

HOUSE BILL NO. 108

INTRODUCED BY T. WASHBURN

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING REGISTRATION AND PROOF OF IDENTITY REQUIREMENTS FOR VOTING; REQUIRING PHOTO IDENTIFICATION; ELIMINATING THE FEE FOR AN IDENTIFICATION CARD FOR CERTAIN INDIVIDUALS; AND AMENDING SECTIONS 13-1-111, 13-2-110, 13-2-115, 13-2-116, 13-2-514, 13-13-114, 13-13-201, 13-13-301, 13-13-602, AND 61-12-504, MCA."

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

NEW SECTION. **Section 1. Legislative intent.** It is the intent of the legislature to maintain the integrity of Montana elections and to guard against abuses of the electoral process in order to provide Montanans with confidence in the electoral process and, as a result, encourage full participation of all eligible electors in Montana elections. The legislative intent is accomplished by instituting safeguards designed to:

- (1) deter and detect voter fraud;
- (2) ensure that only those individuals eligible to vote cast a vote; and
- (3) count only the votes cast by individuals who are eligible to vote.

Section 2. Section 13-1-111, MCA, is amended to read:

"13-1-111. Qualifications of voter. (1) A person may not vote at elections unless the person is:

- (a) registered as required by law;
- (b) 18 years of age or older;
- (c) a resident of the state of Montana and of the county in which the person offers to vote for at least ~~30~~ 60 days, except as provided in 13-2-514; and
- (d) a citizen of the United States.

(2) A person convicted of a felony does not have the right to vote while the person is serving a sentence in a penal institution.

(3) A person adjudicated to be of unsound mind does not have the right to vote unless the person has been restored to capacity as provided by law."

1 **Section 3.** Section 13-2-110, MCA, is amended to read:

2 **"13-2-110. Application for voter registration -- sufficiency and verification of information --**
 3 **identifiers assigned for voting purposes.** (1) An individual may apply for voter registration in person or by mail,
 4 postage paid, by completing and signing the standard application form for voter registration provided for in
 5 13-1-210 and providing the application to the election administrator in the county in which the elector resides.

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

8 (3) An applicant for voter registration shall provide the applicant's date of birth on a form prescribed by
 9 the secretary of state.

10 ~~(3)~~(4) Except as provided in subsection ~~(4)~~ (5):

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

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

14 ~~(4)~~(5) (a) If an applicant does not have a Montana driver's license ~~or social security number~~, in addition
 15 to providing the last four digits of the applicant's social security number, the applicant shall provide as an
 16 alternative form of identification:

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

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

21 (i) a current Montana identification card issued pursuant to Title 61, chapter 12, part 5; or

22 (ii) a current tribal photo identification card.

23 (b) The alternative form of identification must be:

24 (i) an original version presented to the election administrator if the applicant is applying in person; or

25 (ii) a copy of any of the required documents, which must be enclosed with the application, if the applicant
 26 is applying by mail.

27 ~~(5)~~(6) (a) If information provided on an application for voter registration is sufficient to be accepted and
 28 processed and is verified pursuant to rules adopted under 13-2-109, the election administrator shall register the
 29 elector as a legally registered elector.

30 (b) If information provided on an application for voter registration was sufficient to be accepted but the

1 applicant failed to provide the information required in subsection ~~(3)~~ (4) or ~~(4)~~ (5) or if the information provided
 2 was incorrect or insufficient to verify the individual's identity or eligibility to vote, the election administrator shall
 3 register the applicant as a provisionally registered elector.

4 ~~(6)~~(7) Each applicant for voter registration must be notified of the elector's registration status pursuant
 5 to rules adopted under 13-2-109.

6 ~~(7)~~(8) The secretary of state shall assign to each elector whose application was accepted a unique
 7 identification number for voting purposes and shall establish a statewide uniform method to allow the secretary
 8 of state and local election officials to distinguish legally registered electors from provisionally registered electors.

