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4

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# A Bill

HOUSE BILL 1797

5 By: Representatives King, Baird, Clemmer, Garner, Hobbs, Hopper, D. Hutchinson, Lea, Slinkard  
6

## 7 For An Act To Be Entitled

8 AN ACT TO REQUIRE THAT A VOTER PROVIDE PROOF OF  
9 *IDENTITY WHEN VOTING; TO PROVIDE FOR THE ISSUANCE OF*  
10 *A VOTER IDENTIFICATION CARD; AND FOR OTHER PURPOSES.*  
11

## 12 Subtitle

13 *AN ACT TO REQUIRE THAT A VOTER PROVIDE*  
14 *PROOF OF IDENTITY WHEN VOTING AND TO*  
15 *PROVIDE FOR THE ISSUANCE OF A VOTER*  
16 *IDENTIFICATION CARD.*  
17  
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19

20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
21  
22

23 SECTION 1. Arkansas Code § 7-1-101 is amended to read as follows:  
24 7-1-101. Definitions.

25 As used in this title, unless the context or chapter otherwise  
26 requires:

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

32 (2) "Affidavit of eligibility" means an affidavit signed by a  
33 candidate for elective office stating that the candidate is eligible to serve  
34 in the office he or she seeks;

35 (3) "Audit log" means an electronically stored record of events  
36 and ballot images from which election officials may produce a permanent paper



1 record with a manual audit capacity for a voting system using voting  
2 machines;

3 (4) "Authorized agent" means a person who is identified and  
4 authorized to deliver the application, obtain a ballot, and deliver the  
5 ballot on the day of the election to the county clerk for an applicant who is  
6 medically unable to cast a ballot at a polling site due to an unforeseen  
7 medical necessity as set forth in an affidavit from the administrator of a  
8 hospital or long-term care or residential care facility;

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

11 (6) "Certificate of choice" means a certificate, signed by an  
12 executive officer of a political group that submits a petition to place its  
13 candidates for President and Vice-President on the ballot, designating the  
14 names of its candidates to appear on the ballot;

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

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

21 (9) "Designated bearer" means any person who is identified and  
22 authorized by the applicant to obtain from the county clerk or to deliver to  
23 the county clerk the applicant's ballot;

24 (10) "Election official" or "election officer" means a person  
25 who is a member of the county board of election commissioners or a person who  
26 is a poll worker designated by a county board of election commissioners to be  
27 an election clerk, election judge, or election sheriff;

28 (11) "Electronic vote tabulating device" means a device used to  
29 electronically scan a marked paper ballot for the purpose of tabulation;

30 (12) "Fail-safe voting" means the mechanism established under  
31 the National Voter Registration Act of 1993, 42 U.S.C. § 1973 et seq., that  
32 allows a ~~voters~~ voter who has moved within the same county to vote at his or  
33 her new precinct without having updated his or her voter registration  
34 records;

35 (13) "First-time voter" means any registered voter who has not  
36 previously voted in a federal election in the state;

1           (14) "General or special election" means the regular biennial or  
2 annual elections for election of United States, state, district, county,  
3 township, and municipal officials and the special elections to fill vacancies  
4 therein and special elections to approve any measure. The term as used in  
5 this act shall not apply to school elections for officials of school  
6 districts;

7           (15) "Majority party" means that political party in the State of  
8 Arkansas whose candidates were elected to a majority of the constitutional  
9 offices of this state in the last preceding general election;

10           (16) "Marking device" means any approved device for marking a  
11 paper ballot with ink or other substance that will enable the votes to be  
12 tabulated by means of an electronic vote tabulating device;

13           (17) "Member of the merchant marine" means:

14           (A) An individual employed as an officer or crew member  
15 of:

16                   (i) A vessel documented under the laws of the United  
17 States;

18                   (ii) A vessel owned by the United States; or

19                   (iii) A vessel of foreign-flag registry under  
20 charter or control of the United States;

21           (B) An individual enrolled with the United States for  
22 employment or training for employment or maintained by the United States for  
23 emergency relief service as an officer or crew member of any such vessel; or

24           (C) As defined in the federal Uniformed and Overseas  
25 Citizens Absentee Voting Act if different from the definition stated in this  
26 subdivision (17);

27           (18) "Minority party" means that political party whose  
28 candidates were elected to less than a majority of the constitutional offices  
29 of this state in the last preceding general election or the political party  
30 that polled the second greatest number of votes for the office of Governor in  
31 the last preceding general election if all of the elected constitutional  
32 officers of this state are from a single political party;

33           (19) "Party certificate" means a written statement or receipt  
34 signed by the secretary or chair of the county committee or of the state  
35 committee, as the case may be, of the political party evidencing the name and  
36 title proposed to be used by the candidate on the ballot, the position the

1 candidate seeks, payment of the fees, and filing of the party pledge, if any,  
2 required by the political party;

3 (20) "Party filing period" means the period of time established  
4 by law for the candidate for a political party's nomination to file his or  
5 her party certificate with the Secretary of State or county clerk, as the  
6 case may be;

7 (21)(A) "Political party" means any group of voters that at the  
8 last preceding general election polled for its candidate for Governor in the  
9 state or nominees for presidential electors at least three percent (3%) of  
10 the entire vote cast for the office.

