



AN ACT PROVIDING THAT UNIFORMED AND OVERSEAS VOTERS MAY USE A SECURE DIGITAL SIGNATURE DURING THE PROCESS OF REGISTERING AND VOTING; AND AMENDING SECTIONS 13-21-102, 13-21-104, AND 13-21-106, MCA.

WHEREAS, uniformed and overseas voters may not always have access to a printer, scanner, or regular mail in order to provide a physical signature when registering to vote; and

WHEREAS, although Montana law pursuant to section 13-21-106(3)(b), MCA, currently provides that if proper identification is provided, these voters need not provide a signature, some voters may not vote because a digital signature is not offered as an option; and

WHEREAS, the Federal Voting Assistance Program and the Council of State Governments has determined that voter experience could be improved if states would allow the use of the digital signature available with common access cards, which are identification cards issued by the U.S. Department of Defense only to qualified personnel; and

WHEREAS, allowing uniformed and overseas voters the option of using a common access card digital signature would provide an additional opportunity for these voters to register and vote as well as added security; and

WHEREAS, providing this option need not involve a costly change within the secretary of state's electronic absentee system because the digital signature can be validated through a current publicly available certificate-based protocol for which the U.S. Department of Defense is the trusted authority.

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

Section 1. Section 13-21-102, MCA, is amended to read:

"13-21-102. Definitions. As used in this chapter, the following definitions apply:

(1) "Covered voter" means:

(a) a uniformed-service voter or an overseas voter who is registered to vote in Montana;

(b) a uniformed-service voter whose voting residence is in Montana and who otherwise satisfies Montana's voter eligibility requirements;

(c) an overseas voter who, before leaving the United States, was last eligible to vote in Montana and, except for a state residency requirement, otherwise satisfies Montana's voter eligibility requirements;

(d) an overseas voter who, before leaving the United States, would have been last eligible to vote in Montana had the voter then been of voting age and, except for a state residency requirement, otherwise satisfies Montana's voter eligibility requirements.

(2) "Dependent" means an individual recognized as a dependent by a uniformed service.

(3) "Digital signature" means the certificate-based digital identification code issued to qualified personnel by the U.S. department of defense as part of the common access card or its successor.

~~(3)~~(4) "Federal postcard application" means the application prescribed under section 101(b)(2) of the Uniformed and Overseas Citizens Absentee Voting Act, ~~42 U.S.C. 1973ff(b)(2)~~ 52 U.S.C. 20301(b)(2).

~~(4)~~(5) "Federal write-in absentee ballot" means the ballot described in section 103 of the Uniformed and Overseas Citizens Absentee Voting Act, ~~42 U.S.C. 1973ff-2~~ 52 U.S.C. 20303.

~~(5)~~(6) "Military-overseas ballot" means:

(a) a federal write-in absentee ballot;

(b) an absentee ballot specifically prepared or distributed for use by a covered voter in accordance with this chapter; or

(c) a ballot cast by a covered voter in accordance with this chapter.

~~(6)~~(7) "Overseas voter" means a United States citizen who resides outside the United States who would otherwise be qualified to vote in the last place in which the person was domiciled before leaving the United States.

~~(7)~~(8) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

~~(8)~~(9) "Uniformed service" means:

(a) active and reserve components of the army, navy, air force, marine corps, or coast guard of the United States;

(b) the merchant marine, the commissioned corps of the public health service, or the commissioned corps of the national oceanic and atmospheric administration of the United States; or

(c) the national guard and state militia.

~~(9)~~(10) "Uniformed-service voter" means an individual who is qualified to vote and is:

(a) a member of the active or reserve components of the army, navy, air force, marine corps, or coast guard of the United States who is on active duty;

(b) a member of the merchant marine, the commissioned corps of the public health service, or the commissioned corps of the national oceanic and atmospheric administration of the United States;

(c) a member of the national guard or state militia in activated status; or

(d) a spouse or dependent of a member referred to in this subsection ~~(9)~~ (10).

~~(10)~~(11) "United States", used in the territorial sense, means the several states, the District of Columbia, Puerto Rico, the United States Virgin Islands, and any territory or insular possession subject to the jurisdiction of the United States.

~~(11)~~(12) "Voter registration application" means the form approved by the secretary of state that an elector may use to register to vote in Montana."

