

FIRST REGULAR SESSION

SENATE BILL NO. 170

98TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR KRAUS.

Pre-filed December 22, 2014, and ordered printed.

ADRIANE D. CROUSE, Secretary.

0214S.04I

AN ACT

To repeal sections 115.277, 115.279, 115.427, and 115.430, RSMo, and to enact in lieu thereof four new sections relating to voting procedures, with a contingent effective date.

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

Section A. Sections 115.277, 115.279, 115.427, and 115.430, RSMo, are
2 repealed and four new sections enacted in lieu thereof, to be known as sections
3 115.277, 115.279, 115.427, and 115.430, to read as follows:

115.277. 1. Except as provided in subsections 2, 3, 4, [and] 5, and 6 of
2 this section, any registered voter of this state may vote by absentee ballot for all
3 candidates and issues for which such voter would be eligible to vote at the polling
4 place if such voter expects to be prevented from going to the polls to vote on
5 election day due to:

6 (1) Absence on election day from the jurisdiction of the election authority
7 in which such voter is registered to vote;

8 (2) Incapacity or confinement due to illness or physical disability,
9 including a person who is primarily responsible for the physical care of a person
10 who is incapacitated or confined due to illness or disability;

11 (3) Religious belief or practice;

12 (4) Employment as an election authority, as a member of an election
13 authority, or by an election authority at a location other than such voter's polling
14 place;

15 (5) Incarceration, provided all qualifications for voting are retained.

16 2. **Beginning on the fourth Thursday preceding the election, any**
17 **registered voter of this state may vote by absentee ballot for all**

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

18 **candidates and issues for which such voter is eligible to vote. Voters**
19 **who wish to cast a ballot in accordance with this subsection shall do so**
20 **in person at the election authority.**

21 **3.** Any person in federal service, as defined in section 115.275, who is
22 eligible to register and vote in this state but is not registered may vote only in the
23 election of presidential and vice presidential electors, United States senator and
24 representative in Congress even though the person is not registered. Each person
25 in federal service may vote by absentee ballot or, upon submitting an affidavit
26 that the person is qualified to vote in the election, may vote at the person's
27 polling place.

28 **[3.] 4.** Any interstate former resident, as defined in section 115.275, may
29 vote by absentee ballot for presidential and vice presidential electors.

30 **[4.] 5.** Any intrastate new resident, as defined in section 115.275, may
31 vote by absentee ballot at the election for presidential and vice presidential
32 electors, United States senator, representative in Congress, statewide elected
33 officials and statewide questions, propositions and amendments from such
34 resident's new jurisdiction of residence after registering to vote in such resident's
35 new jurisdiction of residence.

36 **[5.] 6.** Any new resident, as defined in section 115.275, may vote by
37 absentee ballot for presidential and vice presidential electors after registering to
38 vote in such resident's new jurisdiction of residence.

115.279. 1. Application for an absentee ballot may be made by the
2 applicant in person, or by mail, or for the applicant, in person, by his or her
3 guardian or a relative within the second degree by consanguinity or affinity. The
4 election authority shall accept applications by facsimile transmission within the
5 limits of its telecommunications capacity.

6 2. Each application shall be made to the election authority of the
7 jurisdiction in which the person is or would be registered. Each application shall
8 be in writing and shall state the applicant's name, address at which he or she is
9 or would be registered, his or her reason for voting an absentee ballot, **if**
10 **required**, the address to which the ballot is to be mailed, if mailing is requested,
11 and for absent uniformed services and overseas applicants, the applicant's email
12 address if electronic transmission is requested. Each application to vote in a
13 primary election shall also state which ballot the applicant wishes to receive. If
14 any application fails to designate a ballot, the election authority shall, within
15 three working days after receiving the application, notify the applicant by mail

16 that it will be unable to deliver an absentee ballot until the applicant designates
17 which political party ballot he or she wishes to receive. If the applicant does not
18 respond to the request for political party designation, the election authority is
19 authorized to provide the voter with that part of the ballot for which no political
20 party designation is required.

