

**Senate File 85 - Introduced**

SENATE FILE 85

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and BERTRAND

**A BILL FOR**

1 An Act relating to proof of identification and proof of  
2 residence in order to register to vote or to vote,  
3 establishing a criminal offense for falsely swearing  
4 certain oaths and affidavits, and including applicability  
5 provisions.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

DIVISION I

VOTER IDENTIFICATION REQUIREMENTS

1  
2  
3 Section 1. Section 39A.2, subsection 1, paragraph b, Code  
4 2013, is amended by adding the following new subparagraph:

5 NEW SUBPARAGRAPH. (6) Falsely swears to an oath required  
6 pursuant to section 49.77, subsection 3, or an affidavit  
7 pursuant to section 49.81, subsection 5, paragraph "b".

8 Sec. 2. Section 48A.7A, subsection 1, paragraph a, Code  
9 2013, is amended to read as follows:

10 a. A person who is eligible to register to vote and to vote  
11 may register on election day by appearing in person at the  
12 polling place for the precinct in which the individual resides  
13 and completing a voter registration application, making written  
14 oath, and providing proof of identity and ~~residence~~ proof of  
15 residence pursuant to paragraph "b".

16 Sec. 3. Section 48A.7A, subsection 1, paragraph b, Code  
17 2013, is amended by striking the paragraph and inserting in  
18 lieu thereof the following:

19 b. (1) For purposes of this section, a person may establish  
20 identity by showing proof of identification as required in  
21 section 49.77, subsection 3.

22 (2) For purposes of this section, a person may establish  
23 residence using a proof of identification document described  
24 in section 49.77, subsection 3, paragraph "b", if the proof of  
25 identification contains the person's current address in the  
26 precinct. If the proof of identification does not contain the  
27 person's current address in the precinct, the person shall also  
28 present one of the following documents that shows the person's  
29 name and current address in the precinct:

- 30 (a) Utility bill.  
31 (b) Bank statement.  
32 (c) Paycheck.  
33 (d) Government check.  
34 (e) Other government document.

35 Sec. 4. Section 48A.7A, subsections 2 and 3, Code 2013, are

1 amended to read as follows:

2 2. The oath required in subsection 1, paragraph "a", and  
3 in paragraph "c", if applicable, shall be executed on the  
4 same piece of paper and attached to the voter registration  
5 application.

6 3. At any time before election day, and after the deadline  
7 for registration in section 48A.9, a person who appears in  
8 person at the commissioner's office or at a satellite absentee  
9 voting station or whose ballot is delivered to a health care  
10 facility pursuant to section 53.22 may register to vote and  
11 vote an absentee ballot by following the procedure in this  
12 section for registering to vote on election day. A person who  
13 wishes to vote in person at the polling place on election day  
14 and who has not registered to vote before the deadline for  
15 registering in section 48A.9, is required to register to vote  
16 at the polling place on election day following the procedure  
17 in this section. However, the person may complete the voter  
18 registration application at the commissioner's office and,  
19 after the commissioner has reviewed the completed application,  
20 may present the application to the appropriate precinct  
21 election official along with ~~proof of identity and residency~~  
22 identification and proof of residence.

23 Sec. 5. Section 49.53, subsection 1, Code 2013, is amended  
24 to read as follows:

25 1. The commissioner shall not less than four nor more than  
26 twenty days before the day of each election, except those for  
27 which different publication requirements are prescribed by law,  
28 publish notice of the election. The notice shall contain a  
29 facsimile of the portion of the ballot containing the first  
30 rotation as prescribed by section 49.31, subsection 2, and  
31 shall show the names of all candidates or nominees and the  
32 office each seeks, and all public questions, to be voted upon  
33 at the election. The sample ballot published as a part of the  
34 notice may at the discretion of the commissioner be reduced in  
35 size relative to the actual ballot but such reduction shall not

1 cause upper case letters appearing in candidates' names or in  
2 summaries of public measures on the published sample ballot to  
3 be less than nine point type. The notice shall also state the  
4 date of the election, the hours the polls will be open, that  
5 all voters will be required to show proof of identification  
6 before casting a ballot, the location of each polling place at  
7 which voting is to occur in the election, and the names of the  
8 precincts voting at each polling place, but the statement need  
9 not set forth any fact which is apparent from the portion of  
10 the ballot appearing as a part of the same notice. The notice  
11 shall include the full text of all public measures to be voted  
12 upon at the election.

