

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 86th General Assembly
3 Regular Session, 2007
4

As Engrossed: H3/6/07

A Bill

HOUSE BILL 2120

5 By: Representatives Woods, Greenberg, Burkes, Garner, R. Green, Harris, D. Hutchinson, Key, King,
6 Pyle, Walters
7
8

For An Act To Be Entitled

9 AN ACT TO REQUIRE THAT A VOTER PROVIDE PROOF OF
10 IDENTITY WHEN VOTING; AND FOR OTHER PURPOSES.
11
12

Subtitle

13 AN ACT TO REQUIRE THAT A VOTER PROVIDE
14 PROOF OF IDENTITY WHEN VOTING.
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18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
19

20 SECTION 1. Arkansas Code § 7-1-101 is amended to read as follows:

21 7-1-101. Definitions. ~~{Effective January 1, 2006.}~~

22 As used in this title, unless the context or chapter otherwise
23 requires:

24 (1) "Administrator" means the administrative head of a long-term
25 care or residential care facility licensed by the state who is authorized in
26 writing by a patient of the long-term care or residential care facility to
27 deliver the application for an absentee ballot and to obtain or deliver the
28 absentee ballot to the county clerk;

29 (2) "Audit log" means an electronically stored record of events
30 and ballot images from which election officials may produce a permanent paper
31 record with a manual audit capacity for a voting system using voting
32 machines;

33 (3) "Authorized agent" means a person who is identified and
34 authorized to deliver the application, obtain a ballot, and deliver the
35 ballot on the day of the election to the county clerk by an applicant who is
36 medically unable to cast a ballot at a polling site due to unforeseen medical



1 necessity as set forth in an affidavit from the administrative head of a
2 hospital or long-term or residential care facility;

3 (4) "Canvassing" means examining and counting the returns of
4 votes cast at a public election to determine authenticity;

5 (5) "Constitutional officers of this state" means the offices of
6 the Governor, Lieutenant Governor, Secretary of State, Attorney General,
7 Auditor of State, Treasurer of State, and Commissioner of State Lands;

8 (6) "Counting location" means a location selected by the county
9 board of election commissioners with respect to all elections for the
10 automatic processing or counting, or both, of votes;

11 (7) "Designated bearer" means any person who is identified and
12 authorized by the applicant to obtain from the county clerk or to deliver to
13 the county clerk the applicant's ballot;

14 (8) "Election official" or "election officer" means a person who
15 is a member of the county board of election commissioners or a person who is
16 a poll worker designated by a county board of election commissioners to be an
17 election clerk, election judge, or election sheriff;

18 (9) "Electronic vote tabulating device" means a device used to
19 electronically scan a marked paper ballot for the purposes of tabulation;

20 (10) "Fail-safe voting" means the mechanism established under
21 the National Voter Registration Act of 1993 that allows voters who have moved
22 within the same county to vote at their new precinct without having updated
23 their voter registration records;

24 (11) "First-time voter" means any registered voter who has not
25 previously voted in a federal election in the state;

26 (12) "General or special election" means the regular biennial or
27 annual elections for election of United States, state, district, county,
28 township, and municipal officials and the special elections to fill vacancies
29 therein and special elections to approve any measure. The term as used in
30 this act shall not apply to school elections for officials of school
31 districts;

32 (13) "Majority party" means that political party in the State of
33 Arkansas whose candidates were elected to a majority of the constitutional
34 offices of this state in the last preceding general election;

35 (14) "Marking device" means any approved device for marking a
36 paper ballot with ink or other substances which will enable the votes to be

1 tabulated by means of an electronic vote tabulating device;

2 (15) "Minority party" means that political party whose
3 candidates were elected to less than a majority of the constitutional offices
4 of this state in the last preceding general election or the political party
5 which polled the second greatest number of votes for the office of Governor
6 in the last preceding general election if all of the elected constitutional
7 officers of this state are from a single political party;

8 (16) "Party certificate" means a written statement or receipt
9 signed by the secretary or chair of the county committee or of the state
10 committee, as the case may be, of the political party evidencing the name and
11 title proposed to be used by the candidate on the ballot, the position the
12 candidate seeks, payment of the fees, and filing of the party pledge, if any,
13 required by the political party;

14 (17)(A) "Political party" means any group of voters which at the
15 last preceding general election polled for its candidate for Governor in the
16 state or nominees for presidential electors at least three percent (3%) of
17 the entire vote cast for the office.

18 (B) No group of electors shall assume a name or
19 designation which is so similar in the opinion of the Secretary of State to
20 that of an existing political party as to confuse or mislead the voters at an
21 election.

