

HOUSE BILL No. 2428

By Representative Ward

1-13

1 AN ACT concerning elections; enacting the Kansas protection against
2 voter suppression act; amending the crime of perjury; amending K.S.A.
3 2013 Supp. 21-5903 and 25-2309 and repealing the existing sections.

4
5 *Be it enacted by the Legislature of the State of Kansas:*

6 Section 1. K.S.A. 2013 Supp. 21-5903 is hereby amended to read as
7 follows: 21-5903.(a) Perjury is intentionally and falsely:

8 (1) Swearing, testifying, affirming, declaring or subscribing to any
9 material fact upon any oath or affirmation legally administered in any
10 cause, matter or proceeding before any court, tribunal, public body, notary
11 public or other officer authorized to administer oaths; or

12 (2) subscribing as true and correct under penalty of perjury any
13 material matter in any declaration, verification, certificate or statement as
14 permitted by K.S.A. 53-601, and amendments thereto.

15 (b) Perjury is a:

16 (1) Severity level 9, nonperson felony, except as provided in
17 subsection (b)(2); ~~and~~

18 (2) severity level 7, nonperson felony if the false statement is made
19 upon the trial of a felony charge; *and*

20 (3) *subscribing as true and correct under penalty of perjury the*
21 *affidavit as provided in K.S.A. 25-2309(m)(2), and amendments thereto.*

22 Sec. 2. K.S.A. 2013 Supp. 25-2309 is hereby amended to read as
23 follows: 25-2309. (a) *This section shall be known and may be cited as the*
24 *"Kansas protection against voter suppression act";*

25 (b) any person may apply in person, by mail, through a voter
26 registration agency, or by other delivery to a county election officer to be
27 registered. Such application shall be made on: (1) A form approved by the
28 secretary of state, which shall be provided by a county election officer or
29 chief state election official upon request in person, by telephone or in
30 writing; or (2) the national mail voter registration form issued pursuant to
31 federal law. Such application shall be signed by the applicant under
32 penalty of perjury and shall contain the original signature of the applicant
33 or the computerized, electronic or digitized transmitted signature of the
34 applicant. A signature may be made by mark, initials, typewriter, print,
35 stamp, symbol or any other manner if by placing the signature on the
36 document the person intends the signature to be binding. A signature may

1 be made by another person at the voter's direction if the signature reflects
2 such voter's intention.

3 ~~(b)~~ (c) Applications made under this section shall give voter
4 eligibility requirements and such information as is necessary to prevent
5 duplicative voter registrations and enable the relevant election officer to
6 assess the eligibility of the applicant and to administer voter registration,
7 including, but not limited to, the following data to be kept by the relevant
8 election officer as provided by law:

9 (1) Name;

10 (2) place of residence, including specific address or location, and
11 mailing address if the residence address is not a permissible postal address;

12 (3) date of birth;

13 (4) sex;

14 (5) the last four digits of the person's social security number or the
15 person's full driver's license or nondriver's identification card number;

16 (6) telephone number, if available;

17 (7) naturalization data (if applicable);

18 (8) if applicant has previously registered or voted elsewhere,
19 residence at time of last registration or voting;

20 (9) when present residence established;

21 (10) name under which applicant last registered or voted, if different
22 from present name;

23 (11) an attestation that the applicant meets each eligibility
24 requirement;

25 (12) a statement that the penalty for submission of a false voter
26 registration application is a maximum presumptive sentence of 17 months
27 in prison;

28 (13) a statement that, if an applicant declines to register to vote, the
29 fact that the applicant has declined to register will remain confidential and
30 will be used only for voter registration purposes;

31 (14) a statement that if an applicant does register to vote, the office to
32 which a voter registration application is submitted will remain confidential
33 and will be used only for voter registration purposes;

34 (15) boxes for the applicant to check to indicate whether the applicant
35 is or is not a citizen of the United States, together with the question "Are
36 you a citizen of the United States of America?";

37 (16) boxes for the county election officer or chief state election
38 official to check to indicate whether the applicant has provided with the
39 application the information necessary to assess the eligibility of the
40 applicant, including such applicant's United States citizenship;

41 (17) boxes for the applicant to check to indicate whether or not the
42 applicant will be 18 years of age or older on election day, together with the
43 question "Will you be 18 years of age on or before election day?";

1 (18) in reference to paragraphs (15) and (17) the statement "If you
2 checked 'no' in response to either of these questions, do not complete this
3 form.";

4 (19) a statement that the applicant shall be required to provide
5 identification when voting; and

6 (20) political party affiliation declaration, if any. An applicant's
7 failure to make a declaration will result in the applicant being registered as
8 an unaffiliated voter.

