

**Senate File 387 - Introduced**

SENATE FILE 387

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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 2015, 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 2015, 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 2015, 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 proof of residence using a proof of identification document  
24 described in section 49.77, subsection 3, paragraph "b", if  
25 the proof of identification contains the person's current  
26 address in the precinct. If the proof of identification does  
27 not contain the person's current address in the precinct, to  
28 establish proof of residence the person shall also present one  
29 of the following documents that shows the person's name and  
30 current address in the precinct:

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

1     Sec. 4. Section 48A.7A, subsections 2 and 3, Code 2015, are  
2 amended to read as follows:

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

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

24     Sec. 5. Section 49.53, subsection 1, Code 2015, is amended  
25 to read as follows:

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

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

14 Sec. 6. Section 49.77, subsection 3, Code 2015, is amended  
15 by striking the subsection and inserting in lieu thereof the  
16 following:

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

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

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

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

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

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

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

22     Sec. 7. Section 49.77, Code 2015, is amended by adding the  
23 following new subsection:

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

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

34     Sec. 8. Section 49.77, subsection 4, paragraph a, Code 2015,  
35 is amended to read as follows:

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

14     Sec. 9. Section 49.81, subsection 1, Code 2015, is amended  
15 to read as follows:

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

29     Sec. 10. Section 49.81, subsection 2, paragraph b, Code  
30 2015, is amended to read as follows:

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

1 list of the types of acceptable identification and notification  
2 that the person must show identification before the ballot can  
3 be counted.

4 Sec. 11. Section 49.81, Code 2015, is amended by adding the  
5 following new subsection:

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

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

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

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

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

31 Sec. 12. Section 53.10, subsection 2, Code 2015, is amended  
32 to read as follows:

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

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

16 Sec. 13. Section 53.22, subsection 1, Code 2015, is amended  
17 by adding the following new paragraph:

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

31 Sec. 14. Section 321.190, subsection 1, paragraph d, Code  
32 2015, is amended to read as follows:

33 *d.* The fee for a nonoperator's identification card shall  
34 be eight dollars and the card shall be valid for a period of  
35 eight years from the date of issuance. If an applicant for



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

## DIVISION II

## CONFORMING PROVISIONS

15  
 16  
 17 Sec. 15. Section 48A.8, subsection 2, unnumbered paragraph  
 18 1, Code 2015, is amended to read as follows:

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

1 election official one of the following current documents that  
2 shows the name and address of the registrant:

3 Sec. 16. Section 48A.8, subsection 4, Code 2015, is amended  
4 to read as follows:

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

14 Sec. 17. Section 48A.27, subsection 4, paragraph c,  
15 subparagraph (2), Code 2015, is amended to read as follows:

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

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

34 Sec. 18. Section 48A.29, subsection 1, paragraph b, Code  
35 2015, is amended to read as follows:

1     *b.* The notice shall contain a statement in substantially the  
2 following form:

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

19     Sec. 19. Section 48A.29, subsection 3, paragraph b, Code  
20 2015, is amended to read as follows:

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

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

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

6 DIVISION III  
7 APPLICABILITY

8 Sec. 20. APPLICABILITY. This Act applies to elections held  
9 on or after January 1, 2017.

10 EXPLANATION

11 The inclusion of this explanation does not constitute agreement with  
12 the explanation's substance by the members of the general assembly.

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

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

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

33 The bill requires that a voter provide proof of  
34 identification to a precinct election official before being  
35 allowed to vote, and also requires that a person wishing to

1 vote by absentee ballot at a county commissioner of elections  
2 office or at a satellite absentee voting station present  
3 the same proof of identification. The bill requires that  
4 acceptable proof of identification show the name of the  
5 individual voter, include a photograph of the voter, and be  
6 issued by the government of the United States, the state of  
7 Iowa, an Iowa public or private university or college, an Iowa  
8 secondary school, or a political subdivision of the state.

9 The bill provides that, in lieu of providing identification  
10 in order to vote, a person may establish proof of identity by  
11 written oath of the person wishing to vote and of a person who  
12 provides their own proof of identification and who attests  
13 to the voter's identity. The bill provides that the oath  
14 shall be in the form prescribed by the state commissioner of  
15 elections, and that the oath shall state the identity of the  
16 person wishing to vote and shall attest to the stated identity  
17 of the person wishing to vote. The bill requires that the oath  
18 be signed by both the attesting person and the person wishing  
19 to vote. The bill makes it a class "D" felony to falsely sign  
20 an oath pursuant to this provision or to falsely attest to a  
21 voter's identity. The bill requires that the oath advise both  
22 persons that falsely stating or attesting to a voter's identity  
23 is a class "D" felony. A class "D" felony is punishable by  
24 confinement for no more than five years and a fine of at least  
25 \$750 but not more than \$7,500. The bill provides that an  
26 attesting person is prohibited from signing any additional such  
27 oaths for the same election.

28 The bill provides that if proof of identification is  
29 established the person shall then be allowed to vote. If a  
30 person is unable or refuses to present proof of identification,  
31 or if the precinct election official determines that the  
32 proof of identification does not meet specified requirements,  
33 the person shall be offered the option to vote a provisional  
34 ballot. If a person is casting a provisional ballot  
35 under these circumstances, the person shall receive a

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

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

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

33 The bill requires that certain persons residing in a  
34 hospital or health care facility who apply to vote by absentee  
35 ballot shall present proof of identification. If the applicant

1 is unable to present proof of identification they shall be  
2 allowed to execute an affidavit in the form prescribed by the  
3 state commissioner of elections, stating that the voter does  
4 not have and is unable to obtain proof of identification and  
5 that the voter resides in a hospital or health care facility.  
6 If the applicant refuses to execute such an affidavit and is  
7 unable to present proof of identification, the voter is allowed  
8 to cast a provisional ballot.

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

16 Division II of the bill makes conforming changes to certain  
17 required notices on forms related to voter registration and  
18 registration by mail.

19 Division III of the bill provides that the bill applies to  
20 elections held on or after January 1, 2017.