

CS FOR HOUSE BILL NO. 178()

IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-SEVENTH LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVES THOMAS, Feige, Tuck

A BILL**FOR AN ACT ENTITLED**

1 "An Act relating to election practices and procedures; and providing for an effective
2 date."

3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 * **Section 1.** AS 15.05.011 is amended by adding a new subsection to read:

5 (e) Notwithstanding (b)(1) of this section, a person residing outside the United
6 States may register and vote absentee if

7 (1) the parent or legal guardian of the person was domiciled in the state
8 immediately before leaving the United States;

9 (2) the director determines that the person meets the requirements of
10 (b)(2) - (5) of this section.

11 * **Sec. 2.** AS 15.20.030 is amended to read:

12 **Sec. 15.20.030. Preparation of ballots, envelopes, and other material.** The
13 director shall provide ballots for use as absentee ballots in all districts. The director
14 shall provide a secrecy sleeve in which the voter shall initially place the marked ballot,

1 and shall provide an envelope with the prescribed voter's certificate on it, in which the
2 secrecy sleeve with ballot enclosed shall be placed. The director shall prescribe the
3 form of and prepare the voter's certificate, envelopes, and other material used in
4 absentee voting. The voter's certificate shall include a declaration, for use when
5 required, that the voter is a qualified voter in all respects, a blank for the voter's
6 signature, [A CERTIFICATION THAT THE AFFIANT PROPERLY EXECUTED
7 THE MARKING OF THE BALLOT AND GAVE THE VOTER'S IDENTITY,
8 BLANKS FOR THE ATTESTING OFFICIAL OR WITNESS], and a place for
9 recording the date the envelope was sealed [AND WITNESSED]. The envelope with
10 the voter's certificate must include a notice that a false statement [STATEMENTS]
11 made by the voter [OR BY THE ATTESTING OFFICIAL OR WITNESS] on the
12 certificate is [ARE] punishable by law.

13 * **Sec. 3.** AS 15.20.045 is amended by adding a new subsection to read:

14 (c) In a municipality in which the division will not be operating an absentee
15 voting station, the director may designate the municipal clerk as an absentee voting
16 official for the limited purpose of distributing absentee ballots to qualified voters
17 under AS 15.20.061(a)(1) and qualified voters' representatives under AS 15.20.072. At
18 least 15 days before the election, the director shall supply municipal clerks designated
19 under this subsection with absentee ballots.

20 * **Sec. 4.** AS 15.20.061(a) is amended to read:

21 (a) A qualified voter may apply in person for an absentee ballot to the
22 following election officials at the times specified:

23 (1) to an absentee voting official on or after the 15th day before an
24 election up to and including the date of the election;

25 (2) to an election supervisor on or after the 22nd [15TH] day before an
26 election up to and including the date of the election;

27 (3) to an absentee voting official at an absentee voting station
28 designated under AS 15.20.045(b) on or after the 15th day before an election up to and
29 including the date of the election;

30 (4) to an absentee voting official in the precinct in which no volunteers
31 can be located to serve on the election board on or after the 15th day before an election

1 up to and including election day.

2 * **Sec. 5.** AS 15.20.061(c) is amended to read:

3 (c) On receipt of an absentee ballot in person, the voter shall proceed to mark
4 the ballot in secret, to place the ballot in the secrecy sleeve, to place the secrecy sleeve
5 in the envelope provided, and to sign the voter's certificate on the envelope [IN THE
6 PRESENCE OF THE ELECTION OFFICIAL WHO SHALL SIGN AS ATTESTING
7 OFFICIAL AND DATE THAT SIGNATURE]. The election official shall then accept
8 the ballot.

9 * **Sec. 6.** AS 15.20.064(a) is amended to read:

10 (a) For 22 [15] days before an election and on election day, a qualified voter
11 who meets the requirements set out in this section may vote in locations designated by
12 the director.

