

FIRST REGULAR SESSION

HOUSE BILL NO. 240

98TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE DAVIS.

0730L.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 115.427 and 115.430, RSMo, and to enact in lieu thereof two new sections relating to elections, with a contingent effective date.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 115.427 and 115.430, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 115.427 and 115.430, to read as follows:

- 115.427. 1. [Before receiving a ballot, voters] **Persons seeking to vote in a public election** shall establish their identity and eligibility to vote at the polling place by presenting a form of personal identification **to election officials**. ["Personal identification" shall mean only] **No form of personal identification other than the forms listed in this section shall be accepted to establish a voter's qualifications to vote. Forms of personal identification that satisfy the requirements of this section are any one of the following:**
- (1) Nonexpired Missouri driver's license [showing the name and a photograph or digital image of the individual]; [or]
 - (2) Nonexpired or nonexpiring Missouri nondriver's license [showing the name and a photographic or digital image of the individual]; [or]
 - (3) A document that satisfies all of the following requirements:
 - (a) The document contains the name of the individual to whom the document was issued, and the name substantially conforms to the most recent signature in the individual's voter registration record;
 - (b) The document shows a [photographic or digital image] **photograph** of the individual;

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

17 (c) The document includes an expiration date, and the document is not expired, or if
18 expired, **the document** expired [not before] **after** the date of the most recent general election;
19 and

20 (d) The document was issued by the United States or the state of Missouri; or

21 (4) Any identification containing a [photographic or digital image] **photograph** of the
22 individual which is issued by the Missouri National Guard, the United States Armed Forces, or
23 the United States Department of Veteran Affairs to a member or former member of the Missouri
24 National Guard or the United States Armed Forces and that **is not expired or** does not have an
25 expiration date.

26 2. [The] **All election authority costs associated with the implementation of the photo**
27 **identification requirements of this section shall be reimbursed from the general revenue**
28 **of this state by an appropriation for that purpose. If there is no appropriation and**
29 **distribution of state funds, then election authorities shall not enforce the photo**
30 **identification requirements of this section.**

31 3. **Each** election authority shall post a clear and conspicuous notice at each polling place
32 informing each voter who appears at the polling place without a form of personal identification
33 that satisfies the requirements of [subsection 1 of] this section that the voter may return to the
34 polling place with a proper form of personal identification and vote a regular ballot after election
35 judges have verified the voter's identity and eligibility under [subsection 1 of] this section. In
36 addition to such posting, the election judges **at each polling place** may also inform such voters
37 by written or oral communication of such information posted in the notice. Voters who return
38 to the polling place during the uniform polling hours established by section 115.407 with a
39 current and valid form of personal identification shall be given priority in any voting lines.

40 [3.] 4. (1) An individual who appears at a polling place without **a form of personal**
41 identification [in the form] described in [subsection 1 of] this section and who is otherwise
42 qualified to vote at that polling place may execute an affidavit averring that the voter is the
43 person listed in the precinct register [and that the voter] , does not possess a form of **personal**
44 identification specified in this section and is unable to obtain a current and valid form of personal
45 identification because of:

46 [(1)] (a) A physical or mental disability or handicap of the voter, if the voter is otherwise
47 competent to vote under Missouri law; [or

48 (2)] (b) **The inability to pay for a birth certificate or other supporting**
49 **documentation that is necessary to obtain the identification required to vote under this**
50 **section;**

51 (c) A sincerely held religious belief against the forms of personal identification described
52 in [subsection 1 of] this section; or

53 [(3)] (d) The voter being born on or before January 1, [1941] **1949**.

54 (2) Upon executing such affidavit, the individual may cast a provisional ballot. Such
55 provisional ballot shall be counted, provided the election authority verifies the identity of the
56 individual by comparing that individual's signature to the signature on file with the election
57 authority and determines that the individual was eligible to cast a ballot at the polling place
58 where the ballot was cast.

