

SENATE BILL No. 177

By Senator Hensley

2-10

1 AN ACT concerning elections; relating to citizenship requirements for
2 voter registration; amending K.S.A. 2014 Supp. 25-2309 and repealing
3 the existing section.
4

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

6 Section 1. K.S.A. 2014 Supp. 25-2309 is hereby amended to read as
7 follows: 25-2309. (a) Any person may apply in person, by mail, through a
8 voter registration agency, or by other delivery to a county election officer
9 to be registered. Such application shall be made on:

10 (1) A form approved by the secretary of state, which shall be provided
11 by a county election officer or chief state election official upon request in
12 person, by telephone or in writing; or

13 (2) the national mail voter registration form issued pursuant to federal
14 law. Such application shall be signed by the applicant under penalty of
15 perjury and shall contain the original signature of the applicant or the
16 computerized, electronic or digitized transmitted signature of the
17 applicant. A signature may be made by mark, initials, typewriter, print,
18 stamp, symbol or any other manner if by placing the signature on the
19 document the person intends the signature to be binding. A signature may
20 be made by another person at the voter's direction if the signature reflects
21 such voter's intention.

22 (b) Applications made under this section shall give voter eligibility
23 requirements and such information as is necessary to prevent duplicative
24 voter registrations and enable the relevant election officer to assess the
25 eligibility of the applicant and to administer voter registration, including,
26 but not limited to, the following data to be kept by the relevant election
27 officer as provided by law:

- 28 (1) Name;
29 (2) place of residence, including specific address or location, and
30 mailing address if the residence address is not a permissible postal address;
31 (3) date of birth;
32 (4) sex;
33 (5) the last four digits of the person's social security number or the
34 person's full driver's license or nondriver's identification card number;
35 (6) telephone number, if available;
36 (7) naturalization data (if applicable);

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

3 (9) when present residence established;

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

6 (11) an attestation that the applicant meets each eligibility
7 requirement;

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

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

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

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

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

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

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

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

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

35 If the application discloses any previous registration in any other
36 county or state, as indicated by paragraph (8) or (10), or otherwise, the
37 county election officer shall upon the registration of the applicant, give
38 notice to the election official of the place of former registration, notifying
39 such official of applicant's present residence and registration, and
40 authorizing cancellation of such former registration. This section shall be
41 interpreted and applied in accordance with federal law. No eligible
42 applicant whose qualifications have been assessed shall be denied
43 registration.

1 (c) Any person who applies for registration through a voter
2 registration agency shall be provided with, in addition to the application
3 under subsection (b), a form which includes:

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

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

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

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

15 (ii) boxes for the applicant to check to indicate whether the applicant
16 would like to register or declines to register to vote, together with the
17 statement "IF YOU DO NOT CHECK EITHER BOX, YOU WILL BE
18 CONSIDERED TO HAVE DECIDED NOT TO REGISTER TO VOTE
19 AT THIS TIME.";

20 (iii) the statement "If you would like help in filling out the voter
21 registration application form, we will help you. The decision whether to
22 seek or accept help is yours. You may fill out the application form in
23 private."; and

24 (iv) the statement "If you believe that someone has interfered with
25 your right to register or to decline to register to vote, your right to privacy
26 in deciding whether to register or in applying to register to vote, or your
27 right to choose your own political party or other political preference, you
28 may file a complaint with the Kansas Secretary of State."

29 (d) If any person, in writing, declines to register to vote, the voter
30 registration agency shall maintain the form prescribed by subsection (c).

31 (e) A voter registration agency shall transmit the completed
32 registration application to the county election officer not later than five
33 days after the date of acceptance. Upon receipt of an application for
34 registration, the county election officer shall send, by nonforwardable
35 mail, a notice of disposition of the application to the applicant at the postal
36 delivery address shown on the application. If a notice of disposition is
37 returned as undeliverable, a confirmation mailing prescribed by K.S.A. 25-
38 2316c, and amendments thereto, shall occur.

39 (f) If an application is received while registration is closed, such
40 application shall be considered to have been received on the next
41 following day during which registration is open.

42 (g) A person who completes an application for voter registration shall
43 be considered a registered voter when the county election officer adds the

1 applicant's name to the county voter registration list.

