

SENATE BILL No. 149

By Senator Miller

2-12

1 AN ACT concerning voter registration; relating to the provision for
2 applicants of birth certificates by the state to show evidence of United
3 States citizenship; amending K.S.A. 65-2422d and K.S.A. 2018 Supp.
4 25-2309 and repealing the existing sections.

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

7 Section 1. K.S.A. 2018 Supp. 25-2309 is hereby amended to read as
8 follows: 25-2309. (a) Any person may apply in person, by mail, through a
9 voter registration agency, or by other delivery to a county election officer
10 to be registered. Such application shall be made on: (1) A form approved
11 by the secretary of state, which shall be provided by a county election
12 officer or chief state election official upon request in person, by telephone
13 or in writing; or (2) the national mail voter registration form issued
14 pursuant to federal law.

15 Such application shall be signed by the applicant under penalty of
16 perjury and shall contain the original signature of the applicant or the
17 computerized, electronic or digitized transmitted signature of the
18 applicant. A signature may be made by mark, initials, typewriter, print,
19 stamp, symbol or any other manner if by placing the signature on the
20 document the person intends the signature to be binding. A signature may
21 be made by another person at the voter's direction if the signature reflects
22 such voter's intention.

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

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

- 1 (7) naturalization data (if applicable);
- 2 (8) if applicant has previously registered or voted elsewhere,
- 3 residence at time of last registration or voting;
- 4 (9) when present residence established;
- 5 (10) name under which applicant last registered or voted, if different
- 6 from present name;
- 7 (11) an attestation that the applicant meets each eligibility
- 8 requirement;
- 9 (12) a statement that the penalty for submission of a false voter
- 10 registration application is a maximum presumptive sentence of 17 months
- 11 in prison;
- 12 (13) a statement that, if an applicant declines to register to vote, the
- 13 fact that the applicant has declined to register will remain confidential and
- 14 will be used only for voter registration purposes;
- 15 (14) a statement that if an applicant does register to vote, the office to
- 16 which a voter registration application is submitted will remain confidential
- 17 and will be used only for voter registration purposes;
- 18 (15) boxes for the applicant to check to indicate whether the applicant
- 19 is or is not a citizen of the United States, together with the question "Are
- 20 you a citizen of the United States of America?" *The question shall be*
- 21 *followed by a statement "Proof of United States citizenship is required by*
- 22 *Kansas law. You may, but are not required, to provide proof of United*
- 23 *States citizenship at the time you complete this application. If you do not*
- 24 *provide proof of United States citizenship with your application and you*
- 25 *were born in Kansas, checking the box to indicate you are a citizen of the*
- 26 *United States of America constitutes consent for the county election officer*
- 27 *or chief state election official, if the county election officer or chief state*
- 28 *election official chooses to do so, to obtain your birth certificate from the*
- 29 *state registrar of vital statistics for the purpose of establishing your*
- 30 *citizenship. If you do not provide proof of United States citizenship with*
- 31 *your application and you were not born in Kansas, checking the box to*
- 32 *indicate you are a citizen of the United States of America, indicating your*
- 33 *place of birth and providing the agency and agency address where the*
- 34 *county election officer or chief state election official may obtain your*
- 35 *certificate of birth shall constitute consent for the county election officer*
- 36 *or chief state election official, if the county election officer or chief state*
- 37 *election official chooses to do so, to obtain your birth certificate from the*
- 38 *agency at the address you provide for the purpose of establishing your*
- 39 *citizenship." The statement shall be followed with appropriately labeled*
- 40 *space for the applicant to provide their place of birth and if applicable,*
- 41 *the agency and address where their birth records are available;*
- 42 (16) boxes for the county election officer or chief state election
- 43 official to check to indicate whether the applicant has provided with the