Section 2. Section 13-21-104, MCA, is amended to read:

"13-21-104. Adoption of rules on electronic registration and voting -- acceptance of funds. (1) The secretary of state shall adopt reasonable rules under the rulemaking provisions of the Montana Administrative Procedure Act to implement this chapter. The rules are binding upon election administrators.

(2) The rules must provide that:

(a) there are uniform statewide standards concerning electronic registration and voting;

(b) regular absentee ballots for a primary, general, or special election are available in a format that allows the ballot to be electronically transmitted to a covered voter as soon as the ballots are available pursuant to 13-13-205;

(c) a covered voter may, subject to 13-2-304, register and vote up to the time that the polls close on election day;

(d) a covered voter is allowed to cast a provisional ballot if there is a question about the elector's registration information or eligibility to vote; ~~and~~

(e) a covered voter with a digital signature is allowed the option of using the digital signature as provided in [section 4]; and

~~(e)~~(f) a ballot cast by a covered voter and transmitted electronically will remain secret, as required by Article IV, section 1, of the Montana constitution. This subsection ~~(2)(e)~~ (2)(f) does not prohibit the adoption of rules establishing administrative procedures on how electronically transmitted votes must be transcribed to an official ballot. However, the rules must be designed to protect the accuracy, integrity, and secrecy of the process.

(3) The secretary of state may apply for and receive a grant of funds from any agency or office of the United States government or from any other public or private source and may use the money for the purpose of implementing this chapter."

Section 3. Section 13-21-106, MCA, is amended to read:

"13-21-106. Role of secretary of state. (1) The secretary of state is the state official responsible for implementing the provisions of this chapter and the state's responsibilities under the Uniformed and Overseas Citizens Absentee Voting Act, ~~42 U.S.C. 1973ff~~ 52 U.S.C. 20301, et seq.

(2) The secretary of state shall make available to covered voters information regarding voter registration procedures for covered voters and procedures for casting military-overseas ballots. The secretary of state may delegate the responsibility under this subsection only to the state office designated in compliance with section 102(b)(1) of the Uniformed and Overseas Citizens Absentee Voting Act, ~~42 U.S.C. 1973ff-1(b)(1)~~ 52 U.S.C. 20302(b)(1).

(3) (a) The secretary of state shall establish an electronic transmission system in accordance with 13-21-104 that must be available at least 45 days before a covered election or any other approved method through which a covered voter may electronically apply for, ~~and receive, and return~~ voter registration materials, military-overseas ballots, and other information under this chapter.

(b) If required identification is included, materials submitted through the electronic transmission system are not required to be signed."

Section 4. Digital signature authorized. (1) A covered voter may use a digital signature as proof that the voter is the sender when the voter is electronically transmitting any of the following documents to an election administrator pursuant to this chapter:

- (a) a federal postcard application;
- (b) an application for voter registration;

(c) a request for an absentee ballot; or

(d) the voter's marked ballot.

(2) An election administrator shall verify a digital signature received pursuant to this section and accept a validated digital signature as proof that a document has been transmitted by the voter.

(3) Nothing in this section may be interpreted as:

(a) requiring a covered voter to use a digital signature;

(b) requiring that an election administrator use a digital signature in lieu of the voter's date of birth and social security number or driver's license number to validate the voter's identity during the voter registration process;

(c) requiring a county election administrator or the secretary of state to validate the voter's identity with the certificate authority that issued the digital signature;

(d) requiring both a valid digital signature and the last four digits of a voter's social security number as proof that a document is from the voter; or

(e) prohibiting a county election administrator from using the last four digits of a voter's social security number, if provided on the document, to verify that the document was sent by the voter.

Section 5. Codification instruction. [Section 4] is intended to be codified as an integral part of Title 13, chapter 21, part 1, and the provisions of Title 13, chapter 21, part 1, apply to [section 4].

- END -

I hereby certify that the within bill,
SB 0124, originated in the Senate.

President of the Senate

Signed this _____ day
of _____, 2019.

Secretary of the Senate

Speaker of the House

Signed this _____ day
of _____, 2019.

SENATE BILL NO. 124

INTRODUCED BY D. BROWN, W. MCKAMEY

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