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2 88th General Assembly
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4

A Bill

SENATE BILL 746

5 By: Senator M. Lamoureux
6

For An Act To Be Entitled

8 AN ACT TO AMEND ARKANSAS LAW TO ALLOW ONLY VOTERS
9 AFFILIATED WITH A POLITICAL PARTY TO VOTE IN THE
10 PRIMARY ELECTIONS OF THAT POLITICAL PARTY; TO AMEND
11 AMENDMENT 51 OF THE ARKANSAS CONSTITUTION AS
12 AUTHORIZED BY SECTION 19 OF AMENDMENT 51; AND FOR
13 OTHER PURPOSES.
14

Subtitle

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17 TO AMEND ARKANSAS LAW TO ALLOW ONLY
18 VOTERS AFFILIATED WITH A POLITICAL PARTY
19 TO VOTE IN THE PRIMARY ELECTIONS OF THAT
20 POLITICAL PARTY AND TO AMEND AMENDMENT 51
21 OF THE ARKANSAS CONSTITUTION.
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23

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

26 SECTION 1. Section 6 of Amendment 51 to the Arkansas Constitution is
27 amended under the authority of Section 19 of Amendment 51 of the Arkansas
28 Constitution to read as follows:

29 § 6. Voter registration application forms.

30 (a)(1) The mail voter registration application form may only require
31 identifying information, including signature or mark, and other information,
32 including data relating to previous registration by the applicant, as is
33 necessary to assess the applicant's eligibility and to administer voter
34 registration and other parts of the election process.

35 (2) Such forms shall include, in identical print, statements
36 that:



- 1 (A) Specify voter eligibility requirements;
- 2 (B) Contain an attestation that the applicant meets all
- 3 voter eligibility requirements and that the applicant does not claim the
- 4 right to vote in another county or state;
- 5 (C) Specify the penalties provided by law for submission
- 6 of a false voter registration application;
- 7 (D) Inform applicants that where they register to vote
- 8 will be kept confidential; and
- 9 (E) Inform applicants that declining to register will also
- 10 be kept confidential.

11 (3) The following information will be required of the applicant:

- 12 (A) Full name;
- 13 (B) Mailing address;
- 14 (C) Residence address and any other information necessary
- 15 to identify the residence of the applicant;
- 16 (D) If previously registered, the name then supplied by
- 17 the applicant, and the previous address, county, and state;
- 18 (E) Date of birth;
- 19 (F) A signature or mark made under penalty of perjury that
- 20 the applicant meets each requirement for voter registration;
- 21 (G) If the applicant is unable to sign his or her name,
- 22 the name, address, and telephone number of the person providing assistance;
- 23 (H) If the applicant has a current and valid driver's
- 24 license, the applicant's driver's license number;
- 25 (I) If the applicant does not have a current and valid
- 26 driver's license, the last four (4) digits of the applicant's social security
- 27 number; and
- 28 (J) If the applicant does not have a current and valid
- 29 driver's license number or social security number, the Secretary of State
- 30 will assign the applicant a number which will serve to identify the applicant
- 31 for voter registration purposes, and this number shall be placed on the
- 32 application.

33 ~~(4) The following information may be requested on the~~

34 ~~registration card, but it shall not be required:~~

- 35 ~~(A) Telephone number where the applicant may be contacted;~~
- 36 ~~and~~

1 ~~(B) Political party with which the applicant wishes to be~~
2 ~~affiliated, if any.~~

3 (4)(A) Information regarding the telephone number where the
4 applicant may be contacted may be requested on the registration card, but it
5 shall not be required.

6 (B)(i) The registration card shall request that the
7 applicant identify the political party with which the applicant wishes to be
8 affiliated, if any.

9 (ii) An applicant not wishing to identify with a
10 political party may identify his or her party affiliation as "independent" or
11 choose not to respond to the request and have no affiliation recorded.

12 (5) The mail voter registration application shall not include
13 any requirement for notarization or other formal authentication.

