An Act relating to absentee ballots; defining term; prohibiting absentee ballot harvesting in certain elections; providing exceptions; amending 26 O.S. 2011, Sections 14-105, as amended by Section 4, Chapter 200, O.S.L. 2013, 14-106, 14-107, as amended by Section 2, Chapter 457, O.S.L. 2019, 14-108, as amended by Section 2, Chapter 237, O.S.L. 2016, Section 1, Chapter 26, O.S.L. 2012, as last amended by Section 1, Chapter 333, O.S.L. 2015, 14-110.1, as last amended by Section 5, Chapter 200, O.S.L. 2013, 14-111.1, 14-112.1, 14-113.2, 14-115, 14-115.1 and 14-118.1, as amended by Section 9, Chapter 200, O.S.L. 2013 (26 O.S. Supp. 2019, Sections 14-105, 14-107, 14-108, 14-108.1, 14-110.1 and 14-118.1), which relate to absentee voting; prohibiting application for or transmission of an absentee ballot for another person; prohibiting completion of application for another person; providing exception; clarifying language; requiring certain accompanying items with absentee ballot; modifying requirements for return of absentee ballot; modifying delivery methods; modifying definitions; conforming language; requiring investigation of certain violations; modifying exception to certain notification requirements; modifying requirements for service as certain agent; modifying requirements for completion of certain ballot; authorizing certain assistance by absentee voting board members; establishing violations for certain coercion; adding requirements for certain agent; modifying requirements for establishment of voter incapacity; modifying format; amending 26 O.S. 2011, Sections 14-137 and 14-140, which relate to the Uniform Military and Overseas Voters Act; modifying definition; modifying assignment of location for voting; establishing felony offense; establishing
misdemeanor offense; clarifying language; making language gender neutral; updating statutory language; providing for recodification; providing for codification; and declaring an emergency.

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 14-101.1 of Title 26, unless there is created a duplication in numbering, reads as follows:

A. For the purposes of this section, “absentee ballot harvesting” means:

1. Collecting or obtaining an absentee ballot from another person with the intent to submit, transmit or return the ballot to election officials on behalf of that person;

2. Submitting, returning or transmitting an absentee ballot to election officials on behalf of another person;

3. Collecting or obtaining an absentee ballot from another person under a false pretense or promise of transmitting, returning or submitting it to election officials on behalf of that person;

4. Requesting or receiving an absentee ballot on behalf of another person;

5. Partially or fully completing an application for absentee ballots on behalf of another person without that person’s prior consent; or
6. Notarizing or witnessing more absentee ballots than allowed by law.

B. Absentee ballot harvesting shall be unlawful at any election conducted by a county election board, the State Election Board or any political subdivision of this state; provided, the following shall not be deemed to be ballot harvesting:

1. An assistant or agent acting on behalf of a physically incapacitated or emergency incapacitated voter as described in Title 26 of the Oklahoma Statutes;

2. An absentee voting board member, as described in Title 26 of the Oklahoma Statutes, who assists a voter confined to a nursing home or veterans center pursuant to law;

3. An employee of the Federal Voting Assistance Program, the United States Department of Defense or the Oklahoma National Guard who assists a uniformed-services voter in returning or transmitting an absentee ballot;

4. A spouse, relative in the first or second degree or cohabitant of a voter who forwards an absentee ballot to the voter when absent from the home;

5. A voter’s spouse who, with the voter’s consent, returns the voter’s absentee ballot by mail; or

6. An official action by an election official that is required or authorized by law.
SECTION 2. AMENDATORY 26 O.S. 2011, Section 14-105, as amended by Section 4, Chapter 200, O.S.L. 2013 (26 O.S. Supp. 2019, Section 14-105), is amended to read as follows:

Section 14-105. A. Any registered voter may apply for an absentee ballot in person at the county election board, by United States mail, by telegraph, by facsimile device as defined in Section 1862 of Title 21 of the Oklahoma Statutes or by a means of electronic communication designated by the Secretary of the State Election Board.

B. The Secretary of the State Election Board shall prescribe a form to be used for the application, although any application setting forth substantially the same facts shall be valid.

C. 1. No person shall apply for an absentee ballot on behalf of another person by any means described in subsection A of this section, nor shall any person submit or transmit an absentee ballot application on behalf of another person.