59 [4.] 5. The affidavit to be used for voting under subsection [3] 4 of this section shall be
60 substantially in the following form:

61

62 "State of

63 County of

64

65 I do solemnly swear (or affirm) that my name is; that I reside at
66; and that I am the person listed in the precinct register under this name
67 and at this address. I further swear (or affirm) that I am unable to obtain a current and valid form
68 of personal identification because of:

69 ☐ A physical or mental disability or handicap; [or]

70 ☐ **An inability to pay for a birth certificate or other supporting documentation necessary**
71 **to obtain the identification required to vote under this section;**

72 ☐ A sincerely held religious belief; [or]

73 ☐ My being born on or before January 1, [1941] **1949**.

74

75 I understand that knowingly providing false information is a violation of law and subjects me to
76 possible criminal prosecution.

77

78

79 Signature of voter

80

81 Subscribed and affirmed before me this day of, 20....

82

83

84 Signature of election official"

85 [5.] 6. A voter shall be allowed to cast a provisional ballot under section 115.430 even
86 if the election judges cannot establish the voter's identity under [subsection 1 of] this section.
87 The election judges shall make a notation on the provisional ballot envelope to indicate that the

88 voter's identity was not verified. The provisional ballot cast by such voter shall not be counted
89 unless:

90 (1) The voter returns to the [polling place during the uniform polling hours established
91 by section 115.407] **election authority within three days after the election** and provides a form
92 of personal identification that allows the election [judges] **authority** to verify the voter's identity
93 as provided in [subsection 1 of] this section; and

94 (2) The provisional ballot otherwise qualifies to be counted under section 115.430.

95 [6.] 7. The secretary of state shall provide advance notice of the personal identification
96 requirements of [subsection 1 of] this section in a manner calculated to inform the public
97 generally of the requirement for [photographic] **forms of** personal identification as provided in
98 this section. Such advance notice shall include, at a minimum, the use of advertisements and
99 public service announcements in print, broadcast television, radio, and cable television media,
100 as well as the posting of information on the opening pages of the official state internet websites
101 of the secretary of state and governor.

102 [7.] 8. The provisions of section 136.055 and section 302.181 notwithstanding, **the state**
103 **and all fee offices shall provide one such form of the personal identification required to**
104 **vote at no cost to any otherwise qualified voter who does not already possess such**
105 **identification and who desires the identification in order to vote.** Any applicant who requests
106 a nondriver's license with a photograph or digital image for the purpose of voting shall not be
107 required to pay a fee if the applicant executes an affidavit averring that the applicant does not
108 have any other form of [photographic] personal identification that meets the requirements of
109 [subsection 1 of] this section. The state of Missouri shall pay the legally required fees for any
110 such applicant. The director shall design an affidavit to be used for this purpose. [However, any
111 disabled or elderly person otherwise competent to vote shall be issued a nondriver's license photo
112 identification through a mobile processing system operated by the Missouri department of
113 revenue upon request if the individual is physically unable to otherwise obtain a nondriver's
114 license photo identification. The department of revenue shall make nondriver's license photo
115 identifications available through its mobile processing system only at facilities licensed under
116 chapter 198 and other public places accessible to and frequented by disabled and elderly persons.
117 The department shall provide advance notice of the times and places when the mobile processing
118 system will be available. At least nine mobile units housed under the office of administration
119 shall remain available for dispatch upon the request of the department of revenue to fulfill the
120 requirements of this section.] The total cost associated with nondriver's license photo
121 identification under this subsection shall be borne by the state of Missouri from funds
122 appropriated to the department of revenue for that specific purpose. The department of revenue

and a local election authority may enter into a contract that allows the local election authority to assist the department in issuing nondriver's license photo identifications.

[8.] 9. The director of the department of revenue shall, by January first of each year, prepare and deliver to each member of the general assembly a report documenting the number of individuals who have requested and received a nondriver's license photo identification for the purposes of voting under this section. The report shall also include the number of persons requesting a nondriver's license for purposes of voting under this section, but not receiving such license, and the reason for the denial of the nondriver's license.

[9.] 10. The precinct register shall serve as the voter identification certificate. The following form shall be printed at the top of each page of the precinct register:

VOTER'S IDENTIFICATION CERTIFICATE

Warning: It is against the law for anyone to vote, or attempt to vote, without having a lawful right to vote.