14 (6) The mail voter registration application form shall include
15 the following questions along with boxes for the applicant to check "yes" or
16 "no" in response:

17 (A) "Are you a citizen of the United States of America and
18 an Arkansas resident?";

19 (B) "Will you be eighteen (18) years of age on or before
20 election day?";

21 (C) "Are you presently adjudged mentally incompetent by a
22 court of competent jurisdiction?"; and

23 (D) "Have you ever been convicted of a felony without your
24 sentence having been discharged or pardoned?"

25 (7) The mail voter registration application form shall include
26 the following statements immediately following the questions asked in
27 subdivision (a)(6) of this section:

28 (A) "If you checked "No" in response to either questions A
29 or B, do not complete this form.";

30 (B) "If you checked "Yes" in response to either questions
31 C or D, do not complete this form."; and

32 (C) The mail-in voter registration application form shall
33 include the following statement:

34 "If your voter registration application form is submitted by mail and you are
35 registering for the first time, and you do not have a valid driver's license
36 number or social security number, in order to avoid the additional

1 identification requirements upon voting for the first time you must submit
2 with the mailed registration form: (a) a current and valid photo
3 identification; or (b) a copy of a current utility bill, bank statement,
4 government check, paycheck, or other government document that shows your name
5 and address.”

6 (8) If an applicant for voter registration fails to provide any
7 of the information required by this section, the permanent registrar shall
8 notify the applicant of the failure and provide the applicant with an
9 opportunity to complete the form in a timely manner to allow for its
10 completion before the next election for federal office.

11 (9) The mail voter registration application shall be pre-
12 addressed to the Secretary of State.

13 (b)(1) The voter registration application portion of the process used
14 by the Office of Driver Services and state revenue offices shall include:

15 (A) The question: “If you are not registered to vote where
16 you live now, would you like to apply to register to vote here today?”;

17 (B) A statement that if an applicant declines to register
18 to vote, the fact that the applicant has declined to register will remain
19 confidential and will be used only for voter registration purposes;

20 (C) A statement that if an applicant does register to
21 vote, the office at which the applicant submits a voter registration
22 application will remain confidential and will be used only for voter
23 registration purposes;

24 (D) Voter registration eligibility requirements;

25 (E) Penalties provided by law for providing false
26 information;

27 (F) An attestation that the applicant meets each
28 eligibility requirement and that the applicant does not claim the right to
29 vote in another county or state; and

30 (G) A space for the applicant’s signature or mark.

31 (2) The voter registration application portion shall require the
32 signature of the applicant under penalty of perjury, but shall not require
33 notarization or other formal authentication.

34 (c) Public assistance agencies and disabilities agencies shall
35 provide, in addition to the federal or state mail voter registration
36 application form, a declination form, to be approved by the State Board of

1 Election Commissioners, which includes the following question and statements:
2

3 (1) The question in prominent type, "IF YOU ARE NOT REGISTERED
4 TO VOTE WHERE YOU LIVE NOW, WOULD YOU LIKE TO APPLY TO REGISTER TO VOTE HERE
5 TODAY? YES NO";

6 (2) The statement in close proximity to the question above and in
7 equally prominent type, "IF YOU DO NOT CHECK EITHER BOX, YOU WILL BE
8 CONSIDERED TO HAVE DECIDED NOT TO REGISTER TO VOTE AT THIS TIME";

9 (3) The statement, "APPLYING TO REGISTER OR DECLINING TO REGISTER
10 TO VOTE WILL NOT AFFECT THE AMOUNT OF ASSISTANCE THAT YOU WILL BE PROVIDED BY
11 THIS AGENCY";

12 (4) The statement, "IF YOU WOULD LIKE HELP IN FILLING OUT THE
13 VOTER REGISTRATION APPLICATION FORM, WE WILL HELP YOU. THE DECISION WHETHER
14 TO SEEK OR ACCEPT HELP IS YOURS. YOU MAY FILL OUT THE APPLICATION FORM IN
15 PRIVATE";