9 ~~(8)~~(9) The provisions of this section may not be interpreted to conflict with voter registration
 10 accomplished under 13-2-221, 13-21-201, 13-21-203, and 61-5-107 and as provided for in federal law."
 11

12 **Section 4.** Section 13-2-115, MCA, is amended to read:

13 **"13-2-115. Certification of statewide voter registration list -- local lists to be prepared.** (1) No later
 14 than 5 working days after the deadline prescribed in 13-2-301(3), election administrators shall enter all voter
 15 registration applications that were submitted within the deadline for regular registration into the statewide voter
 16 registration database.

17 (2) The secretary of state shall certify the official statewide voter registration list by utilizing the
 18 information in the statewide voter registration database.

19 (3) Each election administrator shall have printed from the certified statewide voter registration database
 20 lists of all registered electors in each precinct in the county. Except as provided in subsections (6) and (7), ~~names~~
 21 ~~of electors must be listed alphabetically, with their residence address or with a mailing address if located where~~
 22 ~~street numbers are not used~~ the lists must contain at a minimum:

23 (a) names of electors, listed alphabetically;

24 (b) the residence of each elector or a mailing address if the residence address is located where street
 25 numbers are not used; and

26 (c) the date of birth of each elector.

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

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

30 (6) If a law enforcement officer or reserve officer, as defined in 7-32-201, requests in writing that, for

1 security reasons, the officer's and the officer's spouse's residential address, if the same as the officer's, not be
2 disclosed, the secretary of state or an election administrator may not include the address on any generally
3 available list of registered electors but may list only the electors' names.

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

7 (i) proves to the election administrator, as provided in subsection (7)(b), that the individual, or a minor
8 in the custody of the individual, has been the victim of partner or family member assault, stalking, custodial
9 interference, or other offense involving bodily harm or threat of bodily harm to the individual or minor; or

10 (ii) proves to the election administrator, as provided in subsection (7)(c), that a temporary restraining
11 order or injunction has been issued by a judge or magistrate to restrain another person's access to the individual
12 or minor.

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

16 (c) Proof of the issuance of a temporary restraining order or injunction is conclusive upon exhibition to
17 the election administrator of the temporary restraining order or injunction."
18

19 **Section 5.** Section 13-2-116, MCA, is amended to read:

20 "**13-2-116. Precinct register.** (1) Except for mail ballot elections conducted under Title 13, chapter 19,
21 the election administrator shall prepare from the certified statewide voter registration list a precinct register for
22 each precinct in the county for use by the election judges. The register may be prepared no sooner than the
23 Friday before each election and must contain an alphabetical list of the names, with addresses, of the legally
24 registered electors and provisionally registered electors, the date of birth of the elector, a space for the signature
25 of the elector, and other information as prescribed by the secretary of state.

26 (2) If some of the electors in a precinct are not eligible to receive all ballots at an election because of a
27 combination of the elections of more than one political subdivision, the election administrator shall distinguish the
28 names of those eligible for each ballot by whatever method will be clear and efficient.

29 (3) When several precincts have been combined at one polling place for an election, the election
30 administrator may combine the electors from all precincts into one register or may provide separate registers for

1 each precinct.

2 (4) Precinct registers need not be printed if the election will not be held."

3

4 **Section 6.** Section 13-2-514, MCA, is amended to read:

5 **"13-2-514. Change of residence to another county.** (1) Except as provided in subsection (2)(a), an
6 elector who changes residence to a different county within this state shall register in the new county of residence
7 in order to vote in any election.

8 (2) An elector who changes residence to a different county ~~30~~ 60 days or less before an election may:

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

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

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

14

15 **Section 7.** Section 13-13-114, MCA, is amended to read:

16 **"13-13-114. Voter identification and marking precinct register book before elector votes --**
17 **provisional voting.** (1) (a) ~~Before~~ Except as provided in subsection (4), before an elector is permitted to receive
18 a ballot or vote, the elector shall present to an election judge ~~a current photo identification showing the elector's~~
19 ~~name. If the elector does not present photo identification, including but not limited to one of the following:~~

20 (i) ~~a valid current Montana driver's license, a school district or postsecondary education photo~~
21 ~~identification; or;~~

22 (ii) a current tribal photo identification; card; or

23 (iii) a current Montana identification card issued pursuant to Title 61, chapter 12, part 5 ~~the elector shall~~
24 ~~present a current utility bill, bank statement, paycheck, notice of confirmation of voter registration issued pursuant~~
25 ~~to 13-2-207, government check, or other government document that shows the elector's name and current~~
26 ~~address.~~

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

29 (c) ~~#~~ Except as provided in subsection (1)(e), if the information provided in subsection (1)(a) differs from
30 information in the precinct register but an election judge determines that the information provided is sufficient to

1 verify the voter's identity and eligibility to vote pursuant to 13-2-512, the elector may sign the precinct register,
2 complete a transfer form or new registration form to correct the elector's voter registration information, and vote.

