

{As Amended by House Committee of the Whole}

As Amended by House Committee

Session of 2023

HOUSE BILL No. 2086

By Committee on Elections

1-19

Proposed Amendments to
House Bill No. 2086
(As Amended by House Committee of the Whole)
Senate Committee on Federal and State Affairs
"HAVA Complaint Dismissal"
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1 AN ACT concerning elections; relating to election procedures; clarifying
2 duties and qualifications of certain election officials; redefining certain
3 election crimes; amending K.S.A. 10-120, 15-809, 19-303, 19-804, 19-
4 3419, 19-3422, 19-3439, 25-105, 25-203, 25-208a, 25-211, 25-212, 25-
5 213, 25-303, 25-305, 25-308, 25-321, 25-432, 25-433, 25-604, 25-610,
6 25-901, ~~25-1115~~, 25-1122, 25-1214, 25-1903, 25-2005, 25-2008, 25-
7 2018, 25-2021, 25-21a02, 25-2310, ~~25-2502~~, 25-2507, 25-26a03, 25-
8 2702, 25-2703, 25-2704, 25-2705, 25-2706, 25-2805, 25-2812, 25-
9 2905, 25-3002, 25-3005, 25-3005a, 25-3104, 25-3107, 25-3201, 25-
10 3301, 25-3303, 25-3304, 25-3801, 25-4004, 25-4005, 25-4148d, 25-
11 4322, 25-4612, 25-4703, 25-4709 and 71-1415 and K.S.A. 2022 Supp.
12 19-3424, 25-3009 and 25-4414 and repealing the existing sections; also
13 repealing K.S.A. 25-222, 25-305b, 25-1709, 25-1710, 25-2601, 25-
14 4502, 25-4503, 25-4505, 25-4506, 25-4507 and 25-4508.

15

16 *Be it enacted by the Legislature of the State of Kansas:*

17 New Section 1. (a) The secretary of state shall oversee the conduct of
18 statewide elections in this state as the chief election officer and shall be
19 responsible for assisting and advising county election officers in
20 conducting elections in compliance with federal and state laws and rules
21 and regulations.

22 (b) Each county election officer shall be the sole public officer
23 responsible for planning, conducting and coordinating elections held
24 within such officer's county. Such officer shall be responsible for ensuring
25 that all such elections comply with federal and state law and rules and
26 regulations.

27 New Sec. 2. No person shall serve as a county election officer if such
28 person has been convicted of any crime described in chapter 25 of the
29 Kansas Statutes Annotated, and amendments thereto, or of any crime in
30 any other jurisdiction that is substantially the same as any such crime.

31 New Sec. 3. No county election office or any employee or agent
32 thereof shall create, or permit any other person to create, or disclose to any
33 person an image of the hard drive of any electronic or electromechanical
34 voting system, optical scanning equipment or any other voting system that

1 *other confidential information relating to optical scanning equipment; or*
2 ~~(b)(4)~~ intentionally tampering with, altering, disarranging, defacing,
3 impairing or destroying any optical scanning equipment or component part
4 thereof, or any ballot, operating system, firmware or software used by a
5 system.

6 (b) Optical scanning equipment fraud is a severity level 9, nonperson
7 felony.

8 ~~Sec. 63.~~ **65.** K.S.A. 25-4703 is hereby amended to read as follows:
9 25-4703. As used in this act:

10 (a) "Arbitrator" means a neutral third party selected by the secretary
11 of state who resolves the dispute between the complainant and respondent,
12 and whose decision is final.

13 (b) "Complainant" means the person who files a complaint with the
14 Kansas secretary of state under this act.

15 (c) "Respondent" means any state or local election official whose
16 actions are asserted to be in violation of title III in a complaint filed under
17 this act.

18 (d) "Title III" means title III of the help America vote act of 2002,
19 public law 107-252, 116 Stat. 1666 (2002), codified at ~~42 United States~~
20 ~~code §§ 15481-15485~~ 52 U.S.C. §§ 21081-21102.

21 ~~Sec. 64.~~ **66.** K.S.A. 25-4709 is hereby amended to read as follows:
22 25-4709. (a) *Except as provided in subsection (c)*, if requested by the
23 complainant, the secretary of state shall conduct a hearing on the record to
24 review the complaint. The secretary of state or other person designated by
25 the secretary of state shall serve as the hearing officer.

26 (b) The hearing shall be conducted no later than 30 days after the
27 secretary of state receives the complaint. The secretary of state shall give
28 at least 5 days advance notice of the date, time, and place of the hearing to
29 the complainant and each named respondent.

30 (c) *After reviewing a complaint and giving all inferences to the*
31 *complainant, the secretary of state may dismiss the complaint without a*
32 *hearing if the complaint fails to allege facts that assert a violation of title*
33 *III.*

, after consultation on such complaint with the attorney general,

34 ~~Sec. 65.~~ **67.** K.S.A. 71-1415 is hereby amended to read as follows:
35 71-1415. (a) In college districts in which a district method of election is in
36 effect, if there are more than three qualified candidates for any member
37 position, the county election officer shall call, and there shall be held, a
38 primary election in each such member district. The names of the two
39 candidates receiving the greatest number of votes for any member position
40 at the primary election shall appear on the ballots in the general election. If
41 there are three or fewer qualified candidates for any member position,
42 there shall not be a primary election and the names of the candidates shall
43 be placed on the ballots in the general election.