

1 State of Arkansas
2 93rd General Assembly
3 Regular Session, 2021
4

A Bill

SENATE BILL 701

5 By: Senators C. Tucker, B. Davis
6 By: Representative M. Gray
7

For An Act To Be Entitled

9 AN ACT TO CREATE THE ARKANSAS ABSENTEE VOTING
10 INTEGRITY ACT OF 2021; TO CLARIFY, CREATE
11 ACCOUNTABILITY AND UNIFORMITY FOR, AND SIMPLIFY
12 ABSENTEE BALLOT PROCESSES; TO ENCOURAGE AND ASSIST
13 LAW ENFORCEMENT INVESTIGATION OF VOTER FRAUD; TO
14 AMEND ELECTION LAW CONCERNING ABSENTEE BALLOTS; TO
15 AMEND ELECTION LAW; AND FOR OTHER PURPOSES.
16
17

Subtitle

18 TO CREATE THE ARKANSAS ABSENTEE VOTING
19 INTEGRITY ACT OF 2021.
20
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22

23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
24

25 SECTION 1. DO NOT CODIFY. Title – Legislative finding.

26 (a) This act shall be known and may be cited as the "Arkansas Absentee
27 Voting Integrity Act of 2021".

28 (b) This act incorporates the changes to the absentee ballot process
29 adopted by the General Assembly in Acts 2021, No. 736.
30

31 SECTION 2. Arkansas Code § 7-5-404(b)(2), concerning applications for
32 absentee ballots, is amended to read as follows:

33 ~~(2)(A) For those persons voting by absentee ballot who reside~~
34 ~~outside the county in which they are registered to vote, the application~~
35 ~~shall remain in effect for one (1) year unless revoked by the voter, and the~~
36 ~~county clerk shall thereafter automatically mail no later than twenty-five~~



~~(25) days before each election an absentee ballot for each election.;~~

(A) Unless otherwise provided by the applicant in subdivision (b)(2)(C) of this section, the application shall be valid for only one (1) election cycle;

(B) The election cycle shall include any one (1) election and the corresponding runoff election;

(C) The Secretary of State shall include an option, which the applicant may select, that the application shall remain in effect for one (1) year, unless later revoked by the voter;

(D) The Secretary of State shall include language in the application explaining that the application applies to one (1) election and the corresponding runoff election, unless the option provided under subdivision (b)(2)(C) of this section, is selected by the applicant, in which case the application will remain in effect for one (1) year; and

(E)(i) The county clerk shall automatically mail to the voter no later than twenty-five (25) days before each election an absentee ballot for the election and no later than ten (10) days before the corresponding runoff election, if any, for which the voter submitted an application for an absentee ballot, unless the voter selected the option provided under subdivision (b)(2)(C) of this section, in which case the county clerk shall automatically mail to the voter no later than twenty-five (25) days before each election an absentee ballot for each election held during the applicable one-year period.

(ii) For a voter residing in a long-term care or residential care facility licensed by the state, the administrator of the facility may receive the absentee ballot on behalf of the voter for that election if, before the circuit clerk has mailed the ballot, the administrator has presented an absentee ballot request from the voter authorizing the administrator to receive the absentee ballot on behalf of the voter for that election.

~~(B)(i) For those persons voting by absentee ballot who reside within the county in which they are registered to vote, the application shall be valid for only one (1) election cycle.~~

~~(ii) The election cycle shall include any one (1) election and the corresponding runoff election.~~

~~(C)(i) For a voter residing in a long-term care or~~

1 residential care facility licensed by the state the application shall remain
2 in effect for one (1) calendar year unless withdrawn by the voter.

3 (ii) The county clerk automatically shall mail no
4 later than twenty five (25) days before each election an absentee ballot for
5 each election unless, before mailing, the administrator of the facility has
6 presented an absentee ballot request from the voter authorizing the
7 administrator to receive the absentee ballot on behalf of the voter for that
8 election.

9 (D)(i) For a voter with a disability as defined in § 7-5-
10 311, the application shall remain in effect for one (1) calendar year unless
11 withdrawn by the voter.

12 (ii) The county clerk automatically shall mail no
13 later than twenty five (25) days before each election an absentee ballot for
14 each election.

