

Voter Identification

HB 2067 changes the requirements for providing voter identification at elections, effective January 1, 2012 and publication in the statute book. The bill requires photo identification of all in-person voters at every election (with the exception of certain voters who are exempted), and requires inclusion of the number on or a copy of a specified form of photo ID for all voters submitting advance ballots by mail for every election. Existing law does not require a photo ID, nor does it require ID be provided at every election. The bill allows for the issuance of a free photo ID card to anyone who qualifies and signs an affidavit.

The bill also requires any person registering to vote on or after January 1, 2013, to submit evidence of U.S. citizenship.

Free Nondriver's Identification Cards

The bill prohibits the Kansas Department of Revenue Division of Vehicles from requiring or accepting payment for a nondriver's ID card issued to anyone 17 or older for purposes of meeting the voter identification requirements in KSA 25-2308. Each such individual is required to sign an affidavit stating he or she plans to vote and that he or she does not have any of the forms of identification acceptable under the bill. Such a person also must provide evidence of being registered to vote.

Identification Requirements for Voting at the Polls on Election Day

The bill:

- Eliminates the prior provision that only first-time voters who did not provide ID when they registered must provide ID, and eliminates the list of acceptable ID forms.
- Requires every person voting at the polls on election day (with some exceptions; listed below) to provide one form of ID from a specified list, if the ID contains the name and photograph of the voter and has not expired. (Expired documents will be valid if the bearer is 65 years of age or older.) The bill authorizes the Secretary of State to define the types of acceptable identification with greater specificity using rules and regulations. Following are the specified ID forms allowed:
 - A driver's license, whether issued by Kansas or by another state or district of the United States;
 - A state ID card, whether issued by Kansas or by another state or district of the United States;

- A concealed carry of handgun or weapon license, whether issued by Kansas or by another state or district of the United States;
 - A United States passport;
 - An employee badge or ID document issued by a municipal, county, state, or federal government office or agency;
 - A military ID document issued by the United States;
 - A student ID card issued by an accredited postsecondary education institution in Kansas; or
 - A public assistance ID card issued by a municipal, county, state, or federal government office or agency.
- Exempts the following persons from the photo ID requirement when voting:
 - Those who have a permanent physical disability that makes it impossible for them to travel to obtain a qualifying ID form and who are qualified for permanent advance voting status;
 - Members of the uniformed service on active duty who, if on duty, are absent from the county on election day;
 - Members of the merchant marine who are absent from the county on election day;
 - The spouse or dependent of a member of either the uniformed service or merchant marine (under the above-named circumstances) who, by reason of the member's duty or service, is absent from the county on election day; and
 - Any voter whose religious beliefs prohibit photographic identification. Any person seeking this exemption must complete a declaration concerning his or her religious beliefs and transmit it to the county election officer or the Secretary of State. The declaration form must be made available on the official Secretary of State website.
 - Revises the Secretary of State's authority to adopt rules by making clarifications and by stating that the requirement that a voter provide one of the specified ID forms may not be altered.

Identification Requirements for Voting by Advance Ballot

The bill:

- Requires each person voting by advance ballot to be transmitted in person to provide, for every election, the same form of ID as is required of those voting at the polls on election day (see above).

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- Requires each person voting by advance ballot to be transmitted *by mail* to provide, for every election, one of the following:
 - The voter's current and valid Kansas driver's license or nondriver's ID card number; or
 - A copy of any one of the same ID forms as required of those voting at the polls on election day.

 - Prohibits the county election officer from providing an advance ballot to a person (when the ballot is to be returned *by mail*) unless the county election official verifies that the person's signature (contained in the ID form the person provides) matches the one on file in the county voter registration records.
 - The signature verification could be done by electronic device or by human inspection.
 - If the signatures do not match, the county election officer must attempt to contact the person and offer another opportunity to provide a signature for purposes of verifying identity. If unable to reach the person, the county election officer is authorized to transmit a provisional ballot, which may be counted only if the signature included with the ballot can be verified.

 - Prohibits the county election officer from providing an advance ballot to a person (when the ballot is to be returned *by mail*) unless the person provides the required ID, but the county election officer is required to provide information to the person regarding the voter's right to vote a provisional ballot. The county election officer also is required to provide the person an opportunity to provide the ID required.
 - In conjunction with this requirement, the bill requires all Kansas state offices and any offices of any subdivision of the state to allow any person seeking to vote by advance ballot to use a photocopying device to make one photocopy of an ID document at no cost.

 - Requires a voter whose ballot is returned to the county election officer by someone other than the voter to designate in writing the person authorized to return the ballot. The person so designated by the voter is required to sign a statement that the designee has not exercised undue influence on the voting decisions of the voter and agrees to deliver the ballot as directed by the voter.

- Authorizes the Secretary of State to adopt rules and regulations regarding identification for advance voting.

Advance Voting Crimes

The bill revises the statute on advance voting crimes in these ways:

- Marking or transmitting more than one advance voting ballot is changed to “knowingly” marking or transmitting more than one advance voting ballot.
- Interfering with or delaying the transmission of any advance voting ballot application from a voter to the county election officer is changed to “knowingly” interfering with or delaying the transmission.
- Marking, signing, or transmitting the advance voting ballot or envelope by a person other than the voter is changed to “knowingly” marking, signing, or transmitting the ballot or envelope.
- “Willfully” and falsely affirming, declaring, or subscribing to any material fact in an affirmation form for an advance voting ballot is changed to “knowingly” and falsely affirming, declaring, or subscribing to any material fact in an affirmation form.