9 If the application discloses any previous registration in any other
10 county or state, as indicated by paragraph (8) or (10), or otherwise, the
11 county election officer shall upon the registration of the applicant, give
12 notice to the election official of the place of former registration, notifying
13 such official of applicant's present residence and registration, and
14 authorizing cancellation of such former registration. This section shall be
15 interpreted and applied in accordance with federal law. No eligible
16 applicant whose qualifications have been assessed shall be denied
17 registration.

18 ~~(e)~~ (d) Any person who applies for registration through a voter
19 registration agency shall be provided with, in addition to the application
20 under subsection ~~(b)~~ (c), a form which includes:

21 (1) The question "If you are not registered to vote where you live
22 now, would you like to apply to register to vote here today?";

23 (2) a statement that if the applicant declines to register to vote, this
24 decision will remain confidential and be used only for voter registration
25 purposes;

26 (3) a statement that if the applicant does register to vote, information
27 regarding the office to which the application was submitted will remain
28 confidential and be used only for voter registration purposes; and

29 (4) if the agency provides public assistance, ~~(i)~~ (A) the statement
30 "Applying to register or declining to register to vote will not affect the
31 amount of assistance that you will be provided by this agency.";

32 ~~(ii)~~ (B) boxes for the applicant to check to indicate whether the
33 applicant would like to register or declines to register to vote, together
34 with the statement "IF YOU DO NOT CHECK EITHER BOX, YOU
35 WILL BE CONSIDERED TO HAVE DECIDED NOT TO REGISTER TO
36 VOTE AT THIS TIME.";

37 ~~(iii)~~ (C) the statement "If you would like help in filling out the voter
38 registration application form, we will help you. The decision whether to
39 seek or accept help is yours. You may fill out the application form in
40 private."; and

41 ~~(iv)~~ (D) the statement "If you believe that someone has interfered
42 with your right to register or to decline to register to vote, your right to
43 privacy in deciding whether to register or in applying to register to vote, or

1 your right to choose your own political party or other political preference,
2 you may file a complaint with the Kansas Secretary of State."

3 ~~(d)~~ (e) If any person, in writing, declines to register to vote, the voter
4 registration agency shall maintain the form prescribed by subsection ~~(e)~~
5 (d).

6 ~~(e)~~ (f) A voter registration agency shall transmit the completed
7 registration application to the county election officer not later than five
8 days after the date of acceptance. Upon receipt of an application for
9 registration, the county election officer shall send, by nonforwardable
10 mail, a notice of disposition of the application to the applicant at the postal
11 delivery address shown on the application. If a notice of disposition is
12 returned as undeliverable, a confirmation mailing prescribed by K.S.A. 25-
13 2316c, and amendments thereto, shall occur.

14 ~~(f)~~ (g) If an application is received while registration is closed, such
15 application shall be considered to have been received on the next
16 following day during which registration is open.

17 ~~(g)~~ (h) A person who completes an application for voter registration
18 shall be considered a registered voter when the county election officer
19 adds the applicant's name to the county voter registration list.

20 ~~(h)~~ (i) Any registered voter whose residence address is not a
21 permissible postal delivery address shall designate a postal address for
22 registration records. When a county election officer has reason to believe
23 that a voter's registration residence is not a permissible postal delivery
24 address, the county election officer shall attempt to determine a proper
25 mailing address for the voter.

26 ~~(i)~~ (j) Any registered voter may request that such person's residence
27 address be concealed from public inspection on the voter registration list
28 and on the original voter registration application form. Such request shall
29 be made in writing to the county election officer, and shall specify a
30 clearly unwarranted invasion of personal privacy or a threat to the voter's
31 safety. Upon receipt of such a request, the county election officer shall take
32 appropriate steps to ensure that such person's residence address is not
33 publicly disclosed. Nothing in this subsection shall be construed as
34 requiring or authorizing the secretary of state to include on the voter
35 registration application form a space or other provision on the form that
36 would allow the applicant to request that such applicant's residence
37 address be concealed from public inspection.