11 (B) A group of electors shall not assume a name or  
12 designation that is so similar in the opinion of the Secretary of State to  
13 that of an existing political party as to confuse or mislead the voters at an  
14 election.

15 (C) When any political party fails to obtain three percent  
16 (3%) of the total votes cast at an election for the office of Governor or  
17 nominees for presidential electors, it shall cease to be a political party;

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

20 (23) "Precinct" means the geographical boundary lines dividing a  
21 county, municipality, township, or school district for voting purposes;

22 (24) "Primary election" means any election held by a political  
23 party in the manner provided by law for the purpose of selecting nominees of  
24 the political party for certification as candidates for election at any  
25 general or special election in this state;

26 (25) "Proof of identity" means a document or identification card  
27 that:

28 (A) Shows the name of the person to whom the document was  
29 issued;

30 (B) Shows a photograph of the person to whom the document  
31 was issued;

32 (C) Contains an expiration date and:

33 (i) Is not expired; or

34 (ii) Expired no more than four (4) years before the  
35 date of the election in which the person wishes to vote; and

36 (D) Is issued by the United States or the State of

1 Arkansas;2 ~~(25)~~(26) “Provisional ballot” means a ballot:3 (A) Cast by special procedures to record a vote when there  
4 is some question concerning a voter’s eligibility; and5 (B) Counted contingent upon the verification of the  
6 voter’s eligibility;7 ~~(26)~~(27) “Qualified elector” means a person who holds the  
8 qualifications of an elector and who is registered pursuant to Arkansas  
9 Constitution, Amendment 51;10 ~~(27)~~(28) “Sample ballot” means a ballot for distribution to the  
11 public or the press marked with the word “SAMPLE” so as to prevent the  
12 production of counterfeit ballots;13 ~~(28)~~(29) “Uniformed services” means the United States Army,  
14 United States Navy, United States Air Force, United States Marine Corps, and  
15 United States Coast Guard, the commissioned corps of the United States Public  
16 Health Service, and the commissioned corps of the National Oceanic and  
17 Atmospheric Administration, or as defined in the federal Uniformed and  
18 Overseas Citizens Absentee Voting Act if different from the definition stated  
19 in this subdivision ~~(28)~~(29);20 ~~(29)~~(30) “Vacancy in election” means the vacancy in an elective  
21 office created by death, resignation, or other good and legal cause arising  
22 prior to election to the office at a general or special election but arising  
23 subsequent to the certification of the ballot;24 ~~(30)~~(31) “Vacancy in nomination” means the circumstances in  
25 which the person who received the majority of votes at the preferential  
26 primary election or general primary election cannot accept the nomination due  
27 to death or notifies the party that he or she will not accept the nomination  
28 due to serious illness, moving out of the area from which the person was  
29 elected as the party’s nominee, or filing for another office preceding the  
30 final date for certification of nominations;31 ~~(31)~~(32)(A) “Vacancy in office” means the vacancy in an elective  
32 office created by death, resignation, or other good and legal cause arising  
33 subsequent to election to the office at a general or special election or  
34 arising subsequent to taking office and before the expiration of the term of  
35 office in those circumstances wherein the vacancy must be filled by a special  
36 election rather than by appointment.

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

4 ~~(32)~~(33) "Voter-verified paper audit trail" means a  
5 contemporaneous paper record of a ballot printed for the voter to confirm his  
6 or her votes before the voter casts his or her ballot that:

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

9 (B) Is not retained by the voter;

10 (C) Does not contain individual voter information;

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

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

15 ~~(33)~~(34) "Voting machine" means either:

16 (A) A direct-recording electronic voting machine that:

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

20 (ii) Processes the data by means of a computer  
21 program;

22 (iii) Records voting data and ballot images in  
23 internal and external memory components; and

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

26 (B) An electronic device for marking a paper ballot to be  
27 electronically scanned; and

28 ~~(34)~~(35) "Voting system" means:

29 (A) The total combination of mechanical,  
30 electromechanical, or electronic equipment, including the software, firmware,  
31 and documentation required to program, control, and support the equipment  
32 that is used to:

33 (i) Define ballots;

34 (ii) Cast and count votes;

35 (iii) Report or display election results; and

36 (iv) Maintain and produce any audit trail

1 information; and  
2 (B) The practices and documentation used to:  
3 (i) Identify system components and versions of  
4 components;  
5 (ii) Test the system during its development and  
6 maintenance;  
7 (iii) Maintain records of system errors and defects;  
8 (iv) Determine specific system changes to be made to  
9 a system after the initial qualification of the system; and  
10 (v) Make available any materials to the voter,  
11 including without limitation notices, instructions, forms, or paper ballots.  
12

13 SECTION 2. Arkansas Code § 7-5-201 is amended to read as follows:

14 7-5-201. Voter qualification.

