

Stricken language would be deleted from and underlined language would be added to present law.

1 State of Arkansas *As Engrossed: H1/20/17 S2/20/17 S2/28/17*

2 91st General Assembly

A Bill

3 Regular Session, 2017

HOUSE BILL 1047

4

5 By: Representatives Lowery, Drown, Ballinger, Barker, Bentley, Bragg, Brown, Coleman, Cozart, Davis,
6 Dotson, C. Douglas, Gazaway, Gonzales, M. Gray, Henderson, Hollowell, Ladyman, Lundstrum, Lynch,
7 Maddox, A. Mayberry, D. Meeks, S. Meeks, Payton, Penzo, Pilkington, Richmond, Rushing, Rye, B.
8 Smith, Sorvillo, Speaks, Sturch, Sullivan, Tosh, Vaught, Warren, Wing, Womack

9 By: Senator Rapert

10

11

For An Act To Be Entitled

12

AN ACT TO REQUIRE THAT A VOTER PROVIDE VERIFICATION
13 OF VOTER REGISTRATION WHEN VOTING; TO AMEND AMENDMENT
14 51 OF THE ARKANSAS CONSTITUTION; AND FOR OTHER
15 PURPOSES.

16

17

18

Subtitle

19

TO REQUIRE THAT A VOTER PROVIDE
20 VERIFICATION OF VOTER REGISTRATION WHEN
21 VOTING; AND TO AMEND AMENDMENT 51 OF THE
22 ARKANSAS CONSTITUTION.

23

24

25 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

26

27 *SECTION 1. Arkansas Constitution, Amendment 51, § 6(a)(2), concerning*
28 *statements included on the mail voter registration application form, is*
29 *amended to read as follows:*

30

(2) Such forms shall include, in identical print, statements
31 *that:*

32

(A) Specify voter eligibility requirements;

33

(B) Contain an attestation that the applicant meets all
34 *voter eligibility requirements and that the applicant does not claim the*
35 *right to vote in another county or state;*

36

(C) Specify the penalties provided by law for submission



1 of a false voter registration application;

2 (D) Inform applicants that where they register to vote
3 will be kept confidential; ~~and~~

4 (E) Inform applicants that declining to register will also
5 be kept confidential; and

6 (F) Inform applicants that they will be required to verify
7 their registration when voting in person or by absentee ballot by providing a
8 required document or identification card as provided in Arkansas
9 Constitution, Amendment 51, § 13.

10
11 SECTION 2. Arkansas Constitution, Amendment 51, § 13 is amended to
12 read as follows:

13 § 13. Fail-safe voting – Verification of voter registration.

14 (a) If a voter presents himself or herself at a polling place on the
15 date of an election but no record of his or her voter registration can be
16 located by the judges of the election on the precinct voter registration
17 list, ~~such~~ the voter shall be permitted to vote only under the conditions set
18 forth in § 7-5-306 or § 7-7-308.

19 (b)(1)(A) In order to determine that all who cast a ballot in an
20 election, a runoff election, or a school election in this state are legally
21 qualified to vote in that election, each voter shall verify his or her
22 registration by:

23 (i) Presenting to the election official when
24 appearing to vote in person either early or at the polls on election day in
25 an election, a runoff election, or a school election verification of
26 registration in the form of a document or identification card that:

27 (a) Shows the name of the person to whom the
28 document or identification card was issued;

29 (b) Shows a photograph of the person to whom
30 the document or identification card was issued;

31 (c) Is issued by the United States, the State
32 of Arkansas, or an accredited postsecondary educational institution in the
33 State of Arkansas; and

34 (d) If displaying an expiration date, is not
35 expired or expired no more than four (4) years before the date of the
36 election in which the voter seeks to vote; or

1 (ii) Submitting with an absentee ballot in an
2 election, a runoff election, or a school election a copy of a document or
3 identification card that complies with the requirements of subdivision
4 (b)(1)(A)(i) of this section.

5 (B) Documents and identification cards that comply with
6 the requirements of subdivision (b)(1)(A) of this section include without
7 limitation:

8 (i) A driver's license;

9 (ii) A photo identification card;

10 (iii) A concealed handgun carry license;

11 (iv) A United States passport;

12 (v) An employee badge or identification document
13 issued by an accredited postsecondary educational institution in the State of
14 Arkansas;

15 (vi) A United States military identification
16 document;

17 (vii) A public assistance identification card if the
18 card shows a photograph of the person to whom the document or identification
19 card was issued; and

20 (viii) A voter verification card under § 7-5-324.

21 (2)(A) Except as provided in subdivision (b)(2)(B) of this
22 section, if a voter is unable to verify his or her registration when voting
23 in person by presenting a document or identification card that complies with
24 subdivision (b)(1)(A)(i) of this section, the election official shall:

25 (i) Indicate on the precinct voter registration list
26 that the voter did not present a required document or identification card;
27 and

28 (ii) Permit the voter to cast a provisional ballot
29 and inform the voter of the requirements under subdivision (b)(4) of this
30 section.

