Restoring Trust and Security in Florida Elections From Bush v. Gore to Covid-19
2000 – 2020

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INTRODUCTION[1]

The 2000 presidential election came down to the results in Florida. Then-Vice President Al Gore and then-Governor George W. Bush each needed Florida's electoral votes to win a majority in the Electoral College and secure the presidency. The election night results showed Bush ahead of Gore by less than 1,800 votes in an election where a total of nearly six million votes had been cast. Over the weeks that followed, a series of legal and political battles occurred, ultimately culminating in the Supreme Court's ruling in *Bush v. Gore*, a ruling that continues to be debated through today.

The controversies over the 2000 presidential election stemmed in part from several ambiguous and outdated provisions of Florida's election code. The code allowed the use of antiquated voting systems, contained a vague and underspecified standard for determining the validity of ballots, and provided

little guidance concerning ballot design. The use of absentee ballot was heavily restricted, and provisional ballots had not yet been authorized. These and other deficiencies together contributed to one of the closest, mostly hotly contested and heavily scrutinized presidential elections in American history.[2] The 2000 election brought unprecedented national scrutiny to virtually every aspect of the state's election laws, casting their problems into stark relief.

Over the next two decades, the state legislature overhauled its election code, adopting a variety of fundamental reforms to make the voting process more accessible and reliable; enhance protections against mistake, irregularity, confusion, and fraud; and bolster public confidence in the process. Some of these reforms were invalidated in misguided rulings by an overly aggressive federal court that approached the issue in largely partisan terms.[3] And a few others eliminated some of the state's election integrity protections. As a whole, however, these reforms gave Florida one of the most robust, successful electoral systems in the nation. In contrast to the chaos accompanying *Bush v. Gore*,[4] Florida was able to accommodate and efficiently conduct three statewide recounts during the 2018 election cycle,[5] as well as a safe, smooth, successful presidential election in 2020 despite the unprecedented challenges presented by COVID-19.[6]

Florida's election system has substantially expanded public participation compared to the 2000 presidential election, notwithstanding the substantial growth in the state's population over that time:

Year	Citizen voting-age population ("CVAP")	Registered voters	Votes Cast in Presidential Election
2000	11,081,542[7]	8,752,717[8] (78.98% of CVAP)	5,963,110[9] (53.81% of CVAP; 68.13% of registered voters)
2016	14,441,877[10]	13,505,571[11] (93.52% of CVAP)	9,613,669[12] (66.57% of CVAP; 71.18% of registered voters)
2020	17,482,580[13]	14,441,869[14] (only active voters statistics available) (82.61% of CVAP)	11,067,456[15] (63.60% of CVAP; 76.63% of active voters)

Over those past two decades, Florida's electoral system has not only been made more accessible, but in many respects more secure and easily administrable, as well. Though no system is perfect, Florida's Election Code may serve as a model for other states as they seek to reform their own election laws. This study reviews the major reforms to the Florida Election Code that the state legislature has adopted in the years since *Bush v. Gore*, and offers a series of best practices concerning election administration and security that states should consider as policy reforms.

I. ELECTION SYSTEMS

A. Technical Specifications for Voting and Tabulation Equipment—One of the biggest problems in the 2000 election that led to the disputes ultimately culminating in *Bush v. Gore* was several counties' use of punch-card ballots.[16] Voters were required to use a stylus or other device to perforate holes in the ballot next to the names of the candidates for whom they wished to vote. In some cases, however, a piece of the ballot—a "chad"—would remain hanging from the ballot, causing automated tabulation machines to fail to recognize the ballot as a valid vote. *Bush v. Gore* arose in part from the disparate standards that various election officials used in determining the validity of such ballots during their manual reviews of ballots that the tabulation machines had rejected.[17]

In 2001, in the first major reform to the Election Code following the 2000 election, the legislature prohibited the use of punch-card ballots and other voting systems that required voters to "pierc[e] . . . ballots" with a device.[18] Counties were instead required to use "electronic or electromechanical precinct-count tabulation voting systems."[19] In other words, in-person ballots had to be counted, using tabulation machines, at the polling places at which they were cast. A few years later, the legislature required that all paper ballots used by any voting systems be "marksense ballots," which voters fill out by darkening preprinted ovals next to the names of their preferred candidates.[20] The voter's marks were read and tabulated by optical scan machines. This statute also allowed election officials to use electronic devices, rather than printed precinct registers, to record voters' signatures at polling locations.[21]

In 2007, the legislature appropriated a total of nearly $28 million to purchase voting equipment for various counties. [22] It went on to require that "all voting shall be by marksense ballot utilizing a marking device," except people with disabilities were permitted to continue using special voter interface devices.[23] Rather than relying solely on pre-printed ballots, the legislature also authorized the use of ballot-on-demand technology in 2007 for early voting locations and absentee ballots,[24] and 2011 for Election Day ballots.[25] Along the way, it also discontinued the use of detachable ballot stubs, which had been used to conduct post-election audits.[26] Most recently, in 2019, the legislature authorized election

officials to permit all voters in their respective jurisdictions to mark their candidate selections on electronic voter interface devices, which then print out completed marksense ballots containing their selections to be scanned and tabulated by a separate device.[27] The voter interface device may not be used to tabulate votes. Rather, any vote tabulation "must be based upon a subsequent scan of the marked marksense ballot or the voter-verifiable paper output" generated by the voter input device.[28]

In the years after *Bush v. Gore*, the legislature also repeatedly imposed more rigorous certification requirements for voting systems. Even before the 2000 election, state law had already required counties to purchase and use only voting systems that the Secretary of State had certified.[29] The 2001 amendments expressly authorized the Secretary to certify voting systems that used touchscreens.[30] They also prohibited the Secretary from certifying a voting system's automatic tabulation equipment unless it was able to detect overvotes and undervotes and give the voter an opportunity to correct the problem.[31] Tabulation equipment also had to be able to calculate results by precinct.[32] The legislature bolstered these requirements a few years later by prohibiting vendors from providing uncertified voting equipment, components, or upgrades to local or county governments.[33]

In 2013, the legislature passed another statute requiring each vendor with an approved voting system to notify the Department

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of Sate of any known defects in the system and applicable corrective measures within 30 days of discovery.[34] When a vendor discloses a defect, the department may suspend the sale, lease, and use of the system within the state until the defect is corrected.[35] If the department has reasonable cause to believe that an undisclosed defect exists, it may investigate the voting system; if it concludes that an undisclosed defect exists, it may fine the vendor and suspend the sale, lease, and use of the affected system until the problem is resolved.[36]

B. Testing Requirements—The 2001 overhaul to the Florida Election Code also imposed vigorous new testing requirements for electronic and electromechanical voting systems before counting begins in an election. The legislature required such systems to be "thoroughly tested at the conclusion of maintenance and programming" to confirm that they have been properly programmed; the election is "correctly defined" on the system; and all of the "input, output, and communication devices are working correctly."[37] Tests must be conducted publicly.[38] A canvassing board may not use a machine in an election that has failed testing unless it is reprogrammed or repaired to fix the problem.[39] All tabulation machines at centralized sites where absentee ballots are counted must be tested.[40] In contrast, a minimum of only five percent of the optical scan tabulation machines sent to precincts, or 10 machines—whichever is greater—must be tested.[41]

II. BALLOT DESIGN

Another major controversy arising from the 2000 presidential election was the use of the "butterfly ballot" in Palm Beach County.[42] Many voters reported being confused about which bubbles corresponded to the candidates of their choice. To prevent voters from being misled or confused by ballots in the future, the 2001 law required the Department of State to prescribe a "uniform" ballot for all elections.[43] For each certified voting system, the department was required to specify the layouts for both the ballot as a whole, as well as each individual race.[44] The department was also required to develop "[c]lear and unambiguous ballot instructions and directions" to accompany the new design.[45]

For each office on a general election ballot, the candidate of the political party which received the most votes for Governor in the most recent gubernatorial election appears first.[46] The candidate of the party whose candidate received the next highest number of votes appears second.[47] Minor party and independent candidates are then listed in the order in which they qualified for the
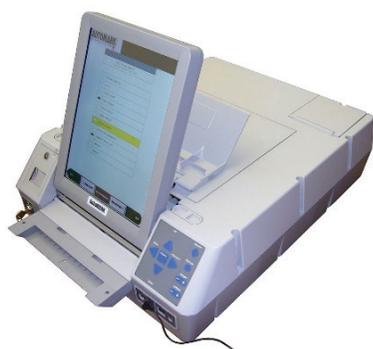
AutoMARK® voter interface device – allows voters to make candidate selections and generates paper ballots containing them

DS200® automated tabulation device – digitally images and tabulates completed ballots

ballot in the pending election.[48] In primary elections, candidates are arranged alphabetically by last name.[49] If two candidates share the same last name, the ballot specify which, if any, was the incumbent.[50] In 2003, the legislature added a warning to the ballot, cautioning that the voter should mark only as many candidates as they are permitted to vote for.[51] The legislature later specified the order in which offices must be listed on marksense ballots.[52]

III. VOTER REGISTRATION

A. Statewide Registration Database—Another major problem with Florida's presidential election in 2000 was that eligible voters had been prevented from voting because election officials had erroneously removed them from the voter registration rolls.[53] The legislature responded the following year by enacting a law requiring the Department of State to create a statewide online voter registration database and website, to be operational by June 1, 2002.[54]

The 2001 law directed county election officials to compare their records to data held by other state agencies to confirm voter eligibility; eliminate duplicate registrations; and identify voters who had died, been declared incompetent, or convicted of disqualifying felonies.[55] The legislature amended these provisions in 2003 to require the database to satisfy the Help American Vote Act's ("HAVA") requirements.[56] Two years later, it directed supervisors of elections to maintain a list of valid residential addresses to facilitate comparisons with the Florida Department of Highway Safety and Motor Vehicles ("FLHSMV") database.[57]

B. Registration Applications—The post-*Bush v. Gore* amendments also expanded the ways in which election officials could confirm the identity of people attempting to register to vote. State law had previously required applicants to include the last four digits of their Social Security number ("SSN-4") on their voter registration forms. In 2003, the legislature amended the law to allow applicants to include their driver's license number or non-driver identification card numbers, instead.[58] The supervisor must notify the applicant if their form is missing information[59] or their identification number cannot be verified.[60] An application is valid only after the driver's license number, Florida ID Card number, or last four digits of the social security number can be confirmed against outside records.[61] If the applicable number can't be matched prior to the book closing deadline, the applicant may only cast a provisional ballot.[62] The ballot is counted only if election officials can verify the voter's number by the end of the canvassing period or the applicant provides evidence sufficient to authenticate it by the end of the provisional ballot cure period.[63] The legislature autho-

rized FLHSMV to share images of people's driver's licenses and signatures to facilitate voter eligibility determinations.[64]

C. Online Voter Registration—In 2015, the legislature authorized online voter registration through a secure Internet website, to begin on October 1, 2017.[65] The website must allow people to register, provide the information necessary to establish their eligibility, and update their registrations.[66] Each applicant must receive a "unique identifier . . . to prevent unauthorized persons from altering a voter's registration information."[67] Most people who register online are not required to provide signatures. Rather, the system uses an applicant's drivers license number or non-driver identification number with the Department of Highway Safety and Motor Vehicles ("DHSMV") database to confirm their name and birthdate.[68] When information in an online voter registration application matches motor vehicle records, the DHSMV transmits the applicant's digital signature to the Department of State.[69] If a match does not exist, the system inputs the voter's information onto a voter registration form and sends it to the voter for their signature.[70] No "legal distinction[s]" may be drawn between online voter registration and any other form of registration.[71]

D. Preregistration—In 2007, the legislature allowed any under-age citizen who receives a Florida driver's license to pre-register to vote, even if it's before their 17th birthday.[72] The following year, it dropped the age for preregistration to 16.[73]

E. Electronic Registration Information Center—In 2019, the legislature took another major step toward ensuring the integrity of the state's voter registration database by authorizing the Secretary of State to join the Electronic Registration Information Center ("ERIC").[74] ERIC is "a non-profit organization with the sole mission of assisting states to improve the accuracy of America's voter rolls and increase access to voter registration for all eligible citizens."[75] It was "formed in 2012 with assistance from the Pew Charitable Trusts," and is "governed and managed" by its 28 member jurisdictions.[76] The group helps member states keep their records updated by identifying potential cross-state movers, intrastate duplicates and moves, and deceased voters. It "compare[s] voter registration data between states, to motor vehicle licensing agency data, and to the Social Security Administration master death index list."[77] The legislature enacted a separate provision to protect information obtained through ERIC from public disclosure under the state Sunshine Act.[78] In 2020, ERIC helped member states identify nearly 17 million potentially duplicative or outdated records.[79]

IV. ABSENTEE BALLOTS, VOTE-BY-MAIL, AND EARLY VOTING

A. Absentee Voting by Mail and Vote-by-Mail

In 2016, Florida renamed absentee ballots to "vote-by-mail" ballots.[80] change in nomenclature reflected tremendous liberalization of the absentee ballot voting system.

1. <u>No-excuse vote-by-mail</u>—One of the most substantial voting reforms the legislature adopted following the 2000 presidential election is making absentee ballots available to all voters. At the time of that election, Florida was a for-cause, excuse-based absentee voting state. Only certain categories of voters were permitted to cast absentee ballots.[81] The 2001 overhaul eliminated these restrictions, opening up absentee voting to any eligible elector.[82] Information about absentee ballots requested, delivered to voters, and received back by election officials must be reported electronically to the Department of State and is available to candidates and political parties.[83]

2. <u>Voter information</u>—During the 2000 election cycle, voters were required to confirm their identity by including the last four digits of their social security number, as well as the registration number from their voter registration identification card, on their absentee ballot request form.[84] Voters were similarly required to print the last four digits of their social security number in the appropriate spot when returning their completed absentee ballots.[85] The legislature abolished these requirements in 2001.[86]

3. <u>Ballot request list</u>—The legislature amended state law in 2021 to specify that a voter may request that the supervisor automatically send absentee ballots for all elections through the end of the calendar year of the next regularly scheduled general election.[87]

4. <u>Deadlines</u>—Supervisors of election must begin mailing absentee ballots to voters who have requested them starting at some point between 40 to 33 days before Election Day (except for military and overseas voters, whose ballots must be distributed 45 days before Election Day).[88]

At the time of the 2000 election, the Election Code did not contain an express deadline by which domestic voters had to request absentee ballots.[89] The legislature eventually established that voters could submit requests to have vote-by-mail ballots mailed to them up to 10 days before Election Day,[90] given to their designees up to nine days before Election Day or on Election

Day itself,[91] and given to the voters themselves at the supervisor's office up through 7:00 P.M. on Election Day. Supervisors must mail out vote-by-mail ballots no later than eight days before the election.[92] Supervisors must receive completed absentee ballots no later than 7:00 P.M. on Election Day (although the legislature established a later deadline for ballots from military and overseas voters).[93]

5. <u>Witness requirements</u>—At the time of *Bush v. Gore*, Florida required voters to have their completed absentee ballots notarized or witnessed by a registered Florida voter.[94] By 2004, the legislature abolished all notarization and witness requirements.[95]

6. <u>Mailing address for absentee ballots</u>—During the 2000 election cycle, state law also required the supervisor of elections to mail absentee ballots only to a voter's home address, except for certain special categories of voters who could request their ballots be sent elsewhere.[96] In 2011, however, the legislature allowed any voter to request their vote-by-mail ballot be sent to an alternate location.[97] The legislature later added that a person could request an absentee ballot by phone if they want it to be sent to their home address, but must sent a signed, written request to have it sent elsewhere.[98]

7. <u>Ballot harvesting restrictions</u>—Following *Bush v. Gore*, the legislature repealed a provision that had made it illegal for someone to return more than two absentee ballots to the supervisor of elections (excluding a person's own ballot and ballots of their family members).[99] In 2013, however, the legislature attempted to deter ballot harvesting by making it a crime to offer or receive any benefit in exchange for collecting, delivering, or possessing more than two absentee ballots, excluding a person's own ballot or their family members' ballots.[100]

8. <u>Pre-canvass</u>—One of Florida's biggest advantages in the 2020 election that allowed it to report results early was the fact that the legislature had allowed election officials to begin determining the validity of absentee ballots and tallying them well in advance of Election Day. In 2001, the legislature authorized counties with electronic tabulation equipment to processing absentee ballots before Election Day.[101] After a series of amendments, state law allowed such pre-canvassing to commence 22 days be-

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forehand.[102] By determining the validity of absentee ballots and processing them through tabulation machines so far in advance of Election Day, election officials were able to determine the results of the 2020 presidential election in Florida shortly after the polls closed, without having substantial changes in the popular vote total in the days following the election.