2. No person other than the applicant shall complete any portion of the application; provided, an applicant may request assistance to complete the application, and in such case the name and address of residence of the person providing assistance shall be provided on the application.

SECTION 3. AMENDATORY 26 O.S. 2011, Section 14-106, is amended to read as follows:
Section 14-106. When such an application for an absentee ballot as described in Section 14-105 of this title is received by the secretary of a county election board, it shall be his the secretary's duty to verify the registration of said the voter and to transmit, by United States mail, the ballots which said the voter has requested and is entitled to receive.

SECTION 4. AMENDATORY 26 O.S. 2011, Section 14-107, as amended by Section 2, Chapter 457, O.S.L. 2019 (26 O.S. Supp. 2019, Section 14-107), is amended to read as follows:

Section 14-107. A. Absentee ballots, as described in Section 14-105 of this title, must be accompanied by:

1. A plain opaque envelope in which voted ballots must be placed by the voter;
2. An envelope bearing an affidavit stating that the voter is qualified to vote and that the voter has personally marked the ballots, and has not exhibited the marked ballots to any other person;
3. A return envelope addressed to the secretary of the county election board; and
4. A notice that it is illegal for a Notary Public in this state to charge a fee to notarize an official absentee ballot affidavit; and
5. Such other information the Secretary of the State Election Board deems necessary.
B. A voter may take a digital image or photograph of his or her marked absentee ballot and distribute or share the image via social media or by any other means if performed voluntarily and in compliance with state and federal law. Testimony as to how any individual cast his or her absentee ballot, whether or not said absentee ballot was lawfully cast, shall not be admissible as evidence in any court of law or public hearing in this state.

SECTION 5. AMENDATORY 26 O.S. 2011, Section 14-108, as amended by Section 2, Chapter 237, O.S.L. 2016 (26 O.S. Supp. 2019, Section 14-108), is amended to read as follows:

Section 14-108. A. The 1. Upon receipt of an absentee ballot requested pursuant to Section 14-105 of this title, the voter shall be required to mark the ballot in ink or other manner as prescribed by the Secretary of the State Election Board; seal the ballots in the plain opaque envelope; fill out completely and sign the affidavit, such signature to be notarized at no charge by a notary public; seal the plain opaque envelope inside the envelope bearing the affidavit and.

2. The voter to whom the absentee ballot was issued shall return both envelopes, sealed inside the return envelope to the county election board by hand delivery, one of the following methods:

a. United States mail or by a
b. a private mail or delivery service, provided such service has delivery documentation, to the county election board, or

c. in-person delivery as described in subsection C of this section.

3. No person other than the voter to whom the absentee ballot was issued may return or submit the absentee ballot to the county election board; provided, however, the spouse of the voter may return the voter’s absentee ballot by mail with the permission of the voter.

B. No person who is a candidate for an office on the ballot, or who is the chair or treasurer of the campaign of such a candidate for office, or who is related within the third degree of consanguinity or affinity to a candidate on the ballot, may notarize or witness any absentee ballot affidavit.

B. The ballot shall not be notarized by any person whose name appears on the ballot as a candidate or by any campaign chairperson or campaign treasurer for a candidate whose name appears on the ballot.

C. Any 1. A voter who may hand deliver his or her absentee ballot accompanied by the notarized absentee ballot affidavit in person to the county election board as provided in subsection A of this section and shall provide proof of identity to the secretary of the county election board and shall hand deliver
the ballot no later than the end of regular business hours on the
day prior to the date of the election or a designee at the time of
delivery.

2. Hand delivery of an absentee ballot shall be allowed only
during the regular business hours of the county election board but
shall not be allowed on the date of the election.

3. For purposes of this section, subsection:
   a. “proof of identity” shall have the same meaning means
      a photo identification document or voter
      identification card as used described in subsection A
      of Section 7-114 of this title, and
   b. “regular business hours” means the time the office is
      open for business to the general public on a given
day.