21 3. Except as provided in subsection 3 of section 115.281, all applications
22 for absentee ballots received prior to the sixth Tuesday before an election shall
23 be stored at the office of the election authority until such time as the applications
24 are processed in accordance with section 115.281. No application for an absentee
25 ballot received in the office of the election authority by mail, by facsimile
26 transmission or by a guardian or relative after 5:00 p.m. on the Wednesday
27 immediately prior to the election shall be accepted by any election authority. No
28 application for an absentee ballot submitted by the applicant in person after 5:00
29 p.m. on the day before the election shall be accepted by any election authority,
30 except as provided in subsections 6, 8 and 9 of this section.

31 4. Each application for an absentee ballot shall be signed by the applicant
32 or, if the application is made by a guardian or relative pursuant to this section,
33 the application shall be signed by the guardian or relative, who shall note on the
34 application his or her relationship to the applicant. If an applicant, guardian or
35 relative is blind, unable to read or write the English language or physically
36 incapable of signing the application, he or she shall sign by mark, witnessed by
37 the signature of an election official or person of his or her own choosing. Any
38 person who knowingly makes, delivers or mails a fraudulent absentee ballot
39 application shall be guilty of a class one election offense.

40 5. (1) Notwithstanding any law to the contrary, any resident of the state
41 of Missouri who resides outside the boundaries of the United States or who is on
42 active duty with the Armed Forces of the United States or members of their
43 immediate family living with them may request an absentee ballot for both the
44 primary and subsequent general election with one application.

45 (2) The election authority shall provide each absent uniformed services
46 voter and each overseas voter who submits a voter registration application or an
47 absentee ballot request, if the election authority rejects the application or request,
48 with the reasons for the rejection.

49 (3) Notwithstanding any other law to the contrary, if a standard oath
50 regarding material misstatements of fact is adopted for uniformed and overseas
51 voters pursuant to the Help America Vote Act of 2002, the election authority shall

52 accept such oath for voter registration, absentee ballot, or other election-related
53 materials.

54 (4) Not later than sixty days after the date of each regularly scheduled
55 general election for federal office, each election authority which administered the
56 election shall submit to the secretary of state in a format prescribed by the
57 secretary a report on the combined number of absentee ballots transmitted to,
58 and returned by, absent uniformed services voters and overseas voters for the
59 election. The secretary shall submit to the Election Assistance Commission a
60 combined report of such information not later than ninety days after the date of
61 each regularly scheduled general election for federal office and in a standardized
62 format developed by the commission pursuant to the Help America Vote Act of
63 2002. The secretary shall make the report available to the general public.

64 (5) As used in this section, the terms "absent uniformed services voter"
65 and "overseas voter" shall have the meaning prescribed in 42 U.S.C. 1973ff-6.

66 6. An application for an absentee ballot by a new resident, as defined in
67 section 115.275, shall be submitted in person by the applicant in the office of the
68 election authority in the election jurisdiction in which such applicant
69 resides. The application shall be received by the election authority no later than
70 7:00 p.m. on the day of the election. Such application shall be in the form of an
71 affidavit, executed in duplicate in the presence of the election authority or any
72 authorized officer of the election authority, and in substantially the following
73 form:

74 "STATE OF.....

75 COUNTY OF....., ss.

76 I,....., do solemnly swear that:

77 (1) Before becoming a resident of this state, I resided at
78 (residence address) in (town,
79 township, village or city) of County in the state of
80

81 (2) I moved to this state after the last day to register to vote in such
82 general presidential election and I am now residing in the county of
83, state of Missouri;

84 (3) I believe I am entitled pursuant to the laws of this state to vote in the
85 presidential election to be held November, (year);

86 (4) I hereby make application for a presidential and vice presidential
87 ballot. I have not voted and shall not vote other than by this ballot at such

88 election.

89 Signed

90 (Applicant)

91

92 (Residence Address)

93 Subscribed and sworn to before me this day of,

94 Signed

95 (Title and name of officer authorized to administer oaths)"

96 7. The election authority in whose office an application is filed pursuant
97 to subsection 6 of this section shall immediately send a duplicate of such
98 application to the appropriate official of the state in which the new resident
99 applicant last resided and shall file the original of such application in its office.

