

1 STATE OF OKLAHOMA

2 1st Session of the 59th Legislature (2023)

3 HOUSE BILL 1902

By: Fugate

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5  
6 AS INTRODUCED

7 An Act relating to elections; amending 26 O.S. 2021,  
8 Section 7-116.1, which relates to provisional  
9 ballots; authorizing absentee voter to cast certain  
provisional ballot; providing exceptions; providing  
for codification; and providing an effective date.

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

13 SECTION 1. AMENDATORY 26 O.S. 2021, Section 7-116.1, is  
14 amended to read as follows:

15 Section 7-116.1 A. Provisional ballots shall be available for  
16 all elections conducted by the county election board. Provisional  
17 ballots shall include all offices, candidates and questions and  
18 shall be identical to the regular ballots for each precinct. The  
19 Secretary of the State Election Board shall promulgate rules and  
20 shall prescribe materials necessary for the implementation of  
21 provisional ballots.

22 B. Persons who are not listed in the precinct registry, but who  
23 claim to be registered voters in the precinct and eligible to vote  
24 in the election, shall be entitled to vote a provisional ballot upon

1 execution of an affidavit prescribed by the Secretary of the State  
2 Election Board. Registered voters required to show identification,  
3 as described in Section 7-114, 14-115.4 or 14-121 of this title and  
4 who are unable to show one of the acceptable forms of identification  
5 described in such sections, shall be entitled to cast a provisional  
6 ballot. Persons identified in Section 14-121 of this title shall be  
7 entitled to vote a provisional ballot upon execution of an affidavit  
8 prescribed by the Secretary of the State Election Board. Persons  
9 who are listed in the precinct registry for a partisan primary  
10 election, but who dispute the political affiliation indicated by  
11 such precinct registry, shall be entitled to vote a provisional  
12 ballot for a party other than the one indicated. However, such  
13 provisional ballot shall be counted only if evidence is found by the  
14 secretary of the county election board of the voter's valid voter  
15 registration in the party for which the provisional ballot was cast.  
16 Persons described in Section 2 of this act shall be entitled to cast  
17 a provisional ballot.

18 C. Provisional ballots shall be segregated from the regular  
19 ballots cast in the precinct in the manner prescribed by the  
20 Secretary of the State Election Board and shall not be inserted in  
21 the precinct voting device. Information provided by a person who  
22 votes a provisional ballot shall be investigated by the secretary of  
23 the county election board after the election. A provisional ballot  
24 shall be counted only if it is cast in the precinct of the voter's

1 residence and if evidence of the provisional voter's valid voter  
2 registration, or of the voter's identity, is found, except a  
3 provisional ballot cast by a voter identified in Section 14-121 of  
4 this title shall be counted.

5 D. No information concerning provisional ballots, except the  
6 number of provisional ballots cast in the county, shall be made  
7 public by any election official prior to 1:00 p.m. on Friday  
8 following the election. The county sheriff shall secure sealed  
9 ballot transfer cases containing provisional ballots that have been  
10 counted after 1:00 p.m. on Friday following the election until 5:00  
11 p.m. on Tuesday next succeeding the election or, in the event a  
12 recount contest is filed, until such times as the transfer cases  
13 are delivered to the district courtroom.

14 E. In the event that the secretary of any county election board  
15 is unable to complete the investigation and verification of  
16 provisional ballots by 1:00 p.m. on Friday following the election,  
17 the Secretary of the State Election Board shall be authorized to  
18 extend the period for the investigation and verification of  
19 provisional ballots. When such an extension is required by any  
20 county for a statewide election, the extension shall apply  
21 statewide. The Secretary shall promulgate rules establishing  
22 procedures for requesting and granting such extensions.

23 F. All materials used for procuring and casting a provisional  
24 ballot shall be retained by the secretary of the county election

1 board for a period of twenty-four (24) months after the day of the  
2 election.`

3 SECTION 2. NEW LAW A new section of law to be codified  
4 in the Oklahoma Statutes as Section 14-134.1 of Title 26, unless  
5 there is created a duplication in numbering, reads as follows:

6 An absentee voter may cast an in-person provisional ballot  
7 pursuant to Section 7-116.1 of Title 26 of the Oklahoma Statutes on  
8 election day at the polling place for the precinct to which the  
9 voter is assigned or at an in-person absentee voting site in the  
10 county where the voter is registered to vote during the in-person  
11 absentee voting period if:

12 1. The ballot of the absentee voter has not been received by  
13 the county election board by election day; provided, the provisional  
14 ballot shall only be counted if the secretary of the county election  
15 board confirms that the absentee ballot was not received by the  
16 statutory deadline; or

17 2. The absentee voter received a notice of rejection on or  
18 before election day; provided, the provisional ballot shall only be  
19 counted if the secretary of the county election board confirms that  
20 the absentee ballot was rejected.

21 SECTION 3. This act shall become effective November 1, 2023.

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23 59-1-5497 LRB 12/05/22

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