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2 91st General Assembly
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4

A Bill

HOUSE BILL 1047

5 By: Representative Lowery
6

For An Act To Be Entitled

8 AN ACT TO REQUIRE THAT A VOTER PROVIDE VERIFICATION
9 OF VOTER REGISTRATION WHEN VOTING; TO AMEND AMENDMENT
10 51 OF THE ARKANSAS CONSTITUTION; AND FOR OTHER
11 PURPOSES.
12
13

Subtitle

14 TO REQUIRE THAT A VOTER PROVIDE
15 VERIFICATION OF VOTER REGISTRATION WHEN
16 VOTING; AND TO AMEND AMENDMENT 51 OF THE
17 ARKANSAS CONSTITUTION.
18
19
20

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

23 SECTION 1. Arkansas Constitution, Amendment 51, § 6(a)(2), concerning
24 statements included on the mail voter registration application form, is
25 amended to read as follows:

26 (2) Such forms shall include, in identical print, statements
27 that:

28 (A) Specify voter eligibility requirements;

29 (B) Contain an attestation that the applicant meets all
30 voter eligibility requirements and that the applicant does not claim the
31 right to vote in another county or state;

32 (C) Specify the penalties provided by law for submission
33 of a false voter registration application;

34 (D) Inform applicants that where they register to vote
35 will be kept confidential; ~~and~~

36 (E) Inform applicants that declining to register will also



1 be kept confidential; and

2 (F) Inform applicants that they will be required to verify
 3 their registration when voting in person or by absentee ballot by providing a
 4 required document or identification card as provided in Arkansas
 5 Constitution, Amendment 51, § 13.

6
 7 SECTION 2. Arkansas Constitution, Amendment 51, § 13 is amended to
 8 read as follows:

9 § 13. Fail-safe voting.

10 (a) If a voter presents himself or herself at a polling place on the
 11 date of an election but no record of his or her voter registration can be
 12 located by the judges of the election on the precinct voter registration
 13 list, ~~such~~ the voter shall be permitted to vote only under the conditions set
 14 forth in § 7-5-306 or § 7-7-308.

15 (b)(1)(A) In order to determine that all who cast ballots in general,
 16 special, and primary elections in this state are legally qualified to vote in
 17 that election, each voter shall verify his or her registration by:

18 (i) Presenting to the election official when
 19 appearing to vote in person either early or at the polls on election day
 20 verification of registration in the form of a document or identification card
 21 that:

22 (a) Shows the name of the person to whom the
 23 document or identification card was issued;

24 (b) Shows a photograph of the person to whom
 25 the document or identification card was issued;

26 (c) Is issued by the United States, the State
 27 of Arkansas, or an accredited postsecondary educational institution in the
 28 State of Arkansas; and

29 (d) If displaying an expiration date, is not
 30 expired or expired no more than four (4) years before the date of the
 31 election in which the voter seeks to vote; or

32 (ii) Submitting with an absentee ballot a copy of a
 33 document or identification card that complies with the requirements of
 34 subdivision (b)(1)(A)(i) of this section.

35 (B) Documents and identification cards that comply with
 36 the requirements of subdivision (b)(1)(A) of this section include without

1 limitation:

2 (i) A driver's license;

3 (ii) A photo identification card;

4 (iii) A concealed handgun carry license;

5 (iv) A United States passport;

6 (v) An employee badge or identification document;

7 (vi) A United States military identification

8 document;

9 (vii) A student identification card issued by an
 10 accredited postsecondary educational institution in the State of Arkansas;

11 (viii) A public assistance identification card; and

12 (ix) A voter verification card under § 7-5-323.

13 (2)(A) Except as provided in subdivision (b)(2)(B) of this
 14 section, if a voter is unable to verify his or her registration when voting
 15 in person by presenting a document or identification card that complies with
 16 subdivision (b)(1)(A)(i) of this section, the election official shall:

17 (i) Indicate on the precinct voter registration list
 18 that the voter did not present a required document or identification card;
 19 and

20 (ii) Permit the voter to cast a provisional ballot
 21 and inform the voter of the requirements under subdivision (b)4) of this
 22 section.

23 (B)(i) A person who is a resident of a long-term care or
 24 residential care facility licensed by the state of Arkansas is not required
 25 to verify his or her registration by presenting a document or identification
 26 card that complies with subdivision (b)(1)(A)(i) of this section when voting
 27 in person.