13 * **Sec. 7.** AS 15.20.066(b) is amended to read:

14 (b) An absentee ballot that is completed and returned by the voter by
15 electronic transmission must

16 [(1)] contain the following statement: "I understand that, by using
17 electronic transmission to return my marked ballot, I am voluntarily waiving a portion
18 of my right to a secret ballot to the extent necessary to process my ballot, but expect
19 that my vote will be held as confidential as possible," followed by the voter's signature
20 and date of signature [; AND

21 (2) BE ACCOMPANIED BY A STATEMENT EXECUTED UNDER
22 OATH AS TO THE VOTER'S IDENTITY; THE STATEMENT UNDER OATH
23 MUST BE WITNESSED BY

24 (A) A COMMISSIONED OR NONCOMMISSIONED
25 OFFICER OF THE ARMED FORCES OF THE UNITED STATES;

26 (B) AN OFFICIAL AUTHORIZED BY FEDERAL LAW OR
27 THE LAW OF THE STATE IN WHICH THE ABSENTEE BALLOT IS
28 CAST TO ADMINISTER AN OATH; OR

29 (C) AN INDIVIDUAL WHO IS 18 YEARS OF AGE OR
30 OLDER].

31 * **Sec. 8.** AS 15.20.066 is amended by adding a new subsection to read:

(c) In this section, "electronic transmission" means facsimile, electronic mail, and other methods of electronic transmission approved by the director and identified in regulation.

* **Sec. 9.** AS 15.20.072(d) is amended to read:

(d) The representative shall deliver the special needs ballot and other voting materials to the voter as soon as practicable. The voter shall mark the ballot in secret, place the ballot in the secrecy sleeve, and place the secrecy sleeve in the envelope provided. The voter shall provide the information on the envelope that would be required for absentee voting if the voter voted in person. The voter shall sign the voter's certificate [IN THE PRESENCE OF THE REPRESENTATIVE. THE REPRESENTATIVE SHALL SIGN AS ATTESTING OFFICIAL] and date the voter's signature.

* **Sec. 10.** AS 15.20.081(a) is amended to read:

(a) A qualified voter may, if the voter is in the state, apply in person, or if the voter is in the state or traveling or working outside the state, apply by mail, or by facsimile, scanning, or other electronic transmission to the director for an absentee ballot under this section. Another individual may apply for an absentee ballot on behalf of a qualified voter if that individual is designated to act on behalf of the voter in a written general power of attorney or a written special power of attorney that authorizes the other individual to apply for an absentee ballot on behalf of the voter. The application must include the address or, if the application requests delivery of an absentee ballot by electronic transmission, the telephone electronic transmission number or electronic mail address, to which the absentee ballot is to be returned, the applicant's full Alaska residence address, and the applicant's signature. However, a person residing outside the United States and applying to vote absentee in federal elections in accordance with AS 15.05.011 need not include an Alaska residence address in the application. A person may supply to a voter an absentee ballot application form with a political party or group affiliation indicated only if the voter is already registered as affiliated with the political party or group indicated. Only the voter or the individual designated by the voter in a written power of attorney under this subsection may mark the voter's choice of primary ballot on an application. A

1 person supplying an absentee ballot application form may not design or mark the
2 application in a manner that suggests choice of one ballot over another, except that
3 ballot choices may be listed on an application as authorized by the division. The
4 application must be made on a form prescribed or approved by the director. The voter
5 or registration official shall submit the application directly to the division of elections.
6 For purposes of this subsection, "directly to the division of elections" means that an
7 application may not be submitted to any intermediary that could control or delay the
8 submission of the application to the division or gather data on the applicant from the
9 application form. However, nothing in this subsection is intended to prohibit a voter
10 from giving a completed absentee ballot application to a friend, relative, or associate
11 for transfer to a foreign postal service, the United States Postal Service, or a private
12 commercial delivery service for delivery to the division.

13 * **Sec. 11.** AS 15.20.081(d) is amended to read:

