

AN ACT

To amend sections 3501.07, 3501.90, 3503.15, 3505.21, 3509.01, 3509.04, 3509.05, 3509.06, 3509.07, 3511.05, and 3511.11 of the Revised Code to require absent voter's ballot identification envelope statements to be completed for absent voter's ballots to be counted, to require boards of elections to notify absent voters that their ballots will be rejected if they do not complete the required statement, to generally prohibit same day voter registration and application for absent voter's ballots, to permit election observers to be appointed to serve at the board of elections or at another designated site during the time absent voter's ballots may be cast in person, to revise the time period in which voters may cast absent voter's ballots in person, to require the Secretary of State to notify boards of elections of mismatches between voter registration information and motor vehicle records, and to revise the process for appointing members of a board of elections.

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. That sections 3501.07, 3501.90, 3503.15, 3505.21, 3509.01, 3509.04, 3509.05, 3509.06, 3509.07, 3511.05, and 3511.11 of the Revised Code be amended to read as follows:

Sec. 3501.07. At a meeting held not more than sixty nor less than fifteen days before the expiration date of the term of office of a member of the board of elections, or within fifteen days after a vacancy occurs in the board, the county executive committee of the major political party entitled to the appointment may make and file a recommendation with the secretary of state for the appointment of a qualified elector. The secretary of state shall

appoint such elector, unless ~~he has reason to believe~~ the secretary of state finds that the elector ~~would~~ is not ~~be~~ a competent ~~member of~~ to serve on such board as a result of either the elector's adjudication of incompetence by a court of competent jurisdiction or the elector's prior conviction of or plea of guilty to a felony. In such cases the secretary of state shall ~~so~~ state in writing to the ~~chairman~~ chairperson of such county executive committee, ~~with the reasons therefor~~ for the secretary's refusal to appoint the individual, and such committee may, with respect to each refusal of the secretary of state, either recommend another elector or ~~may~~ apply for a writ of mandamus to the supreme court to compel the secretary of state to appoint the elector so recommended. In all such ~~action~~ actions, the burden of proof to ~~show the qualifications~~ prove the lack of competence of the person so recommended by clear and convincing evidence shall be on the ~~committee making~~ secretary of state who refused the recommendation. Upon the dismissal of an action in mandamus filed by such county executive committee, the county executive committee shall have fifteen days to make and file another recommendation with the secretary of state for the appointment of a qualified elector. If no such recommendation is made within fifteen days after either the secretary of state refuses the appointment of the county executive committee or the dismissal of an action in mandamus filed by such committee, the secretary of state shall make the appointment. This process shall be repeated, as needed, after each refusal of the secretary of state, until the appointment is made.

If a vacancy on the board of elections is to be filled by a minor or an intermediate political party, authorized officials of that party may within fifteen days after the vacancy occurs recommend a qualified person to the secretary of state for appointment to such vacancy.

Sec. 3501.90. (A) As used in this section:

(1) "Harassment in violation of the election law" means ~~either~~ any of the following:

(a) Any of the following types of conduct in or about a polling place or a place of registration or election: obstructing access of an elector to a polling place; another improper practice or attempt tending to obstruct, intimidate, or interfere with an elector in registering or voting at a place of registration or election; molesting or otherwise engaging in violence against observers in the performance of their duties at a place of registration or election; or participating in a riot, violence, tumult, or disorder in and about a place of registration or election;

(b) A violation of division (A)(1), (2), (3), or (5) or division (B) of section 3501.35 of the Revised Code;

(c) A violation of division (G)(2)(a) of section 3505.21 of the Revised Code.

(2) "Person" has the same meaning as in division (C) of section 1.59 of the Revised Code and also includes any organization that is not otherwise covered by that division.

(3) "Trier of fact" means the jury or, in a nonjury action, the court.

(B) An elector who has experienced harassment in violation of the election law has a cause of action against each person that committed the harassment in violation of the election law. In any civil action based on this cause of action, the elector may seek a declaratory judgment, an injunction, or other appropriate equitable relief. The civil action may be commenced by an elector who has experienced harassment in violation of the election law either alone or as a party to a class action under Civil Rule 23.

(C)(1) In addition to the equitable relief authorized by division (B) of this section, an elector who has experienced harassment in violation of the election law may be entitled to relief under division (C)(2) or (3) of this section.

(2) If the harassment in violation of the election law involved intentional or reckless threatening or causing of bodily harm to the elector while the elector was attempting to register to vote, to obtain an absent voter's ballot, or to vote, the elector may seek, in a civil action based on the cause of action created by division (B) of this section, monetary damages as prescribed in this division. The civil action may be commenced by the elector who has experienced harassment in violation of the election law either alone or as a party to a class action under Civil Rule 23. Upon proof by a preponderance of the evidence in the civil action that the harassment in violation of the election law involved intentional or reckless threatening or causing of bodily harm to the elector, the trier of fact shall award the elector the greater of three times of the amount of the elector's actual damages or one thousand dollars. The court also shall award a prevailing elector reasonable attorney's fees and court costs.