31 (B)(i) A person who is a resident of a long-term care or
32 residential care facility licensed by the state of Arkansas is not required
33 to verify his or her registration by presenting a document or identification
34 card that complies with subdivision (b)(1)(A)(i) of this section when voting
35 in person.

36 (ii) A person not required to present a document or

1 identification card under subdivision (b)(2)(B)(i) of this section shall
2 provide documentation from the administrator of the facility attesting that
3 the person is a resident of the facility.

4 (3)(A) Except as provided in subdivision (b)(3)(B) of this
5 section, if a voter voting by absentee ballot fails to submit with the ballot
6 documentation that complies with subdivision (b)(1)(A)(ii) of this section,
7 the absentee ballot shall be considered a provisional ballot.

8 (B) The following persons shall not be required to submit
9 with his or her absentee ballot documentation that complies with subdivision
10 (b)(1)(A)(ii) of this section:

11 (i) An active duty member of the uniformed services
12 of the United States or United States Merchant Marine who is absent from the
13 country on election day because of his or her service;

14 (ii) The spouse or dependant of an active duty
15 member of the uniformed services of the United States or United States
16 Merchant Marine under subdivision (b)(3)(B)(i) of this section who is absent
17 from the country on election day because of the service of the member; or

18 (iii)(a) A resident of a long-term care or
19 residential care facility licensed by the state of Arkansas.

20 (b) A person not required to submit a document
21 or identification card under subdivision (b)(3)(B)(iii)(a) of this section
22 shall provide documentation from the administrator of the facility attesting
23 that the person is a resident of the facility.

24 (4) A provisional ballot cast by a voter who did not present a
25 required document or identification card shall be counted if:

26 (A)(i)(a) The voter completes a sworn statement at the
27 polling site when voting either early or at the polls on election day stating
28 that the voter is registered to vote in this state and that he or she is the
29 person registered to vote.

30 (b) A sworn statement completed under
31 subdivision (b)(4)(A)(i)(a) of this section is not required to be notarized
32 but the voter shall execute the sworn statement under penalty of perjury.

33 (c) A sworn statement completed at the polling
34 site shall be delivered to the county board of election commissioners so that
35 the provisional ballot may be counted; and

36 (ii) The county board of election commissioners does

1 not determine that the provisional ballot is invalid and should not be
2 counted based on other grounds; or

3 (B)(i) The voter returns to the county board of election
4 commissioners or the county clerk by 12:00 noon on the Monday following the
5 election and presents a document or identification card that complies with
6 the requirements of subdivision (b)(1)(A)(i) of this section; and

7 (ii) The county board of election commissioners does
8 not determine that the provisional ballot is invalid and should not be
9 counted based on other grounds.

10 (5) A provisional ballot cast by an absentee voter who failed to
11 submit with an absentee ballot documentation that complies with subdivision
12 (b)(1)(A)(ii) of this section shall be counted if:

13 (A)(i)(a) The voter completes and returns the sworn
14 statement portion of the absentee ballot form stating that the voter is
15 registered to vote in this state and that he or she is the person registered
16 to vote.

17 (b) A sworn statement returned under
18 subdivision (b)(5)(A)(i)(a) of this section is not required to be notarized
19 but the voter shall execute the sworn statement under penalty of perjury; and

20 (ii) The county board of election commissioners does
21 not determine that the provisional ballot is invalid and should not be
22 counted based on other grounds; or

23 (B)(i) The voter returns to the county board of election
24 commissioners or the county clerk by 12:00 noon on the Monday following the
25 election and presents a copy of a document or identification card that
26 complies with the requirements of subdivision (b)(1)(A)(i) of this section;
27 and

28 (ii) The county board of election commissioners does
29 not determine that the provisional ballot is invalid and should not be
30 counted based on other grounds.

31 (6) A person registering to vote by mail and who has not
32 previously voted in a federal election in this state shall only be required
33 to comply with § 7-5-201(e).

34 (7) The State Board of Election Commissioners shall promulgate
35 rules necessary to implement subsection (b) of this section, including
36 without limitation the preparation of a sworn statement to be used by voters

1 who cast a provisional ballot under subsection (b) of this section.

2 (8)(A) Following each election, the county board of election
 3 commissioners may review the precinct voter registration lists and may
 4 provide the information of each voter not presenting a document or
 5 identification card necessary to verify his or her voter registration when
 6 voting in person or by absentee ballot to the prosecuting attorney.

7 (B) The county board of election commissioners shall refer
 8 suspected instances of voter fraud to the prosecuting attorney.

9 (C) The prosecuting attorney may investigate possible
 10 voter fraud.

11 (D) Upon application based upon affidavits of one (1) or
 12 more qualified voters by the appropriate prosecuting attorney alleging
 13 possible voter fraud, the appropriate circuit judge, for good cause shown,
 14 may order the permanent registrar to cancel the registration of the voter
 15 failing to verify his or her registration as provided by this subsection.

16
 17 SECTION 3. Arkansas Code Title 6, Chapter 14, Subchapter 1, is amended
 18 to add an additional section to read as follows:

19 6-14-123. Verification of voter registration.