15
16 SECTION 3. Arkansas Code § 7-5-405(a)(1) and (2), concerning the
17 application form for absentee ballots, are amended to read as follows:

18 (a)(1) Applications for absentee ballots may be made on a form ~~or~~
19 ~~forms~~ prescribed by the Secretary of State and furnished by the county clerk
20 at least sixty (60) days before the election.

21 (2) The form ~~or forms~~ shall contain the following information:

22 (A) The following statement:

23 "IF YOU PROVIDE FALSE INFORMATION ON THIS FORM, YOU MAY BE GUILTY OF PERJURY
24 AND SUBJECT TO A FINE OF UP TO \$10,000 OR IMPRISONMENT FOR UP TO 10 YEARS.";

25 (B) A statement in which the voter must indicate that he
26 or she is requesting an absentee ballot because he or she will be:

27 (i) Unavoidably absent from the polling site on
28 election day;

29 (ii) Unable to attend the polls on election day
30 because of illness or physical disability; or

31 (iii) Unable to attend the polls on election day
32 because of residence in a long-term care or residential facility licensed by
33 the state;

34 (C) A statement by the voter indicating whether he or she
35 resides outside the county;

36 (D) A statement indicating whether the voter is a United

1 States citizen residing outside the territorial limits of the United States;

2 (E) A statement indicating whether the voter is in active
3 service as a member of the armed services of the United States;

4 (F) Mailing information for the ballot or the name and
5 signature of a designated bearer, an administrator, or an authorized agent;

6 (G) The date, the voter’s printed or typed name, voting
7 residence address, date of birth, and the voter’s signature attesting to the
8 correctness of the information provided under penalty of perjury; and

9 (H)(i) The election in which the voter wishes to cast an
10 absentee ballot.

11 (ii) The language describing the election in which
12 the voter wishes to cast an absentee ballot:

13 (a) Shall be placed on the form by the
14 Secretary of State;

15 (b) May use terminology that varies from the
16 election terms adopted in the Arkansas Code;

17 (c) Shall include a list of election options
18 for absentee ballot voters to choose from when requesting their absentee
19 ballot; and

20 (d) In providing the list of election options
21 in subdivision (a)(2)(H)(ii)(c) of this section, the Secretary of State
22 shall:

23 (1) Use plain language terms that:

24 (A) Sufficiently identify which
25 ballot the voter is requesting; and

26 (B) Are designed to be easily read
27 by the typical registered voter; and

28 (2) Provide the date on which each such
29 election is to be held.

30
31 SECTION 4. Arkansas Code § 7-5-409(b) as amended by Acts 2021, No.
32 736, concerning materials furnished to qualified voters, is amended to read
33 as follows:

34 (b)(1) If the applicant is registered or is otherwise eligible to vote
35 absentee, the county clerk, prior to mailing or delivering the ballot, shall
36 detach the ballot stub and deposit the ballot stub into a sealed box

1 designated as “Absentee Stub Box” and deliver to the applicant or to the
2 applicant’s designated bearer, authorized agent, or administrator for
3 delivery to the applicant the following materials:

4 ~~(1)~~(A) An official absentee ballot for each election named
5 in the application;

6 ~~(2)~~(B) Instructions for voting and returning the official
7 absentee ballot to the county clerk;

8 ~~(3)~~(C) An official absentee ballot secrecy envelope on
9 which there shall be written or printed the words “Ballot Only”;

10 ~~(4)~~(A)~~(i)~~(D)(i)(a) A uniform voter statement created and
11 approved by the State Board of Election Commissioners.

12 ~~(ii)~~(b) The voter statement shall
13 include the following heading in bold capitalized letters: “THIS VOTER
14 STATEMENT SHALL BE COMPLETED AND RETURNED IN THE MAILING ENVELOPE OR THE
15 ABSENTEE BALLOT WILL NOT BE COUNTED.”

16 ~~(iii)~~(c) The voter statement shall
17 include the following statement in bold capitalized letters at the bottom of
18 the page: “THE INFORMATION I HAVE PROVIDED IS TRUE TO THE BEST OF MY
19 KNOWLEDGE UNDER PENALTY OF PERJURY. IF I HAVE PROVIDED FALSE INFORMATION, I
20 MAY BE SUBJECT TO A FINE OF UP TO TEN THOUSAND DOLLARS (\$10,000) OR
21 IMPRISONMENT FOR UP TO TEN (10) YEARS, OR BOTH, UNDER FEDERAL OR STATE LAWS.”