13 Sec. 6. Section 49.77, subsection 3, Code 2013, is amended  
14 by striking the subsection and inserting in lieu thereof the  
15 following:

16 3. a. A precinct election official shall require the voter  
17 to present for inspection proof of identification before being  
18 allowed to vote.

19 b. For purposes of this section, "*proof of identification*"  
20 refers to a document that satisfies all of the following:

21 (1) The document shows the name of the individual to whom  
22 the document was issued which shall conform to the name on the  
23 election register.

24 (2) The document shows a photograph of the individual to  
25 whom it was issued.

26 (3) The document was issued by the government of the  
27 United States, the state of Iowa, an Iowa public or private  
28 university or college, an Iowa secondary school, or a political  
29 subdivision of the state of Iowa. In the case of a document  
30 issued by a political subdivision, the document shall be  
31 issued not later than the close of voter registration for  
32 the applicable election as set forth in section 48A.9 and  
33 shall meet all other requirements established by the state  
34 commissioner by rule.

35 c. In lieu of paragraph "b", a person wishing to vote may

1 establish proof of identity by written oath of the person  
2 wishing to vote and of an attesting person who provides proof  
3 of identification pursuant to paragraph "b". The oath shall be  
4 in the form prescribed by the state commissioner of elections  
5 and shall state the identity and attest to the stated identity  
6 of the person wishing to vote. The oath must be signed by the  
7 attesting person and the person wishing to vote in the presence  
8 of the appropriate precinct election official. A person who  
9 has signed an oath attesting to a person's identity as provided  
10 in this paragraph is prohibited from signing any further oaths  
11 as provided in this paragraph for the same election. The oath  
12 shall advise the person wishing to vote and the attesting  
13 person that falsely signing such an oath or falsely attesting  
14 to a voter's identity is a class "D" felony.

15 d. The commissioner shall, within forty-five days after  
16 each election, review all attestations received under this  
17 subsection and if any individual is found to have attested for  
18 more than one voter in a particular election, the commissioner  
19 shall immediately notify the state commissioner and the county  
20 attorney.

21 Sec. 7. Section 49.77, Code 2013, is amended by adding the  
22 following new subsection:

23 NEW SUBSECTION. 3A. a. If proof of identification or proof  
24 of identity is established under subsection 3, the person shall  
25 be allowed to vote.

26 b. If a person is unable or refuses to present proof of  
27 identification, or the precinct election official determines  
28 the proof of identification presented by the person does  
29 not qualify as proof of identification under subsection  
30 3, paragraph "b", or proof of identity under subsection 3,  
31 paragraph "c", the person shall be offered the option to vote a  
32 ballot, but only in accordance with section 49.81.

33 Sec. 8. Section 49.77, subsection 4, paragraph a, Code 2013,  
34 is amended to read as follows:

35 a. A person whose name does not appear on the election

1 register of the precinct in which that person claims the right  
 2 to vote shall not be permitted to vote, unless the person  
 3 affirms that the person is currently registered in the county  
 4 ~~and presents proof of identity,~~ or the commissioner informs  
 5 the precinct election officials that an error has occurred  
 6 and that the person is a registered voter of that precinct,  
 7 and the person presents proof of identification pursuant to  
 8 subsection 3. If the commissioner finds no record of the  
 9 person's registration but the person insists that the person  
 10 is a registered voter of that precinct, the precinct election  
 11 officials shall allow the person to cast a ballot in the manner  
 12 prescribed by section 49.81.