20 (a) A voter in a school election voting either in person or by
 21 absentee ballot shall comply with Arkansas Constitution, Amendment 51, § 13,
 22 concerning verification of voter registration to the extent it is applicable
 23 to the voter.

24 (b) If a ballot or absentee ballot is deemed a provisional ballot for
 25 failure to provide verification of registration under Arkansas Constitution,
 26 Amendment 51, § 13, the voter shall comply with the procedures under Arkansas
 27 Constitution, Amendment 51, § 13, for his or her vote to be counted.

28
 29 SECTION 4. Arkansas Code § 7-1-101(31)-(38), concerning definitions
 30 applicable to Title 7 of the Arkansas Code, are amended to read as follows:

31 ~~(31)(A) "Proof of identity" means:~~

32 ~~(i) A voter identification card under § 7-5-322; or~~

33 ~~(ii) A document or identification card that:~~

34 ~~(a) Shows the name of the person to whom the~~
 35 ~~document was issued;~~

36 ~~(b) Shows a photograph of the person to whom~~

1 ~~the document was issued;~~

2 ~~(c) Is issued by the United States, the State~~
 3 ~~of Arkansas, or an accredited postsecondary educational institution in the~~
 4 ~~State of Arkansas; and~~

5 ~~(d) If displaying an expiration date:~~

6 ~~(1) Is not expired; or~~

7 ~~(2) Expired no more than four (4) years~~
 8 ~~before the date of the election in which the person seeks to vote.~~

9 ~~(B) A proof of identity that complies with the~~
 10 ~~requirements under subdivision (31)(A) of this section may include without~~
 11 ~~limitation:~~

12 ~~(i) A driver's license;~~

13 ~~(ii) A photo identification card;~~

14 ~~(iii) A concealed handgun carry license;~~

15 ~~(iv) A United States passport;~~

16 ~~(v) An employee badge or identification document;~~

17 ~~(vi) A United States military identification~~

18 ~~document;~~

19 ~~(vii) A student identification card issued by an~~
 20 ~~accredited postsecondary educational institution in the State of Arkansas;~~

21 ~~(viii) A public assistance identification card; and~~

22 ~~(ix) A voter identification card under § 7-5-322;~~

23 ~~(32)(31)~~ (31) "Provisional ballot" means a ballot:

24 (A) Cast by special procedures to record a vote when there
 25 is some question concerning a voter's eligibility; and

26 (B) Counted contingent upon the verification of the
 27 voter's eligibility;

28 ~~(33)(32)~~ (32) "Qualified elector" means a person who holds the
 29 qualifications of an elector and who is registered pursuant to Arkansas
 30 Constitution, Amendment 51;

31 ~~(34)(33)~~ (33) "Sample ballot" means a ballot for distribution to the
 32 public or the press marked with the word "SAMPLE" so as to prevent the
 33 production of counterfeit ballots;

34 ~~(35)(34)~~ (34) "Uniformed services" means the United States Army,
 35 United States Navy, United States Air Force, United States Marine Corps,
 36 United States Coast Guard, the United States Public Health Service

1 *Commissioned Corps, and the National Oceanic and Atmospheric Administration*
 2 *Commissioned Officer Corps, or as defined in the federal Uniformed and*
 3 *Overseas Citizens Absentee Voting Act, ~~42 U.S.C. § 1973ff et seq.~~ 52 U.S.C. §*
 4 *20301 et seq., if different from the definition stated in this subdivision*
 5 *~~(35)~~(34);*

6 *~~(36)~~(35) "Vacancy in election" means the vacancy in an elective*
 7 *office created by death, resignation, or other good and legal cause arising*
 8 *prior to election to the office at a general or special election but arising*
 9 *subsequent to the certification of the ballot;*

10 *~~(37)~~(36) "Vacancy in nomination" means the circumstances in*
 11 *which:*

12 *(A) The person who received the majority of votes at the*
 13 *preferential primary election or general primary election cannot accept the*
 14 *nomination due to death or notifies the party that he or she will not accept*
 15 *the nomination due to serious illness, moving out of the area from which the*
 16 *person was elected as the party's nominee, or filing for another office*
 17 *preceding the final date for certification of nominations; or*

18 *(B) There is a tie vote for the same office at a general*
 19 *primary election;*

20 *~~(38)(A)~~(37)(A) "Vacancy in office" means the vacancy in an*
 21 *elective office created by death, resignation, or other good and legal cause*
 22 *arising subsequent to election to the office at a general or special election*
 23 *or arising subsequent to taking office and before the expiration of the term*
 24 *of office in those circumstances wherein the vacancy must be filled by a*
 25 *special election rather than by appointment.*

26 *(B) "Vacancy in office" does not apply to the election of*
 27 *a person at a general election to fill an unexpired portion of a term of*
 28 *office;*

29 *(38)(A) "Verification of voter registration" means:*

30 *(i) Presenting a document or identification card*
 31 *when appearing to vote in person that:*

32 *(a) Shows the name of the person to whom the*
 33 *document or identification card was issued;*

34 *(b) Shows a photograph of the person to whom*
 35 *the document or identification card was issued;*

36 *(c) Is issued by the United States, the State*

1 of Arkansas, or an accredited postsecondary educational institution in the
 2 State of Arkansas; and

3 (d) If displaying an expiration date, is not
 4 expired or expired no more than four (4) years before the date of the
 5 election in which the voter seeks to vote; or

6 (ii) Submitting with an absentee ballot verification
 7 of voter registration in the form of a copy of a document or identification
 8 card that complies with the requirements of subdivision (38)(A)(i) of this
 9 section.

