of abode of the ward outside of the state or
13 county without the prior permission of the court; ~~and~~

14 5. Findings of fact as to whether the ward retains sufficient
15 capacity to vote; and

16 6. Whenever the court determines a review hearing is necessary
17 or desirable, the date of the review hearing.

18 B. In establishing the specific limitations on the legal
19 activities of a ward for whom a limited guardian of the person is
20 appointed, the court shall make specific determinations regarding
21 the capacity of the subject of the proceeding, including but not
22 limited to determining whether the ward retains sufficient capacity:

23 1. To vote;

24 2. To serve as a juror;

1 3. To operate a motor vehicle;

2 4. To be licensed or continue to practice any profession of the
3 ward; and

4 5. To make personal medical decisions including but not limited
5 to decisions to withhold or withdraw life-sustaining procedures, to
6 receive hospice services through a home or inpatient hospice
7 program, to donate organs, to undergo elective surgery, or to
8 consent to routine or necessary medical or other professional care,
9 treatment or advice.

10 C. In establishing the specific limitations on the legal
11 abilities of a ward for whom a limited guardian of the property is
12 appointed, the court shall make specific determinations regarding
13 the capacity of the subject of the proceeding, including but not
14 limited to determining whether the ward retains sufficient capacity
15 to:

16 1. Appoint an agent to act on his behalf;

17 2. Enter into contracts;

18 3. Grant conveyances; or

19 4. Make gifts of property.

20 D. If not submitted with the petition or at the hearing, the
21 guardian or limited guardian shall submit a guardianship plan as
22 required by Section 3-120 or 3-122 of this title, or both, as
23 appropriate and a copy of said plan shall be mailed to those persons
24 entitled to notice pursuant to paragraphs 1, 2, 3 and 7 of

1 subsection A of Section 3-110 of this title. The guardianship plan
2 as approved by the court shall be made a part of the order of the
3 court. Said plan may be modified as provided by this act.

4 E. The court may, in its discretion, make such further orders
5 as the court deems necessary for the best interest of the ward for
6 care of the ward and maintenance or management of the ward's
7 property, including but not limited to:

8 1. Order the guardian of the property of the ward to provide
9 the ward from such property with specified amounts of money,
10 monthly, or from time to time, which the ward may dispose of as the
11 ward shall determine and for which, other than a showing of the
12 amounts paid to the ward, the guardian will not be required to
13 account. Such order may be modified upon application of the
14 guardian or any interested person, and a hearing conducted thereon,
15 with notice of the hearing on such application to be given to those
16 persons entitled to notice pursuant to paragraphs 1, 2, 3 and 7 of
17 subsection A of Section 3-110 of this title and shall be given as
18 provided in Section 3-110 of this title; and

19 2. The amount of the bond as required by Section 4-201 of this
20 title.

21 SECTION 3. This act shall become effective November 1, 2021.

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23 58-1-8291 LRB 05/12/21

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