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

5 (e) If the month and day of the expiration date on the state-issued photo identification required under
6 (1)(a) differs from the month and day of birth listed for the elector in the precinct register, the elector may sign the
7 precinct register and cast a provisional ballot as provided in 13-13-601.

8 (2) If the information presented under subsection (1) is insufficient to verify the elector's identity and
9 eligibility to vote or if the elector's name does not appear in the precinct register or appears in the register as
10 provisionally registered and this provisional registration status cannot be resolved at the polling place, the elector
11 may sign the precinct register and cast a provisional ballot as provided in 13-13-601.

12 (3) If the elector fails or refuses to sign the elector's name or if the elector is disabled and a fingerprint,
13 an identifying mark, or a signature by a person authorized to sign for the elector pursuant to 13-1-116 is not
14 provided, the elector may cast a provisional ballot as provided in 13-13-601.

15 (4) An elector is not required to provide proof of identification if the elector votes in person at a precinct
16 polling place that is located at a state-licensed long-term care facility, as defined in 50-5-101, where the voter
17 resides."

18

19 **Section 8.** Section 13-13-201, MCA, is amended to read:

20 **"13-13-201. Voting by absentee ballot -- procedures.** (1) A legally registered elector or provisionally
21 registered elector is entitled to vote by absentee ballot as provided for in this part.

22 (2) The elector may vote absentee by:

23 (a) marking the ballot in the manner specified;

24 (b) placing the marked ballot in the secrecy envelope, free of any identifying marks;

25 (c) placing the secrecy envelope containing one ballot for each election being held in the return
26 envelope;

27 (d) executing the affirmation printed on the return envelope; and

28 (e) returning the return envelope with all appropriate enclosures by regular mail, postage paid, or by
29 delivering it to:

30 (i) the election office;

- 1 (ii) a polling place within the elector's county;
- 2 (iii) pursuant to 13-13-229, the special absentee election board; or
- 3 (iv) in a mail ballot election held pursuant to Title 13, chapter 19, a designated place of deposit within the
- 4 elector's county.

5 (3) Except as provided in 13-21-206 and 13-21-207, in order for the ballot to be counted, each elector

6 shall return it in a manner that ensures the ballot is received prior to 8 p.m. on election day.

7 (4) A provisionally registered elector may also enclose in the outer return envelope a copy of ~~the elector's~~

8 ~~photo identification showing the elector's name. The photo identification may be but is not limited to a valid driver's~~

9 ~~license, a school district or postsecondary education photo identification, or a tribal photo identification. If the~~

10 ~~provisionally registered elector does not enclose a photo identification, the elector may enclose a copy of a~~

11 ~~current utility bill, bank statement, paycheck, notice of confirmation of voter registration issued pursuant to~~

12 ~~13-2-207, government check, or other government document that shows the elector's name and current address~~

13 one of the identification documents listed in 13-13-114(1)(a)."

14

15 **Section 9.** Section 13-13-301, MCA, is amended to read:

16 **"13-13-301. Challenges.** (1) An elector's right to vote may be challenged at any time by any registered

17 elector by the challenger filling out and signing an affidavit stating the grounds of the challenge and providing any

18 evidence supporting the challenge to the election administrator or, on election day, to an election judge.

19 (2) A challenge may be made on the grounds that the elector:

- 20 (a) is of unsound mind, as determined by a court;
- 21 (b) has voted before in that election;
- 22 (c) has been convicted of a felony and is serving a sentence in a penal institution;
- 23 (d) is not registered as required by law;
- 24 (e) is not 18 years of age or older;
- 25 (f) has not been, for at least ~~30~~ 60 days, a resident of the county in which the elector is offering to vote,
- 26 except as provided in 13-2-514;
- 27 (g) is a provisionally registered elector whose status has not been changed to a legally registered voter;
- 28 or
- 29 (h) does not meet another requirement provided in the constitution or by law.