10 (B) Documents and identification cards that comply with
 11 the requirements of subdivision (38)(A) of this section include without
 12 limitation:

13 (i) A driver's license;

14 (ii) A photo identification card;

15 (iii) A concealed handgun carry license;

16 (iv) A United States passport;

17 (v) An employee badge or identification document
 18 issued by an accredited postsecondary educational institution in the State of
 19 Arkansas;

20 (vi) A United States military identification
 21 document;

22 (vii) A public assistance identification card if the
 23 card shows a photograph of the person to whom the document or identification
 24 card was issued; and

25 (viii) A voter verification card under § 7-5-324;
 26

27 *SECTION 5. Arkansas Code § 7-5-201(d) and (e), concerning voter*
 28 *qualification, are amended to read as follows:*

29 *(d)(1) Except as provided in subdivision (d)(2) of this section and*
 30 *subsection (e) of this section, any person desiring to vote in this state*
 31 *shall:*

32 *(A) Present ~~proof of identity~~ verification of voter*
 33 *registration to the election official when appearing to vote in person either*
 34 *early or at the polls on election day; or*

35 *(B) When voting by absentee ballot, submit with the ballot*
 36 *verification of voter registration ~~a copy of a current and valid photo~~*

1 ~~identification or a copy of a current utility bill, bank statement,~~
2 ~~government check, paycheck, or other government document that shows the name~~
3 ~~and address of the voter unless the voter is:~~

4 (i) A An active duty member of the uniformed
5 ~~services on active duty~~ of the United States who is absent from the county on
6 election day because of ~~active duty~~ his or her service;

7 (ii) A member of the ~~merchant marine~~ United States
8 Merchant Marine who is absent from the county on election day because of his
9 or her service in the ~~merchant marine~~ United States Merchant Marine; or

10 (iii) The spouse or dependent of a member identified
11 in subdivision (d)(1)(B)(i) of this section or subdivision (d)(1)(B)(ii) of
12 this section who is absent from the county on election day because of the
13 active duty or service of the member.

14 (2)(A) A person who is a resident of a long-term care or
15 residential care facility licensed by the state is not required to ~~provide~~
16 ~~proof of identity~~ present verification of voter registration before voting.

17 (B) A person not required to ~~provide proof of identity~~
18 present verification of voter registration under subdivision (d)(2)(A) of
19 this section shall provide documentation from the administrator of the
20 facility, attesting that the person is a resident of the facility.

21 (e)(1) ~~Any~~ A person registering to vote by mail and who has not
22 previously voted in a federal election in this state shall:

23 (A) Present to the election official a current and valid
24 photo identification or a copy of a current utility bill, bank statement,
25 government check, paycheck, or other government document that shows the name
26 and address of the voter when appearing to vote in person either early or at
27 the polls on election day; or

28 (B) When voting by mail, submit with the ballot a copy of
29 a current and valid photo identification or a copy of a current utility bill,
30 bank statement, government check, paycheck, or other government document that
31 shows the name and address of the voter.

32 (2) A person under subdivision (e)(1) of this section shall
33 comply with requirements under this subsection (e) in lieu of complying with
34 subsection (d) of this section.

35 ~~(2)(3)~~ The provision of subdivision (e)(1) of this section does
36 not include:

1 (A) Persons whose applications are transmitted by state or
2 federal voter registration agencies;

3 (B) Persons who are covered by the Uniformed and Overseas
4 Citizens Absentee Voting Act, ~~42 U.S.C. § 1973ff et seq.~~ 52 U.S.C. § 20301 et
5 seq.;

6 (C) Persons covered by the Voting Accessibility for the
7 Elderly and Handicapped Act, ~~42 U.S.C. § 1973ee et seq.~~ 52 U.S.C. § 20301 et
8 seq.;

9 (D) Persons who are entitled to vote otherwise than in
10 person under any other federal law; or

11 (E) Persons who register to vote by mail and submit as
12 part of the registration any of the identification documents listed in
13 subdivision (e)(1) of this section; or

14 (F) Persons who register to vote by mail and submit with
15 the registration either a driver's license number or at least the last four
16 (4) digits of the individual's Social Security number and with respect to
17 whom a state or local election official matches the license number or Social
18 Security number with an existing state identification record bearing the same
19 number, name, and date of birth as provided in the registration.