100 8. An application for an absentee ballot by an intrastate new resident, as
101 defined in section 115.275, shall be made in person by the applicant in the office
102 of the election authority in the election jurisdiction in which such applicant
103 resides. The application shall be received by the election authority no later than
104 7:00 p.m. on the day of the election. Such application shall be in the form of an
105 affidavit, executed in duplicate in the presence of the election authority or an
106 authorized officer of the election authority, and in substantially the following
107 form:

108 "STATE OF

109 COUNTY OF, ss.

110 I,, do solemnly swear that:

111 (1) Before becoming a resident of this election jurisdiction, I resided at
112 (residence address) in (town, township,
113 village or city) of county in the state of

114 (2) I moved to this election jurisdiction after the last day to register to
115 vote in such election;

116 (3) I believe I am entitled pursuant to the laws of this state to vote in the
117 election to be held (date);

118 (4) I hereby make application for an absentee ballot for candidates and
119 issues on which I am entitled to vote pursuant to the laws of this state. I have
120 not voted and shall not vote other than by this ballot at such election.

121 Signed

122 (Applicant)

123

124 (Residence Address)

125 Subscribed and sworn to before me this day of,

126 Signed

127 (Title and name of officer authorized to administer oaths)"

128 9. An application for an absentee ballot by an interstate former resident,
129 as defined in section 115.275, shall be received in the office of the election
130 authority where the applicant was formerly registered by 5:00 p.m. on the
131 Wednesday immediately prior to the election, unless the application is made in
132 person by the applicant in the office of the election authority, in which case such
133 application shall be made no later than 7:00 p.m. on the day of the election.

115.427. 1. [Before receiving a ballot, voters] **Persons seeking to vote**
2 **in a public election** shall establish their identity and eligibility to vote at the
3 polling place by presenting a form of personal identification to **election**
4 **officials.** ["Personal identification" shall mean only] **No form of personal**
5 **identification other than the forms listed in this section shall be**
6 **accepted to establish a voter's qualifications to vote. Forms of personal**
7 **identification that satisfy the requirements of this section are any one**
8 of the following:

9 (1) Nonexpired Missouri driver's license [showing the name and a
10 photograph or digital image of the individual]; [or]

11 (2) Nonexpired or nonexpiring Missouri nondriver's license [showing the
12 name and a photographic or digital image of the individual]; [or]

13 (3) **Any identification containing a photograph of the individual**
14 **that is issued by the Missouri National Guard, the United States armed**
15 **forces, or the United States Department of Veterans Affairs to a**
16 **member or former member of the Missouri National Guard or the**
17 **United States armed forces and that does not have an expiration date;**
18 **or**

19 (4) A document that satisfies all of the following requirements:

20 (a) The document contains the name of the individual to whom the
21 document was issued, and the name substantially conforms to the most recent
22 signature in the individual's voter registration record;

23 (b) The document shows a [photographic or digital image] **photograph**
24 of the individual;

25 (c) The document includes an expiration date, and the document is not
26 expired, or if expired, **the document** expired [not before] **after** the date of the

27 most recent general election; and

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

30 (4) Any identification containing a photographic or digital image of the
31 individual which is issued by the Missouri National Guard, the United States
32 Armed Forces, or the United States Department of Veteran Affairs to a member
33 or former member of the Missouri National Guard or the United States Armed
34 Forces and that does not have an expiration date].

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

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

52 [3.] 4. An individual who appears at a polling place without **a form of**
53 **personal** identification [in the form] described in [subsection 1 of] this section
54 and who is otherwise qualified to vote at that polling place may execute an
55 affidavit averring that the voter is the person listed in the precinct register [and
56 that the voter], does not possess a form of **personal** identification specified in
57 this section and is unable to obtain a current and valid form of personal
58 identification because of:

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

61 (2) **The inability to pay for a birth certificate or other supporting**
62 **documentation that is necessary to obtain the identification required**

63 **to vote under this section;**

64 (3) A sincerely held religious belief against the forms of personal
65 identification described in [subsection 1 of] this section; or

66 [(3)] (4) The voter being born on or before January 1, 1941.

