

FLOOR AMENDMENT  
HOUSE OF REPRESENTATIVES  
State of Oklahoma

SPEAKER:

CHAIR:

I move to amend SB1779 \_\_\_\_\_  
Of the printed Bill  
Page \_\_\_\_\_ Section \_\_\_\_\_ Lines \_\_\_\_\_  
Of the Engrossed Bill

By striking the Title, the Enacting Clause, the entire bill, and by inserting in lieu thereof the following language:

**AMEND TITLE TO CONFORM TO AMENDMENTS**

Adopted: \_\_\_\_\_

Amendment submitted by: Charles McCall \_\_\_\_\_

\_\_\_\_\_  
Reading Clerk

1 STATE OF OKLAHOMA

2 2nd Session of the 57th Legislature (2020)

3 FLOOR SUBSTITUTE  
4 FOR ENGROSSED

5 SENATE BILL NO. 1779

By: Treat of the Senate

and

McCall of the House

7  
8 FLOOR SUBSTITUTE

9 An Act relating to elections; defining term;  
10 prohibiting absentee ballot harvesting in certain  
11 elections; providing exceptions; amending 26 O.S.  
12 2011, Section 14-103, which relates to absentee  
13 voting; modifying deadline for requesting absentee  
14 ballots; providing for alternative procedures for  
15 absentee voting for certain elections; authorizing  
16 administrative leave for certain purposes; providing  
17 for additional polling places for certain precincts;  
18 authorizing combining multiple precincts for certain  
19 elections; requiring Secretary of the State Election  
20 Board to develop certain protocols; amending Section  
21 1, Chapter 26, O.S.L. 2012, as last amended by  
22 Section 1, Chapter 333, O.S.L. 2015 and 26 O.S. 2011,  
23 Sections 14-115, 14-115.1 and 14-123, as amended by  
24 Section 10, Chapter 200, O.S.L. 2013 (26 O.S. Supp.  
2019, Sections 14-108.1 and 14-123), which relate to  
absentee voting; modifying notary public  
restrictions; requiring investigation of certain  
violations; authorizing certain assistance by  
absentee voting board members; establishing  
violations for certain coercion; modifying deadline  
for requesting absentee ballot for certain registered  
voters; authorizing county election board to  
designate special absentee voting boards;  
establishing felony offense; establishing misdemeanor  
offense; providing for noncodification; providing for  
codification; and declaring an emergency.

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

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

5 A. For the purposes of this section, "absentee ballot  
6 harvesting" means:

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

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

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

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

17 5. Partially or fully completing an application for an absentee  
18 ballot on behalf of another person without that person's prior  
19 consent; or

20 6. Notarizing or witnessing more absentee ballots than allowed  
21 by law.

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

3 1. A voter's assistant or agent acting pursuant to law as  
4 otherwise allowed by Title 26 of the Oklahoma Statutes;

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

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

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

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

17 6. An official action by an election official that is required  
18 or authorized by law.

19 SECTION 2. AMENDATORY 26 O.S. 2011, Section 14-103, is  
20 amended to read as follows:

21 Section 14-103. Absentee ballots must be requested no later  
22 than 5:00 p.m. on ~~Wednesday~~ the second business day preceding the  
23 first day of in-person absentee voting for an election.

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1 SECTION 3. NEW LAW A new section of law not to be  
2 codified in the Oklahoma Statutes reads as follows:

3 The following alternative procedures for absentee voting, as set  
4 forth in Sections 3 through 7 of this act, shall be in place for  
5 elections to be held during calendar year 2020 and shall supersede  
6 such procedures that are provided by statute.

7 A. Subject to available funding, and due to anticipated  
8 increased election administration costs related to the COVID-19  
9 pandemic, the Secretary of the State Election Board is authorized to  
10 use federal or state funds under the control of the State Election  
11 Board to reimburse county election boards for election-related  
12 expenses at the Primary Election, Runoff Primary Election and  
13 General Election to be conducted in calendar year 2020; provided  
14 that such reimbursements are only for expenses that exceed those  
15 incurred for the equivalent election in calendar year 2016. Such  
16 expenses may include:

- 17 1. Postage for outgoing absentee ballots;
- 18 2. Additional absentee voting boards or precinct officials;
- 19 3. Additional personnel expenses related to processing absentee  
20 ballot requests, processing and counting absentee ballots or to  
21 assist with in-person absentee voting; or
- 22 4. Other election administration expenses deemed appropriate by  
23 the Secretary of the State Election Board.