30 (3) When a challenge has been made under this section, unless the election administrator determines

1 that the challenge is insufficient, then without the need for further information:

2 (a) prior to the close of registration under 13-2-301, the election administrator shall question the
3 challenger and the challenged elector and may question other persons to determine whether the challenge is
4 sufficient or insufficient to cancel the elector's registration under 13-2-402; or

5 (b) after the close of registration or on election day, the election administrator or, on election day, the
6 election judge shall allow the challenged elector to cast a provisional paper ballot, which must be handled as
7 provided in 13-15-107.

8 (4) (a) In response to a challenge, the challenged elector may fill out and sign an affidavit to refute the
9 challenge and swear that the elector is eligible to vote.

10 (b) If the challenge was not made in the presence of the elector being challenged, the election
11 administrator or election judge shall notify the challenged elector of who made the challenge and the grounds of
12 the challenge and explain what information the elector may provide to respond to the challenge. The notification
13 must be made:

14 (i) within 5 days of the filing of the challenge if the election is more than 5 days away; or

15 (ii) on or before election day if the election is less than 5 days away.

16 (c) The election administrator or, on election day, the election judge shall also provide to the challenged
17 elector a copy of the challenger's affidavit and any supporting evidence provided.

18 (5) The secretary of state shall adopt rules to implement the provisions of this section and shall provide
19 standardized affidavit forms for challengers and challenged electors."
20

21 **Section 10.** Section 13-13-602, MCA, is amended to read:

22 **"13-13-602. Fail-safe and provisional voting by mail.** (1) To ensure the election administrator has
23 information sufficient to determine the elector's eligibility to vote, an elector voting by mail may enclose in the
24 outer return envelope, together with the voted ballot in the secrecy envelope, a copy of ~~a current and valid photo~~
25 ~~identification with the elector's name or a copy of a current utility bill, bank statement, paycheck, notice of~~
26 ~~confirmation of voter registration issued pursuant to 13-2-207, government check, or other government document~~
27 ~~that shows the elector's name and current address or other information necessary to determine the elector's~~
28 ~~eligibility to vote~~ one of the identification documents listed in 13-13-114(1)(a).

29 (2) The elector's ballot must be handled as a provisional ballot under 13-15-107 if:

30 (a) a provisionally registered elector voting by mail does not enclose with the ballot the information

1 ~~described~~ referred to in subsection (1);

2 (b) the information provided under subsection (1) is invalid or insufficient to verify the elector's eligibility;

3 or

4 (c) the elector's name does not appear on the precinct register."

5

6 **Section 11.** Section 61-12-504, MCA, is amended to read:

7 **"61-12-504. Fees for identification cards -- exceptions -- expiration of cards.** (1) Fees not in excess

8 of \$8 for identification cards issued pursuant to this part must be collected and deposited in the general fund.

9 (2) (a) A person with a disability, as defined in 39-30-103, may obtain a free identification card.

10 (b) An individual discharged from any correctional facility must be furnished a free identification card
11 upon release, discharge, or parole.

12 (c) An individual who does not have a Montana driver's license and who will be at least 18 years of age
13 at the next primary, school, general, municipal, or special election must be furnished a free identification card
14 unless the individual's presence in the United States is temporarily authorized under federal law.

15 (3) (a) An identification card expires on the anniversary of the date of birth of the holder 4 years after the
16 date of issue.

17 (b) An identification card issued to a person whose presence in the United States is temporarily
18 authorized under federal laws expires, as determined by the department, no later than the expiration date of the
19 official document issued to the person by the United States citizenship and immigration services of the
20 department of homeland security that authorizes the person's presence in the United States."

21

22 NEW SECTION. **Section 12. Codification instruction.** [Section 1] is intended to be codified as an
23 integral part of Title 13, chapter 1, part 1, and the provisions of Title 13, chapter 1, apply to [section 1].

24

- END -