

HOUSE BILL No. 2571

By Committee on Elections

Requested by Representative Waggoner

1-23

1 AN ACT concerning elections; relating to advance voting ballots;
2 requiring any such ballots deposited in a remote ballot box to be
3 considered provisional until verified by the county election office;
4 amending K.S.A. 25-1136 and K.S.A. 2023 Supp. 25-1124 and
5 repealing the existing sections.
6

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

8 Section 1. K.S.A. 2023 Supp. 25-1124 is hereby amended to read as
9 follows: 25-1124. (a) Upon receipt of the advance voting ballot, the voter
10 shall cast such voter's vote as follows: The voter shall make a cross or
11 check mark in the square or parentheses opposite the name of each
12 candidate or question for whom the voter desires to vote. The voter shall
13 make no other mark, and shall allow no other person to make any mark,
14 upon such ballot. If the advance voting ballot was transmitted by mail, the
15 voter personally shall place the ballot in the ballot envelope bearing the
16 same number as the ballot and seal the envelope. The voter shall complete
17 the form on the ballot envelope and shall sign the same. Except as
18 provided by K.S.A. 25-2908, and amendments thereto, the ballot envelope
19 shall be mailed or otherwise transmitted to the county election officer. If
20 the advance voting ballot was transmitted to the voter in person in the
21 office of the county election officer or at a satellite advance voting site, the
22 voter may deposit such ballot into a locked ballot box without an envelope.

23 (b) The county election officer shall attempt to contact each person
24 who submits an advance voting ballot where there is no signature or where
25 the signature does not match with the signature on file and allow such
26 voter the opportunity to correct the deficiency before the commencement
27 of the final county canvass.

28 (c) Any voter who has an illness or physical disability or who is not
29 proficient in reading the English language and is unable to apply for or
30 mark or transmit an advance voting ballot, or any voter who has a
31 disability preventing the voter from signing an application or the form on
32 the ballot envelope, may request assistance by a person who has signed a
33 statement required by subsection (e) in applying for or marking an advance
34 voting ballot, or in signing an application or the form on the ballot
35 envelope if the voter has a disability preventing the voter from signing.

1 (d) Any voted ballot may be transmitted to the county election officer
2 by the voter. Subject to the provisions of K.S.A. 25-2437, and amendments
3 thereto, a voted ballot may be transmitted by another person designated in
4 writing by the voter as provided in K.S.A. 25-2437, and amendments
5 thereto, except if the voter has a disability preventing the voter from
6 writing and signing a statement, the written and signed statement required
7 by subsection (e) shall be sufficient. Any such voted ballot shall be
8 transmitted to the county election officer before the close of the polls on
9 election day.

10 (e) The county election officer shall allow a person to assist a voter
11 who has an illness or physical disability or who is not proficient in reading
12 the English language in applying for or marking an application or advance
13 voting ballot, or to sign for a voter who has a disability preventing the
14 voter from signing an application or advance voting ballot form, provided
15 a written statement is signed by the person who renders assistance to the
16 voter who has an illness or physical disability or who is not proficient in
17 reading the English language and such statement is submitted to the county
18 election officer with the application or ballot. The statement shall be on a
19 form prescribed by the secretary of state and shall contain a statement
20 from the person providing assistance that the person has not exercised
21 undue influence on the voting decision of the voter who has an illness or
22 physical disability or who is not proficient in reading the English language
23 and that the person providing assistance has completed the application,
24 marked the ballot, or signed the application or ballot form as instructed by
25 the voter.

26 (f) Any person assisting a voter who has an illness or physical
27 disability or who is not proficient in reading the English language in
28 applying for or marking an advance voting ballot, or in signing an
29 application or advance voting ballot form for a voter who has a disability
30 preventing the voter from signing the application or advance voting ballot
31 form, who knowingly fails to sign and submit the statement required by
32 this section or who exercises undue influence on the voting decision of
33 such voter shall be guilty of a severity level 9, nonperson felony.

34 (g) (1) No person who is a candidate for office shall assist any voter
35 in marking an advance voting ballot or in signing an advance voting ballot
36 form pursuant to this section.

37 (2) It shall not be a violation of this subsection for:

38 (A) The secretary of state, any election official or county election
39 officer to assist a voter while engaged in the performance of the duties of
40 such office; or

41 (B) any candidate for office employed by a county election office to
42 assist a voter while engaged in the performance of the duties of such
43 employee, unless the employee appears as a candidate for office on the

1 advance voting ballot for which such candidate is providing assistance.

