

SENATE BILL NO. 276

INTRODUCED BY M. CUFFE

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING VOTER IDENTIFICATION LAWS; REVISING IDENTIFICATION REQUIREMENTS FOR VOTING AND PROVISIONAL VOTING; REMOVING THE OPTION TO EXECUTE A DECLARATION OF REASONABLE IMPEDIMENT TO MEETING THE IDENTIFICATION REQUIREMENTS FOR PROVISIONAL BALLOTS; AMENDING SECTIONS 13-13-114, ~~AND~~ 13-13-602, AND 13-15-107, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 13-13-114, MCA, is amended to read:

"13-13-114. Voter identification and marking precinct register book before elector votes -- provisional voting. (1) (a) ~~Except as provided in subsection (2), before~~ Before an elector is permitted to receive a ballot or vote, the elector shall present to an election judge one of the following forms of identification showing the elector's name that is current, valid, and readable:

(i) a Montana driver's license, Montana state identification card issued pursuant to 61-12-501, military identification card, tribal photo identification card, United States passport, ~~or Montana concealed carry permit, or student photo identification card issued by the Montana university system~~ or a school that is a member of the national association of intercollegiate athletics; or

(ii) (A) a current utility bill, bank statement, paycheck, government check, or other government document that shows the elector's name and current address; and

(B) photo identification that shows the elector's name, ~~including but not limited to a school district or postsecondary education photo identification.~~

(b) An elector who provides the information listed in subsection (1)(a) may sign the precinct register and must be provided with a regular ballot to vote.

(c) If the information provided in subsection (1)(a) differs from information in the precinct register but an election judge determines that the information provided is sufficient to verify the voter's identity and

eligibility to vote pursuant to 13-2-512, the elector may sign the precinct register, complete a new registration form to correct the elector's voter registration information, and vote.

(d) An election judge shall write "registration form" beside the name of any elector submitting a form.

~~(2) If the elector is unable to present the information required by subsection (1) or if the information presented under subsection (1) is insufficient to verify the elector's identity and eligibility to vote or if the elector's name does not appear in the precinct register or appears in the register as provisionally registered and this provisional registration status cannot be resolved at the polling place, the elector may sign the precinct register and cast a provisional ballot as provided in 13-13-601.~~

(2) If the elector is unable to present the information required by subsection (1) or if the information presented under subsection (1) is insufficient to verify the elector's identity and eligibility to vote or if the elector's name does not appear in the precinct register or appears in the register as provisionally registered and this provisional registration status cannot be resolved at the polling place, the elector may sign the precinct register and cast a provisional ballot as provided in 13-13-601.

~~(3)(2)(3)~~ If the elector fails or refuses to sign the elector's name or if the elector is disabled and a fingerprint, an identifying mark, or a signature by a person authorized to sign for the elector pursuant to 13-1-116 is not provided, the elector may cast a provisional ballot as provided in 13-13-601."

Section 2. Section 13-13-602, MCA, is amended to read:

"13-13-602. Fail-safe and provisional voting by mail. (1) To ensure the election administrator has information sufficient to determine the elector's eligibility to vote, an elector voting by mail may enclose in the outer signature envelope, together with the voted ballot in the secrecy envelope:

(a) a Montana driver's license number, Montana state identification card number issued pursuant to 61-12-501, or the last four digits of the applicant's social security number;

(b) a readable copy of a military identification card, a tribal photo identification card, a United States passport, a Montana concealed carry permit, or a student photo identification card issued by a Montana college or university the Montana university system or a school that is a member of the national association of intercollegiate athletics, or a Montana concealed carry permit; or

(c) (i) any other form of readable photo identification with the individual's elector's name; and

(ii) a copy of a current utility bill, bank statement, paycheck, notice of confirmation of voter

registration issued pursuant to 13-2-207, government check, or other government document that shows the

elector's name and current address.

(2) The elector's ballot must be handled as a provisional ballot under 13-15-107 if:

(a) a provisionally registered elector voting by mail does not enclose with the ballot the information described in subsection (1);

(b) the information provided under subsection (1) is invalid or insufficient to verify the elector's eligibility; or

(c) the elector's name does not appear on the precinct register."

