

SENATE BILL No. 1

By Senator Faust-Goudeau

9-3

1 AN ACT concerning crimes; enacting the Kansas protection against voter
2 suppression act; amending the crime of perjury; amending K.S.A. 2012
3 Supp. 21-5903, as amended by section 1 of chapter 3 of the 2013
4 Session Laws of Kansas, and 25-2309 and repealing the existing
5 sections.
6

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

8 Section 1. K.S.A. 2012 Supp. 21-5903, as amended by section 1 of
9 chapter 3 of the 2013 Session Laws of Kansas, is hereby amended to read
10 as follows: 21-5903. (a) Perjury is intentionally and falsely:

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

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

18 (3) *subscribing as true and correct under penalty of perjury the*
19 *affidavit as provided in K.S.A. 25-2309(m)(2), and amendments thereto.*

20 (b) Perjury is a:

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

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

25 Sec. 2. K.S.A. 2012 Supp. 25-2309 is hereby amended to read as
26 follows: 25-2309. (a) *This act shall be known and may be cited as the*
27 *"Kansas protection against voter suppression act."*

28 (b) Any person may apply in person, by mail, through a voter
29 registration agency, or by other delivery to a county election officer to be
30 registered. Such application shall be made on: (1) A form approved by the
31 secretary of state, which shall be provided by a county election officer or
32 chief state election official upon request in person, by telephone or in
33 writing; or (2) the national mail voter registration form issued pursuant to
34 federal law. Such application shall be signed by the applicant under
35 penalty of perjury and shall contain the original signature of the applicant
36 or the computerized, electronic or digitized transmitted signature of the

1 applicant. A signature may be made by mark, initials, typewriter, print,
2 stamp, symbol or any other manner if by placing the signature on the
3 document the person intends the signature to be binding. A signature may
4 be made by another person at the voter's direction if the signature reflects
5 such voter's intention.

6 ~~(b)~~ (c) Applications made under this section shall give voter
7 eligibility requirements and such information as is necessary to prevent
8 duplicative voter registrations and enable the relevant election officer to
9 assess the eligibility of the applicant and to administer voter registration,
10 including, but not limited to, the following data to be kept by the relevant
11 election officer as provided by law:

- 12 (1) Name;
- 13 (2) place of residence, including specific address or location, and
14 mailing address if the residence address is not a permissible postal address;
- 15 (3) date of birth;
- 16 (4) sex;
- 17 (5) the last four digits of the person's social security number or the
18 person's full driver's license or nondriver's identification card number;
- 19 (6) telephone number, if available;
- 20 (7) naturalization data (if applicable);
- 21 (8) if applicant has previously registered or voted elsewhere,
22 residence at time of last registration or voting;
- 23 (9) when present residence established;
- 24 (10) name under which applicant last registered or voted, if different
25 from present name;
- 26 (11) an attestation that the applicant meets each eligibility
27 requirement;
- 28 (12) a statement that the penalty for submission of a false voter
29 registration application is a maximum presumptive sentence of 17 months
30 in prison;
- 31 (13) a statement that, if an applicant declines to register to vote, the
32 fact that the applicant has declined to register will remain confidential and
33 will be used only for voter registration purposes;
- 34 (14) a statement that if an applicant does register to vote, the office to
35 which a voter registration application is submitted will remain confidential
36 and will be used only for voter registration purposes;
- 37 (15) boxes for the applicant to check to indicate whether the applicant
38 is or is not a citizen of the United States, together with the question "Are
39 you a citizen of the United States of America?";
- 40 (16) boxes for the county election officer or chief state election
41 official to check to indicate whether the applicant has provided with the
42 application the information necessary to assess the eligibility of the
43 applicant, including such applicant's United States citizenship;

1 (17) boxes for the applicant to check to indicate whether or not the
2 applicant will be 18 years of age or older on election day, together with the
3 question "Will you be 18 years of age on or before election day?";

4 (18) in reference to paragraphs (15) and (17) the statement "If you
5 checked 'no' in response to either of these questions, do not complete this
6 form.";

7 (19) a statement that the applicant shall be required to provide
8 identification when voting; and

9 (20) political party affiliation declaration, if any. An applicant's
10 failure to make a declaration will result in the applicant being registered as
11 an unaffiliated voter.

