

HOUSE BILL No. 2288

AN ACT concerning elections; relating to conformity with the help America vote act of 2002; amending K.S.A. 25-216, 25-414, 25-1122d, 25-1216, 25-2111, 25-2908 and 25-3008 and K.S.A. 2002 Supp. 25-106, 25-409, 25-2309 and 25-2706 and repealing the existing sections.

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

Section 1. K.S.A. 25-216 is hereby amended to read as follows: 25-216. The right of any person to vote at any national, state, county and township primary election may be challenged by any elector upon the same ground and his right to vote be determined in the same manner as at a national, state, county and township general election, except as otherwise provided herein.

If the person offering his vote be challenged as unqualified on the ground that he is not a member of the party announced by himself, he shall make and subscribe an affidavit as prescribed in K.S.A. 25-409, and amendments thereto, and an affidavit in the following form, which shall be presented to and retained by the election board, and returned by the supervising judge with the poll list:

STATE OF KANSAS, COUNTY OF _____, ss.

I, _____, ~~do solemnly swear (or affirm) that I~~ am more than eighteen years of age and am qualified to vote under and by virtue of the constitution and the laws of the state of Kansas, and I am an elector of this precinct and election district; ~~that I~~ now reside at _____ (insert street and number, if any) in this precinct, and am a member of and am affiliated with the _____ party; ~~that I~~ have not signed the petition of a member of any other party who is seeking a nomination at this primary election; and ~~that I~~ have not signed the nominating petition of an independent candidate for any office for which candidates are to be voted for at this primary election.

~~Subscribed and sworn to before me~~ I declare under the penalty of perjury that the foregoing is true and correct, this _____ day of _____, A.D. _____.
_____, Signature of Voter, _____, Judge of Election.

Sec. 2. K.S.A. 2002 Supp. 25-409 is hereby amended to read as follows: 25-409. (a) If any person challenged pursuant to K.S.A. 25-414, and amendments thereto, shall refuse to subscribe the application for registration pursuant to K.S.A. 25-2309, and amendments thereto, the judges shall reject such person's vote.

(b) If a person is challenged pursuant to K.S.A. 25-414, and amendments thereto, such person shall be permitted to subscribe the application for registration and mark a ballot. *The person then shall execute the affirmation prescribed in subsection (c) of this section before a member of the election board and the ballot shall thereupon be sealed in an envelope.* The judges shall write on the envelope the word "provisional" and a statement of the reason for the challenge, and that the ballot contained in the envelope is the same ballot which was challenged pursuant to K.S.A. 25-409 *et seq.* and amendments thereto. Such statement shall be attested by two of the judges. The judges shall attach the application for registration to the envelope containing the provisional ballot. The envelope shall be numbered to correspond to the number of the provisional voter's name in the registration or poll book, and the word "provisional" shall be written following the voter's name in the poll book. Such provisional ballots, together with objected to and void ballots packaged in accordance with K.S.A. 25-3008, and amendments thereto, shall be reviewed by the county board of canvassers at the time prescribed for canvassing votes, and such board shall determine the acceptance or rejection of the same. The county board of canvassers shall open all ballots deemed to be valid and include such ballots in the final canvass of election returns.

(c) STATE OF KANSAS, COUNTY OF _____, ss.

I am a registered voter in this jurisdiction and I am eligible to vote in this election.

I declare under penalty of perjury that the foregoing is true and correct,
this _____ day of _____, A.D. _____.
_____, Signature of Voter _____,
Judge of Election.

Sec. 3. K.S.A. 25-414 is hereby amended to read as follows: 25-414. (a) It shall be the duty of each judge of election to challenge any person

offering to vote, whom the judge shall know or suspect not to be qualified as an elector.

(b) A person who: (1) Has moved from an address in the registration book to another address in the same county; or (2) has not moved, but the registration list indicates otherwise, is a qualified elector, but shall be challenged by an election judge and entitled to cast only a provisional ballot pursuant to K.S.A. 25-409, and amendments thereto.

(c) *A person who votes after the polling place hours prescribed in K.S.A. 25-106, and amendments thereto, pursuant to a court or other order is entitled to cast only a provisional ballot pursuant to K.S.A. 25-409, and amendments thereto.*

(d) The application shall be delivered to the election judges and attached to the provisional ballot envelope. Such application and ballot envelope containing the ballot shall be transmitted to the county election officer with election returns and supplies.

