

HOUSE BILL No. 2038

By Committee on Federal and State Affairs

1-22

1 AN ACT concerning elections; concerning citizenship requirements;
2 amending K.S.A. 2012 Supp. 25-2309 and 65-2418 and repealing the
3 existing sections.
4

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

6 Section 1. K.S.A. 2012 Supp. 25-2309 is hereby amended to read as
7 follows: 25-2309. (a) Any person may apply in person, by mail, through a
8 voter registration agency, or by other delivery to a county election officer
9 to be registered. Such application shall be made on: (1) A form approved
10 by the secretary of state, which shall be provided by a county election
11 officer or chief state election official upon request in person, by telephone
12 or in writing; or (2) the national mail voter registration form issued
13 pursuant to federal law. Such application shall be signed by the applicant
14 under penalty of perjury and shall contain the original signature of the
15 applicant or the computerized, electronic or digitized transmitted signature
16 of the applicant. A signature may be made by mark, initials, typewriter,
17 print, stamp, symbol or any other manner if by placing the signature on the
18 document the person intends the signature to be binding. A signature may
19 be made by another person at the voter's direction if the signature reflects
20 such voter's intention.

21 (b) Applications made under this section shall give voter eligibility
22 requirements and such information as is necessary to prevent duplicative
23 voter registrations and enable the relevant election officer to assess the
24 eligibility of the applicant and to administer voter registration, including,
25 but not limited to, the following data to be kept by the relevant election
26 officer as provided by law:

- 27 (1) Name;
- 28 (2) place of residence, including specific address or location, and
29 mailing address if the residence address is not a permissible postal address;
- 30 (3) date of birth;
- 31 (4) sex;
- 32 (5) the last four digits of the person's social security number or the
33 person's full driver's license or nondriver's identification card number;
- 34 (6) telephone number, if available;
- 35 (7) naturalization data (if applicable);
- 36 (8) if applicant has previously registered or voted elsewhere,

1 residence at time of last registration or voting;

2 (9) when present residence established;

3 (10) name under which applicant last registered or voted, if different
4 from present name;

5 (11) an attestation that the applicant meets each eligibility
6 requirement;

7 (12) a statement that the penalty for submission of a false voter
8 registration application is a maximum presumptive sentence of 17 months
9 in prison;

10 (13) a statement that, if an applicant declines to register to vote, the
11 fact that the applicant has declined to register will remain confidential and
12 will be used only for voter registration purposes;

13 (14) a statement that if an applicant does register to vote, the office to
14 which a voter registration application is submitted will remain confidential
15 and will be used only for voter registration purposes;

16 (15) boxes for the applicant to check to indicate whether the applicant
17 is or is not a citizen of the United States, together with the question "Are
18 you a citizen of the United States of America?";

19 (16) boxes for the county election officer or chief state election
20 official to check to indicate whether the applicant has provided with the
21 application the information necessary to assess the eligibility of the
22 applicant, including such applicant's United States citizenship;

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

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

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

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

34 If the application discloses any previous registration in any other
35 county or state, as indicated by paragraph (8) or (10), or otherwise, the
36 county election officer shall upon the registration of the applicant, give
37 notice to the election official of the place of former registration, notifying
38 such official of applicant's present residence and registration, and
39 authorizing cancellation of such former registration. This section shall be
40 interpreted and applied in accordance with federal law. No eligible
41 applicant whose qualifications have been assessed shall be denied
42 registration.

43 (c) Any person who applies for registration through a voter

1 registration agency shall be provided with, in addition to the application
2 under subsection (b), a form which includes:

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

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

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

11 (4) if the agency provides public assistance;:

12 (i) The statement "Applying to register or declining to register to vote
13 will not affect the amount of assistance that you will be provided by this
14 agency.";

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

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

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

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

31 (e) A voter registration agency shall transmit the completed
32 registration application to the county election officer not later than five
33 days after the date of acceptance. Upon receipt of an application for
34 registration, the county election officer shall send, by nonforwardable
35 mail, a notice of disposition of the application to the applicant at the postal
36 delivery address shown on the application. If a notice of disposition is
37 returned as undeliverable, a confirmation mailing prescribed by K.S.A. 25-
38 2316c, and amendments thereto, shall occur.

39 (f) If an application is received while registration is closed, such
40 application shall be considered to have been received on the next
41 following day during which registration is open.

42 (g) A person who completes an application for voter registration shall
43 be considered a registered voter when the county election officer adds the

1 applicant's name to the county voter registration list.