No tallies or results may be disclosed prior to the closing of the polls on Election Day, however.[103] In 2013, the legislature specified that, by 7 P.M. on the day before Election Day, the Supervisor of Elections must upload into the county system the tallies of all early voting and absentee ballots that have been canvassed and tabulated to that point.[104]

9. <u>Signature match</u>—Under Florida law during the 2000 election, supervisors of election had discretion to confirm the signature on an absentee ballot certificate to the voter's signature in the registration book immediately upon receiving the completed ballot. The supervisor could declare a ballot invalid if either it lacked a signature or the signature did not match the registration book.[105] In counties where the supervisor did not conduct the signature match upon receipt, the county canvassing board would do so when it canvassed the absentee ballots.[106] The supervisor was required to notify voters whose ballots were rejected because their signature differed from official registration records and send them a new application they could use to update their signature.[107]

In 2004, the legislature amended this provision to require the supervisor to inspect absentee ballot envelopes immediately upon receipt to compare the voter's signature with the registration books.[108] Nearly a decade later, the legislature directed the supervisor to notify any elector whose ballot is rejected (*i.e.*, not just those whose signature don't match) and specify the reason.[109] This law allowed any voter who omitted their signature from their absentee ballot envelope to "provide identification" and submit an affidavit to "cure the unsigned absentee ballot" by 5:00 P.M. on the day before Election Day.[110] The affidavit form must be posted on the supervisor's website, and it may be returned, along with a copy of the voter's identification, in person, by mail, e-mail, or by fax.[111] A federal district court held that these rules were likely unconstitutional because they did not provide an opportunity for voters whose signatures did not match to provide an alternate signature or otherwise confirm their identity.[112]

In response, the legislature amended the law in 2017 to require supervisors to "immediately" notify a voter if the signature on their vote-by-mail ballot is missing or does not match election records; the voter may then submit a cure affidavit until 5:00 P.M. on the day before Election Day.[113] In 2019, the legislature specified that the supervisor must notify voters by e-mail, text, or telephone, as well as by mail.[114] A vote-by-mail ballot may be counted only if:

(i)   the signature on the original ballot envelope matches the voter's signature in the registration books or precinct register;

(ii)   the signature on the cure affidavit matches the voter's signature in the registration books or precinct register, *and* the voter provides a form of photo ID authorized by state law that is current and valid, or certain alternate forms of identification without a photograph such as a utility bill, bank statement, government check or paycheck, or other government document (other than a voter registration card); or

(iii)   the signature on the cure affidavit does not match the voter's signature in the registration books or precinct register, but the voter shows or provides a form of photo ID authoriz0065d by state law that is current and valid.[115]

A cure affidavit accompanied by the required identification must also be treated as a request to update the voter's signature.[116] The 2019 amendments likewise declared that "any canvassing board finding that an elector's signatures do not match must be by majority vote and beyond a reasonable doubt."[117]

B. In-Person Absentee Voting and Early Voting

1.   <u>In-Person Absentee Voting at the Supervisor of Elections Office</u>—Prior to the 2000 election, state law allowed voters who were "unable to attend the polls" on Election Day to cast absentee ballots in person at the supervisor of election's office prior to Election Day, if they did not wish to cast their ballots by mail.[118] A few months before the 2000 election, the legislature amended the law to specify that, rather than simply dropping off a completed absentee ballot in person, a voter instead could deposit their completed absentee ballot into a voting machine at the supervisor's office.[119] This was the original form of early voting in Florida. Following *Bush v. Gore*—and consistent with its elimination of restrictions on mail-based absentee voting—the legislature specified that any voter could cast an absentee ballot in person at the supervisor of elections office prior to Election Day.[120]

2.   <u>Early Voting</u>—In 2004, Florida officially transitioned from in-person absentee voting to early voting.[121] Several years later, the legislature declared supervisors of election were required to hold early voting, and follow statutory requirements concerning the days and times for it, only for elections with federal and state races.[122] Supervisors had discretion over whether to offer early voting at all in county and local races, and the days and times on which to provide it.[123]

After numerous fluctuations,[124] in 2011 the legislature required supervisors to conduct early voting for federal and state elections starting 10 days before Election Day and continuing through the third day before Election Day.[125] Two years later, the legislature gave each supervisor discretion to start early voting earlier, between 11 and 15 days before Election Day, and to extend the period through the second day before Election Day.[126] On each day early voting is held, each site had to remain open between eight and 12 hours.[127]

Originally, supervisors were required to hold early voting only at their main office, though they had discretion to allow early voting at branch offices, city halls, or public libraries, as well.[128] Such additional sites had to "be geographically located so as to provide all voters in the county an equal opportunity to cast a ballot, insofar as is practicable."[129] In 2013, the legislature expanded the range of places early voting sites could be located to include fairgrounds, civic centers, courthouses, county commission buildings, stadiums, convention centers, and government-owned senior or community centers.[130] If a county lacked any of those facilities, the county could designate an alternate site.[131] In 2019, the legislature enacted a statute requiring supervisors of elections to ensure that early voting sites had "sufficient nonpermitted parking to accommodate the anticipated amount of voters."[132]

V. PROVISIONAL BALLOTS

After *Bush v. Gore*, the legislature also created "provisional ballots," which are votes that are set aside when a voter's eligibility is questioned so that their validity can be determined after Election Day.[133] Provisional ballots allow election officials to resolve apparent problems or discrepancies concerning a person's eligibility to vote without either turning the voter away or attempting to resolve the issue on the spot, with potentially incomplete information, while other voters are waiting. When a voter completes a provisional ballot, it is placed in a secrecy envelope, which is then placed in a provisional ballot envelope and deposited in a special box, to be reviewed by the county canvassing board after Election Day.[134]

Under the law as originally enacted in 2001, a person could

cast a provisional ballot at a polling location if they claimed to "be properly registered in the county and eligible to vote at the precinct," but their eligibility could not be determined.[135] A person was also entitled to cast a provisional ballot if they had requested an absentee ballot, and either polling place officials could not determine whether the supervisor of elections had received the completed ballot back,[136] or election records showed that the completed ballot had been returned, but the voter contends they had not voted absentee in that election.[137] In 2003, after Congress enacted HAVA, the legislature amended the law to specify that anyone who votes "after the regular poll-closing time pursuant to a court or other order extending the statutory polling hours" also had to cast their vote with a provisional ballot.[138]

The 2003 amendments further required the Department of State to establish a system to allow voters to determine whether their provisional ballot had been counted and the reason, if any, for rejection.[139] The legislature expanded eligibility to cast provisional ballots again in 2005, stating that anyone who claims to be eligible to vote in a particular precinct, but whose "eligibility canoe be determined," may cast a provisional ballot there.[140] The law specified that a person may cast a provisional ballot even if precinct official believes they are ineligible to vote.[141] The 2005 amendments also established a "cure period" after Election Day for provisional bal-

lots. A voter could bring evidence of their eligibility to vote to the supervisor of election's office until 5:00 P.M. three days after the election.[142] The legislature shortened this cure period to two days in 2007.[143]

After the election and the expiration of the cure period, the county canvassing board must publicly canvass provisional ballots.[144] During the canvass, the board reviews each provisional ballot to determine whether the person "was entitled to vote at the precinct in the election and that the person had not already cast a ballot in the election."[145] In 2005, the legislature specified that provisional ballots must presumptively be counted unless the board determines by a preponderance of the evidence that grounds for rejection exist.[146] If the board makes the required findings, it then compares the voter's signature on the provisional ballot envelope with the ballot in the registration records, and counts the vote if the signatures match.[147]

Due to litigation,[148] the legislature changed the rules concerning provisional ballot signature matching in 2019. The supervisor must attempt to determine "[a]s soon as practicable" whether any provisional ballots lack signatures, or a voter's signature on a provisional ballot fails to match official records.[149] The supervisor must notify such voters by text, phone, or e-mail, as well as by mail, inviting them to submit "cure affidavits."[150] The cure affidavit

form must be available on the supervisor's website.[151] A voter must sign the cure affidavit, attesting that they are qualified to vote in the election, registered in the county, and have not cast multiple ballots in the election, and include a statutorily valid form of ID.[152] The cure affidavit may be submitted in person, by mail, e-mail, or fax up through the end of the cure period, which is 5:00 P.M. on the second day after the election.[153] A provisional ballot may be counted if either: (i) the voter's signature on the cure affidavit matches election records *and* the voter enclosed any valid form of ID, or (ii) the signature does not match, but the voter submitted a current and valid *photo* ID.[154] The county canvassing board may reject a ballot due to a signature mis-match only by a majority vote and based on findings beyond a reasonable doubt.[155]

VI. DETERMINING ELECTION RESULTS

A. Preliminary Returns—After the polls close on Election Day, election officials at each polling place must tabulate results and may electronically transmit them to the county canvassing board.[156] During the 2000 election cycle, polling place officials had until noon on the day after Election Day to report their tallies to the board.[157] The 2001 amendments required them to complete and report their polling place tallies by 2:00 A.M. following Election Day.[158] In 2011, the legislature directed canvassing boards to report preliminary returns of all early voting and tabulated absentee ballots to the Department of State within 30 minutes of the polls closing,[159] as well as updated results from each precinct "at least every 45 minutes until all results are completely reported."[160] If any precinct's returns are missing, have omissions, or contain an "obvious error," the canvassing board shall order a tabulation of that precinct's results.[161]

B. Unofficial Canvass Returns—The 2007 amendments also required county canvassing boards to provide "unofficial returns" to the Secretary of State by noon on the fourth day after Election Day (rather than five days afterwards).[162]

Prior to the canvass, the canvassing board must compare the returns prepared by polling place officials with the machine-generated tabulations from those polling places.[163] If a discrepancy exists, the machine's "tabulation of the ballots shall be presumed correct and such votes shall be canvassed accordingly."[164] Similarly, if the board determines that a tabulation system may have failed to count properly marked votes, the board must either correct the error and recount the ballots, or request that the Department of State verify the tabulation software.[165] With those provisos, the canvassing board must base its canvass on the returns filed by polling place officials, and "shall not change the number of votes cast for a candidate, nominee, constitutional amendment or other

measure . . . in any polling place, as shown by the returns."[166]

The canvassing board must determine the results from absentee and provisional ballots and include them in the canvass, as well. Even prior to the 2000 election, Florida law had specified that, if an absentee ballot is too "damaged or defective" to be read by an automatic tabulation machine, the board must prepare a "true duplicate" of the ballot and process the duplicate through the machine instead.[167] In 2002, the legislature amended this provision to specify that, when an automatic tabulation machine detects either an overvote in a race, or undervotes in all races despite the presence of markings on the ballot, the canvassing board must prepare a duplicate ballot containing "all valid votes as determined by the [board]" (using the vote-counting rules discussed in Section VI.B below).[168]

In 2019, the legislature revised the public notice requirements for county canvasses to help promote transparency and bolster public confidence in election results. Each county canvassing board must give public notice of the time and place of its canvass at least 48 hours in advance, both on its website and in the newspaper.[169] If a canvass is recessed or suspended for more than 50 minutes, the board must post the time it will reconvene on its website; if it does not reconvene at that time, it must give at least two hours' notice before reconvening.[170] Board members must wear identification badges, and a notice listing their names must be posted at the canvass site.[171]

C. Recounts—The conduct and timing of the recounts in the 2000 presidential race lay at the heart of *Bush v. Gore*. The legislature substantially revised the procedures governing recounts following that ruling.

1. <u>Automatic machine recounts</u>—The legislature retained the rule that, if the unofficial returns of an election show that the leading candidate is ahead half a percent or less of the votes cast for that office, the county canvassing board must automatically conduct a machine recount of the ballots.[172] Tabulation machines must be tested before being used in a recount. "If the test indicates no error, the recount tabulation of the ballots cast shall be presumed correct and such votes shall be canvassed accordingly."[173] If an error is detected, the cause shall be corrected and the recount completed.[174] Election officials must duplicate any ballots that are too damaged to be processed, and run the duplicates through the tabulation machines instead.[175] A 2020 amendment specified that, in an automatic recount, ballots which have already been processed through automatic tabulation equipment that is not part of the voting system used to cast them do not need to be run through the automatic

tabulation equipment again.[176]

Boards must complete automatic recounts by 3:00 P.M. on the ninth day after Election Day.[177] If a canvassing board is unable to complete an automatic recount in time, the second set of unofficial returns it submits "shall be identical to the initial unofficial returns and the submission shall also include a detailed explanation of why it was unable to timely complete the recount."[178] The canvassing board must nevertheless complete the automatic recount, as well as any required subsequent manual recount, "and certify election returns in accordance with the requirements of this chapter."[179]

2. Manual recount—If the second set of unofficial returns generated in the automatic recount shows that a candidate was defeated by a quarter of a percent or less of the votes cast in their race, the board shall order a manual recount of the overvotes and undervotes in that race which the automated tabulation machines did not include in their tallies.[180] In 2005, the legislature specified that manual recounts are unavailable if the number of overvotes, undervotes, and provisional ballots is mathematically insufficient to change the outcome.[181] A few years later, it further declared that the losing candidate can waive the manual recount.[182]

To conduct a manual recount, the county canvassing board appoints two-person recount teams comprised, when possible, of "members of at least two political parties."[183] If a recount team is unable to determine "whether the ballot contains a clear indication that the voter has made a definite choice," the county canvassing board resolves the issue.[184]

In reviewing the overvotes and undervotes, election officials must count a mark as a vote if there is a clear indication on the ballot that the voter has made a definite choice."[185] The Department of State must "adopt specific rules for each certified voting system prescribing what constitutes a 'clear indication on the ballot that the voter has made a definite choice.'"[186] Those rules may neither "[e]xclusively provide that the voter must properly mark or designate his or her choice on the ballot," or "[c]ontain a catch-all provision that fails to identify specific standards, such as 'any other mark or indication clearly indicating that the voter has made a definite choice.'"[187] Recently, the legislature declared that manual recounts may be performed with either the original marksense ballots or digital images of them.[188] Even when using digital images, the canvassing board has discretion to compare them to the original paper ballots.[189] If a voter interface device generates paper ballots with both machine-readable fields and machine-printed text, a manual recount must rely on the text, rather than the machine-readable fields, unless the text is illegible.[190]

