

# ABSENTEE VOTING IN TENNESSEE

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## I. By Mail Absentee Voting

### A. Reasons – A registered voter in any of the following circumstances may vote absentee by mail: T.C.A. § 2-6-201

1. *Persons Outside of County* – The voter who will be outside the county where the voter is registered during the early voting period and on election day during all the hours the polls are open for any reason other than the fact that the voter will be imprisoned;
2. *Students and Spouses Outside of County* - The voter or the voter's spouse who is enrolled as a full-time student in an accredited college, university or similar accredited institution of learning in this state which is outside the county where the voter is registered.
3. *Voters on the Permanent Absentee Voting Register* - A voter whose licensed physician has filed not less than seven (7) days before the election a statement with the county election commission stating, under the penalty of perjury, that in the physician's professional medical judgment, the patient (voter) is medically unable to appear at the polling place to vote and is medically unable to go to the commission office for the purpose of early voting.
4. *Residents of Certain Institutions Outside of County* – Voters who are full-time residents of a licensed nursing home, home for the aged or similar licensed institution providing relatively permanent domiciliary care, other than a penal institution, outside the voter's county of residence.
5. *Jurors* – A voter who expects to be unable to appear during the early voting period or at the polling place on election day because the person is serving as a juror for a federal or state court;
6. *Persons Over 60 - Persons Hospitalized, Ill or Disabled*
  - a) A voter who is sixty (60) years of age or older (2012 Amendment – Public Chapter No. 1101 - sunsets on July 1, 2017);
  - b) A voter with a disability whose polling place is inaccessible;
  - c) A voter who is hospitalized, ill or physically disabled, and because of such condition, cannot appear at the person's polling place on Election Day; or
  - d) The voter who is a caretaker of a hospitalized, ill or disabled person.

7. *Candidates for Office* - The voter who is a candidate for office in the election for which the voter seeks to cast an absentee ballot;
8. *Election Officials* - The voter who serves an election official or a member or employee of the election commission on Election Day.
9. *Observance of a Religious Holiday* - The voter who cannot appear during the early voting period or at the polling place because of observance of a religious holiday.
10. *Persons Possessing a Valid Commercial Driver License (CDL) and Spouses* – The voter or the voter’s spouse who cannot appear during early voting or at the polling place because the voter possessing the CDL will be working outside of the county or state. The voter must provide a photocopy of the commercial driver license along with the commercial driver license number on the application, if applicable. Under this exception, the absentee ballot can be sent to an address within the county; however, if the voter registered by mail the voter must vote in person at the first election and cannot request an absentee ballot until that requirement is met. (2013 Amendment adding spouses takes effect July 1, 2013)
11. *Persons Possessing a Valid Transportation Worker Identification Credential (TWIC)* – The voter who cannot appear during early voting or at the polling place because the voter will be working outside the county or state. The voter must provide a photocopy of the TWIC along with the voter’s absentee request. Under this exception, the absentee ballot can be sent to an address within the county; however, if the voter registered by mail the voter must vote in person at the first election and cannot request an absentee ballot until that requirement is met. (2013 Amendment takes effect July 1, 2013)

B. Manner – T.C.A. § 2-6-202

1. Requests for an Application for Ballot

- a) Not more than ninety (90) and not later than seven (7) days before the election, a voter may request an absentee ballot.
- b) A request for an application may be mailed, faxed, hand delivered or emailed with an attached document which includes a scanned signature to the election commission office. A request that contains the following information serves as an application for ballot:

(1) The name of the registered voter;

(2) The address of the voter's residence;

(3) The voter’s date of birth (2011 Amendment – P.C. 412);

- (4) The voter's social security number;
- (5) The address to mail the ballot outside the county (This applies only when the reason for voting by mail involves the voter being outside of their county of residence during all of early voting and on Election Day);
- (6) The election the voter wishes to participate in;
- (7) The reason the voter wishes to vote absentee; and
- (8) Voter's signature

NOTE: The law prohibits individuals, candidates or political party representatives from distributing *unsolicited* forms that may serve as applications for ballot.

- c) Comparison of signatures required - Upon receipt of a written request, the administrator of elections must compare the signature of the voter with the signature on the voter's registration record.
  - (1) If the signatures are the same and if the required information is provided, the administrator shall mail the voter an application for ballot.
  - (2) If the signatures are not the same, the administrator shall reject the request.
- d) Only one (1) set of supplies to be sent - Unless the voter notifies the election commission that the voter has spoiled the application or notifies the commission that the voter has not received the application, only one (1) set of supplies may be sent to the voter.
  - (1) If the voter notifies the election commission of a spoiled application or of not receiving the application, the election commission shall note on the records that a subsequent application has been sent and supply the voter with a subsequent application.

