

Committee Substitute for Senate Bill No. 2566

An act relating to absentee ballots; amending s. 101.64, F.S.; removing the requirement that a voter's signature on an absentee ballot must be witnessed; amending s. 101.65, F.S.; revising the Voter's Certificate and instructions to absent electors to remove the requirement of an attesting witness; amending s. 101.68, F.S.; requiring that the supervisor of elections compare an elector's signature to verify registration; removing the requirement of the signature of an attesting witness for an absentee ballot to be considered legal; amending ss. 101.6921 and 101.6923, F.S.; revising the Voter's Certificate and instructions for special absentee ballots for certain first-time voters to remove the requirement of an attesting witness; amending s. 101.6952, F.S., relating to absentee ballots received from overseas voters, to conform; amending s. 101.657, F.S., relating to absentee ballots voted In-Office; providing an effective date.

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

Section 1. 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
Marking Ballot and Completing Voter's Certificate.

VOTER'S CERTIFICATE

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

...(Date)...

...(Voter's Signature)...

~~Note: Your Signature Must Be Witnessed By One Witness 18 Years of Age or Older as provided in the Instruction Sheet.~~

~~I swear or affirm that the voter signed this Voter's Certificate in my presence.~~

...(Signature of Witness)...

...(Address)...

...(City/State)...

(2) The certificate shall be arranged on the back of the mailing envelope so that the lines for the ~~signature~~ signatures of the absent elector ~~is~~ and the attesting witness are across the seal of the envelope; however, no statement shall appear on the envelope which indicates that a signature of the voter ~~or witness~~ must cross the seal of the envelope. The absent elector ~~and the attesting witness~~ shall execute the certificate on the envelope.

Section 2. Section 101.65, Florida Statutes, is amended to read:

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

READ THESE INSTRUCTIONS CAREFULLY BEFORE MARKING BALLOT.

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

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

3. Mark only the number of candidates or issue choices for a race as indicated on the ballot. If you are allowed to “Vote for One” candidate and you vote for more than one candidate, your vote in that race will not be counted.

4. Place your marked ballot in the enclosed secrecy envelope.

5. Insert the secrecy envelope into the enclosed mailing envelope which is addressed to the supervisor.

6. Seal the mailing envelope and completely fill out the Voter’s Certificate on the back of the mailing envelope.

7. **VERY IMPORTANT.** In order for your absentee ballot to be counted, you must sign your name on the line above (Voter’s Signature).

8. **VERY IMPORTANT.** If you are an overseas voter, you must include the date you signed the Voter’s Certificate on the line above (Date) or your ballot may not be counted.

9. ~~**VERY IMPORTANT.** In order for your absentee ballot to be counted, it must include the signature and address of a witness 18 years of age or older affixed to the Voter’s Certificate. No candidate may serve as an attesting witness.~~

9.10. Mail, deliver, or have delivered the completed mailing envelope. Be sure there is sufficient postage if mailed.

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

Section 3. Subsection (1) and paragraph (c) of subsection (2) of section 101.68, Florida Statutes, are amended to read:

101.68 Canvassing of absentee ballot.—

(1) The supervisor of the county where the absent elector resides shall receive the voted ballot, at which time the supervisor shall ~~may~~ compare the signature of the elector on the voter's certificate with the signature of the elector in the registration books to determine whether the elector is duly registered in the county and may record on the elector's registration certificate that the elector has voted. The supervisor shall safely keep the ballot unopened in his or her office until the county canvassing board canvasses the vote.

(2)

(c)1. The canvassing board shall, if the supervisor has not already done so, compare the signature of the elector on the voter's certificate with the signature of the elector in the registration books to see that the elector is duly registered in the county and to determine the legality of that absentee ballot. An absentee ballot shall be considered illegal if it does not include the signature of the elector, as shown by the registration records, ~~and the signature and address of an attesting witness.~~ However, an absentee ballot shall not be considered illegal if the signature of the elector ~~or attesting witness~~ does not cross the seal of the mailing envelope. If the canvassing board determines that any ballot is illegal, a member of the board shall, without opening the envelope, mark across the face of the envelope: "rejected as illegal." The envelope and the ballot contained therein shall be preserved in the manner that official ballots voted are preserved.

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

Section 4. Subsections (3) and (4) of section 101.6921, Florida Statutes, are amended to read:

101.6921 Delivery of special absentee ballot to certain first-time voters.—

(3) The Voter’s Certificate shall be in substantially the following form:

Note: Please Read Instructions Carefully Before Marking Ballot and Completing Voter’s Certificate

VOTER’S CERTIFICATE

I, ..., do solemnly swear or affirm that I am a qualified and registered voter of ... County, Florida, and that I have not and will not vote more than one ballot in this election. I understand that if I commit or attempt to commit any fraud in connection with voting, vote a fraudulent ballot, or vote more than once in an election, I can be convicted of a felony of the third degree and fined up to \$5,000 and/or imprisoned for up to 5 years. I also understand that failure to sign this certificate ~~and have my signature properly witnessed~~ will invalidate my ballot. I understand that unless I meet one of the exemptions below, I must provide a copy of a current and valid identification as provided in the instruction sheet to the supervisor of elections in order for my ballot to count.