22 ~~(iv)~~(d) The voter statement shall
23 include a statement that the voter resides at the address on his or her
24 application.

25 ~~(v)~~(e) The voter statement shall include
26 a statement for a first-time voter who registers by mail: “If I am a newly
27 registered voter of this county and this is the first time I am voting in
28 this county, I am enclosing a copy of a current and valid photo
29 identification card or a current utility bill, bank statement, government
30 check, paycheck, or other government document that shows my name and
31 address.”

32 ~~(B)~~(ii) Blanks shall be provided for the voter to
33 provide his or her printed name, signature, mailing address, residential
34 voting address, date of birth, printed name and address of the administrator,
35 authorized agent, or designated bearer, signature of administrator,
36 authorized agent, or designated bearer, and address of the administrator,

1 authorized agent, or designated bearer.

2 ~~(C)(i)(iii)(a)~~ The voter statement shall include a
3 sworn statement portion that may be completed by the voter stating that the
4 voter is registered to vote and that he or she is the person who is
5 registered.

6 ~~(ii)(b)~~ The sworn statement portion of the
7 voter statement is not required to be notarized, but the voter shall execute
8 the sworn statement under penalty of perjury;

9 ~~(5)(E)~~ A sealable envelope upon which shall be printed or
10 written the words: "Return Envelope", the address of the county clerk, the
11 precinct of the voter, and the words: "ABSENTEE BALLOT, ,
12 , ELECTION"; and

13 ~~(6)(F)~~ An authorized agent authorization form, as follows:
14

15 "AGENT AUTHORIZATION FORM

16 If applicable, fill out and sign this form and place it in the Return
17 Envelope

18 I hereby authorize (insert his or her name) as my authorized
19 agent, to deliver this ballot as I am medically unable to vote on election
20 day. An affidavit verifying my medical status as unable to deliver the
21 application or to vote on the day of the election is attached or has been
22 provided with my application.

23
24 Signature of voter

25
26 Printed name of voter

27
28 Address of voter

29
30 Date of birth of voter."

31 (2) The voter statement, instructions, and any other absentee
32 ballot materials required under subdivision (b)(1) of this section shall be
33 on forms:

34 (A) Prescribed by the State Board of Election
35 Commissioners with the assistance of the Secretary of State; and

36 (B) That are designed to be easily read by the typical

1 registered voter.

2

3 SECTION 5. Arkansas Code § 7-5-416 as amended by Acts 2021, No. 736,
4 is amended to read as follows:

5 7-5-416. Counting of absentee ballots.

6 (a)(1) The election officials for absentee ballots may meet in a place
7 designated by the county board of election commissioners no earlier than the
8 Tuesday before the election for the purpose of opening the outer envelope,
9 processing, and canvassing of absentee ballot paper work of the outer
10 envelope and no earlier than 8:30 a.m. on election day for the purpose of
11 opening the inner absentee ballot envelope and counting the absentee ballots.

12 (2) The absentee ballots shall be tabulated or counted no
13 earlier than 8:30 a.m. on election day.

14 (3) The county board of election commissioners shall give public
15 notice of the time and location of the opening, processing, canvassing, and
16 counting of absentee ballots and early voting ballots as provided in § 7-5-
17 202.

18 ~~(3)~~(4) The county clerk shall provide the county board of
19 election commissioners with a daily count of absentee applications received,
20 to be reported weekly or upon request of the county board of election
21 commissioners.

22 ~~(4)~~(5) The county clerk shall provide the county board of
23 election commissioners with a daily count of absentee ballots received, to be
24 reported weekly or upon request of the county board of election
25 commissioners.

26 ~~(5)~~(6) The county clerk shall forward the following items to the
27 election officials designated by the county board of election commissioners
28 to open, process, canvass, and count absentee ballots:

29 (A) The absentee ballot applications sorted alphabetically
30 and by precinct;

31 (B) The absentee ballots; and

32 (C) A written report containing the following information:

33 (i) The number of absentee ballot applications
34 received by the county clerk;

35 (ii) The number of absentee ballots sent by the
36 county clerk;

1 (iii) The number of absentee ballots returned to the
 2 county clerk;

3 (iv) The number of absentee ballots rejected by the
 4 county clerk and the reason for the rejection;

5 (v) The number of absentee ballots marked as
 6 received on the paper absentee ballot applications list; and

7 (vi) If the number of absentee ballots returned to
 8 the county clerk and the number of absentee ballots marked as received on the
 9 paper absentee ballot lists are different and the reason for the difference
 10 is known, the reason for the difference.