PRECINCT

WARD OR TOWNSHIP

GENERAL (SPECIAL, PRIMARY) ELECTION

Held, 20....

Date

I hereby certify that I am qualified to vote at this election by signing my name and verifying my address by signing my initials next to my address.

[10.] 11. The secretary of state shall promulgate rules to effectuate the provisions of this section.

[11.] 12. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2002, shall be invalid and void.

[12.] 13. If any voter is unable to sign his name at the appropriate place on the certificate or computer printout, an election judge shall print the name and address of the voter in the appropriate place on the precinct register, the voter shall make his mark in lieu of signature, and the voter's mark shall be witnessed by the signature of an election judge.

[13. For any election held on or before November 1, 2008, an individual who appears at a polling place without identification in the form described in subsection 1 of this section, and who is otherwise qualified to vote at that polling place, may cast a provisional ballot after:

(1) Executing an affidavit which is also signed by two supervising election judges, one from each major political party, who attest that they have personal knowledge of the identity of the voter, provided that the two supervising election judges who sign an affidavit under this subdivision shall not be involved or participate in the verification of the voter's eligibility by the election authority after the provisional ballot is cast; or

(2) (a) Executing an affidavit affirming his or her identity; and

(b) Presenting a form of identification from the following list:

a. Identification issued by the state of Missouri, an agency of the state, or a local election authority of the state;

b. Identification issued by the United States government or agency thereof;

c. Identification issued by an institution of higher education, including a university, college, vocational and technical school, located within the state of Missouri;

d. A copy of a current utility bill, bank statement, government check, paycheck, or other government document that contains the name and address of the voter; or

e. Driver's license or state identification card issued by another state. Such provisional ballot shall be entitled to be counted, provided the election authority verifies the identity of the individual by comparing that individual's signature to the current signature on file with the election authority and determines that the individual was otherwise eligible to cast a ballot at the polling place where the ballot was cast.

14. The affidavit to be used for voting under subsection 13 of this section shall be substantially in the following form:

"State of

County of

I do solemnly swear (or affirm) that my name is; that I reside at; and that I am the person listed in the precinct register under this name and at this address.

I understand that knowingly providing false information is a violation of law and subjects me to possible criminal prosecution.

.....

Signature of voter

194 Subscribed and affirmed before me this day of, 20....

195

196

197 Signature of Election Official".

198 15. The provisions of subsections 1 to 5 and 8 to 14 of this section shall become
199 effective August 28, 2006, and this subsection shall expire September 1, 2006.]

115.430. 1. **(1)** This section shall apply to primary and general elections where
2 candidates for federal or statewide offices are nominated or elected and any election where
3 statewide issue or issues are submitted to the voters. **In addition, any person denied the ability**
4 **to cast a regular ballot because of a lack of photographic identification under section**
5 **115.427 shall be allowed to vote by provisional ballot.**

6 [2. (1)] **(2)** A voter claiming to be properly registered in the jurisdiction of the election
7 authority and eligible to vote in an election, but whose eligibility at that precinct cannot be
8 immediately established upon examination of the precinct register, shall be entitled to vote a
9 provisional ballot after providing a form of personal identification required pursuant to section
10 115.427 or upon executing an affidavit under section 115.427, or may vote at a central polling
11 place as established in section 115.115 where the voter may vote his or her appropriate ballot for
12 his or her precinct of residence upon verification of eligibility or vote a provisional ballot if
13 eligibility cannot be determined. The provisional ballot provided to a voter under this section
14 shall be the ballot provided to a resident of the voter's precinct determined by reference to the
15 affidavit provided for in this section. If the voter declares that the voter is eligible to vote and
16 the election authority determines that the voter is eligible to vote at another polling place, the
17 voter shall be directed to the correct polling place or a central polling place as established by the
18 election authority pursuant to subsection 5 of section 115.115. If the voter refuses to go to the
19 correct polling place or a central polling place, the voter shall be permitted to vote a provisional
20 ballot at the incorrect polling place, but such ballot shall not be counted if the voter was not
21 eligible to vote at that polling place.