13 Sec. 9. Section 49.81, subsection 1, Code 2013, is amended  
 14 to read as follows:

15 1. A prospective voter who is prohibited under section  
 16 48A.8, subsection 4, section 49.77, subsection 3A, paragraph  
 17 "b", section 49.77, subsection 4, section 49.80, or section  
 18 53.19, subsection 3, or section 53.22, subsection 1, paragraph  
 19 "d", from voting except under this section shall be notified by  
 20 the appropriate precinct election official that the voter may  
 21 cast a provisional ballot. The voter shall mark the ballot and  
 22 immediately seal it in an envelope of the type prescribed by  
 23 subsection 4. The voter shall deliver the sealed envelope to a  
 24 precinct election official who shall deposit it in an envelope  
 25 marked "provisional ballots". The ballot shall be considered  
 26 as having been cast in the special precinct established by  
 27 section 53.20 for purposes of the postelection canvass.

28 Sec. 10. Section 49.81, subsection 2, paragraph b, Code  
 29 2013, is amended to read as follows:

30 b. If the person is casting a provisional ballot because  
 31 the person ~~failed~~ was unable or refused to provide a required  
 32 form of identification pursuant to section 48A.8, subsection  
 33 4, section 49.77, subsection 3A, paragraph "b", section 49.77,  
 34 subsection 4, or section 53.22, subsection 1, paragraph "d", a  
 35 list of the types of acceptable identification and notification

1 that the person must show identification before the ballot can  
2 be counted.

3 Sec. 11. Section 49.81, Code 2013, is amended by adding the  
4 following new subsection:

5 NEW SUBSECTION. 5. *a.* If a voter casts a provisional  
6 ballot pursuant to section 49.77, subsection 3A, paragraph  
7 "b", the precinct election official shall indicate on the  
8 provisional ballot envelope that the voter is casting a  
9 provisional ballot due to the voter's inability or refusal to  
10 present proof of identification.

11 *b.* At the time a provisional ballot is cast the voter may  
12 also execute an affidavit in the form prescribed by the state  
13 commissioner which shall be attached to the provisional ballot  
14 envelope, affirming that the voter is the person the voter  
15 claims to be and further affirming either of the following:

16 (1) The voter is indigent and is unable to obtain proof of  
17 identification without the payment of a fee.

18 (2) The voter has a religious objection to being  
19 photographed.

20 *c.* A provisional ballot cast pursuant to section 49.77,  
21 subsection 3A, paragraph "b", which is accompanied by an  
22 affidavit executed pursuant to paragraph "b" of this subsection  
23 shall be presumed valid by the special precinct board and  
24 shall be counted unless additional written statements or  
25 documents are delivered to the commissioner's office prior to  
26 the date provisional ballots are considered by the special  
27 precinct election board and the special precinct election board  
28 determines such additional evidence successfully rebuts the  
29 presumption of validity.

30 Sec. 12. Section 53.10, subsection 2, Code 2013, is amended  
31 to read as follows:

32 2. Each person who wishes to vote by absentee ballot at  
33 the commissioner's office shall first sign an application  
34 for a ballot including the following information: name,  
35 current address, and the election for which the ballot is

1 requested. The person may report a change of address or other  
 2 information on the person's voter registration record at that  
 3 time. The person must also provide proof of identification  
 4 pursuant to section 49.77, subsection 3, or be offered the  
 5 option to vote a provisional ballot pursuant to section 49.77,  
 6 subsection 3A, paragraph "b", before receiving an absentee  
 7 ballot. Upon receipt of the absentee ballot, the registered  
 8 voter shall immediately mark the ballot; enclose the ballot in  
 9 a secrecy envelope, if necessary, and seal it in an affidavit  
 10 envelope; subscribe to the affidavit on the reverse side of the  
 11 envelope; and return the absentee ballot to the commissioner.  
 12 The commissioner shall record the numbers appearing on the  
 13 application and affidavit envelope along with the name of the  
 14 registered voter.