11 ~~(6)~~(7) The processing and counting of absentee ballots shall be
 12 open to the public, and candidates and authorized poll watchers may be
 13 present in person or by a representative designated in writing under § 7-5-
 14 312 during the opening, processing, canvassing, and counting of the absentee
 15 ballots as provided in this subchapter.

16 ~~(7)(A)~~(8)(A) Absentee and early votes shall be counted ~~prior to~~
 17 ~~the closing of the polls on election day~~ as provided under this section.

18 (B)(i) The county board of election commissioners shall
 19 report by precinct the initial count of early votes and absentee ballot votes
 20 to the Secretary of State as provided under § 7-5-701 as soon as practical
 21 after the polls close on election day.

22 (ii) No election results of the precinct shall be
 23 printed, posted, or released until after the polls close on election day.

24 ~~(8)(A)~~(9)(A) After the outer envelope of an absentee ballot is
 25 opened, a county clerk and deputies of the county clerk shall not have access
 26 to:

- 27 (i) The absentee ballots;
- 28 (ii) Absentee ballot paperwork; or
- 29 (iii) The inner envelope of an absentee ballot.

30 (B) The county board of election commissioners may grant a
 31 county clerk or deputies of the county clerk access to the absentee ballot
 32 materials in subdivision ~~(a)(8)(A)~~(a)(9)(A) of this section if the access is
 33 granted by an affirmative vote of the county board of election commissioners
 34 for a specific purpose and for a designated election.

35 (b)(1) The ~~opening, processing, counting, and canvassing of~~ absentee
 36 ~~ballots~~ ballot materials shall be ~~conducted~~ opened by two (2) election

1 officials as follows:

2 (A) One (1) of the election officials shall open outer
 3 absentee ballot envelopes one by one and ~~verify the contents~~ locate the
 4 required materials;

5 (B) ~~If the required materials are properly placed in the~~
 6 ~~outer absentee ballot envelope, the election official shall proceed to read~~
 7 ~~aloud from the voter statement the name of the voter;~~

8 (C) If the required materials are not properly placed in
 9 the outer absentee ballot envelope;

10 (i) a A second election official shall open the
 11 inner absentee ~~ballot~~ envelope to ~~verify the contents~~ locate the required
 12 voter materials no earlier than 8:30 a.m. on election day; and

13 (D)(ii) ~~If all required materials are present within~~
 14 ~~one (1) or the other envelope, the~~ The election officials shall ~~put~~ place the
 15 absentee ballot materials, while preserving the secrecy of the voter's ballot
 16 within the inner absentee ballot envelope, in the proper an envelope while
 17 preserving the secrecy of the voter's ballot and marked "provisional", and
 18 the absentee ballot shall be considered a provisional ballot; and

19 (C) The election officials shall; proceed to read

20 (i) Read aloud from the voter statement the name of
 21 the voter and the voting precinct in which the voter claims to be a legal
 22 voter;

23 (ii)(E) ~~As each outer envelope is opened and the~~
 24 ~~name of the voter is read, the election officials for the absentee box shall~~
 25 ~~list~~ List the name and voting precinct of the voter; and

26 (iii) Compare the voter materials as provided under
 27 subdivision (b)(2) of this section.

28 (2)(A) After the opening of the absentee ballot materials, the
 29 two (2) election officials shall canvass and compare the absentee ballot
 30 materials as follows:

31 (i) The election officials shall compare all
 32 absentee ballot materials returned, except the voter's ballot, which shall be
 33 maintained within the inner absentee ballot envelope to preserve the secrecy
 34 of the ballot, including without limitation:

35 (a) Absentee ballot applications;

36 (b) Voter statements;

1 (c) A voter's voter identity documentation;
2 and

3 (d) Any additional information or
4 documentation provided by the county clerk;

5 (ii) The election officials shall review the absentee
6 ballot materials to determine whether:

7 (a) The voter's name, residential voting address,
8 date of birth, and signature are comparable;