28 (ii) A person not required to present a document or
 29 identification card under subdivision (b)(2)(B)(i) of this section shall
 30 provide documentation from the administrator of the facility attesting that
 31 the person is a resident of the facility.

32 (3)(A) Except as provided in subdivision (b)(3)(B) of this
 33 section, if a voter voting by absentee ballot fails to submit with the ballot
 34 documentation that complies with subdivision (b)(1)(A)(ii) of this section,
 35 the absentee ballot shall be considered a provisional ballot.

36 (B) The following persons shall not be required to submit

1 with his or her absentee ballot documentation that complies with subdivision
2 (b)(1)(A)(ii) of this section:

3 (i) A member on active duty of the uniformed
4 services or merchant marine who is absent from the country on election day
5 because of his or her service; or

6 (ii) The spouse or dependant of an active duty
7 member of the uniformed services or merchant marine under subdivision
8 (b)(3)(B)(i) of this section.

9 (4) A provisional ballot cast by a voter who did not present a
10 required document or identification card shall be counted if:

11 (A) The voter returns to the county board of election
12 commissioners or the county clerk by 12:00 noon on the Monday following the
13 election and:

14 (i) Presents a document or identification card that
15 complies with subdivision (b)(1) of this section; or

16 (ii) Provides an affidavit stating that the voter
17 cannot provide a document or identification card because the voter is
18 indigent or has a religious objection to being photographed; and

19 (B) The county board of election commissioners does not
20 determine that the provisional ballot is invalid and should not be counted
21 based on other grounds.

22 (5) A provisional ballot cast by an absentee voter who failed to
23 submit with an absentee ballot documentation that complies with subdivision
24 (b)(1)(A)(ii) of this section shall be counted if:

25 (A) The voter returns to the county board of election
26 commissioners or the county clerk by 12:00 noon on the Monday following the
27 election and:

28 (i) Presents a copy of a document or identification
29 card that complies with the requirements of subdivision (b)(1)(A)(i) of this
30 section; or

31 (ii) Provides an affidavit stating that the voter
32 cannot provide documentation under subdivision (b)(5)(A)(i) of this section
33 because the voter is indigent or has a religious objection to being
34 photographed; and

35 (B) The county board of election commissioners does not
36 determine that the provisional ballot is invalid and should not be counted

1 based on other grounds.

2 (6) A person registering to vote by mail and who has not
 3 previously voted in a federal election in this state shall comply with § 7-5-
 4 201(d).

5 (7)(A) Following each election, the county board of election
 6 commissioners may review the precinct voter registration lists and may
 7 provide the information of the voters not presenting a document or
 8 identification card necessary to verify his or her voter registration when
 9 voting in person or by absentee ballot to the prosecuting attorney.

10 (B) The prosecuting attorney may investigate possible
 11 voter fraud.

12 (C) Upon application based upon affidavits of one (1) or
 13 more qualified voters by the appropriate prosecuting attorney alleging
 14 possible voter fraud, the appropriate circuit judge, for good cause shown,
 15 may order the permanent registrar to cancel the registration of the voter
 16 failing to verify his or her registration as provided by this subsection.

17
 18 SECTION 3. Arkansas Code § 7-1-101(31)-(38), concerning definitions
 19 applicable to Title 7 of the Arkansas Code, are amended to read as follows:

20 ~~(31)(A) "Proof of identity" means:~~

21 ~~(i) A voter identification card under § 7-5-322; or~~

22 ~~(ii) A document or identification card that:~~

23 ~~(a) Shows the name of the person to whom the~~
 24 ~~document was issued;~~

25 ~~(b) Shows a photograph of the person to whom~~
 26 ~~the document was issued;~~

27 ~~(c) Is issued by the United States, the State~~
 28 ~~of Arkansas, or an accredited postsecondary educational institution in the~~
 29 ~~State of Arkansas; and~~

30 ~~(d) If displaying an expiration date:~~

31 ~~(1) Is not expired; or~~

32 ~~(2) Expired no more than four (4) years~~
 33 ~~before the date of the election in which the person seeks to vote.~~

34 ~~(B) A proof of identity that complies with the~~
 35 ~~requirements under subdivision (31)(A) of this section may include without~~
 36 ~~limitation:~~