(3) Whether a civil action on the cause of action created by division (B) of this section is commenced by an elector who has experienced harassment in violation of the election law alone or as a party to a class action under Civil Rule 23, if the defendant in the action is an organization that has previously been determined in a court of this state to have engaged in harassment in violation of the election law, the elector may seek an order of the court granting any of the following forms of relief upon proof by a preponderance of the evidence:

(a) Divestiture of the organization's interest in any enterprise or in any

real property;

(b) Reasonable restrictions upon the future activities or investments of the organization, including, but not limited to, prohibiting the organization from engaging in any harassment in violation of the election law;

(c) The dissolution or reorganization of the organization;

(d) The suspension or revocation of any license, permit, or prior approval granted to the organization by any state agency;

(e) The revocation of the organization's authorization to do business in this state if the organization is a foreign corporation or other form of foreign entity.

(D) It shall not be a defense in a civil action based on the cause of action created by division (B) of this section, whether commenced by an elector who has experienced harassment in violation of the election law alone or as a party to a class action under Civil Rule 23, that no criminal prosecution was commenced or conviction obtained in connection with the conduct alleged to be the basis of the civil action.

(E) In a civil action based on the cause of action created by division (B) of this section, whether commenced by an elector who has experienced harassment in violation of the election law alone or as a party to a class action under Civil Rule 23, the elector may name as defendants each individual who engaged in conduct constituting harassment in violation of the election law as well as any person that employs, sponsors, or uses as an agent any such individual or that has organized a common scheme to cause harassment in violation of the election law.

Sec. 3503.15. (A) The secretary of state shall establish and maintain a statewide voter registration database that shall be continuously available to each board of elections and to other agencies as authorized by law.

(B) The statewide voter registration database established under this section shall be the official list of registered voters for all elections conducted in this state.

(C) The statewide voter registration database established under this section shall, at a minimum, include all of the following:

(1) An electronic network that connects all board of elections offices with the office of the secretary of state and with the offices of all other boards of elections;

(2) A computer program that harmonizes the records contained in the database with records maintained by each board of elections;

(3) An interactive computer program that allows access to the records contained in the database by each board of elections and by any persons authorized by the secretary of state to add, delete, modify, or print database

records, and to conduct updates of the database;

(4) A search program capable of verifying registered voters and their registration information by name, driver's license number, birth date, social security number, or current address;

(5) Safeguards and components to ensure that the integrity, security, and confidentiality of the voter registration information is maintained.

(D) The secretary of state shall adopt rules pursuant to Chapter 119. of the Revised Code doing all of the following:

(1) Specifying the manner in which existing voter registration records maintained by boards of elections shall be converted to electronic files for inclusion in the statewide voter registration database;

(2) Establishing a uniform method for entering voter registration records into the statewide voter registration database on an expedited basis, but not less than once per day, if new registration information is received;

(3) Establishing a uniform method for purging canceled voter registration records from the statewide voter registration database in accordance with section 3503.21 of the Revised Code;

(4) Specifying the persons authorized to add, delete, modify, or print records contained in the statewide voter registration database and to make updates of that database;

(5) Establishing a process for annually auditing the information contained in the statewide voter registration database.

(E) A board of elections promptly shall purge a voter's name and voter registration information from the statewide voter registration database in accordance with the rules adopted by the secretary of state under division (D)(3) of this section after the cancellation of a voter's registration under section 3503.21 of the Revised Code.

(F) The secretary of state shall provide training in the operation of the statewide voter registration database to each board of elections and to any persons authorized by the secretary of state to add, delete, modify, or print database records, and to conduct updates of the database.

(G)(1) The statewide voter registration database established under this section shall be made available on a web site of the office of the secretary of state as follows:

(a) Except as otherwise provided in division (G)(1)(b) of this section, only the following information from the statewide voter registration database regarding a registered voter shall be made available on the web site:

(i) The voter's name;

(ii) The voter's address;

(iii) The voter's precinct number;

(iv) The voter's voting history.

(b) During the thirty days before the day of a primary or general election, the web site interface of the statewide voter registration database shall permit a voter to search for the polling location at which that voter may cast a ballot.

(2) The secretary of state shall establish, by rule adopted under Chapter 119. of the Revised Code, a process for boards of elections to notify the secretary of state of changes in the locations of precinct polling places for the purpose of updating the information made available on the secretary of state's web site under division (G)(1)(b) of this section. Those rules shall require a board of elections, during the thirty days before the day of a primary or general election, to notify the secretary of state within one business day of any change to the location of a precinct polling place within the county.

(3) During the thirty days before the day of a primary or general election, not later than one business day after receiving a notification from a county pursuant to division (G)(2) of this section that the location of a precinct polling place has changed, the secretary of state shall update that information on the secretary of state's web site for the purpose of division (G)(1)(b) of this section.

(H)(1) The secretary of state and the registrar of motor vehicles shall enter into an agreement to match information in the statewide voter registration database with motor vehicle records for the purpose of verifying the accuracy of the information in the statewide voter registration database and the information provided on voter registration applications, as required under 42 U.S.C. 15483.

(2) The secretary of state shall notify the applicable board of elections of any mismatches between voter registration information and motor vehicle records that the secretary of state receives under division (H)(1) of this section regarding persons registered to vote in the applicable county.

(3)(a) Upon notification of mismatches by the secretary of state under division (H)(2) of this section, the board of elections shall notify each affected voter of the mismatch regarding the voter's information. The board shall provide the voter with the opportunity to verify and correct the mismatched information.