2 (h) Any registered voter whose residence address is not a permissible
3 postal delivery address shall designate a postal address for registration
4 records. When a county election officer has reason to believe that a voter's
5 registration residence is not a permissible postal delivery address, the
6 county election officer shall attempt to determine a proper mailing address
7 for the voter.

8 (i) Any registered voter may request that such person's residence
9 address be concealed from public inspection on the voter registration list
10 and on the original voter registration application form. Such request shall
11 be made in writing to the county election officer, and shall specify a
12 clearly unwarranted invasion of personal privacy or a threat to the voter's
13 safety. Upon receipt of such a request, the county election officer shall take
14 appropriate steps to ensure that such person's residence address is not
15 publicly disclosed. Nothing in this subsection shall be construed as
16 requiring or authorizing the secretary of state to include on the voter
17 registration application form a space or other provision on the form that
18 would allow the applicant to request that such applicant's residence
19 address be concealed from public inspection.

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

23 (k) If an applicant fails to answer the question prescribed in
24 paragraph (15) of subsection (b), the county election officer shall send the
25 application to the applicant at the postal delivery address given on the
26 application, by nonforwardable mail, with a notice of incompleteness. The
27 notice shall specify a period of time during which the applicant may
28 complete the application in accordance with K.S.A. 25-2311, and
29 amendments thereto, and be eligible to vote in the next election.

30 ~~(l) The county election officer or secretary of state's office shall~~
31 ~~accept any completed application for registration, but an applicant shall~~
32 ~~not be registered until the applicant has provided satisfactory evidence of~~
33 ~~United States citizenship. Evidence of United States citizenship as~~
34 ~~required in this section will be satisfied by presenting one of the~~
35 ~~documents listed in paragraphs (1) through (13) of subsection (l) in person~~
36 ~~at the time of filing the application for registration or by including a~~
37 ~~photocopy of one of the following documents with a mailed registration~~
38 ~~application. After a person has submitted satisfactory evidence of~~
39 ~~citizenship, the county election officer shall indicate this information in the~~
40 ~~person's permanent voter file. Evidence of United States citizenship shall~~
41 ~~be satisfied by providing one of the following, or a legible photocopy of~~
42 ~~one of the following documents:~~

43 ~~(1) The applicant's driver's license or nondriver's identification card~~

1 issued by the division of vehicles or the equivalent governmental agency
2 of another state within the United States if the agency indicates on the
3 applicant's driver's license or nondriver's identification card that the
4 person has provided satisfactory proof of United States citizenship;

5 ~~(2) the applicant's birth certificate that verifies United States~~
6 ~~citizenship to the satisfaction of the county election officer or secretary of~~
7 ~~state;~~

8 ~~(3) pertinent pages of the applicant's United States valid or expired~~
9 ~~passport identifying the applicant and the applicant's passport number, or~~
10 ~~presentation to the county election officer of the applicant's United States~~
11 ~~passport;~~

12 ~~(4) the applicant's United States naturalization documents or the~~
13 ~~number of the certificate of naturalization. If only the number of the~~
14 ~~certificate of naturalization is provided, the applicant shall not be included~~
15 ~~in the registration rolls until the number of the certificate of naturalization~~
16 ~~is verified with the United States bureau of citizenship and immigration~~
17 ~~services by the county election officer or the secretary of state, pursuant to~~
18 ~~8 U.S.C. § 1373(e);~~

19 ~~(5) other documents or methods of proof of United States citizenship~~
20 ~~issued by the federal government pursuant to the immigration and~~
21 ~~nationality act of 1952, and amendments thereto;~~

22 ~~(6) the applicant's bureau of Indian affairs card number, tribal treaty~~
23 ~~card number or tribal enrollment number;~~

24 ~~(7) the applicant's consular report of birth abroad of a citizen of the~~
25 ~~United States of America;~~

26 ~~(8) the applicant's certificate of citizenship issued by the United~~
27 ~~States citizenship and immigration services;~~

28 ~~(9) the applicant's certification of report of birth issued by the United~~
29 ~~States department of state;~~

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

32 ~~(11) the applicant's final adoption decree showing the applicant's~~
33 ~~name and United States birthplace;~~

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

36 ~~(13) an extract from a United States hospital record of birth created at~~
37 ~~the time of the applicant's birth indicating the applicant's place of birth in~~
38 ~~the United States.~~

39 ~~(m) If an applicant is a United States citizen but does not have any of~~
40 ~~the documentation listed in this section as satisfactory evidence of United~~
41 ~~States citizenship, such applicant may submit any evidence that such~~
42 ~~applicant believes demonstrates the applicant's United States citizenship.~~

43 ~~(1) Any applicant seeking an assessment of evidence under this~~

1 subsection may directly contact the elections division of the secretary of
2 state by submitting a voter registration application or form as described by
3 this section and any supporting evidence of United States citizenship.
4 Upon receipt of this information, the secretary of state shall notify the state
5 election board, as established under K.S.A. 25-2203, and amendments
6 thereto, that such application is pending.