2 (3) For purposes of this subsection, ~~the term~~ "candidate for office"
3 means an individual who has declared such individual's candidacy
4 pursuant to K.S.A. 25-205 et seq., and amendments thereto, or has been
5 nominated for elected office pursuant to K.S.A. 25-301 et seq., and
6 amendments thereto, in the election for which the voter applied for an
7 advance voting ballot.

8 (4) A violation of this subsection is a class C misdemeanor.

9 (h) Subject to the provisions of subsection (b), no county election
10 officer shall accept an advance voting ballot transmitted by mail unless the
11 county election officer verifies that the signature of the person on the
12 advance voting ballot envelope matches the signature on file in the county
13 voter registration records, except that verification of the voter's signature
14 shall not be required if a voter has a disability preventing the voter from
15 signing the ballot or preventing the voter from having a signature
16 consistent with such voter's registration form. Signature verification may
17 occur by electronic device or by human inspection. In the event that the
18 signature of a person on the advance voting ballot envelope does not
19 match the signature on file in the county voter registration records, the
20 ballot shall not be counted.

21 (i) (1) *An advance voting ballot transmitted to the county election*
22 *office by being deposited in a remote ballot box shall be endorsed with the*
23 *word "provisional" on the back of the envelope containing such ballot and*
24 *shall not be counted unless the county election officer verifies that the*
25 *voter whose name appears on the envelope has deposited such ballot or*
26 *authorized another individual to deposit such ballot on such voter's behalf*
27 *in accordance with K.S.A. 25-2437, and amendments thereto.*

28 (2) *As used in this subsection, "remote ballot box" means any form of*
29 *a locked ballot box designated by the county election officer as available*
30 *for use in depositing advance voting ballots. "Remote ballot box" does not*
31 *include any ballot boxes located in a county election office or satellite*
32 *advance voting site.*

33 Sec. 2. K.S.A. 25-1136 is hereby amended to read as follows: 25-
34 1136. (a) The vote of any advance voting voter may be challenged in the
35 same manner as other votes are challenged, as nearly as may be, and the
36 judges of the special election board shall determine the validity of each
37 advance voting ballot. Whenever the judges determine that the form
38 accompanying an advance voting ballot is insufficient, ~~or~~ that the voter is
39 not a registered voter, *that the ballot was deposited in a remote ballot box,*
40 *as defined in K.S.A. 25-1124, and amendments thereto,* or the challenge is
41 otherwise sustained, the advance voting ballot envelope shall not be
42 opened. In all such cases, the judges shall endorse on the back of the
43 envelope the word "provisional" and state the reason for sustaining the

1 challenge.

2 (b) Any advance voting ballot envelope ~~which~~ *that* has not been
3 signed shall not be opened, and no vote on the ballot therein shall be
4 counted. The envelope or ballot shall be challenged in the same manner in
5 which other votes are challenged.

6 (c) Whenever it shall be made to appear to the judges of a special
7 election board by sufficient proof that an advance voting voter has died,
8 the envelope containing the advance voting ballot of the deceased voter
9 shall not be opened. In all such cases, the judges shall endorse on the back
10 of the envelope the word "provisional" and the reason for sustaining the
11 challenge.

12 (d) If objection is made to an advance voting ballot because of form,
13 condition, or marking thereof, the ballot shall be marked "void" if the
14 judges uphold the objection to the entire ballot, and otherwise shall be
15 marked on the back thereof, "objected to" with a statement of the
16 substance of the objection.

17 (e) Void, provisional and objected to advance voting ballots shall be
18 transmitted to the county election officer in the same manner as personally
19 cast provisional ballots are transmitted but shall be placed in separate
20 envelopes or sacks, appropriately labeled and sealed. Votes contained in
21 void and provisional advance voting ballots shall not be included in the
22 total of votes certified by the special election board. Void, provisional and
23 objected to advance voting ballots shall be reviewed by the board of
24 county canvassers, and the board shall finally determine the acceptance or
25 rejection of each void, provisional or objected to ballot.

26 (f) Procedures for canvassing and challenging advance voting ballots
27 received by mail after the closing of the polls pursuant to K.S.A. 25-
28 1132(b), and amendments thereto, shall be as set forth in rules and
29 regulations adopted by the secretary of state as authorized by K.S.A. 25-
30 1132(b), and amendments thereto.

31 Sec. 3. K.S.A. 25-1136 and K.S.A. 2023 Supp. 25-1124 are hereby
32 repealed.

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