(b) The secretary of state shall establish, by rule adopted under Chapter 119. of the Revised Code, procedures for boards of elections to notify affected voters of mismatches and to provide those voters with the opportunity to verify and correct the mismatched information under division

(H)(3)(a) of this section. Rules adopted under this division shall conform to the voluntary guidelines for implementing statewide voter registration lists adopted by the United States election assistance commission.

(4) Notwithstanding any provision of the Revised Code to the contrary, a mismatch shall not be the sole reason for the removal of a voter from the statewide voter registration database.

(5) As used in division (H) of this section, "mismatch" means any of the following data fields that are not identical to one another with respect to a particular individual when information in the statewide voter registration database is compared to motor vehicle records:

(a) Driver's license number;

(b) Social security number;

(c) Date of birth.

Sec. 3505.21. (A) As used in this section, "during the casting of the ballots" includes any time during which a board of elections permits an elector to vote an absent voter's ballot in person at the office of the board or at another site designated by the board under division (C) of section 3501.10 of the Revised Code and any time ballots may be cast in a precinct polling place on the day of an election.

(B) At any primary, special, or general election, any political party supporting candidates to be voted upon at such election and any group of five or more candidates may appoint to the board of elections or to any of the precincts in the county or city one person, a qualified elector, who shall serve as observer for such party or such candidates during the casting of the ballots and during the counting of the ballots; provided that separate observers may be appointed to serve during the casting and during the counting of the ballots. No candidate, no uniformed peace officer as defined by section 2935.01 of the Revised Code, no uniformed state highway patrol trooper, no uniformed member of any fire department, no uniformed member of the armed services, no uniformed member of the organized militia, no person wearing any other uniform, and no person carrying a firearm or other deadly weapon shall serve as an observer, nor shall any candidate be represented by more than one observer at any one precinct or other voting location except that a candidate who is a member of a party controlling committee, as defined in section 3517.03 of the Revised Code, may serve as an observer. Any

(C) Any political party or group of candidates appointing observers shall notify the board of elections of the names and addresses of its appointees and the precincts each precinct or other location at which they shall serve. Notification of observers appointed to serve on the day of an

election shall take place not less than eleven days before the day of the election on forms prescribed by the secretary of state and may be amended by filing an amendment with the board of elections at any time until four p.m. of the day before the election. Notification of observers appointed to serve at the office of the board or at another location during the time absent voter's ballots may be cast in person shall take place not less than eleven days before absent voter's ballots are required to be ready for use pursuant to section 3509.01 of the Revised Code on forms prescribed by the secretary of state and may be amended by filing an amendment with the board of elections at any time until four p.m. of the day before the observer is appointed to serve. The observer serving on behalf of a political party shall be appointed in writing by the chairperson and secretary of the respective controlling party committee. Observers serving for any five or more candidates shall have their certificates signed by those candidates. Observers appointed to a precinct may file their certificates of appointment with the presiding judge of the precinct at the meeting on the evening prior to the election, or with the presiding judge of the precinct on the day of the election. Upon Observers appointed to the office of the board or another designated site to observe the casting of absent voter's ballots in person prior to the day of the election may file their certificates with the director of the board of elections the day before or on the day that the observers are scheduled to serve at the office of the board or other designated site.

Upon the filing of a certificate, the person named as observer in the certificate shall be permitted to be in and about the applicable polling place ~~for the precinct~~ during the casting of the ballots and shall be permitted to watch every proceeding of the judges of elections from the time of the opening until the closing of the polls. The observer also may inspect the counting of all ballots in the polling place or board of elections from the time of the closing of the polls until the counting is completed and the final returns are certified and signed. Observers appointed to serve at the board of elections on the day of an election under this section may observe at the board of elections and may observe at any precinct in the county. The judges of elections shall protect such observers in all of the rights and privileges granted to them by Title XXXV of the Revised Code.

(D) No persons other than the judges of elections, the observers, a police officer, other persons who are detailed to any precinct on request of the board of elections, or the secretary of state or the secretary of state's legal representative shall be admitted to the polling place, or any room in which a board of elections is counting ballots, after the closing of the polls until the counting, certifying, and signing of the final returns of each

election have been completed.

(E) Not later than four p.m. of the twentieth day prior to an election at which questions are to be submitted to a vote of the people, any committee that in good faith advocates or opposes a measure may file a petition with the board of any county asking that the petitioners be recognized as the committee entitled to appoint observers to the count at the election. If more than one committee alleging themselves to advocate or oppose the same measure file such a petition, the board shall decide and announce by registered mail to each committee not less than twelve days immediately preceding the election which committee is recognized as being entitled to appoint observers. The decision shall not be final, but any aggrieved party may institute mandamus proceedings in the court of common pleas of the county in which the board has jurisdiction to compel the judges of elections to accept the appointees of such aggrieved party. Any such recognized committee may appoint an observer to the count in each precinct. Committees appointing observers shall notify the board of elections of the names and addresses of its appointees and the precincts at which they shall serve. Notification shall take place not less than eleven days before the election on forms prescribed by the secretary of state and may be amended by filing an amendment with the board of elections at any time until four p.m. on the day before the election. A person so appointed shall file the person's certificate of appointment with the presiding judge in the precinct in which the person has been appointed to serve. Observers shall file their certificates before the polls are closed. In no case shall more than six observers be appointed for any one election in any one precinct. If more than three questions are to be voted on, the committees which have appointed observers may agree upon not to exceed six observers, and the judges of elections shall appoint such observers. If such committees fail to agree, the judges of elections shall appoint six observers from the appointees so certified, in such manner that each side of the several questions shall be represented.

