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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

For An Act To Be Entitled

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

Subtitle

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

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

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

23 7-1-101. Definitions.

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

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

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

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



1 machines;

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

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

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

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

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

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

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

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

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

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

36 (14) "General or special election" means the regular biennial or

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

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

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

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

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

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

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

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

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

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

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

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

1 required by the political party;

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

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

10 (B) A group of electors shall nor assume a name or
11 designation that is so similar in the opinion of the Secretary of State to
12 that of an existing political party as to confuse or mislead the voters at an
13 election.

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

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

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

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

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

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

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

31 (C) Contains an expiration date and:

32 (i) Is not expired; or

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

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

1 ~~(25)~~(26) “Provisional ballot” means a ballot:

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

4 (B) Counted contingent upon the verification of the
5 voter’s eligibility;

6 ~~(26)~~(27) “Qualified elector” means a person who holds the
7 qualifications of an elector and who is registered pursuant to Arkansas
8 Constitution, Amendment 51;

9 ~~(27)~~(28) “Sample ballot” means a ballot for distribution to the
10 public or the press marked with the word “SAMPLE” so as to prevent the
11 production of counterfeit ballots;

12 ~~(28)~~(29) “Uniformed services” means the United States Army,
13 United States Navy, United States Air Force, United States Marine Corps, and
14 United States Coast Guard, the commissioned corps of the United States Public
15 Health Service, and the commissioned corps of the National Oceanic and
16 Atmospheric Administration, or as defined in the federal Uniformed and
17 Overseas Citizens Absentee Voting Act if different from the definition stated
18 in this subdivision ~~(28)~~(29);

19 ~~(29)~~(30) “Vacancy in election” means the vacancy in an elective
20 office created by death, resignation, or other good and legal cause arising
21 prior to election to the office at a general or special election but arising
22 subsequent to the certification of the ballot;

23 ~~(30)~~(31) “Vacancy in nomination” means the circumstances in
24 which the person who received the majority of votes at the preferential
25 primary election or general primary election cannot accept the nomination due
26 to death or notifies the party that he or she will not accept the nomination
27 due to serious illness, moving out of the area from which the person was
28 elected as the party’s nominee, or filing for another office preceding the
29 final date for certification of nominations;

30 ~~(31)~~(32)(A) “Vacancy in office” means the vacancy in an elective
31 office created by death, resignation, or other good and legal cause arising
32 subsequent to election to the office at a general or special election or
33 arising subsequent to taking office and before the expiration of the term of
34 office in those circumstances wherein the vacancy must be filled by a special
35 election rather than by appointment.

36 (B) The phrase “vacancy in office” shall not apply to the

1 election of a person at a general election to fill an unexpired portion of a
2 term of office;

3 ~~(32)~~(33) "Voter-verified paper audit trail" means a
4 contemporaneous paper record of a ballot printed for the voter to confirm his
5 or her votes before the voter casts his or her ballot that:

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

8 (B) Is not retained by the voter;

9 (C) Does not contain individual voter information;

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

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

14 ~~(33)~~(34) "Voting machine" means either:

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

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

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

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

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

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

27 ~~(34)~~(35) "Voting system" means:

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

32 (i) Define ballots;

33 (ii) Cast and count votes;

34 (iii) Report or display election results; and

35 (iv) Maintain and produce any audit trail

36 information; and

1 (B) The practices and documentation used to:

2 (i) Identify system components and versions of
3 components;

4 (ii) Test the system during its development and
5 maintenance;

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

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

9 (v) Make available any materials to the voter,
10 including without limitation notices, instructions, forms, or paper ballots.

11
12 SECTION 2. Arkansas Code § 7-5-201 is amended to read as follows:

13 7-5-201. Voter qualification.

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

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

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

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

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

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

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

35 (6) Persons who are temporarily living in a particular place
36 because of a temporary work-related assignment or duty post or as a result of

1 their performing duties in connection with their status as military
2 personnel, students, or office holders shall be deemed residents of that
3 place where they established their home prior to beginning such assignments
4 or duties.

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

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

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

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

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

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

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

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

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

36 (2) The provision of subdivision ~~(d)(e)~~(1) of this section does

1 not include:

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

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

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

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

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

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

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

23

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

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

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

36 (b) A person not required to provide proof of

1 identity under subdivision (a)(8)(A)(ii)(a) of this section shall provide
 2 documentation from the administrator of the facility attesting that the
 3 person is a resident of the facility.

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

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

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

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

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

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

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

24
 25 SECTION 4. Arkansas Code Title 7, Chapter 5, Subchapter 3 is amended
 26 to add a new section to read as follows:

27 7-5-321. Procedure when voter fails to provide proof of identity.

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

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

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

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

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

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

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

9 (A) Provides proof of identity; or

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

12 (i) Is indigent; or

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

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

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
36 county clerk on any of the days and times provided for in subsection (a) of

1 this section, if it so chooses.

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

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

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

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

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

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

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

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

35 ~~(2)(3)~~ If the voter's name or address is not the same as that in
36 the county voter registration record files, request the voter to complete an

1 updated voter registration application form;

2 ~~(3)~~(4) Request the voter to sign an early voting roster or early
3 voting request form that identifies his or her name, address, date of birth,
4 and the date on the roster or form; and

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

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

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

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

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

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

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

30 SECTION 6. Arkansas Code § 27-16-805(a), concerning the fee for an
31 identification card, is amended to read as follows:

32 (a)(1) The Office of Driver Services of the Department of Finance and
33 Administration may issue an identification card to those Arkansas residents
34 five (5) years of age or older who are not licensed drivers.

35 ~~(2)(A) The fee for the card shall be five dollars (\$5.00) The~~
36 office shall not impose a fee on an individual who meets the requirements of

1 subdivision (a)(2)(B) of this section for the issuance of:

2 (i) An original identification card;

3 (ii) A renewal of an identification card; or

4 (iii) A duplicate identification card.

5 (B) An identification card shall be issued without the
6 payment of a fee or charge to an individual who:

7 (i) Does not have a valid Arkansas driver's license;

8 and

9 (ii) Will be at least eighteen (18) years of age at
10 the next general election, special election, or municipal election.

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