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1 B. Subject to available funding, the Secretary of the State  
2 Election Board is authorized to expend federal or state funds under  
3 the control of the State Election Board to purchase the following  
4 items for use by county election boards:

5 1. Personal protective equipment for use by election officials;

6 2. Disinfectant supplies or services for use at in-person  
7 Election Day voting locations and in-person absentee voting  
8 locations;

9 3. Education materials regarding social distancing in-person  
10 voting procedures; or

11 4. Other items related to the COVID-19 pandemic that are deemed  
12 appropriate and necessary by the Secretary of the State Election  
13 Board.

14 C. Nothing in this section shall be deemed to waive the regular  
15 or emergency procedures for the expenditure of funds provided in  
16 state or federal law or regulations.

17 SECTION 4. NEW LAW A new section of law not to be  
18 codified in the Oklahoma Statutes reads as follows:

19 A. For calendar year 2020, full-time and part-time state  
20 employees may be granted up to three (3) days of paid administrative  
21 leave for the purposes of serving as a precinct official, absentee  
22 voting board member or other election worker authorized by law, if  
23 the employee is qualified by law to serve in such position. Such  
24 administrative leave shall require the written approval of the

1 employee's appointing authority. An employee granted administrative  
2 leave as described herein shall not be eligible to receive the daily  
3 payment provided to precinct officials or absentee voting board  
4 members.

5 B. For calendar year 2020, full-time and part-time employees of  
6 a political subdivision of this state may be granted up to three (3)  
7 days of paid administrative leave for the purposes of serving as a  
8 precinct official, absentee voting board member or other election  
9 worker authorized by law, if the employee is qualified by law to  
10 serve in such position. Such administrative leave shall require the  
11 written approval of the employee's appointing authority. An  
12 employee granted administrative leave as described herein shall not  
13 be eligible to receive the daily payment provided to precinct  
14 officials or absentee voting board members.

15 SECTION 5. NEW LAW A new section of law not to be  
16 codified in the Oklahoma Statutes reads as follows:

17 A. For elections to be held during calendar year 2020, any  
18 state agency, board or commission that owns or leases a facility  
19 located in or near a precinct without a suitable polling place  
20 available, shall make space within the facility available for use as  
21 a polling place upon the written request of the secretary of the  
22 county election board.

23 B. For elections to be held during calendar year 2020, any  
24 political subdivision of this state that held an election that was

1 conducted by a county election board on or after January 1, 2018,  
2 and that owns, rents or leases a facility located in or near a  
3 precinct without a suitable polling place available, shall make  
4 space within the facility available for use as a polling place upon  
5 the written request of the secretary of the county election board.

6 C. For facilities described in subsection A or B of this  
7 section, a reasonable maintenance or cleaning fee may be charged to  
8 the county election board for use of the facility as a polling  
9 place.

10 SECTION 6. NEW LAW A new section of law not to be  
11 codified in the Oklahoma Statutes reads as follows:

12 For elections conducted during calendar year 2020, in the event  
13 of a shortage of suitable polling places or a shortage of available  
14 precinct officials, a secretary of the county election board shall  
15 have the authority to combine multiple precincts into a single  
16 polling place. Such action shall require the written permission of  
17 the Secretary of the State Election Board. All voters in the  
18 affected precincts shall be notified of the changes by the secretary  
19 of the county election board in writing, and written notices shall  
20 be posted at each election at the previous polling place for each  
21 affected precinct.

22 In the event precincts are combined into a single polling place  
23 as described in this section, the precincts may be treated in the  
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1 same manner as subprecincts described in subsection B of Section 3-  
2 119 of Title 26 of the Oklahoma Statutes.

3 SECTION 7. NEW LAW A new section of law not to be  
4 codified in the Oklahoma Statutes reads as follows:

5 A. The Secretary of the State Election Board shall develop  
6 protocols for the following to be used in the event of an emergency  
7 declaration related to the COVID-19 pandemic:

8 1. Social distancing and disinfecting in-person absentee voting  
9 sites and Election Day polling places; and

10 2. Handling mail and absentee ballots for processing and  
11 counting by county election officials.

12 B. The protocols developed in compliance with this section  
13 shall be consistent with, as much as is practicable, recommendations  
14 of the Centers for Disease Control and Prevention (CDC).