9 ~~(F)(i) After the election official reads aloud from the~~
10 ~~statement, the election officials shall compare the name, address, date of~~
11 ~~birth, and signature of the voter's absentee application with the voter's~~
12 ~~statement and, for first-time voters who registered by mail, the first-time~~
13 ~~voter's identification document unless the voter previously provided~~
14 ~~identification at the time of mailing the voter registration application.~~

15 ~~(ii) If the county board of election commissioners~~
16 ~~determines that the absentee application and the voter's statement do not~~
17 ~~compare as to name, residential voting address, date of birth, and signature,~~
18 ~~the absentee ballot shall not be counted.~~

19 (b) The voter identification document, voter
20 statement, and inner envelope containing the absentee ballot are present; and

21 (c) If a designated bearer, authorized agent,
22 or administrator delivers the ballot, the name and address of the bearer,
23 agent, or administrator are comparable;

24 (iii) The election officials shall place the
25 absentee ballot materials, including the inner envelope containing the
26 ballot, in an envelope marked "provisional", and the absentee ballot shall be
27 considered a provisional ballot if:

28 (a) The absentee application and the voter's
29 statement do not compare as to name, residential voting address, date of
30 birth, and signature; or

31 (b) A designated bearer, authorized agent, or
32 administrator delivers the ballot and:

33 (1) The name and address of the
34 designated bearer, authorized agent, or administrator do not compare; or

35 (2) The name of the designated bearer
36 written on the absentee ballot application does not compare with the

1 information on the voter statement.

2 ~~(iv) If a first-time voter fails to provide the~~
3 ~~required voter identification with the absentee ballot or at the time of~~
4 ~~mailing the voter registration application, then the absentee application,~~
5 ~~absentee ballot envelope, and voter's statement shall be placed in an~~
6 ~~envelope marked "provisional" and the absentee ballot shall be considered a~~
7 ~~provisional ballot;~~ is not included with the absentee ballot materials, the
8 election officials shall place the absentee ballot materials including the
9 inner envelope containing the ballot in an envelope marked "provisional", and
10 the absentee ballot shall be considered a provisional ballot;

11 ~~(G)(i) The election officials shall compare the name and~~
12 ~~address of the bearer, agent, or administrator written on the absentee ballot~~
13 ~~return envelope with the information on the voter statement. If the~~
14 ~~information does not match, then the outer envelope, absentee application,~~
15 ~~secrecy envelope containing the ballot, and the voter's statement shall be~~
16 ~~placed in an envelope marked "provisional" and the absentee ballot shall be~~
17 ~~considered a provisional ballot;~~

18 ~~(ii) The election officials shall compare the name~~
19 ~~of the bearer written on the absentee ballot application with the information~~
20 ~~on the voter statement, and if the information does not compare, the ballot~~
21 ~~shall be a provisional ballot.~~

22 ~~(iii) An absentee ballot designated as a provisional~~
23 ~~ballot for the lack of a designation of, or name of, a designated bearer~~
24 ~~shall be counted only if the county board of election commissioners does not~~
25 ~~determine that the provisional ballot is invalid and should not be counted~~
26 ~~based on other grounds;~~

27 ~~(H) If the absentee voter fails to return the voter~~
28 ~~statement, the vote shall not be counted;~~

29 (iv) The ballot shall be designated to be counted or
30 tabulated if:

31 (a) All required absentee ballot materials are
32 present;

33 (b) If a designated bearer, agent, or
34 administrator delivers the ballot of the voter, the name and address of the
35 designated bearer, agent, or administrator compare; and

36 (c) The voter's name, residential voting

1 address, date of birth, and signature compare; and

2 (v) The absentee ballot materials shall be
3 transmitted to the county board of election commissioners for additional
4 review if:

5 (a) Any required absentee ballot materials are
6 missing;

7 (b) The voter's name, residential voting
8 address, date of birth, and signature do not compare; or

9 (c) If a designated bearer, agent, or
10 administrator delivers the ballot of the voter, the name and address of the
11 designated bearer, agent, or administrator do not compare.

12 (B) A member of a county board of election commissioners,
13 acting in his or her individual capacity as an election official, may perform
14 the duties under subdivision (b)(2)(A) of this section. However, performance
15 of the duties under subdivision (b)(2)(A) of this section by a member of the
16 county board of election commissioners shall not satisfy or serve as
17 performance of the duties of the whole county board of election commissioners
18 under subdivision (b)(3) of this section.