~~(d)~~ (e) Following the determination of acceptance or rejection of any provisional ballot by the county board of canvassers, the county election officer shall update the registration record, if appropriate, for voting in future elections, and send, by nonforwardable first-class mail, to the address specified on the application, notice of disposition of the application. The registrant's name shall not be removed from the official list of eligible voters by reason of such a change of address except as provided in K.S.A. 25-2316c, and amendments thereto.

Sec. 4. K.S.A. 25-1122d is hereby amended to read as follows: 25-1122d. (a) The application for an advance voting ballot shall be accompanied by an affirmation in substance as follows:

Affirmation of an Elector of the County of _____ and State of Kansas Desiring to Vote an Advance Voting Ballot

State of _____, County of _____, ss:

I, _____,

(Please print name)

do solemnly affirm that I am a qualified elector of the _____ precinct of the _____ ward, residing at number _____ on _____ street, city of _____, or in the township of _____, county of _____, and state of Kansas. My date of birth is _____ (month/day/year). *I understand I will not be entitled to receive an advance voting ballot unless I provide one of the following forms of identification with this application:*

(1) *A copy of my current and valid Kansas driver's license or nondriver's identification card or other valid form of identification approved by the secretary of state; or*

(2) *my current and valid Kansas driver's license number or nondriver's license identification number _____; or*

(3) *the last four digits of my social security number _____*

I am entitled to vote an advance voting ballot and I have not voted and will not otherwise vote at the election to be held on _____ (date). My political party is _____ (to be filled in only when requesting primary election ballots). I desire my ballots to be sent to the following address

Signature of voter.

Note: False statement on this affirmation is a class C misdemeanor.

(b) An application for permanent advance voting status shall be on a form prescribed by the secretary of state for this purpose. Such application shall contain an affirmation concerning substantially the same information required in subsection (a) and in addition thereto a statement regarding the permanent character of such illness or disability.

(c) Any application by a former precinct resident shall state both the former and present residence, address, precinct and county of such former precinct resident and the date of change of residence.

Sec. 5. K.S.A. 25-1216 is hereby amended to read as follows: 25-1216. (a) Every person who is qualified and eligible to vote by federal services absentee ballot under the provisions of this act may make application for such ballot to the county election officer of the county of such

voter's residence or to the secretary of state. Such application shall be made by postcard application provided for and prescribed in the federal act or on a form to be prescribed by the secretary of state. Any such application ~~made before the election to be held in August of any even-numbered year also may be valid for the election to be held in November of that year~~ shall be valid for any election at which such voter otherwise is entitled to vote between the date of the application through the next two regularly scheduled general elections for national or state office.

(b) If the voter is residing outside the United States or is a member of the United States armed forces or a spouse or dependent of a member of the armed forces and a qualified elector and cannot vote timely by mail, the voter may apply for registration and an absentee ballot by facsimile. The voter may also request that the county election officer transmit to such voter by facsimile a ballot, or a second ballot, as the case may be. The voter may then either mail or transmit by facsimile such voter's voted ballot, back to the county election officer.

If the voter chooses to transmit the voted ballot to the county election officer by facsimile, the transmittal shall contain the following statement: "I understand that by faxing my voted ballot I am voluntarily waiving my right to a secret ballot." This statement shall be followed by the voter's signature and the date. Upon receipt of the transmittal, the county election officer shall place the voted ballot along with the signed statement and affidavit in an appropriately marked envelope and seal it. The county election officer and such officer's staff shall take the steps necessary to keep the voted ballots received by facsimile as confidential as practicable.

Sec. 6. K.S.A. 2002 Supp. 25-2309 is hereby amended to read as 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 mail voter registration application prescribed by the federal election commission. 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.

(b) Applications made under this section shall give voter eligibility requirements and such information as is necessary to identify the applicant and to determine the qualifications of the applicant as an elector and the facts authorizing such person to be registered, including, but not limited to, the following data:

- (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;
- (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; ~~and~~

(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 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?”;*

(17) *in reference to subsections (15) and (16) the statement “If you checked ‘no’ in response to either of these questions, do not complete this form.”;*

(18) *a statement that the applicant shall be required to provide identification when voting; and*

(19) 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.

(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.*

Sec. 7. K.S.A. 2002 Supp. 25-2706 is hereby amended to read as follows: 25-2706. (a) The county election officer shall prepare and furnish copies of all registrations and all books, maps, instructions and blanks needed for the use and guidance of election boards and voters. County election officers may adopt such rules and regulations for elections as may be needed and not in conflict with state law or rules and regulations. Such rules and regulations shall be submitted to the secretary of state for approval.