67 Upon executing such affidavit, the individual may cast a provisional ballot. Such
68 provisional ballot shall be counted, provided the election authority verifies the
69 identity of the individual by comparing that individual's signature to the
70 signature on file with the election authority and determines that the individual
71 was eligible to cast a ballot at the polling place where the ballot was cast.

72 [4.] 5. The affidavit to be used for voting under subsection [3] 4 of this
73 section shall be substantially in the following form:

74 "State of

75 County of

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

80 A physical or mental disability or handicap; [or]

81 **An inability to pay for a birth certificate or other supporting**
82 **documentation necessary to obtain the identification required to vote**
83 **under this section;**

84 A sincerely held religious belief; or

85 My being born on or before January 1, 1941.

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

88

89 Signature of voter

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

91

92 Signature of election official"

93 [5.] 6. A voter shall be allowed to cast a provisional ballot under section
94 115.430 even if the election judges cannot establish the voter's identity **and**
95 **eligibility** under [subsection 1 of] this section. The election judges shall make
96 a notation on the provisional ballot envelope to indicate that the voter's identity
97 was not verified. The provisional ballot cast by such voter shall not be counted
98 unless:

99 (1) The voter returns to the polling place during the uniform polling hours
100 established by section 115.407 and provides a form of personal identification that
101 allows the election judges to verify the voter's identity as provided in [subsection
102 1 of] this section; and

103 (2) The provisional ballot otherwise qualifies to be counted under section
104 115.430.

105 [6.] **7.** The [secretary of state] **election authority** shall provide advance
106 notice of the personal identification requirements of [subsection 1 of] this section
107 in a manner calculated to inform the public generally of the requirement for
108 [photographic] **forms of** personal identification as provided in this
109 section[. Such advance notice shall include, at a minimum, the use of
110 advertisements and public service announcements in print, broadcast television,
111 radio, and cable television media, as well as the posting of information on the
112 opening pages of the official state internet websites of the secretary of state and
113 governor] **to be included in the notice required under sections 115.127**
114 **and 115.129.**

115 [7.] **8.** The provisions of section 136.055 and section 302.181
116 notwithstanding, **the state shall provide at least one such form of the**
117 **personal identification required to vote at no cost to any otherwise**
118 **qualified voter who does not already possess such identification and**
119 **who desires the identification in order to vote.** Any applicant who
120 requests a nondriver's license with a photograph or digital image for the purpose
121 of voting shall not be required to pay a fee if the applicant executes an affidavit
122 averring that the applicant does not have any other form of [photographic]
123 personal identification that meets the requirements of [subsection 1 of] this
124 section. The state of Missouri shall pay the legally required fees for any such
125 applicant. The director shall design an affidavit to be used for this
126 purpose. [However, any disabled or elderly person otherwise competent to vote
127 shall be issued a nondriver's license photo identification through a mobile
128 processing system operated by the Missouri department of revenue upon request
129 if the individual is physically unable to otherwise obtain a nondriver's license
130 photo identification. The department of revenue shall make nondriver's license
131 photo identifications available through its mobile processing system only at
132 facilities licensed under chapter 198 and other public places accessible to and
133 frequented by disabled and elderly persons. The department shall provide
134 advance notice of the times and places when the mobile processing system will be

135 available. At least nine mobile units housed under the office of administration
 136 shall remain available for dispatch upon the request of the department of revenue
 137 to fulfill the requirements of this section.] The total cost associated with
 138 nondriver's license photo identification under this subsection shall be borne by
 139 the state of Missouri from funds appropriated to the department of revenue for
 140 that specific purpose. The department of revenue and a local election authority
 141 may enter into a contract that allows the local election authority to assist the
 142 department in issuing nondriver's license photo identifications.