19 (3) After canvassing and comparison by the election officials,
20 the absentee ballot materials shall be canvassed and compared by the county
21 board of election commissioners as follows:

22 (A)(i) The county board of election commissioners shall
23 review the absentee ballot materials transmitted to it under subdivision
24 (b)(2)(A)(v) of this section.

25 (ii) The county board of election commissioners may:

26 (a) Review the absentee ballot materials that
27 were designated to be counted or tabulated by the election officials before
28 counting or tabulation; and

29 (b) Accept the designation of the election
30 officials that the ballot is to be counted or reverse the designation of the
31 election officials and mark the ballot as provisional;

32 (B)(i) A ballot shall be counted or tabulated if the:

33 (a) Required absentee ballot materials are
34 present;

35 (b) Voter's name, residential voting address,
36 date of birth, and signatures compare; and

1 (c) If a designated bearer, agent, or
 2 administrator delivers the ballot of the voter, the name and address of the
 3 designated bearer, agent, or administrator compare.

4 (ii) The absentee ballot materials and the absentee
 5 ballot shall be placed in an envelope marked "provisional" and the absentee
 6 ballot shall be considered a provisional ballot if the:

7 (a) Required absentee ballot materials are
 8 incomplete;

9 (b) Voter's name, residential voting address,
 10 date of birth, and signature do not compare; or

11 (c) If a designated bearer, agent, or
 12 administrator delivers the ballot of the voter, the name and address of the
 13 designated bearer, agent, or administrator do not compare;

14 ~~(I)(C)~~ Failure of the voter to submit the required
 15 absentee materials in the proper envelopes shall not be grounds for
 16 disqualifying the voter; and

17 (D)(i) An absentee ballot that has been designated
 18 provisional for not including the required voter identification or voter
 19 statement with the absentee ballot materials may only be cured by the
 20 provision of either the missing voter identification or voter statement by
 21 the close of business the Monday following the election and if the voter
 22 identification and the information on the voter statement compares.

23 (ii) An absentee ballot that has otherwise been
 24 designated provisional under this section may be cured by the voter:

25 (a) By the close of business the Monday
 26 following the election;

27 (b) In person or in writing, including a
 28 writing delivered by electronic means to the county clerk, county board of
 29 election commissioners, or appropriately designated staff or election
 30 officials; and

31 (c)(1) By providing or correcting the absentee
 32 ballot materials or verification, if the reason for designation as a
 33 provisional ballot was an incomplete submission; or

34 (2) By verifying in writing under
 35 penalty of perjury that he or she voted the ballot received by the county
 36 clerk, if the reason for designation as a provisional ballot was that:

1 (A) The voter's name, residential
2 voting address, date of birth, and signature did not compare; or

3 (B) If a designated bearer, agent,
4 or administrator delivers the ballot of the voter, and:

5 (1) The name and address of
6 the designated bearer, agent, or administrator do not compare; or

7 (2) The name of the
8 designated bearer written on the absentee ballot application does not compare
9 with the information on the voter statement.

10 (iii) If an absentee ballot that has been marked
11 provisional is not under either subdivision (b)(3)(D)(i) or subdivision
12 (b)(3)(D)(ii) of this section, then it shall not be counted.

13 (iv) An absentee ballot designated as a provisional
14 ballot for the lack of a designation of, or name of, a designated bearer
15 shall be counted only if the county board of election commissioners does not
16 determine that the provisional ballot is invalid and should not be counted
17 based on other grounds.

18 ~~(J) If the voter statement does not authorize a bearer,~~
19 ~~agent, or administrator to receive or return his or her absentee ballot and~~
20 ~~the ballot was received or returned by a bearer, agent, or administrator, the~~
21 ~~vote shall not be counted;~~

22 (4) Absentee ballot information is comparable or compares if
23 after a review of the information available to the election official or
24 county board of election commissioners, the election official or county board
25 of election commissioners believes that the ballot was voted by the person in
26 whose name the absentee ballot was submitted.

27 (5)(A) Within twenty-four (24) hours after an absentee ballot is
28 designated by any election official or by the county board of election
29 commissioners as provisional, the county board of election commissioners
30 shall by mail, email, or phone notify the voter of the deadline and process
31 for curing his or her absentee ballot.

32 (B) To "cure" a ballot means to remove or repair the issue
33 causing a ballot not to be counted through the process set forth in this
34 section, such that the ballot shall then be counted.