1 application the information necessary to assess the eligibility of the
2 applicant, including such applicant's United States citizenship, *and boxes*
3 *for the county election officer or chief state election official to check to*
4 *indicate whether the applicant has not provided with the application the*
5 *information necessary to assess the applicant's United States citizenship,*
6 *but has marked the box indicating the applicant is a United States citizen*
7 *and thereby consented to the county election officer or chief state election*
8 *official to obtain the applicant's birth record from the state registrar of*
9 *vital statistics or the agency at the address provided by the applicant, as*
10 *the case may be;*

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

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

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

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

22 If the application discloses any previous registration in any other
23 county or state, as indicated by paragraph (8) or (10), or otherwise, the
24 county election officer shall upon the registration of the applicant, give
25 notice to the election official of the place of former registration, notifying
26 such official of applicant's present residence and registration, and
27 authorizing cancellation of such former registration. This section shall be
28 interpreted and applied in accordance with federal law. No eligible
29 applicant whose qualifications have been assessed shall be denied
30 registration.

31 (c) Any person who applies for registration through a voter
32 registration agency shall be provided with, in addition to the application
33 under subsection (b), a form which includes:

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

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

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

42 (4) if the agency provides public assistance: (i) The statement
43 "Applying to register or declining to register to vote will not affect the

1 amount of assistance that you will be provided by this agency.";

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

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

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

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

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

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

29 (g) A person who completes an application for voter registration shall
30 be considered a registered voter when the county election officer adds the
31 applicant's name to the county voter registration list.

32 (h) Any registered voter whose residence address is not a permissible
33 postal delivery address shall designate a postal address for registration
34 records. When a county election officer has reason to believe that a voter's
35 registration residence is not a permissible postal delivery address, the
36 county election officer shall attempt to determine a proper mailing address
37 for the voter.

38 (i) Any registered voter may request that such person's residence
39 address be concealed from public inspection on the voter registration list
40 and on the original voter registration application form. Such request shall
41 be made in writing to the county election officer, and shall specify a
42 clearly unwarranted invasion of personal privacy or a threat to the voter's
43 safety. Upon receipt of such a request, the county election officer shall take

1 appropriate steps to ensure that such person's residence address is not
2 publicly disclosed. Nothing in this subsection shall be construed as
3 requiring or authorizing the secretary of state to include on the voter
4 registration application form a space or other provision on the form that
5 would allow the applicant to request that such applicant's residence
6 address be concealed from public inspection.

7 (j) No application for voter registration shall be made available for
8 public inspection or copying unless the information required by subsection
9 (b)(5) has been removed or otherwise rendered unreadable.

10 (k) (1) If an applicant fails to answer the question prescribed in
11 subsection (b)(15), the county election officer shall send the application to
12 the applicant at the postal delivery address given on the application, by
13 nonforwardable mail, with a notice of incompleteness. The notice shall
14 specify a period of time during which the applicant may complete the
15 application in accordance with K.S.A. 25-2311, and amendments thereto,
16 and be eligible to vote in the next election.

17 (2) *If the applicant fails to provide proof of United States citizenship
18 and gives consent for the county election officer to obtain proof of United
19 States citizenship as provided in subsection (b)(15), but the county election
20 officer declines to obtain proof of United States citizenship for the
21 applicant, the county election officer shall so notify the applicant and in
22 addition, send the application and the notice as provided in paragraph (1)
23 to the applicant.*

24 (l) The county election officer or secretary of state's office shall
25 accept any completed application for registration, but an applicant shall
26 not be registered until ~~the applicant has provided~~ satisfactory evidence of
27 United States citizenship *has been obtained*. Evidence of United States
28 citizenship as required in this section will be satisfied by presenting one of
29 the documents listed in subsections (l)(1) through (l)(13) in person at the
30 time of filing the application for registration or by including a photocopy
31 of one of the following documents with a mailed registration application.
32 *When an applicant gives consent as provided by subsection (a)(15),
33 evidence of United States citizenship may be satisfied by the county
34 election officer or chief state election official obtaining the applicant's
35 certificate of birth from the state registrar of vital statistics, or from the
36 agency of another state designated by the applicant at the address
37 provided by the applicant, as the case may be. If the certificate of birth is
38 obtained for the applicant, it shall be obtained at no cost to the applicant.
39 In the event the agency designated by the applicant refuses to provide or
40 cannot provide the applicant's certificate of birth, the county election
41 officer or chief state election official shall notify the applicant and may
42 assist the applicant in obtaining proof of United States citizenship. After
43 a person has submitted* satisfactory evidence of citizenship *has been*

