

## 1 SENATE BILL NO. 500

2 INTRODUCED BY COBB

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4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING ELECTION LAWS TO FACILITATE  
5 VOTING BY DISABLED ELECTORS; PROVIDING THAT A DISABLED ELECTOR MAY USE A FINGERPRINT  
6 OR IDENTIFYING MARK INSTEAD OF A SIGNATURE; PROVIDING THAT A DISABLED ELECTOR MAY  
7 DESIGNATE ANOTHER PERSON AS THE ELECTOR'S AGENT; PROVIDING THAT AN ELECTION  
8 ADMINISTRATOR OR ELECTION JUDGE MAY SIGN FOR A DISABLED ELECTOR; DIRECTING THE  
9 SECRETARY OF STATE TO ADOPT RULES; REQUIRING NEW POLLING PLACES TO CONFORM TO THE  
10 ACCESSIBILITY STANDARDS UNDER THE AMERICANS WITH DISABILITIES ACT; REQUIRING ELECTION  
11 JUDGES TO ASK A DISABLED ELECTOR ENTERING A POLLING PLACE IF ASSISTANCE IS DESIRED;  
12 AND AMENDING SECTIONS 13-3-205, 13-13-114, 13-13-119, AND 13-13-213, MCA."

13  
14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

15  
16 NEW SECTION. **Section 1. Fingerprint, mark, or agent for disabled electors -- rulemaking.** (1)  
17 Except as otherwise specified by law, the provisions of this section apply.

18 (2) Whenever a signature is required by an elector under a provision of this title and the elector is  
19 unable because of a disability to provide a signature, the elector may provide a fingerprint, subject to subsection  
20 (6), or an identifying mark or may request that an agent, election administrator, or election judge sign for the  
21 elector as provided in this section.

22 (3) If an elector is unable to provide a fingerprint or an identifying mark and the elector has not  
23 established an agent pursuant to subsection (4), the election administrator or an election judge may sign for the  
24 elector after reviewing and verifying the elector's identification.

25 (4) (a) An elector who is unable to provide a signature may apply to the election administrator to have  
26 another person designated as an agent for purposes of providing a signature or identifying mark required  
27 pursuant to this title and for delivering the disabled elector's absentee ballot application to the county election  
28 administrator as provided in 13-13-213.

29 (b) An application for designation of an agent by an elector under this section must be made on a form  
30 prescribed by the secretary of state. The secretary of state shall by rule establish the criteria that must be met

1 and the process that must be followed in order for a person to become a designated agent for a disabled elector  
2 pursuant to this subsection (4).

3 (5) If an agent, election administrator, or election judge signs or marks a document for an elector  
4 pursuant to this section, the agent, election administrator, or election judge shall initial the signature or mark.

5 (6) A disabled elector may not be required to provide a fingerprint.  
6

7 **Section 2.** Section 13-3-205, MCA, is amended to read:

8 **"13-3-205. Adoption of standards for polling place accessibility -- rulemaking authority. (1) (a)**

9 The secretary of state, with advice from election administrators and individuals with disabilities and elderly  
10 individuals, shall establish standards for accessibility of polling places. ~~The~~

11 (b) For polling places approved pursuant to this subsection (1) prior to [the effective date of this act],  
12 the standards, whenever possible, must be consistent with the standards for accessibility established by the  
13 American national standards institute and the uniform federal accessibility standards.

14 (2) Polling places approved on or after [the effective date of this act] must comply with the accessibility  
15 standards in the Americans with Disabilities Act of 1990, 42 U.S.C. 12101, et seq."  
16

17 **Section 3.** Section 13-13-114, MCA, is amended to read:

18 **"13-13-114. Voter identification and marking precinct register book before elector votes --**

19 **provisional voting.** (1) (a) Before an elector is permitted to receive a ballot or vote, the elector shall present to  
20 an election judge a current photo identification showing the elector's name. If the elector does not present photo  
21 identification, including but not limited to a valid driver's license, a school district or postsecondary education  
22 photo identification, or a tribal photo identification, the elector shall present a current utility bill, bank statement,  
23 paycheck, notice of confirmation of voter registration issued pursuant to 13-2-207, government check, or other  
24 government document that shows the elector's name and current address.

25 (b) An elector who provides the information listed in subsection (1)(a) may sign the precinct register and  
26 must be provided with a regular ballot to vote.

27 (c) If the information provided in subsection (1)(a) differs from information in the precinct register but  
28 an election judge determines that the information provided is sufficient to verify the voter's identity and eligibility  
29 to vote pursuant to 13-2-512, the elector may sign the precinct register, complete a transfer form or new  
30 registration form to correct the elector's voter registration information, and vote.

1 (d) An election judge shall write "transfer form" or "registration form" beside the name of any elector  
2 submitting a form.

3 (2) If the information presented under subsection (1) is insufficient to verify the elector's identity and  
4 eligibility to vote or if the elector's name does not appear in the precinct register, the elector may sign the precinct  
5 register and cast a provisional ballot as provided in 13-13-601.

6 ~~(3) If the elector is not able to sign the elector's name to the precinct register, a fingerprint or other~~  
7 ~~identifying mark may be used.~~

8 ~~(4)(3) If the elector fails or refuses to sign the elector's name or, if unable to write, fails to provide a~~  
9 ~~fingerprint or other identifying mark~~ the elector is disabled and a fingerprint, an identifying mark, or a signature  
10 by a person authorized to sign for the elector pursuant to [section 1] is not provided, the elector may cast a  
11 provisional ballot as provided in 13-13-601."  
12

13 **Section 4.** Section 13-13-119, MCA, is amended to read:

14 **"13-13-119. Aid to disabled elector.** (1) When a disabled elector enters a polling place, an election  
15 judge shall ask the elector if the elector wants assistance.