During the manual recount, election officials must also review any duplicate ballots that the canvassing board generated also had to be compared to the original, damaged ballots.[191]

D. Official Returns and the Statewide Canvass—County canvassing boards must provide "official returns," reflecting the results of their canvass and any recounts, on the 12th day after Election Day.[192] In 2005, the legislature specified that, when submitting official returns, county canvassing boards must certify that they reconciled the number of ballots cast with the number of people who voted, and that their canvass included all valid ballots.[193] County boards also must submit a report to the secretary of state identifying all equipment or software malfunctions, election definition errors, ballot printing or supply problems, staffing shortages, procedural violations by employees, insufficient staffing or equipment, or any other problems with the election.[194]

At the time of *Bush v. Gore*, the Secretary of State had discretion to disregard late official returns.[195] Following the 2000 election, the legislature required the Secretary to "ignore[]" late results and use the unofficial results from late counties instead.[196] If a county's results are delayed due to an emergency, however, the state may set an alternate deadline.[197]

The state Election Canvassing Commission is responsible for certifying the official returns of federal, statewide, and multicounty elections and declaring the winners.[198] It must meet two weeks after Election Day to certify results for federal and statewide races.[199] During the 2000 presidential election, the commission was comprised of the Governor, the Secretary of State, and the director of the Department of State's Division of Elections.[200] The 2001 amendments altered the Commission to be comprised of the Governor and two cabinet members selected by the Governor.[201] The commission may disregard any typographical errors they identify in counties' returns,[202] and county boards may correct any typographical errors within five days of certification.[203]

E. Vote-Counting Rules—One of the central issues in *Bush v. Gore* was that Florida's standard for determining the validity of votes violated the Equal Protection Clause because it left election officials too much discretion to afford different treatment to identically marked ballots.[204] At the time, state law declared, "No vote shall be declared invalid or void if there is a clear indication of the intent of the voter as determined by the canvassing board."[205] If it "is impossible to determine the elector's choice, the elector's ballot shall not be counted" for that office.[206]

After *Bush v. Gore,* the legislature changed the law to specify

that a vote cannot be invalidated "if there is a clear indication on the ballot that the voter has made a definite choice as determined by the canvassing board."[207] The statute continued, "If there is no clear indication on the ballot that the voter has made a definite choice for an office or ballot measure the elector's ballot shall not be counted for that office or measure."[208] The Secretary of State was directed to adopt rules for counting votes with electronic or electromechanical machines,[209] as well as "additional recount procedures for each certified voting system which shall be uniform to the extent practicable."[210]

F. Election Contests—Within ten days after the last county canvassing board involved in conducting a particular election certifies its results, the losing candidate or any voter eligible to vote in that election may file an election contest.[211] In 2001, in the wake of the litigation culminating in *Bush v. Gore*, the legislature eliminated a ground for election contests. It deleted a provision that allowed a person to protest an election based on:

> [a]ny other cause or allegation which, if sustained, would show that a person other than the successful candidate was the person duly nominated or elected to the office in question or that the outcome of the election on a question submitted by referendum was contrary to the result declared by the canvassing board or election board.[212]

It also deleted a provision that allowed a circuit judge hearing an election contest to "fashion such orders as he or she deems necessary to ensure that each allegation in the complaints investigated, examined, or checked, to prevent or correct any alleged wrong, and to provide any relief appropriate."[213] A few years later, the legislature specified that when an election contest challenges signature matches for vote-by-mail or provisional ballots, the only evidence the circuit court may consider is the voter's signature in the registration records, the signature accompanying the ballot or cure affidavit, "and any supporting identification that the elector submitted with the cure affidavit."[214]

G. Post-Election Audit—In 2007, the legislature required each county canvassing board to audit its election within seven days of certifying the results.[215] An audit is a manual tally of all votes—including Election Day, absentee, early voting, provisional, and military and overseas ballots—cast from 1-2 percent of randomly selected precincts in a randomly selected race in that election. [216] The Department of State may adopt rules for audits.[217] In 2013, the legislature allowed counties to conduct an "automated, independent audit" as an alternative.[218] An automatic audit is an automated tally of the votes cast in every race races from at least twenty percent of randomly selected precincts in the jurisdiction. The au-

tomated audit must be conducted "[c]ompletely independent[ly] of the primary voting system."[219]

VII. PROTECTING SPECIAL GROUPS OF VOTERS

A. Military and Overseas Voters—The 2000 election also involved litigation over the validity of ballots from overseas voters.[220] The Gore campaign had tried to have military ballots from people stationed in foreign countries rejected based on alleged technical defects.[221] When the legislature reformed the election code following the election, it simplified the rules concerning military and overseas ballots and expanded access for such voters:

1. <u>Late registration</u>—In 2001, the legislature made it easier for members of the military, as well as other overseas citizens, to register to vote. A person who was discharged or separated from the military, Merchant Marine,[222] or employment outside the United States, as well as members of their immediate family, after the close of registration for an election could register to vote in that election until 5:00 P.M. on the Friday before Election Day.[223] In 2013, the legislature further expanded registration opportunities for military voters, specifying that a member of the military who returned from deployment or activation after the registration deadline for an election, as well as their immediate family members, also could register to vote in that election up through 5:00 P.M. on the Friday beforehand.[224]

2. <u>Absentee ballot requests</u>—Overseas voters—including military and Merchant Marine voters—may request absentee ballots. The legislature specified in 2010 that, if the request includes the voter's e-mail address, their supervisor of elections must confirm receipt of the request, specify the date on which the absentee ballot will be sent, and notify the when their completed absentee ballot is received.[225] When an overseas voter submits an absentee ballot request on a Federal Postcard Application under UOCAVA, the supervisor shall send them absentee ballots for all elections through the next two regularly scheduled general elections.[226]

3. <u>Write-in absentee ballots</u>—The legislature adopted two mechanisms to alleviate the challenges in sending absentee ballots to overseas voters and ensure such voters would be able to cast their votes in time. First, in 2001, the legislature created state write-in absentee ballots. Up to six months before an election, an overseas voter could request a state write-in absentee ballot by certifying that, "due to military or other contingencies

that preclude normal mail delivery," they will be unable to request and cast an absentee ballot during the normal voting period.[227] Supervisors of election must begin distributing state write-in absentee ballots 180 days before the election, and continue to do so up through 90 days before Election Day.[228] At least 30 days before Election Day, the supervisor must e-mail all overseas voters who requested state write-in absentee ballots the names of the candidates who qualified to run in the election (*i.e.*, the candidates appearing on traditional printed ballots).[229] An overseas voter may use the state write-in absentee ballot to cast votes for all federal, state, and local offices for which they are entitled to vote.[230] The voter writes in the name of the candidate or political party for which they wish to vote; any abbreviations, misspellings, or minor variations in form must be disregarded "if there is a clear indication on the ballot that the voter has made a definite choice."[231]

In 2010, the legislature recognized the federal write-in absentee ballot ("FWAB")[232] created by the Federal Voting Assistance Program.[233] Under federal law, a voter may cast a FWAB if they requested a typical absentee ballot by the state-law deadline, and did not receive it.[234] FWABs are otherwise governed by the same rules as state write-in absentee ballots.[235] The following year, the legislature directed the Secretary to promulgate regulations for counting FWABs.[236] The statute specified, however, that after determining the candidates for whom a FWAB was cast, election officials must prepare a marksense ballot containing those votes, to be "counted in lieu" of the original ballot by an optical scan machine.[237]

4. Absentee ballot distribution—In 2007 the legislature specified that absentee ballots must be mailed to overseas voters—including military and Merchant Marine voters—at least 45 days before Election Day.[238] A later amendment specified that, at the voter's request, the supervisor of elections must sent the absentee ballot to overseas voters via mail, e-mail, or fax.[239]

5. Absentee ballot return deadlines—The 2001 amendments eliminated the requirement that absentee ballots from overseas ballots contain APO, FPO, or foreign postmarks to be deemed valid.[240] The legislature also extended the deadline for the return of absentee ballots from overseas voters. For most primary elections, the standard deadline applied to overseas voters: absentee ballots must be received by election officials by the close of polls on Election Day. For general elections, however, as well as presidential preference primary elections, a

ballot is valid so long as it is either postmarked or dated by Election Day, and received by the supervisor of elections within 10 days of Election Day.[241] If election officials receive both an official ballot and a federal write-in absentee ballot from a voter by the deadline, they will count only the official one.[242] Ballots from overseas voters are presumed to have been cast on the date the voter writes on the outer envelope, even if the postmark is missing or dated after Election Day.[243]

6. Secretary of State responsibilities—In 2003, in response to HAVA, the legislature directed the Secretary of State to designate an office within the Department of State to be "responsible for providing information regarding voter registration procedures and absentee ballot procedures" to military and overseas voters.[244]

7. Electronic transmission of materials—The 2001 amendments originally required the Secretary to adopt rules to authorize supervisors of elections to accept absentee ballot requests and completed absentee ballots by fax and other electronic means.[245] A few years later, the legislature softened these requirements, directing the Secretary instead to promulgate such rules only if she determines that they can be used "secure[ly]."[246]

8. Emergency provisions—The 2001 amendments also granted the Elections Canvassing Commission authority to adopt emergency rules authorizing alternate procedures for absentee voting when an emergency such as an armed conflict makes it impossible or unreasonable for overseas voters to comply with the ordinary rules for overseas voters.[247]

B. Disabled Voters—The legislature also amended the code several times to facilitate voting for disabled voters. In 2002, the legislature directed that all polling places be physically accessible to disabled voters by 2004.[248] Any polling place that could not be brought into compliance in time could receive a variance until 2006; after that date, the supervisor had to relocate the polling place to an alternate, accessible location.[249]

The 2002 law further required that voting systems be accessible to disabled voters, specifying that they must be compatible with tactile or audio input devices, generate audio output using recorded human speech, and offer large print and enhanced audio amplification.[250] Later, the legislature mandated that all voting systems must meet HAVA's "voter accessibility requirements for individuals with disabilities" and use marksense ballots[251] with voter verifiable output. The legislature repealed a law requiring a person who wished to occupy a voting booth for more than five minutes to provide election officials with a reason.[252] It likewise eliminated the requirement that a person who wishes to be aided by a person

of their choosing in the voting booth reveal the reason to election officials.[253]

Additionally, all forms used in connection with elections had to be generated in formats accessible to disabled voters and, except for absentee ballots, available over the Internet.[254] Similarly, candidates must either include closed captioning and descriptive narrative in their television broadcasts, or file a written statement specifying their reason for not doing so.[255] The legislature also mandated that election officials receive at least one hour of training per election specifically with regard to "issues of etiquette and sensitivity with respect to voters having a disability."[256] The statute specified that a "recognized disability-related organization" must "develop and assist" with the training.[257] "The program must include actual demonstrations of obstacles confronted by disabled persons during the voting process, including obtaining access to the polling place, traveling through the polling area, and using the voting system."[258]

VIII. IMPROVING ELECTION ADMINISTRATION

A. Photo Identification—Prior to 2003, state law had required a person wishing to vote in person to show a Florida driver's license, a non-driver's identification card, or other form of picture identification, without specifying any particular kinds.[259] In 2003, the legislature amended this provision to require voters to show one of the following forms of identification, and specified that it had to be "current and valid":

- Florida driver's license or non-driver identification card issued by the Department of Highway Safety and Motor Vehicles;
- U.S. passports
- employee ID card;
- buyer's club card;
- credit or debit card;
- military ID card,
- student ID card,
- retirement center or neighborhood association ID,
- entertainment cards, or
- public assistance card.[260]

If the photo ID did not contain the voter's signature, the voter had to display another form of identification that bore it.[261]

The legislature removed entertainment cards from the list of permissible IDs in 2005,[262] as well as employee IDs and buyer's club cards in 2007.[263] The legislature later recognized additional forms of photo identification, however, including veterans health cards from the U.S. Department of Veterans Affairs, concealed carry permits, and employee identification cards issued by any governmental entity.[264]

The 2003 amendment specified that certain first-time voters who registered by mail and lacked a valid form of ID could only cast a provisional ballot.[265] In 2005, the legislature specified that any voter who attempted to vote at a polling place but lacked a valid form of ID could cast a provisional ballot.[266]

B. Signature Match at Polling Places—At the time of the 2000 election, state law had specified that, after showing their ID, a vot-

er had to sign the precinct register (a printout of voter information from the registration database) or registration book.[267] If the voter's signature matched the one on their identification card, they could cast an ordinary ballot.[268]

In 2003, the legislature required the use of precinct registers at all polling locations, banning registration books.[269] In 2005, it specified that election officials could require voters to sign an electronic device instead of a precinct register.[270]

C. Voter Bill of Rights—One of the Florida legislature's initial responses to *Bush v. Gore* was the adoption of a statutory "voter's bill of rights," which supervisors of elections were required to post at each polling place.[271] The bill of rights stated:

VOTER'S BILL OF RIGHTS

Each registered voter in this state has the right to:

1. Vote and have his or her vote accurately counted.
2. Cast a vote if he or she is in line at the official closing of the polls in that county.[272]
3. Ask for and receive assistance in voting.
4. Receive up to two replacement ballots if he or she makes a mistake prior to the ballot being cast.
5. An explanation if his or her registration is in question.
6. If his or her registration is in question, cast a provisional ballot.
7. Written instructions to use when voting, and, upon request, oral instructions in voting from elections officers.
8. Vote free from coercion or intimidation by elections officers or any other person.
9. Vote on a voting system that is in working condition and that will allow votes to be accurately cast.[273]

The bill of rights was accompanied by a list of voter responsibilities. Although it was enacted as part of the 2001 overhaul, the legislature revised the language the following year to read:

VOTER RESPONSIBILITIES

1. Familiarize himself or herself with the candidates and issues.
2. Maintain with the office of the supervisor of elections a current address.
3. Know the location of his or her polling place and its hours of operation.
4. Bring proper identification to the polling station.
5. Familiarize himself or herself with the operation of the voting equipment in his or her precinct.
6. Treat precinct workers with courtesy.
7. Respect the privacy of other voters.

8. Report any problems or violations of election laws to the supervisor of elections.
9. Ask questions, if needed.
10. Make sure that his or her completed ballot is correct before leaving the polling station.