SECTION 6. AMENDATORY Section 1, Chapter 26, O.S.L.
2012, as last amended by Section 1, Chapter 333, O.S.L. 2015 (26
O.S. Supp. 2019, Section 14-108.1), is amended to read as follows:

Section 14-108.1. A. Neither a notary public nor an agent
working on behalf of a notary public shall be authorized to:

1. Request absentee ballots on behalf of a voter other than
   himself or herself;

2. Assist a voter in requesting absentee ballots, other than
   for himself or herself or a member of his or her household;
3. Receive by mail an absentee ballot on behalf of a voter, other than for himself or herself or a member of his or her household; or

4. Submit a completed absentee ballot on behalf of a voter other than for himself or herself.

B. A notary public shall maintain a log of all absentee ballot affidavits that he or she notarizes for a period of at least two (2) years after the date of the election.

C. 1. A notary public shall be authorized to notarize a maximum of twenty absentee ballot affidavits for a single election, except as provided in paragraphs 2 and 3 of this subsection.

2. A notary public may be authorized to notarize more than twenty absentee ballot affidavits with the written approval of the secretary of the county election board.

3. The limitation required by this subsection shall not apply to the notarizing of absentee ballot affidavits at the place of business of a notary public that is open to the general public during the normal business hours of the notary public; provided, however, such limitations shall apply to any agency or other entity that provides voter registration services as required by the National Voter Registration Act of 1993 or by Sections 4-109.2 and 4-109.3 of this title.

D. 1. If more than ten absentee ballots for a single election are requested to be mailed to a single mailing address, the
secretary of the county election board shall immediately notify the district attorney for that county and the Secretary of the State Election Board.

2. Upon receipt of such notification, the district attorney, or a member of law enforcement designated by the district attorney, shall investigate any possible criminal violation of the law related to the absentee ballot requests.

3. Provided, this notification requirement shall not apply to requests for absentee ballots to be sent to the addresses of nursing homes, veterans centers, medical facilities, multiunit housing, addresses of installations of the Armed Forces of the United States where uniformed or overseas voters as defined by the Uniformed and Overseas Citizens Absentee Voting Act are stationed or other locations authorized in writing by the Secretary of the State Election Board.

E. The provisions of this section shall only apply to an election conducted by a county election board, or the State Election Board or a political subdivision of this state.

SECTION 7. AMENDATORY 26 O.S. 2011, Section 14-110.1, as last amended by Section 5, Chapter 200, O.S.L. 2013 (26 O.S. Supp. 2019, Section 14-110.1), is amended to read as follows:

Section 14-110.1. A. A registered voter who swears or affirms that the voter is physically unable to vote in person at the precinct on the day of the election because the voter is:
1. Physically incapacitated; or
2. Charged with the care of another person who is physically incapacitated and who cannot be left unattended; may apply for an absentee ballot.

B. Such applications may be made by United States mail, by facsimile device as defined by Section 1862 of Title 21 of the Oklahoma Statutes or by a means of electronic communication designated by the Secretary of the State Election Board.

C. Such application may also be made in person at the office of the county election board by an agent of the voter. Such an

1. The agent shall be a person of the voter’s choosing who is at least sixteen (16) years of age and who is not employed by or related within the third degree of consanguinity or affinity to any person whose name appears on the ballot.

2. No person may be the agent for more than one voter at any election; provided, a person may be the agent for more than one first degree relative at an election.

3. The agent shall provide his or her legal name and address of residence to the secretary of the county election board.

D. The Secretary of the State Election Board shall prescribe a form to be used for the application described in this section, although any application setting forth substantially the same facts shall be valid.
SECTION 8. AMENDATORY 26 O.S. 2011, Section 14-111.1, is amended to read as follows:

Section 14-111.1. When such an application for an absentee ballot, as described in Section 14-110.1 of this title, is received by the secretary of a county election board, it shall be his or her duty to verify the registration of the voter and to transmit, by United States mail, the ballots which the voter has requested and is entitled to receive.