2 (h) Any registered voter whose residence address is not a permissible
3 postal delivery address shall designate a postal address for registration
4 records. When a county election officer has reason to believe that a voter's
5 registration residence is not a permissible postal delivery address, the
6 county election officer shall attempt to determine a proper mailing address
7 for the voter.

8 (i) Any registered voter may request that such person's residence
9 address be concealed from public inspection on the voter registration list
10 and on the original voter registration application form. Such request shall
11 be made in writing to the county election officer, and shall specify a
12 clearly unwarranted invasion of personal privacy or a threat to the voter's
13 safety. Upon receipt of such a request, the county election officer shall take
14 appropriate steps to ensure that such person's residence address is not
15 publicly disclosed. Nothing in this subsection shall be construed as
16 requiring or authorizing the secretary of state to include on the voter
17 registration application form a space or other provision on the form that
18 would allow the applicant to request that such applicant's residence
19 address be concealed from public inspection.

20 (j) No application for voter registration shall be made available for
21 public inspection or copying unless the information required by ~~paragraph~~
22 ~~(5)~~ of subsection (b)(5) has been removed or otherwise rendered
23 unreadable.

24 (k) If an applicant fails to answer the question prescribed in ~~paragraph~~
25 ~~(15)~~ of subsection (b)(15), the county election officer shall send the
26 application to the applicant at the postal delivery address given on the
27 application, by nonforwardable mail, with a notice of incompleteness. The
28 notice shall specify a period of time during which the applicant may
29 complete the application in accordance with K.S.A. 25-2311, and
30 amendments thereto, and be eligible to vote in the next election.

31 (l) (1) *Except as provided in paragraph (2)*, the county election
32 officer or secretary of state's office shall accept any completed application
33 for registration, but an applicant shall not be registered until the applicant
34 has provided satisfactory evidence of United States citizenship. Evidence
35 of United States citizenship as required in this section will be satisfied by
36 presenting one of the documents listed in ~~paragraphs (1) through (13)~~ of
37 subsection (l)(A) *through (M)* in person at the time of filing the application
38 for registration or by including a photocopy of one of the following
39 documents with a mailed registration application. After a person has
40 submitted satisfactory evidence of citizenship, the county election officer
41 shall indicate this information in the person's permanent voter file.
42 Evidence of United States citizenship shall be satisfied by providing one of
43 the following, or a legible photocopy of one of the following documents:

1 (+) (A) The applicant's driver's license or nondriver's identification
2 card issued by the division of vehicles or the equivalent governmental
3 agency of another state within the United States if the agency indicates on
4 the applicant's driver's license or nondriver's identification card that the
5 person has provided satisfactory proof of United States citizenship;

6 (2) (B) the applicant's birth certificate that verifies United States
7 citizenship to the satisfaction of the county election officer or secretary of
8 state;

9 (3) (C) pertinent pages of the applicant's United States valid or
10 expired passport identifying the applicant and the applicant's passport
11 number, or presentation to the county election officer of the applicant's
12 United States passport;

13 (4) (D) the applicant's United States naturalization documents or the
14 number of the certificate of naturalization. If only the number of the
15 certificate of naturalization is provided, the applicant shall not be included
16 in the registration rolls until the number of the certificate of naturalization
17 is verified with the United States bureau of citizenship and immigration
18 services by the county election officer or the secretary of state, pursuant to
19 8 U.S.C. § 1373(c);

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

23 (6) (F) the applicant's bureau of Indian affairs card number, tribal
24 treaty card number or tribal enrollment number;

25 (7) (G) the applicant's consular report of birth abroad of a citizen of
26 the United States of America;

27 (8) (H) the applicant's certificate of citizenship issued by the United
28 States citizenship and immigration services;

29 (9) (I) the applicant's certification of report of birth issued by the
30 United States department of state;

31 (+0) (J) the applicant's American Indian card, with KIC classification,
32 issued by the United States department of homeland security;

33 (+1) (K) the applicant's final adoption decree showing the applicant's
34 name and United States birthplace;

35 (+2) (L) the applicant's official United States military record of
36 service showing the applicant's place of birth in the United States; or

37 (+3) (M) an extract from a United States hospital record of birth
38 created at the time of the applicant's birth indicating the applicant's place
39 of birth in the United States.

