

1 STATE OF OKLAHOMA

2 2nd Session of the 57th Legislature (2020)

3 HOUSE BILL 3333

By: Perryman

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5  
6 AS INTRODUCED

7 An Act relating to elections; amending 26 O.S. 2011,  
8 Section 4-113, as amended by Section 3, Chapter 216,  
9 O.S.L. 2019 (26 O.S. Supp. 2019, Section 4-113),  
10 which relates to voter identification; requiring  
11 computerized finger imaging for voter registration;  
12 prohibiting access to information collected;  
13 requiring written application for access to  
14 information; requiring probable cause; authorizing  
15 adoption of rules; amending 26 O.S. 2011, Section 7-  
16 114, as last amended by Section 5, Chapter 4, O.S.L.  
17 2014 (26 O.S. Supp. 2019, Section 7-114), which  
18 relates to proof of identity; allowing certain  
19 imaging systems as proof of identity; and providing  
20 an effective date.

21 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

22 SECTION 1. AMENDATORY 26 O.S. 2011, Section 4-113, as  
23 amended by Section 3, Chapter 216, O.S.L. 2019 (26 O.S. Supp. 2019,  
24 Section 4-113), is amended to read as follows:

Section 4-113. A. The Secretary of the State Election Board  
shall devise a voter identification card which shall be issued to  
every person who becomes a registered voter in Oklahoma. The voter

1 identification card shall contain such information as is necessary  
2 to determine a registered voter's eligibility.

3 B. When a person registers to vote or changes his or her  
4 registration in any manner to require a new voter identification  
5 card, or upon the eighteenth birthday of a person who has submitted  
6 a voter registration application pursuant to the provisions of  
7 subsection B of Section 4-103 of this title, the county election  
8 board secretary in the county of the voter's residence shall  
9 transmit the new voter identification card as acknowledgment of the  
10 transaction which may be the notice required in Section 4-103.1 of  
11 this title.

12 C. The State Election Board shall develop and implement a  
13 procedure for computerized finger imaging by means of an inkless  
14 finger image scanning device and shall require every applicant for  
15 voter registration or change in registration to submit to finger  
16 imaging for the purposes of proof of identity and to ensure the  
17 security of the voter registration card issued to the applicant and  
18 to enable registered voters who have no written documentation of  
19 identity to vote. A registered voter who was duly registered prior  
20 to the implementation of computerized finger-imaging identification  
21 as set forth herein may voluntarily submit to finger imaging in the  
22 same manner as a person who is registering as a new voter or a  
23 person who is changing registration.

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1 D. For the purposes of this section and Section 7-114 of this  
2 title, "automated finger imaging" or "computerized finger imaging"  
3 means capturing the image of the two index fingers and the facial  
4 photograph of a person who is registering to vote or changing voter  
5 registration or voluntarily submitting such images to a database for  
6 voter identification purposes and the storing of such record of  
7 those images in a manner to allow said images to identify a  
8 registered voter for any purpose necessary under this title.

9 E. No law enforcement agency of the state or federal government  
10 other than the State Election Board shall have access to any  
11 information collected through the use of computerized finger imaging  
12 without first obtaining a court order from a judge of competent  
13 jurisdiction. Each application for an order authorizing the access  
14 to any information collected through the use of computerized finger  
15 imaging shall be made in writing upon oath or affirmation to a judge  
16 of competent jurisdiction. Each application shall establish  
17 probable cause for belief that a named individual is committing, has  
18 committed or is about to commit a particular violation of law.

19 F. The Secretary of the State Election Board shall adopt rules  
20 as may be necessary to carry out the provisions of this section.