15 Sec. 13. Section 53.22, subsection 1, Code 2013, is amended  
 16 by adding the following new paragraph:

17 NEW PARAGRAPH. *d.* Before receiving a ballot under  
 18 this subsection, each applicant shall present proof of  
 19 identification pursuant to section 49.77, subsection 3, to  
 20 the special precinct election board members. If an applicant  
 21 is unable to present proof of identification, the applicant  
 22 shall have an opportunity to execute an affidavit in the form  
 23 prescribed by the state commissioner of elections affirming  
 24 that the voter does not have and is unable to obtain proof of  
 25 identification and that the voter resides in a hospital or  
 26 health care facility and is casting a ballot pursuant to this  
 27 section. If the applicant refuses to execute an affidavit, the  
 28 voter's ballot shall be considered a provisional ballot cast  
 29 pursuant to section 49.81.

30 Sec. 14. Section 321.190, subsection 1, paragraph d, Code  
 31 2013, is amended to read as follows:

32 *d.* The fee for a nonoperator's identification card shall  
 33 be five dollars and the card shall be valid for a period  
 34 of five years from the date of issuance. A nonoperator's  
 35 identification card shall be issued without expiration



1 to anyone age seventy or over. If an applicant for a  
 2 nonoperator's identification card is a foreign national  
 3 who is temporarily present in this state, the nonoperator's  
 4 identification card shall be issued only for the length of time  
 5 the foreign national is authorized to be present as determined  
 6 by the department, not to exceed two years. An issuance fee  
 7 shall not be charged for a person whose driver's license or  
 8 driving privilege has been suspended under section 321.210,  
 9 subsection 1, paragraph "a", subparagraph (3), or for a person  
 10 obtaining an identification card to be used under section  
 11 49.77, subsection 3, for voting purposes. Identification cards  
 12 obtained for voting purposes shall be labeled by the department  
 13 as "For Voting Purposes Only".

14 DIVISION II

15 CONFORMING PROVISIONS

16 Sec. 15. Section 48A.8, subsection 2, unnumbered paragraph  
 17 1, Code 2013, is amended to read as follows:

18 An eligible elector who registers by mail and who has  
 19 not previously voted in an election for federal office in  
 20 the county of registration shall be required to provide  
 21 additional identification documents when voting for the first  
 22 time in the county, unless the registrant provided on the  
 23 registration form the registrant's Iowa driver's license  
 24 number, or the registrant's Iowa nonoperator's identification  
 25 card number, or the last four numerals of the registrant's  
 26 social security number and the driver's license, nonoperator's  
 27 identification, or partial social security number matches  
 28 an existing state or federal identification record with the  
 29 same number, name, and date of birth. If the registrant  
 30 is required to show additional identification under this  
 31 subsection and votes in person at the polls, or by absentee  
 32 ballot at the commissioner's office or at a satellite voting  
 33 station, the registrant shall provide a current and valid  
 34 photo identification card, or shall present to the appropriate  
 35 election official one of the following current documents that

1 shows the name and address of the registrant:

2 Sec. 16. Section 48A.8, subsection 4, Code 2013, is amended  
3 to read as follows:

4 4. A registrant under subsection 2 who is required to  
5 present additional identification when casting a ballot in  
6 person shall be permitted to vote a provisional ballot if the  
7 voter does not provide the required additional identification  
8 documents pursuant to subsection 2. If a voter who is required  
9 to present such additional identification when casting a ballot  
10 votes an absentee ballot by mail, the ballot returned by the  
11 voter shall be considered a provisional ballot pursuant to  
12 sections 49.81 and 53.31.

13 Sec. 17. Section 48A.27, subsection 4, paragraph c,  
14 subparagraph (2), Code 2013, is amended to read as follows:

15 (2) The notice shall contain a statement in substantially  
16 the following form:

17 Information received from the United States postal service  
18 indicates that you are no longer a resident of, and therefore  
19 not eligible to vote in (name of county) County, Iowa. If this  
20 information is not correct, and you still live in (name of  
21 county) County, please complete and mail the attached postage  
22 paid card at least ten days before the primary or general  
23 election and at least eleven days before any other election at  
24 which you wish to vote. If the information is correct and you  
25 have moved, please contact a local official in your new area  
26 for assistance in registering there. ~~If you do not mail in~~  
27 ~~the card, you may be required to show identification before~~  
28 ~~being allowed to vote in (name of county) County.~~ If you do not  
29 return the card, and you do not vote in an election in (name  
30 of county) County, Iowa, on or before (date of second general  
31 election following the date of the notice) your name will be  
32 removed from the list of voters in that county.