NOTE TO VOTER: Failure to perform any of these responsibilities does not prohibit a voter from voting.[274]

D. Recruitment and Training of Pollworkers—In response to the 2000 election, the legislature prohibited anyone from serving as an election inspector, clerk, or deputy sheriff if the individual did not complete training provided by the supervisor of elections.[275] The legislature later granted the Secretary authority to set the curriculum for the training[276] and determine its length.[277] Supervisors were also required to "work with the business and local community to develop public-private programs to ensure the recruitment of skilled inspectors and clerks."[278]

E. Transparency—The legislature bolstered election transparency and the integrity of early voting by requiring supervisors to publish the number of votes cast each day at each early voting location, as well as the total number of vote-by-mail ballots received each day.[279]

F. Drop Boxes—In 2019, the legislature required supervisors of election to allow voters to return vote-by-mail ballots to secure drop boxes, which could be located at the supervisor's office or branch office, as well as early voting locations.[280]

G. Voting at Polling Places—In 2005, the legislature abolished registration books and specified that each precinct must check-in voters using either a computer printout or electronic database of eligible voters.[281] A voter may sign that printout or an electronic device.[282]

Each polling place must have written instructions concerning the "proper method of casting a ballot for the specific voting system" used in that precinct.[283] If the voting machine at a polling place rejects a person's completed ballot for any other reason, it is considered spoiled.[284] An election official must tell the voter the "possible reasons for the rejection and direct the voter to the instruction[s]" for the machine.[285] The voter may choose to either cast the spoiled ballot anyway or fill out a new ballot.[286] If the voter casts the spoiled ballot, the machine must accept it, but all votes in any election for which the voter cast overvotes will be disregarded.[287]

The legislature also clarified that anyone waiting in line at the official closing time for a polling place may vote, even if they do not cast their ballot until after that designated closing time.[288]

IX. CENTRALIZING AUTHORITY WITH THE SECRETARY OF STATE

A major theme of the legislature's election reforms over the two decades after *Bush v. Gore* was the assignment of greater authority to the Secretary of State, who oversees the state's Division of Elections. The legislature enhanced the Secretary's ability to interpret state law, promulgate regulations, and enforce his or her view on county election officials, who are independently elected. These reforms led to more uniform treatment of voters in Florida, allowed the Secretary to prevent local election officials from misinterpreting or violating state law, and reduced uncertainty for both voters and candidates.

Prior to the 2000 presidential election, the legislature had amended the election code to allow the Governor to appoint the Secretary of State, appointed subject to Senate confirmation; previously, the Secretary was directly elected by the people.[289] That change did not take effect until 2003.[290] As part of its post-2000 reforms, the legislature granted the Secretary authority to promulgate regulations to implement various provision of the election code.[291] It also directed the Department of State to create a manual explaining polling place procedures.[292] The legislature likewise directed the Secretary to "prescribe[e] minimum standards" for county supervisors to follow for "nonpartisan voter education" concerning "registration, balloting procedures, and voting rights and responsibilities."[293] The Secretary was later given authority to develop a "uniform training curriculum for poll watchers" to be used by all county supervisors, and determining the length of the required training for election inspectors, clerks, and deputy sheriffs.

A few years later, as required by the Help America Vote Act ("HAVA"),[294] the legislature established an administrative complaint process through which the Secretary could administratively adjudicate alleged violations of Title III of that statute—concerning the statewide voter registration database, provisional ballots, and voter registration forms—and issue injunctions prohibiting further violations.[295] The Secretary's powers were substantially expanded yet again in 2005 when the legislature allowed the Secretary to "adopt by rule uniform standards of the proper and equitable interpretation and implementation" of the Election Code.[296] The Secretary could enforce these rules by suing county supervisors of election or other election officials who violated them.[297] The legislature complemented this authority by also granting the Secretary power to "[c]onduct preliminary investigations into any irregularity or fraud" concerning elections and report findings to the Office of Statewide Prosecutor.[298] The Secretary's employees were granted "full access to all premises, records, equipment and staff" of county supervisors.[299] The Office of Statewide Prosecutor, rather than local prosecutors, was given jurisdiction to prosecute crimes involving voter registration or voting.[300] The Secretary was also granted power to make emergency rules concerning the Election Code to protect voting rights and conduct elections despite unexpected threats to public health, safety, or welfare.[301] In addition, the Secretary could proscribe the forms necessary to conduct "maintenance of records" in the database[302] and update voters' address information.[303]

The Secretary's authority was expanded yet again in 2011 by a measure allowing the Secretary to "[p]rovide written direction and opinions to the supervisors of election on the performance of their official duties with respect to the Florida Election Code or rules adopted by the Department of State."[304] Most recently, the legislature authorized the Secretary to provide "formal signature match training" to county Supervisors of Election and county canvassing board members.[305]

In the years following *Bush v. Gore*, the legislature directed the Secretary to submit various annual reports to the legislature to help it oversee the electoral process. Each year, for example, the Secretary must report submit an annual report on the performance of each type of voting system," including any problems with the ballot design instructions, or voting system itself.[306] The Secretary must likewise report any problems with ballot design, ballot instructions, or the state's voting systems.[307]

CONCLUSION

The 2000 presidential election brought unprecedent scrutiny to many important aspects of Florida's electoral system. Over the two decades since *Bush v. Gore*, the Florida legislature has amended the election code scores of times, fixing many of the problems that the 2000 election revealed and adopting other improvements. These modifications helped ensure that the 2020 presidential election was conducted safely, efficiently, and successfully, despite an unprecedented global pandemic.

In the months following the 2020 election, Florida enacted another, multifaceted election reform law. Among other things, the new law makes it easier for the state legislature and Attorney General to defend the constitutionality of election-related statutes,[308] prevents election officials from accepting private funding to subsidize election services,[309] and allowed supervisors of election to establish drop boxes for the return of vote-by-mail ballots, so long as they are monitored by election officials.[310]

The legislature bolstered election transparency by directing that candidates, political party officials, and their designees be granted "reasonable access" to "inspect ballot materials before canvassing or tabulation"—including voters' signatures on ballot envelopes, certificates, and cure affidavits, as well as the "corresponding comparison signatures."[311] Poll watchers appointed by political parties and candidates are also specifically guaranteed the right to observe

"signature matching and other processes" during the canvass.[312] The new law further directs supervisors of election to post hourly updates on the Internet, after the close of polls on Election Day, about the number of vote-by-mail ballots they have received and how many remain uncounted.[313]

The legislature likewise enhanced the security of the state's vote-by-mail system by requiring voters to provide their driver's license number, Florida identification card number, or last four digits of their social security number when requesting a vote-by-mail ballot, to allow election officials to verify their identity.[314] Additionally, the new law prohibits election officials from automatically distributing vote-by-mail ballots unless they have received a valid request from the voter,[315] and strengthens protections against ballot harvesting.[316] And to ensure the accuracy of the voter registration rolls, the legislature directed the Department of Highway Safety and Motor Vehicles to assist the department of state in "regularly identifying" voters' changes in residency.[317]

In short, while additional reforms could improve Florida's election system still further, the state has come a long way since the election of 2000. Its ability to conduct a fair, accessible, and robust election in the wake of COVID-19 demonstrates the success of its approach.

APPENDIX: PRINCIPLES FOR BEST PRACTICE ELECTION REFORM

The challenges of preserving representative democracy are not insurmountable. In Florida, all branches of state government—the legislature, executive, and judiciary—have demonstrated a commitment to restoring public trust in the electoral process. The legislature, however, has primary responsibility for providing an adequate statutory framework for ensuring fair, accessible, and secure elections. Comprised of the people's elected representatives, the legislature is responsible for initiating the policy changes that ultimately lead to administrative regulations and judicial interpretations. As other states continue to strengthen their own election systems, they should consider the following lessons from Florida's reforms over the past two decades:

#1. Voting Machines—Adopt reliable voting machines that generate a voter-verifiable paper audit trail, so voters can confirm that their choices are being recorded accurately, and election officials can audit the machine's tallies.

#2. Ballots—Ensure that ballots are organized logically and clearly, so that voters can easily cast their votes for their desired candidates.

#3. Voter Registration Database—Records in the voter regis-

tration database must be as accurate and up-to-date as possible. Each state should require its Department of Motor Vehicles, Department of Health, Judiciary, Department of Corrections, and other state entities that have information relevant to voters' identities, eligibility, and residence to automatically provide such data on a frequent, ongoing basis to identify duplicative, outdated, or fraudulent records. States should also join the Electronic Registration Information Center to identify duplicative registrations from people who move out-of-state, and comply with their obligations under the Help America Vote Act by cross-referencing their voter registration database against Social Security records. Additionally, election officials should attempt to identify non-citizens by cross-referencing records with available federal immigration data sources, as well as postcards that people return to courts to claim they are ineligible for jury duty due to lack of U.S. citizenship.

#4. Avenues for voting—The state should adopt opportunities to cast ballots other than in-person on Election Day to help alleviate the burdens on election officials and protect the electoral system from unexpected emergencies. These voting alternatives must be reasonably accessible to all voters, secure from interference or fraud, and operated in a manner that bolsters public confidence in the system. States that use absentee ballots should distribute them only to voters who request them, rather than automatically sending a ballot to each record in the registration database. Voters who submit requests for absentee ballots should be required to provide unique identifying information on the form, such as a driver's license or other similar number. Completed absentee ballots should likewise be subject to verification to ensure they were cast by the voter entitled to do so.

#5. Provisional Ballots—While the Help America Vote Act ("HAVA") provides minimum federal requirements for when states must use provisional ballots, they should make provisional ballots more broadly available to avoid the complementary risks of either turning away potentially eligible voters from polling places or allowing ineligible individuals to cast votes on ordinary voting machines that cannot later be identified and set aside. Provisional ballots also help prevent long lines at polling places by alleviating the need for election officials to definitively determine a voter's eligibility on the spot.

#6. Precanvassing—Election officials should begin precanvassing absentee or vote-by-mail ballots 2-3 weeks before Election Day. Precanvassing includes confirming the identity of the voter who cast the ballot (*i.e.*, through signature match or verifying the voter's driver's license or other identification number), determining the ballot's validity, duplicating damaged ballots, and potentially even processing the ballot through an automatic tabulation machine (*without* revealing any tallies to election of-

ficials). By precanvassing absentee and vote-by-mail ballots prior to Election Day, election officials can ensure that the election's results are available as soon as possible after the polls have closed. Moreover, precanvassing such ballots reduces the likelihood that the apparent winner of an election will change between the time initial results are announced on Election Night and when results are finalized after all the absentee and vote-by-mail ballots have been counted.

#7. Transparency—Election officials should welcome as much transparency as possible into the electoral process. They should post as much information as possible on the Internet concerning the number of absentee ballots distributed, received, and counted. They should likewise post information from each early voting site about the number of votes cast on each voting machine at the beginning and end of each day, as well as the total number of voters who signed into each location to vote. Candidates and political parties should be guaranteed the right to have a sufficient number of poll watchers at each election location to meaningfully monitor activities. Rather than being relegated to distant areas, they should be assured the right to see the content of papers being reviewed by election officials, including voters' identification cards; signatures on absentee ballots, voter certificates, and cure affidavits (as well as the voter's signature on file being used for comparison purposes); the duplication of damaged ballots; and determinations of voter intent during manual canvasses or recounts, depending on the jurisdiction.

#8. Canvassing—State law should clearly set forth the extent of canvassers' duties, powers, and discretion.

#9. Special Populations of Voters—Election officials must ensure they not only comply with federal statutes protecting the rights of military, overseas, and disabled voters, but maximize their opportunities to vote by removing unnecessary barriers.

#10. Photo Identification—Voters must have ready access to photo identification without charge from the state. The state should require reasonable, secure forms of current and valid photo identification to confirm voters' identity at polling places and early voting sites.

#11. Secretary of State—The Secretary of State should have authority to promulgate regulations to construe vague or ambiguous provisions of state election law, ensure that county and local officials interpret and apply election law consistently and uniformly, and ensure that elections are run consistently with all federal and state constitutional, statutory, and regulatory requirements.

Endnotes

1   Special thanks to Kat Klepfer of the FSU College of Law research center for her assistance in identifying and gathering the primary sources for this project.

2   *See* Richard A. Posner, Breaking the Deadlock: The 2000 Election, the Constitution, and the Courts (2001).

3   *See* Mark Joseph Stern, *Federal Judge Excoriates Florida's "Obscene" "Undeclared War" on Voting Rights*, Slate (Oct. 17, 2016), https://slate.com/news-and-politics/2016/10/federal-judge-floridas-obscene-war-on-voting-rights-is-unconstitutional.html.

4   531 U.S. 98 (2000) (per curiam).

5   Frances Robles & Patricia Mazzei, *Florida Begins Vote Recounts in Senate and Governor's Races*, N.Y. Times (Nov. 10, 2018), https://www.nytimes.com/2018/11/10/us/florida-senate-governor-votes-recount.html.

6   Editorial, *Florida Becomes a Paragon of Smooth Elections*, Tampa Bay Times (Nov. 9, 2020), https://www.tampabay.com/opinion/2020/11/09/florida-becomes-a-paragon-of-smooth-elections-editorial/

7   U.S. Census Bureau, *Voting-Age Population and Voting-Age Citizens: 2000*, tbl. 1-1 (Mar. 4, 2004), https://www2.census.gov/programs-surveys/decennial/2000/phc/phc-t-31/tab01-01.pdf.

8   Federal Election Comm'n, Federal Elections 2000: Election Results for the U.S. President, the U.S. Senate and the U.S. House of Representatives 19 (June 2001), https://www.fec.gov/resources/cms-content/documents/federalelections00.pdf.

9   *Id.*

10   U.S. Census Bureau, *Citizen Voting-Age Population: Florida* (Nov. 15, 2016), https://www.census.gov/library/visualizations/2016/comm/citizen_voting_age_population/cb16-tps18_florida.html.

11   U.S. Election Assistance Comm'n, The Election Administration and Voting Survey: 2016 Comprehensive Report 20 (2017), https://www.eac.gov/sites/default/files/eac_assets/1/6/2016_EAVS_Comprehensive_Report.pdf.

12   *Id.*

Endnotes (Cont.)

13   U.S. Dep't of Comm., *Estimates of the Voting Age Population for 2020*, 86 FED. REG. 24,379, 24,379 (May 6, 2021).

14   Fla. Dep't of State, Div. of Elections, *2020 General Election: Active Registered Voters by Party*, at 3 (Oct. 13, 2020), https://files.floridados.gov/media/703607/1-party-by-county.pdf.

15   Fed. Election Comm'n, *Official 2020 Presidential General Election Results*, at 8 (Jan. 28, 2021), https://www.fec.gov/resources/cms-content/documents/2020presgeresults.pdf.

16   *See* Ford Fessenden, *No-Vote Rates Higher in Punch-Card Counts*, N.Y. TIMES, A-29 (Dec. 1, 2000), https://www.nytimes.com/2000/12/01/us/contesting-vote-voting-machines-no-vote-rates-higher-punch-card-counts.html.

17   531 U.S. 98, 106 (2000) (per curiam).

18   2001 Fla. Laws 117, 127, ch. 2001-40, § 1 (May 10, 2001), *codified at* FLA. STAT. § 101.56042; *see also id.* at 127-28, § 18, *codified at* FLA. STAT. § 101.5606(15) (prohibiting the Secretary of State from approving such systems).

19   2001 Fla. Laws at 127, § 16, *codified at* FLA. STAT. § 101.5604.

20   2005 Fla. Laws 2614, 2619, ch. 2005-277, §§ 2, 29 (June 20, 2005; effective date Jan. 1, 2006), *codified at* FLA. STAT. §§ 97.021(3)(a), 101.151(1).

21   2005 Fla. Laws 2690, 2729, ch. 2005-278, § 35 (June 20, 2005; effective date Jan. 1, 2006), *codified at* FLA. STAT. § 101.5608(1).

22   2007 Fla. Laws 320, 328, ch. 2007-30, § 11 (May 21, 2007; effective date Jan. 1, 2008).

