Session of 2012

HOUSE BILL No. 2437

By Committee on Elections

1-12

AN ACT concerning elections; relating to voting; changing effective date of United States citizenship requirements; amending K.S.A. 2011 Supp. 25-2309, 25-2908 and 65-2418 and repealing the existing sections.

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

K.S.A. 2011 Supp. 25-2309 is hereby amended to read as Section 1. follows: 25-2309. (a) Any person may apply in person, by mail, through a voter registration agency, or by other delivery to a county election officer to be registered. Such application shall be made on: (1) A form approved by the secretary of state, which shall be provided by a county election officer or chief state election official upon request in person, by telephone or in writing; or (2) the national mail voter registration form issued pursuant to federal law. Such application shall be signed by the applicant under penalty of perjury and shall contain the original signature of the applicant or the computerized, electronic or digitized transmitted signature of the applicant. A signature may be made by mark, initials, typewriter, print, stamp, symbol or any other manner if by placing the signature on the document the person intends the signature to be binding. A signature may be made by another person at the voter's direction if the signature reflects such voter's intention.

- (b) Applications made under this section shall give voter eligibility requirements and such information as is necessary to prevent duplicative voter registrations and enable the relevant election officer to assess the eligibility of the applicant and to administer voter registration, including, but not limited to, the following data to be kept by the relevant election officer as provided by law:
 - (1) Name:
- (2) place of residence, including specific address or location, and mailing address if the residence address is not a permissible postal address;
 - (3) date of birth;
- (4) sex;
- (5) the last four digits of the person's social security number or the person's full driver's license or nondriver's identification card number;
- 35 (6) telephone number, if available;
 - (7) naturalization data (if applicable);

- (8) if applicant has previously registered or voted elsewhere, residence at time of last registration or voting;
 - (9) when present residence established;
 - (10) name under which applicant last registered or voted, if different from present name;
- (11) an attestation that the applicant meets each eligibility requirement;
- (12) a statement that the penalty for submission of a false voter registration application is a maximum presumptive sentence of 17 months in prison;
- (13) a statement that, if an applicant declines to register to vote, the fact that the applicant has declined to register will remain confidential and will be used only for voter registration purposes;
- (14) a statement that if an applicant does register to vote, the office to which a voter registration application is submitted will remain confidential and will be used only for voter registration purposes;
- (15) boxes for the applicant to check to indicate whether the applicant is or is not a citizen of the United States, together with the question "Are you a citizen of the United States of America?";
- (16) boxes for the county election officer or chief state election official to check to indicate whether the applicant has provided with the application the information necessary to assess the eligibility of the applicant, including such applicant's United States citizenship;
- (17) boxes for the applicant to check to indicate whether or not the applicant will be 18 years of age or older on election day, together with the question "Will you be 18 years of age on or before election day?";
- (18) in reference to paragraphs (15) and (17) the statement "If you checked 'no' in response to either of these questions, do not complete this form.";
- (19) a statement that the applicant shall be required to provide identification when voting; and
- (20) political party affiliation declaration, if any. An applicant's failure to make a declaration will result in the applicant being registered as an unaffiliated voter.

If the application discloses any previous registration in any other county or state, as indicated by paragraph (8) or (10), or otherwise, the county election officer shall upon the registration of the applicant, give notice to the election official of the place of former registration, notifying such official of applicant's present residence and registration, and authorizing cancellation of such former registration. This section shall be interpreted and applied in accordance with federal law. No eligible applicant whose qualifications have been assessed shall be denied registration.

