

1 STATE OF OKLAHOMA

2 1st Session of the 57th Legislature (2019)

3 SENATE BILL NO. 215

By: Boggs

4  
5  
6 AS INTRODUCED

7 An Act relating to absentee voting; amending 26 O.S.  
8 2011, Sections 14-104, as amended by Section 1,  
9 Chapter 237, O.S.L. 2016, 14-107, 14-108, as amended  
10 by Section 2, Chapter 237, O.S.L. 2016, 14-112.1, 14-  
11 113.2, 14-115, 14-118.1, as amended by Section 9,  
12 Chapter 200, O.S.L. 2013, 14-120, 14-121.1, 14-122,  
13 14-123, as amended by Section 10, Chapter 200, O.S.L.  
14 2013, 14-124, 14-125, as amended by Section 11,  
15 Chapter 200, O.S.L. 2013, 14-132, 16-105 and 16-116  
16 (26 O.S. Supp. 2018, Sections 14-104, 14-108, 14-  
17 118.1, 14-123 and 14-125), which relate to absentee  
18 ballots and unlawful acts; requiring absentee ballots  
19 to be returned to and counted by State Election  
20 Board; specifying duties of Secretary of State  
21 Election Board; clarifying language; providing  
22 procedures for counting of absentee ballots and  
23 transmittal of results to county election board;  
24 modifying penalties for certain acts; updating  
statutory language; and providing an effective date.

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

SECTION 1. AMENDATORY 26 O.S. 2011, Section 14-104, as  
amended by Section 1, Chapter 237, O.S.L. 2016 (26 O.S. Supp. 2018,  
Section 14-104), is amended to read as follows:

Section 14-104. Absentee ballots shall be returned to the  
~~secretary of each county election board~~ State Election Board no

1 later than 7:00 p.m. the day of the election; provided, absentee  
2 ballots that are hand delivered to the ~~county election board~~ State  
3 Election Board as provided in Section 14-108 of this title shall be  
4 delivered no later than the end of regular business hours on the day  
5 prior to the date of the election.

6 SECTION 2. AMENDATORY 26 O.S. 2011, Section 14-107, is  
7 amended to read as follows:

8 Section 14-107. Absentee ballots must be accompanied by:

9 1. A plain opaque envelope in which voted ballots must be  
10 placed by the voter;

11 2. An envelope bearing an affidavit stating that the voter is  
12 qualified to vote, that the voter has personally marked the ballots,  
13 and has not exhibited the marked ballots to any other person;

14 3. A return envelope addressed to the ~~secretary of the county~~  
15 ~~election board~~ State Election Board; and

16 4. A notice that it is illegal for a Notary Public in this  
17 state to charge a fee to notarize an official absentee ballot  
18 affidavit.

19 SECTION 3. AMENDATORY 26 O.S. 2011, Section 14-108, as  
20 amended by Section 2, Chapter 237, O.S.L. 2016 (26 O.S. Supp. 2018,  
21 Section 14-108), is amended to read as follows:

22 Section 14-108. A. The voter shall be required to ~~mark~~ mark:

23 1. Mark the ballot in ink or other manner as prescribed by the  
24 Secretary of the State Election Board; ~~seal~~

1        2. Seal the ballots in the plain opaque envelope; ~~fill~~

2        3. Fill out completely and sign the affidavit, such signature  
3 to be notarized at no charge by a notary public; ~~seal~~

4        4. Seal the plain opaque envelope inside the envelope bearing  
5 the affidavit; and ~~return~~

6        5. Return both envelopes, sealed inside the return envelope, by  
7 hand delivery, United States mail or by a private mail service,  
8 provided such service has delivery documentation, to the ~~county~~  
9 ~~election board~~ State Election Board.

10        No person who is a candidate for an office on the ballot or who  
11 is the chair or treasurer of the campaign of a candidate for office  
12 or who is related within the third degree of consanguinity or  
13 affinity to a candidate on the ballot may witness any absentee  
14 ballot affidavit.

