

Senate File 47 - Introduced

SENATE FILE 47

BY ZAUN

A BILL FOR

1 An Act relating to proof of identification and proof of
2 residence in order to register to vote on election day or in
3 person absentee or to vote, establishing a criminal offense
4 for falsely swearing certain oaths and affidavits, and
5 including applicability 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 2017, 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 2017, 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 proof of residence
15 pursuant to paragraph "b".

16 Sec. 3. Section 48A.7A, subsection 1, paragraph b, Code
17 2017, 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 2017, 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 proof of residence.

24 Sec. 5. Section 49.53, subsection 1, Code 2017, 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 2017, 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 2017, 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 2017,
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 2017, 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 2017, 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 2017, is amended by adding the
5 following new subsection:

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

13 *b.* (1) At the time a provisional ballot is cast the voter
14 may also execute an affidavit in the form prescribed by the
15 state commissioner which shall be attached to the provisional
16 ballot envelope, affirming that the voter is the person
17 the voter claims to be and further affirming either of the
18 following:

19 (a) The voter is indigent and is unable to obtain proof of
20 identification without the payment of a fee.

21 (b) The voter has a religious objection to being
22 photographed.

23 (2) The affidavit form shall advise the person wishing to
24 cast a provisional ballot under this paragraph "b", that falsely
25 executing such an affidavit is a class "D" felony.

26 *c.* A provisional ballot cast by a voter who was unable
27 or refused to provide the required proof of identification
28 pursuant to section 49.77, subsection 3A, paragraph "b", which
29 is accompanied by an affidavit executed pursuant to paragraph
30 "b" of this subsection shall be presumed valid by the special
31 precinct board and shall be counted unless additional written
32 statements or documents are delivered to the commissioner's
33 office prior to the date provisional ballots are considered by
34 the special precinct election board and the special precinct
35 election board determines such additional evidence successfully

1 rebuts the presumption of validity.

2 Sec. 12. Section 53.10, subsection 2, Code 2017, is amended
3 to read as follows:

4 2. Each person who wishes to vote by absentee ballot at
5 the commissioner's office shall first sign an application for
6 a ballot including the following information: name, current
7 address, and the election for which the ballot is requested.
8 The person may report a change of address or other information
9 on the person's voter registration record at that time. The
10 person must also provide proof of identification pursuant to
11 section 49.77, subsection 3, or be offered the option to vote a
12 provisional ballot pursuant to section 49.81 before receiving
13 an absentee ballot. Upon receipt of the absentee ballot, the
14 registered voter shall immediately mark the ballot; enclose the
15 ballot in a secrecy envelope, if necessary, and seal it in the
16 envelope marked with the affidavit; subscribe to the affidavit
17 on the reverse side of the envelope; and return the absentee
18 ballot to the commissioner. The commissioner shall record the
19 numbers appearing on the application and affidavit envelope
20 along with the name of the registered voter.

21 Sec. 13. Section 53.22, subsection 1, Code 2017, is amended
22 by adding the following new paragraph:

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

1 Sec. 14. Section 321.190, subsection 1, paragraph d, Code
2 2017, is amended to read as follows:

3 d. The fee for a nonoperator's identification card shall
4 be eight dollars and the card shall be valid for a period of
5 eight years from the date of issuance. If an applicant for
6 a nonoperator's identification card is a foreign national
7 who is temporarily present in this state, the nonoperator's
8 identification card shall be issued only for the length of time
9 the foreign national is authorized to be present as determined
10 by the department, not to exceed two years. An issuance fee
11 shall not be charged for a person whose driver's license or
12 driving privilege has been suspended under section 321.210,
13 subsection 1, paragraph "a", subparagraph (3), or voluntarily
14 surrendered by the person in lieu of suspension under section
15 321.210, subsection 1, paragraph "a", or for a person obtaining
16 an identification card to be used under section 49.77,
17 subsection 3, for voting purposes. Identification cards
18 obtained for voting purposes shall be labeled by the department
19 as "For Voting Purposes Only".

20 DIVISION II

21 CONFORMING PROVISIONS

22 Sec. 15. Section 48A.8, subsection 2, unnumbered paragraph
23 1, Code 2017, is amended to read as follows:

24 An eligible elector who registers by mail and who has
25 not previously voted in an election for federal office in
26 the county of registration shall be required to provide
27 additional identification documents when voting for the first
28 time in the county, unless the registrant provided on the
29 registration form the registrant's Iowa driver's license
30 number, or the registrant's Iowa nonoperator's identification
31 card number, or the last four numerals of the registrant's
32 social security number and the driver's license, nonoperator's
33 identification, or partial social security number matches
34 an existing state or federal identification record with the
35 same number, name, and date of birth. If the registrant

1 is required to show additional identification under this
2 subsection and votes in person at the polls, or by absentee
3 ballot at the commissioner's office or at a satellite voting
4 station, the registrant shall provide a current and valid
5 photo identification card, or shall present to the appropriate
6 election official one of the following current documents that
7 shows the name and address of the registrant:

8 Sec. 16. Section 48A.8, subsection 4, Code 2017, is amended
9 to read as follows:

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

19 Sec. 17. Section 48A.27, subsection 4, paragraph c,
20 subparagraph (2), Code 2017, is amended to read as follows:

21 (2) The notice shall contain a statement in substantially
22 the following form:

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

1 of county) County, Iowa, on or before (date of second general
2 election following the date of the notice) your name will be
3 removed from the list of voters in that county.

