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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2021

A N A C T

RELATING TO ELECTIONS - MAIL BALLOTS

Introduced By: Representatives Tanzi, Ajello, Cassar, Cortvriend, Henries, Batista,
Donovan, Speakman, Felix, and Ranglin-Vassell

Date Introduced: February 26, 2021

Referred To: House State Government & Elections

(Board of Elections)

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 17-20-1, 17-20-1.1, 17-20-2.1, 17-20-2.2, 17-20-6.1, 17-20-14.2,
2 17-20-21, 17-20-22, 17-20-23, 17-20-24.1 and 17-20-30 of the General Laws in Chapter 17-20
3 entitled "Mail Ballots" are hereby amended to read as follows:

4 **17-20-1. Voting by mail ballot.**

5 The electors of this state who, for any of the reasons set forth in § 17-20-2, being otherwise
6 qualified to vote, ~~are unable to vote in person,~~ shall have the right to vote, in the manner and time
7 provided by this chapter, in all general and special elections and primaries, including presidential
8 primaries in this state for electors of president and vice-president of the United States, United States
9 senators in congress, representatives in congress, general officers of the state, senators and
10 representatives in the general assembly for the respective districts in which the elector is duly
11 qualified to vote, and for any other officers whose names appear on the state ballot and for any city,
12 town, ward, or district officers whose names appear on the respective city or town ballots in the
13 ward or district of the city or town in which the elector is duly qualified to vote, and also to approve
14 or reject any proposition of amendment to the Constitution or other propositions appearing on the
15 state, city, or town ballot.

16 **17-20-1.1. Declaration of policy.**

17 Those electors who elect to vote by mail or who are unable to vote in person at the polls
18 for the reasons set forth in § 17-20-2 are entitled to vote in a manner which reasonably guarantees
19 the secrecy of their ballots. The procedures set forth in this chapter are designed to promote the

1 effective exercise of their rights while safeguarding those voters who utilize the mail ballot process
2 from harassment, intimidation, and invasion of privacy. The procedures are intended to prevent
3 misuse of the electoral system by persons who are not eligible to vote by mail ballot. The provisions
4 of this chapter shall be interpreted to effectuate the policies set forth in this section.

5 **17-20-2.1. Requirements for validity of mail ballot and mail ballot applications.**

6 (a) Any legally qualified elector of this state whose name appears upon the official voting
7 list of the city, town, or district of the city or town where the elector is qualified, and who desires
8 to avail himself or herself of the right granted to him or her by the Constitution and declared in this
9 chapter, may obtain from the local board in the city or town ~~an affidavit~~ a form prepared by the
10 secretary of state as prescribed in this section, setting forth the elector's application for a mail ballot.

11 (b) Whenever any person is unable to sign his or her name because of physical incapacity
12 or otherwise, that person shall make his or her mark "X".

13 (c) The application, when duly executed, shall be delivered in person or by mail so that it
14 is received by the local board not later than four o'clock (4:00) p.m. on the twenty-first (21st) day
15 before the day of any election referred to in § 17-20-1.

16 (d) In addition to those requirements set forth elsewhere in this chapter, a mail ballot, in
17 order to be valid, must have been cast in conformance with the following procedures:

18 (1) All mail ballots issued pursuant to subdivision 17-20-2(1) shall be mailed to the elector
19 at the Rhode Island address provided by the elector on the application. In order to be valid, the
20 voter must affix his or her signature on all certifying envelopes containing a voted ballot ~~must be~~
21 ~~made before a notary public or before two (2) witnesses who shall set forth their addresses on the~~
22 ~~form.~~

23 (2) All applications for mail ballots pursuant to § 17-20-2(2) must state under oath the
24 name and location of the hospital, convalescent home, nursing home, or similar institution where
25 the elector is confined. All mail ballots issued pursuant to subdivision 17-20-2(2) shall be delivered
26 to the elector at the hospital, convalescent home, nursing home, or similar institution where the
27 elector is confined; and the ballots shall be voted and witnessed in conformance with the provisions
28 of § 17-20-14.