- ~~(i) A driver's license;~~
- ~~(ii) A photo identification card;~~
- ~~(iii) A concealed handgun carry license;~~
- ~~(iv) A United States passport;~~
- ~~(v) An employee badge or identification document;~~
- ~~(vi) A United States military identification document;~~
- ~~(vii) A student identification card issued by an accredited postsecondary educational institution in the State of Arkansas;~~
- ~~(viii) A public assistance identification card; and~~
- ~~(ix) A voter identification card under § 7-5-322;~~

~~(32)~~(31) "Provisional ballot" means a ballot:

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

(B) Counted contingent upon the verification of the voter's eligibility;

~~(33)~~(32) "Qualified elector" means a person who holds the qualifications of an elector and who is registered pursuant to Arkansas Constitution, Amendment 51;

~~(34)~~(33) "Sample ballot" means a ballot for distribution to the public or the press marked with the word "SAMPLE" so as to prevent the production of counterfeit ballots;

~~(35)~~(34) "Uniformed services" means the United States Army, United States Navy, United States Air Force, United States Marine Corps, United States Coast Guard, the United States Public Health Service Commissioned Corps, and the National Oceanic and Atmospheric Administration Commissioned Officer Corps, or as defined in the federal Uniformed and Overseas Citizens Absentee Voting Act, ~~42 U.S.C. § 1973ff et seq.~~ 52 U.S.C. § 20301 et seq., if different from the definition stated in this subdivision ~~(35)~~(34);

~~(36)~~(35) "Vacancy in election" means the vacancy in an elective office created by death, resignation, or other good and legal cause arising prior to election to the office at a general or special election but arising subsequent to the certification of the ballot;

~~(37)~~(36) "Vacancy in nomination" means the circumstances in which:

1 (A) The person who received the majority of votes at the
 2 preferential primary election or general primary election cannot accept the
 3 nomination due to death or notifies the party that he or she will not accept
 4 the nomination due to serious illness, moving out of the area from which the
 5 person was elected as the party's nominee, or filing for another office
 6 preceding the final date for certification of nominations; or

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

9 ~~(38)(A)(37)(A)~~ "Vacancy in office" means the vacancy in an
 10 elective office created by death, resignation, or other good and legal cause
 11 arising subsequent to election to the office at a general or special election
 12 or arising subsequent to taking office and before the expiration of the term
 13 of office in those circumstances wherein the vacancy must be filled by a
 14 special election rather than by appointment.

15 (B) "Vacancy in office" does not apply to the election of
 16 a person at a general election to fill an unexpired portion of a term of
 17 office;

18 (38)(A)(i) "Verification of voter registration" means presenting
 19 a document or identification card that:

20 (a) Shows the name of the person to whom the
 21 document or identification card was issued;

22 (b) Shows a photograph of the person to whom
 23 the document or identification card was issued;

24 (c) Is issued by the United States, the State
 25 of Arkansas, or an accredited postsecondary educational institution in the
 26 State of Arkansas; and

27 (d) If displaying an expiration date, is not
 28 expired or expired no more than four (4) years before the date of the
 29 election in which the voter seeks to vote; or

30 (ii) Submitting with an absentee ballot verification of
 31 voter registration in the form of a copy of a document or identification card
 32 that complies with the requirements of subdivision (38)(A)(i) of this
 33 section.

34 (B) Documents and identification cards that comply with
 35 the requirements of subdivision (38)(A) of this section include without
 36 limitation:

- 1 (i) A driver's license;
- 2 (ii) A photo identification card;
- 3 (iii) A concealed handgun carry license;
- 4 (iv) A United States passport;
- 5 (v) An employee badge or identification document;
- 6 (vi) A United States military identification
- 7 document;
- 8 (vii) A student identification card issued by an
- 9 accredited postsecondary educational institution in the State of Arkansas;
- 10 (viii) A public assistance identification card; and
- 11 (ix) A voter verification card under § 7-5-323;

12

13 SECTION 5. Arkansas Code § 7-5-201(d), concerning voter qualification,
14 is amended to read as follows:

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

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

21 (B) When voting by absentee ballot, submit with the ballot
22 verification of voter registration in the form of a copy of a current and
23 valid photo identification or a copy of a current utility bill, bank
24 statement, government check, paycheck, or other government document that
25 shows the name and address of the voter unless the voter is:

26 (i) A member of the uniformed services on active
27 duty who is absent from the county on election day because of active duty;

28 (ii) A member of the merchant marine who is absent
29 from the county on election day because of his or her service in the merchant
30 marine; or

31 (iii) The spouse or dependent of a member identified
32 in subdivision (d)(1)(B)(i) of this section or subdivision (d)(1)(B)(ii) of
33 this section who is absent from the county on election day because of the
34 active duty or service of the member.