14 (d) Upon receipt of an absentee ballot by mail, the voter [, IN THE
15 PRESENCE OF A NOTARY PUBLIC, COMMISSIONED OFFICER OF THE
16 ARMED FORCES INCLUDING THE NATIONAL GUARD, DISTRICT JUDGE
17 OR MAGISTRATE, UNITED STATES POSTAL OFFICIAL, REGISTRATION
18 OFFICIAL, OR OTHER PERSON QUALIFIED TO ADMINISTER OATHS,] may
19 proceed to mark the ballot in secret, to place the ballot in the secrecy sleeve, to place
20 the secrecy sleeve in the envelope provided, and to sign and date the voter's
21 certificate on the envelope.In [IN THE PRESENCE OF AN OFFICIAL LISTED IN
22 THIS SUBSECTION WHO SHALL SIGN AS ATTESTING OFFICIAL AND
23 SHALL DATE THE SIGNATURE. IF NONE OF THE OFFICIALS LISTED IN
24 THIS SUBSECTION IS REASONABLY ACCESSIBLE, AN ABSENTEE VOTER
25 SHALL SIGN THE VOTER'S CERTIFICATE IN THE PRESENCE OF AN
26 INDIVIDUAL WHO IS 18 YEARS OF AGE OR OLDER, WHO SHALL SIGN AS
27 A WITNESS AND ATTEST TO THE DATE ON WHICH THE VOTER SIGNED
28 THE CERTIFICATE IN THE INDIVIDUAL'S PRESENCE, AND, IN] addition, the
29 voter shall certify, as prescribed in AS 09.63.020, under penalty of perjury, that the
30 statements in the voter's certification are true.

31 * **Sec. 12.** AS 15.20.081(e) is amended to read:

(e) An absentee ballot must be marked on or before the date of the election. **A** [EXCEPT AS PROVIDED IN (h) OF THIS SECTION, A] voter who returns the absentee ballot by mail, whether provided to the voter by mail or by electronic transmission, shall use a mail service at least equal to first class and mail the ballot not later than the day of the election to the election supervisor for the house district in which the voter seeks to vote. Except as provided in AS 15.20.480, the ballot may not be counted unless it is received by the close of business on the 10th day after the election. If the ballot is postmarked, it must be postmarked on or before election day. After the day of the election, ballots may not be accepted unless received by mail.

* **Sec. 13.** AS 15.20.203(b) is amended to read:

(b) An absentee ballot may not be counted if

(1) the voter has failed to properly execute the certificate;

(2) [AN OFFICIAL OR THE WITNESSES AUTHORIZED BY LAW]

TO ATTEST THE VOTER'S CERTIFICATE FAIL TO EXECUTE THE CERTIFICATE, EXCEPT THAT AN ABSENTEE BALLOT CAST IN PERSON AND ACCEPTED BY AN ABSENTEE VOTING OFFICIAL OR ELECTION SUPERVISOR MAY BE COUNTED DESPITE FAILURE OF THE ABSENTEE VOTING OFFICIAL OR ELECTION SUPERVISOR TO PROPERLY SIGN AND DATE THE VOTER'S CERTIFICATE AS ATTESTING OFFICIAL AS REQUIRED UNDER AS 15.20.061(c);

(3)] the ballot is not attested on or before the date of the election;

(3) [(4)] the ballot, if postmarked, is not postmarked on or before the date of the election;

(4) [(5)] after the day of election, the ballot was delivered by a means other than mail; or

(5) [(6)] the voter voted

(A) in person and is a

(i) first-time voter who initially registered by mail or by facsimile or other electronic transmission approved by the director under AS 15.07.050, has not provided the identification required by AS 15.15.225(a), was not eligible for waiver of the identification

1 requirement under AS 15.15.225(b), and has not provided the
2 identifiers required in AS 15.07.060(a)(2) and (3) that can be verified
3 through state agency records described in AS 15.07.055(e); or

4 (ii) voter other than one described in (i) of this
5 subparagraph, did not provide identification described in
6 AS 15.15.225(a), was not personally known by the election official,
7 and has not provided the identifiers required in AS 15.07.060(a)(2) and
8 (3); or

9 (B) by mail or electronic transmission, is a first-time voter who
10 initially registered by mail or by facsimile or other electronic transmission
11 approved by the director under AS 15.07.050 to vote, has not met the
12 identification requirements set out in AS 15.07.060, and does not submit with
13 the ballot a copy of a

14 (i) driver's license, state identification card, current and
15 valid photo identification, birth certificate, passport, or hunting or
16 fishing license; or

17 (ii) current utility bill, bank statement, paycheck,
18 government check, or other government document; an item described
19 in this sub subparagraph must show the name and current address of
20 the voter.

21 * **Sec. 14.** AS 15.20.220(b) is amended to read:

22 (b) The state review board shall review and count absentee ballots under
23 AS 15.20.081(e) [AND (h)] and questioned ballots that have been forwarded to the
24 director and that have not been reviewed or counted by a district counting board.