(b) The county election officer shall furnish printed instructions to election boards, defining their duties and the law governing elections.

(c) The county election officer shall furnish printed instructions to voters ~~and~~, a list of voters' rights and responsibilities, *a sample ballot, notification of the date of the election and the polling place hours* which shall be posted in every voting place at every election, and wherever the secretary of state deems it advisable, the instructions ~~and~~, a list of voters' rights and responsibilities *and notification* shall be printed in English and in a language or languages other than English.

(d) The secretary of state shall specify the form and contents of instructions to voters, list of voters' rights and responsibilities and instructions to election boards. Such specifications shall be transmitted to county election officers and may be changed from time to time by the secretary of state.

Sec. 8. K.S.A. 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) Persons desiring to vote shall give their names, and if required their residence, to the judges of election, one of whom shall announce the 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. For the purpose of identifying voters at the polling place, the voter shall add the voter's signature, as listed in the registration book, to the registration book beside the voter's printed name or to the poll book and the voter shall be allowed to vote. An election board member shall provide the required signature at the request of and on behalf of any voter who is unable to personally affix a handwritten signature by reason of physical disability, visual handicap or lack of proficiency in reading the English language or any voter 65 or more years of age. The judges shall give the voter one and only one of each ballot to be cast at the election, on the upper right-hand corner of each of which shall be written the number corresponding to the voter's number in the registration book or poll books, and the voter's name shall be marked in the registration books and the party affiliation list. If the voter refuses to sign the registration book or poll book, the election board judge shall challenge such person's vote pursuant to K.S.A. 25-414, and amendments thereto. 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 current and valid Kansas driver's license, nondriver's identification card or other valid identification as defined by rules and regulations adopted by the secretary of state which meet or exceed the requirements of the Help America Vote Act of 2002, Public Law 107-252; and~~
- ~~(4) the voter's signature on the registration or poll book.~~
- ~~(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 valid identification from the voter;~~
 - ~~(3) request the voter's signature on the registration or poll book;~~
 - ~~(4) provide the required signature at the request of and on behalf of any voter who is unable to personally affix a handwritten signature by reason of physical disability, visual handicap or lack of proficiency in reading the English language;~~
 - ~~(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 books; and~~
 - ~~(6) mark the voter's name in the registration books and party affiliation list.~~
- ~~(d) If the voter is unable to provide current and valid identification at the polling place the voter may vote a provisional ballot in accordance with K.S.A. 25-409, and amendments thereto.~~
 - ~~(1) If the voter registered by mail and has not previously voted in the county, the voter shall provide a valid form of identification as defined in subsection (b) to the county election officer in person or shall provide a copy by mail or electronic means before the meeting of the county board of canvassers.~~
 - ~~(2) Except as provided in paragraph (1) of subsection (d), the voter may:~~
 - ~~(A) Provide the voter's current and valid Kansas driver's license number or nondriver's identification number, or the last four digits of the voter's social security number to the election board and the county election~~

officer shall verify the number provided with records of the department of motor vehicles; or

(B) provide a valid form of identification as identified in subsection (b) 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.

(3) At the meeting of the county board of canvassers the county election officer shall:

(A) Notify the board of canvassers of verified voter identification numbers; and

(B) 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.

~~(e)~~ *(f) A voter who has received an advance voting ballot may vote a regular ballot on election day at the precinct polling place where the voter resides if the voter first 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.*

(g) The secretary of state is hereby authorized to adopt such rules and regulations as may be necessary to implement the provisions of this section.

Sec. 9. K.S.A. 25-3008 is hereby amended to read as follows: 25-3008. Before leaving the voting place the supervising judge shall ascertain that the election supplies and ballots that are to be returned have been packaged, packed and separated as provided in this section:

(a) All ballots both voted and unvoted, except void, objected to and provisional ballots, shall be placed in bags or sacks. Such bags or sacks shall be sealed and appropriately labeled. The method of sealing and labeling shall be a method approved by the secretary of state and directed by the county election officer.

(b) Ballots that are spoiled and returned by the voter shall be marked "spoiled" on the back thereof and shall be placed in the bags or envelopes specified in subsection (a) of this section.

(c) Provisional ballot envelopes containing ballots, with applications for registration attached, shall be placed in an appropriately labeled envelope, and shall be sealed as in subsection (a) of this section.