(F) No person shall serve as an observer at any precinct or other voting location unless the board of elections of the county in which such observer is to serve has first been notified of the name, address, and precinct or other location at which such observer is to serve. Notification to the board of elections shall be given by the political party, group of candidates, or committee appointing such observer as prescribed in this section. No such observers shall receive any compensation from the county, municipal corporation, or township, and they shall take the following oath, to be administered by one of the judges of elections:

"You do solemnly swear that you will faithfully and impartially discharge the duties as an official observer, assigned by law; that you will not cause any delay to persons offering to vote; and that you will not disclose or communicate to any person how any elector has voted at such election."

(G)(1) An observer who serves during the casting of the ballots shall only be permitted to do the following:

(a) Watch and listen to the activities conducted by the precinct election officials and the interactions between precinct election officials and voters, as long as the precinct election officials are not delayed in performing the officials' prescribed duties and voters are not delayed in casting their ballots;

(b) Make notes on the observer's observations other than by means of a photographic, video, or audio recording.

(2)(a) No observer who serves during the casting of the ballots shall interact with any precinct election official or with any voter while the observer is inside the polling place, within the area between the polling place and the small flags of the United States placed on the thoroughfares and walkways leading to the polling place, or within ten feet of any elector in line waiting to vote, if the line of electors waiting to vote extends beyond those small flags.

(b) An observer does not violate division (G)(2)(a) of this section as a result of an incidental interaction with a voter or a precinct election official, such as an exchange of greetings.

Sec. 3509.01. (A) The board of elections of each county shall provide absent voter's ballots for use at every primary and general election, or special election to be held on the day specified by division (E) of section 3501.01 of the Revised Code for the holding of a primary election, designated by the general assembly for the purpose of submitting constitutional amendments proposed by the general assembly to the voters of the state. Those ballots shall be the same size, shall be printed on the same kind of paper, and shall be in the same form as has been approved for use at the election for which those ballots are to be voted; except that, in counties using marking devices, ballot cards may be used for absent voter's ballots, and those absent voters shall be instructed to record the vote in the manner provided on the ballot cards. In counties where punch card ballots are used, those absent voters shall be instructed to examine their marked ballot cards and to remove any chads that remain partially attached to them before returning them to election officials.

(B) The rotation of names of candidates and questions and issues shall be substantially complied with on absent voter's ballots, within the

limitation of time allotted. Those ballots shall be designated as "Absent Voter's Ballots," ~~and Except as otherwise provided in division (D) of this section, those ballots shall be printed and ready for use as follows:~~

(1) For overseas voters and absent uniformed services voters eligible to vote under the Uniformed and Overseas Citizens Absentee Voting Act, Pub. L. No. 99-410, 100 Stat. 924, 42 U.S.C. 1973ff, et seq., as amended, ballots shall be printed and ready for use on the thirty-fifth day before the day of the any election other than a presidential primary election, except that those;

(2) For all voters, other than overseas voters and absent uniformed services voters, who are applying to vote absent voter's ballots other than in person, ballots shall be printed and ready for use on the twenty-eighth day before the day of any election other than a presidential primary election;

(3) For all voters, other than overseas voters and absent uniformed services voters, who are applying to vote absent voter's ballots in person, ballots shall be printed and ready for use beginning on the twentieth day before the day of the election and shall continue to be available for use through five p.m. on the day before the day of the election;

(4) For all voters who are applying to vote absent voter's ballots other than in person, ballots shall be printed and ready for use on the twenty-fifth day before the day of a presidential primary election.

(C) Absent voter's ballots provided for use at a general or primary election, or special election to be held on the day specified by division (E) of section 3501.01 of the Revised Code for the holding of a primary election, designated by the general assembly for the purpose of submitting constitutional amendments proposed by the general assembly to the voters of the state, shall include only those questions, issues, and candidacies that have been lawfully ordered submitted to the electors voting at that election.

~~Absent~~ (D) If the laws governing the holding of a special election on a day other than the day on which a primary or general election is held make it impossible for absent voter's ballots to be printed and ready for use by the deadlines established in division (B) of this section, absent voter's ballots for those special elections ~~held on days other than the day on which general or primary elections are held~~ shall be ready for use as many days before the day of the election as reasonably possible under the laws governing the holding of that special election.

(E) A copy of the absent voter's ballots shall be forwarded by the director of the board in each county to the secretary of state at least twenty-five days before the election.

(F) As used in this section, "chad" and "punch card ballot" have the same meanings as in section 3506.16 of the Revised Code.

Sec. 3509.04. (A) If a director of a board of elections receives an application for absent voter's ballots that does not contain all of the required information, the director promptly shall notify the applicant of the additional information required to be provided by the applicant to complete that application.

