

HOUSE BILL NO. 281  
INTRODUCED BY T. MCGILLVRAY

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING ELECTION LAWS; REVISING VOTER REGISTRATION DEADLINES AND RESIDENCY REQUIREMENTS; REQUIRING PROOF OF UNITED STATES CITIZENSHIP FOR NEW VOTER REGISTRATION; REVISING WHEN ABSENTEE BALLOTS ARE AVAILABLE FOR VOTING; AMENDING SECTIONS 13-1-111, 13-2-110, 13-2-115, 13-2-301, 13-2-514, 13-13-205, 13-13-213, 13-13-214, 13-21-201, 13-21-202, AND 13-21-210, MCA; AND REPEALING SECTION 13-2-304, MCA."

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

**Section 1.** Section 13-1-111, MCA, is amended to read:

**"13-1-111. Qualifications of voter.** (1) ~~No~~ A person ~~may be~~ is not entitled to vote at elections unless ~~he has the following qualifications~~ the person is:

- (a) ~~He must be~~ registered as required by law;
  - (b) ~~He must be~~ 18 years of age or older;
  - (c) ~~He must be a~~ subject to 13-2-514 and subsection (4) of this section, a resident of the state of Montana and of the county in which ~~he~~ the person offers to vote for at least 30 days; and
  - (d) ~~He must be~~ a citizen of the United States.
- (2) ~~No~~ A person convicted of a felony ~~has the right to~~ may not vote while ~~he~~ the person is serving a sentence in a penal institution.
- (3) ~~No~~ A person adjudicated to be of unsound mind ~~has the right to~~ may not vote; unless ~~he~~ the person has been restored to capacity as provided by law.
- (4) A person living in Yellowstone national park and whose physical domicile is outside of this state's boundaries is not a resident of this state or of a district within this state for purposes of this section."

**Section 2.** Section 13-2-110, MCA, is amended to read:

**"13-2-110. Application for voter registration -- sufficiency and verification of information -- identifiers assigned for voting purposes.** (1) An individual may apply for voter registration in person or by mail by completing and signing an application for voter registration and providing the application and any required

documentation to the election administrator in the county in which the elector resides.

(2) An individual applying by mail shall send the application to the election administrator, postage paid, no later than 15 days after the date it is signed.

(3) Each application for voter registration must be accepted and processed as provided in rules adopted under 13-2-109 and this section.

(4) Except as provided in subsection (5):

(a) an applicant for voter registration shall provide the applicant's driver's license number; or

(b) if the applicant does not have a driver's license, the applicant shall provide the last four digits of the applicant's social security number.

(5) If an applicant does not have a driver's license or social security number:

(a) an applicant appearing in person before the election administrator shall provide:

(i) current and valid photo identification, including but not limited to a school district or postsecondary education photo identification or a tribal photo identification, with the individual's name; or

(ii) a current utility bill, bank statement, paycheck, government check, or other government document that shows the individual's name and current address.

(b) an applicant applying by mail to register shall also enclose a copy of:

(i) a current and valid photo identification, including but not limited to a school district or postsecondary education photo identification or a tribal photo identification, with the individual's name; or

(ii) a current utility bill, bank statement, paycheck, government check, or other government document that shows the individual's name and current address.

(6) An applicant shall provide proof of U.S. citizenship. As proof of U.S. citizenship, an applicant shall either present in person or provide by mail one of the following:

(a) a birth certificate or a legible copy of it;

(b) a passport or a legible copy of the pertinent pages of the passport;

(c) a naturalization certificate, except that if an applicant does not present the certificate or enclose a legible copy of the certificate, the applicant may provide only the certificate number. However, the applicant may not be legally registered until the election administrator verifies the number with the U.S. agency responsible for issuing the certificate.

(d) a bureau of Indian affairs card, tribal treaty card, or tribal enrollment card or a legible copy of one of those cards, except that if an applicant does not present the card or enclose a legible copy of the card, the applicant may provide only the card number. However, the applicant may not be legally registered until the

election administrator verifies the number with the appropriate U.S. or tribal agency.

~~(6)(7)~~ (a) If information provided on with an application for voter registration is sufficient to be accepted and processed and is verified pursuant to rules adopted under 13-2-109 and this section, the election administrator shall register the elector as a legally registered elector.

(b) If information provided on with an application for voter registration was ~~sufficient to be accepted but the applicant failed to provide the information required in subsection (4) or (5) or if the information provided was incorrect or insufficient to verify the individual's eligibility to vote~~, the election administrator shall register the applicant as a provisionally registered elector until proof of eligibility is provided and verified.

~~(7)(8)~~ Each applicant for voter registration must be notified of the elector's registration status pursuant to rules adopted under 13-2-109 and this section.

~~(8)(9)~~ The secretary of state shall assign to each elector whose application was accepted a unique identification number for voting purposes and shall establish a statewide uniform method to allow the secretary of state and local election officials to distinguish legally registered electors from provisionally registered electors.