29 (3) All mail ballots issued pursuant to subdivision 17-20-2(3) shall be mailed to the address
30 provided by the elector on the application or sent to the board of canvassers in the city or town
31 where the elector maintains his or her voting residence. In order to be valid, the voter must affix
32 his or her signature ~~of the elector~~ on the certifying envelope containing voted ballots ~~does not need~~
33 ~~to be notarized or witnessed.~~ Any voter qualified to receive a mail ballot pursuant to subdivision
34 17-20-2(3) shall also be entitled to cast a ballot pursuant to the provisions of United States Public

1 Law 99-410 ("UOCAVA Act").

2 (4) All mail ballots issued pursuant to subdivision 17-20-2(4) may be mailed to the elector
3 at the address within the United States provided by the elector on the application or sent to the
4 board of canvassers in the city or town where the elector maintains his or her voting residence. In
5 order to be valid, the voter must affix his or her signature on all certifying envelopes containing a
6 voted ballot ~~must be made before a notary public, or other person authorized by law to administer~~
7 ~~oaths where signed, or where the elector voted, or before two (2) witnesses who shall set forth their~~
8 ~~addresses on the form~~. In order to be valid, all ballots sent to the elector at the board of canvassers
9 must be voted in conformance with the provisions of § 17-20-14.2.

10 (e) Any person knowingly and willfully making a false application or certification, or
11 knowingly and willfully aiding and abetting in the making of a false application or certification,
12 shall be guilty of a felony and shall be subject to the penalties provided for in § 17-26-1.

13 (f) In no way shall a mail ballot application be disqualified if the voter's circumstances
14 change between the time of making the application and voting his or her mail ballot as long as voter
15 remains qualified to receive a mail ballot under the provisions of § 17-20-2. The local board of
16 canvassers shall provide the state board of elections with written notification of any change in
17 circumstances to a mail ballot voter.

18 **17-20-2.2. Requirements for validity of emergency mail ballots.**

19 (a) Any legally qualified elector of this state whose name appears upon the official voting
20 list of the town or district of the city or town where the elector is so qualified, who on account of
21 circumstances manifested twenty (20) days or less prior to any election becomes eligible to vote by
22 mail ballot according to this chapter, may obtain from the local board an application for an
23 emergency mail ballot or may complete an emergency in-person mail ballot application on an
24 electronic poll pad at the board of canvassers where the elector maintains his or her residence.

25 (b) The emergency mail ballot application, when duly executed, shall be delivered in
26 person or by mail so that it shall be received by the local board not later than four o'clock (4:00)
27 p.m. on the last day preceding the date of the election.

28 (c) The elector shall execute the emergency mail ballot application in accordance with the
29 requirements of this chapter, which application shall contain a certificate setting forth the facts
30 relating to the circumstances necessitating the application.

31 (d) In addition to those requirements set forth elsewhere in this chapter, an emergency mail
32 ballot, except those emergency mail ballots being cast pursuant to subsection (g) of this section, in
33 order to be valid, must have been cast in conformance with the following procedures:

34 (1) All mail ballots issued pursuant to § 17-20-2(1) shall be mailed to the elector at the

1 state of Rhode Island address provided on the application by the office of the secretary of state, or
2 delivered by the local board to a person presenting written authorization from the elector to receive
3 the ballots, or cast in private at the local board of canvassers. In order to be valid, the elector must
4 affix his or her signature of the voter on the certifying envelope containing a voted ballot ~~must be~~
5 ~~made before a notary public, or other person authorized by law to administer oaths where signed,~~
6 ~~or where the elector voted, or before two (2) witnesses who shall set forth their addresses on the~~
7 ~~form.~~ In order to be valid, all ballots sent to the elector at the board of canvassers must be voted in
8 conformance with the provisions of § 17-20-14.2.

9 (2) All applications for emergency mail ballots pursuant to § 17-20-2(2) must state under
10 oath the name and location of the hospital, convalescent home, nursing home, or similar institution
11 where the elector is confined. All mail ballots issued pursuant to this subdivision shall be delivered
12 to the elector by the bipartisan pair of supervisors, appointed in conformance with this chapter, and
13 shall be voted and witnessed in conformance with the provisions of § 17-20-14.

14 (3) All mail ballots issued pursuant to § 17-20-2(3) shall be mailed by the office of the
15 secretary of state to the elector at an address provided by the elector on the application, or cast at
16 the board of canvassers in the city or town where the elector maintains his or her voting residence.
17 The signature of the elector on the certifying envelope containing the voted ballots issued pursuant
18 to the subdivision does not need to be notarized or witnessed. Any voter qualified to receive a mail
19 ballot pursuant to § 17-20-2(3) shall also be entitled to cast a ballot pursuant to the provisions of
20 United States Public Law 99-410 ("UOCAVA Act").