15        B. The ballot shall not be notarized by any person whose name  
16 appears on the ballot as a candidate or by any campaign chairperson  
17 or campaign treasurer for a candidate whose name appears on the  
18 ballot.

19        C. Any voter who hand delivers his or her ballot as provided in  
20 subsection A of this section shall provide proof of identity to the  
21 ~~county election board~~ State Election Board and shall hand deliver  
22 the ballot no later than the end of regular business hours on the  
23 day prior to the date of the election. For purposes of this

1 section, "proof of identity" shall have the same meaning as used in  
2 subsection A of Section 7-114 of this title.

3 SECTION 4. AMENDATORY 26 O.S. 2011, Section 14-112.1, is  
4 amended to read as follows:

5 Section 14-112.1. ~~Said~~ The ballots must be accompanied by:

6 1. A plain opaque envelope in which voted ballots must be  
7 placed by the voter;

8 2. An envelope bearing an affidavit stating that the voter is  
9 qualified to vote, that ~~he~~ the voter has personally marked the  
10 ballots or has directed a person chosen by the voter to mark the  
11 ballots in accordance with the provisions of Section 7-123.3 of this  
12 title; and

13 3. A return envelope addressed to the ~~secretary of the county~~  
14 ~~election board~~ State Election Board.

15 SECTION 5. AMENDATORY 26 O.S. 2011, Section 14-113.2, is  
16 amended to read as follows:

17 Section 14-113.2. A. The voter shall be responsible for  
18 marking:

19 1. Marking the ballots or directing a person chosen by the  
20 voter to mark the ballots in accordance with the provisions of  
21 Section 7-123.3 of this title and as prescribed by the Secretary of  
22 the State Election Board; ~~seal~~

23 2. Sealing the ballots in the plain opaque envelope; ~~fill~~  
24

1        3. Filling out completely and ~~sign~~ signing the affidavit or  
2 ~~direct~~ directing a person chosen by the voter to sign the affidavit,  
3 such signature to be witnessed by two persons, who did not sign the  
4 affidavit, whose signature and address shall appear on the  
5 affidavit; ~~seal~~

6        4. Sealing the plain opaque envelope inside the envelope  
7 bearing the affidavit; and ~~return~~

8        5. Returning both envelopes, sealed inside the return envelope,  
9 by United States mail or by a private mail service, provided such  
10 service has delivery documentation, to the ~~county election board~~  
11 State Election Board.

12        B. No person, except members of absentee voting boards, shall  
13 witness the signature of more than five affidavits of persons who  
14 swear they are physically incapacitated and unable to vote in person  
15 at their precinct on election day. No person who is a candidate for  
16 an office on the ballot or who is related within the third degree of  
17 consanguinity or affinity to a candidate on the ballot may witness  
18 any absentee ballot affidavit.

19        SECTION 6.        AMENDATORY        26 O.S. 2011, Section 14-115, is  
20 amended to read as follows:

21        Section 14-115. If the secretary of a county election board  
22 receives a request from an incapacitated elector confined to a  
23 nursing facility, as defined in Section 1-1902 of Title 63 of the  
24 Oklahoma Statutes, or a veterans center established pursuant to

1 Title 72 of the Oklahoma Statutes, within the county of the  
2 jurisdiction of the secretary, the secretary shall cause to be  
3 implemented the following procedures:

4 1. On the Thursday, Friday, Saturday or Monday preceding the  
5 election, the absentee voting board shall deliver to each registered  
6 voter who is confined to a nursing facility, as defined in Section  
7 1-1902 of Title 63 of the Oklahoma Statutes, or a veterans center  
8 established pursuant to Title 72 of the Oklahoma Statutes, and who  
9 requested ballots for an incapacitated voter ~~said~~ the ballots and  
10 materials as may be necessary to vote same-;