7 (2) The state election board shall give the applicant an opportunity for
8 a hearing and an opportunity to present any additional evidence to the state
9 election board. Notice of such hearing shall be given to the applicant at
10 least five days prior to the hearing date. An applicant shall have the
11 opportunity to be represented by counsel at such hearing.

12 (3) The state election board shall assess the evidence provided by the
13 applicant to determine whether the applicant has provided satisfactory
14 evidence of United States citizenship. A decision of the state election
15 board shall be determined by a majority vote of the election board.

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

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

24 (6) If the state election board finds that the evidence presented by an
25 applicant does not constitute satisfactory evidence of United States
26 citizenship, such applicant shall have the right to appeal such
27 determination by the state election board by instituting an action under 8
28 U.S.C. § 1503. Any negative assessment of an applicant's eligibility by the
29 state election board shall be reversed if the applicant obtains a declaratory
30 judgment pursuant to 8 U.S.C. § 1503, demonstrating that such applicant is
31 a national of the United States.

32 (n) Any person who is registered in this state on the effective date of
33 this amendment to this section is deemed to have provided satisfactory
34 evidence of citizenship and shall not be required to resubmit evidence of
35 citizenship.

36 (o) For purposes of this section, proof of voter registration from
37 another state is not satisfactory evidence of United States citizenship.

38 (p) A registered Kansas voter who moves from one residence to
39 another within the state of Kansas or who modifies such voter's
40 registration records for any other reason shall not be required to submit
41 evidence of United States citizenship.

42 (q) If evidence of citizenship is deemed to be unsatisfactory due to an
43 inconsistency between the document submitted as evidence and the name

1 or sex provided on the application for registration, such applicant may sign
2 an affidavit:

3 (1) ~~Stating the inconsistency or inconsistencies related to the name or~~
4 ~~sex, and the reason therefor; and~~

5 (2) ~~swearing under oath that, despite the inconsistency, the applicant~~
6 ~~is the individual reflected in the document provided as evidence of~~
7 ~~citizenship. However, there shall be no inconsistency between the date of~~
8 ~~birth on the document provided as evidence of citizenship and the date of~~
9 ~~birth provided on the application for registration. If such an affidavit is~~
10 ~~submitted by the applicant, the county election officer or secretary of state~~
11 ~~shall assess the eligibility of the applicant without regard to any~~
12 ~~inconsistency stated in the affidavit.~~

13 (f) ~~All documents submitted as evidence of citizenship shall be kept~~
14 ~~confidential by the county election officer or the secretary of state and~~
15 ~~maintained as provided by Kansas record retention laws. The provisions of~~
16 ~~this subsection shall expire on July 1, 2016, unless the legislature reviews~~
17 ~~and reenacts this provision pursuant to K.S.A. 45-229, and amendments~~
18 ~~thereto, prior to July 1, 2016.~~

19 (s) ~~The secretary of state may adopt rules and regulations to* in order~~
20 ~~to implement the provisions of this section.~~

21 (t) ~~Nothing in this section shall prohibit an applicant from providing,~~
22 ~~or the secretary of state or county election officer from obtaining~~
23 ~~satisfactory evidence of United States citizenship, as described in~~
24 ~~subsection (1), at a different time or in a different manner than an~~
25 ~~application for registration is provided, as long as the applicant's eligibility~~
26 ~~can be adequately assessed by the secretary of state or county election~~
27 ~~officer as required by this section.~~

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

30 Sec. 2. K.S.A. 2012 Supp. 65-2418 is hereby amended to read as
31 follows: 65-2418. (a) (1) The secretary shall fix and charge by rules and
32 regulations the fees to be paid for certified copies or abstracts of
33 certificates or for search of the files for birth, death, fetal death, marriage
34 or divorce records when no certified copy or abstract is made. Except as
35 otherwise provided in this section, the secretary shall remit all moneys
36 received by or for the secretary from fees, charges or penalties, under the
37 uniform vital statistics act, and amendments thereto, to the state treasurer
38 in accordance with the provisions of K.S.A. 75-4215, and amendments
39 thereto. Upon receipt of each such remittance, the state treasurer shall
40 deposit the entire amount in the state treasury to the credit of the civil
41 registration and health statistics fee fund created by K.S.A. 2012 Supp. 65-
42 2418e, and amendments thereto.