15 SECTION 8. AMENDATORY Section 1, Chapter 26, O.S.L.  
16 2012, as last amended by Section 1, Chapter 333, O.S.L. 2015 (26  
17 O.S. Supp. 2019, Section 14-108.1), is amended to read as follows:

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

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

22 2. Assist a voter in requesting absentee ballots, other than  
23 for himself or herself or a member of his or her household;

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

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

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

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

12           2. A notary public may be authorized to notarize more than  
13 twenty absentee ballot affidavits at a single election with the  
14 written approval of the secretary of the county election board.  
15 Such approval shall apply for affidavits notarized within the county  
16 served by the county election board secretary.

17           3. The limitation required by this subsection shall not apply  
18 to the notarizing of ~~ballots~~ absentee ballot affidavits at the place  
19 of business of a notary public that is open to the general public  
20 during the normal business hours of the notary public; ~~provided,~~  
21 ~~however, such limitations shall apply to any agency or other entity~~  
22 ~~that provides voter registration services as required by the~~  
23 ~~National Voter Registration Act of 1993 or by Sections 4-109.2 and~~  
24 ~~4-109.3 of this title.~~

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

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

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

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

21 SECTION 9. AMENDATORY 26 O.S. 2011, Section 14-115, is  
22 amended to read as follows:

23 Section 14-115. A. If the secretary of a county election board  
24 receives a request from an incapacitated elector confined to a

1 nursing facility, as defined in Section 1-1902 of Title 63 of the  
2 Oklahoma Statutes, or a veterans center established pursuant to  
3 Title 72 of the Oklahoma Statutes within the county of the  
4 jurisdiction of the secretary, the secretary shall cause to be  
5 implemented the following procedures:

6 1. On the Thursday, Friday, Saturday or Monday preceding the  
7 election, the absentee voting board shall deliver to each registered  
8 voter who is confined to a nursing facility, as defined in Section  
9 1-1902 of Title 63 of the Oklahoma Statutes, or a veterans center  
10 established pursuant to Title 72 of the Oklahoma Statutes and who  
11 requested ballots for an incapacitated voter ~~said~~ the ballots and  
12 materials as may be necessary to vote same.

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

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

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

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

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

10 C. 1. An administrator or employee of a nursing facility or  
11 veterans center who attempts to coerce or influence the vote of a  
12 person residing in or confined to that facility shall be deemed to  
13 be in violation of Section 16-109 of this title.

14 2. An administrator or employee of a nursing facility or  
15 veterans center who prevents or attempts to prevent a person  
16 residing in or confined to that facility from voting pursuant to  
17 this section shall be deemed to be in violation of Section 16-113 of  
18 this title.

19 SECTION 10. AMENDATORY 26 O.S. 2011, Section 14-115.1,  
20 is amended to read as follows:

21 Section 14-115.1 A registered voter who becomes incapacitated  
22 after 5:00 p.m. ~~on Tuesday preceding an election,~~ the deadline for  
23 requesting an absentee ballot, as provided in Section 14-103 of this  
24 title, and is unable to vote in person at the appropriate precinct

1 on the day of the election may make a written request for an  
2 absentee ballot. The request shall be signed by the voter, or  
3 signed by a witness at the voter's direction if the voter is unable  
4 to sign his or her name, and shall be transmitted to the secretary  
5 of the county election board. The person transmitting ~~said~~ the  
6 request on behalf of the voter may be anyone of the voter's choosing  
7 who is at least sixteen (16) years of age; provided, ~~said~~ the person  
8 is not employed by nor related within the third degree of  
9 consanguinity or affinity to any person whose name appears on the  
10 ballot. The person becomes the voter's agent for purposes of voting  
11 by absentee ballot. The voter's request must be accompanied by a  
12 sworn statement by a duly licensed physician. Expected or likely  
13 confinement for childbirth on election day is sufficient cause to  
14 entitle a voter to vote absentee pursuant to this section. The  
15 statement must attest to the fact that the voter is in fact unable  
16 to vote in person at the appropriate precinct on the day of the  
17 election because of a physical incapacity and that ~~said~~ the physical  
18 incapacity originated after 5:00 p.m. on Tuesday preceding an  
19 ~~election~~ the deadline for requesting an absentee ballot, as provided  
20 in Section 14-103 of this title. Upon receipt of the voter's  
21 request and accompanying sworn statement, the secretary of the  
22 county election board shall issue to the voter's agent the  
23 appropriate ballots and envelopes required for voting by  
24 incapacitated voters. The ballots must be returned by the agent to

1 the secretary of the county election board no later than 7:00 p.m.  
2 on the day of the election. No person may be the agent for more  
3 than one voter at any election. Upon return of the absentee  
4 ballots, the secretary of the county election board shall cause ~~said~~  
5 the ballots to be processed in the same manner as is prescribed for  
6 other absentee ballots.