35 (2)(A) A person who is a resident of a long-term care or
36 residential care facility licensed by the state is not required to ~~provide~~

1 ~~proof of identity present verification of voter registration~~ before voting.

2 (B) A person not required to ~~provide proof of identity~~
 3 present verification of voter registration under subdivision (d)(2)(A) of
 4 this section shall provide documentation from the administrator of the
 5 facility, attesting that the person is a resident of the facility.

6
 7 SECTION 6. Arkansas Code § 7-5-305(a)(8), concerning requests for
 8 identification when voting, is amended to read as follows:

9 (8)(A)~~(i)~~ Except as provided in ~~subdivisions (a)(8)(A)(ii) and~~
 10 ~~(a)(8)(B)(ii)~~ of this section, request ~~the voter for purposes of~~
 11 identification to provide proof of identity that the voter present
 12 verification of voter registration by providing a document or identification
 13 card that meets the requirements of Arkansas Constitution, Amendment 51, §
 14 13, if required by that section.

15 ~~(ii)(a) A person who is a resident of a long-term~~
 16 ~~care or residential care facility licensed by the state is not required to~~
 17 ~~provide proof of identity before voting.~~

18 ~~(b) A person not required to provide proof of~~
 19 ~~identity under subdivision (a)(8)(A)(ii)(a) 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 (B)(i) If a voter is unable to ~~provide this proof of~~
 23 identity present verification of voter registration in the form of a document
 24 or identification card required by Arkansas Constitution, Amendment 51, § 13,
 25 the poll worker shall:

26 (a) Indicate on the precinct voter
 27 registration list that the voter did not ~~provide proof of identity present~~
 28 verification of voter registration by providing a document or identification
 29 card required by Arkansas Constitution, Amendment 51, § 13, to the Arkansas
 30 Constitution; and

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

33 (ii) When a voter is unable to provide proof of
 34 identity, the voter and the election official shall follow the procedure
 35 under ~~§ 7-5-321~~ Arkansas Constitution, Amendment 51, § 13.

36 (iii) A first-time voter who registers by mail

1 without providing identification when registering and desires to vote in
 2 person but who does not meet the ~~identification~~ verification of voter
 3 registration requirements of ~~§ 7-5-201(e)~~ § 7-5-201(d) may cast a provisional
 4 ballot.

5 (iv) Following each election, the county board of
 6 election commissioners may review the precinct voter registration lists and
 7 may provide the information of the voters not ~~providing proof of identity~~
 8 presenting verification of voter registration at the polls to the prosecuting
 9 attorney.

10 (v) The prosecuting attorney may investigate
 11 possible voter fraud;

12
 13 SECTION 7. Arkansas Code §§ 7-5-321 and 7-5-322 are repealed.

14 ~~7-5-321. Procedure when voter fails to provide proof of identity.~~

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

17 ~~(1) Indicate on the precinct voter registration list that the~~
 18 ~~voter did not provide proof of identity; and~~

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

20 ~~(b)(1) A person who is a resident of a long-term care or residential~~
 21 ~~care facility licensed by the state is not required to provide proof of~~
 22 ~~identity before voting.~~

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

27 ~~(c) A provisional ballot cast by a voter who did not provide proof of~~
 28 ~~identity shall be counted if:~~

29 ~~(1) The voter returns to the county board of election~~
 30 ~~commissioners or the county clerk by 12:00 noon on the Monday following the~~
 31 ~~election and:~~

32 ~~(A) Provides proof of identity; or~~

33 ~~(B) Provides an affidavit stating that the voter cannot~~
 34 ~~provide proof of identity because the voter:~~

35 ~~(i) Is indigent; or~~

36 ~~(ii) Has a religious objection to being~~

1 photographed; and

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

4
5 ~~7-5-322. Voter identification card.~~

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

9 ~~(B) The rules shall include without limitation:~~

10 ~~(i) A requirement that the voter identification card~~
11 ~~include a photograph of the voter;~~

12 ~~(ii) Specification of the information to be included~~
13 ~~on the voter identification card;~~

