



DEC 27 REC'D  
ATTORNEY GENERAL  
OF  
ARKANSAS

POPULAR NAME

An amendment to the Arkansas Constitution to set the time for absentee voting, create absentee voting procedures, determine the manner in which absentee ballots are counted or tabulated, and ensure that elections cannot be conducted in this state using an internet, Bluetooth, or wireless connection.

BALLOT TITLE

An amendment to the Arkansas Constitution that amends Amendment 50 to add additional sections effectuating a policy and practice in which absentee ballots may only be distributed within the thirty days prior to election day, limited to only registered voters who are unable to be present at the polls on election day because they are physically absent from the county in which they are registered to vote, or hospitalized, incarcerated, or in a long-term care facility within the county in which they are registered to vote; requiring the county clerk to distribute an absentee ballot only to a requesting and qualified voter; prohibiting absentee ballot harvesting by limiting possession of absentee ballots to the requesting voter, an individual assisting a disabled voter, the United States Postal Service, or a duly appointed and authorized election official; preventing the tracking of absentee ballots once they have been sent or provided to the voter unless the voter tracking his or her own ballot or verifying that his or her cast absentee ballot has been received by a duly authorized election official; protecting information about who has requested an absentee ballot; ensuring that all absentee ballots are counted on election day before the early or election day votes are counted; prohibiting all elections in this state from being conducted using an internet, Bluetooth, or wireless connection; requiring that absentee ballots and absentee voting which does not strictly conform to the requirements of this amendment to not be counted; and directing the Arkansas General Assembly to allocate funding to effectuate and implement the terms of this amendment.

**BE IT ENACTED BY THE PEOPLE OF THE STATE OF ARKANSAS AS AN AMENDMENT TO THE ARKANSAS CONSTITUTION AND NOT AN INITIATED BILL OR REFERENDUM**

**§ 1 Short Title**

This amendment to the Arkansas Constitution shall be known as the "Arkansas Absentee Ballot and Absentee Voting Election Integrity and Security Amendment."

## § 2 Effective Date

This amendment shall be effective on and after November 18, 2024.

## § 3 Definitions

- (a) “Absentee ballot” means any document or item, electronic, paper, or otherwise, that is intended to be used by a voter outside the interior of an official polling place established by the county board of election commissioners for early or election day voting to cast his or her vote selections with the intention that the votes marked on the ballot will be counted by an election official as an official vote.
- (b) “Absentee voting” means the marking, casting, or selection of votes on an official ballot outside the interior area of an official polling place established by the county clerk for early or election day voting with intent that the markings, castings, or selections on the ballot will be counted by an election official as an official vote or votes.
- (c) “Ballot Harvesting” means the gathering, handling, collection, distribution, or submission to the voter or an election official of absentee ballots by persons, corporations, or organizations who are not an election official authorized to distribute, collect, or possess absentee ballots, the voter possessing his or her own absentee ballot, a person assisting a disabled voter as set forth in this amendment, or an employee or agent of the United States Postal Service.
- (d) “Long Term Care Facility” means nursing homes, Skilled Nursing Facility, Intermediate Care Facility, retirement homes, residential care apartment complexes, or adult family homes that are licensed or certified by the state and listed as a long-term care facility by the Department of Human Services or its successor agency.

## § 4 Effect on Federal Law

This amendment shall not apply when its terms or language are superseded by federal law.

**§ 5 Effect on Amendment 51, § 9(i)**

The terms of this amendment shall not apply to Ark. Const. Amend. 51, § 9(i) or to any ballots requested, obtained, cast, canvassed, or counted pursuant to the federal Uniform Overseas Citizens Absentee Voting Act.

**§ 6 Repealer**

Any statute or Act of the Legislature that conflicts with the terms of this amendment are repealed as of the effective date of this amendment.

**§ 7 Creation of Amendment 50, § 5 (or next sequentially number section after § 4)**

This amendment shall create Amendment 50, § 5 and state:

**(a) Privilege of Absentee Voting**

All qualified and registered voters shall have the right to suffrage on election day at the place designated for voting by the county board of election commissioners. Absentee voting in the state of Arkansas is not a right but a privilege. No person shall have the right to vote by absentee ballot in any state or federal election.

**(b) Statement of Intent**

Absentee ballots and absentee voting are extremely susceptible to fraud and manipulation because the sanctity of the act of voting occurs outside of the protections of the polling place. To combat absentee voting fraud, including, but not limited to, undue voter influence, ballot tampering, ballot harvesting, illegally marked absentee ballots, and illegally returned absentee ballots, the absentee balloting and absentee voting laws in this amendment shall be strictly construed, and all doubts resolved in favor of ensuring that votes cast on absentee ballots are not

fraudulent. If an absentee vote or absentee ballot is cast and it does not strictly comply with the requirements of this amendment, then the absentee votes in question shall not be counted.

**(c) Qualifications**

Only those voters who are unable to be present at the polls on election day because they are physically absent from the county in which they are registered to vote, or hospitalized, incarcerated, or a resident of a long-term care facility within the county, in which they are registered to vote shall qualify for and utilize an absentee ballot.