1 *obtained*, the county election officer shall indicate this information in the
2 person's permanent voter file. Evidence of United States citizenship shall
3 be satisfied by ~~providing~~ one of the following, or a legible photocopy of
4 one of the following documents:

5 (1) The applicant's driver's license or nondriver's identification card
6 issued by the division of vehicles or the equivalent governmental agency
7 of another state within the United States if the agency indicates on the
8 applicant's driver's license or nondriver's identification card that the person
9 has provided satisfactory proof of United States citizenship;

10 (2) the applicant's birth certificate that verifies United States
11 citizenship to the satisfaction of the county election officer or secretary of
12 state, *obtained by the county election officer or the chief state election*
13 *official when consent is given by the applicant, as provided by subsection*
14 *(a)(15) and (l), or provided by the applicant, as the case may be;*

15 (3) pertinent pages of the applicant's United States valid or expired
16 passport identifying the applicant and the applicant's passport number, or
17 presentation to the county election officer of the applicant's United States
18 passport;

19 (4) the applicant's United States naturalization documents or the
20 number of the certificate of naturalization. If only the number of the
21 certificate of naturalization is provided, the applicant shall not be included
22 in the registration rolls until the number of the certificate of naturalization
23 is verified with the United States bureau of citizenship and immigration
24 services by the county election officer or the secretary of state, pursuant to
25 8 U.S.C. § 1373(c);

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

29 (6) the applicant's bureau of Indian affairs card number, tribal treaty
30 card number or tribal enrollment number;

31 (7) the applicant's consular report of birth abroad of a citizen of the
32 United States of America;

33 (8) the applicant's certificate of citizenship issued by the United
34 States citizenship and immigration services;

35 (9) the applicant's certification of report of birth issued by the United
36 States department of state;

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

39 (11) the applicant's final adoption decree showing the applicant's
40 name and United States birthplace;

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

43 (13) an extract from a United States hospital record of birth created at

1 the time of the applicant's birth indicating the applicant's place of birth in
2 the United States.

3 (m) If an applicant is a United States citizen but does not have any of
4 the documentation listed in this section as satisfactory evidence of United
5 States citizenship, *or the county election officer or chief state election*
6 *official declines or is unable to obtain the applicant's birth certificate,*
7 such applicant may submit any evidence that such applicant believes
8 demonstrates the applicant's United States citizenship.

9 (1) Any applicant seeking an assessment of evidence under this
10 subsection may directly contact the elections division of the secretary of
11 state by submitting a voter registration application or form as described by
12 this section and any supporting evidence of United States citizenship.
13 Upon receipt of this information, the secretary of state shall notify the state
14 election board, as established under K.S.A. 25-2203, and amendments
15 thereto, that such application is pending.

16 (2) The state election board shall give the applicant an opportunity for
17 a hearing and an opportunity to present any additional evidence to the state
18 election board. Notice of such hearing shall be given to the applicant at
19 least five days prior to the hearing date. An applicant shall have the
20 opportunity to be represented by counsel at such hearing.

21 (3) The state election board shall assess the evidence provided by the
22 applicant to determine whether ~~the applicant has provided~~ satisfactory
23 evidence of United States citizenship *has been shown*. A decision of the
24 state election board shall be determined by a majority vote of the election
25 board.

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

30 (5) If the state election board finds that the evidence presented by
31 such applicant constitutes satisfactory evidence of United States
32 citizenship, such applicant will have met the requirements under this
33 section ~~to provide~~ *regarding* satisfactory evidence of United States
34 citizenship.

