

(b) Medical certification

No notarization or medical certification shall be required of a handicapped voter with respect to an absentee ballot or an application for such ballot, except that medical certification may be required when the certification establishes eligibility, under State law—

- (1) to automatically receive an application or a ballot on a continuing basis; or
- (2) to apply for an absentee ballot after the deadline has passed.

(c) Notice of availability of aids

The chief election officer of each State shall provide public notice, calculated to reach elderly and handicapped voters, of the availability of aids under this section, assistance under section 1973aa-6 of this title, and the procedures for voting by absentee ballot, not later than general public notice of registration and voting is provided.

(Pub. L. 98-435, § 5, Sept. 28, 1984, 98 Stat. 1679.)

§ 1973ee-4. Enforcement**(a) Action for declaratory or injunctive relief**

If a State or political subdivision does not comply with this subchapter, the United States Attorney General or a person who is personally aggrieved by the noncompliance may bring an action for declaratory or injunctive relief in the appropriate district court.

(b) Prerequisite notice of noncompliance

An action may be brought under this section only if the plaintiff notifies the chief election officer of the State of the noncompliance and a period of 45 days has elapsed since the date of notification.

(c) Attorney fees

Notwithstanding any other provision of law, no award of attorney fees may be made with respect to an action under this section, except in any action brought to enforce the original judgment of the court.

(Pub. L. 98-435, § 6, Sept. 28, 1984, 98 Stat. 1679.)

§ 1973ee-5. Relationship to Voting Rights Act of 1965

This subchapter shall not be construed to impair any right guaranteed by the Voting Rights Act of 1965 (42 U.S.C. 1973 et seq.).

(Pub. L. 98-435, § 7, Sept. 28, 1984, 98 Stat. 1679.)

REFERENCES IN TEXT

The Voting Rights Act of 1965, referred to in text, is Pub. L. 89-110, Aug. 6, 1965, 79 Stat. 437, as amended, which is classified generally to subchapters I-A (§ 1973 et seq.), I-B (§ 1973aa et seq.), and I-C (§ 1973bb et seq.) of this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1971 of this title and Tables.

§ 1973ee-6. Definitions

As used in this subchapter, the term—

- (1) “accessible” means accessible to handicapped and elderly individuals for the purpose of voting or registration, as determined under guidelines established by the chief election officer of the State involved;

(2) “elderly” means 65 years of age or older;

(3) “Federal election” means a general, special, primary, or runoff election for the office of President or Vice President, or of Senator or Representative in, or Delegate or Resident Commissioner to, the Congress;

(4) “handicapped” means having a temporary or permanent physical disability; and

(5) “State” means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession¹ of the United States.

(Pub. L. 98-435, § 8, Sept. 28, 1984, 98 Stat. 1679.)

SUBCHAPTER I-G—REGISTRATION AND VOTING BY ABSENT UNIFORMED SERVICES VOTERS AND OVERSEAS VOTERS IN ELECTIONS FOR FEDERAL OFFICE

PRIOR PROVISIONS

Provisions similar to this subchapter were contained in subchapters I-D and I-E (1973cc et seq. and 1973dd et seq.) of this chapter prior to repeal by Pub. L. 99-410.

§ 1973ff. Federal responsibilities**(a) Presidential designee**

The President shall designate the head of an executive department to have primary responsibility for Federal functions under this subchapter.

(b) Duties of Presidential designee

The Presidential designee shall—

(1) consult State and local election officials in carrying out this subchapter, and ensure that such officials are aware of the requirements of this Act;

(2) prescribe an official post card form, containing both an absentee voter registration application and an absentee ballot application, for use by the States as required under section 1973ff-1(a)(4) of this title;

(3) carry out section 1973ff-2 of this title with respect to the Federal write-in absentee ballot for absent uniformed services voters and overseas voters in general elections for Federal office;

(4) prescribe a suggested design for absentee ballot mailing envelopes;

(5) compile and distribute (A) descriptive material on State absentee registration and voting procedures, and (B) to the extent practicable, facts relating to specific elections, including dates, offices involved, and the text of ballot questions;

(6) not later than the end of each year after a Presidential election year, transmit to the President and the Congress a report on the effectiveness of assistance under this subchapter, including a statistical analysis of uniformed services voter participation, a separate statistical analysis of overseas non-military participation, and a description of State-Federal cooperation;

(7) prescribe a standard oath for use with any document under this subchapter affirming that a material misstatement of fact in the completion of such a document may constitute grounds for a conviction for perjury;

¹ So in original. Probably should be “possession”.