38 ~~(j)~~ (k) No application for voter registration shall be made available for
39 public inspection or copying unless the information required by paragraph
40 (5) of subsection ~~(b)~~ (c) has been removed or otherwise rendered
41 unreadable.

42 ~~(k)~~ (l) If an applicant fails to answer the question prescribed in
43 paragraph (15) of subsection ~~(b)~~ (c), the county election officer shall send

1 the application to the applicant at the postal delivery address given on the
2 application, by nonforwardable mail, with a notice of incompleteness. The
3 notice shall specify a period of time during which the applicant may
4 complete the application in accordance with K.S.A. 25-2311, and
5 amendments thereto, and be eligible to vote in the next election.

6 (†) (m) The county election officer or secretary of state's office shall
7 accept any completed application for registration, but an applicant shall
8 not be registered until the applicant has provided satisfactory evidence of
9 United States citizenship. Evidence of United States citizenship as
10 required in this section will be satisfied by presenting one of the
11 documents listed in paragraphs (1) through (13) of *this* subsection-† in
12 person at the time of filing the application for registration or by including a
13 photocopy of one of the following documents with a mailed registration
14 application. After a person has submitted satisfactory evidence of
15 citizenship, the county election officer shall indicate this information in the
16 person's permanent voter file. Evidence of United States citizenship shall
17 be satisfied by providing one of the following, or a legible photocopy of
18 one of the following documents:

19 (1) The applicant's driver's license or nondriver's identification card
20 issued by the division of vehicles or the equivalent governmental agency
21 of another state within the United States if the agency indicates on the
22 applicant's driver's license or nondriver's identification card that the person
23 has provided satisfactory proof of United States citizenship;

24 (2) the applicant's birth certificate that verifies United States
25 citizenship to the satisfaction of the county election officer or secretary of
26 state;

27 (3) pertinent pages of the applicant's United States valid or expired
28 passport identifying the applicant and the applicant's passport number, or
29 presentation to the county election officer of the applicant's United States
30 passport;

31 (4) the applicant's United States naturalization documents or the
32 number of the certificate of naturalization. If only the number of the
33 certificate of naturalization is provided, the applicant shall not be included
34 in the registration rolls until the number of the certificate of naturalization
35 is verified with the United States bureau of citizenship and immigration
36 services by the county election officer or the secretary of state, pursuant to
37 8 U.S.C. § 1373(c);

38 (5) other documents or methods of proof of United States citizenship
39 issued by the federal government pursuant to the immigration and
40 nationality act of 1952, and amendments thereto;

41 (6) the applicant's bureau of Indian affairs card number, tribal treaty
42 card number or tribal enrollment number;

43 (7) the applicant's consular report of birth abroad of a citizen of the

1 United States of America;

2 (8) the applicant's certificate of citizenship issued by the United
3 States citizenship and immigration services;

4 (9) the applicant's certification of report of birth issued by the United
5 States department of state;

6 (10) the applicant's American Indian card, with KIC classification,
7 issued by the United States department of homeland security;

8 (11) the applicant's final adoption decree showing the applicant's
9 name and United States birthplace;

10 (12) the applicant's official United States military record of service
11 showing the applicant's place of birth in the United States; ~~or~~

12 (13) an extract from a United States hospital record of birth created at
13 the time of the applicant's birth indicating the applicant's place of birth in
14 the United States; or

15 (14) *a signed affidavit swearing under oath the following: "I am a*
16 *United States citizen. I meet the eligibility requirements of my state and*
17 *subscribe to any oath required. The information I have provided is true to*
18 *the best of my knowledge under penalty of perjury. If I have provided false*
19 *information, I may be fined, imprisoned or (if not a U.S. citizen) deported*
20 *from or refused entry to the United States." Note: The crime of perjury is a*
21 *severity level 9, nonperson felony.*

22 ~~(m)~~ (n) If an applicant is a United States citizen but does not have any
23 of the documentation listed in this section as satisfactory evidence of
24 United States citizenship, such applicant may submit any evidence that
25 such applicant believes demonstrates the applicant's United States
26 citizenship.