22 (C) When any political party fails to obtain three percent
23 (3%) of the total votes cast at an election for the office of Governor or
24 nominees for presidential electors, it shall cease to be a political party;

25 (18) "Polling site" means a location selected by the county
26 board of election commissioners where votes are cast;

27 (19) "Precinct" means the geographical boundary lines dividing a
28 county, municipality, township, or school district for voting purposes;

29 (20) "Primary election" means any election held by a political
30 party in the manner provided by law for the purpose of selecting nominees of
31 the political party for certification as candidates for election at any
32 general or special election in this state;

33 (21) "Proof of identity" means a document or identification card
34 that:

35 (A) Shows the name of the person to whom the document was
36 issued;

1 (B) Shows a photograph of the person to whom the document
2 was issued;

3 (C) Contains an expiration date and:

4 (1) Is not expired; or

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

7 (D) Is issued by the United States or the State of
8 Arkansas.

9 ~~(21)~~(22) "Qualified elector" means a person who holds the
10 qualifications of an elector and who is registered pursuant to Arkansas
11 Constitution, Amendment 51;

12 ~~(22)~~(23) "Vacancy in election" means the vacancy in an elective
13 office created by death, resignation, or other good and legal cause, arising
14 prior to election to the office at a general or special election but arising
15 subsequent to the certification of the ballot;

16 ~~(23)~~(24) "Vacancy in nomination" means the circumstances in
17 which the person who received the majority of votes at the preferential
18 primary election or general primary election cannot accept the nomination due
19 to death or notifies the party that he or she will not accept the nomination
20 due to serious illness, moving out of the area from which the person was
21 elected as the party's nominee, or filing for another office preceding the
22 final date for certification of nominations;

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

29 (B) The phrase "vacancy in office" shall not apply to the
30 election of a person at a general election to fill an unexpired portion of a
31 term of office;

32 ~~(25)~~(26) "Voting machine" means either:

33 (A) A direct recording electronic voting machine that:

34 (i) Records votes by means of a ballot display
35 provided with mechanical or electro-optical components that may be actuated
36 by the voter;

1 (ii) Processes the data by means of a computer
2 program;

3 (iii) Records voting data and ballot images in
4 internal and external memory components; and

5 (iv) Produces a tabulation of the voting data stored
6 in a removable memory component and in a printed copy; or

7 (B) An electronic device for marking a paper ballot to be
8 electronically scanned;

9 ~~(26)~~(27) "Voter-verified paper audit trail" means a
10 contemporaneous paper record of a ballot printed for the voter to confirm his
11 or her votes before the voter casts his or her ballot that:

12 (A) Allows the voter to verify the voter-verified paper
13 audit trail before the casting of the voter's ballot;

14 (B) Is not retained by the voter;

15 (C) Does not contain individual voter information;

16 (D) Is produced on paper that is sturdy, clean, and
17 resistant to degradation; and

18 (E) Is readable in a manner that makes the voter's ballot
19 choices obvious to the voter without the use of computer or electronic code;
20 and

21 ~~(27)~~(28) "Voting system" means:

22 (A) The total combination of mechanical,
23 electromechanical, or electronic equipment, including the software, firmware,
24 and documentation required to program, control, and support the equipment
25 that is used:

26 (i) To define ballots;

27 (ii) To cast and count votes;

28 (iii) To report or display election results; and

29 (iv) To maintain and produce any audit trail
30 information; and

31 (B) The practices and documentation used to:

32 (i) Identify system components and versions of
33 components;

34 (ii) Test the system during its development and
35 maintenance;

36 (iii) Maintain records of system errors and defects;

1 (iv) Determine specific system changes to be made to
2 a system after the initial qualification of the system; and

3 (v) Make available any materials to the voter,
4 including, but not limited to, notices, instructions, forms, or paper
5 ballots.

6
7 SECTION 2. Arkansas Code § 7-5-201 is amended to read as follows:
8 7-5-201. Voter qualification.

9 (a) To be qualified to vote, a person shall have registered at least
10 thirty (30) calendar days immediately prior to the election and in the manner
11 set forth by Arkansas Constitution, Amendment 51. The person shall be
12 eligible to vote only in the county in which he resides on the date thirty-
13 one (31) calendar days prior to the election, unless specifically exempted
14 under § 7-5-406.