11 2. The voter must mark the ballots in the manner hereinbefore  
12 provided in the presence of the absentee voting board, but in such a  
13 manner as to make it impossible for any person other than the voter  
14 to ascertain how ~~said~~ the ballots are marked. Insofar as is  
15 possible, the voting procedure shall be the same as if the voter  
16 were casting a vote in person at a precinct-;

17 3. The voter shall then seal ~~said~~ the ballots in the plain  
18 opaque envelope and shall seal ~~said~~ the plain opaque envelope in the  
19 envelope bearing an affidavit. The voter must complete ~~said~~ the  
20 affidavit, and the signature of the voter on same must be witnessed  
21 by both members of the absentee voting board-;

22 4. The envelope bearing an affidavit then must be sealed in the  
23 return envelope, which shall be returned by the absentee voting  
24

1 board to the ~~secretary of the county election board~~ State Election  
2 Board on the same day ~~said~~ the affidavit was executed~~;~~; and

3 5. Ballots cast in ~~said~~ the manner shall be counted in the same  
4 manner as regular mail absentee ballots.

5 SECTION 7. AMENDATORY 26 O.S. 2011, Section 14-118.1, as  
6 amended by Section 9, Chapter 200, O.S.L. 2013 (26 O.S. Supp. 2018,  
7 Section 14-118.1), is amended to read as follows:

8 Section 14-118.1. In the event that an absentee ballot mailed  
9 to a voter identified by Section 14-142 of this title or otherwise  
10 transmitted to a voter as provided by law cannot be received by the  
11 voter, voted and returned to the ~~secretary of the county election~~  
12 ~~board in the county of the residence of the voter~~ State Election  
13 Board in time to be counted, the secretary shall be authorized to  
14 transmit a ballot for federal offices by facsimile device as defined  
15 in Section 1862 of Title 21 of the Oklahoma Statutes, provided that  
16 the voter has made a timely application for an absentee ballot. The  
17 voter may transmit by facsimile device the voted ballot only to the  
18 location designated by the Secretary of the State Election Board.  
19 Regular absentee ballots also shall be mailed to the voter, and if  
20 the regular ballots are returned by the voter and received by the  
21 ~~secretary of the county election board~~ State Election Board in time  
22 to be counted, the ballot transmitted by facsimile device shall not  
23 be counted. The Secretary of the State Election Board shall  
24 promulgate rules setting forth procedures and prescribe appropriate

1 forms to transmit and to receive absentee ballots pursuant to this  
2 section.

3 SECTION 8. AMENDATORY 26 O.S. 2011, Section 14-120, is  
4 amended to read as follows:

5 Section 14-120. A. For ballots transmitted pursuant to the  
6 provisions of Section 14-118 of this title, the voter shall be  
7 required to mark the voter's ballots in ink or other manner as  
8 prescribed by the Secretary of the State Election Board, seal the  
9 ballots in the plain opaque envelope, fill out completely and sign  
10 the affidavit, seal the plain opaque envelope inside the envelope  
11 bearing the affidavit, and return both envelopes, sealed inside the  
12 return envelope, by United States mail or by a private mail service,  
13 provided such service has delivery documentation.

14 B. If a voter returns both a voted ballot mailed to the voter  
15 under subsection A of Section 14-118 of this title and a voted  
16 ballot provided electronically to the voter under subsection B of  
17 Section 14-118 of this title, only the first ballot received may be  
18 counted.

19 C. A ballot received by the ~~county election board~~ State  
20 Election Board which was issued electronically shall be processed in  
21 the same manner as any other ballot voted by mail as provided by  
22 this title.