(8) carry out section 1973ff-2a of this title with respect to the collection and delivery of marked absentee ballots of absent overseas uniformed services voters in elections for Federal office;

(9) to the greatest extent practicable, take such actions as may be necessary—

(A) to ensure that absent uniformed services voters who cast absentee ballots at locations or facilities under the jurisdiction of the Presidential designee are able to do so in a private and independent manner; and

(B) to protect the privacy of the contents of absentee ballots cast by absentee uniformed services voters and overseas voters while such ballots are in the possession or control of the Presidential designee;

(10) carry out section 1973ff-2b of this title with respect to Federal Voting Assistance Program Improvements; and

(11) working with the Election Assistance Commission and the chief State election official of each State, develop standards—

(A) for States to report data on the number of absentee ballots transmitted and received under section 1973ff-1(c) of this title and such other data as the Presidential designee determines appropriate; and

(B) for the Presidential designee to store the data reported.

(c) Duties of other Federal officials

(1) In general

The head of each Government department, agency, or other entity shall, upon request of the Presidential designee, distribute balloting materials and otherwise cooperate in carrying out this subchapter.

(2) Administrator of General Services

As directed by the Presidential designee, the Administrator of General Services shall furnish official post card forms (prescribed under subsection (b) of this section) and Federal write-in absentee ballots (prescribed under section 1973ff-2 of this title).

(d) Authorization of appropriations for carrying out Federal Voting Assistance Program Improvements

There are authorized to be appropriated to the Presidential designee such sums as are necessary for purposes of carrying out subsection (b)(10).

(Pub. L. 99-410, title I, §101, Aug. 28, 1986, 100 Stat. 924; Pub. L. 105-277, div. G, title XXII, §2219(c), Oct. 21, 1998, 112 Stat. 2681-817; Pub. L. 107-107, div. A, title XVI, §1606(a)(2), Dec. 28, 2001, 115 Stat. 1279; Pub. L. 107-252, title VII, §705(a), (b)(1), (c), Oct. 29, 2002, 116 Stat. 1724, 1725; Pub. L. 108-375, div. A, title V, §566(a), Oct. 28, 2004, 118 Stat. 1919; Pub. L. 111-84, div. A, title V, §§580(b), (e), 583(a)(2), 584(a), 585(b)(1), Oct. 28, 2009, 123 Stat. 2325, 2328, 2330, 2331; Pub. L. 111-383, div. A, title X, §1075(d)(4), (5), Jan. 7, 2011, 124 Stat. 4372.)

REFERENCES IN TEXT

This Act, referred to in subsec. (b)(1), is Pub. L. 99-410, Aug. 28, 1986, 100 Stat. 924, known as the Uniformed and Overseas Citizens Absentee Voting Act,

which is classified principally to this subchapter. For complete classification of this Act to the Code, see Short Title of 1986 Amendment note set out under section 1971 of this title and Tables.

AMENDMENTS

2011—Subsec. (b)(2), (4), (11). Pub. L. 111-383, §1075(d)(4), (5), amended Pub. L. 111-84, §§584(a), 585(b)(1). See 2009 Amendment notes below.

2009—Subsec. (b)(2). Pub. L. 111-84, §585(b)(1)(A), as added by Pub. L. 111-383, §1075(d)(5), substituted “section 1973ff-1(a)(4)” for “section 1973ff-1(4)”.

Subsec. (b)(4). Pub. L. 111-84, §585(b)(1)(B), as added by Pub. L. 111-383, §1075(d)(5), added par. (4) and struck out former par. (4) which read as follows: “prescribe a suggested design for absentee ballot mailing envelopes for use by the States as recommended in section 1973ff-3 of this title;”.

Subsec. (b)(8). Pub. L. 111-84, §580(b), added par. (8).

Subsec. (b)(9). Pub. L. 111-84, §580(e), added par. (9).

Subsec. (b)(10). Pub. L. 111-84, §583(a)(2)(A), added par. (10).

Subsec. (b)(11). Pub. L. 111-84, §584(a), as amended by Pub. L. 111-383, §1075(d)(4), added par. (11).

Subsec. (d). Pub. L. 111-84, §583(a)(2)(B), added subsec. (d).

