

112TH CONGRESS
2D SESSION

H. RES. 799

Expressing the sense of the House of Representatives that it is not a violation of the Equal Protection Clause of the Fourteenth Amendment for a State to extend particular consideration to members of the uniformed services and overseas citizens to ensure that such individuals are able to exercise their rights to vote in elections for public office.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 20, 2012

Mr. TURNER of Ohio (for himself, Mr. CHABOT, Mrs. SCHMIDT, Mr. JORDAN, Mr. LATTA, Mr. JOHNSON of Ohio, Mr. AUSTRIA, Mr. TIBERI, Mr. LATOURETTE, Mr. STIVERS, Mr. RENACCI, and Mr. GIBBS) submitted the following resolution; which was referred to the Committee on House Administration, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

RESOLUTION

Expressing the sense of the House of Representatives that it is not a violation of the Equal Protection Clause of the Fourteenth Amendment for a State to extend particular consideration to members of the uniformed services and overseas citizens to ensure that such individuals are able to exercise their rights to vote in elections for public office.

Whereas because members of the uniformed services and their families are not similarly situated with respect to

their ability to vote, our Nation has a long history of acknowledging their sacrifices and awarding them extra opportunity to participate in the democratic process;

Whereas, during the Civil War, President Lincoln declared a cessation of military operations in order for military personnel to return home for the purpose of casting their ballots;

Whereas in order to ensure that military personnel serving during the Civil War had access to the ability to vote, election officials were authorized by many States to travel to units in the field for the purpose of establishing polling locations and collecting ballots;

Whereas the Soldier Voting Act of 1942 was enacted to guarantee Federal voting rights for members of the Armed Forces during wartime;

Whereas the Federal Voting Assistance Act was enacted in 1955, as a result of a study by the American Political Science Association on the problem of military voting;

Whereas the Federal Voting Assistance Act recommended absentee registration and voting for members of the military, Federal employees who lived outside the United States, and members of civilian service organizations affiliated with the Armed Forces;

Whereas the Overseas Citizens Voting Rights Act of 1975 guaranteed absentee registration and voting rights for citizens outside of the United States, whether or not they maintained a United States residence or address and their intention to return was uncertain;

Whereas, on August 28, 1986, President Reagan signed into law the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA);

Whereas provisions concerning uniformed services and overseas voting were included in the National Defense Authorization Act for Fiscal Year 2002 and the Help America Vote Act of 2002 to amend the UOCAVA;

Whereas the Ronald W. Reagan Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375) amended UOCAVA to ease the rules for use of the Federal write-in ballot in place of state absentee ballots;

Whereas the John Warner National Defense Authorization Act for Fiscal Year 2007 (Public Law. 109–364) extended a Department of Defense program to assist UOCAVA voters;

Whereas the Military and Overseas Voter Empowerment Act (MOVE Act) acknowledges that many military members and their families are faced with unique challenges and should be granted particular consideration in the manner in which they can request, receive, cast and return absentee ballots;

Whereas in *McDonald v. Board of Election Commissioners of Chicago*, the Supreme Court ruled concerning a challenge to the Illinois absentee ballot statute, which provided absentee ballots for 4 classes of voters;

Whereas in *McDonald*, the Supreme Court noted that “the absentee statutes, which are designed to make voting more available to some groups who cannot easily get to the polls, do not themselves deny appellants the exercise of the franchise”;

Whereas the Court stated in *Bush v. Hissborough County Canvassing Bd.* that UOCAVA voters “do not enjoy the individualism which they serve to defend for all other citizens. How and where they conduct their lives is dictated

by the government. The vote is their last vestige of expression and should be provided no matter what their location.”; and

Whereas the Supreme Court has upheld the right of the States to extend particular consideration to members of the uniformed services and overseas citizens: Now, therefore, be it

1 *Resolved*, That the House of Representatives—

2 (1) affirms that it is the policy of the United
3 States to provide for the ability of members of the
4 uniformed services to exercise their constitutional
5 right to vote and acknowledges that particular con-
6 sideration be given them due to restrictions, uncer-
7 tainties, and risks, such as deployment, that present
8 a challenge in voting;

9 (2) recognizes the legislative and judicial prece-
10 dent of granting particular consideration to members
11 of the uniformed services and overseas citizens re-
12 garding absentee voting; and

13 (3) affirms that while the Equal Protection
14 Clause of the Fourteenth Amendment “protects
15 against arbitrary classifications, and requires that
16 similarly situated persons be treated equally”, mem-
17 bers of the uniformed services and overseas citizens
18 are not similarly situated, and that the restrictions,
19 uncertainties, and risks that members of the uni-

- 1 formed services face warrant consideration that is
- 2 not arbitrary.