- (c) Any person who applies for registration through a voter registration agency shall be provided with, in addition to the application under subsection (b), a form which includes:
- (1) The question "If you are not registered to vote where you live now, would you like to apply to register to vote here today?";
- (2) a statement that if the applicant declines to register to vote, this decision will remain confidential and be used only for voter registration purposes;
- (3) a statement that if the applicant does register to vote, information regarding the office to which the application was submitted will remain confidential and be used only for voter registration purposes; and
- (4) if the agency provides public assistance, (i) the statement "Applying to register or declining to register to vote will not affect the amount of assistance that you will be provided by this agency.";
- (ii) boxes for the applicant to check to indicate whether the applicant would like to register or declines to register to vote, together with the statement "IF YOU DO NOT CHECK EITHER BOX, YOU WILL BE CONSIDERED TO HAVE DECIDED NOT TO REGISTER TO VOTE AT THIS TIME.";
- (iii) the statement "If you would like help in filling out the voter registration application form, we will help you. The decision whether to seek or accept help is yours. You may fill out the application form in private."; and
- (iv) the statement "If you believe that someone has interfered with your right to register or to decline to register to vote, your right to privacy in deciding whether to register or in applying to register to vote, or your right to choose your own political party or other political preference, you may file a complaint with the Kansas Secretary of State."
- (d) If any person, in writing, declines to register to vote, the voter registration agency shall maintain the form prescribed by subsection (c).
- (e) A voter registration agency shall transmit the completed registration application to the county election officer not later than five days after the date of acceptance. Upon receipt of an application for registration, the county election officer shall send, by nonforwardable mail, a notice of disposition of the application to the applicant at the postal delivery address shown on the application. If a notice of disposition is returned as undeliverable, a confirmation mailing prescribed by K.S.A. 25-2316c, and amendments thereto, shall occur.
- (f) If an application is received while registration is closed, such application shall be considered to have been received on the next following day during which registration is open.
- (g) A person who completes an application for voter registration shall be considered a registered voter when the county election officer adds the

applicant's name to the county voter registration list.

- (h) Any registered voter whose residence address is not a permissible postal delivery address shall designate a postal address for registration records. When a county election officer has reason to believe that a voter's registration residence is not a permissible postal delivery address, the county election officer shall attempt to determine a proper mailing address for the voter.
- (i) Any registered voter may request that such person's residence address be concealed from public inspection on the voter registration list and on the original voter registration application form. Such request shall be made in writing to the county election officer, and shall specify a clearly unwarranted invasion of personal privacy or a threat to the voter's safety. Upon receipt of such a request, the county election officer shall take appropriate steps to ensure that such person's residence address is not publicly disclosed. Nothing in this subsection shall be construed as requiring or authorizing the secretary of state to include on the voter registration application form a space or other provision on the form that would allow the applicant to request that such applicant's residence address be concealed from public inspection.
- (j) No application for voter registration shall be made available for public inspection or copying unless the information required by paragraph (5) of subsection (b) has been removed or otherwise rendered unreadable.
- (k) If an applicant fails to answer the question prescribed in paragraph (15) of subsection (b), the county election officer shall send the application to the applicant at the postal delivery address given on the application, by nonforwardable mail, with a notice of incompleteness. The notice shall specify a period of time during which the applicant may complete the application in accordance with K.S.A. 25-2311, and amendments thereto, and be eligible to vote in the next election.
- (l) The county election officer or secretary of state's office shall accept any completed application for registration, but an applicant shall not be registered until the applicant has provided satisfactory evidence of United States citizenship. Evidence of United States citizenship as required in this section will be satisfied by presenting one of the documents listed in paragraphs (1) through (13) of subsection (l) in person at the time of filing the application for registration or by including a photocopy of one of the following documents with a mailed registration application. After a person has submitted satisfactory evidence of citizenship, the county election officer shall indicate this information in the person's permanent voter file. Evidence of United States citizenship shall be satisfied by providing one of the following, or a legible photocopy of one of the following documents:
 - (1) The applicant's driver's license or nondriver's identification card

 issued by the division of vehicles or the equivalent governmental agency of another state within the United States if the agency indicates on the applicant's driver's license or nondriver's identification card that the person has provided satisfactory proof of United States citizenship;

- (2) the applicant's birth certificate that verifies United States citizenship to the satisfaction of the county election officer or secretary of state:
- (3) pertinent pages of the applicant's United States valid or expired passport identifying the applicant and the applicant's passport number, or presentation to the county election officer of the applicant's United States passport;
- (4) the applicant's United States naturalization documents or the number of the certificate of naturalization. If only the number of the certificate of naturalization is provided, the applicant shall not be included in the registration rolls until the number of the certificate of naturalization is verified with the United States bureau of citizenship and immigration services by the county election officer or the secretary of state, pursuant to 8 U.S.C. § 1373(c);
- (5) other documents or methods of proof of United States citizenship issued by the federal government pursuant to the immigration and nationality act of 1952, and amendments thereto;
- (6) the applicant's bureau of Indian affairs card number, tribal treaty card number or tribal enrollment number;
- (7) the applicant's consular report of birth abroad of a citizen of the United States of America;
- (8) the applicant's certificate of citizenship issued by the United States citizenship and immigration services;
- (9) the applicant's certification of report of birth issued by the United States department of state;
- (10) the applicant's American Indian card, with KIC classification, issued by the United States department of homeland security;
- (11) the applicant's final adoption decree showing the applicant's name and United States birthplace;
- (12) the applicant's official United States military record of service showing the applicant's place of birth in the United States; or
- (13) an extract from a United States hospital record of birth created at the time of the applicant's birth indicating the applicant's place of birth in the United States.
- (m) If an applicant is a United States citizen but does not have any of the documentation listed in this section as satisfactory evidence of United States citizenship, such applicant may submit any evidence that such applicant believes demonstrates the applicant's United States citizenship.
 - (1) Any applicant seeking an assessment of evidence under this