(B) Upon receipt by the director of elections of an application for absent voter's ballots that contain all of the required information, as provided by sections 3509.03 and 3509.031 and division (G) of section 3503.16 of the Revised Code, the director, if the director finds that the applicant is a qualified elector, shall deliver to the applicant in person or mail directly to the applicant by special delivery mail, air mail, or regular mail, postage prepaid, proper absent voter's ballots. The director shall deliver or mail with the ballots an unsealed identification envelope upon the face of which shall be printed ~~a the following form substantially as follows:~~

"Identification Envelope Statement of Voter

I,(Name of voter), declare under penalty of election falsification that the within ballot or ballots contained no voting marks of any kind when I received them, and I caused the ballot or ballots to be marked, enclosed in the identification envelope, and sealed in that envelope.

My voting residence in Ohio is

.....

(Street and Number, if any, or Rural Route and Number)

of (City, Village, or Township) Ohio, which is in Ward Precinct in that city, village, or township.

The primary election ballots, if any, within this envelope are primary election ballots of the Party.

Ballots contained within this envelope are to be voted at the (general, special, or primary) election to be held on the day of,

My date of birth is (Month and Day), (Year).

(Voter must provide one of the following:)

My driver's license number is (Driver's license number).

The last four digits of my Social Security Number are (Last four digits of Social Security Number).

..... In lieu of providing a driver's license number or the last four digits of my Social Security Number, I am enclosing a copy of one of the following in the return envelope in which this identification envelope will be mailed: a current and valid photo identification, a military identification, or a current utility bill, bank statement, government check, paycheck, or other government document, other than a notice of an election mailed by a board

of elections under section 3501.19 of the Revised Code or a notice of voter registration mailed by a board of elections, that shows my name and address.

I hereby declare, under penalty of election falsification, that the statements above are true, as I verily believe.

.....

(Signature of Voter)

WHOEVER COMMITS ELECTION FALSIFICATION IS GUILTY OF A FELONY OF THE FIFTH DEGREE."

The director shall mail with the ballots and the unsealed identification envelope an unsealed return envelope upon the face of which shall be printed the official title and post-office address of the director. In the upper left corner on the face of the return envelope, several blank lines shall be printed upon which the voter may write the voter's name and return address, and beneath these lines there shall be printed a box beside the words "check if out-of-country." The voter shall check this box if the voter will be outside the United States on the day of the election. The return envelope shall be of such size that the identification envelope can be conveniently placed within it for returning the identification envelope to the director.

Sec. 3509.05. (A) When an elector receives an absent voter's ballot pursuant to the elector's application or request, the elector shall, before placing any marks on the ballot, note whether there are any voting marks on it. If there are any voting marks, the ballot shall be returned immediately to the board of elections; otherwise, the elector shall cause the ballot to be marked, folded in a manner that the stub on it and the indorsements and facsimile signatures of the members of the board of elections on the back of it are visible, and placed and sealed within the identification envelope received from the director of elections for that purpose. Then, the elector shall cause the statement of voter on the outside of the identification envelope to be completed and signed, under penalty of election falsification.

If the elector does not provide the elector's driver's license number or the last four digits of the elector's social security number on the statement of voter on the identification envelope, the elector also shall include in the return envelope with the identification envelope a copy of the elector's current valid photo identification, a copy of a military identification, or a copy of a current utility bill, bank statement, government check, paycheck, or other government document, other than a notice of an election mailed by a board of elections under section 3501.19 of the Revised Code or a notice of voter registration mailed by a board of elections under section 3503.19 of the Revised Code, that shows the name and address of the elector.

The elector shall mail the identification envelope to the director from whom it was received in the return envelope, postage prepaid, or the elector may personally deliver it to the director, or the spouse of the elector, the father, mother, father-in-law, mother-in-law, grandfather, grandmother, brother, or sister of the whole or half blood, or the son, daughter, adopting parent, adopted child, stepparent, stepchild, uncle, aunt, nephew, or niece of the elector may deliver it to the director. The return envelope shall be transmitted to the director in no other manner, except as provided in section 3509.08 of the Revised Code.

Each elector who will be outside the United States on the day of the election shall check the box on the return envelope indicating this fact.

When absent voter's ballots are delivered to an elector at the office of the board, the elector may retire to a voting compartment provided by the board and there mark the ballots. Thereupon, the elector shall fold them, place them in the identification envelope provided, seal the envelope, fill in and sign the statement on the envelope under penalty of election falsification, and deliver the envelope to the director of the board.

Except as otherwise provided in divisions (B) and (C) of this section, all other envelopes containing marked absent voter's ballots shall be delivered to the director not later than the close of the polls on the day of an election. Absent voter's ballots delivered to the director later than the times specified shall not be counted, but shall be kept by the board in the sealed identification envelopes in which they are delivered to the director, until the time provided by section 3505.31 of the Revised Code for the destruction of all other ballots used at the election for which ballots were provided, at which time they shall be destroyed.

