

1 State of Arkansas  
2 93rd General Assembly  
3 Regular Session, 2021  
4

# A Bill

HOUSE BILL 1112

5 By: Representative Lowery  
6

## For An Act To Be Entitled

8 AN ACT TO AMEND THE LAW CONCERNING VOTER  
9 IDENTIFICATION; TO AMEND THE LAW CONCERNING  
10 VERIFICATION OF PROVISIONAL BALLOTS; TO AMEND  
11 AMENDMENT 51 OF THE ARKANSAS CONSTITUTION; AND FOR  
12 OTHER PURPOSES.  
13  
14

## Subtitle

15 TO AMEND THE LAW CONCERNING VOTER  
16 IDENTIFICATION; TO AMEND THE LAW  
17 CONCERNING VERIFICATION OF PROVISIONAL  
18 BALLOTS; AND TO AMEND AMENDMENT 51 OF THE  
19 ARKANSAS CONSTITUTION.  
20  
21  
22

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

25 SECTION 1. Arkansas Constitution, Amendment 51, § 13(b)(4) and (5),  
26 concerning fail-safe voting and verification of voter registration, are  
27 amended to read as follows:

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

30 ~~(A)(i)(a) The voter completes a sworn statement at the~~  
31 ~~polling site when voting either early or at the polls on election day stating~~  
32 ~~that the voter is registered to vote in this state and that he or she is the~~  
33 ~~person registered to vote.~~

34 ~~(b) A sworn statement completed under~~  
35 ~~subdivision (b)(4)(A)(i)(a) of this section is not required to be notarized~~  
36 ~~but the voter shall execute the sworn statement under penalty of perjury.~~



1 ~~(c) A sworn statement completed at the polling~~  
 2 ~~site shall be delivered to the county board of election commissioners so that~~  
 3 ~~the provisional ballot may be counted; and~~

4 ~~(ii) The county board of election commissioners does~~  
 5 ~~not determine that the provisional ballot is invalid and should not be~~  
 6 ~~counted based on other grounds; or~~

7 ~~(B)(i)(A)~~ The voter returns to the county board of  
 8 election commissioners or the county clerk by 12:00 noon on the Monday  
 9 following the election and presents a document or identification card that  
 10 complies with the requirements of subdivision (b)(1)(A)(i) of this section;  
 11 and

12 ~~(ii)(B)~~ The county board of election commissioners does  
 13 not determine that the provisional ballot is invalid and should not be  
 14 counted based on other grounds.

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

18 ~~(A)(i)(a) The voter completes and returns the sworn~~  
 19 ~~statement portion of the absentee ballot form stating that the voter is~~  
 20 ~~registered to vote in this state and that he or she is the person registered~~  
 21 ~~to vote.~~

22 ~~(b) A sworn statement returned under~~  
 23 ~~subdivision (b)(5)(A)(i)(a) of this section is not required to be notarized~~  
 24 ~~but the voter shall execute the sworn statement under penalty of perjury; and~~

25 ~~(ii) The county board of election commissioners does~~  
 26 ~~not determine that the provisional ballot is invalid and should not be~~  
 27 ~~counted based on other grounds; or~~

28 ~~(B)(i)(A)~~ The voter returns to the county board of  
 29 election commissioners or the county clerk by 12:00 noon on the Monday  
 30 following the election and presents a copy of a document or identification  
 31 card that complies with the requirements of subdivision (b)(1)(A)(i) of this  
 32 section; and

33 ~~(ii)(B)~~ The county board of election commissioners  
 34 does not determine that the provisional ballot is invalid and should not be  
 35 counted based on other grounds.