23   *Id.* at 326, § 6, *codified at* FLA. STAT. § 101.56075(1)-(3).

24   *Id.* § 5, *codified at* FLA. STAT. § 101.151(1)(b).

25   2011 Fla. Laws 585, 621, ch. 2011-40, § 28 (May 19, 2011), *codified at* FLA. STAT. § 101.151(b); *see also* 2019 Fla. Laws 2019, 2029, ch. 2019-162, § 9 (June 28, 2019; effective date July 1, 2019), *amending* FLA. STAT. § 101.151(1)(b).

26   2008 Fla. Laws 1029, 1049, ch. 2008-95, § 20 (June 5, 2008; effective date, Jan. 1, 2009), *amending* FLA. STAT. § 101.5608(2)(a).

27   2019 Fla. Laws 2019, 2031, ch. 2019-162, § 13 (June 28, 2019; effective date July 1, 2019), *amending* FLA. STAT. § 101.56075(1).

28   *Id.* at 2022, § 2, *amending* FLA. STAT. § 97.021(41).

29   *See* FLA. STAT. § 101.5604 (2000).

30   2001 Fla. Laws at 119, § 2, *codified at* FLA. STAT. § 97.021(2)(b).

31   *Id.* at 127, § 18, *codified at* FLA. STAT. § 101.5606(3); *see also* 2002 Fla. Laws 429, 435, ch. 2002-17, § 10 (Apr. 11, 2002), *amending* FLA. STAT. § 101.048(3)-(4). The amendments also specified that the Secretary had to certify any hardware used for identifying and sorting overvotes and undervotes. 2001 Fla. Laws at 150, § 42, *codified at* FLA. STAT. § 102.166(3)(a).

32   *Id.* at 127-28, § 18, *codified at* FLA. STAT. § 101.5606(14); *see also* 2011 Fla. Laws 585, 626, ch. 2011-40, § 32 (May 19, 2011), *codified at* FLA. STAT. § 101.5606(11)((requiring electromechanical voting systems to be able to "automatically produc[e] precinct totals in printed form").

33   2005 Fla. Laws 2614, 2649-50, ch. 2005-277, §§ 31, 32 (June 20, 2005; effective date Jan. 1, 2006), *amending* FLA. STAT. §§ 101.294(1), 101.295(2).

34   2013 Fla. Laws 1165, 1171, ch. 2011-40, § 8 (May 19, 2011), *codified at* FLA. STAT. § 101.56065(2)(a), (2)(c).

35   *Id.*, *codified at* FLA. STAT. § 101.56065(2)(d).

36   *Id.* at 1171-72, *codified at* FLA. STAT. § 101.56065(3)(a), (6), (7)(a).

37   2001 Fla. Laws 117, 129, ch. 2001-40, § 21 (May 10, 2001), *codified at* FLA. STAT. § 101.5612(1); *see also* 2002 Fla. Laws 429, 438, ch. 2002-17, § 16 (Apr. 11, 2002), *codified at* FLA. STAT. § 101.595(1).

38   2001 Fla. Laws 117, 129, ch. 2001-40, § 21 (May 10, 2001), *codified at* FLA. STAT. § 101.5612(2).

39   *Id.* at 131, *codified at* FLA. STAT. § 101.5612(4)(d).

40   *Id.* at 130, *codified at* FLA. STAT. § 101.5612(3).

41   2011 Fla. Laws 585, 626, ch. 2011-40, 347 (May 19, 2011), *codified at* FLA. STAT. § 101.5612(4)(a)(1); *see also* 2002 Fla. Laws 429, 436, ch. 2002-17, § 13 (Apr. 11, 2002), *codified at* FLA. STAT. § 101.5612(4)(a)(1); 2001 Fla. Laws 117, 130, ch. 2001-40, § 21 (May 10, 2001), *codified at* FLA. STAT. § 101.5612(4)(a)(1). In addition, at least 2% of touchscreen systems for disabled voters must be tested. 2011 Fla. Laws 585, 626, ch. 2011-40, 347 (May 19, 2011), *codified at* FLA. STAT. § 101.5612(4)(a)(1).

42   *See* Siegel v. LePore, 234 F.3d 1163, 1201 n.8 (11th Cir. 2000) (Carnes, J., dissenting).

43   2001 Fla. Laws 117, 123, ch. 2001-40, § 7 (May 10, 2001), *codified at* FLA. STAT. § 101.151(8)(a)(2)-(3).

44   *Id.*

45   *Id.*, *codified at* Fla. Stat. § 101.151(8)(a)(1).

46   *Id.*, *codified at* Fla. Stat. § 101.151(3)(a). *Cf. Jacobson v. Fla. Sec'y of State*, 974 F.3d 1236 (11th Cir. 2020) (dismissing challenge to constitutionality of ballot ordering statute for lack of standing).

47   2001 Fla. Laws 117, 123, ch. 2001-40, § 7 (May 10, 2001), *codified at* Fla. Stat. § 101.151(8)(a)(2)-(3).

48   *Id.*, *codified at* Fla. Stat. § 101.151(3)(b).

49   *Id.*, § 7, *codified at* Fla. Stat. § 101.151(4)(a).

50   *Id.*, § 7, *codified at* Fla. Stat. § 101.151(4)(b).

51   2003 Fla. Laws 3986, 4007, ch. 2003-415, § 20 (July 24, 2003; effective date Jan. 1, 2004), *codified at* Fla. Stat. § 101.65.

52   2011 Fla. Laws 585, 621-23, ch. 2011-40, § 28 (May 19, 2011), *codified at* Fla. Stat. § 101.151(2)(a).

53   *See* Katie Sanders, *Florida Voters Mistakenly Purged in 2000*, Tampa Bay Times (June 14, 2012).

54   2001 Fla. Laws 117, 170, ch. 2001-40, § 70 (May 10, 2001), *codified at* Fla. Stat. § 98.0977(1); *see also* 2005 Fla. Laws 2690, 2709, ch. 2005-278, § 17 (June 20, 2005; effective date Jan. 1, 2006) (requiring the Department of State to maintain a "single, uniform, official, centralized, interactive, computerized statewide voter registration system" with the name, address, and unique identification number for every legally registered voter), *codified at* Fla. Stat. § 98.035(1)-(3); 2002 Fla. Laws 429, 431, ch. 2002-17, § 3 (Apr. 11, 2002), *codified at* Fla. Stat. § 98.0977(4). When the legislature first created the database in 2001, it specified that the Department of State may contract with the Florida Association of Court Clerks to operate and maintain the database. 2001 Fla. Laws 117, 170, ch. 2001-40, § 70 (May 10, 2001), *codified at* Fla. Stat. § 98.0977(1). The 2003 amendment prohibited the Department from contracting with any private entity to maintain the database. 2003 Fla. Laws 3986, 3997-98, ch. 2003-415, § 9 (July 24, 2003; effective date Jan. 1, 2004), *codified at* Fla. Stat. § 98.0977(1)-(2); *see also* 2005 Fla. Laws 2690, 2709, ch. 2005-278, § 17 (June 20, 2005; effective date Jan. 1, 2006), *codified at* Fla. Stat. § 98.035(3).

55   2001 Fla. Laws 117, 170-71, ch. 2001-40, § 70 (May 10, 2001), *codified at* Fla. Stat. § 98.0977(1)-(4).

56   2003 Fla. Laws 3986, 3999, ch. 2003-415, § 10 (July 24, 2003; effective date Jan. 1, 2004).

57   2005 Fla. Laws 2690, 2710, ch. 2005-278, § 18 (June 20, 2005; effective date Jan. 1, 2006), *codified at* Fla. Stat. § 98.045(4)(a)-(b).

58   2003 Fla. Laws 3986, 3993, ch. 2003-415, § 4 (July 24, 2003; effective date Jan. 1, 2004), *codified at* Fla. Stat. § 97.053((5)(a)(5).

59   2005 Fla. Laws 2690, 2707, ch. 2005-278, § 13 (June 20, 2005; effective date Jan. 1, 2006), *codified at* Fla. Stat. § 97.073(1).

60   2007 Fla. Laws 320, 329, ch. 2007-30, § 13 (May 21, 2007; effective date Jan. 1, 2008), *codified at* Fla. Stat. § 97.053(6).

61   2005 Fla. Laws 2690, 2699-2701, ch. 2005-278, § 6 (June 20, 2005; effective date Jan. 1, 2006), *codified at* Fla. Stat. § 97.053(2), (6).

62   *Id.* at 2701, *codified at* Fla. Stat. 97.053(6).

63   *Id.*; 2007 Fla. Laws 320, 329, ch. 2007-30, § 13 (May 21, 2007; effective date Jan. 1, 2008), *codified at* Fla. Stat. § 97.053(6).

64   2005 Fla. Laws 2690, 2737, ch. 2005-278, § 52 (June 20, 2005; effective date Jan. 1, 2006), *codified at* Fla. Stat. § 322.142(4).

65   2015 Fla. Laws 386, 386-88, ch. 2015-36, § 1 (May 15, 2015; effective date July 1, 2015), *codified at* Fla. Stat. § 97.0525(1)-(2).

66   *Id.*, *codified at* Fla. Stat. § 97.0525(2)(a)-(b).

67   *Id.*, *codified at* Fla. Stat. § 97.0525(3)(a).

68   *Id.*, *codified at* Fla. Stat. § 97.0525(4)(a).

69   *Id.*, *codified at* Fla. Stat. § 97.0525(4)(b).

70   *Id.*, *codified at* Fla. Stat. § 97.0525(4)(c).

71   *Id.* § 1, *codified at* Fla. Stat. § 97.0525(8).

72   2007 Fla. Laws 320, 329, ch. 2007-30, § 12 (May 21, 2007; effective date Jan. 1, 2008), *codified at* Fla. Stat. § 97.041(1)(b).

73   2008 Fla. Laws 1029, 1031, ch. 2008-95, § 2 (June 5, 2008; effective date, Jan. 1, 2009), *amending* Fla. Stat. § 97.041(1)(b).

74   2018 Fla. Laws 981, 982, ch. 2018-32, § 1 (Mar. 19, 2018; effective date January 1, 2019), *codified at* Fla. Stat. § 98.075(2)(b). The statute authorizes the Department of State to "become a member of a nongovernmental entity whose sole purpose is to share and exchange information in order to verify voter registration information." Fla. Stat. § 98.075(2)(b)(1). It directs the FLHSMV to "provide driver license or identification card information" to the Department of State "for the purpose of sharing and exchanging voter registration information with the nongovernmental entity." *Id.* § 98.075(2)(b)(4).

Endnotes (Cont.)

75   Electronic Registration Information Center, *Home*, https://ericstates.org/.

76   *Id.*

77   Electronic Registration Information Center, *ERIC at Work*, https://ericstates.org/statistics/.

78   2018 Fla. Laws 983, 983, ch. 2018-33, § 1 (Mar. 19, 2018; effective date January 1, 2019), *codified at* Fla. Stat. § 98.075(2)(c)

79   Electronic Registration Information Center, *ERIC at Work*, https://ericstates.org/statistics/.

80   *See* 2016 Fla. Laws 392, ch. 2016-37 (Mar. 10, 2016; effective date July 1, 2016).

81   A person could vote absentee only if they required assistance to vote in person, were serving as an election worker on Election Day, had a religious conflict, might be away from their precinct while the polls were open on Election Day, moved within the county after voter registration had closed for that election or, for presidential elections, had moved out of the state but was not yet eligible to vote at their new residence. Fla. Stat. § 97.021(1) (2000).

82   2001 Fla. Laws 117, 137, ch. 2001-40, § 34 (May 10, 2001), *codified at* Fla. Stat. § 97.021(1); *see also id.* at 158, § 53, *amending* Fla. Stat. § 101.64(1). Moreover, in presidential election years, a person who moved from Florida to another state after that state's registration deadline for the election had expired could cast an absentee ballot in that election from their former county in Florida. 2005 Fla. Laws 2614, 2660, ch. 2005-277, § 46 (June 20, 2005; effective date Jan. 1, 2006), *codified at* Fla. Stat. § 101.663(2); *see also* 2005 Fla. Laws 2614, 2660, ch. 2005-277, § 46 (June 20, 2005; effective date Jan. 1, 2006), *amending* Fla. Stat. § 101.663(2).

83   2005 Fla. Laws 2614, 2656, ch. 2005-277, § 43 (June 20, 2005; effective date Jan. 1, 2006), *amending* Fla. Stat. § 101.62(3).

84   Fla. Stat. § 101.62(1)(b)(3)-(4) (2000).

85   *Id.* § 101.68(2)(c)(1) (2000).

86   2001 Fla. Laws 117, 157, 162, ch. 2001-40, §§ 52, 56 (May 10, 2001), *amending or repealing* Fla. Stat. §§ 101.62(1)(b)(3)-(4) 101.68(2)(c)(1); *see also id.* at 159-60, §§ 53-54, *amending* Fla. Stat. §§ 101.64(1), Fla. Stat. § 101.65

87   2021 Fla. Laws, ch. 2021-11, § 24 (May 6, 2021), *amending* Fla. Stat. § 102.62(1)(a). At the time of *Bush v. Gore*, a voter could submit a single absentee ballot request form to request all absentee ballots through the end of that calendar year. Fla. Stat. § 102.62 (2000). In 2007, the legislature amended the law to allow voters to request absentee ballots for all elections "through the next two regularly scheduled general elections," instead. 2007 Fla. Laws 320, 343, ch. 2007-30, § 30 (May 21, 2007; effective date Jan. 1, 2008), *codified at* Fla. Stat. § 102.62(1)(a). In 2010, the legislature reduced the period for which an absentee ballot request was valid, allowing a person to request absentee ballots for all elections only through the next regularly scheduled general election. 2010 Fla. Laws 2075, 2081, ch. 2010-167, § 7 (May 19, 2011), *amending* Fla. Stat. § 101.62(1)(a). The following year, the legislature reversed course, allowing a single request to be valid for all absentee ballots through the end of the calendar year of the second general election following the request. 2011 Fla. Laws 585, 628, ch. 2011-40, § 37 (May 19, 2011), *codified at* Fla. Stat. § 101.62(1)(a). The legislature changed the law back in 2021. *See* ch. 2021-11, § 24, *amending* Fla. Stat. § 102.62(1)(a).

88   2019 Fla. Laws 2019, 2032, ch. 2019-162, § 15 (June 28, 2019; effective date July 1, 2019), *amending* Fla. Stat. § 101.62(4)(b). At the time of *Bush v. Gore*, election officials were required to distribute absentee ballots as soon as they were printed. Fla. Stat. § 101.62(4)(b) (2000). In 2011, the legislature required that vote-by-mail ballots be distributed between 35 and 28 days before the election. 2011 Fla. Laws 585, 629, ch. 2011-40, § 37 (May 19, 2011), *codified at* Fla. Stat. § 101.62(4)(b).