(B)(1) Except as otherwise provided in division (B)(2) of this section, any return envelope that indicates that the voter will be outside the United States on the day of the election shall be delivered to the director prior to the eleventh day after the election. Ballots delivered in such envelopes that are received after the close of the polls on election day through the tenth day thereafter shall be counted on the eleventh day at the board of elections in the manner provided in divisions (C) and (D) of section 3509.06 of the Revised Code. Any such ballots that are signed or postmarked after the close of the polls on the day of the election or that are received by the director later than the tenth day following the election shall not be counted, but shall be kept by the board in the sealed identification envelopes as provided in division (A) of this section.

(2) In any year in which a presidential primary election is held, any return envelope that indicates that the voter will be outside the United States

on the day of the presidential primary election shall be delivered to the director prior to the twenty-first day after that election. Ballots delivered in such envelopes that are received after the close of the polls on election day through the twentieth day thereafter shall be counted on the twenty-first day at the board of elections in the manner provided in divisions (C) and (D) of section 3509.06 of the Revised Code. Any such ballots that are signed or postmarked after the close of the polls on the day of that election or that are received by the director later than the twentieth day following that election shall not be counted, but shall be kept by the board in the sealed identification envelopes as provided in division (A) of this section.

(C)(1) Except as otherwise provided in division (C)(2) of this section, any return envelope that is postmarked within the United States prior to the day of the election shall be delivered to the director prior to the eleventh day after the election. Ballots delivered in envelopes postmarked prior to the day of the election that are received after the close of the polls on election day through the tenth day thereafter shall be counted on the eleventh day at the board of elections in the manner provided in divisions (C) and (D) of section 3509.06 of the Revised Code. Any such ballots that are received by the director later than the tenth day following the election shall not be counted, but shall be kept by the board in the sealed identification envelopes as provided in division (A) of this section.

(2) Division (C)(1) of this section shall not apply to any mail that is postmarked using a postage evidencing system, including a postage meter, as defined in 39 C.F.R. 501.1.

(D)(1) Except as otherwise provided in division (D)(2) of this section, if a board of elections determines, prior to the close of the polls on the day of the election, that the statement of voter on a voter's absent voter's ballot identification envelope is incomplete, the board shall notify the absent voter by mail or by telephone that the voter's absent ballot will be rejected unless the voter completes the statement prior to the close of the polls on the day of the election.

(2) A board of elections shall not be required to notify voters under division (D)(1) of this section for any absent voter's ballots that the board receives after the eighth day before the day of the election.

If a board of elections chooses to notify voters under division (D)(1) of this section of incomplete absent voter's ballot envelope statements for absent voter's ballots received after the eighth day before the day of the election, the board shall notify all voters whose absent voter's ballot envelope statements are incomplete that their absent voter's ballot envelopes will be rejected unless the voter completes the statement prior to the close of

the polls on the day of the election.

Sec. 3509.06. (A) The board of elections shall determine whether absent voter's ballots shall be counted in each precinct, at the office of the board, or at some other location designated by the board, and shall proceed accordingly under division (B) or (C) of this section.

(B) When the board of elections determines that absent voter's ballots shall be counted in each precinct, the director shall deliver to the presiding judge of each precinct on election day identification envelopes purporting to contain absent voter's ballots of electors whose voting residence appears from the statement of voter on the outside of each of those envelopes, to be located in such presiding judge's precinct, and which were received by the director not later than the close of the polls on election day. The director shall deliver to such presiding judge a list containing the name and voting residence of each person whose voting residence is in such precinct to whom absent voter's ballots were mailed.

(C) When the board of elections determines that absent voter's ballots shall be counted at the office of the board of elections or at another location designated by the board, special election judges shall be appointed by the board for that purpose having the same authority as is exercised by precinct judges. The votes so cast shall be added to the vote totals by the board, and the absent voter's ballots shall be preserved separately by the board, in the same manner and for the same length of time as provided by section 3505.31 of the Revised Code.

(D) Each of the identification envelopes purporting to contain absent voter's ballots delivered to the presiding judge of the precinct or the special judge appointed by the board of elections shall be handled as follows: The election officials shall compare the signature of the elector on the outside of the identification envelope with the signature of that elector on the elector's registration form and verify that the absent voter's ballot is eligible to be counted under section 3509.07 of the Revised Code. Any of the precinct officials may challenge the right of the elector named on the identification envelope to vote the absent voter's ballots upon the ground that the signature on the envelope is not the same as the signature on the registration form, that the identification envelope statement of voter has not been completed, or upon any other of the grounds upon which the right of persons to vote may be lawfully challenged. If no such challenge is made, or if such a challenge is made and not sustained, the presiding judge shall open the envelope without defacing the statement of voter and without mutilating the ballots in it, and shall remove the ballots contained in it and proceed to count them.

The name of each person voting who is entitled to vote only an absent

voter's presidential ballot shall be entered in a pollbook or poll list or signature pollbook followed by the words "Absentee Presidential Ballot." The name of each person voting an absent voter's ballot, other than such persons entitled to vote only a presidential ballot, shall be entered in the pollbook or poll list or signature pollbook and the person's registration card marked to indicate that the person has voted.

The date of such election shall also be entered on the elector's registration form. If any such challenge is made and sustained, the identification envelope of such elector shall not be opened, shall be endorsed "Not Counted" with the reasons the ballots were not counted, and shall be delivered to the board.