20
21 SECTION 6. Arkansas Code § 7-5-305(a)(8), concerning requests for
22 identification when voting, is amended to read as follows:

23 (8)(A)~~(i)~~ Except as provided in ~~subdivisions (a)(8)(A)(ii) and~~
24 ~~(a)(8)(B)(ii) of this section, request the voter for purposes of~~
25 ~~identification to provide proof of identity that the voter present~~
26 verification of voter registration by providing a document or identification
27 card that meets the requirements of Arkansas Constitution, Amendment 51, §
28 13, if required by that section.

29 ~~(ii)(a) A person who is a resident of a long-term~~
30 ~~care or residential care facility licensed by the state is not required to~~
31 ~~provide proof of identity before voting.~~

32 ~~(b) A person not required to provide proof of~~
33 ~~identity under subdivision (a)(8)(A)(ii)(a) of this section shall provide~~
34 ~~documentation from the administrator of the facility attesting that the~~
35 ~~person is a resident of the facility.~~

36 (B)(i) If a voter is unable to ~~provide this proof of~~

1 ~~identity present verification of voter registration in the form of a document~~
 2 ~~or identification card required by Arkansas Constitution, Amendment 51, § 13,~~
 3 the poll worker shall:

4 (a) Indicate on the precinct voter
 5 registration list that the voter did not ~~provide proof of identity present~~
 6 ~~verification of voter registration by providing a document or identification~~
 7 ~~card required by Arkansas Constitution, Amendment 51, § 13;~~ and

8 (b) Permit the voter to cast a provisional
 9 ballot.

10 (ii) When a voter is unable to provide ~~proof of~~
 11 ~~identity verification of voter registration~~, the voter and the election
 12 official shall follow the procedure under ~~§ 7-5-321~~ Arkansas Constitution,
 13 Amendment 51, § 13.

14 (iii) A first-time voter who registers by mail
 15 without providing identification when registering and desires to vote in
 16 person but who does not meet the identification requirements of § 7-5-201(e)
 17 may cast a provisional ballot.

18 (iv) Following each election, the county board of
 19 election commissioners may review the precinct voter registration lists and
 20 may provide the information of the voters not ~~providing proof of identity~~
 21 ~~presenting verification of voter registration~~ at the polls to the prosecuting
 22 attorney.

23 (v) The county board of election commissioners shall
 24 refer suspected instances of voter fraud to the prosecuting attorney.

25 ~~(v)~~ (vi) The prosecuting attorney may investigate
 26 possible voter fraud;

27
 28 SECTION 7. Arkansas Code § 7-5-308 is amended to read as follows:

29 7-5-308. Provisional ballot procedure.

30 (a) ~~When the~~ Except as provided under subsection (b) of this section,
 31 if a voter is required by law to cast a provisional ballot, the provisional
 32 ballot shall be cast pursuant to the following procedures:

33 (1) A poll worker shall notify the ~~individual voter~~ voter that the
 34 ~~individual voter~~ voter may cast a provisional ballot in that election;

35 (2) The voter shall execute a written eligibility affirmation
 36 under penalty of perjury in the presence of the poll worker stating that he

1 or she is a registered voter in the precinct in which he or she desires to
2 vote and is eligible to vote;

3 (3) The poll worker shall initial the back of the provisional
4 ballot, remove the provisional ballot stub from the provisional ballot, and
5 place the stub in the stub box provided;

6 (4) The voter shall mark his or her provisional ballot;

7 (5) The voter shall place the voted provisional ballot in a
8 provisional ballot secrecy envelope marked "provisional ballot" and seal the
9 envelope;

10 (6) The voter shall place the sealed provisional ballot envelope
11 containing the voted provisional ballot in a voter envelope, seal the
12 envelope, and give it to the poll worker;

13 (7) The poll worker shall provide the voter written information
14 instructing him or her on how to determine whether his or her provisional
15 ballot was counted, and if not, the reason the provisional ballot was not
16 counted; and

17 (8) The poll worker shall make a separate list of the names and
18 addresses of all persons voting a provisional ballot under subsection (a) of
19 this section, and each person voting a provisional ballot shall sign his or
20 her name to this list.

21 (b) If a voter is required by law to cast a provisional ballot because
22 the voter is unable to verify his or her registration by providing a document
23 or identification card that meets the requirements of Arkansas Constitution,
24 Amendment 51, § 13, the provisional ballot shall be cast pursuant to the
25 following procedures:

26 (1) The poll worker shall indicate on the precinct voter
27 registration list that the voter did not present a required document or
28 identification card;

29 (2) The poll worker shall notify the voter that the voter may
30 cast a provisional ballot in that election;

31 (3) The voter shall execute a written eligibility affirmation
32 under penalty of perjury in the presence of the poll worker stating that he
33 or she is a registered voter in the precinct in which he or she desires to
34 vote and is eligible to vote;

35 (4)(A) The poll worker shall inform the voter that the voter may
36 complete a sworn statement stating that the voter is registered to vote in

1 this state and that he or she is the person who is registered to vote.

2 (B) A sworn statement completed under subdivision
3 (b)(4)(A) of this section is not required to be notarized but the voter shall
4 execute the sworn statement under penalty of perjury.