21 (4) All mail ballots issued pursuant to § 17-20-2(4) shall be cast at the board of canvassers
22 in the city or town where the elector maintains his or her voting residence or mailed by the office
23 of the secretary of state to the elector at the address within the United States provided by the elector
24 on the application, or delivered to the voter by a person presenting written authorization by the
25 voter to pick up the ballot. In order to be valid, the voter must affix his or her signature ~~of the voter~~
26 ~~on all certifying envelopes containing a voted ballot must be made before a notary public, or other~~
27 ~~person authorized by law to administer oaths where signed, or where the elector voted, or before~~
28 ~~two (2) witnesses who shall set forth their addresses on the form.~~ In order to be valid, all ballots
29 sent to the elector at the board of canvassers must be voted in conformance with the provisions of
30 § 17-20-14.2.

31 (e) The secretary of state shall provide each of the several boards of canvassers with a
32 sufficient number of mail ballots for their voting districts so that the local boards may provide the
33 appropriate ballot or ballots to the applicants. It shall be the duty of each board of canvassers to
34 process each emergency ballot application in accordance with this chapter, and it shall be the duty

1 of each board to return to the secretary of state any ballots not issued immediately after each
2 election.

3 (f) Any person knowingly and willfully making a false application or certification, or
4 knowingly and willfully aiding and abetting in the making of a false application or certification,
5 shall be guilty of a felony and shall be subject to the penalties provided for in § 17-26-1.

6 (g) An emergency mail ballot application may be completed in person using an electronic
7 poll pad provided by the board of canvassers upon presentation by the voter of valid proof of
8 identity pursuant to § 17-19-24.2. Upon completion of the poll pad application, the voter shall be
9 provided with a ballot issued by the secretary of state and upon completion of the ballot by the
10 voter, the voter shall place the ballot into the state-approved electronic voting device, provided by
11 the board of elections and secured in accordance with a policy adopted by the board of elections.

12 **17-20-6.1. Alternative methods of voting by citizens covered by the Uniformed and**
13 **Overseas Citizens Absentee Voting Act (UOCAVA) and other citizens residing outside the**
14 **United States.**

15 (a) It is the intent and purpose that the provisions set forth in this section are designed to
16 facilitate the federal mandate of the Uniformed and Overseas Citizens Absentee Voting Act
17 (UOCAVA), 42 U.S.C. § 1973ff et seq.

18 (b) The Federal Post Card Application (FPCA) may be used as a request for an absentee
19 ballot by:

20 (1) A member of the armed forces who is absent from the state by reason of being in active
21 service;

22 (2) Any person absent from the state in performance of "services intimately connected with
23 military operations" as defined in § 17-20-3(d);

24 (3) Any person who is employed outside of the United States as defined in § 17-20-3(c);
25 and

26 (4) Any person who does not qualify under subparagraph (1), (2), or (3) above, but who is
27 a citizen of the United States and absent from the state and residing outside the United States as
28 described in chapter 21.1 of title 17.

29 (c) The single FPCA card shall permit the person to request an absentee ballot for each
30 primary and election through the next general election for federal office or for the time period
31 specified by federal law in which the voter is eligible to vote.

32 (d) The FPCA card must be received by the local board of canvassers where the person last
33 maintains his/her residence for voting purposes within the time frame for applying for absentee
34 ballots as set forth in this title.

1 (e) If the FPCA, when used in accordance with this section, is sent by the voter through
2 electronic transmission, it must be sent to the secretary of state and it must be received by the
3 secretary of state by the deadline for applying for absentee ballots as set forth in this title. The
4 secretary of state shall then forward the FPCA to the appropriate local authority who shall
5 immediately certify and return the FPCA to the secretary of state with the notation that the
6 corresponding ballots shall be sent by mail and electronic transmission. The secretary of state shall
7 transmit ballots only to the facsimile number provided by the Federal Voter Assistance Program.
8 The ballots sent by electronic transmission shall be returned to the state board by electronic
9 transmission. These ballots will be counted at the state board in accordance with rules and
10 regulations promulgated by the state board.

11 (f) The voter's signature on the FPCA does not need to be witnessed or notarized, when the
12 FPCA is submitted as provided in this section.