(E) Special election judges, employees or members of the board of elections, or observers shall not disclose the count or any portion of the count of absent voter's ballots prior to the time of the closing of the polling places. No person shall recklessly disclose the count or any portion of the count of absent voter's ballots in such a manner as to jeopardize the secrecy of any individual ballot.

(F) Observers may be appointed under section 3505.21 of the Revised Code to witness the examination and opening of identification envelopes and the counting of absent voters' ballots under this section.

Sec. 3509.07. If election officials find that the statement accompanying an absent voter's ballot or absent voter's presidential ballot is incomplete or insufficient, that the signatures do not correspond with the person's registration signature, that the applicant is not a qualified elector in the precinct, that the ballot envelope contains more than one ballot of any one kind, or any voted ballot that the elector is not entitled to vote, that Stub A is detached from the absent voter's ballot or absent voter's presidential ballot, or that the elector has not included with the elector's ballot any identification required under section 3509.05 or 3511.09 of the Revised Code, the vote shall not be accepted or counted. The vote of any absent voter may be challenged for cause in the same manner as other votes are challenged, and the election officials shall determine the legality of that ballot. Every ballot not counted shall be endorsed on its back "Not Counted" with the reasons the ballot was not counted, and shall be enclosed and returned to or retained by the board of elections along with the contested ballots.

Sec. 3511.05. (A) The director of the board of elections shall place armed service absent voter's ballots sent by mail in an unsealed identification envelope, gummed ready for sealing. The director shall include with armed service absent voter's ballots sent by facsimile machine an instruction sheet for preparing a gummed envelope in which the ballots

shall be returned. The envelope for returning ballots sent by either means shall have printed or written on its face ~~a~~ the following form ~~substantially as follows:~~

"Identification Envelope Statement of Voter

I,(Name of voter), declare under penalty of election falsification that the within ballot or ballots contained no voting marks of any kind when I received them, and I caused the ballot or ballots to be marked, enclosed in the identification envelope, and sealed in that envelope.

My voting residence in Ohio is

.....
(Street and Number, if any, or Rural Route and Number)
of (City, Village, or Township) Ohio, which is in Ward
..... Precinct in that city, village, or township.

The primary election ballots, if any, within this envelope are primary election ballots of the Party.

Ballots contained within this envelope are to be voted at the
(general, special, or primary) election to be held on the day
of, ...

My date of birth is (Month and Day), (Year).

(Voter must provide one of the following:)

My driver's license number is (Driver's license number).

The last four digits of my Social Security Number are (Last four digits of Social Security Number).

..... In lieu of providing a driver's license number or the last four digits of my Social Security Number, I am enclosing a copy of one of the following in the return envelope in which this identification envelope will be mailed: a current and valid photo identification, a military identification, or a current utility bill, bank statement, government check, paycheck, or other government document, other than a notice of an election mailed by a board of elections under section 3501.19 of the Revised Code or a notice of voter registration mailed by a board of elections, that shows my name and address.

I hereby declare, under penalty of election falsification, that the statements above are true, as I verily believe.

.....
(Signature of Voter)

WHOEVER COMMITS ELECTION FALSIFICATION IS GUILTY OF A FELONY OF THE FIFTH DEGREE."

(B) The director shall also mail with the ballots and the unsealed identification envelope sent by mail an unsealed return envelope, gummed,

ready for sealing, for use by the voter in returning the voter's marked ballots to the director. The director shall send with the ballots and the instruction sheet for preparing a gummed envelope sent by facsimile machine an instruction sheet for preparing a second gummed envelope as described in this division, for use by the voter in returning that voter's marked ballots to the director. The return envelope shall have two parallel lines, each one quarter of an inch in width, printed across its face paralleling the top, with an intervening space of one quarter of an inch between such lines. The top line shall be one and one-quarter inches from the top of the envelope. Between the parallel lines shall be printed: "OFFICIAL ELECTION ARMED SERVICE ABSENT VOTER'S BALLOTS -- VIA AIR MAIL." Three blank lines shall be printed in the upper left corner on the face of the envelope for the use by the voter in placing the voter's complete military, naval, or mailing address on these lines, and beneath these lines there shall be printed a box beside the words "check if out-of-country." The voter shall check this box if the voter will be outside the United States on the day of the election. The official title and the post-office address of the director to whom the envelope shall be returned shall be printed on the face of such envelope in the lower right portion below the bottom parallel line.

(C) On the back of each identification envelope and each return envelope shall be printed the following:

"Instructions to voter:

If the flap on this envelope is so firmly stuck to the back of the envelope when received by you as to require forcible opening in order to use it, open the envelope in the manner least injurious to it, and, after marking your ballots and enclosing same in the envelope for mailing them to the director of the board of elections, reclose the envelope in the most practicable way, by sealing or otherwise, and sign the blank form printed below.

The flap on this envelope was firmly stuck to the back of the envelope when received, and required forced opening before sealing and mailing.

.....
(Signature of voter)"

(D) Division (C) of this section does not apply when absent voter's ballots are sent by facsimile machine.

