

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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HOUSE BILL 750

Short Title: Absentee Ballots/Guardians.

(Public)

Sponsors: Representatives Loflin (By Request); and Culp.

Referred to: Courts, Justice, Constitutional Amendments and Referenda.

April 15, 1991

A BILL TO BE ENTITLED

AN ACT TO ALLOW VERIFIABLE LEGAL GUARDIANS TO APPLY FOR AND OTHERWISE HANDLE ABSENTEE BALLOTS FOR THEIR WARD.

The General Assembly of North Carolina enacts:

Section 1. G.S. 163-227 reads as rewritten:

"§ 163-227. State Board to prescribe form of application for absentee ballots; county to secure.

(a) Applications for Absentee Ballots Generally. – A voter falling in any one of the categories defined in G.S. 163-226, 163-226.1 or 163-226.2 may apply for absentee ballots not earlier than 50 days prior to the statewide, county or municipal election in which he seeks to vote and not later than 5:00 P.M. on the Tuesday before that election. Subject to all other provisions contained in this Article, a voter applying for an absentee ballot shall complete the standard application form to be secured by the county board of elections, as designed and prescribed by the State Board of Elections. The form shall contain lines to be checked off by each of the kinds of voters specified below:

(1) A voter expecting to be absent from the county of his residence all day on the day of the specified election. (G.S. 163-226(a)(1)).

(2) A voter who is unable to be present at the voting place to vote in person on the day of the specified election because of his sickness or other physical disability occurring before 5:00 P.M. on the Tuesday prior to the date of the specified election. (G.S. 163-226(a)(2)(3)). A voter who is unable to be present at the voting place to vote in person on the day of the specified election because of his sickness or other

1 physical disability occurring since 5:00 P.M. on the Tuesday prior to
2 the date of the specified election. (G.S. 163-226(a)(2)).

3 (4) A voter expecting to be absent from the county, or due to emergency
4 disability will be unable to vote in person, or a person who qualifies
5 under G.S. 163-226(a)(4), and who, in lieu of making application by
6 mail, wishes to apply in person and receive a ballot which he may
7 immediately vote in the office of the county board of elections.

8 (b) Types of Applications; Instructions. –

9 (1) Expected Absence from County on Election Day. – A voter expected
10 to be absent from the county in which registered during the entire
11 period that the polls will be open on primary or general election day,
12 or a near relative, or verifiable legal guardian, shall make written
13 application for absentee ballots to the chairman of the board of
14 elections of the county in which the voter is registered not earlier than
15 50 days nor later than 5:00 P.M. on the Tuesday before the election.
16 The application shall be submitted in the form set out in this
17 subdivision upon a copy which shall be furnished the voter or a near
18 relative by the chairman of the county board of elections.

19 The applicant shall sign his application personally, or it shall be
20 signed by a near relative or verifiable legal guardian. The application
21 shall be signed in the presence of a witness, who shall sign his name in
22 the place provided on the form. The application form when properly
23 filled out shall be transmitted by mail or delivered in person by the
24 applicant or a near relative to the chairman or the supervisor of
25 elections of the county board of elections.

26 (2) Absence for Sickness or Physical Disability Occurring before 5:00
27 P.M. on the Tuesday prior to the Primary or General Election. – A
28 voter expecting to be unable to go to the voting place to vote in person
29 on primary or general election day because of his sickness or other
30 physical disability, or his near relative or verifiable legal guardian,
31 shall make written application for absentee ballots to the chairman of
32 the board of elections of the county in which the voter is registered not
33 earlier than 50 days nor later than 5:00 P.M. on the Tuesday before the
34 election. The application shall be submitted in the form set out in this
35 subdivision upon a copy which shall be furnished the voter or a near
36 relative or verifiable legal guardian by the chairman of the county
37 board of elections.

38 The application shall be signed by the voter personally, or it shall
39 be signed by a near relative or verifiable legal guardian. The
40 application shall be signed in the presence of a witness, who shall sign
41 his name in the place provided on the form.

42 The application form, when properly filled out, shall be transmitted
43 by mail or delivered in person by the applicant or a near relative or
44 verifiable legal guardian to the chairman or supervisor of elections of

1 the county board of elections of the county in which the applicant is
2 registered.

- 3 (3) Absence for Sickness or Physical Disability Occurring after 5:00 P.M.
4 on the Tuesday prior to Primary or General Election. – A voter
5 expecting to be unable to go to the voting place to vote in person on
6 primary or general election day because of sickness or other disability
7 occurring after 5:00 P.M. on the Tuesday before the election, or a near
8 relative, or verifiable legal guardian, shall make written application for
9 absentee ballots to the chairman of the board of elections of the county
10 in which he is registered not later than 12:00 noon on the day
11 preceding the election. The application shall be submitted in the form
12 set out in this subdivision upon a copy which shall be furnished the
13 voter or a near relative or a verifiable legal guardian by the chairman
14 of the county board of elections.

15 The chairman of the county board of elections shall not issue or
16 accept an application under the provisions of this subdivision later than
17 12:00 noon on the day preceding the election in which the voter seeks
18 to vote.

19 The application shall be signed by the voter personally, or it shall
20 be signed by a near relative or verifiable legal guardian. The
21 application shall be signed in the presence of a witness who shall sign
22 his name in the place provided on the form.