16 (5) The statement, "IF YOU BELIEVE THAT SOMEONE HAS INTERFERED
17 WITH YOUR RIGHT TO REGISTER OR TO DECLINE TO REGISTER TO VOTE, YOUR RIGHT TO
18 PRIVACY IN DECIDING WHETHER TO REGISTER OR IN APPLYING TO REGISTER TO VOTE,
19 OR YOUR RIGHT TO CHOOSE YOUR OWN POLITICAL PARTY OR OTHER POLITICAL
20 PREFERENCE, YOU MAY FILE A COMPLAINT WITH THE SECRETARY OF STATE AT
21" (filled in with the address and telephone number of
22 the Secretary of State's office);

23 (6) The statement, "IF YOU DECLINE TO REGISTER TO VOTE, THE FACT
24 THAT YOU HAVE DECLINED TO REGISTER WILL REMAIN CONFIDENTIAL AND WILL BE USED
25 ONLY FOR VOTER REGISTRATION PURPOSES"; and

26 (7) The statement, "IF YOU DO REGISTER TO VOTE, THE OFFICE AT
27 WHICH YOU SUBMIT A VOTER REGISTRATION APPLICATION WILL REMAIN CONFIDENTIAL
28 AND WILL BE USED ONLY FOR VOTER REGISTRATION PURPOSES".
29

30 SECTION 2. Section 7 of Amendment 51 to Arkansas Constitution is
31 amended under the authority of Section 19 of Amendment 51 to read as follows:

32 § 7. Registration record files.

33 (a) By the deadline to establish a computerized statewide voter
34 registration database under the federal Help America Vote Act of 2002,
35 including any waivers or extensions of that deadline, the Secretary of State
36 shall define, maintain, and administer the official, centralized, and

1 interactive computerized voter registration list for all voters legally
2 residing within the State. The list shall include:

3 (1) The name, address, county, precinct, assigned unique
4 identifier, ~~and~~ registration information, and political party affiliation, if
5 any, of every legally registered voter in the state;

6 (2) The inactive registration records of persons who have failed
7 to respond to address confirmation mailings described in § 10 of this
8 amendment;

9 (3) List maintenance information for each person receiving
10 address confirmation notices or final address confirmation notices, or both,
11 and the person's response; and

12 (4) Cancelled voter registration records and documentation
13 noting the reason for cancellation.

14 (b) The computerized list shall serve as the single system for storing
15 and managing the official list of registered voters throughout the state.

16 (c) The computerized list shall serve as the official voter
17 registration list for the conduct of all elections for federal, state,
18 county, municipal, school, or other office in the state.

19 (d) The permanent registrar of each county shall maintain copies of
20 that county's precinct voter registration list from the statewide
21 computerized list as necessary for holding elections.

22 (e) The computerized list shall be coordinated with other state agency
23 records on felony status as maintained by the Arkansas Crime Information
24 Center, records on death as maintained by the State Department of Health, and
25 driver's license records maintained by the Office of Driver Services,
26 according to § 9 of Amendment 51 to the Arkansas Constitution.

27 (f) A person with an inactive voter registration status may activate
28 his or her voting status by appearing to vote at the precinct in which he or
29 she currently resides or by updating his or her voter registration records
30 with the permanent registrar of the county in which he or she resides.

31 (g) The county board of election commissioners or other lawfully
32 designated election officials shall cause the appropriate precinct voter
33 registration lists to be at the polling places on the date of elections, and
34 shall return them at the close of the election to the office of the permanent
35 registrar with the ballot boxes.

36 (h) If the legal residence of a voter is renamed, renumbered, or

1 annexed, the permanent registrar or any local election official may change
2 the name or number of the legal residence on the voter's registration record
3 and any other voting records. Within fifteen (15) days after the records are
4 changed to reflect the new name or number of the residence, the permanent
5 registrar shall notify the voter by mail that the change has been made.