## 2. Application for Ballot

- a) An application for a ballot received after the seventh (7<sup>th</sup>) day before the election may not be processed. However, if the application is received by the 7<sup>th</sup> day before the election, a rejected application may be corrected after the 7<sup>th</sup> day and the ballot subsequently mailed to the voter up until Election Day.
- b) An application for ballot may be mailed, faxed, hand delivered or emailed with an attached document which includes a scanned signature to the county election commission.

- c) Comparison of signatures required - Upon receipt of a completed application, the administrator must verify the signature of the voter by comparing it with the signature on the voter's registration record.
- d) Comparison of Address - The administrator shall make a determination whether the voter's address is different from the address on the voter's permanent registration record or if the registration is in inactive status.
  - (1) If the voter has changed residence, or the voter's registration is inactive, along with the ballot supplies, the administrator must send a fail-safe affidavit with instructions that the voter must complete the affidavit and return the affidavit with the ballot, otherwise ballot will be rejected.
  - (2) If the administrator determines that the voter may vote absentee, the administrator shall record the ballot number on the voter's application to vote and mail the voter the following:
    - (a) Instructions;
    - (b) One (1) absentee ballot or one (1) primary absentee ballot, or both
    - (c) One (1) absentee ballot envelope for each election in which the voter will vote;
    - (d) One (1) fail safe affidavit, if applicable; and
    - (e) A larger envelope, unsealed, which shall bear upon its face the name and address of the county election commission to which the voter shall mail the completed materials.
  - (3) An administrator may not mail any of the materials with the address "general delivery."

### 3. Absentee By Mail Ballot

- a) The county election commission must receive the ballot by mail no later than the close of polls on Election Day.
- b) Only one (1) set of supplies to be sent - Unless the voter notifies the commission that the voter has spoiled the supplies or notifies the commission that the voter has not received the supplies, only one (1) set of supplies may be sent to the voter.

- (1) If the voter notifies the election commission of a spoiled ballot or of not receiving the ballot, the election commission shall note on the records that subsequent supplies have been sent and supply the voter with subsequent supplies.
  - (2) Unless otherwise required by federal law, the county election commission shall retain a spoiled ballot for six (6) months. For federal elections, the spoiled ballot must be preserved with the election materials for twenty-two (22) months from the date of the election.
- c) Comparison of signatures required - The voter must sign the appropriate affidavit under penalty of perjury. Upon receipt by mail of the absentee ballot, the administrator shall open only the outer envelope and compare the voter's signature on the application with the voter's signature on the appropriate registration record. The administrator shall note on the voter's absentee ballot envelope that the voter's signature has been verified.
- d) Record that Absentee Ballot has been Cast
- (1) The administrator shall update the voter's computerized voter history by making the appropriate data entry and
  - (2) Either file the applications alphabetically by Election Day in a binder or maintain a daily computerized generated report of the applications.
- e) Deposit Ballot in Absentee Ballot Box – Immediately after updating of voter history, the administrator must deposit the absentee ballot envelope in the absentee ballot box.

C. Rejection of Applications and Ballots – T.C.A. § 2-6-204

1. Rejection of Application for Ballot

a) Reasons for Rejection

- (1) Voter does not provide required information;
- (2) Assistance provisions for application have not been followed;
- (3) Voter does not sign the application; or
- (4) Applicant is ineligible to vote absentee.

- b) Process for Rejecting an Application - If the administrator determines that an application for absentee ballot must be rejected, the administrator shall:
  - (1) Mark the application "Rejected";
  - (2) Draw a red circle around the space provided for the required information;
  - (3) Return the application to the voter immediately by mail to be completed and returned by the voter;
  - (4) If a voter refuses to provide required information on any absentee voting application or is determined to be ineligible to vote absentee, the administrator shall mark the application "Rejected" and write the reason for rejection on the application.
  - (5) Written notice of rejection shall immediately be given to the applicant

## 2. Rejection of Absentee Ballot

### a) Reasons for Rejection of Absentee Ballot

- (1) Voter does not provide the required signatures;
- (2) The ballot is not entitled to be cast.

### b) Process for Rejecting a Ballot – Upon determining that an Absentee ballot is not entitled to be cast, the Administrator shall:

- (1) Mark the absentee ballot envelope "Rejected"
- (2) Write the reason for the rejection on the envelope,
- (3) Sign it
- (4) The unopened absentee ballot envelope shall be placed in a container of rejected absentee ballots for the election.
- (5) Immediately give written notice of the rejection to the voter.