12 If the application discloses any previous registration in any other
13 county or state, as indicated by paragraph (8) or (10), or otherwise, the
14 county election officer shall upon the registration of the applicant, give
15 notice to the election official of the place of former registration, notifying
16 such official of applicant's present residence and registration, and
17 authorizing cancellation of such former registration. This section shall be
18 interpreted and applied in accordance with federal law. No eligible
19 applicant whose qualifications have been assessed shall be denied
20 registration.

21 (e) (d) Any person who applies for registration through a voter
22 registration agency shall be provided with, in addition to the application
23 under subsection (b), a form which includes:

24 (1) The question "If you are not registered to vote where you live
25 now, would you like to apply to register to vote here today?";

26 (2) a statement that if the applicant declines to register to vote, this
27 decision will remain confidential and be used only for voter registration
28 purposes;

29 (3) a statement that if the applicant does register to vote, information
30 regarding the office to which the application was submitted will remain
31 confidential and be used only for voter registration purposes; and

32 (4) if the agency provides public assistance, (i) the statement
33 "Applying to register or declining to register to vote will not affect the
34 amount of assistance that you will be provided by this agency.";

35 (ii) boxes for the applicant to check to indicate whether the applicant
36 would like to register or declines to register to vote, together with the
37 statement "IF YOU DO NOT CHECK EITHER BOX, YOU WILL BE
38 CONSIDERED TO HAVE DECIDED NOT TO REGISTER TO VOTE
39 AT THIS TIME.";

40 (iii) the statement "If you would like help in filling out the voter
41 registration application form, we will help you. The decision whether to
42 seek or accept help is yours. You may fill out the application form in
43 private."; and

1 (iv) the statement "If you believe that someone has interfered with
2 your right to register or to decline to register to vote, your right to privacy
3 in deciding whether to register or in applying to register to vote, or your
4 right to choose your own political party or other political preference, you
5 may file a complaint with the Kansas Secretary of State."

6 ~~(d)~~ (e) If any person, in writing, declines to register to vote, the voter
7 registration agency shall maintain the form prescribed by subsection (c).

8 ~~(e)~~ (f) A voter registration agency shall transmit the completed
9 registration application to the county election officer not later than five
10 days after the date of acceptance. Upon receipt of an application for
11 registration, the county election officer shall send, by nonforwardable
12 mail, a notice of disposition of the application to the applicant at the postal
13 delivery address shown on the application. If a notice of disposition is
14 returned as undeliverable, a confirmation mailing prescribed by K.S.A. 25-
15 2316c, and amendments thereto, shall occur.

16 ~~(f)~~ (g) If an application is received while registration is closed, such
17 application shall be considered to have been received on the next
18 following day during which registration is open.

19 ~~(g)~~ (h) A person who completes an application for voter registration
20 shall be considered a registered voter when the county election officer
21 adds the applicant's name to the county voter registration list.

22 ~~(h)~~ (i) Any registered voter whose residence address is not a
23 permissible postal delivery address shall designate a postal address for
24 registration records. When a county election officer has reason to believe
25 that a voter's registration residence is not a permissible postal delivery
26 address, the county election officer shall attempt to determine a proper
27 mailing address for the voter.

28 ~~(i)~~ (j) Any registered voter may request that such person's residence
29 address be concealed from public inspection on the voter registration list
30 and on the original voter registration application form. Such request shall
31 be made in writing to the county election officer, and shall specify a
32 clearly unwarranted invasion of personal privacy or a threat to the voter's
33 safety. Upon receipt of such a request, the county election officer shall take
34 appropriate steps to ensure that such person's residence address is not
35 publicly disclosed. Nothing in this subsection shall be construed as
36 requiring or authorizing the secretary of state to include on the voter
37 registration application form a space or other provision on the form that
38 would allow the applicant to request that such applicant's residence
39 address be concealed from public inspection.

40 ~~(j)~~ (k) No application for voter registration shall be made available for
41 public inspection or copying unless the information required by paragraph
42 (5) of subsection (b) has been removed or otherwise rendered unreadable.