7 SECTION 11. AMENDATORY 26 O.S. 2011, Section 14-123, as  
8 amended by Section 10, Chapter 200, O.S.L. 2013 (26 O.S. Supp. 2019,  
9 Section 14-123), is amended to read as follows:

10 Section 14-123. A. At ~~10~~ 10:00 a.m. on Thursday preceding the  
11 election, or at such time thereafter as the secretary of the county  
12 election board may desire, the county election board may meet and  
13 publicly remove the outer envelopes from all absentee ballots then  
14 received, examine and remove properly executed affidavits and place  
15 the plain opaque envelopes in a ballot box, locked with three locks.  
16 The procedure shall be repeated until such time as all ballots have  
17 been received. Provided, such procedure may begin at an earlier  
18 date upon the written approval of the Secretary of the State  
19 Election Board.

20 B. 1. The county election board may designate one or more  
21 special absentee voting boards to conduct the removal of outer  
22 envelopes and examination of affidavits described in subsection A of  
23 this section. A special absentee voting board shall consist of two  
24 members, neither of whom shall be of the same political party.

1 Members of a special absentee voting board shall be designated by  
2 the county election board from a list provided by the secretary of  
3 the county election board. Members of a special absentee voting  
4 board shall meet the same eligibility requirements as a precinct  
5 judge or clerk and shall receive the same compensation as a nursing  
6 home absentee voting board.

7 2. The public shall have the right to be present when a special  
8 absentee voting board conducts the removal of outer envelopes and  
9 examination of affidavits, but these duties are not required to be  
10 performed during a public meeting of the county election board.

11 3. A special absentee voting board so designated shall organize  
12 the absentee ballot affidavits they have examined into three groups:

- 13 a. those the special absentee voting board agrees are  
14 properly executed,
- 15 b. those the special absentee voting board agrees are not  
16 properly executed, and
- 17 c. those absentee ballot affidavits about which the  
18 special absentee voting board members do not agree.

19 Each group shall be reported to the county election board at a  
20 public meeting of the board.

21 4. For absentee ballot affidavits that the special absentee  
22 voting board agrees are properly executed, upon approval of the  
23 county election board, the affidavits shall be removed and the plain  
24 opaque envelopes shall be eligible to be counted pursuant to law.

1       5. For absentee ballots that the special absentee voting board  
2 agrees are not properly executed pursuant to law, the county  
3 election board shall review the affidavits and make a determination  
4 as to whether the affidavits should be accepted or rejected pursuant  
5 to law.

6       6. For absentee ballot affidavits on which the special absentee  
7 voting board cannot agree about a properly executed affidavit, the  
8 county election board shall review the affidavits and make a  
9 determination as to whether the affidavits should be accepted or  
10 rejected pursuant to law.

11       C. When an examination of an absentee ballot affidavit is made  
12 to determine whether it has been properly executed, such  
13 determination shall be based only upon the requirements found in  
14 this title for the type of absentee ballot affidavit being examined.  
15 No person making such a determination shall substitute his or her  
16 own personal preference or judgment in place of the requirements  
17 provided by law.

18       SECTION 12.       NEW LAW       A new section of law to be codified  
19 in the Oklahoma Statutes as Section 16-104.1 of Title 26, unless  
20 there is created a duplication in numbering, reads as follows:

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

3 B. It shall be a felony for any person to direct or cause  
4 another person or persons to commit acts of ballot harvesting, as  
5 defined in Section 1 of this act, involving ten or more absentee  
6 ballots at any election conducted in this state by a county election  
7 board, the State Election Board or a political subdivision of this  
8 state.

9 SECTION 13. NEW LAW A new section of law to be codified  
10 in the Oklahoma Statutes as Section 16-126 of Title 26, unless there  
11 is created a duplication in numbering, reads as follows:

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

17 B. It shall be a misdemeanor for any person to direct or cause  
18 another person or persons to commit acts of ballot harvesting, as  
19 defined in Section 1 of this act, involving fewer than ten absentee  
20 ballots at any election conducted in this state by a county election  
21 board, the State Election Board or a subdivision of this state.

22 SECTION 14. It being immediately necessary for the preservation  
23 of the public peace, health or safety, an emergency is hereby  
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1 declared to exist, by reason whereof this act shall take effect and  
2 be in full force from and after its passage and approval.

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