Proof of Citizenship for Voter Registration

As of January 1, 2013, the bill:

- Requires every person to provide evidence of U.S. citizenship when he or she registers to vote. The county election officer or Secretary of State’s Office is required to accept any registration application that is not accompanied by such evidence in person at the time of filing the application; however, the person is not registered until this evidence is provided. Once satisfactory evidence is provided, the county election officer must indicate so in the person’s permanent voter file. Documents satisfying this proof-of-citizenship evidence requirement are confidential until July 1, 2016, and include any one the following:
 - Driver’s license or nondriver’s ID card issued by the appropriate agency in any state in the United States, if the agency indicates on the license or nondriver’s ID card that the person has provided satisfactory proof of U.S. citizenship.
 - Birth certificate that verifies U.S. citizenship to the satisfaction of the county election officer or Secretary of State.

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- Pertinent pages of a U.S. valid or expired passport.
 - Naturalization documents or the number of the naturalization certificate, with further instructions if only the number is provided.
 - Other documents or methods of proof of U.S. citizenship issued by the federal government pursuant to the Immigration and Nationality Act of 1952 (including its amendments).
 - Bureau of Indian Affairs card number, tribal treaty card number, or tribal enrollment number.
 - Consular Report of Birth Abroad of a Citizen of the United States of America.
 - Certificate of Citizenship issued by the U.S. Citizenship and Immigration Services.
 - Certification of Report of Birth issued by the U.S. Department of State.
 - American Indian Card issued by the U.S. Department of Homeland Security with the classification “KIC.”
 - Final adoption decree showing the applicant’s name and U.S. birthplace.
 - Official U.S. military record of service showing the applicant’s birthplace in the U.S.
 - An extract from a U.S. hospital birth record created at the time of a U.S.-born applicant’s birth.
- Permits an applicant who is a U.S. citizen but does not have any of the acceptable proof-of-citizenship documents to submit any evidence that the applicant believes demonstrates he or she is a U.S. citizen. The applicant must contact the Secretary of State Elections Division directly by submitting a form, at which time the Secretary of State must notify the State Election Board. The State Election Board (composed of the Lieutenant Governor, the Secretary of State and the Attorney General) must meet on the call of the Secretary of State as needed to assess an individual’s information provided as evidence of citizenship. The process that must be followed – including an opportunity for the applicant to request a hearing, and what happens if the State Election Board finds the applicant’s evidence insufficient to establish citizenship – is specified in the bill. The Secretary of State is required to make additional rules as necessary to implement the requirement that the State Election Board meet on this matter.
 - Deems any person registered to vote in Kansas on the effective date of this act to have provided satisfactory citizenship evidence already. A voter who moves within the state or modifies his or her registration records for any other reason is not required to submit evidence of citizenship.

- States that proof of voter registration from another state is not satisfactory evidence of U.S. citizenship.
- If evidence of citizenship is deemed to be unsatisfactory due to an inconsistency between the document submitted and the name or sex provided on the application, the bill provides for an affidavit to accompany the proof of citizenship to be assessed by the county election officer or Secretary of State.
- Requires all evidence-of-citizenship documents submitted be kept confidential by the county election officer or the Secretary of State and maintained as provided by Kansas record retention laws. This requirement expires on July 1, 2016, unless the Legislature reenacts it as part of the review of exceptions required pursuant to the Kansas Open Records Act.
- Permits the Secretary of State to adopt rules and regulations in order to implement these requirements.

The bill also prohibits the Secretary of Health and Environment from charging or accepting any fee for a certified copy of a birth certificate if the birth certificate is requested by a person 17 or older for the purposes of meeting the citizenship requirement for voter registration. A person requesting a copy of his or her birth certificate for this purpose is required to sign an affidavit and submit it to the Secretary stating he or she plans to register to vote and that he or she does not possess any of the documents that constitute evidence of citizenship. A county must assist with and transmit forms for a birth certificate to the State Registrar's Office within the Department of Health and Environment at no charge to any person applying for a birth certificate for the purposes of registering to vote.

Publicizing Changes to Voter Identification Requirements

The bill requires the Secretary of State to provide notice of the ID requirements; the notice, at a minimum, shall use ads and public service announcements in print, broadcast television, radio, and cable television media, as well as publication on the Secretary's and Governor's websites.

Adjusting Election-Related Deadlines

The bill changes deadlines and dates in several election-related statutes:

- Provides that nomination petitions and the signatures on them will be checked within ten days, including weekends and holidays. Weekends and holidays also will be included in the five days allowed for a county recount.

- Provides that if a county is conducting a recount, the county will set a day, subject to approval by the Secretary of State, when the county election officer will submit the intermediate abstract.
- Moves back the day when the county election officer shall present original records to the county board of canvassers from Friday after the election to the following Monday or, if notice has been published, to the second Thursday following the election (to allow additional time for the voter of a provisional ballot to submit proof of identity).
- Changes deadlines for recount requests to the second Friday following the election.

Severability

The bill requires any provision of this act to be severed from the rest of the act, if it is held to be unconstitutional under either the U.S. or Kansas Constitutions. The remainder of the act would remain valid and in effect.