22 [(2)] **(3)** The following steps shall be taken to establish a voter's eligibility to vote at a
23 polling place:

24 (a) The election judge shall examine the precinct register as provided in section 115.425.
25 If the voter is registered and eligible to vote at the polling place, the voter shall receive a regular
26 ballot;

27 (b) If the voter's eligibility cannot be immediately established by examining the precinct
28 register, the election judge shall contact the election authority. If the election authority cannot
29 immediately establish that the voter is registered and eligible to vote at the polling place upon
30 examination of the Missouri voter registration system, or if the election judge is unable to make

31 contact with the election authority immediately, the voter shall be notified that the voter is
32 entitled to a provisional ballot.

33 ~~[(3)]~~ **(4)** The voter shall have the duty to appear and vote at the correct polling place.
34 If an election judge determines that the voter is not eligible to vote at the polling place at which
35 a voter presents himself or herself, and if the voter appears to be eligible to vote at another
36 polling place, the voter shall be informed that he or she may cast a provisional ballot at the
37 current polling place or may travel to the correct polling place or a central polling place, as
38 established by the election authority under subsection 5 of section 115.115, where the voter may
39 cast a regular ballot or provisional ballot if the voter's eligibility still cannot be determined.
40 Provisional ballots cast at a polling place shall be counted only if the voter was eligible to vote
41 at such polling place as provided in subsection 5 of this section.

42 ~~[(4)]~~ **(5)** For a voter requesting an absentee ballot in person, such voter shall be entitled
43 to cast a provisional ballot when the voter's eligibility cannot be immediately established upon
44 examination of the precinct registers or the Missouri voter registration system.

45 ~~[(5)]~~ **(6)** Prior to accepting any provisional ballot at the polling place, the election judges
46 shall determine that the information provided on the provisional ballot envelope by the
47 provisional voter is consistent with the identification provided by such person under section
48 115.427.

49 ~~[3.]~~ **2.** (1) No person shall be entitled to receive a provisional ballot until such person
50 has completed a provisional ballot affidavit on the provisional ballot envelope.

51 (2) The secretary of state shall produce appropriate sizes of provisional ballot envelopes
52 and distribute them to each election authority according to their tabulating system. All
53 provisional ballot envelopes shall be printed on a distinguishable color of paper that is different
54 from the color of the regular ballot. The provisional ballot envelope shall be in the form required
55 by subsection ~~[4]~~ **3** of this section. All provisional ballots shall be marked with a conspicuous
56 stamp or other distinguishing mark that makes them readily distinguishable from the regular
57 ballots.

58 (3) Once voted, the provisional ballot shall be placed and sealed in a provisional ballot
59 envelope.

60 ~~[4.]~~ **3.** **(1)** The provisional ballot in its envelope shall be deposited in the ballot box.
61 The provisional ballot envelope shall be completed by the voter for use in determining eligibility.
62 The provisional ballot envelope specified in this section shall contain a voter's certificate which
63 shall be in substantially the following form:

64

65 STATE OF

66 COUNTY OF

67 I do solemnly swear (or affirm) that my name is; that my date of birth is;
68 that the last four digits of my Social Security Number are; that I am registered to vote
69 in County or City (if a City not within a County), Missouri; that I am a qualified
70 voter of said County (or City not within a County); that I am eligible to vote at this polling place;
71 and that I have not voted in this election.

72

73 I understand that if the above-provided information is not correct and the election authority
74 determines that I am not registered and eligible to vote, my vote will not be counted. I further
75 understand that knowingly providing false information is a violation of law and subjects me to
76 possible criminal prosecution.

77

78

79 (Signature of Voter)

80

81

82 (Current Address)

83

84 Subscribed and affirmed before me this day of, 20.....

85

86

87 (Signature of Election Official)

88 **(2)** The voter may provide additional information to further assist the election authority
89 in determining eligibility, including the place and date the voter registered to vote, if known.