40 (2) *A county election officer or the secretary of state shall not deny*
41 *an application for registration for lack of evidence of citizenship until the*
42 *division of vehicles has an operational system to verify the citizenship of*
43 *an applicant for the renewal of a driver's license. If a county election*

1 *officer or the secretary of state receives affirmative evidence that an*
2 *applicant is not a citizen, the county election officer or the secretary of*
3 *state shall deny such application.*

4 (m) If an applicant is a United States citizen but does not have any of
5 the documentation listed in this section as satisfactory evidence of United
6 States citizenship, such applicant may submit any evidence that such
7 applicant believes demonstrates the applicant's United States citizenship.

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

15 (2) The state election board shall give the applicant an opportunity for
16 a hearing and an opportunity to present any additional evidence to the state
17 election board. Notice of such hearing shall be given to the applicant at
18 least five days prior to the hearing date. An applicant shall have the
19 opportunity to be represented by counsel at such hearing.

20 (3) The state election board shall assess the evidence provided by the
21 applicant to determine whether the applicant has provided satisfactory
22 evidence of United States citizenship. A decision of the state election
23 board shall be determined by a majority vote of the election board.

24 (4) If an applicant submits an application and any supporting
25 evidence prior to the close of registration for an election cycle, a
26 determination by the state election board shall be issued at least five days
27 before such election date.

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

32 (6) If the state election board finds that the evidence presented by an
33 applicant does not constitute satisfactory evidence of United States
34 citizenship, such applicant shall have the right to appeal such
35 determination by the state election board by instituting an action under 8
36 U.S.C. § 1503. Any negative assessment of an applicant's eligibility by the
37 state election board shall be reversed if the applicant obtains a declaratory
38 judgment pursuant to 8 U.S.C. § 1503, demonstrating that such applicant is
39 a national of the United States.

40 (n) Any person who is registered in this state on the effective date of
41 this amendment to this section is deemed to have provided satisfactory
42 evidence of citizenship and shall not be required to resubmit evidence of
43 citizenship.

1 (o) For purposes of this section, proof of voter registration from
2 another state is not satisfactory evidence of United States citizenship.

3 (p) A registered Kansas voter who moves from one residence to
4 another within the state of Kansas or who modifies such voter's
5 registration records for any other reason shall not be required to submit
6 evidence of United States citizenship.

7 (q) If evidence of citizenship is deemed to be unsatisfactory due to an
8 inconsistency between the document submitted as evidence and the name
9 or sex provided on the application for registration, such applicant may sign
10 an affidavit:

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

13 (2) swearing under oath that, despite the inconsistency, the applicant
14 is the individual reflected in the document provided as evidence of
15 citizenship. However, there shall be no inconsistency between the date of
16 birth on the document provided as evidence of citizenship and the date of
17 birth provided on the application for registration. If such an affidavit is
18 submitted by the applicant, the county election officer or secretary of state
19 shall assess the eligibility of the applicant without regard to any
20 inconsistency stated in the affidavit.

21 (r) All documents submitted as evidence of citizenship shall be kept
22 confidential by the county election officer or the secretary of state and
23 maintained as provided by Kansas record retention laws. The provisions of
24 this subsection shall expire on July 1, 2016, unless the legislature reviews
25 and reenacts this provision pursuant to K.S.A. 45-229, and amendments
26 thereto, prior to July 1, 2016.

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

29 (t) Nothing in this section shall prohibit an applicant from providing,
30 or the secretary of state or county election officer from obtaining
31 satisfactory evidence of United States citizenship, as described in
32 subsection (1), at a different time or in a different manner than an
33 application for registration is provided, as long as the applicant's eligibility
34 can be adequately assessed by the secretary of state or county election
35 officer as required by this section.

36 (u) The proof of citizenship requirements of this section shall not
37 become effective until January 1, 2013.

38 Sec. 2. K.S.A. 2014 Supp. 25-2309 is hereby repealed.

39 Sec. 3. This act shall take effect and be in force from and after its
40 publication in the statute book.