35 (6) If the state election board finds that the evidence presented by an
36 applicant does not constitute satisfactory evidence of United States
37 citizenship, such applicant shall have the right to appeal such
38 determination by the state election board by instituting an action under 8
39 U.S.C. § 1503. Any negative assessment of an applicant's eligibility by the
40 state election board shall be reversed if the applicant obtains a declaratory
41 judgment pursuant to 8 U.S.C. § 1503, demonstrating that such applicant is
42 a national of the United States.

43 (n) Any person who is registered in this state on the effective date of

1 this amendment to this section is deemed to have provided satisfactory
2 evidence of citizenship and shall not be required to resubmit evidence of
3 citizenship.

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

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

10 (q) If evidence of citizenship is deemed to be unsatisfactory due to an
11 inconsistency between the document ~~submitted~~ *obtained* as evidence and
12 the name or sex provided on the application for registration, such applicant
13 may sign an affidavit:

14 (1) Stating the inconsistency or inconsistencies related to the name or
15 sex, and the reason therefor; and

16 (2) swearing under oath that, despite the inconsistency, the applicant
17 is the individual reflected in the document provided *or obtained* as
18 evidence of citizenship. However, there shall be no inconsistency between
19 the date of birth on the document provided *or obtained* as evidence of
20 citizenship and the date of birth provided on the application for
21 registration. If such an affidavit is submitted by the applicant, the county
22 election officer or secretary of state shall assess the eligibility of the
23 applicant without regard to any inconsistency stated in the affidavit.

24 (r) All documents submitted *or obtained* as evidence of citizenship
25 shall be kept confidential by the county election officer or the secretary of
26 state and maintained as provided by Kansas record retention laws. The
27 provisions of this subsection shall expire on July 1, 2021, unless the
28 legislature reviews and reenacts this provision prior to July 1, 2021.

29 (s) The secretary of state may adopt rules and regulations in order to
30 implement the provisions of this section.

31 (t) Nothing in this section shall prohibit an applicant from providing,
32 or the secretary of state or county election officer from obtaining
33 satisfactory evidence of United States citizenship, as described in
34 subsection (1), at a different time or in a different manner than an
35 application for registration is provided, as long as the applicant's eligibility
36 can be adequately assessed by the secretary of state or county election
37 officer as required by this section.

38 Sec. 2. K.S.A. 65-2422d is hereby amended to read as follows: 65-
39 2422d. (a) The records and files of the division of public health pertaining
40 to vital statistics shall be open to inspection, subject to the provisions of
41 the uniform vital statistics act and rules and regulations of the secretary. It
42 shall be unlawful for any officer or employee of the state to disclose data
43 contained in vital statistical records, except as authorized by the uniform

1 vital statistics act and the secretary, and it shall be unlawful for anyone
2 who possesses, stores or in any way handles vital statistics records under
3 contract with the state to disclose any data contained in the records, except
4 as authorized by law.

5 (b) No information concerning the birth of a child shall be disclosed
6 in a manner that enables determination that the child was born out of
7 wedlock, except upon order of a court in a case where the information is
8 necessary for the determination of personal or property rights and then
9 only for that purpose, or except that employees of the office of child
10 support enforcement of the federal department of health and human
11 services shall be provided information when the information is necessary
12 to ensure compliance with federal reporting and audit requirements
13 pursuant to title IV-D of the federal social security act or except that the
14 secretary for children and families or the secretary's designee performing
15 child support enforcement functions pursuant to title IV-D of the federal
16 social security act shall be provided information and copies of birth
17 certificates when the information is necessary to establish parentage in
18 legal actions or to ensure compliance with federal reporting and audit
19 requirements pursuant to title IV-D of the federal social security act.
20 Nothing in this subsection shall be construed as exempting such
21 employees of the federal department of health and human services or the
22 secretary for children and families or the secretary's designee from the fees
23 prescribed by K.S.A. 65-2418, and amendments thereto.