13 ~~(g) If a voter is casting a mail ballot received through the use of the FPCA card as provided~~
14 ~~in this section, the voter's signature does not need to be witnessed or notarized on the certifying~~
15 ~~envelope used for the return of the voted mail ballot.~~

16 **17-20-14.2. Voting from board of canvassers.**

17 The local board of canvassers shall appoint as many supervisors as are necessary whose
18 duty it shall be to supervise the casting of votes by persons using mail ballots at a place that
19 preserves their secrecy and to take acknowledgments or serve as witnesses, and jointly provide
20 assistance, if requested, to assure proper marking, sealing, and mailing of ballots as voted. Every
21 certifying envelope containing a mail ballot cast at a board of canvassers must have the signature
22 of the elector ~~notarized by an appointed person authorized by law to administer oaths or before two~~
23 ~~(2) appointed witnesses who shall set forth their signature on the form.~~ The certifying envelope of
24 any mail ballot voted at the local board of canvassers shall be stamped by the local board to indicate
25 it was voted on in conformance with the law. Every person who willfully hinders the local
26 supervisors in performing their duties as set forth in this section shall be guilty of a misdemeanor.
27 The local board shall transmit a list to the state board of elections containing the names and
28 signatures of people authorized to witness mail ballots.

29 **17-20-21. Certifying envelopes.**

30 The secretary of state shall cause to be prepared and printed and shall furnish with each
31 mail ballot an envelope for sealing up and certifying the ballot when returned. The envelope shall
32 be printed in substantially the following form:

33 "After marking ballot or ballots, fold and enclose in this envelope and seal it. Certify to
34 statement hereon. Enclose in envelope addressed to board of elections, which must receive the

1 envelope not later than the time prescribed by § 17-18-11 for the closing of polling places on the
2 day of election."

3 Date of Election _____ City/Town of _____

4 Certificate of Voter

5 Print Name of Voter

6 I swear or affirm, under penalty of perjury, that I am:

- 7 1. I am a United States citizen;
- 8 2. I am a resident and qualified voter of the State of Rhode Island;
- 9 3. I am eligible to cast a mail ballot under the provisions of § 17-20-2; and
- 10 4. ~~I am not qualified to vote~~ have not and will not vote elsewhere in this election.

11 I hereby attest under the pains and penalty of perjury, that the enclosed voted
12 ballot was cast by me, and that the signature or mark on this certifying envelope was
13 made by me.

14 Voter must sign full name here: _____

15 (If unable to sign name because of physical incapacity or otherwise, voter shall make his
16 or her mark "(X)").

17 ~~I hereby attest under penalty of perjury that the enclosed voted ballot was cast, and the~~
18 ~~signature or mark on this certifying envelope was made by the voter whose name appears on~~
19 ~~the label above.~~

20 ~~Before me the _____ day of _____, 20____, at _____ (city or town),~~
21 ~~county of _____, state of _____, personally appeared the above named voter,~~
22 ~~to me known and known by me to be the person who affixed his or her signature to this ballot~~
23 ~~envelope.~~

24 _____
25 _____ Notary Public

26 ~~Notary must also print his or her name~~

27 ~~Witness:~~
28 _____

29 ~~(Signature)(Print Name) _____ (Address)~~

30 ~~(Signature)(Print Name) _____ (Address)~~

31 ~~Note: Mail ballots must either be sworn to before a notary public or before two (2)~~
32 ~~witnesses who must sign their names and addresses.~~

33 **17-20-22. Certification envelopes for mail ballots of persons intimately connected with**
34 **military service and persons employed outside of the United States.**

1 The distinctively colored certification envelope for persons intimately connected with
2 military service and persons employed outside of the United States shall be printed in substantially
3 the following form:

4 After marking ballot or ballots, fold and enclose in this envelope and seal it. Certify to
5 statement hereon. Enclose in envelope addressed to board of elections, which must receive the
6 envelope not later than the time prescribed by § 17-18-11 for the closing of polling places on the
7 day of election.

8 Date of Election _____ City/Town of _____

9 Oath of Elector Casting the Enclosed Ballot or Ballots

10 Print Name

11 I do hereby affirm, under pains and penalty of perjury that:

- 12 1. I am a United States citizen;
- 13 2. I am a resident and qualified voter of the State of Rhode Island;
- 14 3. I am eligible to cast a mail ballot, because I am one of the following:
- 15 4. A member of the Uniformed Services or merchant marine on active duty or an eligible
16 spouse or dependent.
- 17 5. A U.S. citizen who will be outside the United States.
- 18 6. ~~I am not qualified to vote~~ have not and will not vote elsewhere in this election.

19 I hereby attest under the pains and penalty of perjury, that the enclosed voted ballot was
20 cast by me, and that the signature or mark on this certifying envelope was made by me.

21 _____
22 (Signature of voter)

23 **17-20-23. Marking and certification of ballot.**

24 (a) A voter may vote for the candidates of the voter's choice by making a mark in the space
25 provided opposite their respective names.