subsection may directly contact the elections division of the secretary of state by submitting a voter registration application or form as described by this section and any supporting evidence of United States citizenship. Upon receipt of this information, the secretary of state shall notify the state election board, as established under K.S.A. 25-2203, and amendments thereto, that such application is pending.

- (2) The state election board shall give the applicant an opportunity for a hearing and an opportunity to present any additional evidence to the state election board. Notice of such hearing shall be given to the applicant at least five days prior to the hearing date. An applicant shall have the opportunity to be represented by counsel at such hearing.
- (3) The state election board shall assess the evidence provided by the applicant to determine whether the applicant has provided satisfactory evidence of United States citizenship. A decision of the state election board shall be determined by a majority vote of the election board.
- (4) If an applicant submits an application and any supporting evidence prior to the close of registration for an election cycle, a determination by the state election board shall be issued at least five days before such election date.
- (5) If the state election board finds that the evidence presented by such applicant constitutes satisfactory evidence of United States citizenship, such applicant will have met the requirements under this section to provide satisfactory evidence of United States citizenship.
- (6) If the state election board finds that the evidence presented by an applicant does not constitute satisfactory evidence of United States citizenship, such applicant shall have the right to appeal such determination by the state election board by instituting an action under 8 U.S.C. § 1503. Any negative assessment of an applicant's eligibility by the state election board shall be reversed if the applicant obtains a declaratory judgment pursuant to 8 U.S.C. § 1503, demonstrating that such applicant is a national of the United States.
- (n) Any person who is registered in this state on the effective date of this amendment to this section is deemed to have provided satisfactory evidence of citizenship and shall not be required to resubmit evidence of citizenship.
- (o) For purposes of this section, proof of voter registration from another state is not satisfactory evidence of United States citizenship.
- (p) A registered Kansas voter who moves from one residence to another within the state of Kansas or who modifies such voter's registration records for any other reason shall not be required to submit evidence of United States citizenship.
- (q) If evidence of citizenship is deemed to be unsatisfactory due to an inconsistency between the document submitted as evidence and the name

 or sex provided on the application for registration, such applicant may sign an affidavit:

- (1) Stating the inconsistency or inconsistencies related to the name or sex, and the reason therefor; and
- (2) swearing under oath that, despite the inconsistency, the applicant is the individual reflected in the document provided as evidence of citizenship. However, there shall be no inconsistency between the date of birth on the document provided as evidence of citizenship and the date of birth provided on the application for registration. If such an affidavit is submitted by the applicant, the county election officer or secretary of state shall assess the eligibility of the applicant without regard to any inconsistency stated in the affidavit.
- (r) All documents submitted as evidence of citizenship shall be kept confidential by the county election officer or the secretary of state and maintained as provided by Kansas record retention laws. The provisions of this subsection shall expire on July 1, 2016, unless the legislature reviews and reenacts this provision pursuant to K.S.A. 45-229, and amendments thereto, prior to July 1, 2016.
- (s) The secretary of state may adopt rules and regulations to implement the provisions of this section.
- (t) Nothing in this section shall prohibit an applicant from providing, or the secretary of state or county election officer from obtaining satisfactory evidence of United States citizenship, as described in subsection (1), at a different time or in a different manner than an application for registration is provided, as long as the applicant's eligibility can be adequately assessed by the secretary of state or county election officer as required by this section.
- (u) The proof of citizenship requirements of this section shall not become effective until January 1, 2013 *June 15, 2012*.
 - Sec. 2. K.S.A. 2011 Supp. 25-2908 is hereby amended to read as follows: 25-2908. (a) Each polling place shall use either: (1) A registration book and a poll book, as defined in K.S.A. 25-2507(a) and K.S.A. 25-2507(b)(1), and amendments thereto; or (2) a registration book, as defined in K.S.A. 25-2507(b)(2), and amendments thereto. The county election officer shall determine which books are used in each county, and which book voters shall sign.
 - (b) A person desiring to vote shall provide to the election board: (1) The voter's name; (2) if required, the voter's address; (3) the voter's signature on the registration or poll book; and (4) a valid form of identification listed in subsection (h). A signature may be made by mark, initials, typewriter, print, stamp, symbol or any other manner if by placing the signature on the document the person intends the signature to be binding. A signature may be made by another person

 at the voter's direction if the signature reflects such voter's intention.