## D. Absentee Voting by Armed Forces Personnel and Persons Temporarily Outside the United States (UOCAVA voter) - T.C.A. § 2-6-502

### 1. Those who may vote absentee

- a) Armed Forces Personnel, their spouses and activated National Guard members on state orders who are outside of their county of residence and who are qualified voters of Tennessee;
  - b) United States Citizens temporarily outside of the United States and who are qualified voters of Tennessee;
2. Armed Forces Personnel and Persons Temporarily Outside the United States (Hereinafter "military and overseas voters") who are registered voters
- a) Any registered voter, who has registered in person or has voted in person after registering to vote by mail, may vote by mail under the same procedures as any other eligible voter who will be outside of the county during the early voting period and on Election Day.
3. Armed Forces Personnel and Persons Temporarily Outside the United States who are not registered voters
- a) Temporary Voter Registrations
    - (1) The administrator shall determine eligibility and register applicant as a temporary registration;
    - (2) This registration shall also serve as an application for an absentee ballot;
    - (3) Either file the application alphabetically by Election Day in a binder or maintain a daily computerized generated report of the application.
  - b) Applications for ballot by military and overseas voters who are not registered voters must be treated and processed as temporary voter registrations for the election year to which the application applies.
  - c) The application for ballot may be in any form, but must contain the following information:
    - (1) Applicant's name;
    - (2) Social Security Number (2010 Amendment);
    - (3) Date of birth;
    - (4) Residential address in the county in which the applicant proposes to vote;

- (5) Address outside of the county to which the absentee ballot is to be mailed/emailed (required even if ballot is emailed);
  - (6) If the election is a primary election, the applicant's political party preference;
  - (7) Signature of the voter, under the penalty of perjury, verifying that all the information is true and correct and that the voter is eligible to vote in the election
- d) Federal Form 76, Federal Write-In Absentee Ballot and Written Requests
- (1) The county election commission must accept the federal postcard application, (commonly called the Form 76) as a temporary registration and/or an absentee ballot request.
  - (2) The county election commission must accept the federal write-in absentee ballot as a temporary registration and/or an absentee ballot request. (2011 Amendment P.C. 176)
  - (3) The county election commission must accept a written request and treat as a military/overseas request if it meets the statutory requirements and contains an affirmation under the penalty of perjury.

#### 4. Processing the Application for an Absentee Ballot

- a) An application for an absentee ballot or temporary registration or both from military and overseas voters:
  - (1) Must be processed if received not later than seven (7) days before the election. (The twenty-nine (29) day voter registration cut off in T.C.A. § 2-2-109 does not apply to the military and overseas voter);
  - (2) If an election will be held less than ninety (90) days after January 1 of any calendar year, then the earliest that an application may be received is ninety (90) days before the election in which the applicant desires to vote;
  - (3) If there will not be an election less than (90) days after January 1 of any calendar year, then the earliest that an application may be received is January 1;
- b) An absentee ballot application filed by a military or overseas voter in a primary election, shall also serve as an application for an absentee ballot for the succeeding general election. If the voter moves from the location where the voter is to be sent a primary ballot between the primary and general elections, then the voter



must notify the county election commission of where to mail/email the general election ballot.

## 5. Determination of Residence

- a) Generally, the applicant must have established a residence in Tennessee that satisfies the principles of T.C.A. § 2-2-122 in order to participate in Tennessee elections.
- b) Military and overseas voters who themselves have *never* lived in Tennessee, nor have their parents ever lived in Tennessee, are not eligible to vote in Tennessee elections. Tennessee must be the individual's "home of record."
- c) A United States citizen who was born abroad and who is eligible to vote and who has never lived in the United States may register temporarily and vote in the county where a parent would be eligible to temporarily register and vote pursuant to this section.

## E. Effect of Mailing/Emailing an Absentee Ballot - T.C.A. § 2-6-301

- 1. Upon issuance of an absentee ballot, the voter may not thereafter vote in the election except by absentee ballot unless the voter is a military or overseas (UOCAVA) voter.
  - a) Upon issuance of an absentee ballot, counties must update the voter's computerized voter history by making the appropriate data entry.
  - b) If a UOCAVA voter has been issued an absentee ballot, but appears to vote in person, such person may vote in person either by machine or by a provisional ballot. The provisional ballot process shall be used when the election officials cannot determine that the absentee ballot has already been cast and counted.
- 2. Maintenance of Absentee Voting Applications
  - a) Absentee voting applications must be filed alphabetically by Election Day in a binder and kept in the county election commission office as a public record through Election Day or
  - b) Absentee voting applications must be maintained, on a daily basis, as part of a computer-generated report that shall be a public record.

