

House Substitute for SENATE BILL No. 264

By Committee on Elections

3-14

1 AN ACT concerning elections; relating to application and ballot signature
2 requirements for disabled voters; relating to the crime of perjury;
3 amending K.S.A. 25-1121 and K.S.A. 2017 Supp. 21-5903, 25-1122,
4 25-1124 and 25-1128 and repealing the existing sections.

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

7 Section 1. K.S.A. 2017 Supp. 25-1122 is hereby amended to read as
8 follows: 25-1122. (a) Any registered voter may file with the county
9 election officer where the person is a resident, or where the person is
10 authorized by law to vote as a former precinct resident, an application for
11 an advance voting ballot. *The application for an advance voting ballot*
12 *shall include an option for permanent advance voting status as provided in*
13 *subsection (h).* The signed application shall be transmitted only to the
14 county election officer by personal delivery, mail, facsimile or as
15 otherwise provided by law.

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

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

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

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

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

1 voter's identification is valid and the provisional ballot was properly cast,
2 the ballot shall be counted.

3 (e) No county election officer shall provide an advance voting ballot
4 to a person who is requesting an advance voting ballot to be transmitted by
5 mail unless:

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

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

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

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

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

43 (3) For question submitted elections occurring on the date of a

1 primary or general election, the same as is provided for ballots for election
2 of officers at such election.

3 (4) For question submitted elections not occurring on the date of a
4 primary or general election, between the time of the first published notice
5 thereof and the Tuesday of the week preceding such question submitted
6 election, except that if the question submitted election is held on a day
7 other than a Tuesday, the final date for mailing of advance voting ballots
8 shall be one week before such election.

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

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

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

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

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

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

43 (i) On receipt of any application filed under the provisions of this

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

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

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

38 Sec. 2. K.S.A. 2017 Supp. 25-1124 is hereby amended to read as
39 follows: 25-1124. (a) Upon receipt of the advance voting ballot, the voter
40 shall cast such voter's vote as follows: The voter shall make a cross or
41 check mark in the square or parentheses opposite the name of each
42 candidate or question for whom the voter desires to vote. The voter shall
43 make no other mark, and shall allow no other person to make any mark,

1 upon such ballot. If the advance voting ballot was transmitted by mail, the
2 voter personally shall place the ballot in the ballot envelope bearing the
3 same number as the ballot and seal the envelope. The voter shall complete
4 the form on the ballot envelope and shall sign the same. Except as
5 provided by K.S.A. 25-2908, and amendments thereto, the ballot envelope
6 shall be mailed or otherwise transmitted to the county election officer. If
7 the advance voting ballot was transmitted to the voter in person in the
8 office of the county election officer or at a satellite advance voting site, the
9 voter may deposit such ballot into a locked ballot box without an envelope.

10 (b) Any voter who has an illness or physical disability or who is not
11 proficient in reading the English language ~~that~~ and is unable to apply for
12 or mark or transmit an advance voting ballot, *or any voter who has a*
13 *disability preventing the voter from signing an application or the form on*
14 *the ballot envelope*, may request assistance by a person who has signed a
15 statement required by subsection (d) in applying for or marking an
16 advance voting ballot, *or in signing an application or the form on the*
17 *ballot envelope if the voter has a disability preventing the voter from*
18 *signing.*

19 (c) Any voted ballot may be transmitted to the county election officer
20 by the voter or by another person designated in writing by the voter,
21 *except if the voter has a disability preventing the voter from writing and*
22 *signing a statement, the written and signed statement required by*
23 *subsection (d) shall be sufficient.* Any such voted ballot shall be
24 transmitted to the county election officer before the close of the polls on
25 election day.

26 (d) The county election officer shall allow a person to assist a voter
27 who has an illness or physical disability or who is not proficient in reading
28 the English language in applying for or marking an application or advance
29 voting ballot, *or to sign for a voter who has a disability preventing the*
30 *voter from signing an application or advance voting ballot form*, provided
31 a written statement is signed by the person who renders assistance to the
32 voter who has an illness or physical disability or who is not proficient in
33 reading the English language and such statement is submitted to the county
34 election officer with the application or ballot. The statement shall be on a
35 form prescribed by the secretary of state and shall contain a statement
36 from the person providing assistance that the person has not exercised
37 undue influence on the voting decision of the voter who has an illness or
38 physical disability or who is not proficient in reading the English language
39 and that the person providing assistance has completed the application ~~or~~,
40 marked the ballot, *or signed the application or ballot form* as instructed by
41 the voter.

