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CS/HB 105, Engrossed 1

2017 Legislature

1
2 An act relating to the canvassing of vote-by-mail
3 ballots; amending s. 101.68, F.S.; deleting an
4 obsolete date; modifying and clarifying provisions
5 governing the canvassing of vote-by-mail ballots;
6 authorizing use of the vote-by-mail ballot cure
7 affidavit if an elector's signature does not match the
8 signature in the registration books or precinct
9 register; requiring the supervisor of elections to
10 immediately notify an elector upon receipt of a vote-
11 by-mail ballot with a missing or mismatched signature;
12 revising terminology; revising the cure affidavit
13 instructions with respect to acceptable forms of
14 identification; specifying that a Florida driver
15 license or Florida identification card are acceptable
16 forms of identification for purposes of curing a vote-
17 by-mail ballot; expanding the scope of post-election
18 signature update requests to include electors who
19 cured a vote-by-mail ballot with a mismatched
20 signature; providing an effective date.

21
22 Be It Enacted by the Legislature of the State of Florida:

23
24 Section 1. Section 101.68, Florida Statutes, is amended to
25 read:

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26 | 101.68 Canvassing of vote-by-mail ballot.-

27 | (1) The supervisor of the county where the absent elector
28 | resides shall receive the voted ballot, at which time the
29 | supervisor shall compare the signature of the elector on the
30 | voter's certificate with the signature of the elector in the
31 | registration books or the precinct register to determine whether
32 | the elector is duly registered in the county and may record on
33 | the elector's registration certificate that the elector has
34 | voted. ~~However, effective July 1, 2005,~~ An elector who dies
35 | after casting a vote-by-mail ballot but on or before election
36 | day shall remain listed in the registration books until the
37 | results have been certified for the election in which the ballot
38 | was cast. The supervisor shall safely keep the ballot unopened
39 | in his or her office until the county canvassing board canvasses
40 | the vote. Except as provided in subsection (4), after a vote-by-
41 | mail ballot is received by the supervisor, the ballot is deemed
42 | to have been cast, and changes or additions may not be made to
43 | the voter's certificate.

44 | (2) (a) The county canvassing board may begin the
45 | canvassing of vote-by-mail ballots at 7 a.m. on the 15th day
46 | before the election, but not later than noon on the day
47 | following the election. In addition, for any county using
48 | electronic tabulating equipment, the processing of vote-by-mail
49 | ballots through such tabulating equipment may begin at 7 a.m. on
50 | the 15th day before the election. However, notwithstanding any

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51 such authorization to begin canvassing or otherwise processing
52 vote-by-mail ballots early, no result shall be released until
53 after the closing of the polls in that county on election day.
54 Any supervisor of elections, deputy supervisor of elections,
55 canvassing board member, election board member, or election
56 employee who releases the results of a canvassing or processing
57 of vote-by-mail ballots prior to the closing of the polls in
58 that county on election day commits a felony of the third
59 degree, punishable as provided in s. 775.082, s. 775.083, or s.
60 775.084.

61 (b) To ensure that all vote-by-mail ballots to be counted
62 by the canvassing board are accounted for, the canvassing board
63 shall compare the number of ballots in its possession with the
64 number of requests for ballots received to be counted according
65 to the supervisor's file or list.

66 (c)1. The canvassing board must ~~shall~~, if the supervisor
67 has not already done so, compare the signature of the elector on
68 the voter's certificate or on the vote-by-mail ballot cure
69 affidavit as provided in subsection (4) with the signature of
70 the elector in the registration books or the precinct register
71 to see that the elector is duly registered in the county and to
72 determine the legality of that vote-by-mail ballot. A vote-by-
73 mail ballot may only be counted if:

74 a. The signature on the voter's certificate or the cure
75 affidavit matches the elector's signature in the registration

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76 | books or precinct register; however, in the case of a cure
77 | affidavit, the supporting identification listed in subsection
78 | (4) must also confirm the identity of the elector; or

79 | b. The cure affidavit contains a signature that does not
80 | match the elector's signature in the registration books or
81 | precinct register, but the elector has submitted a current and
82 | valid Tier 1 identification pursuant to subsection (4) which
83 | confirms the identity of the elector.

