

{As Amended by Senate Committee of the Whole}

As Amended by Senate Committee

As Amended by House Committee

Session of 2021

HOUSE BILL No. 2332

By Representative Toplikar

2-10

1 AN ACT concerning elections; ~~relating to advance voting ballots~~
2 **prohibiting the governor, the executive branch and the judicial**
3 **branch from modifying election laws; limiting the authority of the**
4 **secretary of state to enter into certain consent decrees in court**
5 **without legislative coordinating council approval; directing the**
6 **secretary of state to include mailing addresses for registered voters in**
7 **electronic databases maintained by the secretary; expanding the**
8 **crime of election tampering;** requiring identification of the sender on
9 third party solicitations to registered voters to file an application for an
10 advance voting ballot; **prohibiting such solicitations by persons**
11 **located outside this state; penalties for violations;** amending K.S.A.
12 2020 Supp. 25-1122 **and 25-2423** and repealing the existing ~~section~~
13 **sections.**

14
15 *Be it enacted by the Legislature of the State of Kansas:*

16 *New Section 1. (a) The governor shall not have any authority to*
17 *modify election laws or procedures by issuance of an executive order.*

18 *(b) Except as provided in subsection (c), neither the executive*
19 *branch nor the judicial branch of state government shall have any*
20 *authority to modify the state election laws.*

21 *(c) The secretary of state shall not enter into any consent decree or*
22 *other agreement with any state or federal court regarding the*
23 *enforcement of any election law or the alteration of any election*
24 *procedure without specific approval of such consent decree by the*
25 *legislative coordinating council.*

26 *(d) Nothing in this section shall be construed to limit or otherwise*
27 *restrict the judicial branch of state government in the exercise of any*
28 *powers granted by article 3 of the constitution of the state of Kansas.*

29 *(e) If any provision of this section or the application thereof to any*
30 *person or circumstance is held invalid, such invalidity shall not affect*
31 *the other provisions or applications of the section that can be given*
32 *effect without the invalid provision or application, and, to this end, the*

1 *provisions of this section are severable.*

2 *New Sec. 2. The secretary of state shall record and maintain a*
3 *residential address and a mailing address for each registered voter. The*
4 *residential address of a registered voter shall correspond to a physical*
5 *location where the registered voter resides and shall not be a post office*
6 *box or other address that ~~cannot be used as a residence~~ {does not*
7 *correspond to a physical location that can be occupied}. The mailing*
8 *address may be the same as the residential address but shall be recorded*
9 *separately as the mailing address of the registered voter. The secretary*
10 *shall record such information in any electronic database of registered*
11 *voter information maintained by the secretary that is accessible by*
12 *county election officers.*

13 Section 1. *Sec. 3.* K.S.A. 2020 Supp. 25-1122 is hereby amended to
14 read as follows: 25-1122. (a) Any registered voter may file with the county
15 election officer where the person is a resident, or where the person is
16 authorized by law to vote as a former precinct resident, an application for
17 an advance voting ballot. The signed application shall be transmitted only
18 to the county election officer by personal delivery, mail, facsimile or as
19 otherwise provided by law.

20 (b) If the registered voter is applying for an advance voting ballot to
21 be transmitted in person, the voter shall provide identification pursuant to
22 K.S.A. 25-2908, and amendments thereto.

23 (c) If the registered voter is applying for an advance voting ballot to
24 be transmitted by mail, the voter shall provide with the application for an
25 advance voting ballot the voter's current and valid Kansas driver's license
26 number, nondriver's identification card number or a photocopy of any
27 other identification provided by K.S.A. 25-2908, and amendments thereto.

28 (d) A voter may vote a provisional ballot according to K.S.A. 25-409,
29 and amendments thereto, if:

30 (1) The voter is unable or refuses to provide current and valid
31 identification; or

32 (2) the name and address of the voter provided on the application for
33 an advance voting ballot do not match the voter's name and address on the
34 registration book. The voter shall provide a valid form of identification as
35 defined in K.S.A. 25-2908, and amendments thereto, to the county election
36 officer in person or provide a copy by mail or electronic means before the
37 meeting of the county board of canvassers. At the meeting of the county
38 board of canvassers the county election officer shall present copies of
39 identification received from provisional voters and the corresponding
40 provisional ballots. If the county board of canvassers determines that a
41 voter's identification is valid and the provisional ballot was properly cast,
42 the ballot shall be counted.