6 (i)(1) The Secretary of State and any permanent registrar in the
7 state, may obtain immediate electronic access to the information contained in
8 the computerized list.

9 (2) All voter registration information obtained by any local
10 election official in the state shall be electronically entered into the
11 computerized list on an expedited basis at the time the information is
12 provided to the local official.

13 (3) The Secretary of State shall provide the support as may be
14 required so that local election officials are able to enter the information.
15

16 SECTION 3. Section 10 of Amendment 51 of the Arkansas Constitution is
17 amended under the authority of Section 19 of Amendment 51 to read as follows:

18 § 10. Transfer and change of status.

19 (a) Upon a change of legal residence within the county, or a change of
20 name, any registered voter may cause his or her registration to be
21 transferred to his or her new address or new name by completing and mailing a
22 federal or state mail voter registration application form, by updating his or
23 her address at the Office of Driver Services, any state revenue office,
24 public assistance agency, disabilities agency, or other voter registration
25 agency, by signing a mailed request to the permanent registrar, giving his or
26 her present address and the address at which he or she was last registered or
27 his or her present name and the name under which he or she was last
28 registered, or by applying in person at the office of the permanent
29 registrar.

30 (b)(1) Upon a change of legal residence from one (1) county within the
31 state to another county within the state, any registered voter may cause his
32 or her registration to be transferred to the new county at his or her new
33 address by:

34 (A) Completing and mailing a federal or state mail voter
35 registration application form;

36 (B) Updating his or her new address at a voter

1 registration agency, including without limitation the Office of Driver
2 Services or a state revenue office, public assistance agency, or disabilities
3 agency;

4 (C) Signing a mailed request to the permanent registrar
5 giving the voter's present address and the address at which the voter was
6 last registered; or

7 (D) Applying in person for the transfer at the office of
8 the permanent registrar.

9 (2)(A) If the updated registration information is actually
10 received in the office of the county clerk of the voter's new county not
11 later than four (4) days before a scheduled election, the voter shall have
12 the right to vote in the scheduled election in the precinct into which the
13 voter just moved in the new county.

14 (B) If the updated registration information is not
15 actually received by the fourth day before a scheduled election, the voter
16 shall not be eligible to vote in the scheduled election.

17 (c) If the change of legal residence is made pursuant to subsection
18 (a) or subdivision (d)(1) of this section during the thirty-day
19 administrative cut-off period immediately prior to any election scheduled
20 within the county, the registered voter shall retain his or her right to vote
21 in the scheduled election in the precinct to which he or she just moved.

22 (d) The permanent registrar shall conduct a uniform, nondiscriminatory
23 address confirmation program during each odd-numbered year to ensure that
24 voter registration lists are accurate and current. The address confirmation
25 program shall be completed not later than ninety (90) days prior to a primary
26 or general election for federal office. Based on change of address data
27 received from the United States Postal Service or its licensees, or other
28 unconfirmed data indicating that a registered voter no longer resides at his
29 or her registered address, the permanent registrar shall send a forwardable
30 address confirmation notice, including a postage-paid and preaddressed return
31 card, to enable the voter to verify or correct the address information.

32 (1) If change of address data indicate that the voter has moved
33 to a new residence address in the same county and, if the county is divided
34 into more than one (1) congressional district, the same congressional
35 district, the address confirmation notice shall contain the following
36 statement:

1 "We have received notification that you have moved to a new address in
2 _____ County (or in the _____ Congressional
3 District). We will reregister you at your new address unless, within ten (10)
4 days, you notify us that your change of address is not a change of your
5 permanent residence. You may notify us by returning the attached postage-paid
6 postcard or by calling (_____) _____-_____. If this is not a
7 permanent change of residence and if you do not notify us within ten (10)
8 days you may be required to update your residence address in order to vote at
9 future elections."

