

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

313-1526-01

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. 101.62, F.S.; modifying

5 information on absentee ballot requests;

6 amending s. 101.657, F.S.; conforming

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

8 absentee ballot certificates; amending s.

9 101.65, F.S.; modifying instructions to absent

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

11 information that must be included on an

12 absentee ballot; repealing s. 101.647, F.S.,

13 relating to returning absentee ballots;

14 amending s. 104.047, F.S.; deleting a

15 prohibition against persons witnessing more

16 than five ballots in an election and a

17 prohibition against returning more than two

18 ballots in an election, and the penalties

19 therefor; repealing s. 101.685, F.S., relating

20 to absentee ballot coordinators; providing an

21 effective date.

22

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

24

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

26 Statutes, is amended to read:

27 97.021 Definitions.--For the purposes of this code,

28 except where the context clearly indicates otherwise, the

29 term:

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

31 qualified voter who casts an absentee ballot.+

1 ~~(a) Is unable without another's assistance to attend~~
2 ~~the polls.~~

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

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

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

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

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

22 Section 2. Paragraph (b) of subsection (1) of section
23 101.62, Florida Statutes, is amended to read:

24 101.62 Request for absentee ballots.--

25 (1)

26 (b) The supervisor may accept a written or telephonic
27 request for an absentee ballot from the elector, or, if
28 directly instructed by the elector, a member of the elector's
29 immediate family, or the elector's legal guardian. For
30 purposes of this section, the term "immediate family" has the

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1 same meaning as specified in paragraph (4)(b). The person
2 making the request must disclose:
3 1. The name of the elector for whom the ballot is
4 requested;
5 2. The elector's address;
6 3. The last four digits of the elector's social
7 security number;
8 4. The ~~registration number on the~~ elector's date of
9 birth registration identification card;
10 5. The requester's name;
11 6. The requester's address;
12 7. The requester's social security number and, if
13 available, driver's license number;
14 8. The requester's relationship to the elector; and
15 9. The requester's signature (written requests only).
16 Section 3. Section 101.657, Florida Statutes, is
17 amended to read:
18 101.657 Voting absentee ballots in person.--
19 (1) ~~Notwithstanding s. 97.021(1),~~Any qualified and
20 registered elector ~~who is unable to attend the polls on~~
21 ~~election day~~ may pick up and vote an absentee ballot in person
22 at the office of, and under the supervision of, the supervisor
23 of elections. Before receiving the ballot, the elector must
24 present a Florida driver's license, a Florida identification
25 card issued under s. 322.051, or another form of picture
26 identification approved by the Department of State. If the
27 elector fails to furnish the required identification, or if
28 the supervisor is in doubt as to the identity of the elector,
29 the supervisor must follow the procedure prescribed in s.
30 101.49.
31

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

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

11
12 IN-OFFICE VOTER CERTIFICATE
13

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

27
28
29 ...(Voter's Signature)...

30
31 ...(Address)...

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...(City/State)...

...(Name of Witness)...

...(Signature of Witness)...

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

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

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

Section 4. Section 101.64, Florida Statutes, is amended to read:

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

(1) The supervisor shall enclose with each absentee ballot two envelopes: a secrecy envelope, into which the absent elector shall enclose his or her marked ballot; and a mailing envelope, into which the absent elector shall then place the secrecy envelope, which shall be addressed to the supervisor and also bear on the back side a certificate in substantially the following form:

Note: Please Read Instructions Carefully Before

1 Marking Ballot and Completing Voter's Certificate.

2 VOTER'S CERTIFICATE

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

14
15 ~~1. I am unable without another's assistance to attend~~
16 ~~the polls.~~

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

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

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

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

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

4
5 I swear or affirm that the elector ~~voter~~ signed this Voter's
6 Certificate in my presence ~~and that, unless certified as an~~
7 ~~absentee ballot coordinator, I have not witnessed more than 5~~
8 ~~ballots for this election.~~

9
10 ~~WITNESS:~~

11
12 ... (Signature of Witness) ...

13 ... (~~Printed Name of Witness~~) ...

14
15 ... (~~Voter I.D. Number of Witness and County of~~
16 ~~Registration~~) ...

17
18 ... (Address) ...

19 ... (City/State) ...

20
21 (2) The certificate shall be arranged on the back of
22 the mailing envelope so that the lines for the signatures of
23 the absent elector and the attesting witness are across the
24 seal of the envelope; however, no statement shall appear on
25 the envelope which indicates that a signature of the voter or
26 witness must cross the seal of the envelope. The absent
27 elector and the attesting witness shall execute the
28 certificate on the envelope.

29 Section 5. Section 101.65, Florida Statutes, is
30 amended to read:

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1 101.65 Instructions to absent electors.--The
2 supervisor shall enclose with each absentee ballot separate
3 printed instructions in substantially the following form:

4
5 READ THESE INSTRUCTIONS CAREFULLY BEFORE MARKING BALLOT.

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

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

15 3. Place your marked ballot in the enclosed secrecy
16 envelope.

17 4. Insert the secrecy envelope into the enclosed
18 mailing envelope which is addressed to the supervisor.

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

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

26 a. ~~One witness, who is a registered voter in the~~
27 ~~state, must affix his or her signature, printed name, address,~~
28 ~~voter identification number, and county of registration on the~~
29 ~~voter's certificate. Each witness is limited to witnessing~~
30 ~~five ballots per election unless certified as an absentee~~

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1 ~~ballot coordinator. A candidate may not serve as an attesting~~
2 ~~witness.~~

3 ~~b. Any notary or other officer entitled to administer~~
4 ~~oaths or any Florida supervisor of elections or deputy~~
5 ~~supervisor of elections, other than a candidate, may serve as~~
6 ~~an attesting witness.~~

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

11 8.7. Mail, deliver, or have delivered the completed
12 mailing envelope. Be sure there is sufficient postage if
13 mailed.

14 9.8. FELONY NOTICE. It is a felony under Florida law
15 to accept any gift, payment, or gratuity in exchange for your
16 vote for a candidate. It is also a felony under Florida law to
17 vote in an election using a false identity or false address,
18 or under any other circumstances making your ballot false or
19 fraudulent.

20 Section 6. Paragraph (c) of subsection (2) of section
21 101.68, Florida Statutes, is amended to read:

22 101.68 Canvassing of absentee ballot.--

23 (2)

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

1 by the registration records, and the signature and address of
2 an attesting witness.~~either:~~

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

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

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

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

27 Section 7. Section 101.647, Florida Statutes, is
28 repealed.

29 Section 8. Section 104.047, Florida Statutes, is
30 amended to read:

31 104.047 Absentee ballots and voting; violations.--

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 ~~(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 9. Section 101.685, Florida Statutes, is
28 repealed.

29 Section 10. This act shall take effect January 1,
30 2002.

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STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
COMMITTEE SUBSTITUTE FOR
SB 448

The committee substitute differs from the original bill in that it: inserts a space on the Voter's Certificate for the absentee voter to provide the date he or she signed the Certificate; changes information sought in connection with an absentee ballot request from the voter's registration number to the voter's date of birth; repeals the provision of law limiting third parties to returning 2 absentee ballots per election, and the corresponding criminal penalty.