~~(9)(10)~~ The provisions of this section may not be interpreted to conflict with voter registration accomplished under 13-2-221, 13-21-201, 13-21-203, and 61-5-107 and as provided for in federal law."

**Section 3.** Section 13-2-115, MCA, is amended to read:

**"13-2-115. Certification of statewide voter registration list -- local lists to be prepared.** (1) Immediately after ~~regular~~ registration is closed under 13-2-301, the secretary of state shall certify the official statewide voter registration list.

(2) Each election administrator shall have printed from the certified statewide voter registration database lists of all registered electors in each precinct in the county. Except as provided in subsections (5) and (6), names of electors must be listed alphabetically, with their residence address or with a mailing address if located where street numbers are not used.

(3) A copy of the list of registered electors in a precinct must be displayed at the precinct's polling place. Extra copies of the lists must be retained by the election administrator and furnished to an elector upon request.

(4) Lists of registered electors need not be printed if the election will not be held.

(5) If a law enforcement officer or reserve officer, as defined in 7-32-201, requests in writing that, for security reasons, the officer's and the officer's spouse's residential address, if the same as the officer's, not be disclosed, the secretary of state or an election administrator may not include the address on any generally available list of registered electors but may list only the electors' names.

(6) (a) Upon the request of an individual, the secretary of state or an election administrator may not include the individual's residential address on any generally available list of registered electors but may list only the elector's name if the individual:

(i) proves to the election administrator, as provided in subsection (6)(b), that the individual, or a minor in the custody of the individual, has been the victim of partner or family member assault, stalking, custodial interference, or other offense involving bodily harm or threat of bodily harm to the individual or minor; or

(ii) proves to the election administrator, as provided in subsection (6)(c), that a temporary restraining order or injunction has been issued by a judge or magistrate to restrain another person's access to the individual or minor.

(b) Proof of the victimization is conclusive upon exhibition to the election administrator of a criminal judgment, information and judgment, or affidavit of a county attorney clearly indicating the conviction and the identity of the victim.

(c) Proof of the issuance of a temporary restraining order or injunction is conclusive upon exhibition to the election administrator of the temporary restraining order or injunction."

**Section 4.** Section 13-2-301, MCA, is amended to read:

**"13-2-301. Close of regular registration -- notice -- changes.** (1) The election administrator shall:

(a) close regular registrations for ~~30~~ 4 days before any election; and

(b) broadcast a notice specifying the day regular registrations will close on radio or television as provided in 2-3-105 through 2-3-107 or publish the notice in a newspaper of general circulation in the county at least three times in the 4 weeks preceding the close of registration. The provisions of this subsection (1)(b) are fulfilled upon the third publication.

(2) Information to be included in the notice must be prescribed by the secretary of state.

(3) (a) An application for voter registration properly executed and postmarked on or before the day regular registration is closed must be accepted ~~as a regular registration~~ for 3 days after regular registration is closed under subsection (1)(a).

(b) If an application for voter registration is made after the deadline provided for in this section, the application must be processed for the next election.

~~(4) An individual who submits a completed registration form to the election administrator before the deadlines provided in this section is allowed to correct a mistake on the completed registration form until 5 p.m. on the 10th day following the close of regular registration, and the qualified elector is then eligible to vote in the~~

election at the polling place for that elector's precinct.

~~———(5) Subject to the provisions of 13-2-304, an elector who misses the deadlines provided for in this section may register to vote or change the elector's voter information and vote in the election, except as otherwise provided in 13-2-304."~~

**Section 5.** Section 13-2-514, MCA, is amended to read:

**"13-2-514. Change of residence to another county.** (1) Except as provided in subsection (2)(a), an elector who changes residence to a different county within this state shall register in the new county of residence in order to vote in any election.

(2) An elector who changes residence to a different county 30 days or less before an election may:

(a) vote in person or by absentee ballot in the precinct and county where previously registered; or

(b) update the elector's registration information and vote in the elector's new county of residence, subject to the ~~regular~~ registration provisions of 13-2-301 ~~or the late registration provisions of 13-2-304.~~

(3) The registration information of an elector whose information is changed pursuant to this section must be updated in the statewide voter registration list pursuant to rules adopted under 13-2-108."

**Section 6.** Section 13-13-205, MCA, is amended to read:

**"13-13-205. When paper ballots to be available.** (1) The election administrator shall ensure that ~~paper~~ ballots are printed ~~and available for absentee voting~~ at least:

(a) 30 days prior to an election for those elections held in compliance with 13-1-107(1);

(b) 20 days prior to an election for those elections held in compliance with 13-1-104(2) and (3) and 13-1-107(2); and

(c) 45 days prior to an election held in conjunction with a federal general election in compliance with 13-1-104(1).

(2) A ballot may not be provided to an elector for absentee voting sooner than 30 days before an election, except that an absentee ballot requested pursuant to Title 13, chapter 21, may be sent to the elector as soon as the absentee ballot is available.