10 (2) If the change of address data indicates that the voter has
11 moved to a new address in another county or, if a county is divided into more
12 than one (1) congressional district, to a new address in the same county but
13 in a new congressional district, the notice shall include the following
14 statement:

15 "We have received notification that you have moved to a new address not
16 in _____ County (or not in the _____ Congressional
17 District). If you no longer live in _____ County (or in the
18 _____ Congressional District), you must transfer your
19 registration to your new residence address in order to vote in the next
20 election. If you are still an Arkansas resident, you may obtain a form to
21 transfer your registration by calling your county clerk's office or the
22 Secretary of State. If your change of address is not a change of your
23 permanent residence, you must return the attached postage-paid postcard. If
24 you do not return this card and continue to reside in _____
25 County (and in the _____ Congressional District), you may be
26 required to provide identification and update your residence address in order
27 to vote at future elections, and if you do not vote at any election in the
28 period between the date of this notice and the second federal general
29 election after the date of this notice, your voter registration will be
30 cancelled and you will have to reregister in order to vote. If the change of
31 address is permanent, please return the attached postage-paid postcard which
32 will assist us in keeping our voter registration records accurate."

33 (e) The county clerk may send out an address confirmation to any voter
34 when he or she receives unconfirmed information that the voter no longer
35 resides at the address on the voter registration records. The county clerk
36 shall follow the same confirmation procedure as set forth in subsection (d).

1 (f) Based on change of address information received pursuant to
2 subsections (a) and (d) of this section, the permanent registrar shall:

3 (1) Update and correct the voter's registration if the
4 information indicates that the voter has moved to a new address within the
5 same county and the same congressional district;

6 (2) Designate the voter as inactive if the information indicates
7 the voter has moved to a new address in another county or to a new address in
8 another congressional district in the same county or if the address
9 confirmation notices have been returned as undeliverable; or

10 (3) Cancel the voter registration in the county from which the
11 voter has moved if the voter verifies in writing that he or she has moved to
12 a residence address in another county.

13 (g)(1)(A) A voter wishing to change his or her political party
14 affiliation indicated at the time of registering to vote shall do so by
15 executing a written request to the Secretary of State indicating the
16 requested change in affiliation.

17 (B) A voter may change his or her affiliation to another
18 political party, identify his or her party affiliation as "independent", or
19 choose to have no affiliation recorded.

20 (2) If the voter changes his or her political party affiliation
21 to a political party and the updated information pertaining to political
22 party affiliation is actually received in the office of the county clerk of
23 the voter's county not later than four (4) days before a scheduled
24 preferential primary election, general primary election, or other primary
25 election, the voter may vote in the preferential primary election, general
26 primary election, or other primary election of the political party to which
27 the voter changed his or her affiliation.

28 (3)(A) The Secretary of State shall provide by rule a manner for
29 a voter to update his or her voter registration to indicate his or her
30 political party affiliation at all political party primary elections on or
31 before June 2012.

32 (B) A voter updating his or her voter registration at a
33 political party primary election on or before June 2012 in the manner
34 provided by the Secretary of State shall be allowed to vote in the political
35 party primary election of the party with which the voter indicates his or her
36 affiliation.

1
2 SECTION 4. Arkansas Code § 7-1-104(a), regarding certain felonies
3 relating to elections, is amended to read as follows:

4 (a) The following offenses shall be deemed felonies punishable as
5 provided in this section:

6 (1) No person shall falsely make or fraudulently destroy any
7 certificate of nominations or any part thereof, file any certificate of
8 nominations knowing the certificate or any part thereof to be false, suppress
9 any nomination or any part thereof which has been filed, or forge or falsely
10 write the name or initials of any election official on any ballot;

11 (2) No public official or other person shall in any manner
12 willfully or corruptly permit any person not entitled to register for the
13 purpose of voting to register, nor shall a public official or other person
14 forge or attempt to forge a registration;

15 (3) No person shall vote in any election in the state unless the
16 person is a qualified elector of this state and has registered to vote in the
17 manner provided by law;