27 (1) Any applicant seeking an assessment of evidence under this
28 subsection may directly contact the elections division of the secretary of
29 state by submitting a voter registration application or form as described by
30 this section and any supporting evidence of United States citizenship.
31 Upon receipt of this information, the secretary of state shall notify the state
32 election board, as established under K.S.A. 25-2203, and amendments
33 thereto, that such application is pending.

34 (2) The state election board shall give the applicant an opportunity for
35 a hearing and an opportunity to present any additional evidence to the state
36 election board. Notice of such hearing shall be given to the applicant at
37 least five days prior to the hearing date. An applicant shall have the
38 opportunity to be represented by counsel at such hearing.

39 (3) The state election board shall assess the evidence provided by the
40 applicant to determine whether the applicant has provided satisfactory
41 evidence of United States citizenship. A decision of the state election
42 board shall be determined by a majority vote of the election board.

43 (4) If an applicant submits an application and any supporting

1 evidence prior to the close of registration for an election cycle, a
2 determination by the state election board shall be issued at least five days
3 before such election date.

4 (5) If the state election board finds that the evidence presented by
5 such applicant constitutes satisfactory evidence of United States
6 citizenship, such applicant will have met the requirements under this
7 section to provide satisfactory evidence of United States citizenship.

8 (6) If the state election board finds that the evidence presented by an
9 applicant does not constitute satisfactory evidence of United States
10 citizenship, such applicant shall have the right to appeal such
11 determination by the state election board by instituting an action under 8
12 U.S.C. § 1503. Any negative assessment of an applicant's eligibility by the
13 state election board shall be reversed if the applicant obtains a declaratory
14 judgment pursuant to 8 U.S.C. § 1503, demonstrating that such applicant is
15 a national of the United States.

16 ~~(n)~~ (o) Any person who is registered in this state on the effective date
17 of this amendment to this section is deemed to have provided satisfactory
18 evidence of citizenship and shall not be required to resubmit evidence of
19 citizenship.

20 ~~(n)~~ (p) For purposes of this section, proof of voter registration from
21 another state is not satisfactory evidence of United States citizenship.

22 ~~(n)~~ (q) A registered Kansas voter who moves from one residence to
23 another within the state of Kansas or who modifies such voter's
24 registration records for any other reason shall not be required to submit
25 evidence of United States citizenship.

26 ~~(n)~~ (r) If evidence of citizenship is deemed to be unsatisfactory due to
27 an inconsistency between the document submitted as evidence and the
28 name or sex provided on the application for registration, such applicant
29 may sign an affidavit:

30 (1) Stating the inconsistency or inconsistencies related to the name or
31 sex, and the reason therefor; and

32 (2) swearing under oath that, despite the inconsistency, the applicant
33 is the individual reflected in the document provided as evidence of
34 citizenship. However, there shall be no inconsistency between the date of
35 birth on the document provided as evidence of citizenship and the date of
36 birth provided on the application for registration. If such an affidavit is
37 submitted by the applicant, the county election officer or secretary of state
38 shall assess the eligibility of the applicant without regard to any
39 inconsistency stated in the affidavit.

40 ~~(n)~~ (s) All documents submitted as evidence of citizenship shall be
41 kept confidential by the county election officer or the secretary of state and
42 maintained as provided by Kansas record retention laws. The provisions of
43 this subsection shall expire on July 1, 2016, unless the legislature reviews

1 and reenacts this provision pursuant to K.S.A. 45-229, and amendments
2 thereto, prior to July 1, 2016.

3 ~~(s)~~ (t) The secretary of state may adopt rules and regulations~~to~~ in
4 order to implement the provisions of this section.

5 ~~(t)~~ (u) Nothing in this section shall prohibit an applicant from
6 providing, or the secretary of state or county election officer from
7 obtaining satisfactory evidence of United States citizenship, as described
8 in subsection~~(t)~~ (m), at a different time or in a different manner than an
9 application for registration is provided, as long as the applicant's eligibility
10 can be adequately assessed by the secretary of state or county election
11 officer as required by this section.

12 ~~(u)~~ (v) The proof of citizenship requirements of this section shall not
13 become effective until January 1, 2013.

14 Sec. 3. K.S.A. 2013 Supp. 21-5903 and 25-2309 are hereby repealed.

15 Sec. 4. This act shall take effect and be in force from and after its
16 publication in the statute book.