143 [8.] 9. The director of the department of revenue shall, by January first
 144 of each year, prepare and deliver to each member of the general assembly a report
 145 documenting the number of individuals who have requested and received a
 146 nondriver's license photo identification for the purposes of voting under this
 147 section. The report shall also include the number of persons requesting a
 148 nondriver's license for purposes of voting under this section, but not receiving
 149 such license, and the reason for the denial of the nondriver's license.

150 [9.] 10. The precinct register shall serve as the voter identification
 151 certificate. The following form shall be printed at the top of each page of the
 152 precinct register:

153 VOTER'S IDENTIFICATION CERTIFICATE
 154 Warning: It is against the law for anyone to vote, or attempt to vote, without
 155 having a lawful right to vote.
 156 PRECINCT
 157 WARD OR TOWNSHIP
 158 GENERAL (SPECIAL, PRIMARY) ELECTION
 159 Held, 20....
 160 Date
 161 I hereby certify that I am qualified to vote at this election by signing my name
 162 and verifying my address by signing my initials next to my address.

163 [10.] 11. The secretary of state shall promulgate rules to effectuate the
 164 provisions of this section.

165 [11.] 12. Any rule or portion of a rule, as that term is defined in section
 166 536.010, that is created under the authority delegated in this section shall
 167 become effective only if it complies with and is subject to all of the provisions of
 168 chapter 536 and, if applicable, section 536.028. This section and chapter 536 are
 169 nonseverable and if any of the powers vested with the general assembly pursuant
 170 to chapter 536 to review, to delay the effective date or to disapprove and annul

171 a rule are subsequently held unconstitutional, then the grant of rulemaking
172 authority and any rule proposed or adopted after August 28, 2002, shall be
173 invalid and void.

174 [12.] 13. If any voter is unable to sign his name at the appropriate place
175 on the certificate or computer printout, an election judge shall print the name and
176 address of the voter in the appropriate place on the precinct register, the voter
177 shall make his mark in lieu of signature, and the voter's mark shall be witnessed
178 by the signature of an election judge.

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

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

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

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

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

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

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

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

201 e. Driver's license or state identification card issued by another state.

202 Such provisional ballot shall be entitled to be counted, provided the election
203 authority verifies the identity of the individual by comparing that individual's
204 signature to the current signature on file with the election authority and
205 determines that the individual was otherwise eligible to cast a ballot at the
206 polling place where the ballot was cast.

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

209 "State of

210 County of

211 I do solemnly swear (or affirm) that my name is; that I reside at
212; and that I am the person listed in the precinct register under
213 this name and at this address. I understand that knowingly providing false
214 information is a violation of law and subjects me to possible criminal prosecution.
215

216 Signature of voter

217 Subscribed and affirmed before me this day of, 20....
218

219 Signature of Election Official".

220 15. The provisions of subsections 1 to 5 and 8 to 14 of this section shall
221 become effective August 28, 2006, and this subsection shall expire September 1,
222 2006.]

115.430. 1. This section shall apply [to primary and general elections
2 where candidates for federal or statewide offices are nominated or elected and
3 any election where statewide issue or issues are submitted to the voters.

4 **2.] in all elections. However, provisional ballots shall not be**
5 **available for absentee voting.**

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

21 If the voter refuses to go to the correct polling place or a central polling place, the
22 voter shall be permitted to vote a provisional ballot at the incorrect polling place,
23 but such ballot shall not be counted if the voter was not eligible to vote at that
24 polling place.

25 (2) The following steps shall be taken to establish a voter's eligibility to
26 vote at a polling place:

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

30 (b) If the voter's eligibility cannot be immediately established by
31 examining the precinct register, the election judge shall contact the election
32 authority. If the election authority cannot immediately establish that the voter
33 is registered and eligible to vote at the polling place upon examination of the
34 Missouri voter registration system, or if the election judge is unable to make
35 contact with the election authority immediately, the voter shall be notified that
36 the voter is entitled to a provisional ballot.

