

1
2 State of Arkansas
3 88th General Assembly
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A Bill

DRAFT MBM/BGS
HOUSE BILL

5
6 By: Representative King

7 Filed with: Arkansas Legislative Council
8 pursuant to A.C.A. §10-3-217.

For An Act To Be Entitled

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

Subtitle

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

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

23
24 SECTION 1. Arkansas Code § 7-1-101 is amended to read as follows:
25 7-1-101. Definitions.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

16 (A) An individual employed as an officer or crew member
17 of:

18 (i) A vessel documented under the laws of the United
19 States;

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

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

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

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

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

35 (19) "Party certificate" means a written statement or receipt
36 signed by the secretary or chair of the county committee or of the state

1 committee, as the case may be, of the political party evidencing the name and
2 title proposed to be used by the candidate on the ballot, the position the
3 candidate seeks, payment of the fees, and filing of the party pledge, if any,
4 required by the political party;

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

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

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

17 (C) When any political party fails to obtain three percent
18 (3%) of the total votes cast at an election for the office of Governor or
19 nominees for presidential electors, it shall cease to be a political party;

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

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

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

28 (25) "Proof of identity" means a document or identification card
29 that:

30 (A) Shows the name of the person to whom the document was
31 issued;

32 (B) Shows a photograph of the person to whom the document
33 was issued;

34 (C) Contains an expiration date and:

35 (i) Is not expired; or

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

3 (D) Is issued by the United States or the State of
4 Arkansas;

5 ~~(25)~~(26) “Provisional ballot” means a ballot:

6 (A) Cast by special procedures to record a vote when there
7 is some question concerning a voter’s eligibility; and

8 (B) Counted contingent upon the verification of the
9 voter’s eligibility;

10 ~~(26)~~(27) “Qualified elector” means a person who holds the
11 qualifications of an elector and who is registered pursuant to Arkansas
12 Constitution, Amendment 51;

13 ~~(27)~~(28) “Sample ballot” means a ballot for distribution to the
14 public or the press marked with the word “SAMPLE” so as to prevent the
15 production of counterfeit ballots;

16 ~~(28)~~(29) “Uniformed services” means the United States Army,
17 United States Navy, United States Air Force, United States Marine Corps, and
18 United States Coast Guard, the commissioned corps of the United States Public
19 Health Service, and the commissioned corps of the National Oceanic and
20 Atmospheric Administration, or as defined in the federal Uniformed and
21 Overseas Citizens Absentee Voting Act if different from the definition stated
22 in this subdivision ~~(28)~~(29);

23 ~~(29)~~(30) “Vacancy in election” means the vacancy in an elective
24 office created by death, resignation, or other good and legal cause arising
25 prior to election to the office at a general or special election but arising
26 subsequent to the certification of the ballot;

27 ~~(30)~~(31) “Vacancy in nomination” means the circumstances in
28 which:

29 (A) The person who received the majority of votes at the
30 preferential primary election or general primary election cannot accept the
31 nomination due to death or notifies the party that he or she will not accept
32 the nomination due to serious illness, moving out of the area from which the
33 person was elected as the party’s nominee, or filing for another office
34 preceding the final date for certification of nominations; or

35 (B) There is a tie vote for the same office at a general
36 primary election;

1 ~~(31)~~(32)(A) “Vacancy in office” means the vacancy in an elective
 2 office created by death, resignation, or other good and legal cause arising
 3 subsequent to election to the office at a general or special election or
 4 arising subsequent to taking office and before the expiration of the term of
 5 office in those circumstances wherein the vacancy must be filled by a special
 6 election rather than by appointment.

7 (B) The phrase “vacancy in office” shall not apply to the
 8 election of a person at a general election to fill an unexpired portion of a
 9 term of office;

10 ~~(32)~~(33) “Voter-verified paper audit trail” means a
 11 contemporaneous paper record of a ballot printed for the voter to confirm his
 12 or her votes before the voter casts his or her ballot that:

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

15 (B) Is not retained by the voter;

16 (C) Does not contain individual voter information;

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

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

21 ~~(33)~~(34) “Voting machine” means either:

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

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

26 (ii) Processes the data by means of a computer
 27 program;

28 (iii) Records voting data and ballot images in
 29 internal and external memory components; and

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

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

34 ~~(34)~~(35) “Voting system” means:

35 (A) The total combination of mechanical,
 36 electromechanical, or electronic equipment, including the software, firmware,

1 and documentation required to program, control, and support the equipment
2 that is used to:

- 3 (i) Define ballots;
- 4 (ii) Cast and count votes;
- 5 (iii) Report or display election results; and
- 6 (iv) Maintain and produce any audit trail

7 information; and

8 (B) The practices and documentation used to:

- 9 (i) Identify system components and versions of
10 components;
- 11 (ii) Test the system during its development and
12 maintenance;
- 13 (iii) Maintain records of system errors and defects;
- 14 (iv) Determine specific system changes to be made to
15 a system after the initial qualification of the system; and
- 16 (v) Make available any materials to the voter,
17 including without limitation notices, instructions, forms, or paper ballots.