4 Sec. 18. Section 48A.29, subsection 1, paragraph b, Code
5 2017, is amended to read as follows:

6 *b.* The notice shall contain a statement in substantially the
7 following form:

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

24 Sec. 19. Section 48A.29, subsection 3, paragraph b, Code
25 2017, is amended to read as follows:

26 *b.* The notice shall contain a statement in substantially the
27 following form:

28 Information received by this office indicates that you are no
29 longer a resident of (residence address) in (name of county)
30 County, Iowa. If the information is not correct, and you still
31 live at that address, please complete and mail the attached
32 postage paid card at least ten days before the primary or
33 general election and at least eleven days before any other
34 election at which you wish to vote. If the information is
35 correct, and you have moved within the county, you may update

1 your registration by listing your new address on the card and
2 mailing it back. If you have moved outside the county, please
3 contact a local official in your new area for assistance in
4 registering there. ~~If you do not mail in the card, you may be~~
5 ~~required to show identification before being allowed to vote in~~
6 ~~(name of county) County.~~ If you do not return the card, and you
7 do not vote in some election in (name of county) County, Iowa,
8 on or before (date of second general election following the
9 date of the notice) your name will be removed from the list of
10 registered voters in that county.

11 DIVISION III

12 APPLICABILITY

13 Sec. 20. APPLICABILITY. This Act applies to elections held
14 on or after January 1, 2019.

15 EXPLANATION

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

18 This bill requires that a person provide proof of
19 identification at the time that the person votes and modifies
20 requirements relating to proof of identification and proof of
21 residence for election day and in-person absentee registration.

22 Division I of the bill modifies the proof of identification
23 and proof of residence requirements for election day and
24 in-person absentee registration. The bill provides that
25 acceptable proof of identification is the same proof of
26 identification the bill requires of a voter who is already
27 registered to vote. The bill removes residential leases and
28 property tax statements from the list of acceptable documents
29 to provide proof of residence for election day and in-person
30 absentee registration.

31 The bill maintains current law allowing a person wishing
32 to register to vote on election day, or in person when voting
33 an absentee ballot, to establish proof of identity and proof
34 of residence by written oath of a person who is registered to
35 vote in the precinct, but requires that the oath of the person

1 wishing to vote and the registered voter's oath be executed on
2 the same piece of paper.

3 The bill requires that a voter provide proof of
4 identification to a precinct election official before being
5 allowed to vote, and also requires that a person wishing to
6 vote by absentee ballot at a county commissioner of elections
7 office or at a satellite absentee voting station present
8 the same proof of identification. The bill requires that
9 acceptable proof of identification show the name of the
10 individual voter, include a photograph of the voter, and be
11 issued by the government of the United States, the state of
12 Iowa, an Iowa public or private university or college, an Iowa
13 secondary school, or a political subdivision of the state.

14 The bill provides that, in lieu of providing identification
15 in order to vote, a person may establish proof of identity by
16 written oath of the person wishing to vote and of a person who
17 provides their own proof of identification and who attests
18 to the voter's identity. The bill provides that the oath
19 shall be in the form prescribed by the state commissioner of
20 elections, and that the oath shall state the identity of the
21 person wishing to vote and shall attest to the stated identity
22 of the person wishing to vote. The bill requires that the oath
23 be signed by both the attesting person and the person wishing
24 to vote. The bill makes it a class "D" felony to falsely sign
25 an oath pursuant to this provision or to falsely attest to a
26 voter's identity. The bill requires that the oath advise both
27 persons that falsely stating or attesting to a voter's identity
28 is a class "D" felony. A class "D" felony is punishable by
29 confinement for no more than five years and a fine of at least
30 \$750 but not more than \$7,500. The bill provides that an
31 attesting person is prohibited from signing any additional such
32 oaths for the same election.

33 The bill provides that if proof of identification is
34 established the person shall then be allowed to vote. If a
35 person is unable or refuses to present proof of identification,

1 or if the precinct election official determines that the
2 proof of identification does not meet specified requirements,
3 the person shall be offered the option to vote a provisional
4 ballot. If a person is casting a provisional ballot
5 under these circumstances, the person shall receive a
6 printed statement giving notice of the types of acceptable
7 identification and notice that the person is required to show
8 acceptable identification before the provisional ballot can be
9 counted unless the voter executes an affidavit affirming that
10 the voter is the person the voter claims to be and affirming
11 that the voter is either indigent and unable to obtain proof of
12 identification without the payment of a fee or that the voter
13 has a religious objection to being photographed. The precinct
14 election official shall indicate on the provisional ballot that
15 the voter is casting a provisional ballot due to the voter's
16 inability or refusal to present proof of identification.

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

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

34 The bill requires that certain persons residing in a
35 hospital or health care facility who apply to vote by absentee

1 ballot shall present proof of identification. If the applicant
2 is unable to present proof of identification they shall be
3 allowed to execute an affidavit in the form prescribed by the
4 state commissioner of elections, stating that the voter does
5 not have and is unable to obtain proof of identification and
6 that the voter resides in a hospital or health care facility.
7 If the applicant refuses to execute such an affidavit and is
8 unable to present proof of identification, the voter is allowed
9 to cast a provisional ballot. A person who willfully violates
10 these provisions by falsely making or signing an affidavit in
11 connection with an absentee ballot commits election misconduct
12 in the first degree as vote fraud under current Code section
13 39A.2, which constitutes a class "D" felony. A class "D"
14 felony is punishable by confinement for no more than five years
15 and a fine of at least \$750 but not more than \$7,500.

16 The bill also provides that a person obtaining a
17 nonoperator's identification card for the purpose of voting
18 shall not be charged for the issuance of the nonoperator's
19 identification card. The bill requires that nonoperator's
20 identification cards issued to serve as proof of identification
21 for voting be labeled by the department of transportation as
22 "For Voting Purposes Only".

23 Division II of the bill makes conforming changes to certain
24 required notices on forms related to voter registration and
25 registration by mail.

26 Division III of the bill provides that the bill applies to
27 elections held on or after January 1, 2019.