**(d) Absentee Voting Procedure**

- (1) Qualified and registered voters may request and vote an absentee ballot for themselves only and no other person.
- (2) All qualified and registered voters desiring to vote by an absentee ballot shall request an absentee ballot, in writing, from the county clerk, and, at the time of the request, the voter shall attest, under oath, as to his or her qualifications for an absentee ballot.
- (3) Applications for absentee ballots are limited to one absentee ballot per election and each application expires after the election for which the absentee ballot was requested. Under no circumstances may a request for an absentee ballot for a primary, general, or special election be valid for a subsequent election, including a runoff election, that occurs after the requested primary, general, or special election.
- (4) Absentee ballots shall only be sent or provided to the qualified voter who made the request.
- (5) Prior to issuing, delivering, or causing to be delivered an absentee ballot to a requesting and qualified voter, the county clerk shall verify that the requestor is a registered and eligible voter in the county in which the absentee ballot was requested.

- (6) No absentee ballot shall be sent or provided to a voter more than thirty (30) days prior to election day.
- (7) Only the qualifying and requesting voter may mark a vote selection on an absentee ballot. Additionally, absentee ballots shall only be touched, handled, or possessed by the qualifying voter who requested the absentee ballot, a county election commissioner, a county clerk or deputy county clerk, a duly appointed and authorized election worker, a member or employee of the State Board of Election Commissioners, or an employee or agent of the United States Postal Service who is transporting the absentee ballot in a sealed envelope on behalf of the county clerk or the absentee voter.
- (i) **Exception.** A person may help or otherwise assist a qualifying absentee voter with a disability, as that term is defined by state or federal law, mark vote selections on an absentee ballot and return the absentee ballot to the county clerk's office by placing the voted ballot into the custody of the United States Postal Service. The person assisting the voter shall provide in the same envelope as the returned absentee ballot a sworn statement that does not reveal the voter's selections attesting to the accuracy in which he or she assisted the voter, an assurance to not reveal the voter's selections except at the voter's instruction, and a legible photocopy or image of his or her identification. Such identification shall be consistent with the identification required by Article 3, Section 1. The absentee ballot shall only be counted after the county clerk has, using the identification provided, verified that the assisting individual is a natural person and that the identification is not fraudulent or for a fraudulent or fictional person.
- (8) Absentee ballots shall only be provided to or returned by the requesting voter in person at the physical office of the county clerk or by use of the United States Postal Service.

- (9) Except for a voter tracking his or her own ballot or verifying that his or her cast absentee ballot has been received by a duly authorized election official, the locations of absentee ballots shall not be tracked by any person or entity by any method from the time the ballot leaves the possession of the county clerk until the time it is returned to the county clerk.
- (10) Any information about who has requested or returned an absentee ballot shall be considered confidential, not a public record subject to inspection, and exempt from disclosure from the start of the absentee voting period until the polls close on election day.
- (11) All absentee ballots shall conform to the same security requirements for early or election day voting and ballots.
- (12) The requirements of this section are mandatory and the failure to strictly follow any individual requirement shall result in the ballot not being counted. There is no manner or method to cure a ballot that does not strictly conform to the requirements of this section.

**(e) Counting of Absentee Ballots**

- (1) Absentee ballots may not be opened, canvassed, or counted before the time the polls open on election day. Instead, the opening, canvassing, and counting of absentee ballots may begin at the time the polls open on election day and all absentee ballots shall be counted prior to the close of the polls on election day.
- (2) The results of the absentee ballot races, the count of votes, and any other information related to canvassed or counted absentee ballots shall not be disclosed until the polls close on election day.
- (3) Early voting and election day votes may not be counted or tabulated prior to the end of the tabulation and public posting of absentee voting.

- (4) No absentee ballots may be counted after early voting or election day vote counting has begun.
- (5) In the event that a large number of absentee ballots were cast in an election such that is impossible to count all the absentee ballots before the close of the polls, then all ballots which were in the canvassing and counting process prior to the close of the polls shall immediately continue to be counted before any early voting or election day votes are tabulated. However, no newly received or additional ballots shall be added to the number of ballots being canvassed or tabulated. If any absentee ballots are not physically present and in the canvassing or tabulation process by the close of the polls on election day, then those ballots shall not be counted.

**(f) Prohibited Election Practices**

- (1) In a public election in this state, the selecting of votes for a candidate or issue, casting of ballots, tabulation of votes on a ballot, or tabulations pertaining to ballots shall not be conducted or completed using an internet, Bluetooth, or wireless connection.

**§ 8 Legislative Implementation, Self-Executing**

This amendment shall be self-executing, and all its provisions shall be treated as mandatory. No legislation shall be enacted, nor rules promulgated to restrict, hamper, or impair the intent of this amendment. The General Assembly may enact legislation to effectuate the terms of this amendment.

**§ 9 Appropriations**

The General Assembly shall make such appropriations as may be required for the effectuation of this amendment.

**§ 10 Severability**

If any provision of this amendment or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the amendment which can be given effect without the invalid provision or application, and to this end the provisions of this amendment are declared to be severable.

#### **§ 11 No Amendments**

Absent a vote of the people, the General Assembly may not amend, alter, or repeal this amendment.