

1 HB155  
2 208863-1  
3 By Representative Wood (R)  
4 RFD: Constitution, Campaigns and Elections  
5 First Read: 02-FEB-21  
6 PFD: 01/26/2021

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

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

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

A BILL  
TO BE ENTITLED  
AN ACT

1  
2                   Relating to absentee voting; to amend Sections  
3 17-11-7, Code of Alabama 1975, as last amended by Act 2019-507  
4 of the 2019 Regular Session, and 17-11-10, Code of Alabama  
5 1975, to eliminate the requirement that the affidavit  
6 accompanying absentee ballots be witnessed or notarized for  
7 individuals voting under the federal Uniformed and Overseas  
8 Citizens Absentee Voting Act.

9 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

10                   Section 1. Sections 17-11-7, Code of Alabama 1975,  
11 as last amended by Act 2019-507 of the 2019 Regular Session,  
12 and 17-11-10, Code of Alabama 1975, are amended to read as  
13 follows:

14                   "§17-11-7.

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

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

20                   ""State of Alabama

21                   County of \_\_\_\_\_

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

23                   My place of residence in Alabama is: \_\_\_\_\_

24                   (street)

25                   \_\_\_\_\_, Alabama \_\_\_\_\_

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22

(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 ~~742 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.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23

\_\_\_\_\_  
(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)

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19

\_\_\_\_\_  
(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 thereof on  
6 the absentee list as provided in Section 17-11-5 and shall  
7 safely keep the ballot without breaking the seal of the  
8 affidavit envelope.

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

24           "(2) No poll worker or other election official shall  
25 open an affidavit envelope if the envelope indicates the  
26 ballot is an unverified provisional ballot or the affidavit



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

19 "(3) Upon closing of the polls, the absentee ballots  
20 shall be counted and otherwise handled in all respects as if  
21 the absentee voter were present and voting in person. Precinct  
22 ballot counters may be used to count absentee ballots.  
23 Absentee election officials are to be appointed and trained in  
24 the same manner as prescribed for regular election officials.  
25 The number of absentee election officials shall be determined  
26 by the number of precinct counters provided. The county  
27 commission may provide more than one precinct ballot counter

1 based upon the recommendation of the absentee election  
2 manager. Beginning not earlier than noon on election day, the  
3 absentee election officials shall perform the duties  
4 prescribed in Section 17-11-11.

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

15 "(c) (1) Absentee ballots cast in a second primary  
16 election for federal, state, or county office by individuals  
17 voting pursuant to the federal Uniformed and Overseas Citizens  
18 Absentee Voting Act, ~~42 U.S.C. 1973ff et seq.~~ 52 U.S.C. §§  
19 20301-20311, and received after noon on the day of the second  
20 primary election, shall be opened and counted at the same time  
21 as the verified provisional ballots. At noon seven days after  
22 the second primary election, the absentee election manager  
23 shall deliver the sealed affidavit envelopes containing  
24 absentee ballots to the officials provided for in subsection  
25 (f) of Section 17-10-2. The officials shall call the name of  
26 each voter casting an absentee ballot in the presence of  
27 watchers designated by any interested candidates and shall

1 examine each affidavit envelope to determine if the signature  
2 of the voter has been appropriately witnessed. If the  
3 witnessing of the signature and the information in the  
4 affidavit establish that the voter is entitled to vote by  
5 absentee ballot, then the election officials shall certify the  
6 findings, open each affidavit envelope, and deposit the plain  
7 envelope containing the absentee ballot into a sealed ballot  
8 box.

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

1           "(3) The absentee ballots described in this  
2 subsection shall be opened, counted, and tabulated. The  
3 results of the absentee ballots counted and tabulated on  
4 election day shall be amended to include the results of the  
5 absentee ballots described in this subsection.

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

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

15           Section 2. This act shall become effective  
16 immediately following its passage and approval by the  
17 Governor, or its otherwise becoming law.