2004—Subsec. (b)(3). Pub. L. 108-375 substituted “absent uniformed services voters and overseas voters” for “overseas voters”.

2002—Subsec. (b)(1). Pub. L. 107-252, §705(a), inserted “, and ensure that such officials are aware of the requirements of this Act” before semicolon at end.

Subsec. (b)(6). Pub. L. 107-252, §705(c), substituted “a separate statistical analysis” for “a general assessment”.

Subsec. (b)(7). Pub. L. 107-252, §705(b)(1), added par. (7).

2001—Subsec. (b)(2). Pub. L. 107-107 substituted “as required under section 1973ff-1(4) of this title” for “as recommended in section 1973ff-3 of this title”.

1998—Subsec. (b)(6). Pub. L. 105-277 substituted “of uniformed services voter participation, a general assessment of overseas nonmilitary participation,” for “of voter participation”.

EFFECTIVE DATE OF 2011 AMENDMENT

Pub. L. 111-383, div. A, title X, §1075(d), Jan. 7, 2011, 124 Stat. 4372, provided that the amendment by section 1075(d)(4), (5) is effective as of Oct. 28, 2009, and as if included in Pub. L. 111-84 as enacted.

EFFECTIVE DATE OF 2009 AMENDMENT

Pub. L. 111-84, div. A, title V, §580(f), Oct. 28, 2009, 123 Stat. 2326, provided that: “The amendments made by this section [enacting section 1973ff-2a of this title and amending this section and section 1973ff-1 of this title] shall apply with respect to the regularly scheduled general election for Federal office held in November 2010 and each succeeding election for Federal office.”

Pub. L. 111-84, div. A, title V, §583(a)(3), Oct. 28, 2009, 123 Stat. 2328, provided that: “The amendments made by this subsection [enacting section 1973ff-2b of this title and amending this section] shall apply with respect to the regularly scheduled general election for Federal office held in November 2010 and each succeeding election for Federal office.”

Pub. L. 111-84, div. A, title V, §584(c), Oct. 28, 2009, 123 Stat. 2331, provided that: “The amendments made by this section [amending this section and section 1973ff-1 of this title] shall apply with respect to the regularly scheduled general election for Federal office held in November 2010 and each succeeding election for Federal office.”

EFFECTIVE DATE

Section 204 of Pub. L. 99-410 provided that: “The amendments and repeals made by this Act [see Short Title of 1986 Amendment note set out under section 1971 of this title] shall apply with respect to elections taking place after December 31, 1987.”

SENSE OF CONGRESS REGARDING THE IMPORTANCE OF VOTING

Pub. L. 107-107, div. A, title XVI, §1601, Dec. 28, 2001, 115 Stat. 1274, provided that:

“(a) SENSE OF CONGRESS.—It is the sense of Congress that each person who is an administrator of a Federal, State, or local election—

“(1) should be aware of the importance of the ability of each uniformed services voter to exercise the right to vote; and

“(2) should perform that person’s duties as an election administrator with the intent to ensure that—

“(A) each uniformed services voter receives the utmost consideration and cooperation when voting;

“(B) each valid ballot cast by such a voter is duly counted; and

“(C) all eligible American voters, regardless of race, ethnicity, disability, the language they speak, or the resources of the community in which they live, should have an equal opportunity to cast a vote and to have that vote counted.

“(b) UNIFORMED SERVICES VOTER DEFINED.—In this section, the term ‘uniformed services voter’ means—

“(1) a member of a uniformed service (as defined in section 101(a)(5) of title 10, United States Code) in active service;

“(2) a member of the merchant marine (as defined in section 107 of the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff-6)); and

“(3) a spouse or dependent of a member referred to in paragraph (1) or (2) who is qualified to vote.”

ELECTRONIC VOTING DEMONSTRATION PROJECT

Pub. L. 107-107, div. A, title XVI, §1604, Dec. 28, 2001, 115 Stat. 1277, as amended by Pub. L. 108-375, div. A, title V, §567, Oct. 28, 2004, 118 Stat. 1919, provided that:

“(a) ESTABLISHMENT OF DEMONSTRATION PROJECT.—

“(1) IN GENERAL.—Subject to paragraph (2), the Secretary of Defense shall carry out a demonstration project under which absent uniformed services voters are permitted to cast ballots in the regularly scheduled general election for Federal office for November 2002 through an electronic voting system. The project shall be carried out with participation of sufficient numbers of absent uniformed services voters so that the results are statistically relevant.