43 (e) No county election officer shall provide an advance voting ballot

1 to a person who is requesting an advance voting ballot to be transmitted by
2 mail unless:

3 (1) The county election official verifies that the signature of the
4 person matches that on file in the county voter registration records, except
5 that verification of the voter's signature shall not be required if a voter has
6 a disability preventing the voter from signing. Signature verification may
7 occur by electronic device or by human inspection. In the event that the
8 signature of a person who is requesting an advance voting ballot does not
9 match that on file, the county election officer shall attempt to contact the
10 person and shall offer the person another opportunity to provide the
11 person's signature for the purposes of verifying the person's identity. If the
12 county election officer is unable to reach the person, the county election
13 officer may transmit a provisional ballot, however, such provisional ballot
14 may not be counted unless a signature is included therewith that can be
15 verified; and

16 (2) the person provides such person's full Kansas driver's license
17 number, Kansas nondriver's identification card number issued by the
18 division of vehicles, or submits such person's application for an advance
19 voting ballot and a copy of identification provided by K.S.A. 25-2908, and
20 amendments thereto, to the county election officer for verification. If a
21 person applies for an advance voting ballot to be transmitted by mail but
22 fails to provide identification pursuant to this subsection or the
23 identification of the person cannot be verified by the county election
24 officer, the county election officer shall provide information to the person
25 regarding the voter rights provisions of subsection (d) and shall provide
26 the person an opportunity to provide identification pursuant to this
27 subsection. For the purposes of this act, Kansas state offices and offices of
28 any subdivision of the state will allow any person seeking to vote by an
29 advance voting ballot the use of a photocopying device to make one
30 photocopy of an identification document at no cost.

31 (f) Applications for advance voting ballots to be transmitted to the
32 voter by mail shall be filed only at the following times:

33 (1) For the primary election occurring on the first Tuesday in August
34 in both even-numbered and odd-numbered years, between April 1 of such
35 year and the Tuesday of the week preceding such primary election.

36 (2) For the general election occurring on the Tuesday following the
37 first Monday in November in both even-numbered and odd-numbered
38 years, between 90 days prior to such election and the Tuesday of the week
39 preceding such general election.

40 (3) For question submitted elections occurring on the date of a
41 primary or general election, the same as is provided for ballots for election
42 of officers at such election.

43 (4) For question submitted elections not occurring on the date of a

1 primary or general election, between the time of the first published notice
2 thereof and the Tuesday of the week preceding such question submitted
3 election, except that if the question submitted election is held on a day
4 other than a Tuesday, the final date for mailing of advance voting ballots
5 shall be one week before such election.

6 (5) For any special election of officers, at such time as is specified by
7 the secretary of state.

8 The county election officer of any county may receive applications
9 prior to the time specified in this subsection and hold such applications
10 until the beginning of the prescribed application period. Such applications
11 shall be treated as filed on that date.

12 (g) Unless an earlier date is designated by the county election office,
13 applications for advance voting ballots transmitted to the voter in person in
14 the office of the county election officer shall be filed on the Tuesday next
15 preceding the election and on each subsequent business day until no later
16 than 12 noon on the day preceding such election. If the county election
17 officer so provides, applications for advance voting ballots transmitted to
18 the voter in person in the office of the county election officer also may be
19 filed on the Saturday preceding the election. Upon receipt of any such
20 properly executed application, the county election officer shall deliver to
21 the voter such ballots and instructions as are provided for in this act.

22 An application for an advance voting ballot filed by a voter who has a
23 temporary illness or disability or who is not proficient in reading the
24 English language or by a person rendering assistance to such voter may be
25 filed during the regular advance ballot application periods until the close
26 of the polls on election day.

27 The county election officer may designate places other than the central
28 county election office as satellite advance voting sites. At any satellite
29 advance voting site, a registered voter may obtain an application for
30 advance voting ballots. Ballots and instructions shall be delivered to the
31 voter in the same manner and subject to the same limitations as otherwise
32 provided by this subsection.

33 (h) Any person having a permanent disability or an illness that has
34 been diagnosed as a permanent illness is hereby authorized to make an
35 application for permanent advance voting status. Applications for
36 permanent advance voting status shall be in the form and contain such
37 information as is required for application for advance voting ballots and
38 also shall contain information that establishes the voter's right to
39 permanent advance voting status.

40 (i) On receipt of any application filed under the provisions of this
41 section, the county election officer shall prepare and maintain in such
42 officer's office a list of the names of all persons who have filed such
43 applications, together with their correct post office address and the

1 precinct, ward, township or voting area in which the persons claim to be
2 registered voters or to be authorized by law to vote as former precinct
3 residents and the present resident address of each applicant. Names and
4 addresses shall remain so listed until the day of such election. The county
5 election officer shall maintain a separate listing of the names and addresses
6 of persons qualifying for permanent advance voting status. All such lists
7 shall be available for inspection upon request in compliance with this
8 subsection by any registered voter during regular business hours. The
9 county election officer upon receipt of the applications shall enter upon a
10 record kept by such officer the name and address of each applicant, which
11 record shall conform to the list above required. Before inspection of any
12 advance voting ballot application list, the person desiring to make the
13 inspection shall provide to the county election officer identification in the
14 form of driver's license or other reliable identification and shall sign a log
15 book or application form maintained by the officer stating the person's
16 name and address and showing the date and time of inspection. All records
17 made by the county election officer shall be subject to public inspection,
18 except that the voter identification information required by subsections (b)
19 and (c) and the identifying number on ballots and ballot envelopes and
20 records of such numbers shall not be made public.