15 (a) To be qualified to vote, a person shall have registered at least  
16 thirty (30) calendar days immediately prior to the election and in the manner  
17 set forth by Arkansas Constitution, Amendment 51.

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

20 (1) The domicile of a person is that place in which his or her  
21 habitation is fixed to which he or she has the intention to return whenever  
22 he or she is absent;

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

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

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

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

36 (6) Persons who are temporarily living in a particular place

1 because of a temporary work-related assignment or duty post or as a result of  
2 their performing duties in connection with their status as military  
3 personnel, students, or office holders shall be deemed residents of that  
4 place where they established their home prior to beginning such assignments  
5 or duties.

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

24  
25 SECTION 3. Arkansas Code § 7-5-305(a)(8), concerning requests for  
26 identification when voting, is amended to read as follows:

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

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

1 (b) A person not required to provide proof of  
 2 identity under subdivision (a)(8)(A)(ii)(a) of this section shall provide  
 3 documentation from the administrator of the facility attesting that the  
 4 person is a resident of the facility.

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

7 (a) indicate Indicate on the precinct  
 8 voter registration list that the voter did not provide ~~identification~~ proof  
 9 of identity; and

10 (b) Permit the voter to cast a provisional  
 11 ballot.

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

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

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

23 ~~(iv)(v)~~ The prosecuting attorney may investigate  
 24 possible voter fraud;

25  
 26 SECTION 4. Arkansas Code Title 7, Chapter 5, Subchapter 3 is amended  
 27 *to add two (2) new sections to read as follows:*

28 7-5-321. Procedure when voter fails to provide proof of identity.

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

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

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

34 (b)(1) A person who is a resident of a licensed nursing home, licensed  
 35 residential care facility, licensed assisted-living facility, or any licensed  
 36 facility that provides long-term medical or personal care is not required to

1 provide proof of identity before voting.

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

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

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

10 (A) Provides proof of identity; or

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

13 (i) Is indigent; or

14 (ii) Has a religious objection to being  
15 photographed; and

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

18  
19 7-5-322. Voter identification card.

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

23 (B) The rules shall include, without limitation:

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

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

28 (iii) Provisions concerning the expiration of a  
29 voter identification card.

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

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

1                   (1) Does not have a valid Arkansas driver's license; and  
2                   (2) Will be at least eighteen (18) years of age at the next  
3 general election, special election, or municipal election.  
4

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

6           7-5-418. Early voting.

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

13                   (B) Early voting shall not be available on state or county  
14 holidays.

15                   (2) However, on all other elections, including the general  
16 primary and general runoff elections, early voting shall be available to any  
17 qualified elector who applies to the county clerk during regular office  
18 hours, beginning seven (7) days before the election and ending on the day  
19 before the election day at the time the county clerk's office regularly  
20 closes.

21           (b)(1)(A) The county board of election commissioners may decide to  
22 hold early voting at additional polling sites outside the offices of the  
23 county clerk on any of the days and times provided for in subsection (a) of  
24 this section, if it so chooses.

25                   (B) The county board of election commissioners shall  
26 determine by unanimous vote the location of additional polling sites for  
27 early voting.

28                   (2) The county board of election commissioners shall appoint the  
29 election officials for the additional early voting polling site or sites in  
30 the same manner as election officials are appointed for election day.

31           (3)(A) The county board of election commissioners shall notify  
32 the county clerk of its decision to hold early voting at additional polling  
33 sites outside the office of the county clerk within ten (10) days of the  
34 decision.

35                   (B) If the county board of election commissioners decides  
36 to hold early voting at one (1) or more conveniently located polling sites on

1 the days and times under subsection (a) of this section, the county clerk may  
2 choose not to hold early voting within the office of the county clerk. The  
3 county clerk shall notify the county board within ten (10) days of the  
4 receipt of notice from the county board of election commissioners regarding  
5 early voting at additional polling sites.

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

9 (5) All voted ballots and unvoted ballots and all related  
10 election materials at each additional early voting polling site shall be  
11 stored in a secure location in the county courthouse or in a secure location  
12 as determined by the county board of election commissioners immediately after  
13 the close of the additional polling sites each day that early voting is  
14 conducted there.

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

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

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

22 ~~(2)(3)~~ If the voter's name or address is not the same as that in  
23 the county voter registration record files, request the voter to complete an  
24 updated voter registration application form;

25 ~~(3)(4)~~ Request the voter to sign an early voting roster or early  
26 voting request form that identifies his or her name, address, date of birth,  
27 and the date on the roster or form; and

28 ~~(4)(5)~~ Enter the voter's precinct number on the early voting  
29 roster or early voting request form.

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

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