Section 3. Section 13-15-107, MCA, is amended to read:

"13-15-107. Handling and counting provisional and challenged ballots. (1) To verify eligibility to vote, a provisionally registered individual who casts a provisional ballot has until 5 p.m. on the day after the election to provide valid identification or eligibility information either in person, by facsimile, by electronic means, or by mail postmarked no later than the day after the election.

(2) If a legally registered individual casts a provisional ballot because the individual failed to provide sufficient identification as required pursuant to 13-13-114(1)(a):

(a) the elector has until 5 p.m. on the day after the election to provide identification information pursuant to the requirements of 13-13-114 ~~or as provided in subsection (3) of this section~~; and

(b) the election administrator shall compare the signature of the individual or the individual's agent designated pursuant to 13-1-116 on the affirmation required under 13-13-601 to the signature on the individual's voter registration form or the agent's designation form. If the signatures match, the election administrator shall handle the ballot as provided in subsection ~~(7)~~(5). If the signatures do not match and the individual or the individual's agent fails to provide valid identification information by the deadline, the ballot must be rejected and handled as provided in 13-15-108.

~~(3) If a legally registered individual casts a provisional ballot but is unable provide the identification information pursuant to the requirements of 13-13-114, the elector may verify the elector's identity by:~~

~~(a) — presenting a current utility bill, bank statement, paycheck, government check, or other government document that shows the elector's name and current address; and~~

~~(b) — executing a declaration pursuant to subsection (4) that states that the elector has a reasonable impediment to meeting the identification requirements.~~

~~(4) — The secretary of state shall prescribe the form of the declaration described in subsection (3). The form must include:~~

~~(a) — a notice that the elector is subject to prosecution for false swearing under 45-7-202 for a false statement or false information on the declaration;~~

~~(b) — a statement that the elector swears or affirms that the information contained in the declaration is true, that the person described in the declaration is the same person who is signing the declaration, and that the elector faces a reasonable impediment to procuring the identification required by 13-13-114;~~

~~(c) — a place for an elector to indicate one of the following impediments:~~

~~(i) — lack of transportation;~~

~~(ii) — lack of birth certificate or other documents needed to obtain identification;~~

~~(iii) — work schedule;~~

~~(iv) — lost or stolen identification;~~

~~(v) — disability or illness;~~

~~(vi) — family responsibilities; or~~

~~(vii) — photo identification has been applied for but not received;~~

~~(d) — a place for the elector to sign and date the declaration;~~

~~(e) — a place for the election administrator or an election judge to sign and date the declaration;~~

~~(f) — a place to note the polling place at which the elector cast a provisional ballot; and~~

~~(g) — a place for the election administrator or election judge to note which form of identification required by subsection (3)(a) the elector presented.~~

~~(5)(3)~~ A provisional ballot must be counted if the election administrator verifies the individual's identity or eligibility pursuant to rules adopted under 13-13-603. However, if the election administrator cannot verify the individual's identity or eligibility under the rules, the individual's provisional ballot must be rejected and handled as provided in 13-15-108. If the ballot is provisional because of a challenge and the challenge was made on the

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grounds that the individual is of unsound mind or serving a felony sentence in a penal institution, the individual's provisional ballot must be counted unless the challenger provides documentation by 5 p.m. on the day after the election that a court has established that the individual is of unsound mind or that the individual has been convicted and sentenced and is still serving a felony sentence in a penal institution.

~~(6)(4)~~ The election administrator shall provide an individual who cast a provisional ballot but whose ballot was or was not counted with the reasons why the ballot was or was not counted.

~~(7)(5)~~ A provisional ballot must be removed from its provisional envelope, grouped with other ballots in a manner that allows for the secrecy of the ballot to the greatest extent possible, and counted as any other provisional ballot if the individual's voter information is:

(a) verified before 5 p.m. on the day after the election; or

(b) postmarked by 5 p.m. on the day after election day and received and verified by 3 p.m. on the sixth day after the election.

~~(8)(6)~~ Provisional ballots that are not resolved by the end of election day may not be counted until after 3 p.m. on the sixth day after the election."

NEW SECTION. **Section 4. Saving clause.** [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

NEW SECTION. **Section 5. Severability.** If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

NEW SECTION. **Section 6. Effective date.** [This act] is effective on passage and approval.

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