21 (j) If a person on the permanent advance voting list fails to vote in
22 four consecutive general elections held on the Tuesday succeeding the first
23 Monday in November of each even-numbered and odd-numbered year, the
24 county election officer may mail a notice to such voter. The notice shall
25 inform the voter that the voter's name will be removed from the permanent
26 advance voting list unless the voter renews the application for permanent
27 advance voting status within 30 days after the notice is mailed. If the voter
28 fails to renew such application, the county election officer shall remove the
29 voter's name from the permanent advance voting list. Failure to renew the
30 application for permanent advance voting status shall not result in removal
31 of the voter's name from the voter registration list.

32 (k) **(1)** *Any person who solicits by mail a registered voter to file an*
33 *application for an advance voting ballot and includes an application for*
34 **an advance voting ballot in such mailing shall include on the exterior of**
35 *such mailing, and on each page contained therein, except the application,*
36 *a clear and conspicuous label in 14-point font or larger that includes:*

37 ~~(A)~~ **(A)** *The name of the individual or organization that caused such*
38 *solicitation to be mailed;*

39 ~~(B)~~ **(B)** *if an organization, the name of the president, chief executive*
40 *officer or executive director of such organization;*

41 ~~(C)~~ **(C)** *the address of such individual or organization; and*

42 ~~(D)~~ **(D)** *the following statement: "Disclosure: This is not a government*
43 *mailing. It is from a private individual or organization."*

1 (2) *The application for an advance voting ballot included in such*
 2 *mailing shall be the official application for advance ballot by mail*
 3 *provided by the secretary of state. No portion of such application shall*
 4 *be completed prior to mailing such application to the registered voter.*

5 (3) *An application for an advance {voting} ballot shall include an*
 6 *envelope addressed to the appropriate county election office for the*
 7 *mailing of such ~~advance ballot~~ {application}. In no case shall the person*
 8 *who mails the application {to the voter} direct that the completed*
 9 *~~advanced ballot~~ application be returned to such person.*

10 (4) *The provisions of this subsection shall not apply to:*

11 (A) *The secretary of state or any election official or county*
 12 *election office; or*

13 (B) *the official protection and advocacy for voting access agency*
 14 *for this state as designated pursuant to the federal help America vote*
 15 *act of 2002, public law 107-252, or any other entity required to provide*
 16 *information concerning elections and voting procedures by federal*
 17 *law.*

18 ~~(3)~~(5) *A violation of this subsection is a class C nonperson*
 19 *misdemeanor.*

20 (1) *No person shall mail or cause to be mailed an application*
 21 *for an advance voting ballot, unless such person is a resident of this*
 22 *state or is otherwise domiciled in this state.*

23 (2) *Any individual may file a complaint in writing with the*
 24 *attorney general alleging a violation of this subsection. Such complaint*
 25 *shall include the name of the person alleged to have violated this*
 26 *subsection and any other information as required by the attorney*
 27 *general. Upon receipt of a complaint, the attorney general shall*
 28 *investigate and may file an action against any person found to have*
 29 *violated this subsection.*

30 (3) *Any person who violates the provisions of this subsection is*
 31 *subject to a civil penalty of \$20. Each instance in which a person mails*
 32 *an application for an advance voting ballot in violation of this section*
 33 *shall constitute a separate violation.*

34 (m) *The secretary of state may adopt rules and regulations in order to*
 35 *implement the provisions of this section and to define valid forms of*
 36 *identification.*

37 *Sec. 4. K.S.A. 2020 Supp. 25-2423 is hereby amended to read as*
 38 *follows: 25-2423. (a) Election tampering is;*

39 (1) ~~While being charged with no election duty,~~ *Making or changing*
 40 *any election record unless the person is lawfully carrying out an election*
 41 *duty;*

42 (2) *changing or attempting to change, alter, destroy or conceal any*
 43 *vote cast by paper ballot, election machine or computer;*

1 (3) *changing or attempting to change any vote by manipulating*
2 *computer hardware, computer software, election machine, wireless or*
3 *cellular transmission or vote tabulation methods; or*

4 (4) *knowingly producing false vote totals.*

5 **(b) *Election tampering is a severity level 7, nonperson felony.***

6 Sec. ~~2~~ 5. K.S.A. 2020 Supp. 25-1122 ~~is~~ **and 25-2423 are** hereby
7 repealed.

8 Sec. ~~3~~ 6. This act shall take effect and be in force from and after
9 **January 1, 2022, and** its publication in the statute book.