~~(d)~~ *(d) Provisional ballot envelopes containing ballots cast after the polling place hours prescribed in K.S.A. 25-106, and amendments thereto, pursuant to a court or other order shall be separated from provisional ballot envelopes described in subsection (c) and shall be packaged and sealed as required by subsection (a).*

~~(e)~~ *(e) Objected to ballots shall be placed in an appropriately labeled envelope, and shall be sealed as in subsection (a) of this section.*

~~(e)~~ *(f) Ballots that are cast but not counted shall be marked "void" on the back thereof and shall be placed in the same envelope that contains objected to ballots.*

~~(f)~~ *(g) Ballots specified in subsections (a) and (b) shall be separately packaged from ballots specified in subsections (c), ~~(d)~~ and (e) and (f).*

~~(g)~~ *(h) Poll books, registration books, party affiliation lists, tally sheets, abstracts and election supplies not listed in the preceding subsections of this section shall be returned sealed but not packaged with the items specified in subsections (a), (b), (c), ~~(d)~~, ~~(e)~~ and ~~(f)~~ (e), (f) and (g).*

Sec. 10. K.S.A. 2002 Supp. 25-106 is hereby amended to read as follows: 25-106. (a) The provisions of this subsection shall apply to all counties in Kansas located in the central time zone.

At all national, state, county and township primary and general elections the polls shall open at 7:00 a.m. and close at 7:00 p.m., unless different hours are set and publicly announced by the county election officer. If different hours are set, the polls shall be open at least 12 continuous hours commencing not earlier than 6:00 a.m. and ending not later than 8:00 p.m. and ending not earlier than 7:00 p.m. The secretary of state shall adopt rules and regulations specifying the time and manner of setting and announcing any change of hours under authority of this subsection.

(b) The provisions of this subsection shall apply to all counties in Kansas located in the mountain time zone.

At all national, state, county and township primary and general elections the polls shall open at 6:00 a.m. and close at 6:00 p.m., unless different hours are set and publicly announced by the county election officer. If different hours are set, the polls shall be open at least 12 continuous hours commencing not earlier than 5:00 a.m. and ending not later than 7:00 p.m. and ending not earlier than 6:00 p.m. The secretary of state shall adopt rules and regulations specifying the time and manner of setting and announcing any change of hours under authority of this subsection.

(c) *At the time any national, state, county and township primary and general poll is designated to close pursuant to this section, an election board judge at such polling place shall count the number of individuals in line at such polling place, if any, who have not voted but desire to vote. Each such individual who is a qualified voter shall be permitted to cast a ballot which shall be counted as a regular ballot and not as a provisional ballot unless the ballot is challenged for a separate reason pursuant to K.S.A. 25-414 and amendments thereto. The election board judge shall take all steps reasonable to prevent additional people from attempting to vote once the count required by this subsection has been made.*

Sec. 11. K.S.A. 25-2111 is hereby amended to read as follows: 25-2111. (a) At all city elections the polls shall open at 7:00 a.m. and close at 7:00 p.m., unless different hours are set and publicly announced by the county election officer. In the event that different hours are so set, the polls shall be open at least ~~twelve (12)~~ 12 continuous hours commencing not earlier than 6:00 a.m. and ending not later than 8:00 p.m. The secretary of state shall adopt rules and regulations specifying the time and manner of setting and announcing any change of hours under authority of this section.

(b) *At the time any city election poll is designated to close pursuant to this section, an election board judge shall count the number of individuals in line at such polling place, if any, who have not voted but who desire to vote. Each such individual who is a qualified voter shall be permitted to cast a ballot which shall be counted as a regular ballot and not as a provisional ballot unless the ballot is challenged for a separate reason pursuant to K.S.A. 25-414 and amendments thereto. The election board judge shall take all steps reasonable to prevent additional people from attempting to vote once the count required by this subsection has been made.*

Sec. 12. K.S.A. 25-216, 25-414, 25-1122d, 25-1216, 25-2111, 25-2908 and 25-3008 and K.S.A. 2002 Supp. 25-106, 25-409, 25-2309 and 25-2706 are hereby repealed.

Sec. 13. This act shall take effect and be in force from and after its publication in the statute book.

I hereby certify that the above BILL originated in the HOUSE, and passed that body

HOUSE adopted
Conference Committee Report _____

Speaker of the House.

Chief Clerk of the House.

Passed the SENATE
as amended _____

SENATE adopted
Conference Committee Report _____

President of the Senate.

Secretary of the Senate.

APPROVED _____

Governor.