90 **[5.] 4. (1)** Prior to counting any provisional ballot, the election authority shall determine
91 if the voter is registered and eligible to vote and if the vote was properly cast. The eligibility of
92 provisional votes shall be determined according to the requirements for a voter to cast a ballot
93 in the election as set forth in sections 115.133 and 115.135. A provisional [voter] ballot shall
94 not be eligible to be counted until the election authority has determined that:

95 (a) The voter cast such provisional ballot at a polling place established for the voter or
96 the central polling place established by the election authority under subsection 5 of section
97 115.115;

98 (b) The individual who cast the provisional ballot is an individual registered to vote in
99 the respective election at the polling place where the ballot was cast;

100 (c) The voter did not otherwise vote in the same election by regular ballot, absentee
101 ballot, or otherwise; and

102 (d) The information on the provisional ballot envelope is found to be correct, complete,
103 and accurate.

104 (2) When the ballot boxes are delivered to the election authority from the polling places,
105 the receiving teams shall separate the provisional ballots from the rest of the ballots and place
106 the sealed provisional ballot envelopes in a separate container. Teams of election authority
107 employees or teams of election judges with each team consisting of one member of each major
108 political party shall photocopy each provisional ballot envelope, such photocopy to be used by
109 the election authority to determine provisional voter eligibility. The sealed provisional ballot
110 envelopes shall be placed by the team in a sealed container and shall remain therein until
111 tabulation.

112 (3) To determine whether a provisional ballot is valid and entitled to be counted, the
113 election authority shall examine its records and verify that the provisional voter is properly
114 registered and eligible to vote in the election. If the provisional voter has provided information
115 regarding the registration agency where the provisional voter registered to vote, the election
116 authority shall make an inquiry of the registration agency to determine whether the provisional
117 voter is properly registered and eligible to vote in the election.

118 (4) If the election authority determines that the provisional voter is registered and eligible
119 to vote in the election, the election authority shall provide documentation verifying the voter's
120 eligibility. Such documentation shall be noted on the copy of the provisional ballot envelope and
121 shall contain substantially the following information:

- 122 (a) The name of the provisional voter;
- 123 (b) The name of the reviewer;
- 124 (c) The date and time; and
- 125 (d) A description of evidence found that supports the voter's eligibility.

126 (5) The local election authority shall record on a provisional ballot acceptance/rejection
127 list the provisional ballot identification number and a notation marking it as accepted.

128 (6) If the election authority determines that the provisional voter is not registered or
129 eligible to vote in the election, the election authority shall provide documentation verifying the
130 voter's ineligibility. Such documentation shall be noted on the copy of the provisional ballot
131 envelope and shall contain substantially the following information:

- 132 (a) The name of the provisional voter;
- 133 (b) The name of the reviewer;
- 134 (c) The date and time;
- 135 (d) A description of why the voter is ineligible.

136 (7) The local election authority shall record on a provisional ballot acceptance/rejection
137 list the provisional ballot identification number and notation marking it as rejected.

(8) If rejected, a photocopy of the envelope shall be made and used by the election authority as a mail-in voter registration. The actual provisional ballot envelope shall be kept as ballot material, and the copy of the envelope shall be used by the election authority for registration record keeping.

[6.] 5. All provisional ballots cast by voters whose eligibility has been verified as provided in this section shall be counted in accordance with the rules governing ballot tabulation. Provisional ballots shall not be counted until all provisional ballots are determined either eligible or ineligible and all provisional ballots must be processed before the election is certified. The provisional ballot shall be counted only if the election authority determines that the voter is registered and eligible to vote. Provisional ballots voted in the wrong polling place shall not be counted. If the voter is not registered but is qualified to register for future elections, the affidavit shall be considered a mail-in application to register to vote pursuant to this chapter.

[7.] 6. (1) After the election authority completes its review of the provisional voter's eligibility under subsection 5 of this section, the election authority shall deliver the provisional ballots and copies of the provisional ballot envelopes that include eligibility information to bipartisan counting teams, which may be the board of verification, for review and tabulation. The election authority shall maintain a record of such delivery. The record shall include the number of ballots delivered to each team and shall include a signed receipt from two judges, one from each major political party. The election authority shall provide each team with a ballot box and material necessary for tabulation.

