

1 HB225
2 215449-1
3 By Representative Robbins
4 RFD: Constitution, Campaigns and Elections
5 First Read: 02-FEB-22

8 SYNOPSIS: Under existing state law, each absentee
9 ballot must be accompanied by an affidavit
10 witnessed by two witnesses or a notary public or
11 other officer authorized to administer oaths.

12 Under federal law, individuals voting under
13 the Uniformed and Overseas Citizens Absentee Voting
14 Act are no longer required to have their affidavit
15 witnessed by two witnesses or a notary public or
16 other officer authorized to acknowledge oaths.

17 This bill would eliminate the state law
18 requirement that the affidavit accompanying
19 absentee ballots be witnessed by two witnesses or a
20 notary public or other officer authorized to
21 administer oaths for individuals voting under the
22 federal Uniformed and Overseas Citizens Absentee
23 Voting Act.

24
25 A BILL
26 TO BE ENTITLED
27 AN ACT

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Relating to absentee voting; to amend Section 17-11-7, Code of Alabama 1975, and Section 17-11-10, Code of Alabama 1975, as last amended by Act 2021-364 of the 2021 Regular Session, to eliminate the requirement that the affidavit accompanying absentee ballots be witnessed or notarized for individuals voting under the federal Uniformed and Overseas Citizens Absentee Voting Act.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Section 17-11-7, Code of Alabama 1975, and Section 17-11-10, Code of Alabama 1975, as last amended by Act 2021-364 of the 2021 Regular Session, are amended to read as follows:

"§17-11-7.

"(a) Each absentee ballot shall be accompanied by an envelope upon which shall be printed an affidavit.

"(b) With respect to an absentee ballot cast pursuant to Section 17-11-3, the affidavit shall read as follows:

"State of Alabama
County of _____

I, the undersigned, do swear (or affirm) that:

My place of residence in Alabama is: _____

(street)

_____, Alabama _____

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(city or town)

(zip code)

My date of birth is: _____

month day year

I am entitled to vote an absentee ballot because:

Check at least one:

___ I expect to be out of the county or the state on election day.

___ I am physically incapacitated and will not be able to vote in person on election day.

___ I expect to work a required workplace shift which has at least 10 hours which coincide with the polling hours at my regular polling place.

___ I am a student at an educational institution located outside the county of my permanent residence and am therefore unable to vote at my usual polling place on election day.

___ I am a member of or a spouse or dependent of a member of the Armed Forces of the United States or am otherwise entitled to vote pursuant to the federal Uniformed and Overseas Citizens Absentee Voting Act, ~~42 U.S.C. 1973ff~~ 52 U.S.C. §§ 20301-20311.

1 ___ I have been appointed as an election officer at
2 a polling place which is not my regular polling place.

3 ___ I will be out of the county on election day
4 responding to a state of emergency as declared by this state
5 or any other state, or by the federal government.

6 ___ I am a caregiver for a family member to the
7 second degree of kinship by affinity or consanguinity and the
8 family member is confined to his or her home.

9 ___ I am currently incarcerated in prison or jail
10 and I have not been convicted of a felony involving moral
11 turpitude.

12 I further swear (or affirm) that I have not voted
13 nor will I vote in person in the election to which this ballot
14 pertains.

15 I have marked the enclosed absentee ballot
16 voluntarily and I have read or had read to me and understand
17 the instructions accompanying this ballot and I have carefully
18 complied with such instructions.

19 Moreover, I further swear (or affirm) that all of
20 the information given above is true and correct to the best of
21 my knowledge and that I understand that by knowingly giving
22 false information so as to vote illegally by absentee ballot
23 that I shall be guilty of a misdemeanor which is punishable by
24 a fine not to exceed one thousand dollars (\$1,000) or confine-
25 ment in the county jail for not more than six months, or both.

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(Signature or mark of voter.)

(Printed name of voter.)

IF YOUR AFFIDAVIT IS NOT SIGNED (OR MARKED), AND IF YOUR AFFIDAVIT IS NOT WITNESSED BY TWO WITNESSES 18 YEARS OF AGE OR OLDER OR A NOTARY PUBLIC OR OTHER OFFICER AUTHORIZED TO ACKNOWLEDGE OATHS (UNLESS YOU ARE ENTITLED TO VOTE PURSUANT TO THE UNIFORMED AND OVERSEAS CITIZENS ABSENTEE VOTING ACT (UOCAVA), 52 U.S.C. §§ 20301-20311), PRIOR TO BEING DELIVERED OR MAILED TO THE ABSENTEE ELECTION MANAGER, YOUR BALLOT WILL NOT BE COUNTED.

Pursuant to the Uniformed and Overseas Citizens Absentee Voting Act, 52 U.S.C. §§ 20301-20311, UOCAVA voters are no longer required to have their affidavit witnessed by two witnesses or a notary public or other officer authorized to acknowledge oaths.

Sworn to and subscribed before me this _____ day of _____, 2__.

I certify that the affiant is known (or made known) to me to be the identical party he or she claims to be.

_____ (Signature of official)
(Title of official)

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(Address of official)

OR

1st Witness _____

Signature

Print name

Address

City Zip Code

2nd Witness _____

Signature

Print name

Address

City Zip Code"

1 "(c) Unless running unopposed, a candidate may not
2 witness or notarize any absentee ballot.

3 "§17-11-10.

4 "(a) Upon receipt of the absentee ballot, the
5 absentee election manager shall record its receipt on the
6 absentee list as provided in Section 17-11-5 and shall safely
7 keep the ballot without breaking the seal of the affidavit
8 envelope.