23 SECTION 9. AMENDATORY 26 O.S. 2011, Section 14-121.1, is  
24 amended to read as follows:



1 Section 14-121.1. A registered voter whose application is on  
2 file and who lost or did not receive absentee ballots may apply for  
3 a second set of absentee ballots if more than seven (7) days have  
4 passed since the ballots were transmitted to the voter by the county  
5 election board. To receive a second set of ballots, the voter must  
6 swear or affirm that the voter lost or did not receive the original  
7 set of ballots for that election and that the voter will vote only  
8 one set of ballots. The Secretary of the State Election Board shall  
9 prescribe a form to be used for such application, although any  
10 written application setting forth substantially the same facts shall  
11 be valid. The written application for replacement ballots shall be  
12 personally signed by the voter and acknowledged before a notary  
13 public or witnessed as required on the affidavit for return of the  
14 original absentee ballots, and may be transmitted to the ~~county~~  
15 ~~election board~~ State Election Board in person by the voter, by  
16 United States mail or by an agent designated by the voter. The  
17 person transmitting such application on behalf of the voter may be  
18 anyone of the voter's choosing at least sixteen (16) years of age,  
19 provided ~~said~~ the person is not employed by or related within the  
20 third degree of consanguinity or affinity to any person whose name  
21 appears on the ballot. No person may be the agent for more than one  
22 voter at any election. Such second ballot set shall be transmitted  
23 by the voter to the ~~county election board~~ State Election Board in  
24 the same manner as provided in the original set.

1 SECTION 10. AMENDATORY 26 O.S. 2011, Section 14-122, is  
2 amended to read as follows:

3 Section 14-122. When received, the ~~secretary of the county~~  
4 ~~election board~~ Secretary of the State Election Board shall cause  
5 envelopes containing absentee ballots to be placed in a ballot box,  
6 locked with three locks, in a secure place.

7 SECTION 11. AMENDATORY 26 O.S. 2011, Section 14-123, as  
8 amended by Section 10, Chapter 200, O.S.L. 2013 (26 O.S. Supp. 2018,  
9 Section 14-123), is amended to read as follows:

10 Section 14-123. At 10 a.m. on Thursday preceding the election,  
11 or at such time thereafter as the county election board may desire,  
12 the ~~county election board may meet and~~ Secretary of the State  
13 Election Board, or such personnel as may be designated by the  
14 Secretary, shall publicly remove the outer envelopes from all  
15 absentee ballots then received, examine and remove properly executed  
16 affidavits and place the plain opaque envelopes in a ballot box,  
17 locked with three locks. The procedure shall be repeated until such  
18 time as all ballots have been received. Provided, such procedure  
19 may begin at an earlier date upon the written approval of the  
20 Secretary of the State Election Board.

21 SECTION 12. AMENDATORY 26 O.S. 2011, Section 14-124, is  
22 amended to read as follows:

23 Section 14-124. The ~~secretary of the county election board~~  
24 Secretary of the State Election Board shall appoint absentee

1 counters as authorized by the State Election Board, ~~said~~ the  
2 absentee counters meeting all qualifications required of precinct  
3 counters.

4 SECTION 13. AMENDATORY 26 O.S. 2011, Section 14-125, as  
5 amended by Section 11, Chapter 200, O.S.L. 2013 (26 O.S. Supp. 2018,  
6 Section 14-125), is amended to read as follows:

7 Section 14-125. A. On the day of the election at such time as  
8 ~~the secretary of the county election board~~ Secretary of the State  
9 Election Board may prescribe, ~~the county election board~~ absentee  
10 counters shall meet at ~~the county courthouse or at the offices of~~  
11 ~~the county election board if located elsewhere~~ a location determined  
12 by the Secretary, to count absentee ballots in the following manner:

13 The ballot box containing the plain opaque envelopes shall be  
14 shaken to mix the envelopes, after which the box shall be opened,  
15 the envelopes removed, and the ballots counted by a voting device  
16 assigned to count absentee ballots and operated by persons appointed  
17 by the ~~secretary of the county election board~~ Secretary.