“(2) AUTHORITY TO DELAY IMPLEMENTATION.—If the Secretary of Defense determines that the implementation of the demonstration project under paragraph (1) with respect to the regularly scheduled general election for Federal office for November 2002 may adversely affect the national security of the United States, the Secretary may delay the implementation of such demonstration project until the first regularly scheduled general election for Federal office which occurs after the Election Assistance Commission notifies the Secretary that the Commission has established electronic absentee voting guidelines and certifies that it will assist the Secretary in carrying out the project. The Secretary shall notify the Committee on Armed Services and the Committee on Rules and Administration of the Senate and the Committee on Armed Services and the Committee on House Administration of the House of Representatives of any decision to delay implementation of the demonstration project.

“(b) COORDINATION WITH STATE ELECTION OFFICIALS.—The Secretary shall carry out the demonstration project under this section through cooperative agreements with State election officials of States that agree to participate in the project.

“(c) REPORT TO CONGRESS.—Not later than June 1 of the year following the year in which the demonstration project is conducted under this section, the Secretary of Defense shall submit to Congress a report analyzing the demonstration project. The Secretary shall include in the report any recommendations the Secretary considers appropriate for continuing the project on an expanded basis for absent uniformed services voters dur-

ing the next regularly scheduled general election for Federal office.

“(d) DEFINITIONS.—In this section:

“(1) ABSENT UNIFORMED SERVICES VOTER.—The term ‘absent uniformed services voter’ has the meaning given that term in section 107(1) of the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff-6(1)).

“(2) STATE.—The term ‘State’ includes the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, and American Samoa.”

GOVERNORS’ REPORTS ON IMPLEMENTATION OF RECOMMENDATIONS FOR CHANGES IN STATE LAW MADE UNDER FEDERAL VOTING ASSISTANCE PROGRAM

Pub. L. 107-107, div. A, title XVI, §1605, Dec. 28, 2001, 115 Stat. 1277, provided that:

“(a) REPORTS.—(1) Whenever a State receives a uniformed services voting assistance legislative recommendation from the Secretary of Defense, acting as the Presidential designee, the chief executive authority of that State shall, not later than 90 days after receipt of that recommendation, provide a report on the status of implementation of that recommendation by that State.

“(2) If a legislative recommendation referred to in paragraph (1) has been implemented, in whole or in part, by a State, the report of the chief executive authority of that State under that paragraph with respect to that recommendation shall include a description of the changes made to State law to implement the recommendation. If the recommendation has not been implemented, the report shall include a statement of the status of the recommendation before the State legislature and a statement of any recommendation the chief executive officer has made or intends to make to the legislature with respect to that recommendation.

“(3) Any report under paragraph (1) shall be transmitted to the Secretary of Defense, acting as the Presidential designee. The Secretary shall transmit a copy of the response to each Member of Congress who represents that State.

“(b) PERIOD OF APPLICABILITY.—This section applies with respect to any uniformed services voting assistance legislative recommendation transmitted to a State by the Secretary of Defense, acting as the Presidential designee, during the three-year period beginning on the date of the enactment of this Act [Dec. 28, 2001].

“(c) DEFINITIONS.—In this section:

“(1) The term ‘uniformed services voting assistance legislative recommendation’ means a recommendation of the Presidential designee for a modification in the laws of a State for the purpose of improving the access to the polls of absent uniformed services voters and overseas voters.

“(2) The term ‘Presidential designee’ means the head of the executive department designated by the President under section 101(a) of the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff(a)).

“(3) The term ‘State’ includes the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, and American Samoa.

“(4) The term ‘Member of Congress’ includes a Delegate or Resident Commissioner to the Congress.”

EX. ORD. NO. 12642. DESIGNATION OF SECRETARY OF DEFENSE AS PRESIDENTIAL DESIGNEE

Ex. Ord. No. 12642, June 8, 1988, 53 F.R. 21975, provided: By virtue of the authority vested in me as President by the Constitution and laws of the United States of America, including section 101(a) of the Uniformed and Overseas Citizens Absentee Voting Act (Public Law 99-410) (“the Act”) [42 U.S.C. 1973ff(a)], it is hereby ordered as follows:

SECTION 1. The Secretary of Defense is hereby designated as the “Presidential designee” under Title I of the Act [42 U.S.C. 1973ff et seq.].

