

Stricken language would be deleted from and underlined language would be added to present law.

1 State of Arkansas *As Engrossed: H2/28/23 H3/9/23*

2 94th General Assembly

# A Bill

3 Regular Session, 2023

HOUSE BILL 1457

4

5 By: Representatives Furman, Wing, Achor, Andrews, Barker, Beaty Jr., Beck, Bentley, M. Berry, Breaux,  
6 Brooks, K. Brown, M. Brown, Burkes, Joey Carr, C. Cooper, Cozart, Evans, C. Fite, L. Fite, Fortner,  
7 Gazaway, Gonzales, Gramlich, Haak, Hawk, Hollowell, Jean, Ladyman, Long, Lundstrum, Lynch,  
8 McAlindon, McClure, McCollum, M. McElroy, McGrew, B. McKenzie, McNair, S. Meeks, Miller,  
9 Milligan, K. Moore, Pilkington, Puryear, R. Scott Richardson, Richmond, Rose, Rye, Tosh, Underwood,  
10 Vaught, Womack, Wooten

11 By: Senators K. Hammer, Dees, M. McKee, J. Petty, Stone

12

13

## For An Act To Be Entitled

14

AN ACT TO ESTABLISH THE ARKANSAS POLL WATCHERS BILL  
15 OF RIGHTS ACT OF 2023; TO AMEND THE LAW CONCERNING  
16 POLL WATCHERS; TO AMEND THE LAW CONCERNING ELECTION  
17 PROCEDURES; AND FOR OTHER PURPOSES.

18

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20

## Subtitle

21

TO ESTABLISH THE ARKANSAS POLL WATCHERS  
22 BILL OF RIGHTS ACT OF 2023; TO AMEND THE  
23 LAW CONCERNING POLL WATCHERS; AND TO  
24 AMEND THE LAW CONCERNING ELECTION  
25 PROCEDURES.

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27

28 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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SECTION 1. DO NOT CODIFY. Title.

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This act shall be known and may be cited as the "Arkansas Poll Watchers  
32 Bill Of Rights Act Of 2023".

33

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SECTION 2. Arkansas Code § 7-4-101(f), concerning the duties of the  
35 State Board of Election Commissioners, is amended to add an additional  
36 subdivision to read as follows:



1           (17) Develop a training program for poll watchers, including  
2 without limitation:

3           (A) Develop training materials, including on-line training  
4 materials concerning the duties, rights, and responsibilities of poll  
5 watchers; and

6           (B) Adopt and promulgate rules to establish procedures for  
7 training poll watchers.

8  
9           SECTION 3. Arkansas Code § 7-5-312 is amended to read as follows:

10           7-5-312. ~~Challenge of voter's ballot by poll~~ Poll watchers,  
11 candidates, or designees ~~– Rights – Challenge of a voter's ballot.~~

12           (a) Poll watchers shall include any:

13                   (1) Candidate in person, but only during the counting and  
14 tabulation of ballots and the processing of absentee ballots;

15                   (2) Authorized representative of a candidate;

16                   (3) Authorized representative of a group seeking the passage or  
17 defeat of a measure on the ballot; and

18                   (4) Authorized representative of a county or state political  
19 party with a candidate on the ballot or seeking the passage or defeat of a  
20 measure on the ballot.

21           (b) A poll watcher shall:

22                   (1)(A) Be a qualified elector of the state.

23                   (B) A poll watcher is not required to be a qualified  
24 elector of the election precinct they are observing; and

25                   (2) Complete a training course approved and administered by the  
26 State Board of Election Commissioners.

27           (c)(1) The county board of election commissioners shall designate  
28 observation areas for poll watchers at each location where ballots are cast,  
29 including without limitation a:

30                   (A) Courthouse;

31                   (B) Early voting site;

32                   (C) Vote center; or

33                   (D) Polling location.

34                   (2) An observation area required under subdivision (c)(1) of  
35 this section shall be not fewer than three feet (3') and no more than six  
36 feet (6') from the:

1 (A) Location at which an elector announces their name and  
2 address to be issued a ballot; or

3 (B) Table at which a person may register to vote.

4 (d) A poll watcher shall be provided uniform and nondiscriminatory  
5 access to observe all stages of the election process, including without  
6 limitation:

7 (1) Certification and testing of election technologies;

8 (2) In-person absentee voting;

9 (3) Return of absentee ballots by designated bearers;

10 (4) Canvassing of absentee ballots;

11 (5) Casting of ballots;

12 (6) Spoiling of ballots;

13 (7) Remaking of ballots;

14 (8) Vote tabulation;

15 (9) Voter registration at a polling location;

16 (10) Audits; and

17 (11) Recounts.