25 * **Sec. 15.** AS 15.25.020 is amended to read:

26 **Sec. 15.25.020. Date of primary.** The primary election is held on the second
27 [FOURTH] Tuesday in August of every even-numbered year.

28 * **Sec. 16.** AS 15.25.055 is amended to read:

29 **Sec. 15.25.055. Removal of name from primary ballot.** A candidate's name
30 must appear on the primary election ballot unless notice of the withdrawal from the
31 primary is received by the director at least 52 [48] days before the date of the primary

election.

* Sec. 17. AS 15.25.056(a) is amended to read:

(a) If an unopposed incumbent candidate for renomination dies, becomes disqualified from holding the office the candidate is seeking, or is certified as being incapacitated between June 1 of the election year and that date which is more than 54 [50] days before the date of the primary election, the candidate's place on the ballot may be filled by party petition. The petition shall state that the political party requests the name of the proposed candidate replace that of the incumbent on the primary election ballot and shall be accompanied by a declaration of candidacy from the person named in the petition. The petition must be received by the director no later than 14 days after the death, disqualification, or certification of incapacity of the incumbent or 52 [48] days before the primary election date, whichever time is earlier.

* Sec. 18. AS 15.25.056(c) is amended to read:

(c) The death, disqualification, or certification of incapacity of the incumbent within 52 [48] days before or on the primary election date does not affect the counting and review of the ballots. If the result of the counting and review discloses that the candidate, if the candidate had lived, would have been nominated, the candidate shall be declared nominated. The vacancy may be filled by party petition as provided in AS 15.25.110 - 15.25.130.

* Sec. 19. AS 15.25.110 is amended to read:

Sec. 15.25.110. Filling vacancies by party petition. If a candidate of a political party nominated at the primary election dies, withdraws, resigns, becomes disqualified from holding the office for which the candidate is nominated, or is certified as being incapacitated in the manner prescribed by this section after the primary election and 64 [48] days or more before the general election, the vacancy may be filled by party petition. The central committee of any political party or any party district committee may certify as being incapacitated any candidate nominated by their respective party by presenting to the director a sworn statement made by a panel of three licensed physicians, not more than two of whom may be of the same political party, that the candidate is physically or mentally incapacitated to an extent that would in the panel's judgment prevent the candidate from active service during

1 the term of office if elected. The director shall place the name of the person nominated
2 by party petition on the general election ballot. The name of a candidate disqualified
3 under this section may not appear on the general election ballot.

4 * **Sec. 20.** AS 15.25.120 is amended to read:

5 **Sec. 15.25.120. Requirements for party petition.** Party petitions for the
6 nomination of candidates shall state in substance that the political party desires and
7 intends to support the named candidate for the named office and requests that the
8 name of the proposed candidate be placed on the general election ballot. The petition
9 may be filed no later than 64 [48] days before the date of the general election.

10 * **Sec. 21.** AS 15.25.200 is amended to read:

11 **Sec. 15.25.200. Withdrawal of candidate's name.** If a candidate nominated
12 by petition dies or withdraws after the petition has been filed and 64 [48] days or more
13 before the general election, the director may not place the name of the candidate on
14 the general election ballot.

15 * **Sec. 22.** AS 15.35.135(b) is amended to read:

16 (b) The name of a candidate for retention for supreme court justice, judge of
17 the court of appeals, superior court judge, or district court judge must appear on the
18 general election ballot unless notice under (a) of this section of withdrawal of
19 candidacy is received by the director at least 64 [48] days before the date of the
20 general election.

21 * **Sec. 23.** AS 29.20.380 is amended by adding a new subsection to read:

22 (c) The municipal clerk may act as an absentee voting official under
23 AS 15.20.045(c) for the limited purpose of distributing absentee ballots to qualified
24 voters or qualified voters' representatives under AS 15.20.072 in a municipality in
25 which the division of elections will not be operating an absentee voting station.

26 * **Sec. 24.** AS 15.20.081(h), 15.20.081(i), 15.20.082, and 15.20.160 are repealed.

27 * **Sec. 25.** This Act takes effect January 1, 2012.