I further certify that I am exempt from the requirements to furnish a copy of a current and valid identification with my ballot because of one or more of the following (check all that apply):

- I am 65 years of age or older.
- I have a permanent or temporary physical disability.
- I am a member of a uniformed service on active duty who, by reason of such active duty, will be absent from the county on election day.
- I am a member of the Merchant Marine who, by reason of service in the Merchant Marine, will be absent from the county on election day.
- I am the spouse or dependent of a member of the uniformed service or Merchant Marine who, by reason of the active duty or service of the member, will be absent from the county on election day.
- I am currently residing outside the United States.

...(Date)...

...Voter’s Signature...

Note: ~~Your signature must be witnessed by one witness 18 years of age or older as provided in the instruction sheet.~~

~~I swear or affirm that the voter signed this Voter’s Certificate in my presence.~~

~~...(Signature of Witness)...~~

~~...(Address)...~~

...(City/State)...

(4) The certificate shall be arranged on the back of the envelope so that the lines for the signature ~~signatures~~ of the absent elector is ~~and the attesting witness are~~ across the seal of the envelope.

Section 5. Subsection (2) of section 101.6923, Florida Statutes, is amended to read:

101.6923 Special absentee ballot instructions for certain first-time voters.—

(2) A voter covered by this section shall be provided with the following printed instructions with his or her absentee ballot:

READ THESE INSTRUCTIONS CAREFULLY BEFORE MARKING YOUR BALLOT. FAILURE TO FOLLOW THESE INSTRUCTIONS MAY CAUSE YOUR BALLOT NOT TO COUNT.

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

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

3. Mark only the number of candidates or issue choices for a race as indicated on the ballot. If you are allowed to “Vote for One” candidate and you vote for more than one, your vote in that race will not be counted.

4. Place your marked ballot in the enclosed secrecy envelope and seal the envelope.

5. Insert the secrecy envelope into the enclosed envelope bearing the Voter’s Certificate. Seal the envelope and completely fill out the Voter’s Certificate on the back of the envelope.

a. You must sign your name on the line above (Voter’s Signature).

~~b. You must have your signature witnessed. Have the witness sign above (Signature of Witness) and include his or her address. No candidate may serve as an attesting witness.~~

b.e. If you are an overseas voter, you must include the date you signed the Voter’s Certificate on the line above (Date) or your ballot may not be counted.

6. Unless you meet one of the exemptions in Item 7., you must make a copy of one of the following forms of identification:

a. Identification which must include your name and photograph: current and valid Florida driver’s license; Florida identification card issued by the Department of Highway Safety and Motor Vehicles; United States passport;

employee badge or identification; buyer's club identification card; debit or credit card; military identification; student identification; retirement center identification; neighborhood association identification; entertainment identification; or public assistance identification; or

b. Identification which shows your name and current residence address: current utility bill, bank statement, government check, paycheck, or government document (excluding voter identification card).

7. The identification requirements of Item 6. do not apply if you meet one of the following requirements:

a. You are 65 years of age or older.

b. You have a temporary or permanent physical disability.

c. You are a member of a uniformed service on active duty who, by reason of such active duty, will be absent from the county on election day.

d. You are a member of the Merchant Marine who, by reason of service in the Merchant Marine, will be absent from the county on election day.

e. You are the spouse or dependent of a member referred to in paragraph c. or paragraph d. who, by reason of the active duty or service of the member, will be absent from the county on election day.

f. You are currently residing outside the United States.

8. Place the envelope bearing the Voter's Certificate into the mailing envelope addressed to the supervisor. Insert a copy of your identification in the mailing envelope. **DO NOT PUT YOUR IDENTIFICATION INSIDE THE SECRECY ENVELOPE WITH THE BALLOT OR INSIDE THE ENVELOPE WHICH BEARS THE VOTER'S CERTIFICATE OR YOUR BALLOT WILL NOT COUNT.**

9. Mail, deliver, or have delivered the completed mailing envelope. Be sure there is sufficient postage if mailed.

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

Section 6. Subsection (2) of section 101.6952, Florida Statutes, is amended to read:

101.6952 Absentee ballots for overseas voters.—

(2) For absentee ballots received from overseas voters, there is a presumption that the envelope was mailed on the date stated ~~and witnessed~~ on the outside of the return envelope, regardless of the absence of a postmark on the mailed envelope or the existence of a postmark date that is later than the date of the election.

Section 7. Paragraph (a) of subsection (2) of section 101.657, Florida Statutes, is amended to read:

101.657 Voting absentee ballots in person.—

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

(a) The elector must provide identification as required in subsection (1) and must complete an In-Office Voter Certificate in substantially the following form:

IN-OFFICE VOTER CERTIFICATE

I, ..., am a qualified elector in this election and registered voter of ... County, Florida. I do solemnly swear or affirm that I am the person so listed on the voter registration rolls of ... County and that I reside at the listed address. I understand that if I commit or attempt to commit fraud in connection with voting, vote a fraudulent ballot, or vote more than once in an election I could be convicted of a felony of the third degree and both fined up to \$5,000 and imprisoned for up to 5 years. I understand that my failure to sign this certificate and have my signature witnessed invalidates my ballot.

...(Voter's Signature)...

...(Address)...

...(City/State)...

...(Name of Witness)...

...(Signature of Witness)...

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

Section 8. This act shall take effect July 1, 2004.

Approved by the Governor May 25, 2004.

Filed in Office Secretary of State May 25, 2004.