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

48 (4) For a voter requesting an absentee ballot in person, such voter shall
49 be entitled to cast a provisional ballot when the voter's eligibility cannot be
50 immediately established upon examination of the precinct registers or the
51 Missouri voter registration system.

52 (5) Prior to accepting any provisional ballot at the polling place, the
53 election judges shall determine that the information provided on the provisional
54 ballot envelope by the provisional voter is consistent with the identification
55 provided by such person under section 115.427.

56 [3.] 2. (1) No person shall be entitled to receive a provisional ballot until

57 such person has completed a provisional ballot affidavit on the provisional ballot
58 envelope.

59 (2) The secretary of state shall produce appropriate sizes of provisional
60 ballot envelopes and distribute them to each election authority according to their
61 tabulating system. All provisional ballot envelopes shall be printed on a
62 distinguishable color of paper that is different from the color of the regular
63 ballot. The provisional ballot envelope shall be in the form required by
64 subsection 4 of this section. All provisional ballots shall be marked with a
65 conspicuous stamp or other distinguishing mark that makes them readily
66 distinguishable from the regular ballots.

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

69 [4.] 3. The provisional ballot in its envelope shall be deposited in the
70 ballot box. The provisional ballot envelope shall be completed by the voter for use
71 in determining eligibility. The provisional ballot envelope specified in this section
72 shall contain a voter's certificate which shall be in substantially the following
73 form:

74 STATE OF

75 COUNTY OF

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

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

86

87 (Signature of Voter)

88

89 (Current Address)

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

91

92 (Signature of Election Official)

93 The voter may provide additional information to further assist the election
94 authority in determining eligibility, including the place and date the voter
95 registered to vote, if known.

96 [5.] 4. (1) Prior to counting any provisional ballot, the election authority
97 shall determine if the voter is registered and eligible to vote and if the vote was
98 properly cast. The eligibility of provisional votes shall be determined according
99 to the requirements for a voter to cast a ballot in the election as set forth in
100 sections 115.133 and 115.135. A provisional voter ballot shall not be eligible to
101 be counted until the election authority has determined that:

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

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

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

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

112 (2) When the ballot boxes are delivered to the election authority from the
113 polling places, the receiving teams shall separate the provisional ballots from the
114 rest of the ballots and place the sealed provisional ballot envelopes in a separate
115 container. Teams of election authority employees or teams of election judges with
116 each team consisting of one member of each major political party shall photocopy
117 each provisional ballot envelope, such photocopy to be used by the election
118 authority to determine provisional voter eligibility. The sealed provisional ballot
119 envelopes shall be placed by the team in a sealed container and shall remain
120 therein until tabulation.

121 (3) To determine whether a provisional ballot is valid and entitled to be
122 counted, the election authority shall examine its records and verify that the
123 provisional voter is properly registered and eligible to vote in the election. If the
124 provisional voter has provided information regarding the registration agency
125 where the provisional voter registered to vote, the election authority shall make
126 an inquiry of the registration agency to determine whether the provisional voter
127 is properly registered and eligible to vote in the election.

128 (4) If the election authority determines that the provisional voter is

129 registered and eligible to vote in the election, the election authority shall provide
130 documentation verifying the voter's eligibility. Such documentation shall be
131 noted on the copy of the provisional ballot envelope and shall contain
132 substantially the following information:

133 (a) The name of the provisional voter;

134 (b) The name of the reviewer;

135 (c) The date and time; and

136 (d) A description of evidence found that supports the voter's eligibility.

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

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

145 (a) The name of the provisional voter;

146 (b) The name of the reviewer;

147 (c) The date and time;

148 (d) A description of why the voter is ineligible.

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

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

156 [6.] 5. All provisional ballots cast by voters whose eligibility has been
157 verified as provided in this section shall be counted in accordance with the rules
158 governing ballot tabulation. Provisional ballots shall not be counted until all
159 provisional ballots are determined either eligible or ineligible and all provisional
160 ballots must be processed before the election is certified. The provisional ballot
161 shall be counted only if the election authority determines that the voter is
162 registered and eligible to vote. Provisional ballots voted in the wrong polling
163 place shall not be counted. If the voter is not registered but is qualified to
164 register for future elections, the affidavit shall be considered a mail-in application

165 to register to vote pursuant to this chapter.