Sec. 3511.11. (A) Upon receipt of any return envelope bearing the designation "Official Election Armed Service Absent Voter's Ballot" prior to the twenty-first day after the day of a presidential primary election or prior to the eleventh day after the day of any other election, the director of the board of elections shall open it but shall not open the identification envelope contained in it. If, upon so opening the return envelope, the director finds

ballots in it that are not enclosed in and properly sealed in the identification envelope, the director shall not look at the markings upon the ballots and shall promptly place them in the identification envelope and promptly seal it. If, upon so opening the return envelope, the director finds that ballots are enclosed in the identification envelope but that it is not properly sealed, the director shall not look at the markings upon the ballots and shall promptly seal the identification envelope.

(B)(1) Except as otherwise provided in division (B)(2) of this section, if a board of elections determines, prior to the close of the polls on the day of the election, that the statement of voter on an armed service absent voter's ballot identification envelope is incomplete, the board shall notify the armed services absent voter by mail or by telephone that the voter's armed service absent voter's ballot will be rejected unless the voter completes the statement prior to the close of the polls on the day of the election.

(2) A board of elections shall not be required to notify voters under division (B)(1) of this section for any armed service absent voter's ballots that the board receives after the eighth day before the day of the election.

If a board of elections chooses to notify voters under division (B)(1) of this section of incomplete armed service absent voter's ballot envelope statements for armed service absent voter's ballots received after the eighth day before the day of the election, the board shall notify all voters whose armed service absent voter's ballot envelope statements are incomplete that their armed service absent voter's ballot envelopes will be rejected unless the voter completes the statement prior to the close of the polls on the day of the election.

(C) Armed service absent voter's ballots delivered to the director not later than the close of the polls on election day shall be counted in the manner provided in section 3509.06 of the Revised Code.

~~(C)~~(D) A return envelope that indicates that the voter will be outside of the United States on the day of an election is not required to be postmarked in order for an armed service absent voter's ballot contained in it to be valid. Except as otherwise provided in this division, whether or not the return envelope containing the ballot is postmarked or contains an illegible postmark, an armed service absent voter's ballot that is received after the close of the polls on election day through the tenth day after the election day or, if the election was a presidential primary election, through the twentieth day after the election day, and that is delivered in a return envelope that indicates that the voter will be outside the United States on the day of the election shall be counted on the eleventh day after the election day or, if the election was a presidential primary election, on the twenty-first day after the

election day, at the office of the board of elections in the manner provided in divisions (C) and (D) of section 3509.06 of the Revised Code. However, if a return envelope containing an armed service absent voter's ballot is so received and so indicates, but it is postmarked, or the identification envelope in it is signed, after the close of the polls on election day, the armed service absent voter's ballot shall not be counted.

~~(D)~~(E)(1) Except as otherwise provided in division ~~(D)~~(E)(2) of this section, any return envelope containing an armed service absent voter's ballot that is postmarked within the United States prior to the day of the election shall be delivered to the director prior to the eleventh day after the election. Armed service absent voter's ballots delivered in envelopes postmarked prior to the day of the election that are received after the close of the polls on election day through the tenth day thereafter shall be counted on the eleventh day at the board of elections in the manner provided in divisions (C) and (D) of section 3509.06 of the Revised Code. Any such ballots that are received by the director later than the tenth day following the election shall not be counted, but shall be kept by the board in the sealed identification envelopes as provided in division (A) of this section.

(2) Division ~~(D)~~(E)(1) of this section shall not apply to any mail that is postmarked using a postage evidencing system, including a postage meter, as defined in 39 C.F.R. 501.1.

~~(E)~~(F) The following types of armed service absent voter's ballots shall not be counted:

(1) Armed service absent voter's ballots contained in return envelopes that bear the designation "Official Election Armed Service Absent Voter's Ballots," that are received by the director after the close of the polls on the day of the election, and that either are postmarked, or contain an identification envelope that is signed, on or after election day;

(2) Armed service absent voter's ballots contained in return envelopes that bear that designation, that do not indicate they are from voters who will be outside the United States on the day of the election, and that are received after the tenth day following the election or, if the election was a presidential primary election, after the twentieth day following the election;

(3) Armed service absent voter's ballots contained in return envelopes that bear that designation, that are received by the director within ten days after the day of the election, and that were postmarked before the day of the election using a postage evidencing system, including a postage meter, as defined in 39 C.F.R. 501.1.

The uncounted ballots shall be preserved in their identification envelopes unopened until the time provided by section 3505.31 of the

Revised Code for the destruction of all other ballots used at the election for which ballots were provided, at which time they shall be destroyed.

SECTION 2. That existing sections 3501.07, 3501.90, 3503.15, 3505.21, 3509.01, 3509.04, 3509.05, 3509.06, 3509.07, 3511.05, and 3511.11 of the Revised Code are hereby repealed.

SECTION 3. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the following section, presented in this act as the composite of the sections as amended by the acts indicated, is the resulting version of the section in effect prior to the effective date of the section as presented in this act:

Section 3509.05 of the Revised Code as amended by both Am. Sub. H.B. 350 and Am. Sub. H.B. 562 of the 127th General Assembly.

Speaker _____ *of the House of Representatives.*

President _____ *of the Senate.*

Passed _____, 20____

Approved _____, 20____

Governor.

Sub. S. B. No. 380

127th G.A.

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

Director, Legislative Service Commission.

Filed in the office of the Secretary of State at Columbus, Ohio, on the ____ day of _____, A. D. 20____.

Secretary of State.

File No. _____ Effective Date _____