18 B. The procedure described in this section shall be repeated as  
19 is necessary until all ballots have been counted. In no event shall  
20 fewer than twelve ballots be counted at any time, unless fewer than  
21 twelve ballots are received in total or after the first count is  
22 made. The results of the absentee ballot count for the voters of  
23 each county shall be transmitted to each county election board in a  
24 manner prescribed by the Secretary. The results of the absentee

1 ballots shall not be printed, made known to any person nor announced  
2 earlier than 7:00 p.m. on the day of the election.

3 C. 1. ~~Upon written approval by the~~ The Secretary of the State  
4 Election Board, ~~the county election board~~ may begin the process of  
5 counting absentee ballots as described in this section on a date  
6 earlier than the day of the election. The results of the absentee  
7 ballots shall not be printed, made known to any person nor announced  
8 earlier than 7:00 p.m. on the day of the election.

9 2. When the counting of absentee ballots occurs on a date prior  
10 to the day of the election, the ~~county election board~~ Secretary or  
11 other person designated by the Secretary, shall, without obtaining a  
12 printout of results, remove the election results storage media from  
13 the voting device and seal ballots counted that day in a transfer  
14 case which shall be secured by the sheriff of the ~~county~~ Oklahoma  
15 County in the same manner as provided in Section 8-110 of this  
16 title. The election results storage media shall be sealed in a  
17 container prescribed by the Secretary of the State Election Board.  
18 The sheriff shall secure the sealed election results storage media  
19 container and return it to the ~~county election board~~ State Election  
20 Board ~~at the time the county election board next meets~~ for the  
21 purpose of counting absentee ballots at a future election.

22 3. If there is a malfunction in such a way that the election  
23 results storage media used for absentee voting will not function,  
24 the sheriff is authorized to return the transfer cases containing

1 absentee ballots to the ~~county election board~~ State Election Board  
2 to be recounted as provided in Section 7-134.1 of this title.

3 SECTION 14. AMENDATORY 26 O.S. 2011, Section 14-132, is  
4 amended to read as follows:

5 Section 14-132. All materials used for procuring and casting an  
6 absentee ballot shall be retained by the ~~secretary of the county~~  
7 ~~election board~~ State Election Board for a period of twenty-four (24)  
8 months after the day of the election.

9 SECTION 15. AMENDATORY 26 O.S. 2011, Section 16-105, is  
10 amended to read as follows:

11 Section 16-105. A. Any person who knowingly conspires to  
12 commit fraud or perpetrates fraud, or who steals supplies used to  
13 conduct an election, in order to change a voter's vote, or to change  
14 the composition of the official ballot or ballots, or to change the  
15 counting of the ballots, or to change the certification of the  
16 results of an election, shall be deemed guilty of a felony  
17 punishable by imprisonment in the custody of the Department of  
18 Corrections for not less than five (5) years nor more than ten (10)  
19 years, by a fine of up to Ten Thousand Dollars (\$10,000.00), or by  
20 both such fine and imprisonment.

21 B. At every precinct there shall be posted information,  
22 provided by the State Election Board, which states the penalties for  
23 voter fraud and states that, if voter fraud is suspected, complaints  
24 should be reported to the State Election Board.

1 C. The State Election Board shall, upon receiving the  
2 complaint:

3 1. Document such complaint and request the name and mailing  
4 address of the person making the complaint;

5 2. Send a letter to the person making the complaint, stating  
6 the penalties for voter fraud and the option of contacting the  
7 district attorney in the county where such fraud is suspected; and

8 3. Provide the district attorney's name and phone number.

9 D. All information relating to voter complaints shall remain  
10 confidential until after the complaint has resulted in a conviction  
11 or a plea of guilty or nolo contendere.

12 SECTION 16. AMENDATORY 26 O.S. 2011, Section 16-116, is  
13 amended to read as follows:

14 Section 16-116. Any election official who discloses how any  
15 voter may have voted shall be deemed guilty of a misdemeanor;  
16 provided, any election official who knowingly discloses how any  
17 voter may have voted by absentee ballot shall be deemed guilty of a  
18 felony.

19 SECTION 17. This act shall become effective November 1, 2019.

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