

Senate File 85 - Introduced

SENATE FILE 85

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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.