43 ~~(k)~~ (l) If an applicant fails to answer the question prescribed in

1 paragraph (15) of subsection (b), the county election officer shall send the
2 application to the applicant at the postal delivery address given on the
3 application, by nonforwardable mail, with a notice of incompleteness. The
4 notice shall specify a period of time during which the applicant may
5 complete the application in accordance with K.S.A. 25-2311, and
6 amendments thereto, and be eligible to vote in the next election.

7 ~~(1)~~ *(m)* The county election officer or secretary of state's office shall
8 accept any completed application for registration, but an applicant shall
9 not be registered until the applicant has *either*: *(1)* Provided satisfactory
10 evidence of United States citizenship. Evidence of United States
11 citizenship as required in this section will be satisfied by presenting one of
12 the documents listed in paragraphs ~~(1)~~ *(A)* through ~~(13)~~ *(M)* of *this*
13 subsection ~~(1)~~ in person at the time of filing the application for registration
14 or by including a photocopy of one of the following documents with a
15 mailed registration application. After a person has submitted satisfactory
16 evidence of citizenship, the county election officer shall indicate this
17 information in the person's permanent voter file. Evidence of United States
18 citizenship shall be satisfied by providing one of the following, or a legible
19 photocopy of one of the following documents:

20 ~~(1)~~ *(A)* The applicant's driver's license or nondriver's identification
21 card issued by the division of vehicles or the equivalent governmental
22 agency of another state within the United States if the agency indicates on
23 the applicant's driver's license or nondriver's identification card that the
24 person has provided satisfactory proof of United States citizenship;

25 ~~(2)~~ *(B)* the applicant's birth certificate that verifies United States
26 citizenship to the satisfaction of the county election officer or secretary of
27 state;

28 ~~(3)~~ *(C)* pertinent pages of the applicant's United States valid or
29 expired passport identifying the applicant and the applicant's passport
30 number, or presentation to the county election officer of the applicant's
31 United States passport;

32 ~~(4)~~ *(D)* the applicant's United States naturalization documents or the
33 number of the certificate of naturalization. If only the number of the
34 certificate of naturalization is provided, the applicant shall not be included
35 in the registration rolls until the number of the certificate of naturalization
36 is verified with the United States bureau of citizenship and immigration
37 services by the county election officer or the secretary of state, pursuant to
38 8 U.S.C. § 1373(c);

39 ~~(5)~~ *(E)* other documents or methods of proof of United States
40 citizenship issued by the federal government pursuant to the immigration
41 and nationality act of 1952, and amendments thereto;

42 ~~(6)~~ *(F)* the applicant's bureau of Indian affairs card number, tribal
43 treaty card number or tribal enrollment number;

1 ~~(7)~~ (G) the applicant's consular report of birth abroad of a citizen of
2 the United States of America;

3 ~~(8)~~ (H) the applicant's certificate of citizenship issued by the United
4 States citizenship and immigration services;

5 ~~(9)~~ (I) the applicant's certification of report of birth issued by the
6 United States department of state;

7 ~~(10)~~ (J) the applicant's American Indian card, with KIC classification,
8 issued by the United States department of homeland security;

9 ~~(11)~~ (K) the applicant's final adoption decree showing the applicant's
10 name and United States birthplace;

11 ~~(12)~~ (L) the applicant's official United States military record of
12 service showing the applicant's place of birth in the United States; or

13 ~~(13)~~ (M) an extract from a United States hospital record of birth
14 created at the time of the applicant's birth indicating the applicant's place
15 of birth in the United States; or

16 (2) *sign an affidavit swearing under oath the following: "I am a
17 United States citizen. I meet the eligibility requirements of my state and
18 subscribe to any oath required. The information I have provided is true to
19 the best of my knowledge under penalty of perjury. If I have provided false
20 information, I may be fined, imprisoned, or (if not a U.S. citizen) deported
21 from or refused entry to the United States." Note: The crime of perjury is a
22 severity level 9, nonperson felony.*

23 ~~(m)~~ (n) If an applicant is a United States citizen but does not have any
24 of the documentation listed in this section as satisfactory evidence of
25 United States citizenship, such applicant may submit any evidence that
26 such applicant believes demonstrates the applicant's United States
27 citizenship.

28 (1) Any applicant seeking an assessment of evidence under this
29 subsection may directly contact the elections division of the secretary of
30 state by submitting a voter registration application or form as described by
31 this section and any supporting evidence of United States citizenship.
32 Upon receipt of this information, the secretary of state shall notify the state
33 election board, as established under K.S.A. 25-2203, and amendments
34 thereto, that such application is pending.

