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# A BILL FOR AN ACT

RELATING TO MILITARY AND OVERSEAS CIVILIAN ABSENTEE VOTERS.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. Chapter 15, Hawaii Revised Statutes, is amended  
2 by adding a new part to be appropriately designated and to read  
3 as follows:

4           **"PART . MILITARY AND OVERSEAS CIVILIAN ABSENTEE VOTERS**

5           **§15-A Definitions.** For the purpose of this part:

6           "Absent uniformed services voter" means:

7           (1) A member of a uniformed service on active duty who, by  
8           reason of active duty, is absent from the place of  
9           residence where the member is otherwise qualified to  
10          vote;

11          (2) A member of the merchant marine who, by reason of  
12          service in the merchant marine, is absent from the  
13          place of residence where the member is otherwise  
14          qualified to vote; or

15          (3) A spouse or dependent of a member referred to in  
16          paragraph (A) or (B) who, by reason of the active duty  
17          or service of the member, is absent from the place of

1 residence where the spouse or dependent is otherwise  
2 qualified to vote.

3 "Balloting materials" means, as applicable, the official  
4 post card forms prescribed under title 42 United States Code  
5 section 1973ff, federal write-in absentee ballots, prescribed  
6 under title 42 United States Code section 1973ff-2, and any  
7 other materials prescribed by the chief elections officer by  
8 rule, which may include, but not be limited to, those described  
9 in section 15-6.

10 "Covered election" means any presidential, United States  
11 senatorial, or congressional election.

12 "Member of the merchant marine" means an individual (other  
13 than a member of a uniformed service or an individual employed,  
14 enrolled, or maintained on the Great Lakes or the inland  
15 waterways) who is:

16 (A) Employed as an officer or crew member of a vessel  
17 documented under the laws of the United States, or a  
18 vessel owned by the United States, or a vessel of  
19 foreign-flag registry under charter to or control of  
20 the United States; or

21 (B) Enrolled with the United States for employment or  
22 training for employment, or maintained by the United

1 States for emergency relief service, as an officer or  
2 crew member of any such vessel.

3 "Overseas civilian voter" means a United States citizen who  
4 is outside the United States and who:

- 5 (1) Is qualified to vote in this State;
- 6 (2) Would be eligible to vote in this State, if this State  
7 was the last place in which the citizen was eligible  
8 to vote, or, if the citizen had been of voting age,  
9 would have been eligible to vote, before leaving the  
10 United States; or
- 11 (3) In the case of a citizen who was born outside the  
12 United States and who is not included in paragraph (1)  
13 or (2), would be eligible to vote in this State if a  
14 resident of this State and if this State was the last  
15 place in the United States in which one of the  
16 citizen's parents was eligible to vote.

17 "Uniformed services" means the Army, Navy, Air Force,  
18 Marine Corps, and Coast Guard, the commissioned corps of the  
19 Public Health Service, and the commissioned corps of the  
20 National Oceanic and Atmospheric Administration.

1 "United States", where used in the territorial sense, means  
2 the fifty states, the District of Columbia, the Commonwealth of  
3 Puerto Rico, Guam, the Virgin Islands, and American Samoa.

4 **§15-B Transmission of unvoted ballot.** (a) For all covered  
5 elections, the official charged with preparing and distributing  
6 ballots and election materials in each jurisdiction shall  
7 prepare a sufficient number of absentee ballots as soon as  
8 possible after receiving information concerning candidates to be  
9 voted on at the election and shall immediately transmit absentee  
10 ballots and related balloting materials to all absent uniformed  
11 services voters and overseas civilian voters who have applied  
12 for an absentee ballot.

13 (b) No later than forty-five days before a covered  
14 election, each clerk, with the assistance of the chief election  
15 officer, as appropriate, shall make available by electronic  
16 means, which may include facsimile transmission or electronic  
17 mail, an unvoted absentee ballot and related balloting materials  
18 to any absent uniformed services voter or overseas voter who by  
19 that date has submitted a valid absentee ballot application  
20 requesting electronic transmission of absentee balloting  
21 materials.

1 (c) An absent uniformed services voter or overseas  
2 civilian voter may request to receive an absentee ballot and  
3 related balloting materials by electronic mail, or internet  
4 delivery, where available. Each clerk, with the assistance of  
5 the chief election officer, shall transmit the absentee ballot  
6 and related balloting materials to the voter using the  
7 electronic transmission method requested by the voter.

8 (d) When an absentee ballot application of an absent  
9 uniformed services voter or overseas voter arrives after the  
10 jurisdiction has begun transmitting absentee balloting materials  
11 to voters, the official charged with distributing ballots and  
12 related balloting materials shall transmit the absentee  
13 balloting materials to the voter as promptly as possible.

14 **§15-C Acceptance of federal write-in absentee ballot.** (a)  
15 In a covered election, an absent uniformed services voter or an  
16 overseas voter may use the federal write-in absentee ballot  
17 approved under the Uniformed and Overseas Citizens Absentee  
18 Voting Act, title 42 United States Code sections 1973ff through  
19 1973ff-6, if the voter affirms that:

20 (1) The voter submitted a federal post card application or  
21 other application requesting a federal absentee ballot  
22 in time to be received by the later of:

- 1 (A) Thirty days prior to the election, or
- 2 (B) The last date for other voters in the State to
- 3 apply for an absentee ballot for the election;
- 4 and

5 (2) The voter has not received the requested absentee  
6 ballot.

7 (b) In a covered election, an absent uniformed services  
8 voter or an overseas civilian voter may use the federal write-in  
9 absentee ballot transmission envelope's voter declaration as a  
10 request for registration and an application for a state absentee  
11 ballot simultaneous with the submission of the federal write-in  
12 absentee ballot. The request for registration and application  
13 for an absentee ballot shall be accepted if:

- 14 (1) It is received by the later of the thirty days prior
- 15 to the election, or the last day for registering to
- 16 vote; and
- 17 (2) The voter is otherwise eligible to vote in the
- 18 jurisdiction to which the request is submitted."

19 SECTION 2. Section 15-3.5, Hawaii Revised Statutes, is  
20 repealed.

21 ~~["§15-3.5] Federal write-in absentee ballot.~~

22 ~~Notwithstanding the provisions of this chapter and chapters 11~~

1 ~~and 16, the federal write-in absentee ballot for overseas voters~~  
2 ~~in general elections for federal office which must be prescribed~~  
3 ~~under section 1973ff of title 42, United States Code, as~~  
4 ~~amended, may be used in general elections for federal offices." ]~~

5 SECTION 3. Sections 15-1 to 15-14, Hawaii Revised  
6 Statutes, are designated as part I entitled "General  
7 Provisions".

8 SECTION 4. In codifying the new sections added by  
9 section 1 of this Act, the revisor of statutes shall substitute  
10 appropriate section numbers for the letters used in designating  
11 the new sections in this Act.

12 SECTION 5. Statutory material to be repealed is bracketed  
13 and stricken.

14 SECTION 6. This Act shall take effect upon its approval.

15

**Report Title:**

Elections; Uniformed Services and Overseas Absentee Voters

**Description:**

Implements voting provisions for uniformed services and overseas absentee voters, as required by the Military and Overseas Voter Empowerment Act, 42 U.S.C. sections 1973ff through 1973ff-6.  
(SD1)

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