SECTION 9. AMENDATORY 26 O.S. 2011, Section 14-112.1, is amended to read as follows:

Section 14-112.1. The ballots must be accompanied by:

1. A plain opaque envelope in which voted ballots must be placed by the voter;

2. An envelope bearing an affidavit stating that the voter is qualified to vote, that the voter has personally marked the ballots or has directed a person chosen by the voter to mark the ballots in accordance with the provisions of Section 7-123.3 of this title; and

3. A return envelope addressed to the secretary of the county election board; and

4. Such other information the Secretary of the State Election Board deems necessary.

SECTION 10. AMENDATORY 26 O.S. 2011, Section 14-113.2, is amended to read as follows:
Section 14-113.2.  A.  1. The voter shall be responsible for marking the ballots or directing a person chosen by the voter to mark the ballots in accordance with the provisions of Section 7-123.3 of this title and as prescribed by the Secretary of the State Election Board;

2. The voter shall seal the ballots in the plain opaque envelope;

3. The voter shall fill out completely and sign the affidavit or direct a person chosen by the voter to sign the affidavit, such whose name and address of residence shall be noted on the affidavit;

4. The voter’s signature to shall be witnessed by two persons, who did not sign the affidavit, whose who shall be at least eighteen (18) years of age and citizens of the United States. The signature, printed name and address of residence of each witness shall appear on the affidavit; and

5. The voter shall seal the plain opaque envelope inside the envelope bearing the affidavit and return both envelopes, sealed inside the return envelope, by United States mail or by a private mail service, provided such service has delivery documentation, to the county election board.

B.  1. No person, except members of absentee voting boards, shall witness the signature of more than five affidavits of persons who swear they are physically incapacitated and unable to vote in person at their precinct on election day.
2. No person who is a candidate for an office on the ballot or who is related within the third degree of consanguinity or affinity to a candidate on the ballot may witness any absentee ballot affidavit.

SECTION 11. AMENDATORY 26 O.S. 2011, Section 14-115, is amended to read as follows:

Section 14-115. A. If the secretary of a county election board receives a request from an incapacitated elector confined to a nursing facility, as defined in Section 1-1902 of Title 63 of the Oklahoma Statutes, or a veterans center established pursuant to Title 72 of the Oklahoma Statutes within the county of the jurisdiction of the secretary, the secretary shall cause to be implemented the following procedures:

1. On the Thursday, Friday, Saturday or Monday preceding the election, the absentee voting board shall deliver to each registered voter who is confined to a nursing facility, as defined in Section 1-1902 of Title 63 of the Oklahoma Statutes, or a veterans center established pursuant to Title 72 of the Oklahoma Statutes and who requested ballots for an incapacitated voter said the ballots and materials as may be necessary to vote same.

2. The voter must mark the ballots in the manner hereinbefore provided in the presence of the absentee voting board, but in such a manner as to make it impossible for any person other than the voter to ascertain how said the ballots are marked. Insofar as is
possible, the voting procedure shall be the same as if the voter
were casting a vote in person at a precinct.

3. The voter shall then seal the ballots in the plain
opaque envelope and shall seal the plain opaque envelope in the
envelope bearing an affidavit. The voter must complete the
affidavit, and the signature of the voter on same must be witnessed
by both members of the absentee voting board.

4. The envelope bearing an affidavit then must be sealed in the
return envelope, which shall be returned by the absentee voting
board to the secretary of the county election board on the same day
said the affidavit was executed.

5. Ballots cast in the manner shall be counted in the same
manner as regular mail absentee ballots.

B. The voter may request the assistance of the absentee voting
board members to mark a ballot, complete the affidavit or seal the
envelopes as described in this section.

C. 1. An administrator or employee of a nursing facility or
veterans center who attempts to coerce or influence the vote of a
person residing in or confined to that facility shall be deemed to
be in violation of Section 16-113 of this title.

2. An administrator or employee of a nursing facility or
veterans center who prevents or attempts to prevent a person
residing in or confined to that facility from voting pursuant to
this section shall be deemed to be in violation of Section 16-109 of this title.

SECTION 12. AMENDATORY 26 O.S. 2011, Section 14-115.1, is amended to read as follows:

Section 14-115.1.  A.  A registered voter who becomes incapacitated after 5:00 p.m. on Tuesday preceding an election and who is unable to vote in person at the appropriate precinct on the day of the election may make a written request application for an absentee ballot. The request application shall be signed by the voter, or signed by a witness at the voter’s direction if the voter is unable to sign his or her name, and shall be transmitted to the secretary of the county election board.

