

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas  
2 85th General Assembly  
3 Regular Session, 2005

# A Bill

HOUSE BILL 1423

4  
5 By: Representatives L. Smith, Pritchard, Edwards  
6 By: Senator Madison

## For An Act To Be Entitled

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9  
10 AN ACT TO PROVIDE THAT WHEN A VOTER'S PROVISIONAL  
11 BALLOT IS NOT COUNTED, THE VOTER MAY FILE A  
12 PETITION TO CONTEST THE DENIAL TO COUNT THE VOTE;  
13 AND FOR OTHER PURPOSES.

## Subtitle

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16 TO PROVIDE FOR A PETITION PROCESS FOR  
17 UNCOUNTED PROVISIONAL BALLOTS.

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

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22 SECTION 1. Arkansas Code 7-5-306 is amended to read as follows:

23 7-5-306. Procedure when voter's name is not on the precinct voter  
24 registration list.

25 (a) If the voter's name is not on the precinct voter registration  
26 list, the election official shall permit the voter to vote only under the  
27 following conditions:

28 (1) The voter identifies himself or herself by stating his or  
29 her name and date of birth and is verified by the county clerk as a  
30 registered voter within the county and, if the county is divided into more  
31 than one (1) congressional district, within the same congressional district;

32 (2) The voter gives and affirms his or her current residence and  
33 the election official verifies with the county clerk that the voter's  
34 residence is within the precinct;

35 (3) The voter completes an updated voter registration  
36 application form; and



1 (4) The voter signs the precinct voter registration list.

2 (b) If the voter is not listed on the precinct voter registration list  
 3 and the election official is unable to verify the voter's registration with  
 4 the county clerk and the voter contends that he or she is a registered voter  
 5 in the precinct in which he or she desires to vote and that he or she is  
 6 eligible to vote, then the voter shall be permitted to cast a provisional  
 7 ballot as follows:

8 (1) An election official at the polling place shall notify the  
 9 individual that the individual may cast a provisional ballot in that  
 10 election;

11 (2) The individual shall be permitted to cast a provisional  
 12 ballot at that polling place upon the execution of a written affirmation by  
 13 the individual before an election official at the polling place stating that  
 14 the individual is:

15 (A) A registered voter in the ~~jurisdiction~~ precinct in  
 16 which the individual desires to vote; and

17 (B) Eligible to vote in that election;

18 (3) The provisional ballot shall be counted only upon  
 19 verification of the voter's registration status in the precinct by the county  
 20 board of election commissioners before certification of the election; and

21 (4)(A) Whenever a person casts a provisional ballot, the  
 22 election official shall provide the voter written information that states  
 23 that the individual who casts a provisional ballot will be able to ascertain  
 24 whether the vote was counted, and if not, the reason the vote was not  
 25 counted, by accessing a toll-free telephone number, Internet website, or  
 26 other free access system established by the Secretary of State for that  
 27 purpose.

28 (B) Access to information about an individual provisional  
 29 ballot shall be restricted to the individual who cast the ballot.

30 (c) The election official shall indicate on the list of voters those  
 31 persons who vote under these circumstances.

32 (d)(1) If a provisional ballot is not counted, then the voter or any  
 33 other interested party with standing may file a petition in a circuit court  
 34 of competent jurisdiction to seek to have the ballot counted.

35 (2) A petition under subdivision (d)(1) of this section shall be  
 36 filed within five (5) business days after the postmark of the letter advising

1 that a determination is made not to count a provisional ballot.

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