15 (b) "Voting residence" shall be a voter's domicile and shall be
16 governed by the following provisions:

17 (1) The domicile of a person is that place in which his
18 habitation is fixed and to which, whenever he is absent, he has the intention
19 to return;

20 (2) A change of domicile is made only by the act of abandonment,
21 joined with the intent to remain in another place. A person can have only one
22 (1) domicile at any given time;

23 (3) A person does not lose his domicile if he temporarily leaves
24 his home and goes to another country, state, or place in this state with the
25 intent of returning;

26 (4) The place where a person's family resides is presumed to be
27 his place of domicile, but a person may acquire a separate residence if he
28 takes another abode with the intention of remaining there;

29 (5) A married person may be considered to have a domicile
30 separate from that of his spouse for the purposes of voting or holding
31 office. For those purposes, domicile is determined as if the person were
32 single; and

33 (6) Persons who are temporarily living in a particular place
34 because of a temporary work-related assignment or duty post or as a result of
35 their performing duties in connection with their status as military
36 personnel, students, or office holders shall be deemed residents of that

1 place where they established their home prior to beginning such assignments
2 or duties.

3 (c) No person may be qualified to vote in more than one (1) precinct
4 of any county at any one (1) time.

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

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

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

14 (2)(A) A person who is a resident of a licensed nursing home,
15 licensed residential care facility, licensed assisted-living facility, or any
16 licensed facility that provides long-term medical or personal care is not
17 required to provide proof of identity before voting.

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

22 ~~(d)(e)~~(1) Any In addition to the proof of identity required by
23 subsection (d)(1) of this section, any person registering to vote by mail and
24 who has not previously voted in a federal election in this state shall:

25 (A) Present to the election official a current and valid
26 photo identification or 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 voter when appearing to vote in person either early or at
29 the polls on election day; or

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

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

36 (A) Persons whose applications are transmitted by state or

1 federal voter registration agencies;

2 (B) Persons who are covered by the Uniformed and Overseas
3 Citizens Absentee Voting Act;

4 (C) Persons covered by the Voting Accessibility for the
5 Elderly and Handicapped Act;

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

8 (E) Persons who register to vote by mail and submit as
9 part of the registration any of the identification documents listed in
10 subdivision (d)(1) of this section; or

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

17 ~~(e)~~(f) Any person who receives an absentee ballot according to the
18 precinct voter registration list but who elects to vote by early voting or to
19 vote at his or her polling site on election day shall be permitted to cast a
20 provisional ballot.

21
22 SECTION 3. Arkansas Code § 7-5-305(a)(8), concerning requests for
23 identification when voting, is amended to read as follows:

24 (8)(A)(i) ~~Request~~ Except as provided in subdivision
25 (a)(8)(A)(ii) and (a)(8)(B)(ii) of this section, request the voter for
26 purposes of identification to provide ~~a current and valid photo~~
27 ~~identification or a copy of a current utility bill, bank statement,~~
28 ~~government check, paycheck, or other government document that shows the name~~
29 ~~and address of the voter~~ proof of identity.

30 (ii)(a) A person who is a resident of a licensed
31 nursing home, licensed residential care facility, licensed assisted-living
32 facility, or any licensed facility that provides long-term medical or
33 personal care is not required to provide proof of identity before voting.

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

1 person is a resident of the facility.

2 (B)(i) If a voter is unable to provide this ~~identification~~
3 proof of identity, the election official shall:

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

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

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

13 (iii) Following each election, the county board of
14 election commissioners may review the precinct voter registration lists and
15 may provide the information of the voters not providing identification at the
16 polls to the prosecuting attorney.

17 (iv) The prosecuting attorney may investigate
18 possible voter fraud;

19
20 SECTION 4. Arkansas Code Title 7, Chapter 5, Subchapter 3 is amended
21 to add a new section to read as follows:

22 7-5-321. Procedure when voter fails to provide proof of identity.

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

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

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

28 (b)(1) A person who is a resident of a licensed nursing home, licensed
29 residential care facility, licensed assisted-living facility, or any licensed
30 facility that provides long-term medical or personal care is not required to
31 provide proof of identity before voting.

32 (2) A person not required to provide proof of identity under
33 subdivision (b)(1) of this section shall provide documentation from the
34 administrator of the facility attesting that the person is a resident of the
35 facility.

36 (c) A provisional ballot cast by a voter who did not provide proof of

1 identity shall be counted only if:

2 (1) The voter returns to the county board of election
3 commissioners by 12:00 p.m. on the Monday following the election and:

4 (A) Provides proof of identity; or

5 (B) Executes an affidavit stating that the voter cannot
6 provide proof of identity because the voter:

7 (i) Is indigent; or

8 (ii) Has a religious objection to being
9 photographed; and

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

12
13 SECTION 5. Arkansas Code § 7-5-418 is amended to read as follows:

14 7-5-418. Early voting.