5 (C) The sworn statement under subdivision (b)(4)(A) of
6 this section shall be delivered to the county board of election commissioners
7 so that the provisional ballot may be counted under subsection (f) of this
8 section;

9 (5) The poll worker shall initial the back of the provisional
10 ballot, remove the provisional ballot stub from the provisional ballot, and
11 place the stub in the stub box provided;

12 (6) The voter shall mark his or her provisional ballot;

13 (7) The voter shall place the voted provisional ballot in a
14 provisional ballot secrecy envelope marked "provisional ballot" and seal the
15 envelope;

16 (8) The voter shall place the sealed provisional ballot envelope
17 containing the voted provisional ballot in a voter envelope, seal the
18 envelope, and give it to the poll worker;

19 (9) The poll worker shall provide the voter written information
20 instructing him or her on how to determine whether his or her provisional
21 ballot was counted, and if not, the reason the ballot was not counted; and

22 (10) The poll worker shall make a separate list of the names and
23 addresses of all persons voting a provisional ballot under subsection (b) of
24 this section, and each person voting a provisional ballot shall sign his or
25 her name to this list.

26 ~~(b)(c)~~ The poll worker shall preserve, secure, and separate all
27 provisional ballots under subsections (a) and (b) of this section from the
28 remaining ballots so that the right of any person to vote may be determined
29 later by the county board of election commissioners or the court in which an
30 election contest may be filed.

31 ~~(e)(1)(d)(1)~~ Whenever a person casts a provisional ballot under this
32 section, the poll worker shall provide the voter written information that
33 states that the individual who casts a provisional ballot will be able to
34 ascertain whether the provisional vote was counted, and if not, the reason
35 the provisional vote was not counted.

36 (2) The Secretary of State shall establish a free access system

1 to allow a provisional voter under this section to ascertain whether his or
2 her provisional vote was counted, and if not, the reason his or her
3 provisional vote was not counted.

4 (3) Access to information about an individual provisional ballot
5 shall be restricted to the ~~individual~~ voter who cast the provisional ballot.

6 ~~(d)(1)~~(e)(1) Before certification of the results of the election, the
7 county board shall determine whether the provisional ballots are valid.

8 (2) Unless enjoined by a court of competent jurisdiction, a
9 provisional ballot under subsection (a) of this section shall be counted if:

10 (A) ~~It~~ It is cast by a registered voter and is the correct
11 ballot, according to the precinct listed on the voter's eligibility
12 affirmation, for the precinct of the voter's residence; and

13 (B) The county board of election commissioners does not
14 determine that the provisional ballot is invalid and should not be counted
15 based on other grounds.

16 (f) Unless enjoined by a court of competent jurisdiction, a
17 provisional ballot under subsection (b) of this section shall be counted if:

18 (1)(A) The voter completes a sworn statement at the polling site
19 when voting either early or at the polls on election day stating that the
20 voter is registered to vote in this state and that he or she is the person
21 registered to vote; and

22 (B) The county board of election commissioners does
23 not determine that the provisional ballot is invalid and should not be
24 counted based on other grounds; or

25 (2)(A) The voter returns to the county board of election
26 commissioners or the county clerk by 12:00 noon on the Monday following the
27 election and presents a document or identification card that complies with
28 the requirements of Arkansas Constitution, Amendment 51, § 13; and

29 (B) The county board of election commissioners does not
30 determine that the provisional ballot is invalid and should not be counted
31 based on other grounds.

32 ~~(e)~~(g) If, upon examination of ~~any a~~ a provisional ~~ballots~~ ballot under
33 this section, the county board suspects that a violation of the election laws
34 has occurred, the county board of election commissioners may refer the matter
35 to the prosecuting attorney.

36

1 SECTION 8. Arkansas Code §§ 7-5-321 and 7-5-322 are repealed.

2 ~~7-5-321. Procedure when voter fails to provide proof of identity.~~

3 ~~(a) If the voter is listed on the precinct voter registration list but~~
4 ~~fails to provide proof of identity, the election official shall:~~

5 ~~(1) Indicate on the precinct voter registration list that the~~
6 ~~voter did not provide proof of identity; and~~

7 ~~(2) Permit the voter to cast a provisional ballot.~~

8 ~~(b)(1) A person who is a resident of a long-term care or residential~~
9 ~~care facility licensed by the state is not required to provide proof of~~
10 ~~identity before voting.~~

11 ~~(2) A person not required to provide proof of identity under~~
12 ~~subdivision (b)(1) of this section shall provide documentation from the~~
13 ~~administrator of the facility attesting that the person is a resident of the~~
14 ~~facility.~~

15 ~~(c) A provisional ballot cast by a voter who did not provide proof of~~
16 ~~identity shall be counted if:~~

17 ~~(1) The voter returns to the county board of election~~
18 ~~commissioners or the county clerk by 12:00 noon on the Monday following the~~
19 ~~election and:~~

20 ~~(A) Provides proof of identity; or~~

21 ~~(B) Provides an affidavit stating that the voter cannot~~
22 ~~provide proof of identity because the voter:~~