18 (e) A poll watcher who is observing an election process shall wear a  
19 badge with the name of the individual.

20 (f) A poll watcher shall not:

21 (1) Wear campaign material advocating voting for or against a  
22 candidate or for or against a position on a ballot question;

23 (2) Interfere with an elector in the preparation or casting of  
24 the elector's ballot; or

25 (3) Hinder or prevent the performance of the duties of any  
26 election official.

27 (g) A poll watcher may:

28 (1) Bring in voter lists to observe;

29 (2) Challenge a ballot for review by the county board of  
30 election commissioners as a provisional ballot;

31 (3) Speak to a poll worker to initiate a challenge to a ballot;  
32 and

33 (4) Speak to a poll judge to execute a challenge to a ballot.

34 (h) A poll watcher who violates this section may be expelled from all  
35 polling locations in the county for the duration of the election by the  
36 county board of election commissioners, the county clerk, or other designated

1 election official.

2 (i) A person who uses force, intimidation, harassment, or coercion to  
3 interfere with a registered voter's ability to vote, an election official's  
4 duties, or a poll watcher's duties, is guilty upon conviction of a Class A  
5 misdemeanor.

6 (j) Each candidate, group, or political party may have at any given  
7 time during the election, including early voting:

8 (1) One (1) authorized representative present at any one (1)  
9 time at each location within a polling site where voters identify themselves  
10 to election officials, for absentee, in-person, or provisional voting, so as  
11 to observe and ascertain the identity of those persons presenting themselves  
12 to vote for the purpose of challenging voters; and

13 (2) One (1) authorized representative present at any one (1)  
14 time at each location or area within the absentee ballot processing site  
15 where absentee ballots are processed, canvassed, duplicated, or tabulated, so  
16 as to observe and ascertain the identity of absentee voters for the purpose  
17 of challenging any absentee vote.

18 ~~(e)~~(k) In accordance with §§ 7-5-316, 7-5-413, 7-5-416, 7-5-527, and  
19 7-5-615, a candidate in person or an authorized representative of a candidate  
20 or political party may be present at a polling site, vote center, early  
21 voting site, alternative site for central counting location, and absentee  
22 ballot counting location for the purpose of witnessing the counting of  
23 ballots by election officials and determining whether ballots are fairly and  
24 accurately counted.

25 ~~(d)~~(1)(1) The document designating and authorizing a representative of  
26 a candidate, a representative of a group seeking the passage or defeat of a  
27 measure on the ballot, and a representative of a political party with a  
28 candidate on the ballot, or a political party seeking the passage or defeat  
29 of a measure on the ballot shall be filed with the county clerk.

30 (2) The county clerk shall provide a poll watcher three (3)  
31 file-marked copies of the document required under subdivision (1)(1) of this  
32 section without a fee. and

33 (3) a file-marked copy shall be presented for viewing by the  
34 poll watcher to the election official immediately upon entering the polling  
35 site, vote center, early voting site, alternative voting site, absentee  
36 ballot processing site, or counting location in the following form:

1 "POLL WATCHER AUTHORIZATION FORM

2 Representative of a Candidate

3 I,....., state that I am a candidate for the office of  
 4 ..... in the ..... election. I further state that I  
 5 have designated ..... as my authorized representative at the election  
 6 at polling sites ..... and absentee ballot processing sites  
 7 ..... in ..... County, Arkansas, to observe and  
 8 ascertain the identity of persons presenting themselves to vote in person or  
 9 by absentee for the purpose of challenging any voter in accordance with  
 10 Arkansas Code §§ 7-5-312, 7-5-416, and 7-5-417. I further state that I have  
 11 designated and authorized my representative named above to be present at the  
 12 ballot counting locations at ..... in  
 13 ..... County, Arkansas, for the purpose of witnessing the  
 14 counting of ballots by election officials and determining whether ballots are  
 15 fairly and accurately counted in accordance with Arkansas Code §§ 7-5-312, 7-  
 16 5-316, 7-5-413, 7-5-416, 7-5-527, and 7-5-615. I further state that  
 17 ..... as my designated and authorized representative meets all of the  
 18 requirements under Arkansas Code § 7-5-312.

19 Representative of a Group

20 I, ....., state that I represent the  
 21 ..... group that is seeking passage/defeat (circle one)  
 22 of the ballot measure entitled ..... on the ballot in the  
 23 election at polling sites ..... and absentee ballot  
 24 processing sites ..... in .....  
 25 County, Arkansas, to observe and ascertain the identity of persons presenting  
 26 themselves to vote in person or by absentee for the purpose of challenging  
 27 any voter in accordance with Arkansas Code §§ 7-5-312, 7-5-416, and 7-5-417.  
 28 I further state that I meet all of the requirements under Arkansas Code § 7-  
 29 5-312.