42 (e) Any person assisting a voter who has an illness or physical
43 disability or who is not proficient in reading the English language in

1 applying for or marking an advance voting ballot, *or in signing an*
2 *application or advance voting ballot form for a voter who has a disability*
3 *preventing the voter from signing the application or advance voting ballot*
4 *form*, who knowingly fails to sign and submit the statement required by
5 this section or who exercises undue influence on the voting decision of
6 such voter shall be guilty of a severity level 9, nonperson felony.

7 Sec. 3. K.S.A. 2017 Supp. 25-1128 is hereby amended to read as
8 follows: 25-1128. (a) No voter shall knowingly mark or transmit to the
9 county election officer more than one advance voting ballot, or set of one
10 of each kind of ballot, if the voter is entitled to vote more than one such
11 ballot at a particular election.

12 (b) Except as provided in K.S.A. 25-1124, and amendments thereto,
13 no person shall knowingly interfere with or delay the transmission of any
14 advance voting ballot application from a voter to the county election
15 officer, nor shall any person mail, fax or otherwise cause the application to
16 be sent to a place other than the county election office. Any person or
17 group engaged in the distribution of advance voting ballot applications
18 shall mail, fax or otherwise deliver any application signed by a voter to the
19 county election office within two days after such application is signed by
20 the applicant.

21 (c) Except as otherwise provided by law, no person other than the
22 voter, shall knowingly mark, sign or transmit to the county election officer
23 any advance voting ballot or advance voting ballot envelope.

24 (d) Except as otherwise provided by law, no person shall knowingly
25 sign an application for an advance voting ballot for another person. This
26 provision shall not apply if a voter has a disability preventing the voter
27 from signing an application or if an immediate family member signs an
28 application on behalf of another immediate family member with proper
29 authorization being given.

30 (e) No person, unless authorized by K.S.A. 25-1122 or ~~K.S.A. 25-~~
31 ~~1124~~, and amendments thereto, shall knowingly intercept, interfere with,
32 or delay the transmission of advance voting ballots from the county
33 election officer to the voter.

34 (f) No person shall knowingly and falsely affirm, declare or subscribe
35 to any material fact in an affirmation form for an advance voting ballot or
36 set of advance voting ballots.

37 (g) A voter may return such voter's advance voting ballot to the
38 county election officer by personal delivery or by mail. Upon written
39 designation by the voter, a person other than the voter may return the
40 advance voting ballot by personal delivery or mail, *except that a written*
41 *designation shall not be required from a voter who has a disability*
42 *preventing the voter from writing or signing a written designation*. Any
43 such person designated by the voter shall sign a statement that such person

1 has not exercised undue influence on the voting decisions of the voter and
2 agrees to deliver the ballot as directed by the voter.

3 (h) Violation of any provision of this section is a severity level 9,
4 nonperson felony.

5 Sec. 4. K.S.A. 25-1121 is hereby amended to read as follows: 25-
6 1121. ~~It shall be the duty of~~ (a) The secretary of state ~~to~~ shall prescribe the
7 general forms of advance voting ballots to be used in all primary and
8 general elections and the form of the printed instructions to voters
9 containing a statement of all the requirements of this act, to enable voters
10 to comply with ~~such~~ the requirements of this act. ~~Such~~ The prescribed
11 forms shall be transmitted to the county election officers 35 days before
12 each primary and general election.

13 (b) *The secretary of state shall prescribe the general format of*
14 *advance voting ballot envelopes. The envelopes shall include signature*
15 *blocks for the advance voter; a signature block for the person, if any,*
16 *assisting the advance voter; and a signature block for a person, if any,*
17 *who signs the advance voting ballot envelope on behalf of the advance*
18 *voter in situations when the advance voter is physically unable to sign the*
19 *envelope.*

20 (c) *The advance ballot envelope shall contain the following statement*
21 *after the signature block provided for the person who signs the advance*
22 *ballot envelope on behalf of a person physically unable to sign such*
23 *envelope:*

24 *"My signature constitutes an affidavit that the person for whom I*
25 *signed the envelope is a person who is physically unable to sign such*
26 *envelope. By signing this envelope, I swear this information is true and*
27 *correct, and that signing an advance ballot envelope under false pretenses*
28 *shall constitute the crime of perjury."*

29 Sec. 5. K.S.A. 2017 Supp. 21-5903 is hereby amended to read as
30 follows: 21-5903.(a) Perjury is intentionally and falsely:

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

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

38 (b) Perjury is a:

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

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

43 (3) *subscribing as true and correct under the penalty of perjury the*

1 *affidavit as provided in K.S.A. 25-1121(c), and amendments thereto.*

2 Sec. 6. K.S.A. 25-1121 and K.S.A. 2017 Supp. 21-5903, 25-1122, 25-
3 1124 and 25-1128 are hereby repealed.

4 Sec. 7. This act shall take effect and be in force from and after its
5 publication in the statute book.