B. The person transmitting said request the application on behalf of the voter may be anyone of the voter’s choosing at least sixteen (16) years of age; provided, said the person is not employed by nor related within the third degree of consanguinity or affinity to any person whose name appears on the ballot. The person becomes the voter’s agent for purposes of voting by absentee ballot. The agent shall provide his or her legal name and address of residence to the secretary of the county election board.

C. The voter’s request application must be accompanied by a sworn statement by a duly licensed physician. Expected or likely confinement for childbirth on election day is sufficient cause to entitle a voter to vote absentee pursuant to this section. The
statement must attest to the fact that the voter is in fact unable
to vote in person at the appropriate precinct on the day of the
election because of a physical incapacity and that said physical
incapacity originated after 5:00 p.m. on Tuesday preceding an
election, and that the voter is of sound mind. The Secretary of the
State Election Board may prescribe forms to be used for the
physician’s statement. For the purposes of this subsection, an
expected or likely confinement related to childbirth shall qualify
as physical incapacitation under this section and is sufficient
cause to entitle a voter to vote absentee pursuant to the provisions
of this section.

D. 1. Upon receipt of the voter’s request application and
accompanying sworn physician’s statement, the secretary of the
county election board shall issue to the voter’s agent the
appropriate ballots and envelopes required for voting by
incapacitated voters. The ballots must be returned by the agent to
the secretary of the county election board no later than 7:00 p.m.
on the day of the election. No person may be the agent for more
than one voter at any election. Upon return of the absentee
ballots, the secretary of the county election board shall cause said
the ballots to be processed in the same manner as is prescribed for
other absentee ballots.
SECTION 13. AMENDATORY 26 O.S. 2011, Section 14-118.1, as amended by Section 9, Chapter 200, O.S.L. 2013 (26 O.S. Supp. 2019, Section 14-118.1), is amended to read as follows:

Section 14-118.1. A. In the event that an absentee ballot mailed to a voter identified by Section 14-142 of this title or otherwise transmitted to a voter as provided by law cannot be received by the voter, voted and returned to the secretary of the county election board in the county of the residence of the voter in time to be counted, the secretary shall be authorized to transmit a ballot for federal offices by facsimile device as defined in Section 1862 of Title 21 of the Oklahoma Statutes, provided that the voter has made a timely application for an absentee ballot. The voter may transmit by facsimile device the voted ballot only to the location designated by the Secretary of the State Election Board.

B. Regular absentee ballots also shall be mailed to the voter, and if the regular ballots are returned by the voter and received by the secretary of the county election board in time to be counted, the ballot transmitted by facsimile device shall not be counted.

C. The Secretary of the State Election Board shall promulgate rules setting forth procedures and prescribe appropriate forms to transmit and to receive absentee ballots pursuant to this section.

SECTION 14. AMENDATORY 26 O.S. 2011, Section 14-137, is amended to read as follows:
Section 14-137. As used in the Uniform Military and Overseas Voters Act:

1. “Covered voter” means:
   a. a uniformed-service voter or an overseas voter who is registered to vote in this state,
   b. a uniformed-service voter defined in subparagraph a of paragraph 9 of this section, whose voting residence is in this state and who otherwise satisfies this state’s voter eligibility requirements,
   c. an overseas voter who, before leaving the United States, was last eligible to vote in this state and, except for a state residency requirement, otherwise satisfies this state’s voter eligibility requirements,
   d. an overseas voter who, before leaving the United States, would have been last eligible to vote in this state had the voter then been of voting age and, except for a state residency requirement, otherwise satisfies this state’s voter eligibility requirements, or
   e. an overseas voter who was born outside the United States, is not described in subparagraph c or d of this paragraph, and, except for a state residency requirement, otherwise satisfies this state’s voter eligibility requirements, if:
(1) the last place where a parent or legal guardian of the voter was, or under this act the Uniform Military and Overseas Voters Act would have been, eligible to vote before leaving the United States is within this state, and

(2) the voter has not previously registered to vote in any other state, and

(3) the voter has not previously registered to vote or voted in a nation other than the United States;

2. “Dependent” means an individual recognized as a dependent by a uniformed service;

3. “Federal postcard application” means the application prescribed under Section 101(b)(2) of the Uniformed and Overseas Citizens Absentee Voting Act, 42 U.S.C. Section 1973ff(b)(2);


