

State of Arkansas *As Engrossed: S2/18/13 H3/7/13*

89th General Assembly

A Bill

Regular Session, 2013

SENATE BILL 2

By: Senators B. King, Bledsoe, Caldwell, A. Clark, J. English, Hester, Hickey, Holland, Irvin, Rapert, G. Stubblefield, E. Williams, J. Woods

By: Representatives S. Meeks, Lea, D. Altes, Ballinger, Barnett, Bell, Biviano, Bragg, Branscum, J. Burris, Clemmer, Collins, Cozart, Dale, Davis, Deffenbaugh, Dotson, C. Douglas, D. Douglas, Eubanks, Farrer, Fite, Gossage, Hammer, Harris, Hickerson, Hobbs, House, Jean, Kerr, Linck, Lowery, S. Malone, Mayberry, McCrary, D. Meeks, Miller, Neal, Payton, Rice, Scott, Westerman, Womack

For An Act To Be Entitled

AN ACT TO REQUIRE THAT A VOTER PROVIDE PROOF OF
IDENTITY WHEN VOTING; TO PROVIDE FOR THE ISSUANCE OF
A VOTER IDENTIFICATION CARD; AND FOR OTHER PURPOSES.

Subtitle

AN ACT TO REQUIRE THAT A VOTER PROVIDE
PROOF OF IDENTITY WHEN VOTING AND TO
PROVIDE FOR THE ISSUANCE OF A VOTER
IDENTIFICATION CARD.

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

SECTION 1. Arkansas Code § 7-1-101, concerning definitions applicable to election law, is amended to add a new subdivision to read as follows:

(25)(A) "Proof of identity" means:

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

(ii) A document or identification card that:

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

(b) Shows a photograph of the person to whom the document was issued;

(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:

4 (1) Is not expired; or

5 (2) Expired no more than four (4) years
6 before the date of the election in which the person seeks to vote;

7 (B) A "proof of identity" that complies with the
8 requirements under (25)(A) of this section may include without limitation:

9 (i) A driver's license;

10 (ii) A photo identification card;

11 (iii) A concealed handgun carry license;

12 (iv) A United States passport;

13 (v) An employee badge or identification document;

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

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

18 (viii) A public assistance identification card; and

19 (ix) A voter identification card under § 7-5-322.

20 SECTION 2. Arkansas Code § 7-5-201, concerning voter qualification, is
21 amended to add a new subsection to read as follows:

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

24 (A) Present proof of identity to the election official
25 when appearing to vote in person either early or at the polls on election
26 day; or

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

31 (i) A member of the uniformed services on active
32 duty who is absent from the county on election day because of active duty;

33 (ii) A member of the merchant marine who is absent
34 from the county on election day because of his or her service in the merchant
35 marine; or

36 (iii) The spouse or dependent of a member identified

1 in (d)(1)(B)(i) or (d)(1)(B)(ii) who is absent from the county on election
2 day because of the active duty or service of the member.

3 (2)(A) A person who is a resident of a long-term care or
4 residential care facility licensed by the state is not required to provide
5 proof of identity before voting.

6 (B) A person not required to provide proof of identity
7 under subdivision (d)(2)(A) of this section shall provide documentation from
8 the administrator of the facility attesting that the person is a resident of
9 the facility.

10
11 SECTION 3. Arkansas Code § 7-5-201(d), concerning voter qualification,
12 is amended to read as follows:

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

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

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

24 (2) The provision of subdivision ~~(d)(1)(e)(1)~~ of this section
25 does not include:

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

28 (B) Persons who are covered by the Uniformed and Overseas
29 Citizens Absentee Voting Act, 42 U.S.C § 1973ff-1 et seq.;

30 (C) Persons covered by the Voting Accessibility for the
31 Elderly and Handicapped Act, 42 U.S.C § 1973ee et seq.;

32 (D) Persons who are entitled to vote otherwise than in
33 person under any other federal law;

34 (E) Persons who register to vote by mail and submit as
35 part of the registration any of the identification documents listed in
36 subdivision ~~(d)(1)~~ (e)(1) of this section; or

1 (F) Persons who register to vote by mail and submit with
2 the registration either a driver's license number or at least the last four
3 (4) digits of the individual's social security number and with respect to
4 whom a state or local election official matches the license number or social
5 security number with an existing state identification record bearing the same
6 number, name, and date of birth as provided in the registration.