- (c) A member of the election board shall:
- (1) Announce the voter's name in a loud and distinct tone of voice, and, if the name is in the registration books, the member of the election board having the registration record shall repeat the name;
 - (2) request the voter's signature on the registration or poll book;
- (3) provide the required signature at the request of and on behalf of any voter who is unable to personally affix a signature by reason of temporary illness or disability, or lack of proficiency in reading the English language;
- (4) request a valid form of identification from the voter. If the member of the election board is satisfied that the voter is the person depicted in the identification and that the identification provided is one of the valid forms of identification listed in subsection (h), the member of the election board shall place such member's initials in the space provided and allow the voter to vote;
- (5) give the voter one ballot, on the upper right-hand corner of which shall be written the number corresponding to the voter's number in the registration book or poll book; and
- (6) mark the voter's name in the registration book and party affiliation list.
- (d) If a voter is unable or refuses to provide current and valid identification, the voter may vote a provisional ballot pursuant to K.S.A. 25-409, and amendments thereto. If the voter's name and address do not match the voter's name and address on the registration book or poll book, the voter may vote a provisional ballot according to K.S.A. 25-409, and amendments thereto. The voter shall provide a valid form of identification as defined in subsection (h) of this section to the county election officer in person or provide a copy by mail or electronic means before the meeting of the county board of canvassers. At the meeting of the county board of canvassers the county election officer shall present copies of identification received from provisional voters and the corresponding provisional ballots. If the county board of canvassers determines that a voter's identification is valid and the provisional ballot was properly cast, the ballot shall be counted.
- (e) If the name of any person desiring to vote at an election is not in the registration books, an election board member shall print the name and address of the person appearing to vote in the registration book or poll book. The person appearing to vote shall add such person's signature to the registration book or poll book beside such person's printed name, as listed in the registration book or poll book, and the election board judge shall challenge such person's vote pursuant to K.S.A. 25-414, and amendments thereto. During the

 pendency of a challenge other voters shall be given ballots and be permitted to vote.

- (f) A voter who has received an advance voting ballot may vote a provisional ballot on election day at the precinct polling place where the voter resides. If the voter returns the advance voting ballot to a judge or clerk at the precinct polling place, the judge or clerk shall void such advance voting ballot. Any such provisional ballot shall be counted only if the county board of canvassers determines that the provisional ballot was properly cast and the voter has not otherwise voted at such election.
- (g) The secretary of state may adopt rules and regulations in order to implement the provisions of this section and define valid forms of identification with greater specificity, however the requirement that a voter must provide a form of identification that complies with the subsection (h) may not be altered.
- (h) (1) The following forms of identification shall be valid if the identification contains the name and photograph of the voter and has not expired. Expired documents shall be valid if the bearer of the document is 65 years of age or older:
- (A) A driver's license issued by Kansas or by another state or district of the United States;
- (B) a state identification card issued by Kansas or by another state or district of the United States;
- (C) a concealed carry of handgun license issued by Kansas or a concealed carry of handgun or weapon license issued by another state or district of the United States:
 - (D) a United States passport;
- (E) an employee badge or identification document issued by a municipal, county, state, or federal government office or agency;
- (F) a military identification document issued by the United States;
- (G) a student identification card issued by an accredited postsecondary institution of education in the state of Kansas; of
- (H) a public assistance identification card issued by a municipal, county, state, or federal government office or agency; or
 - (I) an identification card issued by an Indian tribe.
- (2) If the person fails to furnish the identification required by this subsection, the person shall be allowed to vote a provisional ballot. The canvassing board shall determine the validity of the ballot pursuant to K.S.A. 25-3002, and amendments thereto.
- (i) The following persons are exempt from the photographic identification document requirements of this section:
 - (1) Persons with a permanent physical disability that makes it

 impossible for such persons to travel to a county or state office to obtain a qualifying form of identification and have qualified for permanent advance voting status under K.S.A. 25-1124, and amendments thereto;

