

Notice of Development of Rulemaking

**DEPARTMENT OF STATE**

**Division of Elections**

RULE NO.: RULE TITLE:

1S-2.030 Vote-by-Mail Ballots for Absent Stateside Uniformed Services and Overseas Voters

PURPOSE AND EFFECT: The changes to the rule are to conform to statutory changes in Chapter 2019-162, Laws of Florida, effective July 1, 2019. The changes focus on sections of the new law that require additional instructions be sent to vote-by-mail ballot voters regarding the new signature cure deadline, new signature update deadline, notice regarding returning the ballot in time to be canvassed and counted, elicitation of more contact information from voters for signature deficiency notification, and returning ballots to vote-by-mail secure drop boxes.

SUBJECT AREA TO BE ADDRESSED: Vote-by-Mail Ballots for Absent Stateside Uniformed Services and Overseas Voters.

RULEMAKING AUTHORITY: 20.10(3), 97.012(1), 101.697, F.S.

LAW IMPLEMENTED: 101.62, 101.64, 101.65, 101.6923, 101.6952, 101.697, F.S.

A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW:

DATE AND TIME: August 27, 2019, 2:00 p.m.

PLACE: Heritage Hall, Department of State, 500 South Bronough Street, Tallahassee, FL 32399

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 3 days before the workshop/meeting by contacting: Candice Edwards at (850)245-6536 or candice.edwards@dos.myflorida.com If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Colleen O'Brien at (850)245-6519 or colleen.obrien@dos.myflorida.com

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

1S-2.030 Vote-by-Mail Ballots for Absent Stateside Uniformed Services and Overseas Voters.

(1) Application. This rule applies solely to the request, delivery and return of vote-by-mail ballots for uniformed services voters who are absent stateside and overseas voters as defined in section 97.021, F.S.

(2) Requests. A request for a vote-by-mail ballot shall be submitted in accordance with section 101.62(1), F.S. In addition to the information required by section 101.62(1), F.S., the request for a vote-by-mail ballot must also include the following information:

(a) The voter's requested method of delivery for the blank vote-by-mail ballot (by mail or electronic means such as fax, email or online).

(b) The corresponding destination, whichever is applicable, to either mail, transmit the blank ballot or communicate how to access the blank ballot electronically by some other means:

1. For mail delivery: An applicable out-of-county mailing address or other deliverable overseas mailing address.

2. For fax delivery: A fax number and an applicable out-of-county address or overseas address (only for purposes of affirming absence from the county or the United States), or affirmation of overseas location.

3. For email or online delivery: An e-mail address and an applicable out-of-county address or overseas address (only for purposes of affirming absence from the county or the United States), or affirmation of overseas location.

(3) Processing requests. When a supervisor receives a vote-by-mail ballot request from an absent stateside uniformed services or overseas voter, the supervisor shall:

(a) Verify the information provided to determine if the voter is a qualified and registered voter for the election.

(b) Provide, in accordance with the timeframes in section 101.62, F.S., the appropriate vote-by-mail ballot, the instructions for voting and returning the ballot, and the Voter's Certificate by the means requested by the voter in subsection (2).

(c) Record the receipt date of the request, the date and manner the vote-by-mail ballot was made available to the voter, and the corresponding delivery destination or manner the blank ballot was provided to the voter.

(d) Ensure that the Supervisor of Elections' office transmitting and receiving equipment is in a secure location with access limited to the supervisor's employees and that the vote-by-mail ballot is sent directly to the specified delivery destination requested by the voter. It is the voter's responsibility to ensure the security of the receiving equipment (e.g. facsimile machine or computer).

(4) Return of Voted Vote-by-Mail Ballot.

(a) An overseas voter has the option to return the voted ballot and signed certificate by mail, by fax, in person or through someone else on behalf of the voter pursuant to the ballot instructions in subsection (8)(7). If the overseas voter returns the ballot by fax, the ballot and Voter's Certificate must be sent directly to the fax number provided by the Supervisor of Elections or to a fax number provided by Federal Voting Assistance Program of the Department of Defense.

(b) An absent stateside uniformed services voter may return the voted ballot and signed Voter's Certificate only by mail, in person or have it returned in person by someone else pursuant to the ballot instructions in subsection (8)(7).

(c) No voted vote-by-mail ballot returned by email shall be counted. A voted ballot by fax from an absent stateside uniformed voter shall not be counted.

(5) Deadline to Return Vote-by-Mail Ballot.