14 ~~(iii) Provisions concerning the expiration of a~~
15 ~~voter identification card; and~~

16 ~~(iv) Provisions for the proof of identity to be~~
17 ~~provided by the county clerk of the county in which the voter is registered~~
18 ~~to vote.~~

19 ~~(2) Providing for the issuance of a voter identification card~~
20 ~~under subdivision (a)(1)(A) of this section may include without limitation~~
21 ~~the purchase by the Secretary of State of cameras and other equipment~~
22 ~~necessary to generate a voter identification card in the office of the county~~
23 ~~clerk.~~

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

26 ~~(1) Does not have another valid form of proof of identity; and~~

27 ~~(2)(A) Is registered to vote; or~~

28 ~~(B) Will be at least eighteen (18) years of age at the~~
29 ~~next election and has submitted a voter registration application.~~

30 ~~(c)(1) The Secretary of State or the county clerk shall not require or~~
31 ~~accept payment for a voter identification card issued for the sole purpose of~~
32 ~~voter identification.~~

33 ~~(2)(A) A person requesting a voter identification card for the~~
34 ~~sole purpose of voter identification shall sign an oath that he or she does~~
35 ~~not possess proof of identity under § 7-1-101(31).~~

36 ~~(B) The oath shall include the definition of proof of~~

1 ~~identity under § 7-1-101(31).~~

2
3 SECTION 8. Arkansas Code Title 7, Chapter 5, Subchapter 3, is amended
4 to add an additional section to read as follows:

5 7-5-323. Voter verification card.

6 (a)(1)(A) The Secretary of State shall provide by rule for the
7 issuance of a voter verification card that may be requested by an individual
8 to be used to verify his or her voter registration under Arkansas
9 Constitution, Amendment 51, § 13, when appearing to vote in person or by
10 absentee ballot.

11 (B) The rules shall include without limitation:

12 (i) A requirement that the voter verification card
13 include a photograph of the voter;

14 (ii) Specification of the information to be included
15 on the voter verification card;

16 (iii) Provisions concerning the expiration of a
17 voter verification card; and

18 (iv) Provisions for the voter verification card to
19 be provided by the county clerk of the county in which the voter is
20 registered to vote.

21 (2) Providing for the issuance of a voter verification card
22 under subdivision (a)(1)(A) of this section may include without limitation
23 the purchase by the Secretary of State of cameras and other equipment
24 necessary to generate a voter verification card in the office of the county
25 clerk.

26 (b) A voter verification card shall be issued without the payment of a
27 fee or charge to an individual who:

28 (1) Does not have another valid form of identification meeting
29 the requirements of Arkansas Constitution, Amendment 51, § 13; and

30 (2)(A) Is registered to vote; or

31 (B) Will be at least eighteen (18) years of age at the
32 next election and has submitted a voter registration application.

33 (c)(1) The Secretary of State or the county clerk shall not require or
34 accept payment for a voter verification card issued for the sole purpose of
35 voter verification.

36 (2) A person requesting a voter verification card for the sole

1 purpose of voter verification shall sign an oath that he or she does not
 2 possess a valid form of identification meeting the requirements of Arkansas
 3 Constitution, Amendment 51, § 13.

4
 5 SECTION 9. Arkansas Code § 7-5-418(c) and (d), concerning early voting
 6 procedures, are amended to read as follows:

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

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

12 ~~(2) Request the voter to present proof of identity to the county~~
 13 ~~clerk or election official~~ that the voter verify his or her registration by
 14 providing a document or identification card that meets the requirements of
 15 Arkansas Constitution, Amendment 51, § 13, if required by that section;

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

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

22 (5) Enter the voter's precinct number on the early voting roster
 23 or early voting request form.

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

29 ~~(2)(A)~~ If the voter fails to provide proof of identity to
 30 present verification of voter registration, the election official shall
 31 follow the procedure in ~~§ 7-5-321~~ Arkansas Constitution, Amendment 51, § 13.

32 ~~(B)(i) A person who is a resident of a long-term care or~~
 33 ~~residential care facility licensed by the state is not required to provide~~
 34 ~~proof of identity before voting.~~

35 ~~(ii) A person not required to provide proof of~~
 36 ~~identity under subdivision (d)(2)(B)(i) of this section shall provide~~

1 ~~documentation from the administrator of the facility attesting that the~~
2 ~~person is a resident of the facility.~~

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