

§ 20105. Enforcement**(a) Action for declaratory or injunctive relief**

If a State or political subdivision does not comply with this chapter, 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.)

CODIFICATION

Section was formerly classified to section 1973ee-4 of Title 42, The Public Health and Welfare, prior to editorial reclassification and renumbering as this section.

§ 20106. Relationship to Voting Rights Act of 1965

This chapter shall not be construed to impair any right guaranteed by the Voting Rights Act of 1965 (42 U.S.C. 1973 et seq.) [now 52 U.S.C. 10301 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, which is classified generally to chapters 103 (§10301 et seq.), 105 (§10501 et seq.), and 107 (§10701 et seq.) of this title. For complete classification of this Act to the Code, see Tables.

CODIFICATION

Section was formerly classified to section 1973ee-5 of Title 42, The Public Health and Welfare, prior to editorial reclassification and renumbering as this section.

§ 20107. Definitions

As used in this chapter, 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.)

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

CODIFICATION

Section was formerly classified to section 1973ee-6 of Title 42, The Public Health and Welfare, prior to editorial reclassification and renumbering as this section.

CHAPTER 203—REGISTRATION AND VOTING BY ABSENT UNIFORMED SERVICES VOTERS AND OVERSEAS VOTERS IN ELECTIONS FOR FEDERAL OFFICE

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20303.	Federal write-in absentee ballot in general elections for Federal office for absent uniformed services voters and overseas voters.
20304.	Procedures for collection and delivery of marked absentee ballots of absent overseas uniformed services voters.
20305.	Federal Voting Assistance Program Improvements.
20306.	Prohibition of refusal of applications on grounds of early submission.
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PRIOR PROVISIONS

Provisions similar to this chapter were contained in subchapters I-D and I-E (1973cc et seq. and 1973dd et seq.) of chapter 20 of title 42 prior to repeal by Pub. L. 99-410 and then in subchapter I-G (1973ff et seq.) of chapter 20 of title 42 prior to editorial reclassification and renumbering as this chapter.

§ 20301. Federal responsibilities**(a) Presidential designee**

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

(b) Duties of Presidential designee

The Presidential designee shall—

(1) consult State and local election officials in carrying out this chapter, 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 20302(a)(4) of this title;

(3) carry out section 20303 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 chapter, including a statistical analysis of uniformed services voter participation, a separate statistical analysis of overseas nonmilitary partici-

pation, and a description of State-Federal cooperation;

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

(8) carry out section 20304 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 20305 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 20302(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 chapter.

(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)) and Federal write-in absentee ballots (prescribed under section 20303 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 chapter. For complete classification of this Act to the Code, see Tables.

CODIFICATION

Section was formerly classified to section 1973ff of Title 42, The Public Health and Welfare, prior to editorial reclassification and renumbering as this section. Some section numbers referenced in amendment notes below reflect the classification of such sections prior to their editorial reclassification to this title.

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 20304 of this title and amending this section and section 20302 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 20305 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 20302 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

Pub. L. 99–410, title II, § 204, Aug. 28, 1986, 100 Stat. 930, provided that: “The amendments and repeals made by this Act [see Tables for classification] 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) [now 52 U.S.C. 20310]); 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, which established a demonstration project under which absent uniformed services voters were permitted to vote in the November 2002 general election for Federal office through an electronic voting system, was repealed by Pub. L. 113–291, div. A, title V, § 593, Dec. 19, 2014, 128 Stat. 3395.

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, required the chief executive authority of a State to provide an implementation status report to the Secretary of Defense, acting as the Presidential designee, within 90 days of receiving a uniformed services voting assistance legislative recommendation from the Secretary of Defense and was applicable to any uniformed services voting assistance legislative recommendation transmitted to a state during the three-year period beginning on Dec. 28, 2001.

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”) [52 U.S.C. 20301(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 [52 U.S.C. 20301 et seq.].

SEC. 2. In order to effectuate the purposes of the Act, 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.

§ 20302. 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 20303 of this title) in general elections for Federal office;

(4) use the official post card form (prescribed under section 20301 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 chapter, use the standard oath prescribed by the Presidential designee under section 20301(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