36

1 SECTION 2. Arkansas Constitution, Amendment 51, § 13(b)(7), concerning  
 2 fail-safe voting and verification of voter registration, is amended to read  
 3 as follows:

4 (7) The State Board of Election Commissioners shall promulgate  
 5 rules necessary to implement subsection (b) of this section, ~~including~~  
 6 ~~without limitation the preparation of a sworn statement to be used by voters~~  
 7 ~~who cast a provisional ballot under subsection (b) of this section.~~

8  
 9 SECTION 3. Arkansas Code § 7-5-308(b)(4)-(10), concerning provisional  
 10 ballot procedures, is amended to read as follows:

11 ~~(4)(A) The poll worker shall inform the voter that the voter may~~  
 12 ~~complete a sworn statement stating that the voter is registered to vote in~~  
 13 ~~this state and that he or she is the person who is registered to vote.~~

14 ~~(B) A sworn statement completed under subdivision~~  
 15 ~~(b)(4)(A) of this section is not required to be notarized, but the voter~~  
 16 ~~shall execute the sworn statement under penalty of perjury.~~

17 ~~(C) The sworn statement under subdivision (b)(4)(A) of~~  
 18 ~~this section shall be delivered to the county board of election commissioners~~  
 19 ~~so that the provisional ballot may be counted under subsection (f) of this~~  
 20 ~~section;~~

21 ~~(5)(4)~~ Unless a provisional ballot is cast using a ballot  
 22 marking device, the poll worker shall initial the back of the provisional  
 23 ballot, remove the provisional ballot stub from the provisional ballot, and  
 24 place the stub in the stub box provided;

25 ~~(6)(5)~~ The voter shall mark his or her provisional ballot;

26 ~~(7)(6)~~ The voter shall place the voted provisional ballot in a  
 27 provisional ballot secrecy envelope marked "provisional ballot" and seal the  
 28 envelope;

29 ~~(8)(7)~~ The voter shall place the sealed provisional ballot  
 30 envelope containing the voted provisional ballot in a voter envelope, seal  
 31 the envelope, and give it to the poll worker;

32 ~~(9)(8)~~ The poll worker shall provide the voter written  
 33 information instructing him or her on how to determine whether his or her  
 34 provisional ballot was counted, and if not, the reason the ballot was not  
 35 counted; and

36 ~~(10)(9)~~ The poll worker shall make a separate list of the names

1 and addresses of all persons voting a provisional ballot under this  
 2 subsection, and each person voting a provisional ballot shall sign his or her  
 3 name to this list.

4  
 5 SECTION 4. Arkansas Code § 7-5-308(f), concerning provisional ballot  
 6 procedures, is amended to read as follows:

7 (f) Unless enjoined by a court ~~of competent~~ with jurisdiction, a  
 8 provisional ballot under subsection (b) of this section shall be counted if:

9 ~~(1)(A) The voter completes a sworn statement at the polling site~~  
 10 ~~when voting either early or at the polls on election day stating that the~~  
 11 ~~voter is registered to vote in this state and that he or she is the person~~  
 12 ~~registered to vote; and~~

13 ~~(B) The county board of election commissioners does not~~  
 14 ~~determine that the provisional ballot is invalid and should not be counted~~  
 15 ~~based on other grounds; or~~

16 ~~(2)(A)(1)~~ (1) The voter returns to the county board of election  
 17 commissioners or the county clerk by 12:00 noon on the Monday following the  
 18 election and presents a document or identification card that complies with  
 19 the requirements of Arkansas Constitution, Amendment 51, § 13; and

20 ~~(B)(2)~~ (2) The county board of election commissioners does not  
 21 determine that the provisional ballot is invalid and should not be counted  
 22 based on other grounds.

23  
 24 SECTION 5. Arkansas Code § 7-5-412(b), concerning the marking, return,  
 25 and delivery of mailed absentee ballots, is amended to read as follows:

26 (b)~~(1)~~ A voter who desires to cast an absentee ballot but who does not  
 27 meet the identification requirements of subdivision (a)(2) of this section  
 28 may cast his or her absentee ballot by mail, and the absentee ballot shall be  
 29 considered as a provisional ballot.

30 ~~(2)(A) The voter statement accompanying the absentee ballot~~  
 31 ~~shall include a sworn statement portion that may be completed by the voter~~  
 32 ~~stating that the voter is registered to vote and that he or she is the person~~  
 33 ~~who is registered.~~

34 ~~(B) The sworn statement portion of the voter statement is~~  
 35 ~~not required to be notarized, but the voter shall execute the sworn statement~~  
 36 ~~under penalty of perjury.~~