18

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

20 7-5-201. Voter qualification.

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

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

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

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

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

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

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

8 (6) Persons who are temporarily living in a particular place
9 because of a temporary work-related assignment or duty post or as a result of
10 their performing duties in connection with their status as military
11 personnel, students, or office holders shall be deemed residents of that
12 place where they established their home prior to beginning such assignments
13 or duties.

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

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

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

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

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

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

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

36 (A) Present to the election official a current and

1 valid photo identification or a copy of a current utility bill, bank
 2 statement, government check, paycheck, or other government document that
 3 shows the name and address of the voter when appearing to vote in person
 4 either early or at the polls on election day; or

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

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

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

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

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

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

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

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

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

32
 33 SECTION 3. Arkansas Code § 7-5-305(a)(8), concerning requests for
 34 identification when voting, is amended to read as follows:

35 (8)(A)(i) ~~Request~~ Except as provided in subdivision
 36 (a)(8)(A)(ii) and (a)(8)(B)(ii) of this section, request the voter for

1 purposes of identification to provide ~~a current and valid photo~~
 2 ~~identification or a copy of a current utility bill, bank statement,~~
 3 ~~government check, paycheck, or other government document that shows the name~~
 4 ~~and address of the voter~~ proof of identity.

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

9 (b) A person not required to provide proof of
 10 identity under subdivision (a)(8)(A)(ii)(a) of this section shall provide
 11 documentation from the administrator of the facility attesting that the
 12 person is a resident of the facility.

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

15 (a) indicate Indicate on the precinct
 16 voter registration list that the voter did not provide ~~identification~~ proof
 17 of identity; and

18 (b) Permit the voter to cast a provisional
 19 ballot.

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

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

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

31 ~~(iv)(v)~~ (v) The prosecuting attorney may investigate
 32 possible voter fraud;

33
 34 SECTION 4. Arkansas Code Title 7, Chapter 5, Subchapter 3 is amended
 35 to add two (2) new sections to read as follows:

36 7-5-321. Procedure when voter fails to provide proof of identity.

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

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

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

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

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

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

16 (1) The voter returns to the county board of election
17 commissioners by 12:00 noon on the Monday following the election and:

18 (A) Provides proof of identity; or

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

21 (i) Is indigent; or

22 (ii) Has a religious objection to being
23 photographed; and

24 (2) Either:

25 (A) The voter has not been challenged or required to vote
26 a provisional ballot for any other reason; or

27 (B) If the voter has been challenged or required to vote a
28 provisional ballot for any other reason, the provisional ballot has been
29 determined to be valid.

30
31 7-5-322. Voter identification card.

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

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

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

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

5 (iii) Provisions concerning the expiration of a
6 voter identification card.

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

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

14 (1) Does not have a valid Arkansas driver's license; and

15 (2) Will be at least eighteen (18) years of age at the next
16 general election, special election, or municipal election.

17
18 SECTION 5. Arkansas Code § 7-5-418 is amended to read as follows:
19 7-5-418. Early voting.

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

26 (B) Early voting shall not be available on state or county
27 holidays.

28 (2) However, on all other elections, including the general
29 primary and general runoff elections, early voting shall be available to any
30 qualified elector who applies to the county clerk during regular office
31 hours, beginning seven (7) days before the election and ending on the day
32 before the election day at the time the county clerk's office regularly
33 closes.

34 (b)(1)(A) The county board of election commissioners may decide to
35 hold early voting at additional polling sites outside the offices of the

1 county clerk on any of the days and times provided for in subsection (a) of
2 this section, if it so chooses.

3 (B) The county board of election commissioners shall
4 determine by unanimous vote the location of additional polling sites for
5 early voting.

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

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

13 (B) If the county board of election commissioners decides
14 to hold early voting at one (1) or more conveniently located polling sites on
15 the days and times under subsection (a) of this section, the county clerk may
16 choose not to hold early voting within the office of the county clerk. The
17 county clerk shall notify the county board within ten (10) days of the
18 receipt of notice from the county board of election commissioners regarding
19 early voting at additional polling sites.

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

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

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

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

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

1 ~~(2)~~(3) If the voter's name or address is not the same as that in
2 the county voter registration record files, request the voter to complete an
3 updated voter registration application form;

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

7 ~~(4)~~(5) Enter the voter's precinct number on the early voting
8 roster or early voting request form.

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

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

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

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

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

27 (f) Except as provided in this section, early voting shall be
28 conducted in the same manner as voting on election day. Conduct that is
29 prohibited or restricted on election day shall be subject to the same
30 prohibitions and restrictions on the days on which early voting is conducted.

31
32 SECTION 6. NOT TO BE CODIFIED. This act shall become effective upon
33 the later of the following:

34 (1) January 1, 2013; or

1 (2 The appropriation and availability of funding to the
2 Secretary of State for the issuance of voter identification cards under
3 Section 4 of this act.

4 Referral requested by: Representative Bryan B. King

5 Prepared by: MBM/BGS

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