II. In-Person Absentee Voting (Commonly Called Early Voting)

A. Reasons – Unlike the by-mail absentee voting, the statute does not limit the reasons for which a person may vote during the early voting period

B. Locations

1. County Election Commission Office; and
2. If any, satellite locations established by the county election commission

C. Election Officials

1. The commission shall appoint two early voting officials.
  - a) Members of the election commission representing the majority party shall appoint one official, and members representing the minority party shall appoint one official.
  - b) In appointing additional early voting officials as need requires, the members of the commission of the majority and minority parties should continue to alternate in appointing officials.
2. In any election, the county election commissions shall appoint a sufficient number of early voting officials to insure the integrity of the ballot and smooth operation of the election.
3. Special attention shall be given to ensure that the voting machines are secured at all times to ensure against unauthorized use.

D. Manner of Voting – T.C.A. § 2-6-109

1. Comparison of Signatures

- a) Upon completion of the application, the early voting election official shall compare the signature of the voter with the signature on the voter's permanent registration record, or other evidence of identification containing the voter's signature if computerized duplicate registration records are used;
- b) The early voting election official shall endorse on the application that the two (2) signatures are, or are not, the same.
- c) Other Evidence of Identification shall be:
  1. Tennessee driver license with your photo
  2. United States Passport

3. Tennessee Department of Safety and Homeland Security photo ID
4. Photo ID issued by the federal government or State of Tennessee, such as an employee ID from the U.S. Department of Energy with your photo
5. United States Military photo ID, including a Veteran Identification Card
6. Tennessee handgun carry permit card with your photo

**For these purposes only the above ID needs to contain the voter's signature for comparison purposes.**

2. Comparison of Addresses

- a) The administrator shall make a determination whether the voter's address is different from the address on the voter's permanent registration record or if the registration is in inactive status.

(1) If the voter has changed residence, or the voter's registration is inactive, the administrator shall follow the fail safe voting procedures

3. Record that Early Voting Ballot has been Cast –

- a) Computerized Counties - In a computerized county, the early voting official may record the ballot number on the computer-generated duplicate registration record or the voter's application for ballot and shall update the voter's computerized voter history by making the appropriate data entry.

4. Voting Supplies to be Handed to the Voter - Upon determining that the voter is entitled to vote early in the election, and after recording the ballot number on the voter's permanent registration record, the early voting official shall give the voter:

- a) Instructions; and
- b) One (1) early voting ballot or one (1) primary early voting ballot or both.

E. Methods of Voting – T.C.A. § 2-6-104

1. The county election commission shall choose one (1) of the following options for its method of early voting:

- a) Place all races on a machine ballot;
- b) Place some of the races on a machine ballot and part of the races on a paper ballot; or

- c) Place all races on a paper ballot.

NOTE: The promulgated rules that govern the particular voting machine used by the county election commission must be reviewed for the specific rules that apply to that machine.

2. Limitations on the Use of One Machine

- a) No single direct recording electronic (DRE) voting system may have more than nine thousand nine hundred ninety-nine (9,999) voters using a single machine during the early voting period.

- F. Duty to Secure Early Voting Machines - The county election commission must:

1. Secure each voting machine used in early voting to prohibit tampering; and
2. Provide maximum security that allows no other person, except for persons designated by the election commission or the administrator of elections, to have access to the room or facility in which the voting machines, ballots and other election supplies are stored.

- III. Absentee and Early Voting List

- A. Information Regarding Absentee Requests and Applications

T.C.A §2-6-202(c) (6)

1. Any information regarding absentee requests and applications shall be confidential and not subject to the open records law during the early voting period.
2. This information may be released at the end of the early voting period.
3. UOCAVA voters – Military, Spouses, Dependents and Overseas – The social security number, date of birth, mailing address and electronic mailing address contained on such application shall be confidential and not subject to the open records law and not released at any time. (2010 Amendment – Public Chapter 636)

- B. Information Regarding Absentee and Early Votes Already Cast

1. Each county election commission shall prepare, for each day of the early voting period, a list of all persons who voted on the previous day. This list shall include ballots received by mail during the previous day. UOCAVA voters are included on this list.
2. The early voting and absentee (by mail) list shall be provided to a newspaper of general circulation so that the paper may publish the information if it so chooses. The list shall also be provided to any other publication requesting it.

3. These lists are open for inspection to any citizen of the state.
4. If requested by a candidate in the election in which early voting is being conducted, a copy of the list shall be mailed to that candidate, on a daily basis, at an address he or she provides to the county election commission. The county election commission may charge a reasonable cost for production of this list not to exceed the cost of producing the list.
5. The county election commission shall furnish each polling place with a certified copy of a complete alphabetical list of its early and absentee (by mail) voters for each election and the copy shall be displayed at the polling place throughout the voting hours on Election Day.