84 | 2. The ballot of an elector who casts a vote-by-mail
85 | ballot shall be counted even if the elector dies on or before
86 | election day, as long as, before ~~prior to~~ the death of the
87 | voter, the ballot was postmarked by the United States Postal
88 | Service, date-stamped with a verifiable tracking number by a
89 | common carrier, or already in the possession of the supervisor
90 | of elections. ~~A vote-by-mail ballot is considered illegal if the~~
91 | ~~voter's certificate or vote-by-mail ballot affidavit does not~~
92 | ~~include the signature of the elector, as shown by the~~
93 | ~~registration records or the precinct register. However,~~

94 | 3. A vote-by-mail ballot is not considered illegal if the
95 | signature of the elector does not cross the seal of the mailing
96 | envelope. ~~If the canvassing board determines that any ballot is~~
97 | ~~illegal, a member of the board shall, without opening the~~
98 | ~~envelope, mark across the face of the envelope: "rejected as~~
99 | ~~illegal." The vote-by-mail ballot affidavit, if applicable, the~~
100 | ~~envelope, and the ballot contained therein shall be preserved in~~

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101 ~~the manner that official ballots voted are preserved.~~

102 ~~4.2.~~ If any elector or candidate present believes that a
103 vote-by-mail ballot is illegal due to a defect apparent on the
104 voter's certificate or the cure ~~vote-by-mail ballot~~ affidavit,
105 he or she may, at any time before the ballot is removed from the
106 envelope, file with the canvassing board a protest against the
107 canvass of that ballot, specifying the precinct, the ballot, and
108 the reason he or she believes the ballot to be illegal. A
109 challenge based upon a defect in the voter's certificate or cure
110 ~~vote-by-mail ballot~~ affidavit may not be accepted after the
111 ballot has been removed from the mailing envelope.

112 5. If the canvassing board determines that a ballot is
113 illegal, a member of the board must, without opening the
114 envelope, mark across the face of the envelope: "rejected as
115 illegal." The cure affidavit, if applicable, the envelope, and
116 the ballot therein shall be preserved in the manner that
117 official ballots are preserved.

118 (d) The canvassing board shall record the ballot upon the
119 proper record, unless the ballot has been previously recorded by
120 the supervisor. The mailing envelopes shall be opened and the
121 secrecy envelopes shall be mixed so as to make it impossible to
122 determine which secrecy envelope came out of which signed
123 mailing envelope; however, in any county in which an electronic
124 or electromechanical voting system is used, the ballots may be
125 sorted by ballot styles and the mailing envelopes may be opened

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126 and the secrecy envelopes mixed separately for each ballot
 127 style. The votes on vote-by-mail ballots shall be included in
 128 the total vote of the county.

129 (3) The supervisor or the chair of the county canvassing
 130 board shall, after the board convenes, have custody of the vote-
 131 by-mail ballots until a final proclamation is made as to the
 132 total vote received by each candidate.

133 (4) (a) ~~The supervisor of elections shall, on behalf of the~~
 134 ~~county canvassing board, notify each elector whose ballot was~~
 135 ~~rejected as illegal and provide the specific reason the ballot~~
 136 ~~was rejected. The supervisor shall mail a voter registration~~
 137 ~~application to the elector to be completed indicating the~~
 138 ~~elector's current signature if the elector's ballot was rejected~~
 139 ~~due to a difference between the elector's signature on the~~
 140 ~~voter's certificate or vote-by-mail ballot affidavit and the~~
 141 ~~elector's signature in the registration books or precinct~~
 142 ~~register. This section does not prohibit the supervisor from~~
 143 ~~providing additional methods for updating an elector's~~
 144 ~~signature.~~

145 ~~(b) Until 5 p.m. on the day before an election,~~ The
 146 supervisor shall, on behalf of the county canvassing board,
 147 immediately notify ~~allow~~ an elector who has returned a vote-by-
 148 mail ballot that does not include the elector's signature or
 149 contains a signature that does not match the elector's signature
 150 in the registration books or precinct register. The supervisor

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151 shall allow such an elector to complete and submit an affidavit
 152 in order to cure the ~~unsigned~~ vote-by-mail ballot until 5 p.m.
 153 on the day before the election.

