

United States Department of Justice
Uniformed and Overseas Citizens Absentee Voting Act
Annual Report to Congress
2021

I. Summary

The Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA) of 1986, 52 U.S.C. §§ 20301-20311, as amended by the Military and Overseas Voter Empowerment Act (MOVE Act) of 2009, Pub. L. No. 111-84, Subtitle H, §§ 575-589, 123 Stat. 2190, 2318-35 (2009), requires States to afford military and overseas voters a meaningful opportunity to register and vote absentee in elections for Federal office. Protecting the voting rights of military and overseas voters remains one of the highest priorities of the Department of Justice (“Department”). This report describes the Department’s compliance monitoring work in 2021 to enforce this important statute.

Although 2021 was an “off-year” in the Federal election cycle, the Department continued significant work to enforce UOCAVA through its monitoring of a number of special elections held in 2021 to fill Congressional vacancies. In addition, the Department has begun preparations for its nationwide compliance monitoring program for the 2022 Federal election cycle.

Finally, apart from our monitoring and enforcement efforts, the Department continued to advocate for legislation to provide even stronger protections for military and overseas voters. In 2021, the Department provided technical assistance concerning various legislative proposals under consideration by members of Congress to enhance the enforcement of UOCAVA. A number of bills included provisions that would implement reforms consistent with legislative proposals the Department has transmitted to Congress a number of times previously beginning in 2011. These provisions, as updated during our technical assistance this year, would enhance the Department’s ability to enforce these important protections, and we strongly urge enactment of these UOCAVA proposals.

II. Background

UOCAVA, enacted in 1986, requires that States and Territories allow American citizens who are active duty members of the United States uniformed services and merchant marine, their spouses and dependents, and American citizens residing outside the United States to register and vote absentee in elections for Federal offices. UOCAVA was strengthened significantly in 2009 when Congress passed the MOVE Act to expand the protections for individuals eligible to vote under its terms. One of the key provisions added by the MOVE Act is the requirement that States transmit absentee ballots to military and overseas voters no later than 45 days before an election for Federal office when the request has been received by that date. 52 U.S.C. § 20302(a)(8)(A).

The Secretary of Defense is the Presidential designee with primary responsibility for implementing the Federal functions mandated by UOCAVA, and the Attorney General may bring a civil action in an appropriate district court for such declaratory or injunctive relief as may be necessary to carry out the provisions of UOCAVA. 52 U.S.C. § 20301(a); 52 U.S.C.

§ 20307(a). The Attorney General has assigned responsibility for enforcement of UOCAVA to the Civil Rights Division. Since UOCAVA was enacted in 1986, the Division has initiated and resolved numerous cases to enforce UOCAVA. A case list and selected documents are available at <http://www.justice.gov/crt/about/vot/litigation/caselist.php>.

Under the MOVE Act amendments, UOCAVA requires that the Attorney General submit an annual report to Congress by December 31 of each year on any civil action brought under the Attorney General's enforcement authority under UOCAVA during the preceding year. 52 U.S.C. § 20307(b). As detailed in its prior reports to Congress, the Department has engaged in extensive enforcement of the MOVE Act's requirements since they went into effect for the 2010 general election.

III. UOCAVA Enforcement Activity by the Attorney General in 2021

A. Activity in 2021 to Monitor and Ensure UOCAVA Compliance

We communicated with State election officials in several States in 2021 concerning their scheduling of special elections to fill a vacancy in Federal office. Five States¹ held special elections to fill Congressional vacancies this year. The Department closely monitored the scheduling of these elections, and requested that States confirm to the Department that they timely transmitted UOCAVA ballots for the special elections.

We also continue to monitor and discuss with State officials potential State law changes or other structural obstacles to UOCAVA compliance to ensure that any obstacles are resolved in advance of any Federal elections that may arise. For example, Connecticut enacted legislation earlier this year to address that State's calendar for special congressional elections so that it would comply with UOCAVA.

Finally, the Department has begun preparing for its monitoring efforts for the 2022 Federal elections. As in prior Federal election cycles, the Department will write to all the chief State election officials to remind them of their UOCAVA responsibilities and to request teleconferences to discuss their preparations for the 2022 Federal primary elections. We will request that the State election offices monitor the transmission of absentee ballots and provide confirmation to the Department that UOCAVA ballots that were requested by the 45th day prior to the Federal elections were transmitted by that date.

B. Litigation to Defend the Constitutionality of UOCAVA

Reeves v. Nago and United States: The Department is defending the United States and the Federal defendants in a case raising constitutional claims concerning the application of UOCAVA and Hawaii law to residents of certain U.S. territories. Plaintiffs are former Hawaii residents now residing in those territories and an organization. The complaint named, as defendants, local election officials in Hawaii as well as the United States and the Department of Defense, asserting equal protection and due process challenges to UOCAVA and

¹ Special elections for U.S. House seats were held in two Congressional districts in Louisiana, two Congressional districts in Ohio, and one Congressional district in Texas, New Mexico, and Florida.

the Hawaii law governing voting by military and overseas voters. The case was filed on October 8, 2020, in Federal district court in Hawaii, and remains pending. *Reeves, et al. v. Nago, et al.*, 1:20-cv-00433 (D. Haw.).