

DE 88-42 - October 5, 1988

Absentee Balloting
Section 101.62(1), (4), F.S.

To: Honorable David Thornton, Supervisor of Elections, DeSoto County, Post Office Box 89, Arcadia, Florida 33821

Prepared by: Division of Elections

This is in reference to your request for an advisory opinion as to whether a candidate's spouse can encourage people to vote by absentee ballot instead of going to the polls on election day.

You are the DeSoto County Supervisor of Elections and the Division of Elections has authority under Section 106.23(2), Florida Statutes, to issue an advisory opinion to you relating to the Florida Election Code, Chapters 97-106, Florida Statutes. Your specific question is as follows:

Can a candidate's spouse go door to door and acquire voters' signatures requesting that absentee ballots be delivered to them?

According to Section 101.62(1), Florida Statutes, the supervisor of elections may accept an absentee ballot request from any elector, or any person so designated by an elector, which request can be made in person, by mail, or by telephone. Because the statute provides that "any person," may make the request for an absentee ballot, this section does not restrict candidates or their spouses from conveying the request to the supervisor of elections. However, since the statute provides that the supervisor "may accept a request for an absentee ballot" it is within the supervisor's discretion whether to accept or not to accept the request.

If the supervisor accepts the request, the statute provides that the supervisor will deliver or mail the absentee ballot to the elector or the elector can designate in writing a person to pick up the ballot for him. Section 101.62(4), Fla. Stat. The only restriction on who can pick up an absentee ballot is on a candidate. A candidate can only be designated to pick up an absentee ballot for a member of his immediate family. Therefore, a candidate cannot pick up an absentee ballot for anyone other than an immediate family member.

Husbands and wives are no longer considered a legal unity upon marriage, as they were under the early common law, so that spouses are now viewed as separate individuals who may deal with others independently. Corren v. Corren, 47 So.2d 774 (Fla. 1950). The statutory restrictions on a candidate picking up absentee ballots for others does not apply to a candidate's spouse. Therefore, a candidate's spouse may be designated in writing by an elector as the person to pick up an absentee ballot for the elector.

SUMMARY

Candidates and their spouses may go door to door and acquire electors' signatures requesting that absentee ballots be delivered to the electors. However, it is within the supervisor's discretion whether to accept or not to accept the request. If the supervisor accepts the request, the supervisor may deliver or mail the absentee ballots to the electors or the electors may designate in writing a person to pick up an absentee ballot for him. However, candidates may only be designated to pick up an absentee ballot for a member of his immediate family. This statutory restriction does not apply to candidates' spouses. Therefore, a candidate's spouse may be designated in writing by an elector as the person to pick up an absentee ballot for the elector.