7
8 SECTION 4. Arkansas Code § 7-5-305(a)(8), concerning requests for
9 identification when voting, is amended to read as follows:

10 (8)(A)(i) Request Except as provided in subdivision
11 (a)(8)(A)(ii) and (a)(8)(B)(ii) of this section, request the voter for
12 purposes of identification to provide a current and valid photo
13 identification or a copy of a current utility bill, bank statement,
14 government check, paycheck, or other government document that shows the name
15 and address of the voter proof of identity.

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

19 (b) A person not required to provide proof of
20 identity under subdivision (a)(8)(A)(ii)(a) of this section shall provide
21 documentation from the administrator of the facility attesting that the
22 person is a resident of the facility.

23 (B)(i) If a voter is unable to provide this ~~identification~~
24 proof of identity, the poll worker shall:

25 (a) indicate Indicate on the precinct
26 voter registration list that the voter did not provide ~~identification~~ proof
27 of identity; and

28 (b) Permit the voter to cast a provisional
29 ballot.

30 (ii) When a voter is unable to provide proof of
31 identity, the voter and the election official shall follow the procedure
32 under § 7-5-321.

33 ~~(ii)(iii)~~ (iii) A first-time voter who registers by mail
34 without providing identification when registering and desires to vote in
35 person but who does not meet the identification requirements of ~~subdivision~~
36 ~~(a)(8)(A) of this section~~ § 7-5-201(e) may cast a provisional ballot.

1 ~~(iii)~~(iv) Following each election, the county board
2 of election commissioners may review the precinct voter registration lists
3 and may provide the information of the voters not providing identification
4 proof of identity at the polls to the prosecuting attorney.

5 ~~(iv)~~(v) The prosecuting attorney may investigate
6 possible voter fraud;

7
8 SECTION 5. Arkansas Code Title 7, Chapter 5, Subchapter 3 is amended
9 to add two new sections to read as follows:

10 7-5-321. Procedure when voter fails to provide proof of identity.

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

13 (1) Indicate on the precinct voter registration list that the
14 voter did not provide proof of identity; and

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

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

19 (2) A person not required to provide proof of identity under
20 subdivision (b)(1) of this section shall provide documentation from the
21 administrator of the facility attesting that the person is a resident of the
22 facility.

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

25 (1) The voter returns to the county board of election
26 commissioners or the county clerk by 12:00 p.m. on the Monday following the
27 election and:

28 (A) Provides proof of identity; or

29 (B) Provides an affidavit stating that the voter cannot
30 provide proof of identity because the voter:

31 (i) Is indigent; or

32 (ii) Has a religious objection to being
33 photographed; and

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

36

7-5-322. Voter identification card.

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

(B) The rules shall include, without limitation:

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

(ii) Specification of the information to be included on the voter identification card;

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

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

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

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

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

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

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

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

(2)(A) A person requesting a voter identification for the sole purpose of voter identification card shall sign an oath that he or she does not possess proof of identity under § 7-1-101(25).

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

SECTION 6. Arkansas Code § 7-5-418(c) and (d), concerning early voting

1 procedures, is amended to read as follows:

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

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

7 (2) Request the voter to present proof of identity to the county
8 clerk or election official;

9 ~~(2)(3)~~ If the voter's name or address is not the same as that in
10 the county voter registration record files, request the voter to complete an
11 updated voter registration application form;

12 ~~(3)(4)~~ Request the voter to sign an early voting roster or early
13 voting request form that identifies his or her name, address, date of birth,
14 and the date on the roster or form; and

15 ~~(4)(5)~~ Enter the voter's precinct number on the early voting
16 roster or early voting request form.

17 (d)(1) If the voter is not listed in the county voter registration
18 record files and the county clerk is unable to verify the voter's
19 registration and if the voter contends that he or she is eligible to vote,
20 then the voter may vote a provisional ballot that shall be counted only upon
21 verification of the voter's registration status.

22 (2)(A) If the voter fails to provide proof of identity, the
23 election official shall follow the procedure in § 7-5-321.

24 (B)(i) A person who is a resident of a long-term care or
25 residential care facility licensed by the state is not required to provide
26 proof of identity before voting.

27 (ii) A person not required to provide proof of
28 identity under subdivision (d)(2)(B)(i) of this section shall provide
29 documentation from the administrator of the facility attesting that the
30 person is a resident of the facility.

31
32 SECTION 7. NOT TO BE CODIFIED. This act shall become effective upon
33 the later of the following:

34 (1) January 1, 2014; or

35 (2) The appropriation and availability of funding to the
36 Secretary of State for the issuance of voter identification cards under

Section 5 of this act.

/s/B. King

*Disapproved by Governor on 3-25-13,
Overridden by Senate and House on 3-27-13 & 4-1-13.*