SEC. 2. In order to effectuate the purposes of the Act [see Short Title note above], the Secretary of Defense

is hereby authorized to delegate any or all of the functions, responsibilities, powers, authority, or discretion devolving upon him in consequence of this Order to any person or persons within the Department of Defense.

RONALD REAGAN.

§ 1973ff-1. State responsibilities

(a) In general

Each State shall—

(1) permit absent uniformed services voters and overseas voters to use absentee registration procedures and to vote by absentee ballot in general, special, primary, and runoff elections for Federal office;

(2) accept and process, with respect to any election for Federal office, any otherwise valid voter registration application and absentee ballot application from an absent uniformed services voter or overseas voter, if the application is received by the appropriate State election official not less than 30 days before the election;

(3) permit absent uniformed services voters and overseas voters to use Federal write-in absentee ballots (in accordance with section 1973ff-2 of this title) in general elections for Federal office;

(4) use the official post card form (prescribed under section 1973ff of this title) for simultaneous voter registration application and absentee ballot application;

(5) if the State requires an oath or affirmation to accompany any document under this subchapter, use the standard oath prescribed by the Presidential designee under section 1973ff(b)(7) of this title;

(6) in addition to any other method of registering to vote or applying for an absentee ballot in the State, establish procedures—

(A) for absent uniformed services voters and overseas voters to request by mail and electronically voter registration applications and absentee ballot applications with respect to general, special, primary, and runoff elections for Federal office in accordance with subsection (e);

(B) for States to send by mail and electronically (in accordance with the preferred method of transmission designated by the absent uniformed services voter or overseas voter under subparagraph (C)) voter registration applications and absentee ballot applications requested under subparagraph (A) in accordance with subsection (e); and

(C) by which the absent uniformed services voter or overseas voter can designate whether the voter prefers that such voter registration application or absentee ballot application be transmitted by mail or electronically;

(7) in addition to any other method of transmitting blank absentee ballots in the State, establish procedures for transmitting by mail and electronically blank absentee ballots to absent uniformed services voters and overseas voters with respect to general, special, primary, and runoff elections for Federal office in accordance with subsection (f);

(8) transmit a validly requested absentee ballot to an absent uniformed services voter or overseas voter—

(A) except as provided in subsection (g), in the case in which the request is received at least 45 days before an election for Federal office, not later than 45 days before the election; and

(B) in the case in which the request is received less than 45 days before an election for Federal office—

(i) in accordance with State law; and

(ii) if practicable and as determined appropriate by the State, in a manner that expedites the transmission of such absentee ballot;

(9) if the State declares or otherwise holds a runoff election for Federal office, establish a written plan that provides absentee ballots are made available to absent uniformed services voters and overseas voters in manner¹ that gives them sufficient time to vote in the runoff election;

(10) carry out section 1973ff-2a(b)(1) of this title with respect to the processing and acceptance of marked absentee ballots of absent overseas uniformed services voters; and

(11) report data on the number of absentee ballots transmitted and received under subsection (c) and such other data as the Presidential designee determines appropriate in accordance with the standards developed by the Presidential designee under section 1973ff(b)(11) of this title.

(b) Designation of single State office to provide information on registration and absentee ballot procedures for all voters in State

(1) In general

Each State shall designate a single office which shall be responsible for providing information regarding voter registration procedures and absentee ballot procedures to be used by absent uniformed services voters and overseas voters with respect to elections for Federal office (including procedures relating to the use of the Federal write-in absentee ballot) to all absent uniformed services voters and overseas voters who wish to register to vote or vote in any jurisdiction in the State.

(2) Recommendation regarding use of office to accept and process materials

Congress recommends that the State office designated under paragraph (1) be responsible for carrying out the State's duties under this Act, including accepting valid voter registration applications, absentee ballot applications, and absentee ballots (including Federal write-in absentee ballots) from all absent uniformed services voters and overseas voters who wish to register to vote or vote in any jurisdiction in the State.

(c) Report on number of absentee ballots transmitted and received

Not later than 90 days after the date of each regularly scheduled general election for Federal office, each State and unit of local government which administered the election shall (through the State, in the case of a unit of local government) submit a report to the Election Assist-

¹ So in original. Probably should be "in a manner".