89   In 2005, the legislature required that the supervisor had to receive requests to have absentee ballots mailed to a voter by 5:00 P.M. six days before Election Day. 2005 Fla. Laws 2614, 2656, ch. 2005-277, § 43 (June 20, 2005; effective date Jan. 1, 2006), *amending* Fla. Stat. § 101.62(2). Absentee ballots could also be provided to a voter's designee up to 4 days before the election, and also on Election Day itself. Fla. Stat. § 101.62(4)(b)(4) (2000). And such ballots could be provided to the voter in person up through 7:00 P.M. on Election Day. 2005 Fla. Laws 2614, 2656, ch. 2005-277, § 43 (June 20, 2005; effective date Jan. 1, 2006), *amending* Fla. Stat. § 101.62(4)(b)(3). The legislature later specified that a voter's designee could pick up an absentee ballot up to five days before the election, or on Election Day itself. 2007 Fla. Laws 320, 344, ch. 2007-30, § 30 (May 21, 2007; effective date Jan. 1, 2008), *codified at* Fla. Stat. § 101.62(4)(b)(4).

90   2019 Fla. Laws 2019, 2032, ch. 2019-162, § 15 (June 28, 2019; effective date July 1, 2019), *amending* Fla. Stat. § 101.62(2).

91   *Id.*, *amending* Fla. Stat. § 101.62(4)(b)(4).

92   *Id.*, *amending* Fla. Stat. § 101.62(2). In 2005, the legislature had imposed such a deadline for the first time, requiring that absentee ballots be mailed to voters "no later than 4 days before the election."   2005 Fla. Laws 2614, 2656, ch. 2005-277, § 43 (June 20, 2005; effective date Jan. 1, 2006), *amending* Fla. Stat. § 101.62(2).

93   *See* Fla. Stat. § 101.65 (2000).

94   *Id.* § 101.68(2)(c) (2000).

95   In the aftermath of *Bush v. Gore*, the legislature eliminated notarization requirements, and allowed any person—not just a registered voter—to witness an absentee ballot. 2001 Fla. Laws 117, 161-62, ch. 2001-40, § 56 (May 10, 2001), *amending* Fla. Stat. § 101.68(2)(c)(1); *see also id.* at 159-60, §§ 53-54, *amending* Fla. Stat. §§ 101.64(1), 101.65. This statute also abolished the prohibition on a person from witnessing more than five absentee ballots in a single election. *Id.* at 160, 162-63, §§ 54, 57-58, *amending or repealing* §§ 101.65, 101.685, 104.047(3). In 2004, the legislature went further by removing the requirement that absentee ballots be witnessed at all. *See generally* 2004 Fla. Laws 716, ch. 2004-232 (May 25, 2004; effective date July 1, 2004) (abolishing witness requirement throughout Election Code).

96   Fla. Stat. § 101.68(4)(b)(1).

97   2011 Fla. Laws 585, 629, ch. 2011-40, § 37 (May 19, 2011), *codified at* Fla. Stat. § 101.62(4)(c).

98   2013 Fla. Laws 1165, 1174-75, ch. 2013-57, § 11 (May 21, 2013; effective date Jan. 1, 2014), *amending* Fla. Stat. § 101.62(1)(b).

99   2001 Fla. Laws 117, 162-63, ch. 2001-40, §§ 57, 58 (May 10, 2001), *repealing* Fla. Stat. §§ 104.047(5), 101.647(2); *id.* at 159, § 53, *amending* Fla. Stat. § 101.64(1).

100   2013 Fla. Laws 1165, 1187-88, ch. 2013-57, § 21 (May 21, 2013; effective date Jan. 1, 2014), *amending* Fla. Stat. § 104.0616(1).

101   2001 Fla. Laws 117, 161-62, ch. 2001-40, § 56 (May 10, 2001), *amending* Fla. Stat. § 101.68(2)(a).

102   2019 Fla. Laws 2019, 2036, ch. 2019-162, § 19 (June 28, 2019; effective date July 1, 2019), *amending* Fla. Stat. § 101.68(2)(a). Originally, ore-canvassing began four days before Election Day. 2001 Fla. Laws 117, 161-62, ch. 2001-40, § 56 (May 10, 2001), *amending* Fla. Stat. § 101.68(2)(a). It was later extended to 4 days, 2005 Fla. Laws 2614, 2655, ch. 2005-277, § 42 (June 20, 2005; effective date Jan. 1, 2006), *amending* Fla. Stat. § 101.6103(6); 6 days, 2007 Fla. Laws 320, 344, ch. 2007-30, § 31 (May 21, 2007; effective date Jan. 1, 2008), *codified at* Fla. Stat. § 102.68(2)(a); and 15 days, 2011 Fla. Laws 585, 632, ch. 2011-40, § 40 (May 19, 2011), *codified at* Fla. Stat. § 101.68(2)(a).

103   2001 Fla. Laws 117, 161-62, ch. 2001-40, § 56 (May 10, 2001), *amending* Fla. Stat. § 101.68(2)(a).

104   2013 Fla. Laws 1165, 1186, ch. 2013-57, § 19 (May 21, 2013; effective date Jan. 1, 2014), *amending* Fla. Stat. § 102.141(4)(a).

105   Fla. Stat. § 101.68(1) (2000).

106   *Id.*

107   *Id.* § 101.68(4) (2000).

108   2004 Fla. Laws 716, 718, ch. 2004-232, § 3 (May 25, 2004, effective date July 1, 2004), *amending* Fla. Stat. § 101.68(1).

109   2013 Fla. Laws 1165, 1180, ch. 2013-57, § 15 (May 21, 2013; effective date Jan. 1, 2014), *amending* Fla. Stat. § 101.68(4)(a).

110   *Id.*, *codified at* Fla. Stat. § 101.68(4)(b)-(c). These amendments also specified that the supervisor could compare the signatures on absentee ballot envelopes to voters' signatures in the precinct register (*i.e.*, a printout from the voter registration database), rather than the registration books. *Id.* at 1179, *amending* Fla. Stat. § 101.68(2)(c)(1).

111   *Id.* at 1180-81, *codified at* Fla. Stat. § 101.68(4)(e).

112   Fla. Democratic Party v. Detzner, No. 4:16-cv-607-MW/CAS, 2016 U.S. Dist. LEXIS 143620, at *27-29 (N.D. Fla. 2016).

113   2017 Fla. Laws 336, 339, ch. 2017-45 (June 2, 2017), *amending* Fla. Stat. § 101.68(4)(a).

114   2019 Fla. Laws 2019, 2037, ch. 2019-162, § 19 (June 28, 2019; effective date July 1, 2019), *amending* Fla. Stat. § 101.68(4)(a).

115   2017 Fla. Laws 336, 337-40, ch. 2017-45 (June 2, 2017), *amending* Fla. Stat. § 101.68(2)(c)(1), (4)(c).

116   2019 Fla. Laws 2019, 2039, ch. 2019-162, § 19 (June 28, 2019; effective date July 1, 2019), *amending* Fla. Stat. § 101.68(4)(g).

117   *Id.* at 2036, § 19, *amending* Fla. Stat. § 101.168(2)(c)(1).

118   Fla. Stat. § 101.657(1) (2000).

119   2000 Fla. Laws 2424, 2424-25, ch. 2000-249, § 2, *codified at* Fla. Stat. § 101.657(2).

120   2001 Fla. Laws 117, 160-61, ch. 2001-40, § 55 (May 10, 2001), *codified at* Fla. Stat. § 101.657(1).

Endnotes (Cont.)

121   Early voting is defined as casting a ballot prior to Election Day at a location designated by the supervisor of elections, where the voted ballot is deposited into the tabulation system. 2004 Fla. Laws 829, 841, ch. 2004-252, § 9 (May 26, 2004; effective date July 1, 2004), *codified at* Fla. Stat. § 97.021(7).

122   2011 Fla. Laws 585, 631-32, ch. 2011-40, § 39 (May 19, 2011), *codified at* Fla. Stat. § 101.657(d).

123   *Id.*

124   Originally, in 2004, state law specified that supervisors must conduct early voting from 15 days before Election Day through the day before Election Day. 2004 Fla. Laws 829, 842, ch. 2004-252, § 13 (May 26, 2004; effective date July 1, 2004), *codified at* Fla. Stat. § 101.657(1)(b). The following year, the legislature tweaked the duration of the early voting period. It specified that early voting must commence 15 days before Election Day and continue until *two* days before Election Day, 2005 Fla. Laws 2614, 2659, ch. 2005-277, § 45 (June 20, 2005; effective date Jan. 1, 2006), *amending* Fla. Stat. § 101.657(1)(d).

125   2011 Fla. Laws 585, 631-32, ch. 2011-40, § 39 (May 19, 2011), *codified at* Fla. Stat. § 101.657(d).

126   2013 Fla. Laws 1165, 1178, ch. 2013-57, § 13 (May 21, 2013; effective date Jan. 1, 2014), *amending* Fla. Stat. § 101.657(1)(d).

127   *Id.* Under the 2004 law that originally established early voting, early voting had to be held *at least* 8 hours each weekday, and for a total of 8 hours each weekend, throughout the early voting period. 2004 Fla. Laws 829, 842, ch. 2004-252, § 13 (May 26, 2004; effective date July 1, 2004), *codified at* Fla. Stat. § 101.657(1)(b). In 2005, the legislature specified that all early voting sites within a county had to be open at the same times, with *exactly* 8 hours of voting on each weekday, and a total of 8 hours over the weekend. 2005 Fla. Laws 2614, 2659, ch. 2005-277, § 45 (June 20, 2005; effective date Jan. 1, 2006), *amending* Fla. Stat. § 101.657(1)(c)-(d). Several years later, the legislature granted supervisors additional flexibility. It specified that each early voting site had to be open between 6 and 12 hours for each day of the early voting period. 2011 Fla. Laws 585, 631-32, ch. 2011-40, § 39 (May 19, 2011), *codified at* Fla. Stat. § 101.657(c). These amendments also abolished the requirement that all of a county's early voting sites remain open throughout the same hours. *Id.*, *codified at* Fla. Stat. § 101.657(c).

128   2004 Fla. Laws 829, 842, ch. 2004-252, § 13, *codified at* Fla. Stat. § 101.657(1)(a); 2005 Fla. Laws 2614, 2659, ch. 2005-277, § 45 (June 20, 2005; effective date Jan. 1, 2006), *amending* Fla. Stat. § 101.657(1)(a).

129   2004 Fla. Laws 842, ch. 2004-252, § 13, *codified at* Fla. Stat. § 101.657(1)(a).

130   2013 Fla. Laws 1165, 1178, ch. 2013-57, § 13 (May 21, 2013; effective date Jan. 1, 2014), *amending* Fla. Stat. § 101.657(1)(a). The Secretary of State had construed this provision as excluding college-owned facilities, but a federal district court held that that interpretation was unconstitutional. *League of Women Voters of Fla., Inc. v. Detzner*, 314 F. Supp. 3d 1205, 1210-11, 1225 (N.D. Fla. 2018).

131   *Id.*

132   2019 Fla. Laws 2019, 2030, ch. 2019-162, § 10 (June 28, 2019; effective date July 1, 2019), *amending* Fla. Stat. § 101.657(1)(a).

133   2001 Fla. Laws 117, 140, ch. 2001-40, § 34 (May 10, 2001), *codified at* Fla. Stat. § 97.021(25).

134   *Id.* at 141-42, § 35, *codified at* Fla. Stat. § 101.048(1).

135   *Id.* at 141-42, § 35, *codified at* Fla. Stat. § 101.048(1). Based on the original statutory definition of "provisional ballot," such ballots could be used only when either a person's name did not appear on the precinct register, or the register showed that the person had requested an absentee ballot and there is no indication as to whether they had returned it. *Id.* at 140, § 34, *codified at* Fla. Stat. § 97.021(25). The legislature later redefined the term to refer to eliminate these restrictions, specifying that a provisional ballot is "a conditional ballot, the validity of which is determined by the canvassing board." 2003 Fla. Laws 3986, 3991, ch. 2003-415, § 1 (July 24, 2003; effective date Jan. 1, 2004), *codified at* Fla. Stat. § 97.012(25).

136   2001 Fla. Laws 117, 141-42, ch. 2001-40, § 35 (May 10, 2001), *codified at* Fla. Stat. § 101.69(3).

137   2005 Fla. Laws 2614, 2661, ch. 2005-277, § 48 (June 20, 2005; effective date Jan. 1, 2006), *amending* Fla. Stat. § 101.69(1); *cf.* 2002 Fla. Laws 429, 439, ch. 2002-17, § 18 (Apr. 11, 2002), *codified at* Fla. Stat. § 101.69(1) (previous rule specifying that a person shall not be allowed to cast either a traditional or provisional ballot if the supervisor's records show it received an absentee ballot from them). If the voter returns their absentee ballot to the polling place official, 2001 Fla. Laws 117, 146, ch. 2001-40, § 38 (May 10, 2001), *codified at* Fla. Stat. § 101.69, or the official can confirm that the supervisor's office did not receive the completed ballot, 2002 Fla. Laws 429, 439, ch. 2002-17, § 18 (Apr. 11, 2002), *codified at* Fla. Stat. § 101.69(2), then the voter can cast a traditional ballot. If the supervisor's office receives the voter's absentee ballot later, it will be disregarded. *Id.* If election records show that the supervisor received a completed absentee ballot from the voter, and they do not dispute

sending it, they cannot cast a ballot at all. *Id*. at 439, § 18, *codified at* Fla. Stat. § 101.69(1).

138   2003 Fla. Laws 3986, 4003-04, ch. 2003-415, § 16 (July 24, 2003; effective date Jan. 1, 2004), *codified at* Fla. Stat. § 101.049(1); *see also* 2004 Fla. Laws 88, 90, ch. 2004-5, § 3 (Mar. 29, 2004), *amending* Fla. Stat. § 101.049(1) (clarifying language).

139   2003 Fla. Laws 3986, 4003, ch. 2003-415, § 15 (July 24, 2003; effective date Jan. 1, 2004), *codified at* Fla. Stat. § 101.048(4).

140   2005 Fla. Laws 2690, 2728, ch. 2005-278, § 32 (June 20, 2005; effective date Jan. 1, 2006), *codified at* Fla. Stat. § 101.048(1).

141   2005 Fla. Laws 2614, 2643, ch. 2005-277, § 24 (June 20, 2005; effective date Jan. 1, 2006), *amending* Fla. Stat. § 101.048(1).

142   *Id*. at 2643-44, § 24, *amending* Fla. Stat. § 101.048(1), (5).

143   2005 Fla. Laws 320, 341-42, ch. 2007-30, § 27 (May 21, 2007; effective date Jan. 1, 2008), *codified at* Fla. Stat. § 101.048(1); *see also* 2019 Fla. Laws 2019, 2027, ch. 2019-162, § 8 (June 28, 2019; effective date July 1, 2019), *amending* Fla. Stat. § 101.048(6)(b).

144   2001 Fla. Laws 117, 147, ch. 2001-40, § 41 (May 10, 2001), *codified at* Fla. Stat. § 102.141(2)-(3).

145   *Id*. at 142, § 35, *codified at* Fla. Stat. § 101.048(2)(a); *see also* 2002 Fla. Laws 429, 433, ch. 2002-17, § 6 (Apr. 11, 2002), *amending* Fla. Stat. § 101.031(2)(a), (2)(b)(1)-(2) (clarifying that, for a provisional ballot to be valid, it must have been cast at the precinct where the person is entitled to vote).

146   2005 Fla. Laws 2614, 2643, ch. 2005-277, § 24 (June 20, 2005; effective date Jan. 1, 2006), *amending* Fla. Stat. § 101.048(2)(a).