154 (b)(e) The elector ~~shall provide identification to the~~
 155 ~~supervisor and must complete a cure vote-by-mail ballot~~
 156 affidavit in substantially the following form:

157
 158 VOTE-BY-MAIL BALLOT CURE AFFIDAVIT

159 I,, am a qualified voter in this election and
 160 registered voter of County, Florida. I do solemnly swear or
 161 affirm that I requested and returned the vote-by-mail ballot and
 162 that I have not and will not vote more than one ballot in this
 163 election. I understand that if I commit or attempt any fraud in
 164 connection with voting, vote a fraudulent ballot, or vote more
 165 than once in an election, I may be convicted of a felony of the
 166 third degree and fined up to \$5,000 and imprisoned for up to 5
 167 years. I understand that my failure to sign this affidavit means
 168 that my vote-by-mail ballot will be invalidated.

169
 170 ... (Voter's Signature) ...

171
 172 ... (Address) ...

173 (c)(d) Instructions must accompany the cure ~~vote-by-mail~~
 174 ~~ballot~~ affidavit in substantially the following form:

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176 READ THESE INSTRUCTIONS CAREFULLY BEFORE COMPLETING THE
177 AFFIDAVIT. FAILURE TO FOLLOW THESE INSTRUCTIONS MAY CAUSE YOUR
178 BALLOT NOT TO COUNT.

179

180 1. In order to ensure that your vote-by-mail ballot will
181 be counted, your affidavit should be completed and returned as
182 soon as possible so that it can reach the supervisor of
183 elections of the county in which your precinct is located no
184 later than 5 p.m. on the ~~2nd~~ day before the election.

185 2. You must sign your name on the line above (Voter's
186 Signature).

187 3. You must make a copy of one of the following forms of
188 identification:

189 a. Tier 1 identification.—Current and valid identification
190 that includes your name and photograph: Florida driver license;
191 Florida identification card issued by the Department of Highway
192 Safety and Motor Vehicles; United States passport; debit or
193 credit card; military identification; student identification;
194 retirement center identification; neighborhood association
195 identification; public assistance identification; veteran health
196 identification card issued by the United States Department of
197 Veterans Affairs; a Florida license to carry a concealed weapon
198 or firearm; or an employee identification card issued by any
199 branch, department, agency, or entity of the Federal Government,
200 the state, a county, or a municipality; or

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201 b. Tier 2 identification.—ONLY IF YOU DO NOT HAVE A TIER 1
202 FORM OF IDENTIFICATION, identification that shows your name and
203 current residence address: current utility bill, bank statement,
204 government check, paycheck, or government document (excluding
205 voter identification card).

206 4. Place the envelope bearing the affidavit into a mailing
207 envelope addressed to the supervisor. Insert a copy of your
208 identification in the mailing envelope. Mail, deliver, or have
209 delivered the completed affidavit along with the copy of your
210 identification to your county supervisor of elections. Be sure
211 there is sufficient postage if mailed and that the supervisor's
212 address is correct.

213 5. Alternatively, you may fax or e-mail your completed
214 affidavit and a copy of your identification to the supervisor of
215 elections. If e-mailing, please provide these documents as
216 attachments.

217 (d)~~(e)~~ The department and each supervisor shall include
218 the affidavit and instructions on their respective websites. The
219 supervisor must include his or her office's mailing address, e-
220 mail address, and fax number on the page containing the
221 affidavit instructions; the department's instruction page must
222 include the office mailing addresses, e-mail addresses, and fax
223 numbers of all supervisors of elections or provide a conspicuous
224 link to such addresses.

225 (e)~~(f)~~ The supervisor shall attach each affidavit received

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226 | to the appropriate vote-by-mail ballot mailing envelope.

227 | (f) After all election results on the ballot have been

228 | certified, the supervisor shall, on behalf of the county

229 | canvassing board, notify each elector whose ballot has been

230 | rejected as illegal and provide the specific reason the ballot

231 | was rejected. In addition, the supervisor shall mail a voter

232 | registration application to the elector to be completed

233 | indicating the elector's current signature if the signature on

234 | the voter's certificate or cure affidavit did not match the

235 | elector's signature in the registration books or precinct

236 | register. This section does not prohibit the supervisor from

237 | providing additional methods for updating an elector's

238 | signature.

239 | Section 2. This act shall take effect upon becoming a law.