30 Representative of a Party

31 I, ....., state that I am the chair or secretary of the  
 32 state/county (circle one) committee for the ..... party  
 33 with candidates on the ballot in the ..... election. I  
 34 further state that I have designated ..... as an  
 35 authorized party representative at the election at polling sites  
 36 ..... and absentee ballot processing sites

1 ..... in ..... County, Arkansas, to observe and  
 2 ascertain the identity of persons presenting themselves to vote in person or  
 3 by absentee for the purpose of challenging any voter in accordance with  
 4 Arkansas Code §§ 7-5-312, 7-5-416, and 7-5-417. I further state that I have  
 5 designated and authorized my representative named above to be present at the  
 6 ballot counting locations at ..... in  
 7 ..... County, Arkansas, for the purpose of witnessing the  
 8 counting of ballots by election officials and determining whether ballots are  
 9 fairly and accurately counted in accordance with Arkansas Code §§ 7-5-312, 7-  
 10 5-316, 7-5-413, 7-5-416, 7-5-527, and 7-5-615. I further state that  
 11 ..... as a designated and authorized representative meets all of the  
 12 requirements under Arkansas Code § 7-5-312.

13 .....Signature of Candidate, Group Representative,  
 14 or Chair/Secretary of the State/County Committee  
 15 Acknowledged before me this .... day of ....., 20..  
 16 Notary Public: .....  
 17 My Commission Expires:.....

18 I do hereby state that I am familiar with the rights and responsibilities of  
 19 a poll watcher as outlined on the back of the poll watcher authorization  
 20 form, the requirements under Arkansas Code § 7-5-312 and will in good faith  
 21 comply with the provisions of same.

22 .....  
 23 Signature of the Poll Watcher  
 24 Acknowledged before me this ... day of ....., 20..  
 25 Notary Public: .....  
 26 My Commission Expires: .....

27 I do hereby acknowledge the filing of this poll watcher authorization form  
 28 with the county clerk’s office.

29 .....  
 30 Signature of County Clerk”.

31 ~~(e)~~(m) Poll watcher rights and responsibilities shall be printed on  
 32 the back of the document in the following form:

33 “POLL WATCHER RIGHTS AND RESPONSIBILITIES  
 34 A poll watcher may be:

35 (1) A candidate in person, but only during the counting and  
 36 tabulation of ballots and the processing of absentee ballots;

- 1 (2) An authorized representative of a candidate;  
2 (3) An authorized representative of a group seeking the passage  
3 or defeat of a measure on the ballot; or  
4 (4) An authorized representative of a party with a candidate on  
5 the ballot or seeking the passage or defeat of a measure on the ballot.

6 Official recognition of poll watchers:

7 (1) Only one (1) authorized poll watcher per candidate, group,  
8 or party at any one (1) given time may be officially recognized as a poll  
9 watcher at each location or area within a polling site, early voting site,  
10 vote center, or alternative site where voters identify themselves to election  
11 officials;

12 (2) Only one (1) authorized poll watcher per candidate, group,  
13 or party at any one (1) given time may be officially recognized as a poll  
14 watcher at each location or area within the absentee ballot processing site  
15 where absentee ballots are processed; and

16 (3) Only one (1) authorized poll watcher per candidate or party  
17 at any one (1) given time may be officially recognized as a poll watcher at  
18 the counting of the ballots.

19 Poll watcher credentials:

20 (1) Except for candidates in person, poll watchers must present  
21 a valid affidavit in the form of a 'Poll Watcher Authorization Form' to an  
22 election official immediately upon entering the polling or counting location;  
23 and

24 (2) Candidates in person attending a counting site or absentee  
25 ballot processing site are not required to present a 'Poll Watcher  
26 Authorization Form' but must present some form of identification to an  
27 election official immediately upon entering the site for the purpose of  
28 confirming the poll watcher as a candidate on the ballot.

29 Poll watchers may:

30 (1) Observe the election officials or designees;

31 (2) Stand close enough to the place where voters check in to  
32 vote so as to hear the voter's name;

33 (3) Compile lists of persons voting;

34 (4) Challenge ballots upon notification to an election official  
35 before the voter signs the precinct voter registration list and upon  
36 completing a 'Challenged Ballot Form';

1 (5) Call to the attention of the election sheriff any occurrence  
2 believed to be an irregularity or violation of election law. The poll watcher  
3 may not discuss the occurrence unless the election sheriff invites the  
4 discussion; and

5 (6) Be present at the opening, processing, duplication, and  
6 canvassing of absentee ballots for the purpose of challenging absentee votes  
7 in the manner provided by law for personal voting challenges.