5. “Military-overseas ballot” means:
   a. a federal write-in absentee ballot,
   b. a ballot specifically prepared or distributed for use by a covered voter in accordance with this act the Uniform Military and Overseas Voters Act, or
c. a ballot cast by a covered voter in accordance with this act the Uniform Military and Overseas Voters Act;

6. “Overseas voter” means a United States citizen who is outside the United States;

7. “State” means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands or any territory or insular possession subject to the jurisdiction of the United States;

8. “Uniformed service” means:
   a. active and reserve components of the Army, Navy, Air Force, Marine Corps or Coast Guard of the United States,
   b. the Merchant Marine, the commissioned corps of the Public Health Service or the commissioned corps of the National Oceanic and Atmospheric Administration of the United States, or
   c. the National Guard and state militia;

9. “Uniformed-service voter” means an individual who is qualified to vote and is:
   a. a member of the active or reserve components of the Army, Navy, Air Force, Marine Corps or Coast Guard of the United States who is on active duty,
   b. a member of the Merchant Marine, the commissioned corps of the Public Health Service or the
commissioned corps of the National Oceanic and Atmospheric Administration of the United States,
c. a member on activated status of the National Guard or state militia, or
d. a spouse or dependent of a member referred to in this paragraph; and

10. “United States”, used in the territorial sense, means the several states, the District of Columbia, Puerto Rico, the United States Virgin Islands, and any territory or insular possession subject to the jurisdiction of the United States.

SECTION 15. AMENDATORY 26 O.S. 2011, Section 14-140, is amended to read as follows:

Section 14-140. In registering to vote, an overseas voter who is eligible to vote in this state shall use and must be assigned to the voting precinct of the address of the last place of residence of the voter in this state, or, in the case of a voter described by subparagraph c of paragraph 1 of Section 2 of this act 14-137 of this title, the address of the last place of residence in this state of the parent or legal guardian of the voter. If that address is no longer a recognized residential address, the voter must be assigned an address to the polling place assigned to that geographic area for voting purposes.
SECTION 16. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 16-104.1 of Title 26, unless there is created a duplication in numbering, reads as follows:

A. It shall be a felony for any person to engage in or to conspire to engage in absentee ballot harvesting as defined in Section 1 of this act involving ten (10) or more absentee ballots at any election conducted in this state by a county election board, the State Election Board or a political subdivision of this state.

B. It shall be a felony for any person to direct or cause another person or persons to commit acts of ballot harvesting involving a total of ten (10) or more absentee ballots at any election conducted in this state by a county election board, the State Election Board or a political subdivision of this state.

SECTION 17. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 16-126 of Title 26, unless there is created a duplication in numbering, reads as follows:

A. It shall be a misdemeanor for any person to engage in or to conspire to engage in absentee ballot harvesting as defined in Section 1 of this act involving fewer than ten (10) absentee ballots at any election conducted in this state by a county election board, the State Election Board or a subdivision of this state.

B. It shall be a misdemeanor for any person to direct or cause another person or persons to commit acts of ballot harvesting involving a total of fewer than ten (10) absentee ballots at any
election conducted in this state by a county election board, the
State Election Board or a subdivision of this state.

SECTION 18. RECODIFICATION 26 O.S. 2011, Section 14-118,
as amended by Section 8, Chapter 200, O.S.L. 2013 (26 O.S. Supp.
2019, Section 14-118), shall be recodified as Section 14-142.1 of
Title 26 of the Oklahoma Statutes, unless there is created a
duplication in numbering.

SECTION 19. RECODIFICATION 26 O.S. 2011, Section 14-
118.1, as amended by Section 9, Chapter 200, O.S.L. 2013 (26 O.S.
Supp. 2019, Section 14-118.1) and by Section 13 of this act, shall
be recodified as Section 14-142.2 of Title 26 of the Oklahoma
Statutes, unless there is created a duplication in numbering.

SECTION 20. It being immediately necessary for the preservation
of the public peace, health or safety, an emergency is hereby
declared to exist, by reason whereof this act shall take effect and
be in full force from and after its passage and approval.
Passed the Senate the 11th day of March, 2020.

Presiding Officer of the Senate

Passed the House of Representatives the ___ day of ________, 2020.

Presiding Officer of the House of Representatives