(a) To be accepted and counted, a voted vote-by-mail ballot from an absent stateside uniformed services voter must be received by the Supervisor of Elections no later than 7 P.M. 7:00 p.m. election day in the time zone for the county in which the voter is registered.

(b) Overseas voters casting ballots in a presidential preference primary or general election are allowed a 10-day extension. The ballot must be postmarked or dated no later than election day and received by the Supervisor of Elections of the county in which the voter is registered no later than 10 days after election day.

(6) Voter's Certificate. The Voter's Certificate for vote-by-mail ballots to all absent stateside uniformed services and overseas voters shall be substantially as follows:

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

**VOTER'S CERTIFICATE**

I, \_\_\_\_\_, swear or affirm, under penalty of perjury, that ~~I am~~:

Print Name

The information on this form is true, accurate, and complete to the best of my knowledge. I understand that a material misstatement of fact in completion of this document may constitute grounds for conviction for perjury.

1. I am on active duty in ~~A member of~~ the Uniformed Services or Merchant Marine ~~on active duty~~; or I am an eligible spouse or I am outside the U.S.; and,

2. I am a U.S. citizen, at least 18 years of age (or will be by the date of the election), and ~~I am~~ eligible to vote in the requested jurisdiction; and,

3. I am not disqualified to vote due to having ~~have not~~ been convicted of a felony; or other disqualifying offense, nor have I ~~or~~ been adjudicated mentally incompetent; or if so, my voting rights have been reinstated; and,

4. I am not registering, requesting a ballot, or voting in any other jurisdiction in the United States, except the jurisdiction cited in this voting form. ~~U.S.~~

In voting, I have marked and sealed this my ballot in private and have not allowed any person to observe the marking of this the ballot, except for those authorized to assist voters under State and ~~or~~ Federal law. ~~I have not been influenced.~~

~~My signature and date below indicate when I completed this document.~~

~~The information on this form is true and complete to the best of my knowledge.~~

~~I understand that a material misstatement of fact in completion of this document may constitute grounds for conviction for perjury.~~

Signed: \_\_\_\_\_

Date: \_\_\_\_\_

\_\_\_\_\_  
Voters' Signature

\_\_\_\_\_  
Date (MM/DD/YYYY)

\_\_\_\_\_  
Email address:

\_\_\_\_\_  
Home

\_\_\_\_\_  
Phone

No.: \_\_\_\_\_

Mobile \_\_\_\_\_ Phone \_\_\_\_\_ No.: \_\_\_\_\_

(7) Secrecy Envelope or Sleeve. The secrecy envelope or sleeve, or if the blank ballot was delivered to the voter other than by mail or in person, a separate sheet, must include the following message in bold font: **In order for your vote-by-mail ballot to count, your supervisor of elections must receive your ballot by the applicable deadline stated in your ballot instructions. If you wait to return your ballot, your vote might not count. To prevent this from occurring, please return your voted ballot as soon as possible.**

(8) Ballot Instructions. The instructions to be sent with the vote-by-mail ballot to all absent stateside uniformed services and overseas voters shall substantially contain the following statements:

INSTRUCTIONS

READ THESE INSTRUCTIONS CAREFULLY BEFORE MARKING BALLOT

**VERY IMPORTANT**

(a) **Very Important.** In order to ensure that your vote-by-mail ballot will be counted, complete, sign, date and return the ballot and Voter's Certificate as soon as possible to the Supervisor of Elections of the county in which you are registered. It must be received no later than 7:00 p.m. on election day in the time zone for the county in which you are registered. **Overseas voter only:** If you are casting a ballot in a presidential preference primary or general election, a 10-day extension applies, provided your vote-by-mail ballot is postmarked or dated no later than election day and received no later than 10 days after the election by the Supervisor of Elections of the county in which you are registered to vote. Note that the later you return your ballot, the less time you will have to cure any signature deficiencies, which is authorized until 5 p.m. on the 2<sup>nd</sup> day after the election.

(b) 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.

(c) Mark only the number of candidate 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.

(d) Sign and date the Voter's Certificate. If you do not sign or date the Certificate, your ballot may not count. If your signature on the Voter's Certificate does not match your signature on record, your ballot will not count. The signature on file at the time the supervisor of elections in the county in which your precinct is located receives your vote-by mail ballot is the signature that will be used to verify your signature on the voter's certificate. If you need to update your signature for this election, ~~you must~~ send your signature update on a voter registration application to your Supervisor of Elections so that it is received before your vote-by-mail ballot is received ~~vote-by-mail ballots are canvassed which could start as early as 15 days before election day.~~

(e) Mail, deliver, or have delivered the completed mailing envelope with the voted vote-by-mail ballot and the Voter's Certificate. To mail or have your voted vote-by-mail ballot and Voter's Certificate delivered to the Supervisor of Elections:

1. Place your marked ballot in the secrecy envelope or sleeve provided to you. If the ballot was provided to you other than by mail, use an unmarked envelope as a secrecy envelope. Seal the envelope. Do not seal the Voter's Certificate in the secrecy envelope or sleeve with the ballot.