166 [7.] 6. (1) After the election authority completes its review of the
167 provisional voter's eligibility under subsection 5 of this section, the election
168 authority shall deliver the provisional ballots and copies of the provisional ballot
169 envelopes that include eligibility information to bipartisan counting teams, which
170 may be the board of verification, for review and tabulation. The election
171 authority shall maintain a record of such delivery. The record shall include the
172 number of ballots delivered to each team and shall include a signed receipt from
173 two judges, one from each major political party. The election authority shall
174 provide each team with a ballot box and material necessary for tabulation.

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

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

186 (4) The votes shall be tallied and the returns made as provided in sections
187 115.447 to 115.525 for paper ballots. After the vote on all ballots assigned to a
188 team have been counted, the ballots, ballot envelopes, and copies of ballot
189 envelopes with the eligibility information provided by the election authority shall
190 be enclosed in sealed containers marked "Voted provisional ballots and ballot
191 envelopes from the election held, 20...". All rejected provisional ballots,
192 ballot envelopes, and copies of ballot envelopes with the eligibility information
193 provided by the election authority shall be enclosed in sealed containers marked
194 "Rejected provisional ballots and ballot envelopes from the election held
195, 20...". On the outside of each voted ballot and rejected ballot
196 container, each member of the team shall write their name and all such
197 containers shall be returned to the election authority. Upon receipt of the returns
198 and ballots, the election authority shall tabulate the provisional votes.

199 [8.] 7. Challengers and watchers, as provided by sections 115.105 and
200 115.107, may be present during all times that the bipartisan counting teams are

201 reviewing or counting the provisional ballots, the provisional ballot envelopes, or
202 copies of the provisional ballot envelopes that include eligibility information
203 provided by the election authority. Challengers and watchers shall be permitted
204 to observe the determination of the eligibility of all provisional ballots. The
205 election authority shall notify the county chair of each major political party of the
206 time and location when bipartisan counting teams will be reviewing or counting
207 the provisional ballots, the provisional ballot envelopes, or the copies of the
208 provisional ballot envelopes that include the eligibility information provided by
209 the election authority.

210 [9.] 8. The certificate of ballot cards shall:

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

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

214 [10.] 9. In counties where the voting system does not utilize a paper
215 ballot, the election authority shall provide the appropriate provisional ballots to
216 each polling place.

217 [11.] 10. The secretary of state may promulgate rules for purposes of
218 ensuring the uniform application of this section. No rule or portion of a rule
219 promulgated pursuant to the authority of this section shall become effective
220 unless it has been promulgated pursuant to chapter 536.

221 [12.] 11. The secretary of state shall design and provide to the election
222 authorities the envelopes and forms necessary to carry out the provisions of this
223 section.

224 [13.] 12. Pursuant to the Help America Vote Act of 2002, the secretary
225 of state shall ensure a free access system is established, such as a toll-free
226 number or an internet website, that any individual who casts a provisional ballot
227 may access to discover whether the vote of that individual was counted, and, if
228 the vote was not counted, the reason that the vote was not counted. At the time
229 an individual casts a provisional ballot, the election authority shall give the voter
230 written information that states that any individual who casts a provisional ballot
231 will be able to ascertain under such free access system whether the vote was
232 counted, and if the vote was not counted, the reason that the vote was not
233 counted.

234 [14.] 13. In accordance with the Help America Vote Act of 2002, any
235 individual who votes in an election as a result of a court order or any other order
236 extending the time established for closing the polls in section 115.407 may vote

237 only by using a provisional ballot, and such provisional ballot shall be separated
238 and held apart from other provisional ballots cast by those not affected by the
239 order. Such ballots shall not be counted until such time as the ballots are
240 determined to be valid. No state court shall have jurisdiction to extend the
241 polling hours established by law, including section 115.407.

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

Unofficial

Bill

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