43 (2) The secretary shall not charge any fee for a certified copy of a

1 certificate or abstract or for a search of the files or records if the certificate,
2 abstract or search is requested by a person who exhibits correspondence
3 from the United States department of veterans affairs or the Kansas
4 commission on veterans affairs which indicates that the person is applying
5 for benefits from the United States department of veterans affairs and that
6 such person needs the requested information to obtain such benefits,
7 except that, for a second or subsequent certified copy of a certificate,
8 abstract or search of the files requested by the person, the usual fee shall
9 be charged. The secretary may provide by rules and regulations for
10 exemptions from such fees.

11 ~~(3) The secretary shall not charge or accept any fee for a certified~~
12 ~~copy of a birth certificate if the certificate is requested by any person who~~
13 ~~is 17 years of age or older for purposes of voting if the applicant lacks the~~
14 ~~identification required by K.S.A. 25-2908(h), and amendments thereto, or~~
15 ~~to meet the voter registration requirements of K.S.A. 25-2309, and~~
16 ~~amendments thereto. For voter registration purposes, an applicant for~~
17 ~~registration shall swear under oath: (1) That such person plans to register~~
18 ~~to vote in Kansas; and (2) that such person does not possess any of the~~
19 ~~documents that constitute evidence of United States citizenship under~~
20 ~~K.S.A. 25-2309(1), and amendments thereto. The affidavit shall~~
21 ~~specifically list the documents that constitute evidence of United States~~
22 ~~citizenship under K.S.A. 25-2309(1), and amendments thereto. The~~
23 ~~secretary shall adopt rules and regulations in order to implement the~~
24 ~~provisions of this subsection.~~

25 ~~(4)~~ Upon receipt of any such remittance of a fee for a certified copy
26 of a birth certificate or abstract, \$3 of each such fee for the first copy of a
27 birth certificate or abstract and \$1 of each such fee for each additional
28 copy of the same birth certificate or abstract requested at the same time
29 shall be remitted to the state treasurer in accordance with the provisions of
30 K.S.A. 75-4215, and amendments thereto. Upon receipt of each such
31 remittance, the state treasurer shall deposit the entire amount in the state
32 treasury to the credit of the permanent families account of the family and
33 children investment fund created by K.S.A. 38-1808, and amendments
34 thereto. The balance of the money received for a fee for a certified copy of
35 a birth certificate or abstract shall be remitted to the state treasurer in
36 accordance with the provisions of K.S.A. 75-4215, and amendments
37 thereto. Upon receipt of each such remittance, the state treasurer shall
38 deposit the entire amount in the state treasury to the credit of the civil
39 registration and health statistics fee fund created under this act.

40 ~~(5)~~⁽⁴⁾ Upon receipt of any such remittance of a fee for a certified
41 copy of a death certificate or abstract, \$4 of each such fee for the first
42 certified copy of a death certificate or abstract and \$2 of each such fee for
43 each additional copy of the same death certificate or abstract requested at

1 the same time shall be remitted to the state treasurer in accordance with the
2 provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of
3 each such remittance, the state treasurer shall deposit the entire amount in
4 the state treasury to the credit of the district coroners fund created by
5 K.S.A. 22a-245, and amendments thereto. The balance of the money
6 received for a fee for a certified copy of a death certificate or abstract shall
7 be remitted to the state treasurer in accordance with the provisions of
8 K.S.A. 75-4215, and amendments thereto. Upon receipt of each such
9 remittance, the state treasurer shall deposit the entire amount in the state
10 treasury to the credit of the civil registration and health statistics fee fund
11 created by K.S.A. 2012 Supp. 65-2418e, and amendments thereto.

12 (b) Subject to K.S.A. 65-2415, and amendments thereto, the national
13 office of vital statistics may be furnished copies or data it requires for
14 national statistics. The state shall be reimbursed for the cost of furnishing
15 the data. The data shall not be used for other than statistical purposes by
16 the national office of vital statistics unless so authorized by the state
17 registrar of vital statistics.

18 Sec. 3. K.S.A. 2012 Supp. 25-2309 and 65-2418 are hereby repealed.

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