16 ~~(1)(2) The An election judges judge~~ or an individual chosen by the disabled elector as specified in  
17 subsection ~~(4)~~ (5) may aid an elector who, because of physical disability or inability to read or write, needs  
18 assistance in marking ~~his~~ the elector's ballot.

19 ~~(2)(3) The election judges shall require the a declaration of disability by the elector to. The declaration~~  
20 must be made under oath and may administer the oath, which must be administered by an election judge.

21 ~~(3)(4) The elector may be assisted by two judges who represent different parties. The judges must shall~~  
22 certify on the precinct register opposite the disabled elector's name that the ballot was marked with their  
23 assistance. The judges may not reveal information regarding the ballot.

24 ~~(4)(5) Instead of assistance as provided in subsection (3)(4), the elector may request the assistance~~  
25 ~~of any individual whom he the elector~~ designates to the judges to aid him the elector in the marking of ~~his the~~  
26 elector's ballot, and the. An individual chosen designated to assist the elector shall sign his the individual's name  
27 on the precinct register beside the name of the elector assisted. The individual chosen may not be the elector's  
28 employer, an agent of his the elector's employer, or an officer or agent of the elector's union.

29 ~~(5)(6) No elector other than the one elector~~ who requires assistance may divulge to anyone within the  
30 polling place the name of any candidate for whom ~~he~~ the elector intends to vote or may ask or receive the

1 assistance of any individual within the polling place in the preparation of his the elector's ballot."  
2

3 **Section 5.** Section 13-13-213, MCA, is amended to read:

4 **"13-13-213. Transmission of application to election administrator -- delivery of ballot.** (1) Except  
5 as provided in subsection (3), the elector shall mail the application directly to the election administrator or deliver  
6 the application in person to the election administrator. With the exception of an immediate family member, as  
7 defined in 15-30-602, ~~or a guardian, or an agent designated pursuant to [section 1]~~, a third party may not collect  
8 applications for absentee ballots from electors and forward the applications to the election administrator.

9 (2) The election administrator shall compare the signature on the application with the applicant's  
10 signature on the registration card. If convinced the individual making the application is the same as the one  
11 whose name appears on the registration card, the election administrator shall deliver the ballot to the elector in  
12 person or as otherwise provided in 13-13-214.

13 (3) In lieu of the requirement provided in subsection (1), an elector who requests an absentee ballot  
14 pursuant to 13-13-212(2) may return the application to the special absentee election board. Upon receipt of the  
15 application, the special absentee election board shall examine the signatures on the application and a copy of  
16 the voting registration card to be provided by the election administrator. If the special absentee election board  
17 believes that the applicant is the same person as the one whose name appears on the registration card, the  
18 special absentee election board shall provide a ballot to the elector."  
19

20 **Section 6.** Section 13-13-214, MCA, is amended to read:

21 **"13-13-214. Mailing absentee ballot to elector -- delivery to person other than elector.** (1) (a)  
22 Except as provided in 13-13-213 and in subsection (1)(b) of this section, as soon as the official paper absentee  
23 ballots are printed, the election administrator shall immediately send by mail, postage prepaid, to each legally  
24 registered elector and provisionally registered elector from whom the election administrator has received a valid  
25 absentee ballot application under 13-13-211 and 13-13-212 whatever official ballots are necessary.

26 (b) The election administrator may deliver a ballot in person to an individual other than the elector if:

27 (i) the elector has designated the individual, either by a signed letter or by making the designation on  
28 the application form in a manner prescribed by the secretary of state or pursuant to [section 1];

29 (ii) the individual taking delivery of the ballot on behalf of the elector verifies, by signature, receipt of the  
30 ballot;

1 (iii) the election administrator believes that the individual receiving the ballot is the designated person;  
2 and

3 (iv) the designated person has not previously picked up ballots for four other electors.

4 (2) The election administrator shall enclose with the ballots:

5 (a) a secrecy envelope, free of any marks that would identify the voter; and

6 (b) an envelope for the return of the ballots. The envelope must be self-addressed by the election  
7 administrator and an affirmation in the form prescribed by the secretary of state must be printed on the back of  
8 the envelope.

9 (3) The election administrator shall ensure that the ballots provided to an absentee elector are marked  
10 as provided in 13-13-116 and remove the stubs from the ballots, attaching the stubs to the elector's absentee  
11 ballot application.

12 (4) If the ballots sent to the elector are for a primary election, the election administrator shall enclose  
13 an extra envelope marked "For Unvoted Party Ballot(s)". This envelope may not be numbered or marked in any  
14 way so that it can be identified as being used by any one elector.

15 (5) Instructions for voting must be enclosed with the ballots. Instructions for primary elections must  
16 include use of the envelope for unvoted ballots. The instructions must include information concerning the type  
17 or types of writing instruments that may be used to mark the absentee ballot. The instructions must include  
18 information regarding use of the secrecy envelope and use of the return envelope. The election administrator  
19 shall include a voter information pamphlet with the instructions if:

20 (a) a statewide ballot issue appears on the ballot mailed to the elector; and

21 (b) the elector requests a voter information pamphlet."  
22

23 **NEW SECTION. Section 7. Codification instruction.** [Section 1] is intended to be codified as an  
24 integral part of Title 13, chapter 1, part 1, and the provisions of Title 13, chapter 1, part 1, apply to [section 1].

25 - END -