24 (c) Except as provided in subsection (b), ~~and amendments thereto~~, the
25 state registrar shall not permit inspection of the records or issue a certified
26 copy or abstract of a certificate or part thereof unless the state registrar is
27 satisfied the applicant therefor has a direct interest in the matter recorded
28 and the information contained in the record is necessary for the
29 determination of personal or property rights. The state registrar's decision
30 shall be subject, however, to review by the secretary or by a court in
31 accordance with the Kansas judicial review act, subject to the limitations
32 of this section.

33 (d) The secretary shall permit the use of data contained in vital
34 statistical records for research purposes only, but no identifying use of
35 them shall be made. The secretary shall permit the use of birth, death and
36 stillbirth certificates as identifiable data for purposes of maternal and child
37 health surveillance and monitoring. The secretary or the secretary's
38 designee may interview individuals for purposes of maternal and child
39 health surveillance and monitoring only with an approval of the health and
40 environmental institutional review board as provided in title 45, part 46 of
41 the code of federal regulations. The secretary shall inform such individuals
42 that the participation in such surveillance and monitoring is voluntary and
43 may only be conducted with the written consent of the person who is the

1 subject of the information or with the informed consent of a parent or legal
2 guardian if the person is under 18 years of age. Informed consent is not
3 required if the person who is the subject of the information is deceased.

4 (e) Subject to the provisions of this section the secretary may direct
5 the state registrar to release birth, death and stillbirth certificate data to
6 federal, state or municipal agencies.

7 (f) On or before the 20th day of each month, the state registrar shall
8 furnish to the county election officer of each county and the clerk of the
9 district court in each county, without charge, a list of deceased residents of
10 the county who were at least 18 years of age and for whom death
11 certificates have been filed in the office of the state registrar during the
12 preceding calendar month. The list shall include the name, age or date of
13 birth, address and date of death of each of the deceased persons and shall
14 be used solely by the election officer for the purpose of correcting records
15 of their offices and by the clerk of the district court in each county for the
16 purpose of correcting juror information for such county. Information
17 provided under this subsection to the clerk of the district court shall be
18 considered confidential and shall not be disclosed to the public. The
19 provisions of ~~subsection (b) of K.S.A. 45-229(b)~~, and amendments thereto,
20 shall not apply to the provisions of this subsection.

21 (g) No person shall prepare or issue any certificate which purports to
22 be an original, certified copy or abstract or copy of a certificate of birth,
23 death or fetal death, except as authorized in this act or rules and
24 regulations adopted under this act.

25 (h) Records of births, deaths or marriages which are not in the
26 custody of the secretary of health and environment and which were created
27 before July 1, 1911, pursuant to chapter 129 of the 1885 Session Laws of
28 Kansas, and any copies of such records, shall be open to inspection by any
29 person and the provisions of this section shall not apply to such records.

30 (i) Social security numbers furnished pursuant to K.S.A. 65-2409a,
31 and amendments thereto, shall only be used as permitted by title IV-D of
32 the federal social security act, and amendments thereto, or as permitted by
33 section 7(a) of the federal privacy act of 1974, and amendments thereto.
34 The secretary shall make social security numbers furnished pursuant to
35 K.S.A. 65-2409a, and amendments thereto, available to the Kansas
36 department for children and families for purposes permitted under title IV-
37 D of the federal social security act.

38 (j) Fact of death information may be disseminated to state and federal
39 agencies administering benefit programs. Such information shall be used
40 for file clearance purposes only.

41 (k) *Upon request and presentation of a voter registration application*
42 *or copy thereof demonstrating consent by the applicant, as provided by*
43 *K.S.A. 25-2309, and amendments thereto, the state registrar shall furnish*

1 *to a county election officer or the chief state election official, without*
2 *charge, a certified copy of the applicant's certificate of birth, or a*
3 *statement that the certificate of birth cannot be located.*

4 Sec. 3. K.S.A. 65-2422d and K.S.A. 2018 Supp. 25-2309 are hereby
5 repealed.

6 Sec. 4. This act shall take effect and be in force from and after its
7 publication in the statute book.