23 ~~(i) Is indigent; or~~

24 ~~(ii) Has a religious objection to being~~
25 ~~photographed; and~~

26 ~~(2) The voter has not been challenged or required to vote a~~
27 ~~provisional ballot for any other reason.~~

28
29 ~~7-5-322. Voter identification card.~~

30 ~~(a)(1)(A) The Secretary of State shall provide by rule for the~~
31 ~~issuance of a voter identification card that may be requested by an~~
32 ~~individual to be used as proof of identity when appearing to vote in person.~~

33 ~~(B) The rules shall include without limitation:~~

34 ~~(i) A requirement that the voter identification card~~
35 ~~include a photograph of the voter;~~

36 ~~(ii) Specification of the information to be included~~

1 ~~on the voter identification card;~~

2 ~~(iii) Provisions concerning the expiration of a~~
3 ~~voter identification card; and~~

4 ~~(iv) Provisions for the proof of identity to be~~
5 ~~provided by the county clerk of the county in which the voter is registered~~
6 ~~to vote.~~

7 ~~(2) Providing for the issuance of a voter identification card~~
8 ~~under subdivision (a)(1)(A) of this section may include without limitation~~
9 ~~the purchase by the Secretary of State of cameras and other equipment~~
10 ~~necessary to generate a voter identification card in the office of the county~~
11 ~~clerk.~~

12 ~~(b) A voter identification card shall be issued without the payment of~~
13 ~~a fee or charge to an individual who:~~

14 ~~(1) Does not have another valid form of proof of identity; and~~

15 ~~(2)(A) Is registered to vote; or~~

16 ~~(B) Will be at least eighteen (18) years of age at the~~
17 ~~next election and has submitted a voter registration application.~~

18 ~~(c)(1) The Secretary of State or the county clerk shall not require or~~
19 ~~accept payment for a voter identification card issued for the sole purpose of~~
20 ~~voter identification.~~

21 ~~(2)(A) A person requesting a voter identification card for the~~
22 ~~sole purpose of voter identification shall sign an oath that he or she does~~
23 ~~not possess proof of identity under § 7-1-101(31).~~

24 ~~(B) The oath shall include the definition of proof of~~
25 ~~identity under § 7-1-101(31).~~

26
27 SECTION 9. Arkansas Code Title 7, Chapter 5, Subchapter 3, is amended
28 to add additional sections to read as follows:

29 7-5-323. Procedure when voter fails to provide verification of
30 registration.

31 If a ballot or absentee ballot is deemed a provisional ballot for
32 failure to provide verification of registration under Arkansas Constitution,
33 Amendment 51, § 13, the voter shall comply with the procedures under Arkansas
34 Constitution, Amendment 51, § 13, for his or her vote to be counted.

35
36 7-5-324. Voter verification card.

1 (a)(1)(A) The Secretary of State shall provide by rule for the
2 issuance of a voter verification card that may be requested by an individual
3 to be used to verify his or her voter registration under Arkansas
4 Constitution, Amendment 51, § 13, when appearing to vote in person or by
5 absentee ballot.

6 (B) The rules shall include without limitation:

7 (i) A requirement that the voter verification card
8 include a photograph of the voter;

9 (ii) Specification of the information to be included
10 on the voter verification card;

11 (iii) Provisions concerning the expiration of a
12 voter verification card; and

13 (iv) Provisions for the voter verification card to
14 be provided by the county clerk of the county in which the voter is
15 registered to vote.

16 (2) Providing for the issuance of a voter verification card
17 under subdivision (a)(1)(A) of this section may include without limitation
18 the purchase by the Secretary of State of cameras and other equipment
19 necessary to generate a voter verification card in the office of the county
20 clerk.

21 (b) A voter verification card shall be issued without the payment of a
22 fee or charge to an individual who:

23 (1) Does not have another valid form of identification meeting
24 the requirements of Arkansas Constitution, Amendment 51, § 13; and

25 (2)(A) Is registered to vote; or

26 (B) Will be at least eighteen (18) years of age at the
27 next election and has timely submitted a voter registration application.

28 (c)(1) The Secretary of State or the county clerk shall not require or
29 accept payment for a voter verification card issued for the sole purpose of
30 voter verification.

31 (2) A person requesting a voter verification card for the sole
32 purpose of voter verification shall sign an affidavit that he or she does not
33 possess a valid form of identification meeting the requirements of Arkansas
34 Constitution, Amendment 51, § 13.

35
36 SECTION 10. Arkansas Code § 7-5-405(a), concerning an application for

1 an absentee ballot, is amended to read as follows:

2 (a)(1) Applications for absentee ballots may be made on a form or
3 forms prescribed by the Secretary of State and furnished by the county clerk
4 at least sixty (60) days before the election.