147   2001 Fla. Laws 117, 142, ch. 2001-40, §§ 35, 37 (May 10, 2001), *codified at* Fla. Stat. §§ 101.048(2)(b)(1), 101.5614(8).

148   *See* Democratic Exec. Comm. of Fla. v. Lee, 915 F.3d 1312, 1319 (11th Cir. 2019).

149   2019 Fla. Laws 2019, 2026 § 8 (June 28, 2019; effective date July 1, 2019), *codified at* Fla. Stat. § 101.048(6)(a)(1)-(3).

150   *Id*. at 2026, *codified at* Fla. Stat. § 101.048(6)(a)(1)-(3).

151   *Id*. at 2028, *codified at* Fla. Stat. § 101.048(6)(e).

152   *Id*. at 2027, *codified at* Fla. Stat. § 101.048(6)(c).

153   *Id*. at 2027-28, *codified at* Fla. Stat. § 101.048(6)(b), (d)-(e).

154   *Id*. at 2024-25, *amending* Fla. Stat. § 101.048(2)(b)(1)-(2).

155   *Id*. at 2025, *amending* Fla. Stat. § 101.048(2)(b).

156   2001 Fla. Laws 117, 132-33, ch. 2001-40, § 22 (May 10, 2001), *codified at* Fla. Stat. § 101.5614(3).

157   Fla. Stat. § 102.141(3) (2000).

158   2001 Fla. Laws 117, 147, ch. 2001-40, § 41 (May 10, 2001), *codified at* Fla. Stat. § 102.141(3).

159   2011 Fla. Laws 585, 635, ch. 2011-40, § 43 (May 19, 2011), *codified at* Fla. Stat. § 102.141(4).

160   *Id*. Previously, county canvassing boards were required to report "preliminary results" to the Department of State by 11:59 P.M. on election night (*i.e.*, potentially before the board received results from all precincts). 2007 Fla. Laws 320, 346, ch. 2007-30, § 33 (May 21, 2007; effective date Jan. 1, 2008), *codified at* Fla. Stat. § 102.141(4).

161   2001 Fla. Laws 117, 146-47, ch. 2001-40, § 41 (May 10, 2001), *codified at* Fla. Stat. § 102.141(3); *see also* 2005 Fla. Laws 2614, 2671, ch. 2005-277, § 58 (June 20, 2005; effective date Jan. 1, 2006), *amending* Fla. Stat. § 102.141(3).

162   2007 Fla. Laws 320, 346, ch. 2007-30, § 33 (May 21, 2007; effective date Jan. 1, 2008), *amending* Fla. Stat. § 102.141(5). These amendments also deleted the prohibition on including provisional ballots in the unofficial returns. 2007 Fla. Laws 320, 346, ch. 2007-30, § 33 (May 21, 2007; effective date Jan. 1, 2008), *amending* Fla. Stat. § 102.141(4).
The legislature has continuously changed this timeframe in the years since *Bush v. Gore*. In 2001, the legislature had required county canvassing boards to submit unofficial returns by noon on the day after Election Day. 2001 Fla. Laws 117, 148, ch. 2001-40, § 41 (May 10, 2001), *codified at* Fla. Stat. § 102.141(4). The following year, the legislature extended the period, requiring boards to report unofficial returns two days after the election. 2002 Fla. Laws 429, 440, ch. 2002-17, § 20 (Apr. 11, 2002), *amending* Fla. Stat. § 102.141(4). In 2005, the legislature extended the deadline yet again to five days. 2005 Fla. Laws 2614, 2671, ch. 2005-277, § 58 (June 20, 2005; effective date Jan. 1, 2006), *amending* Fla. Stat. § 102.141(4).
In 2002, the legislature had required the unofficial returns to include absentee and provisional ballots. 2002 Fla. Laws 429, 440, ch. 2002-17, § 20 (Apr. 11, 2002), *amending* Fla. Stat. § 102.141(4). A few years later, it specified that unofficial results should exclude provisional ballots. 2005 Fla. Laws 2614, 2671, ch. 2005-277, § 58 (June 20, 2005; effective date Jan. 1, 2006), *amending* Fla. Stat. § 102.141(4).

163   2001 Fla. Laws 117, 146-47, ch. 2001-40, § 41 (May 10, 2001), *codified at* Fla. Stat. § 102.141(3).

164   *Id.*

165   *Id.* at 148, ch. 2001-40, § 41 (May 10, 2001), *codified at* Fla. Stat. § 102.141(5); *see also* 2005 Fla. Laws 2614, 2671, ch. 2005-277, § 58 (June 20, 2005; effective date Jan. 1, 2006), *amending* Fla. Stat. § 102.141(5)(a).

166   Fla. Stat. § 102.141(3) (2000).

167   *Id.* § 101.5614(5) (2000).

168   2002 Fla. Laws 429, 437, ch. 2002-17, § 14 (Apr. 11, 2002), *codified at* Fla. Stat. § 101.5614(5).

169   2019 Fla. Laws 2019, 2055, ch. 2019-162, § 36 (June 28, 2019; effective date July 1, 2019), *amending* Fla. Stat. § 102.141(2)(b).

170   *Id.* at 2055, § 36, *amending* Fla. Stat. § 102.141(2)(c).

171   *Id.* at 2055-56, *amending* Fla. Stat. § 102.141(2)(d), (9).

172   2001 Fla. Laws 117, 148, ch. 2001-40, § 41 (May 10, 2001), *codified at* Fla. Stat. § 102.141(6).

173   *Id.* at 148, § 41, *codified at* Fla. Stat. § 102.141(6)(a).

174   *Id.* at 148, § 41, *codified at* Fla. Stat. § 102.141(6)(a).

175   2002 Fla. Laws 429, 440-41, ch. 2002-17, § 20 (Apr. 11, 2002), *amending* Fla. Stat. § 102.141(6)(a).

176   2020 Fla. Laws 800, 802, ch. 2020-109, § 4 (June 27, 2020), *codified at* Fla. Stat. § 102.141(7)(a).

177   2007 Fla. Laws 320, 347, ch. 2007-30, § 33 (May 21, 2007; effective date Jan. 1, 2008), *codified at* Fla. Stat. § 102.141(7)(c). The post-2000 amendments required automatic recounts to be complete two days after the election, 2001 Fla. Laws 117, 149, ch. 2001-40, § 41 (May 10, 2001), *codified at* Fla. Stat. § 102.141(6)(c); later extended to three days, 2002 Fla. Laws 429, 441, ch. 2002-17, § 20 (Apr. 11, 2002), *amending* Fla. Stat. § 102.141(6)(c); and five days, 2005 Fla. Laws 2614, 2673, ch. 2005-277, § 58 (June 20, 2005; effective date Jan. 1, 2006), *amending* Fla. Stat. § 102.141(6)(c).

178   2001 Fla. Laws 117, 149, ch. 2001-40, § 41 (May 10, 2001), *codified at* Fla. Stat. § 102.141(6)(c).

179   *Id.*

180   *Id.* at 149, § 42, *codified at* Fla. Stat. § 102.166(1). The 2001 amendments allowed a losing candidate or her political party to request a manual recount if she is behind by a margin of 0.25-0.50%. 2001 Fla. Laws 117, 149-50, ch. 2001-40, § 42 (May 10, 2001), *codified at* Fla. Stat. § 102.166(2)(a). The deadline for requesting a manual recount originally was two days after generation of the second round of unofficial returns, *id.*, but it was later extended to three days, 2002 Fla. Laws 429, 441, ch. 2002-17, § 21 (Apr. 11, 2002), *amending* Fla. Stat. § 102.166(2)(a). In 2005, the legislature deleted this provision. 2005 Fla. Laws 2614, 2674-75, ch. 2005-277, § 59 (June 20, 2005; effective date Jan. 1, 2006), *repealing* Fla. Stat. § 102.166(2).

181   2005 Fla. Laws 2614, 2674, ch. 2005-277, § 59 (June 20, 2005; effective date Jan. 1, 2006), *amending* Fla. Stat. § 102.166(1).

182   2010 Fla. Laws 2075, 2087-88, ch. 2010-167, § 15 (May 28, 2010), *amending* Fla. Stat. § 102.166(1)(a).

183   2001 Fla. Laws 117, 152, ch. 2001-40, § 42 (May 10, 2001), *codified at* Fla. Stat. § 102.166(6)(a).

184   *Id.*, *codified at* Fla. Stat. § 102.166(6)(b).

185   *Id.*, *codified at* Fla. Stat. § 102.166(5)(a).

186   *Id.*, *codified at* Fla. Stat. § 102.166(5)(b); *see also* 2003 Fla. Laws 3986, 4014, ch. 2003-415, § 26 (July 24, 2003; effective date Jan. 1, 2004), *codified at* Fla. Stat. § 102.141(6)(d).

187   2001 Fla. Laws 117, 151-52, ch. 2001-40, § 42 (May 10, 2001), *codified at* Fla. Stat. § 102.166(5)(b).

188   2020 Fla. Laws 800, 803, ch. 2020-109, § 5 (June 27, 2020), *codified at* Fla. Stat. § 102.166(1)(b), (2).

189   *Id.* at 804, § 5, *codified at* Fla. Stat. § 102.166(6).

190   2019 Fla. Laws 2019, 2056, ch. 2019-162, § 37 (June 28, 2019; effective date July 1, 2019), *amending* Fla. Stat. § 102.166(4)(b)(1)..

191   2002 Fla. Laws 429, 442, ch. 2002-17, § 21 (Apr. 11, 2002), *amending* Fla. Stat. § 102.166(6)(b); *see also* 2003 Fla. Laws 320, 347, § 34 (May 21, 2007; effective date Jan. 1, 2008), *amending* Fla. Stat. § 102.166(5)(b).

192   2007 Fla. Laws 320, 345, ch. 2007-30, § 32 (May 21, 2007; effective date Jan. 1, 2008), *codified at* Fla. Stat. § 102.112(2). This deadline used to be 7 days after the election, Fla. Stat. § 102.11(1) (2000), and was later extended to 11 days, 2001 Fla. Laws 117, 146-47, ch. 2001-40 , § 40 (May 10, 2001), *codified at* Fla. Stat. § 102.112(2).

193   2005 Fla. Laws 2614, 2669-70, ch. 2005-277, § 57 (June 20, 2005; effective date Jan. 1, 2006), *amending* Fla. Stat. § 102.112(1).

194   Id. at 2673-74, § 58, *amending* Fla. Stat. § 102.141(8)(a).

195   Fla. Stat. § 102.112(3) (2000).

Endnotes (Cont.)

196   2001 Fla. Laws 117, 147, ch. 2001-40, § 40 (May 10, 2001), *codified at* Fla. Stat. § 102.112(3).

197   *Id*., *codified at* Fla. Stat. § 102.112(4).

198   Fla. Stat. § 102.111(1).

199   2010 Fla. Laws 2075, 2085, ch. 2010-167, § 12 (May 28, 2010), *amending* Fla. Stat. § 102.111(2).

200   Fla. Stat. § 102.111(1) (2000).

201   2001 Fla. Laws 117, 146, ch. 2001-40, § 39 (May 10, 2001), *codified at* Fla. Stat. § 101.5614(8).

202   2005 Fla. Laws 2614, 2670, ch. 2005-277, § 57 (June 20, 2005; effective date Jan. 1, 2006), *amending* Fla. Stat. § 102.112(2).

203   *Id.* at 2669, § 56, *amending* Fla. Stat. § 102.111(1).

204   *See* Bush v. Gore, 531 U.S. 98, 106 (2000) (per curiam).

205   Fla. Stat. § 101.5614(5) (2000).

206   *Id*.

207   2001 Fla. Laws 117, 145, ch. 2001-40, § 37 (May 10, 2001), *codified at* Fla. Stat. § 101.5614(5).

208   *Id.* at 145, ch. 2001-40, § 37 (May 10, 2001), *codified at* Fla. Stat. § 101.5614(6).

209   *Id*. at 132, § 22, *codified at* Fla. Stat. § 101.5614(2).

210   *Id*. at 152, § 42, *codified at* Fla. Stat. § 102.166(6)(c).

211   *Id*. at 153, § 44, *codified at* Fla. Stat. § 102.168(2).

212   *Id*. at 153, § 44, *repealing* Fla. Stat. § 102.168(3)(e).

213   *Id*. at 153, § 44, *repealing* Fla. Stat. § 102.168(8).

214   2019 Fla. Laws 2019, 2056, ch. 2019-162, § 38 (June 28, 2019; effective date July 1, 2019), *amending* Fla. Stat. § 102.168(8); *cf*. 2011 Fla. Laws 585, 635, ch. 2011-40, § 44 (May 19, 2011), *codified at* Fla. Stat. § 102.168(8) (original version of this provision).

215   2007 Fla. Laws 320, 327, ch. 2007-30, § 8 (May 21, 2007; effective date Jan. 1, 2008), *codified at* Fla. Stat. § 101.591(1)-(2).

216   *Id*., *codified at* Fla. Stat. § 101.591(2), (4).

217   *Id*. at 328, § 9.

218   2013 Fla. Laws 1165, 1173, ch. 2013-57, § 10 (May 21, 2013; effective date Jan. 1, 2014), *amending* Fla. Stat. § 101.591(1).

219   *Id*. at 1174, *amending* Fla. Stat. § 101.591(2)(c)(1)..

220   *See, e.g.*, Bush v. Hillsborough Cnty. Canvassing Bd., 123 F. Supp. 2d 1305 (N.D. Fla. 2000).

221   Wade Payson-Denney, *The Military Ballots that have Divided Democrats for 15 Years*, CNN (Nov. 2, 2015), https://www.cnn.com/2015/11/02/politics/bush-gore-military-ballots.

222   The 2001 amendments specified for the first time that members of the Merchant Marine were entitled to military voter status. 2001 Fla. Laws 117, 137, ch. 2001-40, § 34 (May 10, 2001), *codified at* Fla. Stat. § 97.021(13). All subsequent references to military voters should be understood to include members of the Merchant Marine.

223   2001 Fla. Laws 117, 155, ch. 2001-40, § 47 (May 10, 2001), *codified at* Fla. Stat. § 97.0555; *see also* 2002 Fla. Laws 429, 430, ch. 2002-17, § 1 (Apr. 11, 2002), *codified at* Fla. Stat. § 97.0555 (specifying that belated registration must occur in the office of the Supervisor of Elections).

224   2013 Fla. Laws 1165, 1166-67, ch. 2013-57, § 1 (May 21, 2013; effective date Jan. 1, 2014), *amending* Fla. Stat. § 97.0555(1).

225   2010 Fla. Laws 2075, 2083, ch. 2010-167, § 9 (May 28, 2010), *enacting* Fla. Stat. § 101.6952(1).

226   2003 Fla. Laws 3986, 4013, ch. 2003-415, § 25 (July 24, 2003; effective date Jan. 1, 2004), *codified at* Fla. Stat. § 101.694(1).

227   2001 Fla. Laws 117, 155-56, ch. 2001-40, § 48 (May 10, 2001), *codified at* Fla. Stat. § 101.6951(1).

228   *Id*.

229   *Id*. at 156, § 49, *codified at* Fla. Stat. § 101.6952(1).

