

Session of 2018

SENATE BILL No. 264

By Senator Faust-Goudeau

1-5

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

K.S.A. 25-1121 and

21-5903,

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

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

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

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

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

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

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

36 (e) No county election officer shall provide an advance voting ballot

1 to a person who is requesting an advance voting ballot to be transmitted by
2 mail unless:

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

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

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

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

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

40 (3) For question submitted elections occurring on the date of a
41 primary or general election, the same as is provided for ballots for election
42 of officers at such election.

43 (4) For question submitted elections not occurring on the date of a

1 primary or general election, between the time of the first published notice
2 thereof and the Tuesday of the week preceding such question submitted
3 election, except that if the question submitted election is held on a day
4 other than a Tuesday, the final date for mailing of advance voting ballots
5 shall be one week before such election.

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

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

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

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

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

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

40 (i) On receipt of any application filed under the provisions of this
41 section, the county election officer shall prepare and maintain in such
42 officer's office a list of the names of all persons who have filed such
43 applications, together with their correct post office address and the

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

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

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

35 Sec. 2. K.S.A. 2017 Supp. 25-1124 is hereby amended to read as
36 follows: 25-1124. (a) Upon receipt of the advance voting ballot, the voter
37 shall cast such voter's vote as follows: The voter shall make a cross or
38 check mark in the square or parentheses opposite the name of each
39 candidate or question for whom the voter desires to vote. The voter shall
40 make no other mark, and shall allow no other person to make any mark,
41 upon such ballot. If the advance voting ballot was transmitted by mail, the
42 voter personally shall place the ballot in the ballot envelope bearing the
43 same number as the ballot and seal the envelope. The voter shall complete

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

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

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

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

39 (e) Any person assisting a voter who has an illness or physical
40 disability or who is not proficient in reading the English language in
41 applying for or marking an advance voting ballot, *or in signing an*
42 *application or advance voting ballot form for a voter who has a disability*
43 *preventing the voter from signing the application or advance voting ballot*

1 *form*, who knowingly fails to sign and submit the statement required by
2 this section or who exercises undue influence on the voting decision of
3 such voter shall be guilty of a severity level 9, nonperson felony.

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

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

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

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

27 (e) No person, unless authorized by K.S.A. 25-1122 or ~~K.S.A.~~ 25-
28 1124, and amendments thereto, shall knowingly intercept, interfere with,
29 or delay the transmission of advance voting ballots from the county
30 election officer to the voter.

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

34 (g) A voter may return such voter's advance voting ballot to the
35 county election officer by personal delivery or by mail. Upon written
36 designation by the voter, a person other than the voter may return the
37 advance voting ballot by personal delivery or mail, *except that a written*
38 *designation shall not be required from a voter who has a disability*
39 *preventing the voter from writing or signing a written designation.* Any
40 such person designated by the voter shall sign a statement that such person
41 has not exercised undue influence on the voting decisions of the voter and
42 agrees to deliver the ballot as directed by the voter.

43 (h) Violation of any provision of this section is a severity level 9,

1 nonperson felony.

2 Sec. 4. K.S.A. 2017 Supp. 25-1122, 25-1124 and 25-1128 are hereby
3 repealed.

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

Insert Attachment A

21-5903,

K.S.A. 25-1121 and

And by redesignating sections accordingly

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

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

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

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

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

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

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

(b) Perjury is a:

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

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

(3) subscribing as true and correct under the penalty of perjury the affidavit as provided in K.S.A. 25-1121(c), and amendments thereto.