35 (C) If an absentee ballot that was previously designated
36 as needing additional review under subdivision (b)(2)(A)(v) of this section

1 is reviewed by the county board of election commissioners and approved to be
 2 counted or tabulated without being designated as provisional, then no more
 3 than twenty-four (24) hours after the approval, the county board of election
 4 commissioners shall by mail, email, or phone notify the voter that he or she
 5 no longer needs to cure his or her ballot.

6 (6)(A) After all of the outer envelopes have been opened, the
 7 election officials of the absentee box shall preserve all the statements of
 8 voters, the voters' identification documents, and all other materials
 9 submitted with the absentee ballot except the ballot itself and deliver them
 10 to the county clerk, who shall file and keep them for the same length of time
 11 after the election as is required for the retention of other ballots.

12 (B) The voter statements shall be made available for
 13 public inspection and copying during regular business hours no earlier than
 14 8:30 a.m. on the day following the actual delivery of the statement of the
 15 number of outstanding ballots and provisional ballots to the Secretary of
 16 State, and declaration of preliminary and unofficial results of the election
 17 under § 7-5-701(a)(3)(C).

18 (C) The voters' identification documents shall not be
 19 subject to public inspection except as part of a judicial proceeding to
 20 contest the election.

21 (7) The absentee ballots that have been designated to be counted
 22 or tabulated shall be opened and processed for tabulation as follows:

23 ~~(K)(A)~~ If no challenge is made by a qualified poll
 24 watcher, the election official shall remove the inner envelope, from the
 25 absentee ballot materials without opening the inner envelope containing the
 26 ballot, and place it in the ballot a box designated for ballots to be counted
 27 or tabulated without marking it in any way;

28 ~~(L)(i) After all of the outer envelopes have been opened,~~
 29 ~~the election officials of the absentee box shall preserve all the statements~~
 30 ~~of voters and the voters' identification documents and deliver them to the~~
 31 ~~county clerk, who shall file and keep them for the same length of time after~~
 32 ~~the election as is required for retention of other ballots.~~

33 (B) When all of the inner envelopes containing the ballots
 34 have been placed in the ballot box, the ballot box shall be shaken thoroughly
 35 to mix the ballots; and

36 (C) The ballot box shall be opened and the ballots shall

1 be removed from the inner envelopes, canvassed, and counted.

2 (8) After the counting and tabulation, the county board of
 3 election commissioners shall preserve all absentee ballots and shall file and
 4 keep them for the same length of time after the election as is required for
 5 retention of other ballots.

6 ~~(ii) The voter statements shall be made available~~
 7 ~~for public inspection and copying during regular business hours no earlier~~
 8 ~~than 8:30 a.m. on the day following the actual delivery of the statement of~~
 9 ~~the number of outstanding ballots and provisional ballots to the Secretary of~~
 10 ~~State, and declaration of preliminary and unofficial results of the election~~
 11 ~~under § 7-5-701(a)(3)(G).~~

12 ~~(iii) The voters' identification documents shall not~~
 13 ~~be subject to public inspection except as part of a judicial proceeding to~~
 14 ~~contest the election;~~

15 (9)(A) If after review of the absentee ballot materials an
 16 election official or the county board of election commissioners suspects that
 17 an absentee ballot was fraudulently submitted, the county board of election
 18 commissioners shall:

19 (i) File complaints concerning the ballot with the
 20 State Board of Election Commissioners and the county prosecuting attorney no
 21 later than thirty (30) days after certification of the election;

22 (ii) Provide copies of the relevant absentee ballot
 23 materials; and

24 (iii) Fully assist all appropriate law enforcement
 25 agencies in the investigation.

26 (B) A ballot is not automatically considered fraudulently
 27 submitted:

28 (i) If the ballot is not counted;

29 (ii) If the voter materials did not compare; or

30 (iii) For another innocuous reason.

31 (C) A ballot is fraudulently submitted if a voter
 32 knowingly violates voting laws, including without limitation by submitting:

33 (i) More than one (1) ballot;

34 (ii) A ballot under a false identity; or

35 (iii) A ballot on behalf of another person without
 36 that person's lawful authorization.