(2) If the person named on the provisional ballot affidavit is found to have been properly qualified and registered to cast a ballot in the election and the provisional ballot otherwise qualifies to be counted under the provisions of this section, the envelope shall be opened, and the ballot shall be placed in a ballot box to be counted.

(3) If the person named on the provisional ballot affidavit is found not to have been properly qualified and registered to cast a ballot in the election or if the election authority is unable to determine such person's right to vote, the envelope containing the provisional ballot shall not be opened, and the person's vote shall not be counted. The members of the team shall follow the procedures set forth in subsection [5] 4 of this section for rejected provisional ballots.

(4) The votes shall be tallied and the returns made as provided in sections 115.447 to 115.525 for paper ballots. After the vote on all ballots assigned to a team have been counted, the ballots, ballot envelopes, and copies of ballot envelopes with the eligibility information provided by the election authority shall be enclosed in sealed containers marked "Voted provisional ballots and ballot envelopes from the election held, 20...". All rejected provisional ballots, ballot envelopes, and copies of ballot envelopes with the eligibility information provided by the election authority shall be enclosed in sealed containers marked "Rejected provisional ballots and

174 ballot envelopes from the election held, 20...". On the outside of each voted
175 ballot and rejected ballot container, each member of the team shall write their name and all such
176 containers shall be returned to the election authority. Upon receipt of the returns and ballots, the
177 election authority shall tabulate the provisional votes.

178 [8.] 7. Challengers and watchers, as provided by sections 115.105 and 115.107, may be
179 present during all times that the bipartisan counting teams are reviewing or counting the
180 provisional ballots, the provisional ballot envelopes, or copies of the provisional ballot envelopes
181 that include eligibility information provided by the election authority. Challengers and watchers
182 shall be permitted to observe the determination of the eligibility of all provisional ballots. The
183 election authority shall notify the county chair of each major political party of the time and
184 location when bipartisan counting teams will be reviewing or counting the provisional ballots,
185 the provisional ballot envelopes, or the copies of the provisional ballot envelopes that include
186 the eligibility information provided by the election authority.

187 [9.] 8. The certificate of ballot cards shall:

188 (1) Reflect the number of provisional envelopes delivered; and

189 (2) Reflect the number of sealed provisional envelopes with voted ballots deposited in
190 the ballot box.

191 [10.] 9. In counties where the voting system does not utilize a paper ballot, the election
192 authority shall provide the appropriate provisional ballots to each polling place.

193 [11.] 10. The secretary of state may promulgate rules for purposes of ensuring the
194 uniform application of this section. No rule or portion of a rule promulgated pursuant to the
195 authority of this section shall become effective unless it has been promulgated pursuant to
196 chapter 536.

197 [12.] 11. The secretary of state shall design and provide to the election authorities the
198 envelopes and forms necessary to carry out the provisions of this section.

199 [13.] 12. Pursuant to the Help America Vote Act of 2002, the secretary of state shall
200 ensure a free access system is established, such as a toll-free number or an internet website, that
201 any individual who casts a provisional ballot may access to discover whether the vote of that
202 individual was counted, and, if the vote was not counted, the reason that the vote was not
203 counted. At the time an individual casts a provisional ballot, the election authority shall give the
204 voter written information that states that any individual who casts a provisional ballot will be
205 able to ascertain under such free access system whether the vote was counted, and if the vote was
206 not counted, the reason that the vote was not counted.

207 [14.] 13. In accordance with the Help America Vote Act of 2002, any individual who
208 votes in an election as a result of a court order or any other order extending the time established
209 for closing the polls in section 115.407 may vote only by using a provisional ballot, and such
210 provisional ballot shall be separated and held apart from other provisional ballots cast by those

211 not affected by the order. Such ballots shall not be counted until such time as the ballots are
212 determined to be valid. No state court shall have jurisdiction to extend the polling hours
213 established by law, including section 115.407.

Section B. This act shall become effective only upon the passage and approval by the
2 voters of a constitutional amendment submitted to them by the general assembly regarding the
3 authorization of photo identification requirements for elections by general law.

✓