

CHAPTER 179

ELECTIONS

HOUSE BILL 03-1271

BY REPRESENTATIVE(S) Sinclair, Cadman, Carroll, Fairbank, Frangas, Garcia, Harvey, McFadyen, Miller, Plant, Romanoff, Sanchez, Schultheis, and Weissmann;
also SENATOR(S) Taylor, Andrews, Arnold, Cairns, Evans, Hanna, Hillman, Isgar, Lamborn, May R., McElhany, Nichol, Teck, and Windels.

AN ACT**CONCERNING VOTING BY CERTAIN ELECTORS WHO ARE LOCATED OUTSIDE THE STATE.**

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 1-2-208 (1), (2), and (3), Colorado Revised Statutes, are amended, and the said 1-2-208 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

1-2-208. Registration by federal postcard application - definitions. (1) ~~Any eligible elector of this state serving in the United States service who is unable to register under any other provisions of this part 2~~ AN ABSENT UNIFORMED SERVICES ELECTOR OR A RESIDENT OVERSEAS ELECTOR may register by properly executing the federal postcard application as provided in the laws of the United States known as the "Federal Voting Assistance Act of 1955", as amended, and may vote in accordance with the federal "Uniformed and Overseas Citizens Absentee Voting Act", 42 U.S.C. SEC. 1973ff ET SEQ., as amended. The application shall be made no later than the twenty-ninth day before the election at which the person intends to vote. The date of registration shall be the date of the postmark or date of receipt by the county clerk and recorder of the application, whichever is earlier. Where the application has no postmark and the application is received no later than five days after the close of registration, the county clerk and recorder shall record the date of registration as the date of the last day allowed for registration. Where the application has no postmark and the application is received six or more days after the close of registration, the county clerk and recorder shall record the date of registration as the date that the application was received. The elector shall be given the same ballot as any other elector registered in that precinct at that address.

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

~~(2) For the purposes of this code, the term "United States service" means:~~

~~(a) Members of the armed forces while in the active service and their spouses and dependents;~~

~~(b) Members of the merchant marine of the United States and their spouses and dependents;~~

~~(c) Civilian employees of the United States in all categories serving outside the territorial limits of the United States and their spouses and dependents when residing with or accompanying them, whether or not the employee is subject to the federal civil service laws and the federal "Classification Act of 1949", as amended, and whether or not the employee is paid from funds appropriated by the congress; or~~

~~(d) Members of religious groups or welfare agencies who assist members of the armed forces and who are officially attached to and serving with the armed forces and their spouses and dependents.~~

(2.5) AS USED IN THIS CODE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "ABSENT UNIFORMED SERVICES ELECTOR" MEANS:

(I) A MEMBER OF A UNIFORMED SERVICE OF THE UNITED STATES WHO IS A RESIDENT OF THIS STATE BUT WHO IS ABSENT FROM THE STATE BY REASON OF ACTIVE DUTY;

(II) A MEMBER OF THE MERCHANT MARINE OF THE UNITED STATES WHO IS A RESIDENT OF THIS STATE BUT WHO IS ABSENT FROM THE STATE BY REASON OF SERVICE IN THE MERCHANT MARINE; OR

(III) A SPOUSE OR DEPENDENT OF A PERSON DESCRIBED IN SUBPARAGRAPH (I) OR (II) OF THIS PARAGRAPH (a) WHO IS A RESIDENT OF THIS STATE BUT WHO IS ABSENT FROM THE STATE BY REASON OF THE ACTIVE DUTY OR SERVICE OF THAT PERSON.

(b) "NONRESIDENT OVERSEAS ELECTOR" MEANS A CITIZEN OF THE UNITED STATES WHO RESIDES OUTSIDE THE UNITED STATES AND WHO WAS A RESIDENT OF THIS STATE IMMEDIATELY PRIOR TO LEAVING THE UNITED STATES.

(c) "RESIDENT OVERSEAS ELECTOR" MEANS A RESIDENT OF THIS STATE WHO IS LIVING TEMPORARILY OUTSIDE THE UNITED STATES.

~~(3) Any eligible elector of this state who is temporarily residing outside the territorial limits of the United States and the spouse and dependents of the elector when residing with or accompanying the elector may be registered by properly executing the federal postcard application, as provided by the "Federal Voting Assistance Act of 1955", as amended.~~

SECTION 2. The introductory portion to 1-2-209 (1) and 1-2-209 (3), Colorado Revised Statutes, are amended to read:

1-2-209. Registration of citizens who reside outside the United States -

federal law. (1) ~~Any citizen who resides outside the United States, whose domicile immediately prior to the elector's departure from the United States was in this state, and~~ A NONRESIDENT OVERSEAS ELECTOR who meets the other qualifications for registration in this state shall be registered and entitled to vote at any primary, general, or congressional vacancy election for federal offices only, upon receipt by the county clerk and recorder of the former domicile of the ~~citizen of an~~ ELECTOR OF A FEDERAL POSTCARD application, ~~on a form prescribed by the secretary of state,~~ even though while residing outside the United States the elector does not have a place of residence in this state and the intent to return may be uncertain, if:

(3) An elector registered pursuant to this section shall ~~apply for and cast a~~ vote by absent voting procedures as authorized by this code. The absentee ballot issued shall carry the candidates for the following federal offices: President and vice president of the United States, member of the United States senate, and member of the United States house of representatives. Any elector registered pursuant to ~~the provisions of~~ this section shall be canceled under the provisions of section 1-2-605. Upon returning to the United States, any elector registered pursuant to this section shall notify the county clerk and recorder either to cancel the elector's registration because the elector has established residence outside the county where registered or to complete the registration because the elector has established residence in the county.