~~(2) If paper ballots are sent more than 30 days before an election, the election administrator shall include a notice that the voter information pamphlet, when required to be distributed, will be provided pursuant to 13-27-410."~~

**Section 7.** Section 13-13-213, MCA, is amended to read:

**"13-13-213. Transmission of application to election administrator -- delivery of ballot.** (1) All absentee ballot application forms must be addressed to the appropriate election official.

(2) Except as provided in subsection (4), the elector may mail the application directly to the election administrator or deliver the application in person to the election administrator. An agent designated pursuant to 13-1-116 or a third party may collect the elector's application and forward it to the election administrator.

(3) The election administrator shall compare the signature on the application with the applicant's signature on the registration card. If convinced the individual making the application is the same as the one whose name appears on the registration card, the election administrator shall deliver the ballot to the elector in person or as otherwise provided in 13-13-214, subject to 13-13-205.

(4) In lieu of the requirement provided in subsection (2), an elector who requests an absentee ballot pursuant to 13-13-212(2) may return the application to the special absentee election board. Upon receipt of the application, the special absentee election board shall examine the signatures on the application and a copy of the voting registration card to be provided by the election administrator. If the special absentee election board believes that the applicant is the same person as the one whose name appears on the registration card, the special absentee election board shall provide a ballot to the elector, subject to 13-13-205."

**Section 8.** Section 13-13-214, MCA, is amended to read:

**"13-13-214. Mailing absentee ballot to elector -- delivery to person other than elector.** (1) (a) Except as provided in 13-13-213 and in subsection (1)(b) of this section, ~~as soon as the official paper absentee ballots are printed~~, the election administrator shall, no sooner than authorized in 13-13-205, ~~immediately send by mail; postage prepaid~~, to each legally registered elector and provisionally registered elector from whom the election administrator has received a valid absentee ballot application under 13-13-211 and 13-13-212 whatever official ballots are necessary.

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

(i) the elector has designated the individual, either by a signed letter or by making the designation on the application form in a manner prescribed by the secretary of state or pursuant to 13-1-116;

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

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

and

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

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

(a) a form prescribed by the secretary of state that allows the elector to request absentee ballots for each subsequent federal election only or for all subsequent elections, as provided for in 13-13-212(4);

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

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

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

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

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

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

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

**Section 9.** Section 13-21-201, MCA, is amended to read:

**"13-21-201. Registration of United States electors -- simultaneous application for absentee ballot.**

(1) A United States elector may register with the election administrator in the elector's county of residence by properly completing, signing, and returning:

(a) the voter registration form;

(b) the federal post card application; or

(c) the federal write-in absentee ballot transmission envelope.

(2) A registration application under this section must be received by the election administrator ~~not less than 30 days before the election for the registration~~ by the deadline prescribed in 13-2-301 to be valid for the

election. If the registration application is received ~~less than 30 days before the election~~ after the prescribed deadline, the registration application must be processed for the next election.

(3) A registration application using a federal post card application or the federal write-in absentee ballot transmission envelope must be considered a simultaneous application for absentee ballots under 13-21-210."

**Section 10.** Section 13-21-202, MCA, is amended to read:

**"13-21-202. Classification of applications -- notification of elector.** (1) Upon receipt by the election administrator of an application pursuant to 13-13-212 or 13-21-210, the election administrator shall:

(a) classify the application according to the precinct in which the elector resides or, if the information is insufficient to determine precinct of residence, assign an appropriate precinct;

(b) immediately enter all information in the registration records of the office and either file the federal post card application with ~~regular~~ registration forms or file a photocopy attached to a ~~regular~~ registration form on which the information has been entered. This information is sufficient to meet any identification requirements provided by law for an elector.

(c) send to the applicant by the fastest mail service available, which may include facsimile transmission or electronic mail, a notice that the elector has been registered and informing the elector that a ballot is enclosed or that the elector will be mailed an absentee ballot for that election or for the next election in which the elector is entitled to vote under subsection (1) or, if the application is rejected, a notice that the application has been rejected and the reasons for the rejection.

(2) The election administrator may use photocopies of the federal post card application to complete all necessary records."

**Section 11.** Section 13-21-210, MCA, is amended to read:

**"13-21-210. Application for absentee ballots.** (1) A United States elector may apply for regular absentee ballots as follows:

(a) by making a written request, which must include the elector's birth date and signature;

(b) by properly completing, signing, and returning to the election administrator the federal post card application; or

(c) by properly completing, signing, and returning to the appropriate county election administrator the federal write-in absentee ballot transmission envelope.

(2) An application for a federal write-in absentee ballot must be received by the appropriate county



election administrator ~~not less than 30 days before the date of an election~~ by the deadline prescribed in 13-2-301.  
An application received ~~less than 30 days before the date of an election~~ after the prescribed deadline must be processed for the next election.

(3) An application under this section is valid for all state and local elections in the calendar year in which the application is made and the next two regularly scheduled federal general elections. The elector's county election administrator shall provide the elector with a regular absentee ballot for the elections described in this subsection as soon as the ballots become available."

NEW SECTION. **Section 12. Repealer.** Section 13-2-304, MCA, is repealed.

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