33 Sec. 18. Section 48A.29, subsection 1, paragraph b, Code  
34 2013, is amended to read as follows:

35 b. The notice shall contain a statement in substantially the

1 following form:

2 Information received from the United States postal service  
3 indicates that you are no longer a resident of (residence  
4 address) in (name of county) County, Iowa. If this information  
5 is not correct, and you still live in (name of county) County,  
6 please complete and mail the attached postage paid card at  
7 least ten days before the primary or general election and at  
8 least eleven days before any other election at which you wish  
9 to vote. If the information is correct, and you have moved,  
10 please contact a local official in your new area for assistance  
11 in registering there. ~~If you do not mail in the card, you may~~  
12 ~~be required to show identification before being allowed to vote~~  
13 ~~in (name of county) County.~~ If you do not return the card, and  
14 you do not vote in some election in (name of county) County,  
15 Iowa, on or before (date of second general election following  
16 the date of the notice) your name will be removed from the list  
17 of voters in that county.

18 Sec. 19. Section 48A.29, subsection 3, paragraph b, Code  
19 2013, is amended to read as follows:

20 *b.* The notice shall contain a statement in substantially the  
21 following form:

22 Information received by this office indicates that you are no  
23 longer a resident of (residence address) in (name of county)  
24 County, Iowa. If the information is not correct, and you still  
25 live at that address, please complete and mail the attached  
26 postage paid card at least ten days before the primary or  
27 general election and at least eleven days before any other  
28 election at which you wish to vote. If the information is  
29 correct, and you have moved within the county, you may update  
30 your registration by listing your new address on the card and  
31 mailing it back. If you have moved outside the county, please  
32 contact a local official in your new area for assistance in  
33 registering there. ~~If you do not mail in the card, you may be~~  
34 ~~required to show identification before being allowed to vote in~~  
35 ~~(name of county) County.~~ If you do not return the card, and you

1 do not vote in some election in (name of county) County, Iowa,  
2 on or before (date of second general election following the  
3 date of the notice) your name will be removed from the list of  
4 registered voters in that county.

5 DIVISION III  
6 APPLICABILITY

7 Sec. 20. APPLICABILITY. This Act applies to elections held  
8 on or after January 1, 2015.

9 EXPLANATION

10 This bill requires that a person provide certain proof of  
11 identification at the time that the person votes and modifies  
12 proof of identification and proof of residence requirements for  
13 election day and in-person absentee registration.

14 Division I of the bill modifies the proof of identification  
15 and proof of residence requirements for election day and  
16 in-person absentee registration. The bill requires that  
17 acceptable proof of identification is the same proof of  
18 identification required of a voter who is already registered  
19 to vote. The bill removes residential leases and property tax  
20 statements from the list of acceptable documents to provide  
21 proof of residence for election day and in-person absentee  
22 registration.

23 The bill maintains current law allowing a person wishing  
24 to register to vote on election day, or in person when voting  
25 an absentee ballot, to establish proof of identity and proof  
26 of residence by written oath of a person who is registered to  
27 vote in the precinct, but requires that the oath of the person  
28 wishing to vote and the registered voter's oath be executed on  
29 the same piece of paper.

30 The bill requires that a voter provide proof of  
31 identification to a precinct election official before being  
32 allowed to vote, and also requires that a person wishing to  
33 vote by absentee ballot at a county commissioner of elections  
34 office or at a satellite absentee voting station present  
35 the same proof of identification. The bill requires that

1 acceptable proof of identification show the name of the  
2 individual voter, include a photograph of the voter, and be  
3 issued by the government of the United States, the state of  
4 Iowa, an Iowa public or private university or college, an Iowa  
5 secondary school, or a political subdivision of the state.

