

An Act

ENROLLED HOUSE
BILL NO. 1752

By: Crosswhite Hader, Fugate,
Roberts (Eric), Davis,
Marti, McDugle, Hill,
Conley, Fetgatter, Hardin
(David), Stark and Pittman
of the House

and

Rader, Bullard, Jett and
Pederson of the Senate

An Act relating to elections; amending 26 O.S. 2011, Section 4-120.3, as last amended by Section 3, Chapter 377, O.S.L. 2016 (26 O.S. Supp. 2020, Section 4-120.3), which relates to cancellation of registration of deceased persons; providing for cancellation by certain time; amending 30 O.S. 2011, Section 3-113, as amended by Section 1, Chapter 86, O.S.L. 2019 (30 O.S. Supp. 2020, Section 3-113), which relates to specific determinations of capacity; requiring court to issue findings of fact on certain capacity; and providing an effective date.

SUBJECT: Elections

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 26 O.S. 2011, Section 4-120.3, as last amended by Section 3, Chapter 377, O.S.L. 2016 (26 O.S. Supp. 2020, Section 4-120.3), is amended to read as follows:

Section 4-120.3 A. The State Department of Health shall each month transmit to the Secretary of the State Election Board a certified list of all deaths of residents that have occurred within the state for the immediately preceding month. The Secretary of the

State Election Board shall transmit such list to the secretary of the county election board who shall then use ~~such~~ the list to ascertain those voters who are deceased, and shall ~~thereafter~~ remove such deceased person's name from the central registry and voter registration database within thirty (30) days from the date the list was received by the county election board. Such list shall be used only for the purposes hereinbefore described.

B. The registration of a deceased voter may be canceled by the secretary of a county election board upon the receipt of a certified copy of a death certificate from any person or upon the execution by the next of kin of such deceased voter of a form and upon the nature of proof of the fact thereof as prescribed by the Secretary of the State Election Board. Such form must be executed in person by the deceased voter's next of kin at the county election board office, in which case it shall be witnessed by the secretary or other designated employees, at the deceased voter's precinct polling place or at the next of kin's precinct polling place in the same county on the day of any election, in which case it shall be witnessed by the inspector of such precinct, or the form may be personally signed by the next of kin, such signature to be notarized by a notary public or witnessed by two persons whose signatures and addresses shall appear on the form, and returned to the county election board.

C. The administrator of a nursing facility, as defined in Section 1-1902 of Title 63 of the Oklahoma Statutes, or the administrator of a veterans center established pursuant to Title 72 of the Oklahoma Statutes, also may execute a form prescribed by the Secretary of the State Election Board to notify the secretary of the county election board of the death of a nursing facility resident who is a registered voter. The administrator's signature on such form shall be witnessed by a member of the nursing home absentee voting board, shall be notarized or shall be witnessed by two persons whose signatures and addresses shall appear on the form.

D. A funeral director, as defined in Section 396.2 of Title 59 of the Oklahoma Statutes, may execute a form prescribed by the Secretary of the State Election Board to notify the secretary of the county election board of the death of a resident of the county. The funeral director's signature on such form either shall be notarized or shall be witnessed by two persons whose signatures and addresses shall appear on the form. Upon receipt of such form or any notice setting forth substantially the same facts and witnessed or notarized as provided in this section, the secretary of the county

election board shall be authorized to cancel the voter registration of such deceased person.

E. The registration of a deceased voter who was a member of the Oklahoma National Guard or the armed forces of the United States and who died in the line of duty may be canceled by the secretary of a county election board upon the receipt of notification of the voter's death from the Oklahoma National Guard or the armed forces of the United States. The Secretary of the State Election Board may prescribe the forms of such notification to be accepted by the county election board in order to cause the registration of the voter to be canceled. The Secretary shall further request the Oklahoma National Guard and the armed forces of the United States to provide notifications to the county election board as provided for in this section.

F. The Secretary of the State Election Board is authorized to obtain official death records from the Social Security Administration and from other states. The Secretary of the State Election Board may compare such death records against the state's voter registration database. Any possible match of a death record to a registered voter shall be transmitted to the secretary of the county election board in the county in which the voter is registered. The secretary of the county election board shall ascertain any voter who is deceased, and shall remove such deceased person's name from the central registry and voter registration database.

SECTION 2. AMENDATORY 30 O.S. 2011, Section 3-113, as amended by Section 1, Chapter 86, O.S.L. 2019 (30 O.S. Supp. 2020, Section 3-113), is amended to read as follows:

Section 3-113. A. The order appointing a guardian, based upon evidence adduced, shall set forth:

1. The determinations made by the court at the hearing;
2. The name and address of the individual, if any, appointed to serve as the limited guardian or guardian;
3. The specific limitations imposed upon the ward, if the ward is a partially incapacitated person;

4. Any authority granted a guardian of the person of the ward to change the place of abode of the ward outside of the state or county without the prior permission of the court; ~~and~~

5. Findings of fact as to whether the ward retains sufficient capacity to vote; and

6. Whenever the court determines a review hearing is necessary or desirable, the date of the review hearing.

B. In establishing the specific limitations on the legal activities of a ward for whom a limited guardian of the person is appointed, the court shall make specific determinations regarding the capacity of the subject of the proceeding, including but not limited to determining whether the ward retains sufficient capacity:

1. To vote;

2. To serve as a juror;

3. To operate a motor vehicle;

4. To be licensed or continue to practice any profession of the ward; and

5. To make personal medical decisions including but not limited to decisions to withhold or withdraw life-sustaining procedures, to receive hospice services through a home or inpatient hospice program, to donate organs, to undergo elective surgery, or to consent to routine or necessary medical or other professional care, treatment or advice.

C. In establishing the specific limitations on the legal abilities of a ward for whom a limited guardian of the property is appointed, the court shall make specific determinations regarding the capacity of the subject of the proceeding, including but not limited to determining whether the ward retains sufficient capacity to:

1. Appoint an agent to act on his behalf;

2. Enter into contracts;

3. Grant conveyances; or

4. Make gifts of property.

D. If not submitted with the petition or at the hearing, the guardian or limited guardian shall submit a guardianship plan as required by Section 3-120 or 3-122 of this title, or both, as appropriate and a copy of said plan shall be mailed to those persons entitled to notice pursuant to paragraphs 1, 2, 3 and 7 of subsection A of Section 3-110 of this title. The guardianship plan as approved by the court shall be made a part of the order of the court. Said plan may be modified as provided by this act.

E. The court may, in its discretion, make such further orders as the court deems necessary for the best interest of the ward for care of the ward and maintenance or management of the ward's property, including but not limited to:

1. Order the guardian of the property of the ward to provide the ward from such property with specified amounts of money, monthly, or from time to time, which the ward may dispose of as the ward shall determine and for which, other than a showing of the amounts paid to the ward, the guardian will not be required to account. Such order may be modified upon application of the guardian or any interested person, and a hearing conducted thereon, with notice of the hearing on such application to be given to those persons entitled to notice pursuant to paragraphs 1, 2, 3 and 7 of subsection A of Section 3-110 of this title and shall be given as provided in Section 3-110 of this title; and

2. The amount of the bond as required by Section 4-201 of this title.

SECTION 3. This act shall become effective November 1, 2021.

Passed the House of Representatives the 19th day of May, 2021.

Presiding Officer of the House
of Representatives

Passed the Senate the 24th day of May, 2021.

Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____

Approved by the Governor of the State of Oklahoma this _____

day of _____, 20_____, at _____ o'clock _____ M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____