SECTION 3. Part 2 of article 2 of title 1, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

1-2-209.5. Absent uniformed services and overseas electors - simultaneous voter registration and absentee ballot application - designated office - cooperation with military units. (1) AN ELECTOR MAY SIMULTANEOUSLY REGISTER TO VOTE AND APPLY FOR AN ABSENTEE BALLOT BY FEDERAL POSTCARD APPLICATION PURSUANT TO SECTION 1-2-208 OR 1-2-209. IF THE ELECTOR REQUESTS THAT THE APPLICATION BE CONSIDERED AN APPLICATION FOR AN ABSENTEE BALLOT FOR EACH SUBSEQUENT ELECTION HELD IN THE STATE THROUGH THE NEXT TWO REGULARLY SCHEDULED GENERAL ELECTIONS, THE DESIGNATED ELECTION OFFICIAL SHALL PROVIDE AN ABSENTEE BALLOT TO THE ELECTOR FOR EACH SUCH SUBSEQUENT ELECTION.

(2) (a) IN ACCORDANCE WITH SECTION 702 OF THE "HELP AMERICA VOTE ACT OF 2002", 42 U.S.C. SEC. 1973ff-1 (b), AS AMENDED, THE SECRETARY OF STATE IS DESIGNATED AS THE SINGLE OFFICE RESPONSIBLE FOR PROVIDING INFORMATION ON VOTER REGISTRATION AND ABSENTEE BALLOT PROCEDURES TO BE USED BY ABSENT UNIFORMED SERVICES ELECTORS, NONRESIDENT OVERSEAS ELECTORS, AND RESIDENT OVERSEAS ELECTORS WHO WISH TO REGISTER TO VOTE OR VOTE IN ANY JURISDICTION IN THIS STATE.

(b) THE SECRETARY OF STATE MAY COOPERATE WITH THE VOTING ASSISTANCE OFFICER OF ANY UNIT OF THE ARMED FORCES OF THE UNITED STATES TO ASSIST WITH VOTER REGISTRATION AND ABSENTEE BALLOT APPLICATIONS.

SECTION 4. 1-8-103.5 (1), Colorado Revised Statutes, is amended, and the said 1-8-103.5 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

1-8-103.5. Voting by persons residing overseas and military personnel.

(1) The designated or coordinated election official for a county or other political subdivision, as applicable, that meets the requirements specified in rules promulgated by the secretary of state pursuant to subsection (3) of this section shall provide an absentee ballot by electronic means to an eligible elector who:

(a) ~~Is a member of the armed forces of the United States~~ AN ABSENT UNIFORMED SERVICES ELECTOR, A NONRESIDENT OVERSEAS ELECTOR, OR A RESIDENT OVERSEAS ELECTOR, AS DEFINED IN SECTION 1-2-208 (2.5); AND

(b) ~~Is stationed outside of the United States; and~~

(c) Timely filed an absentee ballot application with the designated or coordinated election official. ~~within the deadline specified in section 1-8-104 (3).~~

(1.5) NOTWITHSTANDING SECTION 1-8-104 (3), A DESIGNATED OR COORDINATED ELECTION OFFICIAL SHALL NOT REFUSE TO ACCEPT OR PROCESS ANY OTHERWISE VALID ABSENTEE BALLOT SUBMITTED BY AN ABSENT UNIFORMED SERVICES ELECTOR, AS DEFINED IN SECTION 1-2-208 (2.5), DURING A YEAR ON THE GROUNDS THAT THE ELECTOR SUBMITTED THE APPLICATION BEFORE THE FIRST DATE ON WHICH THE DESIGNATED OR COORDINATED ELECTION OFFICIAL OTHERWISE ACCEPTS OR PROCESSES SUCH APPLICATIONS FOR THAT YEAR.

SECTION 5. 1-8-117 (2) and (3), Colorado Revised Statutes, are amended to read:

1-8-117. Federal write-in absentee ballots pursuant to the "Uniformed and Overseas Citizens Absentee Voting Act". (2) ~~A person in the United States service~~ AN ABSENT UNIFORMED SERVICES ELECTOR, as defined in ~~section 1-2-208 (2)~~ SECTION 1-2-208 (2.5), may apply for an absentee ballot by the use of a properly executed federal postcard application, as provided for in the "Federal Voting Assistance Act of 1955", as amended.

(3) ~~If a person in the United States service~~ AN ABSENT UNIFORMED SERVICES ELECTOR submits a properly executed federal postcard application pursuant to this section and the county clerk and recorder receiving it determines that the applicant is not properly registered, the county clerk and recorder shall register the applicant in accordance with section 1-2-208 and shall then deliver to the applicant the official absentee ballot and other materials necessary for the applicant to vote properly.

SECTION 6. Effective date - applicability. (1) This act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution; except that, if a

referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

(2) The provisions of this act shall apply to elections conducted on or after the applicable effective date of this act.

Approved: April 22, 2003