35 (2) The state election board shall give the applicant an opportunity for
36 a hearing and an opportunity to present any additional evidence to the state
37 election board. Notice of such hearing shall be given to the applicant at
38 least five days prior to the hearing date. An applicant shall have the
39 opportunity to be represented by counsel at such hearing.

40 (3) The state election board shall assess the evidence provided by the
41 applicant to determine whether the applicant has provided satisfactory
42 evidence of United States citizenship. A decision of the state election
43 board shall be determined by a majority vote of the election board.

1 (4) If an applicant submits an application and any supporting
2 evidence prior to the close of registration for an election cycle, a
3 determination by the state election board shall be issued at least five days
4 before such election date.

5 (5) If the state election board finds that the evidence presented by
6 such applicant constitutes satisfactory evidence of United States
7 citizenship, such applicant will have met the requirements under this
8 section to provide satisfactory evidence of United States citizenship.

9 (6) If the state election board finds that the evidence presented by an
10 applicant does not constitute satisfactory evidence of United States
11 citizenship, such applicant shall have the right to appeal such
12 determination by the state election board by instituting an action under 8
13 U.S.C. § 1503. Any negative assessment of an applicant's eligibility by the
14 state election board shall be reversed if the applicant obtains a declaratory
15 judgment pursuant to 8 U.S.C. § 1503, demonstrating that such applicant is
16 a national of the United States.

17 ~~(n)~~ (o) Any person who is registered in this state on the effective date
18 of this amendment to this section is deemed to have provided satisfactory
19 evidence of citizenship and shall not be required to resubmit evidence of
20 citizenship.

21 ~~(n)~~ (p) For purposes of this section, proof of voter registration from
22 another state is not satisfactory evidence of United States citizenship.

23 ~~(n)~~ (q) A registered Kansas voter who moves from one residence to
24 another within the state of Kansas or who modifies such voter's
25 registration records for any other reason shall not be required to submit
26 evidence of United States citizenship.

27 ~~(n)~~ (r) If evidence of citizenship is deemed to be unsatisfactory due to
28 an inconsistency between the document submitted as evidence and the
29 name or sex provided on the application for registration, such applicant
30 may sign an affidavit:

31 (1) Stating the inconsistency or inconsistencies related to the name or
32 sex, and the reason therefor; and

33 (2) swearing under oath that, despite the inconsistency, the applicant
34 is the individual reflected in the document provided as evidence of
35 citizenship. However, there shall be no inconsistency between the date of
36 birth on the document provided as evidence of citizenship and the date of
37 birth provided on the application for registration. If such an affidavit is
38 submitted by the applicant, the county election officer or secretary of state
39 shall assess the eligibility of the applicant without regard to any
40 inconsistency stated in the affidavit.

41 ~~(n)~~ (s) All documents submitted as evidence of citizenship shall be
42 kept confidential by the county election officer or the secretary of state and
43 maintained as provided by Kansas record retention laws. The provisions of

1 this subsection shall expire on July 1, 2016, unless the legislature reviews
2 and reenacts this provision pursuant to K.S.A. 45-229, and amendments
3 thereto, prior to July 1, 2016.

4 ~~(s)~~ (t) The secretary of state may adopt rules and regulations~~to~~ in
5 order to implement the provisions of this section.

6 ~~(t)~~ (u) Nothing in this section shall prohibit an applicant from
7 providing, or the secretary of state or county election officer from
8 obtaining satisfactory evidence of United States citizenship, as described
9 in subsection (m)(1), at a different time or in a different manner than an
10 application for registration is provided, as long as the applicant's eligibility
11 can be adequately assessed by the secretary of state or county election
12 officer as required by this section.

13 ~~(u)~~ (v) The proof of citizenship requirements of this section shall not
14 become effective until January 1, 2013.

15 Sec. 3. K.S.A. 2012 Supp. 21-5903, as amended by section 1 of
16 chapter 3 of the 2013 Session Laws of Kansas, and 25-2309 are hereby
17 repealed.

18 Sec. 4. This act shall take effect and be in force from and after its
19 publication in the Kansas register.