230   *Id*. § 48, *codified at* Fla. Stat. § 101.6951(4). The legislature later permitted state write-in absentee ballots to be used for ballot measures and judicial retention elections, as well. 2015 Fla. Laws 419, 420, ch. 2015-40, § 1 (May 21, 2015; effective date July 1, 2015), *codified at* Fla. Stat. § 101.6952(2).

231   2001 Fla. Laws 117, 156, ch. 2001-40, § 48 (May 10, 2001), *codified at* Fla. Stat. § 101.6951(3).

232   2011 Fla. Laws 2869, 2869-70, ch. 2011-162, § 1 (June 17, 2011; effective date July 1, 2011), *codified at* Fla. Stat. § 101.6952(2)-(3).

Endnotes (Cont.)

233   Federal Voting Assistance Program, Federal Write-in Absentee Ballot (2019), https://www.fvap.gov/uploads/FVAP/Forms/fwab2013.pdf.

234   52 U.S.C. § 20303(a)(1).

235   Pub. L. No. 99-410, 100 Stat. 924 (Aug. 28, 1986).

236   2011 Fla. Laws 2869, 2872, ch. 2011-162, § 3 (June 17, 2011; effective date July 1, 2011), *codified at* FLA. STAT. § 102.166(4)(c)(1)-(8).

237   *Id*. at 2871, § 2, *codified at* FLA. STAT. § 101.5614(5)(b).

238   2007 Fla. Laws 320, 343, ch. 2007-30, § 30 (May 21, 2007; effective date Jan. 1, 2008), *codified at* FLA. STAT. § 101.62(4)(a); *see also* 2010 Fla. Laws 2075, 2082, ch. 2010-167, § 7 (May 19, 2011), *amending* FLA. STAT. § 101.62(4)(a).

239   2010 Fla. Laws 2075, 2082, ch. 2010-167, § 7 (May 19, 2011), *amending* FLA. STAT. § 101.62(4)(b)(2).

240   2001 Fla. Laws 117, 157-58, ch. 2001-40, § 52 (May 10, 2001), *repealing* FLA. STAT. § 101.62(1)(b)(7)(a)-(c).

241   2013 Fla. Laws 1165, 1184, ch. 2013-57, § 17 (May 21, 2013; effective date Jan. 1, 2014), *amending* FLA. STAT. § 101.6952(5); *see also* 2015 Fla. Laws 419, 420, ch. 2015-40, § 1 (May 21, 2015; effective date July 1, 2015), *codified at* FLA. STAT. § 101.6952(3)(b) (clarifying that extended deadline applied to federal write-in absentee ballots, as well).

242   2011 Fla. Laws 2869, 2870-71, ch. 2011-162, § 1 (June 17, 2011; effective date July 1, 2011), *amending* FLA. STAT. § 101.6952(3)(b) (2012).

243   2001 Fla. Laws 117, 156, ch. 2001-40, § 49 (May 10, 2001), *codified at* FLA. STAT. § 101.6952(2).

244   2003 Fla. Laws 3986, 3988, ch. 2003-415, § 1 (July 24, 2003; effective date Jan. 1, 2004), *codified at* FLA. STAT. § 97.012(13).

245   2001 Fla. Laws 117, 156, ch. 2001-40, § 50 (May 10, 2001), *codified at* FLA. STAT. § 101.697.

246   2005 Fla. Laws 2614, 2664, ch. 2005-277, § 51 (June 20, 2005; effective date Jan. 1, 2006), *amending* FLA. STAT. § 101.697.

247   2001 Fla. Laws 117, 157, ch. 2001-40, § 51 (May 10, 2001), *codified at* FLA. STAT. § 101.698.

248   2002 Fla. Laws 2101, 2111-12, ch. 2002-281, §§ 16, 17 (May 24, 2002), *codified at* FLA. STAT. §§ 101.715.

249   *Id*.

250   *Id*. at 2108-09, § 12, *codified at* FLA. STAT. § 101.56062(1).

251   2007 Fla. Laws 320, 326-27, ch. 2007-30, § 6 (May 21, 2007; effective date Jan. 1, 2008), *codified at* FLA. STAT. § 101.56075(2)-(3). Originally, the legislature required that such systems be adopted by 2012. *Id*., *codified at* FLA. STAT. § 101.56075(3). The legislature subsequently extended this deadline to 2016, *see* 2010 Fla. Laws 2075, 2079, ch. 2010-167, § 5 (May 19, 2011), *amending* FLA. STAT. § 101.56075(3), and again to 2020, *see* 2013 Fla. Laws 1165, 1173, ch. 2013-57, § 9 (May 21, 2013; effective date Jan. 1, 2014), *amending* FLA. STAT. § 102.031(3),
       before abolishing it, *see* 2019 Fla. Laws 2019, 2029, ch. 2019-162, § 13 (June 28, 2019; effective date July 1, 2019), *amending* FLA. STAT. § 101.56075.

252   2002 Fla. Laws 2101, 2108, ch. 2002-281, § 11 (May 24, 2002), *codified at* 101.51(2).

253   *Id*.

254   *Id*. at 2105, 2111, §§ 5, 14, *codified at* FLA. STAT. §§ 97.026, 101.662.

255   *Id*. at 2105, § 7, *codified at* 98.122.

256   2002 Fla. Laws 2101, 2112, ch. 2002-281, § 18 (May 24, 2002), *codified at* FLA. STAT. § 102.014(7).

257   *Id*.

258   *Id*.

259   FLA. STAT. § 98.471 (2002).

260   2003 Fla. Laws 3986, 4001, ch. 2003-415, § 13 (July 24, 2003; effective date Jan. 1, 2004), *codified at* FLA. STAT. § 101.043(1); *see also id*. at 3996, § 6, *codified at* FLA. STAT. § 97.0535(3)(a)(1)-(12).

261   *Id*. at 4001, § 13, *codified at* FLA. STAT. § 101.043(1).

262   2005 Fla. Laws 2690, 2726, ch. 2005-278, § 30 (June 20, 2005; effective date Jan. 1, 2006), *amending* FLA. STAT. § 101.043(1)(a)-(k).

263   2007 Fla. Laws 320, 341, ch. 2007-30, § 26 (May 21, 2007; effective date Jan. 1, 2008), *amending* FLA. STAT. § 101.043(1)(d)-(e).

264   2016 Fla. Laws 1922, 1923, ch. 2016-167, § 2 (Apr. 1, 2016; effective date July 1, 2016), *codified at* FLA. STAT. § 101.043(1)(a)(10)-(12).

265   2003 Fla. Laws 3986, 4002, ch. 2003-415, § 13 (July 24, 2003; effective date Jan. 1, 2004), *amending* Fla. Stat. § 101.043(3).

266   2005 Fla. Laws 2614, 2642-43, ch. 2005-277, § 23 (June 20, 2005; effective date Jan. 1, 2006), *amending* Fla. Stat. § 101.043(2)-(3); 2005 Fla. Laws 2690, 2726-27, ch. 2005-278, § 30 (June 20, 2005; effective date Jan. 1, 2006), *amending* Fla. Stat. § 101.043(3).

267   Fla. Stat. § 98.471.

268   *Id*.; *see also* 2005 Fla. Laws 2614, 2650, ch. 2005-277, § 33 (June 20, 2005; effective date Jan. 1, 2006), *amending* Fla. Stat. § 101.49(1).

269   2003 Fla. Laws 3986, 4001, ch. 2003-415, §§ 12-13 (July 24, 2003; effective date Jan. 1, 2004), *codified at* Fla. Stat. §§ 98.461, 101.043(1).

270   2005 Fla. Laws 2690, 2726, ch. 2005-278, § 30 (June 20, 2005; effective date Jan. 1, 2006), *amending* Fla. Stat. § 101.043(1).

271   2001 Fla. Laws 117, 164-65, ch. 2001-40, § 60 (May 10, 2001), *codified at* Fla. Stat. § 101.031(2).

272   This version of the language was adopted later. 2002 Fla. Laws 429, 432, ch. 2002-17, § 5 (Apr. 11, 2002), *codified at* Fla. Stat. § 101.031(2). Originally, this provision read, "Cast a vote if he or she is in line when the polls are closing." 2001 Fla. Laws 117, 164-65, ch. 2001-40, § 60 (May 10, 2001), *codified at* Fla. Stat. § 101.031(2).

273   2001 Fla. Laws 117, 164-65, ch. 2001-40, § 60 (May 10, 2001), *codified at* Fla. Stat. § 101.031(2). The original version of the bill of rights contained an additional entry, recognizing the voter's right to "[p]rove his or her identity by signing an affidavit if election officials doubt the voter's identity." This provision was removed in 2005 when the laws concerning voter identification procedures were amended. 2005 Fla. Laws 2614, 2641, ch. 2005-277, § 22 (June 20, 2005; effective date Jan. 1, 2006), *amending* Fla. Stat. § 101.031(2) (repealing #7).

274   2002 Fla. Laws 429, 432-33, ch. 2002-17, § 5 (Apr. 11, 2002), *codified at* Fla. Stat. § 101.031(2); *see also* 2001 Fla. Laws 117, 164-65, ch. 2001-40, § 60 (May 10, 2001), *codified at* Fla. Stat. § 101.031(2) (original version).

275   2001 Fla. Laws 117, 166-67, ch. 2001-40, § 64 (May 10, 2001), *codified at* Fla. Stat. § 102.014(1), (4)(a)-(b).

276   2005 Fla. Laws 2614, 2666, ch. 2005-277, § 53 (June 20, 2005; effective date Jan. 1, 2006), *amending* Fla. Stat. § 102.014(1).

277   2008 Fla. Laws 1029, 1052, ch. 2008-95, § 24 (June 5, 2008; effective date, Jan. 1, 2009), *amending* Fla. Stat. § 102.014(7).

278   2001 Fla. Laws 117, 168, ch. 2001-40, § 64 (May 10, 2001), *codified at* Fla. Stat. § 102.014(6).

279   2019 Fla. Laws 2019, 2035, ch. 2019-162, § 18 (June 28, 2019; effective date July 1, 2019), *amending* Fla. Stat. § 101.657(2).

280   *Id*. at 2040, § 20, *amending* Fla. Stat. § 101.69(2).

281   2005 Fla. Laws 2690, 2722, ch. 2005-278, § 27 (June 20, 2005; effective date Jan. 1, 2006), *amending* Fla. Stat. § 98.461(2).

282   *Id.* at 2722, § 27, *amending* Fla. Stat. § 98.461(2).

283   2002 Fla. Laws 429, 435-36, ch. 2002-17, § 12 (Apr. 11, 2002), *codified at* Fla. Stat. § 101.5611(1).

284   2001 Fla. Laws 117, 129, ch. 2001-40, § 20 (May 10, 2001), *codified at* Fla. Stat. § 101.5608(2)(b).

285   *Id*.; *see also* 2002 Fla. Laws 429, 435, ch. 2002-17, § 11 (Apr. 11, 2002), *amending* Fla. Stat. § 101.5608(2)(b) (clarifying language).

286   2001 Fla. Laws 117, 127-28, ch. 2001-40, § 18 (May 10, 2001), *codified at* Fla. Stat. § 101.5606(4); *see also* 2002 Fla. Laws 429, 435, ch. 2002-17, § 10 (Apr. 11, 2002), *amending* Fla. Stat. § 101.5606(3)-(4) (clarifying language).

287   2001 Fla. Laws 117, 127-28, ch. 2001-40, § 18 (May 10, 2001), *codified at* Fla. Stat. § 101.5606(4); *see also* 2002 Fla. Laws 429, 435, ch. 2002-17, § 10 (Apr. 11, 2002), *amending* Fla. Stat. § 101.5606(3)-(4) (clarifying language).

288   2005 Fla. Laws 2614, 2636-37, ch. 2005-277, § 18 (June 20, 2005; effective date Jan. 1, 2006), *amending* Fla. Stat. § 100.011(1).

289   2000 Fla. Laws 2539, 2543-44, ch. 2000-258, § 4, *codified at* Fla. Stat. 20.10(1).

290   *Id*.

291   2001 Fla. Laws 653-56, ch. 2001-75, §§ 1-7, *codified at* Fla. Stat. §§ 20.10(3), 99.061(9), 101.161(2), 101.62(4)(a), 106.07(9), 106.22(11).

292   2001 Fla. Laws 117, 167-68, ch. 2001-40, § 64 (May 10, 2001), *codified at* Fla. Stat. § 102.014(5)(a)-(k).

293   *Id*. at 163, § 59, *codified at* Fla. Stat. § 98.255(1)(a)-(c), (2).

294   Pub. L. No. 107-252, § 402, 116 Stat. 1666, 1715 (Oct. 29, 2002).

295   2003 Fla. Laws 3986, 3994-95, ch. 2003-415, § 5 (July 24, 2003; effective date Jan. 1, 2004), *codified at* Fla. Stat. § 97.028.

Endnotes (Cont.)

296   2005 Fla. Laws 2690, 2693, ch. 2005-278, § 1 (June 20, 2005; effective date Jan. 1, 2006), *amending* FLA. STAT. § 97.012(1)-(2), (14).

297   *Id.*

298   2005 Fla. Laws 2614, 2619, ch. 2005-277, § 1 (June 20, 2005; effective date Jan. 1, 2006), *codified at* FLA. STAT. § 97.012(14).

299   *Id.* at 2653, § 40, *amending* FLA. STAT. § 101.58(2).

300   *Id.* at 2687, § 73, *codified at* FLA. STAT. § 16.56(1)(a)(12).

301   2005 Fla. Laws 2690, 2736, ch. 2005-278, § 50 (June 20, 2005; effective date Jan. 1, 2006), *codified at* FLA. STAT. § 120.54(4)(b).

302   *Id.* at 2711, § 18, *codified at* FLA. STAT. § 98.045(5).

303   2008 Fla. Laws 1029, 1032-33, ch. 2008-95, § 7 (June 5, 2008; effective date, Jan. 1, 2009), *amending* FLA. STAT. § 98.0655(1)(b).

304   2011 Fla. Laws 585, 593, ch. 2011-40, § 11 (May 19, 2011), *codified at* FLA. STAT. § 97.012(16).

305   2019 Fla. Laws 2019, 2021-22, ch. 2019-162, § 1 (June 28, 2019; effective date July 1, 2019), *amending* FLA. STAT. § 97.012(17).

306   2001 Fla. Laws 117, 133-34, ch. 2001-40, § 24 (May 10, 2001), *codified at* FLA. STAT. § 101.595(1)-(3).

307   *Id.* at 133, § 24, *codified at* FLA. STAT. § 101.595(2)-(3).

308   S.B. 90, §1, 27th Leg., Reg. Sess. (Fla. 2021), *codified at* FLA. STAT. § 97.029.

309   *Id.* § 2, *codified at* FLA. STAT. § 97.0291.

310   *Id.* § 28, *codified at* FLA. STAT. § 101.69(2)(a).

311   *Id.* § 21, *codified at* FLA. STAT. § 101.572(2).

312   *Id.* § 31, *codified at* FLA. STAT. § 102.141(2)(a).

313   *Id.* § 30, *codified at* FLA. STAT. § 102.072.

314   *Id.* § 24, *codified at* FLA. STAT. § 101.62(1)(b).

315   *Id.* § 24, *codified at* FLA. STAT. § 101.62(7).

316   *Id.* § 32, *codified at* FLA. STAT. § 104.0616(2).

317   *Id.* § 6, *codified at* FLA. STAT. § 97.057(13).