21 SECTION 2. AMENDATORY 26 O.S. 2011, Section 7-114, as  
22 last amended by Section 5, Chapter 4, O.S.L. 2014 (26 O.S. Supp.  
23 2019, Section 7-114), is amended to read as follows:  
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1 Section 7-114. A. Each person appearing to vote shall announce  
2 that person's name to the judge of the precinct and shall provide  
3 proof of identity, whereupon the judge shall determine whether the  
4 person's name is in the precinct registry. As used in this section,  
5 "proof of identity" shall mean a document that satisfies all of the  
6 following:

7 1. The document shows the name of the person to whom the  
8 document was issued, and the name substantially conforms to the name  
9 in the precinct registry;

10 2. The document shows a photograph of the person to whom the  
11 document was issued;

12 3. The document includes an expiration date, which is after the  
13 date of the election in which the person is appearing to vote. The  
14 provisions of this paragraph shall not apply to:

- 15 a. an identification card that is valid indefinitely, or
- 16 b. an identification card issued by a branch of the armed  
17 services of the United States to a person who is a  
18 member of such branch or is retired therefrom; and

19 4. The document was issued by the United States, the State of  
20 Oklahoma or the government of a federally recognized Indian tribe or  
21 nation.

22 Provided, if the person presents a voter identification card  
23 issued by the appropriate county election board, such card may serve  
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1 as proof of identity without meeting the requirements of paragraphs  
2 2 and 3 of this subsection.

3 B. If a person who has submitted to computerized finger imaging  
4 as provided in Section 4-113 of this title declines to or is unable  
5 to produce proof of identity, the person may inform the judge of the  
6 precinct that the person desires to be identified by computerized  
7 finger imaging, and if the automated finger-imaging system  
8 positively identifies said person, the person may be allowed to cast  
9 a ballot as if that person had submitted documentation complying  
10 with subsection A of this section.

11 C. 1. If a person declines to or is unable to produce proof of  
12 identity and has not previously submitted a computerized finger-  
13 imaging record to the State Election Board or the person has  
14 previously submitted a computerized finger-imaging record to the  
15 State Election Board and the electronic identity verification  
16 database is either not available at the polling place or said  
17 database does not successfully identify the person seeking to vote,  
18 the person may sign a statement under oath, in a form approved by  
19 the Secretary of the State Election Board, swearing or affirming  
20 that the person is the person identified on the precinct registry,  
21 and shall be allowed to cast a provisional ballot in a manner  
22 consistent with the provisions of Section 7-116.1 of this title.

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1           2. A provisional ballot cast by a voter who declines or is  
2 unable to produce proof of identity shall only be considered  
3 verified and approved for counting if:

- 4           a. the voter's name on the affidavit substantially  
5                 conforms to the voter's name in the voter registration  
6                 database, except as provided in paragraph 3 of this  
7                 subsection,
- 8           b. the voter's residence address on the affidavit  
9                 substantially conforms to the voter's residence  
10                address in the voter registration database, except as  
11                provided in paragraph 4 of this subsection,
- 12           c. the voter's date of birth matches the information in  
13                the voter registration database,
- 14           d. the voter's Oklahoma driver license number or the last  
15                four digits of the voter's Social Security number on  
16                the affidavit matches the information in the voter  
17                registration database. The provisions of this  
18                subparagraph shall not apply if the voter was not  
19                required to provide a driver license number or the  
20                last four digits of the voter's Social Security number  
21                at the time of registration, and
- 22           e. the provisional ballot meets the eligibility  
23                requirements set forth in Section 7-116.1 of this  
24                title.

1           3. A voter casting a provisional ballot as provided in this  
2 section who has legally changed his or her name, but has not updated  
3 the name on the voter registry, may note this fact on the affidavit  
4 and submit a form prescribed by the Secretary of the State Election  
5 Board to update his or her name. In such a case, and where the  
6 requirements of Section 4-117 of this title are satisfied, the  
7 provisional ballot shall be deemed to meet the requirements of  
8 subparagraph a of paragraph 2 of this subsection.

9           4. A voter casting a provisional ballot as provided in this  
10 section who has changed his or her address of residence, but has not  
11 updated the address on the voter registry, may note this fact on the  
12 affidavit and submit a form to update the address prescribed by the  
13 Secretary of the State Election Board. In such a case, and where  
14 the requirements of Section 4-117 of this title are satisfied, the  
15 provisional ballot shall be deemed to meet the requirements of  
16 subparagraph a of paragraph 2 of this subsection.

17           5. False swearing or affirming under oath shall be punishable  
18 as a felony as provided in Section 16-103 of this title, and the  
19 penalty shall be distinctly set forth on the face of the statement.

20           SECTION 3. This act shall become effective November 1, 2020.

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22           57-2-10272           LRB           12/16/19

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