9 "(b) (1) The absentee election manager, beginning at
10 7:00 a.m. on the day of the election, shall deliver the sealed
11 affidavit envelopes containing absentee ballots to the
12 election officials provided for in Section 17-11-11. The
13 election officials shall then call the name of each voter
14 casting an absentee ballot with poll watchers present as may
15 be provided under the laws of Alabama and shall examine each
16 affidavit envelope to determine if the signature of the voter
17 has been appropriately witnessed. If the witnessing of the
18 signature and the information in the affidavit establish that
19 the voter is entitled to vote by absentee ballot, then the
20 election officials shall certify the findings, open each
21 affidavit envelope, and deposit the plain envelope containing
22 the absentee ballot into a sealed ballot box.

23 "(2) No poll worker or other election official shall
24 open an affidavit envelope if the envelope indicates the
25 ballot is an unverified provisional ballot or the affidavit is
26 unsigned by the voter or unmarked, and no ballot envelope or

1 ballot may be removed or counted. No poll worker or other
2 election official shall open an affidavit envelope if the
3 voter's affidavit signature or mark is not witnessed by the
4 signatures of two witnesses or a notary public, or other
5 officer, including a military commissioned officer, authorized
6 to acknowledge oaths, and no ballot envelope or ballot may be
7 removed or counted. The provision for witnessing of the
8 voter's affidavit signature or mark in Section 17-11-7 goes to
9 the integrity and sanctity of the ballot and election. No
10 court or other election tribunal shall allow the counting of
11 an absentee ballot with respect to which the voter's affidavit
12 signature or mark is not witnessed by the signatures of two
13 witnesses 18 years of age or older or a notary public, or
14 other officer, including a military commissioned officer,
15 authorized to acknowledge oaths, prior to being delivered or
16 mailed to the absentee election manager.

17 "(3) Upon closing of the polls, the absentee ballots
18 shall be counted and otherwise handled in all respects as if
19 the absentee voter were present and voting in person. Precinct
20 ballot counters may be used to count absentee ballots.
21 Absentee election officials are to be appointed and trained in
22 the same manner as prescribed for regular election officials.
23 The number of absentee election officials shall be determined
24 by the number of precinct counters provided. The county
25 commission may provide more than one precinct ballot counter
26 based upon the recommendation of the absentee election
27 manager. Beginning not earlier than 7:00 a.m. on election day,

1 the absentee election officials shall perform the duties
2 prescribed in Section 17-11-11.

3 "(4) As regards municipalities with populations of
4 less than 10,000, in the case of municipal elections held at a
5 time different from a primary or general election, the return
6 mail envelopes containing the ballots shall be delivered to
7 the election official of the precinct of the respective
8 voters, unless the city or town having a population of less
9 than 10,000 inhabitants has established, by permanent
10 ordinance adopted six months prior to the municipal election,
11 a procedure for the appointment of absentee election officials
12 pursuant to subsection (c) of Section 11-46-27.

13 "(c) (1) Absentee ballots cast in a second primary
14 election for federal, state, or county office by individuals
15 voting pursuant to the federal Uniformed and Overseas Citizens
16 Absentee Voting Act, 52 U.S.C. §§ 20301-20311, and received
17 after noon on the day of the second primary election, shall be
18 opened and counted at the same time as the verified
19 provisional ballots. At noon seven days after the second
20 primary election, the absentee election manager shall deliver
21 the sealed affidavit envelopes containing absentee ballots to
22 the officials provided for in subsection (f) of Section
23 17-10-2. The officials shall call the name of each voter
24 casting an absentee ballot in the presence of watchers
25 designated by any interested candidates and shall examine each
26 affidavit envelope to determine if the signature of the voter
27 has been appropriately witnessed. If the witnessing of the

1 signature and the information in the affidavit establish that
2 the voter is entitled to vote by absentee ballot, then the
3 election officials shall certify the findings, open each
4 affidavit envelope, and deposit the plain envelope containing
5 the absentee ballot into a sealed ballot box.

6 "(2) No election official shall open an affidavit
7 envelope if the affidavit printed thereon is unsigned by the
8 voter or unmarked, and no ballot envelope or ballot therein
9 may be removed or counted. No election official shall open an
10 affidavit envelope if the voter's affidavit signature or mark
11 is not witnessed by the signatures of two witnesses or a
12 notary public, or other officer, including a military
13 commissioned officer, authorized to acknowledge oaths, and no
14 ballot envelope or ballot therein may be removed or counted.
15 The provision for witnessing of the voter's affidavit
16 signature or mark in Section 17-11-7 goes to the integrity and
17 sanctity of the ballot and election. No court or other
18 election tribunal shall allow the counting of an absentee
19 ballot with respect to which the voter's affidavit signature
20 or mark is not witnessed by the signatures of two witnesses 18
21 years of age or older or a notary public, or other officer,
22 including a military commissioned officer, authorized to
23 acknowledge oaths, prior to being delivered or mailed to the
24 absentee election manager.

25 "(3) The absentee ballots described in this
26 subsection shall be opened, counted, and tabulated. The
27 results of the absentee ballots counted and tabulated on

1 election day shall be amended to include the results of the
2 absentee ballots described in this subsection.

3 "(4) In all other respects, unless otherwise
4 specifically provided by law, the absentee ballots described
5 in this subsection shall be treated as other absentee ballots.

6 "(d) Notwithstanding this section or any other
7 provision of law, an absentee ballot cast in any election
8 pursuant to the Uniformed and Overseas Citizens Absentee
9 Voting Act, 52 U.S.C. §§ 20301-20311, shall be counted
10 regardless of whether the signature has been witnessed or
11 notarized."

12 Section 2. This act shall become effective
13 immediately following its passage and approval by the
14 Governor, or its otherwise becoming law.