6 The bill provides that, in lieu of providing identification  
7 in order to vote, a person may establish proof of identity by  
8 written oath of the person wishing to vote and of a person who  
9 provides their own proof of identification and who attests  
10 to the voter's identity. The bill provides that the oath  
11 shall be in the form prescribed by the state commissioner of  
12 elections, and that the oath shall state the identity of the  
13 person wishing to vote and shall attest to the stated identity  
14 of the person wishing to vote. The bill requires that the oath  
15 be signed by both the attesting person and the person wishing  
16 to vote. The bill makes it a class "D" felony to falsely sign  
17 an oath pursuant to this provision or to falsely attest to a  
18 voter's identity. The bill requires that the oath advise both  
19 persons that falsely stating or attesting to a voter's identity  
20 is a class "D" felony. A class "D" felony is punishable by  
21 confinement for no more than five years and a fine of at least  
22 \$750 but not more than \$7,500. The bill provides that an  
23 attesting person is prohibited from signing any additional such  
24 oaths for the same election.

25 The bill provides that if proof of identification is  
26 established the person shall then be allowed to vote. If a  
27 person is unable or refuses to present proof of identification,  
28 or if the precinct election official determines that the  
29 proof of identification does not meet specified requirements,  
30 the person shall be offered the option to vote a provisional  
31 ballot. If a person is casting a provisional ballot  
32 under these circumstances, the person shall receive a  
33 printed statement giving notice of the types of acceptable  
34 identification and notice that the person is required to show  
35 acceptable identification before the provisional ballot can be

1 counted unless the voter executes an affidavit pursuant to Code  
2 section 49.81, subsection 5. If a voter casts a provisional  
3 ballot for these reasons, the precinct election official shall  
4 indicate on the provisional ballot that the voter is casting  
5 a provisional ballot due to the voter's inability or refusal  
6 to present proof of identification. The bill provides that a  
7 voter casting a provisional ballot for this reason may execute  
8 an affidavit in the form prescribed by the state commissioner  
9 of elections, affirming that the voter is the person the voter  
10 claims to be and affirming that the voter is either indigent  
11 and unable to obtain proof of identification without the  
12 payment of a fee or that the voter has a religious objection to  
13 being photographed.

14 The bill makes it a class "D" felony to falsify an affidavit  
15 that attests to identity. A class "D" felony is punishable by  
16 confinement for no more than five years and a fine of at least  
17 \$750 but not more than \$7,500. The bill also provides that  
18 any provisional ballot cast accompanied by such an affidavit  
19 shall be presumed valid unless additional written statements  
20 or documents are delivered to the county commissioner of  
21 elections office prior to the date that provisional ballots  
22 are considered and the precinct election board determines that  
23 such additional evidence successfully rebuts the presumption  
24 of validity.

25 The bill also makes changes to the election notice to be  
26 published by the county commissioner of elections to require  
27 that election notices include a statement that all voters will  
28 be required to show proof of identification before casting a  
29 ballot.

30 The bill requires that certain persons residing in a  
31 hospital or health care facility who apply to vote by absentee  
32 ballot shall present proof of identification. If the applicant  
33 is unable to present proof of identification they shall be able  
34 to execute an affidavit in the form prescribed by the state  
35 commissioner of elections, stating that the voter does not have

1 and is unable to obtain proof of identification and that the  
2 voter resides in a hospital or health care facility. If the  
3 applicant refuses to execute such an affidavit and is unable to  
4 present proof of identification, the voter is allowed to cast a  
5 provisional ballot.

6 The bill also provides that a person obtaining a  
7 nonoperator's identification card for the purpose of voting  
8 shall not be charged for the issuance of the nonoperator's  
9 identification card. The bill requires that nonoperator's  
10 identification cards issued to serve as proof of identification  
11 for voting be labeled by the department as "For Voting Purposes  
12 Only".

13 Division II of the bill makes conforming changes to certain  
14 required notices on forms related to voter registration and  
15 registration by mail.

16 Division III of the bill provides that the bill applies to  
17 elections held on or after January 1, 2015.