15 (a)(1)(A) Except as provided in subdivision (a)(1)(B) of this section,
16 early voting shall be available to any qualified elector who applies to the
17 county clerk's designated early voting location, beginning fifteen (15) days
18 before a preferential primary or general election between the hours of 8:00
19 a.m. and 6:00 p.m. Monday through Friday and 10:00 a.m. and 4:00 p.m.
20 Saturday and ending at 5:00 p.m. on the Monday before the election.

21 (B) Early voting shall not be available on state holidays.

22 (2) However, on all other elections, including, but not limited
23 to, general primary and general runoff elections, early voting shall be
24 available to any qualified elector who applies to the county clerk during
25 regular office hours, beginning fifteen (15) days before an election and
26 ending on the day before the election day at the time the county clerk's
27 office regularly closes.

28 (b)(1)(A) The county board of election commissioners may decide to
29 hold early voting at additional polling sites outside the offices of the
30 county clerk and to include the additional voting locations for a maximum of
31 fifteen (15) days on any of the days and times provided for in subsection (a)
32 of this section, if it so chooses.

33 (B) The county board shall determine by unanimous vote the
34 location of additional polling sites for early voting.

35 (C) The county clerk shall publish the location of
36 additional early voting polling sites in a newspaper of general circulation

1 at least five (5) days before early voting begins.

2 (2) The county board shall select the number of election
3 officials necessary to adequately staff the additional early voting polling
4 site or sites as in any other election.

5 (3)(A) The county board shall notify the county clerk of its
6 decision to hold early voting at additional polling sites outside the office
7 of the county clerk within ten (10) days of the decision.

8 (B)(i) If the county board decides to hold early voting at
9 additional polling sites outside the office of the county clerk, the county
10 clerk may choose not to hold early voting within the office of the county
11 clerk. The county clerk shall notify the county board within ten (10) days of
12 the receipt of notice from the county board regarding early voting at
13 additional polling sites.

14 (ii) If the county clerk decides not to hold early
15 voting within the office of the county clerk as provided in subdivision
16 (b)(3)(B)(i) of this section, early voting shall be held at one (1) or more
17 conveniently located polling sites on the days and times provided in
18 subsection (a) of this section.

19 (4) The early voting election official shall record the date on
20 all pages of the early voting roster or early voting request form and keep a
21 daily record of the number of early ballots cast.

22 (5) The county clerk shall publish the additional hours for
23 early voting with the location of additional early voting polling sites in a
24 newspaper of general circulation at least five (5) days before early voting
25 begins.

26 (6) All voted ballots and unvoted ballots and all related
27 election materials at each additional early voting polling site shall be
28 stored in a secure location in the county courthouse or in a secure location
29 as determined by the county board of election commissioners immediately after
30 the close of the additional polling sites each day that early voting is
31 conducted there.

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

34 (1) Request the voter to identify himself by stating his name,
35 date of birth, and address in order to verify his registration;

36 (2) Request the voter to present proof of identity to the county

1 clerk or election official;

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

5 ~~(3)(4)~~ Request the voter to sign an early voting roster or early
6 voting request form which identifies his name, address, date of birth, and
7 the date on the roster or form; and

8 ~~(4)(5)~~ Enter the voter's precinct number on the early voting
9 roster or early voting request form.

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

15 (2)(A) If the voter fails to provide proof of identity, the
16 election official shall follow the procedure stated in Arkansas Code § 7-5-
17 321.

18 (B)(i) A person who is a resident of a licensed nursing
19 home, licensed residential care facility, licensed assisted-living facility,
20 or any licensed facility that provides long-term medical or personal care is
21 not required to provide proof of identity before voting.

22 (B)(ii) A person not required to provide proof of
23 identity under subdivision (d)(2)(B) of this section shall provide
24 documentation from the administrator of the facility attesting that the
25 person is a resident of the facility.

26 (e) The county clerk or county board shall furnish voting locations
27 that adequately allow the early voter to personally and secretly execute his
28 or her ballot.

29 (f) Upon casting his or her ballot, the voter shall then deposit the
30 ballot in the appropriate box in the same manner as for votes cast on the day
31 of the election.

32 (g) Early votes shall be counted at the same time as absentee ballots.

33 (h) Except as provided in this section, early voting shall be
34 conducted in the same manner as voting on election day. Conduct that is
35 prohibited or restricted on election day shall be subject to the same
36 prohibitions and restrictions on the days on which early voting is conducted.

/s/ Woods, et al

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