1 ~~(M) When all of the inner envelopes containing the ballots~~
 2 ~~have been placed in the ballot box, the ballot box shall be shaken thoroughly~~
 3 ~~to mix the ballots; and~~

4 ~~(N) The ballot box shall be opened and the ballots~~
 5 ~~canvassed and counted.~~

6 ~~(2)~~(10) No election results shall be printed or released prior
 7 to the closing of the polls on election day.

8 (c) If any person casting an absentee ballot dies before the polls
 9 open on election day, his or her ballot shall be accepted by the county clerk
 10 if the absentee ballot is:

11 (1) Signed, dated, postmarked, and mailed before the date of
 12 death;

13 (2) Signed, dated, and delivered to the county clerk by a
 14 designated bearer, authorized agent, or administrator before the date of
 15 death; or

16 (3) The ballot of a member of the armed services or Arkansas
 17 National Guard in active duty or state active duty executed before the date
 18 of death.

19 ~~(d) It is the intent of this section to require the election officials~~
 20 ~~for absentee ballots to meet and process, canvass, and count absentee ballots~~
 21 ~~according to this section prior to the closing of the polls on election day.~~

22 ~~(e)~~~~(1)~~(d)(1) Absentee votes shall be cast on paper ballots.

23 (2)(A) The ballots shall first be counted for write-in votes by
 24 the election officials.

25 (B) Then, at the discretion of the county board of
 26 election commissioners, the ballots may be either hand counted or counted on
 27 an electronic vote tabulating device.

28 ~~(f)~~~~(1)~~(e)(1) Absentee ballots marked as “special runoff ballots”
 29 received from a qualified voter from one (1) of the categories in § 7-5-
 30 406(a) shall be opened for general primary elections and general runoff
 31 elections according to the procedures described in subsection (b) of this
 32 section.

33 (2) However, in counting the special runoff ballot, one (1) of
 34 the election officials shall open the envelope containing the special runoff
 35 ballot and read the numbers indicated next to the names of the two (2)
 36 candidates in the general primary election or in the general runoff election.

1 (3) The candidate with the highest ranking shall receive the
 2 vote.

3 (4) A special runoff ballot received with the preferential
 4 primary absentee ballot shall be counted in the general primary election, and
 5 a special runoff ballot received with the general election absentee ballot
 6 shall be counted in the general runoff election.

7 (5) The Secretary of State shall prepare instructions for
 8 opening, counting, and canvassing special runoff ballots and provide the
 9 instructions to each county board of election commissioners.

10
 11 SECTION 6. Arkansas Code Title 7, Chapter 5, Subchapter 4, is amended
 12 to add an additional section to read as follows:

13 7-5-420. State Board of Election Commissioners – Rules.

14 (a) The State Board of Election Commissioners shall adopt rules that:

15 (1) Set procedures for the maintenance and storage of absentee
 16 ballot materials and absentee ballots;

17 (2) Set uniform methods for labeling ballot storage containers
 18 that, at a minimum:

19 (A) Document the chain of custody concerning the opening
 20 and closing of the sealed boxes; and

21 (B) Document the contents of the boxes in a readily
 22 identifiable manner;

23 (3) Set standards for the processes, software, and methods used
 24 to list and describe the contents of the ballots, including without
 25 limitation the appropriate use of spreadsheets and summaries;

26 (4) Prescribe forms for the lists that are required to be
 27 generated and maintained under § 7-5-416;

28 (5) Set the procedure for the handling of absentee ballots and
 29 voter materials; and

30 (6) Set the procedures for timely compliance with the Freedom of
 31 Information Act of 1967, § 25-19-101 et seq., that ensure the secrecy and
 32 integrity of the voter materials.

33 (b) The rules shall be promulgated under the Arkansas Administrative
 34 Procedure Act, § 25-15-201 et seq.

35
 36 SECTION 7. DO NOT CODIFY. Rules.

1 (a) When adopting the initial rules required under this act, the State
2 Board of Election Commissioners shall file the final rules with the Secretary
3 of State for adoption under § 25-15-204(f):

4 (1) On or before January 1, 2022; or

5 (2) If approval under § 10-3-309 has not occurred by January 1,
6 2022, as soon as practicable after approval under § 10-3-309.

7 (b) The board shall file the proposed rules with the Legislative
8 Council under § 10-3-309(c) sufficiently in advance of January 1, 2022, so
9 that the Legislative Council may consider the rules for approval before
10 January 1, 2022.

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