8 Poll watchers representing a candidate or political party may:

9 (1) Remain at the polling site after the poll closes if ballots  
10 are counted at the poll;

11 (2) Be present at the counting of votes by hand or by an  
12 electronic vote tabulating device at a central location;

13 (3) Be present at the counting of absentee ballots for the  
14 purpose of witnessing the counting of ballots by election officials and  
15 determining whether ballots are fairly and accurately counted; and

16 (4) Upon request made to an election official, inspect any or  
17 all ballots at the time the ballots are being counted.

18 Poll watchers may not:

19 (1) Be within six feet (6') of any voting machine or booth used  
20 by voters to cast their ballot;

21 (2) Speak to any voter or in any way attempt to influence a  
22 voter inside the polling site or within one hundred feet (100') of the  
23 primary exterior entrance used by voters to the building containing the  
24 polling site; or

25 (3) Disrupt the orderly conduct of the election.”

26 ~~(f)~~(n) Poll watcher rights and responsibilities shall be posted in  
27 plain view at each polling site, absentee ballot processing site, and  
28 counting site.

29 ~~(g)~~(o) A poll watcher may notify an election official they are  
30 ~~challenge~~ challenging a voter only on the grounds that the voter:

31 (1) ~~is~~ Is not eligible to vote in the precinct; or

32 (2) ~~that the voter has~~ Has previously voted at that election.

33 ~~(h)~~(1)(p)(1) When the ballot of any voter is thus challenged, it shall  
34 be treated as a provisional ballot.

35 (2) The poll watcher shall notify an election official of the  
36 challenge before the voter signs the precinct voter registration list.



1 (3) The poll watcher shall complete a challenged ballot form.

2 (4) The election official shall inform the voter that his or her  
3 ballot is being challenged.

4 (5) The procedures for casting a provisional ballot under § 7-5-  
5 308 shall be followed.

6 (q) As used in this section, "group seeking the passage or defeat of a  
7 measure on the ballot" means a group that is registered or files reports with  
8 the Secretary of State under § 7-6-201 et seq.

9

10 SECTION 4. Arkansas Code § 7-5-413(a)(2), concerning voting machines  
11 and related duties, is amended to read as follows:

12 (2) Those persons entitled under the law to vote early by personal  
13 appearance shall cast their votes on voting systems under the laws applicable  
14 to early voting, and the clerk or election official shall enter the name of  
15 each voter on a list at the time he or she votes in the presence of an  
16 authorized poll watcher, if any.

17

18 SECTION 5. Arkansas Code § 7-5-413(c)(1), concerning voting machines  
19 and related duties, is amended to read as follows:

20 (c)(1)(A) At the time designated in the notice of election, a  
21 set of election officials for the machines used for early voting shall  
22 canvass the vote in the manner provided for regular polling sites in the  
23 presence of an authorized poll watcher, if any.

24 (B) After the canvass has been made, the machines shall be  
25 secured and shall remain inaccessible to voting in the presence of an  
26 authorized poll watcher, if any.

27

28 SECTION 6. Arkansas Code § 7-5-615(d), concerning the tabulation of  
29 votes, defective ballots, and certification of returns, is amended to read as  
30 follows:

31 (d)(1) If any ballot is damaged or defective so that it cannot  
32 properly be counted by the electronic vote tabulating device, a true  
33 duplicate copy shall be made of the damaged ballot in the presence of  
34 tabulation election officials and designated poll watchers, if any, if the  
35 votes are tabulated at a central location.

36 (2) The duplicate shall be substituted for the damaged ballot.

1           (3) All duplicate ballots shall be clearly labeled “duplicate”  
2 and shall be counted in lieu of the damaged or defective ballot.

3           (4) An election official under subdivision (d)(1) of this  
4 section shall maintain a recorded count of damaged ballots to be duplicated  
5 in the presence of authorized poll watchers, if any, and provide the report  
6 to the county board of election commissioners.

7  
8           SECTION 7. DO NOT CODIFY. Rules.

9           No later than January 1, 2024, the State Board of Election  
10 Commissioners shall:

11           (1) Develop all training materials for poll watchers;

12           (2) Develop rules that establish:

13                   (A) The procedure to record completion of the training  
14 program by a poll watcher;

15                   (B) How the training program will be promoted by the State  
16 Board of Election Commissioners; and

17                   (C) An appeal process if a certification of completion of  
18 the training program is not granted to a poll watcher.

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20   /s/Furman  
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