26 (b) In case a voter desires to vote upon a question submitted to the vote of the electors of
27 the state, the voter shall mark in the appropriate space associated with the answer that the voter
28 desires to give.

29 ~~(c) Voters receiving a mail ballot pursuant to § 17-20-2(1), (2), and (4) shall mark the ballot~~
30 ~~in the presence of two (2) witnesses or some officer authorized by the law of the place where~~
31 ~~marked to administer oaths. Voters receiving a mail ballot pursuant to § 17-20-2(3) do not need to~~
32 ~~have their ballot witnessed or notarized. Except as otherwise provided for by this chapter, the voter~~
33 ~~shall not allow the official or witnesses to see how he or she marks the ballot and the official or~~
34 ~~witnesses shall hold no communication with the voter, nor the voter with the official or witnesses,~~

1 ~~as to how the voter is to vote.~~ Thereafter, the voter shall enclose and seal the ballot in the envelope
2 provided for it. ~~The voter shall then execute before the official or witnesses the certification on the~~
3 ~~envelope.~~ The voter shall then enclose and seal the certified envelope with the ballot in the envelope
4 addressed to the state board and cause the envelope to be delivered to the state board on or before
5 election day.

6 (d) These ballots shall be counted only if received within the time limited by this chapter.

7 (e) There shall be a space provided on the general election ballot to allow the voter to write
8 in the names of persons not in nomination by any party as provided for in §§ 17-19-31 and 17-20-
9 24.

10 **17-20-24.1. Irregularities in obtaining and casting mail ballots.**

11 The requirements set forth by this chapter controlling mail ballot eligibility and the
12 procedure by which mail ballots are obtained and cast shall be strictly applied to assure the integrity
13 of the electoral system. No mail ballot which was not obtained and/or cast in material conformance
14 with the provisions of this title shall be certified by the board of elections. ~~Notwithstanding the~~
15 ~~provisions of § 34-12-3 to the contrary, any mail ballot application or mail ballot certification~~
16 ~~notarized by a person who is not in fact a notary public or other officer authorized to administer~~
17 ~~oaths and take acknowledgements shall be void.~~ Nothing in this chapter shall be construed to
18 require the disqualification of a ballot merely because the elector did not sign the elector's full name
19 as it is listed on the voter registration list, but omitted or included a middle initial or name,
20 abbreviated a first and/or middle name, or made a similar omission or inclusion, as long as the
21 board of elections can reasonably determine the identity of the voter.

22 **17-20-30. Penalty for violations.**

23 (a) Any person who knowingly makes or causes to be made any material false statement in
24 connection with his or her application to vote as a mail voter, or who votes or attempts to vote
25 under the provisions of this chapter, by fraudulently signing the name of another upon any envelope
26 provided for in this chapter, or who, not being a qualified voter and having knowledge or being
27 chargeable with knowledge of the fact, attempts to vote under this chapter, or who votes the ballot
28 of another voter, or who deliberately prevents or causes to prevent the mail ballot to be received by
29 the voter or to be returned to the board of elections, ~~or who falsely notarizes or witnesses the voter~~
30 ~~signature on the ballot application or mail ballot,~~ or who deceives, coerces, or interferes with the
31 voter casting his or her ballot, and any person who does or attempts to do, or aid in doing or
32 attempting to do, a fraudulent act in connection with any vote cast or to be cast under the provisions
33 of this chapter, shall be guilty of a felony.

34 (b) Any person who, having received a mail voter's ballot and having voted or not voted

1 the mail ballot, votes or fraudulently attempts to vote at any elective meeting within the state held
2 on the day for which the ballot was issued shall be guilty of a felony.

3 (c) Any officer or other person who intentionally opens a mail voter's certified envelope or
4 examines the contents before the envelope is opened by the board of elections, as provided in this
5 chapter, shall be guilty of a felony.

6 (d) The offenses in this section shall be punishable by imprisonment of not more than ten
7 (10) years and/or by a fine of not less than five hundred dollars (\$500) nor more than five thousand
8 dollars (\$5000).

9 SECTION 2. This act shall take effect upon passage.

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LC001972
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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO ELECTIONS - MAIL BALLOTS

1 This act would amend various sections of law governing mail ballots including changes to
2 the witness and notary public requirements by removing the two (2) witness and notary requirement
3 for mail ballot applications and mail ballot certificate envelope. It would also delete the requirement
4 that person may vote by mail, only if they are unable to vote in person.

5 This act would take effect upon passage.

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