2. Insert the secrecy envelope or sleeve or unmarked envelope into a separate mailing envelope or the provided return envelope. Completely fill out the Voter's Certificate on the back of that mailing envelope. Or if you received the ballot and certificate other than by mail, place the completed Voter's Certificate in a separate mailing envelope. Clearly mark the mailing envelope "Vote-by-Mail Ballot Enclosed."

3. Mail the ballot to the Supervisor of Elections. If using your own envelope: To mail your ballot free of postage, use the template and printing instructions provided at the following link: <https://www.fvap.gov/eo/overview/materials/forms>~~http://www.fvap.gov/eo/overview/materials/forms~~. Otherwise, provide sufficient postage. **The completed mailing envelope can be delivered to the office of the supervisor of elections of the county in which your precinct is located or dropped off at an authorized secure drop box, available at each voting location.** If you are an overseas voter, be sure you include your overseas address on the return envelope.

(f) If you are an overseas voter, you have the option to fax your vote-by-mail ballot and Voter's Certificate. Fax your voted ballot and signed and dated certificate to the Supervisor of Elections at (fax phone number) or to a fax

number provided by the Federal Voting Assistance Program (FVAP) of the Department of Defense. If faxing your ballot and certificate to FVAP, ensure FVAP has sufficient time to get the ballot and certificate to the Supervisor of Elections by the 7:00 p.m. or 10-day deadline, whichever is applicable. If you fax your voted ballot, you will be voluntarily waiving your right to a secret ballot.

(g) Voted ballots returned by regular electronic mail (email) will not be counted. A voted ballot returned by fax from an absent stateside uniformed services voter will not be counted.

(h) **Felony Notice** ~~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.

~~(9)(8)~~ Processing Returned Vote-by-Mail Ballots and Cure Affidavits.

(a) For each voted vote-by-mail ballot and if applicable, corresponding signature cure affidavit received, the Supervisor of Elections must record the date of receipt and the manner of return. The supervisor shall attach each affidavit and identification received to the corresponding vote-by-mail ballot mailing envelope.

(b) Upon receipt by mail of a voted vote-by-mail ballot in an envelope other than a vote-by-mail ballot mailing envelope provided by the supervisor, the canvassing board is authorized to open the mailing envelope to determine if the Voter's Certificate is enclosed. If the Voter's Certificate is not enclosed, the secrecy envelope or sleeve containing the ballot shall not be opened and the envelope shall be marked "Rejected as Illegal." If the Voter's Certificate is enclosed, the Voter's Certificate shall be reviewed and processed in accordance with section 101.68, F.S., including notifying the voter, as soon as is practicable, about a signature deficiency on the voter certificate.

(c) Upon determination by the canvassing board that the voter was eligible to vote, the ballot shall be processed as other vote-by-mail ballots. If the ~~returned~~ vote-by-mail ballot was originally faxed or, emailed to the voter, or the voter accessed the ballot electronically by some other means, the returned ballot shall be removed from the envelope and duplicated pursuant to section 101.5614, F.S., so that it can be processed through the tabulating equipment.

(d) Upon receipt by fax of a voted vote-by-mail ballot from an overseas voter, the Supervisor of Elections shall enclose the ballot in an envelope and seal it in order to preserve secrecy. The Voter's Certificate and any corresponding signature cure affidavit, and identification, shall be attached to the envelope, reviewed, and processed in accordance with Section 101.68, F.S. Upon a determination by the canvassing board that the voter was eligible to vote, the ballot shall be removed from the envelope and duplicated so that it can be processed through the tabulating equipment.

~~(10)(9)~~ Confidentiality. The Supervisor of Elections and the supervisor's staff shall take the steps necessary to keep the voted vote-by-mail ballots received by fax as confidential as possible.

*Rulemaking Authority 20.10(3), 97.012(1), 101.697 FS. Law Implemented 101.62, 101.64, 101.65, 101.6923, 101.697 FS. History-New 5-27-02, Amended 11-26-03, 9-13-04, 9-6-07, 7-1-12, 3-20-14, \_\_\_\_\_.*