5 (2) The form or forms shall contain the following information:

6 (A) The following statement:

7 "IF YOU PROVIDE FALSE INFORMATION ON THIS FORM, YOU MAY BE GUILTY OF PERJURY
8 AND SUBJECT TO A FINE OF UP TO \$10,000 OR IMPRISONMENT FOR UP TO 10 YEARS.";

9 (B) A statement in which the voter must indicate that he
10 or she is requesting an absentee ballot because he or she will be:

11 (i) Unavoidably absent from the polling site on
12 election day;

13 (ii) Unable to attend the polls on election day
14 because of illness or physical disability; or

15 (iii) Unable to attend the polls on election day
16 because of residence in a long-term care or residential facility licensed by
17 the state;

18 (C) A statement by the voter indicating whether he or she
19 resides outside the county;

20 (D) A statement indicating whether the voter is a United
21 States citizen residing outside the territorial limits of the United States;

22 (E) A statement indicating whether the voter is in active
23 service as a member of the armed services of the United States;

24 (F) Mailing information for the ballot or the name and
25 signature of a designated bearer, an administrator, or an authorized agent;

26 (G) The date, the voter's printed or typed name, voting
27 residence address, date of birth, and the voter's signature attesting to the
28 correctness of the information provided under penalty of perjury; and

29 (H) The election in which the voter wishes to cast an
30 absentee ballot.

31 (3)(A) The form or forms shall contain a portion to include a
32 sworn statement that may be completed by a voter stating that the voter is
33 registered to vote and that he or she is the person who is registered.

34 (B) The sworn statement portion of the form or forms under
35 subdivision (a)(3)(A) of this section is not required to be notarized but
36 shall be executed by the voter under penalty of perjury.

1
2 SECTION 11. Arkansas Code § 7-5-409(b)(4), concerning materials
3 furnished to qualified voters, is amended to add an additional subdivision to
4 read as follows:

5 (C)(i) The voter statement shall include a sworn statement
6 portion that may be completed by the voter stating that the voter is
7 registered to vote and that he or she is the person who is registered.

8 (ii) The sworn statement portion of the voter
9 statement is not required to be notarized but the voter shall execute the
10 sworn statement under penalty of perjury.

11
12
13 SECTION 12. Arkansas Code § 7-5-412 is amended to read as follows:

14 7-5-412. Marking and return of absentee ballots – Delivery of mailed
15 absentee ballots.

16 (a) Upon receiving the blank absentee ballot, voter statement, and
17 envelopes, whether in the office of the county clerk or elsewhere, the voter
18 shall mark the absentee ballot and place the absentee ballot in the provided
19 envelope. He or she shall then seal the envelope containing the absentee
20 ballot and place it in the other provided outer envelope with the following:

21 (1) The completed and executed voter statement, including
22 identification of the designated bearer, authorized agent, or administrator
23 when appropriate; and

24 (2)(A) Verification of voter registration; or

25 ~~(2)(B)~~ A copy of a current and valid photographic
26 identification or a copy of a current utility bill, bank statement,
27 government check, paycheck, or other government document that shows the name
28 and address of the first-time voter, for first-time voters who registered by
29 mail. However, this requirement does not apply if:

30 ~~(A)(i)~~ The voter registered to vote by mail and provided
31 the identification at that time; or

32 ~~(B)(ii)~~ The first-time voter registered to vote by mail
33 and submitted his or her driver's license number or at least the last four
34 (4) digits of his or her Social Security number at the time and this
35 information matches the information in an existing state identification
36 record bearing the same number, name, and date of birth as provided in the

1 registration.

2 (b)(1) A voter who desires to cast an absentee ballot but who does not
3 meet the identification requirements of subdivision (a)(2) of this section
4 may cast his or her absentee ballot by mail, and the absentee ballot shall be
5 considered as a provisional ballot.

6 (2)(A) The voter statement accompanying the absentee ballot
7 shall include a sworn statement portion that may be completed by the voter
8 stating that the voter is registered to vote and that he or she is the person
9 who is registered.

10 (B) The sworn statement portion of the voter statement is
11 not required to be notarized but the voter shall execute the sworn statement
12 under penalty of perjury.

13 (c) After recording receipt of the absentee ballot in the electronic
14 voter registration system, absentee ballots received by mail on election day
15 before the polls close shall be delivered promptly by the county clerk to the
16 election officials designated to canvass and count absentee ballots.

17
18 SECTION 13. Arkansas Code § 7-5-418(c) and (d), concerning early
19 voting procedures, are amended to read as follows:

20 (c) Before a person is permitted to cast an early vote, the county
21 clerk or election official shall:

22 (1) Request the voter to identify himself or herself by stating
23 his or her name, date of birth, and address in order to verify his or her
24 registration;

25 (2) ~~Request the voter to present proof of identity to the county~~
26 ~~clerk or election official~~ that the voter verify his or her registration by
27 providing a document or identification card that meets the requirements of
28 Arkansas Constitution, Amendment 51, § 13, if required by that section;

29 (3) If the voter's name or address is not the same as that in
30 the county voter registration record files, request the voter to complete an
31 updated voter registration application form;

32 (4) Request the voter to sign an early voting roster or early
33 voting request form that identifies his or her name, address, date of birth,
34 and the date on the roster or form; and

35 (5) Enter the voter's precinct number on the early voting roster
36 or early voting request form.