- (2) members of the uniformed service on active duty who, by reason of such active duty, are absent from the county on election day;
- (3) members of the merchant marine who, by reason of service in the merchant marine, are absent from the county on election day;
- (4) the spouse or dependent of a member referred to in paragraph (2) or (3), who, by reason of the active duty or service of the member, is absent from the county on election day; and
- (5) any voter whose religious beliefs prohibit photographic identification. Any person seeking an exemption under this provision must complete and transmit a declaration concerning such religious beliefs to the county election officer or the Kansas secretary of state. The declaration form shall be available on the official website of the Kansas secretary of state.
- (j) "Indian tribe" or "tribe" means any Indian tribe, band, nation or other organized group of community of Indians recognized as eligible for the services provided to Indians by the secretary of the interior because of their status as Indians, including any Alaska native village as defined in 43 U.S.C. § 1602(c).
- Sec. 3. K.S.A. 2011 Supp. 65-2418 is hereby amended to read as follows: 65-2418. (a) (1) The secretary shall fix and charge by rules and regulations the fees to be paid for certified copies or abstracts of certificates or for search of the files for birth, death, fetal death, marriage or divorce records when no certified copy or abstract is made. Except as otherwise provided in this section, the secretary shall remit all moneys received by or for the secretary from fees, charges or penalties, under the uniform vital statistics act, and amendments thereto, to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the civil registration and health statistics fee fund created by K.S.A. 2011 Supp. 65-2418e, and amendments thereto.
- (2) The secretary shall not charge any fee for a certified copy of a certificate or abstract or for a search of the files or records if the certificate, abstract or search is requested by a person who exhibits correspondence from the United States department of veterans affairs or the Kansas commission on veterans affairs which indicates that the person is applying for benefits from the United States department of veterans affairs and that such person needs the requested information

 to obtain such benefits, except that, for a second or subsequent certified copy of a certificate, abstract or search of the files requested by the person, the usual fee shall be charged. The secretary may provide by rules and regulations for exemptions from such fees.

- (3) The secretary shall not charge or accept any fee for a certified copy of a birth certificate if the certificate is requested by any person who is 17 years of age or older for purposes of voting if the applicant lacks the identification required by K.S.A. 25-2908(h), and amendments thereto, or meeting to meet the voter registration requirements of K.S.A. 25-2309, and amendments thereto—such person. For voter registration purposes, an applicant for registration shall swear under oath: (1) That such person plans to register to vote in Kansas; and (2) that such person does not possess any of the documents that constitute evidence of United States citizenship under K.S.A. 25-2309(l), and amendments thereto. The affidavit shall specifically list the documents that constitute evidence of United States citizenship under K.S.A. 25-2309(l), and amendments thereto. The secretary shall adopt rules and regulations in order to implement the provisions of this subsection.
- (4) Upon receipt of any such remittance of a fee for a certified copy of a birth certificate or abstract, \$3 of each such fee for the first copy of a birth certificate or abstract and \$1 of each such fee for each additional copy of the same birth certificate or abstract requested at the same time shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the permanent families account of the family and children investment fund created by K.S.A. 38-1808, and amendments thereto. The balance of the money received for a fee for a certified copy of a birth certificate or abstract shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the civil registration and health statistics fee fund created under this act.
- (5) Upon receipt of any such remittance of a fee for a certified copy of a death certificate or abstract, \$4 of each such fee for the first certified copy of a death certificate or abstract and \$2 of each such fee for each additional copy of the same death certificate or abstract requested at the same time shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the district coroners fund created by K.S.A. 22a-245, and amendments

thereto. The balance of the money received for a fee for a certified copy of a death certificate or abstract shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the civil registration and health statistics fee fund created by K.S.A. 2011 Supp. 65-2418e, and amendments thereto.

- (b) Subject to K.S.A. 65-2415, and amendments thereto, the national office of vital statistics may be furnished copies or data it requires for national statistics. The state shall be reimbursed for the cost of furnishing the data. The data shall not be used for other than statistical purposes by the national office of vital statistics unless so authorized by the state registrar of vital statistics.
- Sec.—2. 4. K.S.A. 2011 Supp. 25-2309 is, 25-2908 and 65-2418 are hereby repealed.
- Sec. 3. 5. This act shall take effect and be in force from and after its publication in the Kansas register.