

Stricken language would be deleted from and underlined language would be added to present law.  
Act 249 of the Regular Session

State of Arkansas  
93rd General Assembly  
Regular Session, 2021

As Engrossed: H1/26/21

# A Bill

HOUSE BILL 1112

By: Representatives Lowery, *Beaty Jr.*, *Beck*, *Bentley*, *M. Berry*, *S. Berry*, *Boyd*, *Breaux*, *Brooks*, *Brown*, *Bryant*, *Cavenaugh*, *Cloud*, *Coleman*, *Crawford*, *Deffenbaugh*, *Dotson*, *Eaves*, *Eubanks*, *Evans*, *Fortner*, *Furman*, *Gonzales*, *M. Gray*, *Haak*, *Hawks*, *Hollowell*, *Jean*, *Ladyman*, *Lundstrum*, *Lynch*, *J. Mayberry*, *McClure*, *McCollum*, *McGrew*, *McNair*, *S. Meeks*, *Milligan*, *Payton*, *Pilkington*, *Ray*, *Richmond*, *Rye*, *B. Smith*, *S. Smith*, *Underwood*, *Vaught*, *Warren*, *Watson*, *Wing*  
By: Senators *A. Clark*, *Irvin*, *M. Johnson*, *Rapert*

## For An Act To Be Entitled

AN ACT TO AMEND THE LAW CONCERNING VOTER IDENTIFICATION; TO AMEND THE LAW CONCERNING VERIFICATION OF PROVISIONAL BALLOTS; TO AMEND AMENDMENT 51 OF THE ARKANSAS CONSTITUTION; AND FOR OTHER PURPOSES.

## Subtitle

TO AMEND THE LAW CONCERNING VOTER IDENTIFICATION; TO AMEND THE LAW CONCERNING VERIFICATION OF PROVISIONAL BALLOTS; AND TO AMEND AMENDMENT 51 OF THE ARKANSAS CONSTITUTION.

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

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

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

~~(A)(i)(a) The voter completes a sworn statement at the polling site when voting either early or at the polls on election day stating~~



~~that the voter is registered to vote in this state and that he or she is the person registered to vote.~~

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

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

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

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

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

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

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

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

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

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

section; and

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

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

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

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

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

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

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

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

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

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

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

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

~~(10)~~(9) The poll worker shall make a separate list of the names and addresses of all persons voting a provisional ballot under this subsection, and each person voting a provisional ballot shall sign his or her name to this list.

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

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

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

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

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

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

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

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

~~(2)(A) The voter statement accompanying the absentee ballot shall include a sworn statement portion that may be completed by the voter~~

~~stating that the voter is registered to vote and that he or she is the person who is registered.~~

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

*/s/Lowery*

**APPROVED: 3/3/21**