23 The certificate printed on the application form below the signatures
24 of the applicant and his subscribing witness shall be filled in and
25 signed in the presence of a witness by a licensed physician who is
26 attending the applicant. The witness to the physician's certificate shall
27 sign his name in the place provided on the form.

28 The application form, when properly filled out, signed by or for the
29 applicant in the presence of a subscribing witness as provided in this
30 subdivision, and certified and signed by the attending physician in the
31 presence of a subscribing witness, may be transmitted by mail to the
32 chairman or supervisor of elections of the board of elections of the
33 county in which the applicant is registered, or it may be delivered to
34 the chairman or supervisor of elections in person by the applicant or by
35 his near relative.

- 36 (4) 'One-Stop' Voting Procedure, in Office of the County Board of
37 Elections. – A voter falling in the category specified in G.S. 163-227.2
38 may execute an application form and proceed to vote his absentee
39 ballot in the office of the county board of elections only.

40 (c) Application Forms Issued by Chairman of County Board of Elections. – The
41 chairman of the county board of elections shall be sole custodian of all absentee ballot
42 application forms, but he, the secretary of the board and the supervisor of elections of
43 the board, in accordance with one of the following two procedures, shall issue and

1 deliver a single application form, upon request, to a person authorized to sign such an
2 application under the provisions of this section:

- 3 (1) The chairman, secretary or supervisor of elections may deliver the
4 form to a voter personally or to his near relative or verifiable legal
5 guardian at the office of the county board of elections for the voter's
6 own use; or
7 (2) The chairman, secretary or supervisor of elections may mail the form
8 to a voter for his own use upon receipt of a written request from the
9 voter or his near relative or verifiable legal guardian.

10 At the time he issues an application form, the chairman, secretary
11 or supervisor of elections of the county board of elections shall number
12 it and write the name of the voter in the space provided therefor at the
13 top of the form. At the same time the chairman, secretary or supervisor
14 of elections shall insert the name of the voter and the number assigned
15 his application in the register of absentee ballot applications and
16 ballots issued provided for in G.S. 163-228. If the application is
17 requested by the voter's near relative, or verifiable legal guardian, the
18 chairman, secretary or supervisor of elections also shall insert that
19 person's name in the register after the name of the voter.

20 The chairman, secretary or supervisor of elections shall issue only
21 one application form to a voter or his near relative or verifiable legal
22 guardian unless a form previously issued is returned to the chairman,
23 secretary or supervisor of elections and marked 'Void' by him. In such
24 a situation, the chairman, secretary or supervisor of elections may
25 issue another application form to the voter or a near relative or
26 verifiable legal guardian, but he shall retain the voided application
27 form in the board's records. If the application is requested by the
28 voter's near relative or verifiable legal guardian, the chairman,
29 secretary or supervisor of elections shall write the name of the near
30 relative or verifiable legal guardian on the index of near relatives or
31 verifiable legal guardians, applying for applications for absentee
32 ballots; the index shall be in such form as may be prescribed or
33 approved by the State Board of Elections; a separate index shall be
34 maintained for each primary, general or special election in which
35 absentee voting is allowed.

- 36 (3) Applications or Absentee Ballots Transmitted by Mail or in Person. –
37 An application for absentee ballots shall be made and signed only by
38 the voter desiring to use them or the voter's near relative or verifiable
39 legal guardian and shall be valid only when transmitted to the
40 chairman or supervisor of elections of the county board of elections by
41 mail or delivered in person by the voter or his near relative or legal
42 guardian.
43 (4) Who Is Authorized to Request Applications for Absentee Ballots. – A
44 voter may personally request an application for absentee ballots or

1 may cause such request to be made through a near relative or verifiable
2 legal guardian. For the purpose of this Article, 'near relative ~~or legal~~
3 ~~guardian~~' means spouse, brother, sister, parent, grandparent, child, or
4 grandchild.

5 (5) The form of application for persons applying to vote in a primary
6 under the provisions of this section shall be as designed and prescribed
7 by the State Board of Elections. No voter shall be furnished ballots for
8 voting in a primary except the ballots for candidates for nomination in
9 the primary of the political party with which he is affiliated at the time
10 he makes application for absentee ballots. The official registration
11 records of the county in which the voter is registered shall be proof of
12 the party, if any, with which the voter is affiliated.

13 (6) The county board of elections shall cause to be stamped or printed on
14 the face of each application for absentee ballots the following legend,
15 and the blank space in the legend to be completed:

16 'This application is issued for absentee ballots to be voted in the
17 _____ (primary or general or special election) to be held in
18 _____ County on the _____ day of _____, 19 ____.' The
19 county board of elections shall not issue any absentee ballots on the
20 basis of any application that does not bear the completed legend.

21 (7) No applications shall be issued earlier than 60 days prior to the
22 election in which the voter wishes to vote. Nothing herein shall
23 prohibit the county board of elections from receiving written requests
24 for applications earlier than 60 days prior to the election but such
25 applications shall not be mailed or issued to the voter in person earlier
26 than 60 days prior to the election.

27 (8) Applications for absentee ballots shall be issued only by mail or in the
28 office of the county board of elections to the voter or a near relative or
29 verifiable legal guardian authorized to make application. No election
30 official shall issue applications for absentee ballots except in
31 compliance with the provisions stated herein."

32 Sec. 2. This act becomes effective January 1, 1992.