18 (4) No person shall vote in a political party primary election
19 of a party with which he or she is not affiliated, as indicated by the person
20 as part of his or her voter registration;

21 ~~(4)(5)~~ It shall be unlawful for any person to offer, accept,
22 receive, or pay any person any money, goods, wares, or merchandise or solicit
23 any money, goods, wares, or merchandise for the purpose of influencing his or
24 her vote during the progress of any election in this state;

25 ~~(5)(6)~~ It shall be unlawful for any person to make any threat or
26 attempt to intimidate any elector or the family, business, or profession of
27 the elector;

28 ~~(6)(7)~~ It shall be unlawful for any person to interfere with or
29 to prevent any qualified elector from voting at any election or to attempt to
30 interfere with or to prevent any qualified elector from voting at any
31 election, provided that this subdivision ~~(a)(6)(a)(7)~~ shall not prohibit good
32 faith challenges of ballots or voters according to law by candidates,
33 authorized representatives of candidates, political parties, or ballot
34 issues;

35 ~~(7)(8)~~ It shall be unlawful for any person to attend any polling
36 site on election day and hand out or give away any campaign cards, placards,

1 or other articles for the purpose of influencing the electors to vote for any
2 candidate, except in the manner now provided by law;

3 ~~(8)~~(9)(A) It shall be unlawful for a person with the intent to
4 defraud a voter or an election official to possess an absentee ballot issued
5 to another.

6 (B) The possession by a person of more than ten ~~(10)~~
7 absentee ballots creates a rebuttable presumption of intent to defraud.

8 (C) The presumption under subdivision (a)~~(8)~~(9)(B) of this
9 section does not apply to:

10 (i) An employee of the United States Postal Service
11 performing the normal course of the employee's authorized duties;

12 (ii) A common or contract carrier performing the
13 normal course of the carrier's authorized duties;

14 (iii) The administrative head of a long-term care or
15 residential care facility licensed by the state authorized by a voter under
16 Arkansas law; or

17 (iv) An election official acting in his or her
18 official capacity;

19 ~~(9)~~(10) No person shall tamper with a voting machine or
20 fraudulently affect or attempt to affect its results;

21 ~~(10)~~(11) No person may cast a ballot in more than one (1) party
22 primary election on the same day in this state or for candidates for more
23 than one (1) political party;

24 ~~(11)~~(12) No person shall vote in any election more than one (1)
25 vote;

26 ~~(12)~~(13) No person shall vote or attempt to vote other than his
27 or her legal ballot;

28 ~~(13)~~(14) No election official shall knowingly permit any person
29 to vote other than his or her legal ballot in any election;

30 ~~(14)~~(15) No election official or other person shall fraudulently
31 permit any person to vote illegally, refuse the vote of any qualified
32 elector, or cast up or make a false return of any election;

33 ~~(15)~~(16) No election official or other person shall willfully
34 make a false count of any election ballots or falsely or fraudulently certify
35 the returns of any election;

36 ~~(16)~~(17) No person shall fraudulently change, alter, or

1 obliterate the poll books or books of any election or break any seals upon
2 any ballot box, voting machine, or stub box, except as authorized by law;
3 ~~(17)~~(18) No person shall contrive, alter, forge, counterfeit,
4 detain, mutilate, steal, secrete, or destroy any election returns or election
5 materials for the purpose of hindering or preventing or falsely reporting a
6 tabulation or check of the returns; and

7 ~~(18)~~(19) Any person who violates the provisions of § 7-5-702 or
8 who shall disclose how any voter may have voted unless compelled to do so in
9 a judicial proceeding shall be deemed guilty of a Class D felony and punished
10 as provided in this section.

11
12 SECTION 5. Arkansas Code § 7-5-201, concerning voter qualification is
13 amended to add an additional subsection to read as follows:

14 (f) A qualified elector may vote in a political party primary election
15 of the party with which he or she is affiliated, as indicated by the
16 qualified elector as part of his or her voter registration, and no other
17 political party primary election.