

## Secure and Fair Elections (“SAFE”) Act

Sec. 1. **Definitions.** (a) “Act” shall mean the [State] Secure and Fair Elections Act.

(b) “Application” shall mean the form approved by the Secretary of State to register an applicant to vote. The National Mail Voter Registration Form issued pursuant to federal law shall be accepted as an Application.

(c) “Applicant” shall mean a resident of [State] seeking to register to vote in federal, state, and local elections.

(d) “Division” shall mean the [[ State]’s Division of Motor Vehicles].

(e) “Evidence of United States citizenship” shall mean one of the following, or a legible photocopy of one of the following documents:

(1) The applicant’s driver’s license or nondriver’s identification card issued by the [Division] or the equivalent governmental agency of another state within the United States if the agency indicates on the applicant’s driver’s license or nondriver’s identification card that the person has provided satisfactory proof of United States citizenship;

(2) the applicant’s birth certificate that verifies United States citizenship to the satisfaction of the county election officer or the Secretary of State;

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

(4) the applicant’s United States naturalization documents or the number of the certificate of naturalization. If only the number of the certificate of naturalization is provided, the applicant’s name shall not be included on the registration roll until the number of the certificate of naturalization is verified with the United States bureau of citizenship and immigration services by the county election officer or the Secretary of State, pursuant to 8 U.S.C. § 1373(c);

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

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

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

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

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

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

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

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

(13) an extract from a United States hospital record of birth created at the time of the applicant’s birth indicating the applicant’s place of birth in the United States.

(14) any other information or documentation related to an applicant’s United States citizenship if the [State Election Board] assesses such information or documentation as satisfactory.

(f) “State” shall mean the State of [State].

(g) “State Election Board” shall mean a board, the members of which shall be the Lieutenant Governor, the Secretary of State and the Attorney General.

Sec. 2. **Registration.** (a) Applications shall give voter eligibility requirements and such information as is necessary to prevent duplicative voter registrations and enable the relevant election officer to assess the eligibility of the applicant and to administer voter registration, identify the applicant and to determine the qualifications of the applicant as an elector and the facts

authorizing such person to be registered. Applications shall contain a statement that the applicant shall be required to provide qualifying identification when voting.

(b) The Secretary of State shall create a process for the *[county election officer]* to indicate whether an applicant has provided with the application the information necessary to assess the eligibility of the applicant, including such applicant's United States citizenship. This section shall be interpreted and applied in accordance with federal law. No eligible applicant whose qualifications have been assessed and deemed sufficient shall be denied registration.

(c) The county election officer or the Secretary of State's office shall accept any completed application for registration, but an applicant's registration shall not be deemed to be completed until the applicant has provided, or the *[county election officer]* or the Secretary of State's office has otherwise obtained, satisfactory evidence of United States citizenship. Satisfactory evidence of United States citizenship shall be provided in person at the time of filing the Application for registration or by including with a mailed registration application a photocopy of one of the documents listed as evidence of United States citizenship, or by electronically transmitting via email or text message an image of one of the documents listed as evidence of United States Citizenship. After a person has submitted satisfactory evidence of United States citizenship, the *[county election officer]* shall indicate this information in the person's permanent voter file.

(d) If an applicant submits a completed Application for registration but does not provide satisfactory evidence of United States citizenship, the applicant's registration shall be deemed provisional until satisfactory evidence of United States citizenship is obtained. The *[county election officer]* shall indicate this information in the person's permanent voter file and shall mail to the applicant a notice informing him or her that the registration is provisional and is not yet completed and that evidence of citizenship must be received by the Secretary of State or *[county election officer]* within 90 days of the date that the Application for registration was received. If no such evidence of citizenship is received by that date, the Application shall be deleted from the person's permanent voter file, and the applicant shall be so informed by the *[county election officer]*. The deletion of such an Application shall not prevent the applicant from filing a new Application at any time to begin the registration process again.

(e) The Secretary of State or the *[county election officer]* shall, in a manner designated by the Secretary of State, attempt to obtain evidence of United States citizenship on behalf of all applicants whose registration is provisional, thereby completing such Applications, by undertaking the following:

(1) Determining if the Division has already obtained evidence of United States citizenship from the applicant;

(2) Determining if the *[Department of Vital Statistics]* possesses a birth record indicating that the applicant was born in *[State]*.

(3) Obtaining an official record of United States citizenship from another state or from the federal government.

(f) If the Secretary of State or the *[county election officer]* is able to successfully obtain evidence of United States citizenship on behalf of the applicant within the 90 day period described in subsection (d) above, the Secretary of State or the *[county election officer]* shall so inform the applicant, shall deem the Application to be completed, and shall indicate this information in the applicant's permanent voter file.

(g) Any person who is registered in this state on the effective date of this act is deemed to have provided satisfactory evidence of United States citizenship and shall not be required to submit evidence of United States citizenship.

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

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

(j) If evidence of United States citizenship is deemed to be unsatisfactory due to an inconsistency between the document submitted as evidence and the name or sex provided on the application for registration, such applicant may sign an affidavit containing both the following:

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

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

(k) All documents submitted as evidence of United States citizenship shall be kept confidential by the *[county election officer]* or the Secretary of State and maintained as provided by record retention laws.

(i) Nothing in this section shall prohibit an applicant from providing, or the Secretary of State or *[county election officer]* from obtaining, one of the forms of evidence of United States citizenship listed in subsection 1(e) of this act, at a different time or in a different manner than an Application for registration is provided, as long as the applicant's eligibility can be adequately assessed by the Secretary of State or *[county election officer]* as required by this section and within the 90 day period described in subsection (d) above.

**Sec. 3. State Election Board.** (a) There is hereby established the State Election Board, consisting of the Secretary of State, the Attorney General, and the Lieutenant Governor. The State Election Board shall meet on the call of the Secretary of State and shall assess information or documentation provided by any applicant for voter registration as evidence of United States citizenship pursuant to the voter registration requirements of this act. Such meetings may occur remotely, virtually, or by telephone, at the discretion of the Secretary of State.

(b) Procedure. If an applicant is a United States citizen but does not have any of the documentation listed in Section 1 as satisfactory evidence of United States citizenship, such applicant may submit any evidence, including any information, affidavits, or documentation, that such applicant believes demonstrates the applicant's United States citizenship.

(1) Any applicant seeking an assessment of evidence under this section may directly contact the office of the Secretary of State by submitting a voter registration application or the national voter registration form and any supporting information or documentation of United States citizenship. Upon receipt of this information or documentation, the Secretary of State shall notify the State Election Board that such application is pending.

(2) The State Election Board shall give the applicant an opportunity for a hearing, upon the applicant's request in writing, and an opportunity to present any additional evidence to the State Election Board. Notice of such hearing shall be given to the applicant at least five days prior to the hearing date. An applicant shall have the opportunity to be represented by counsel at such hearing.

(3) The State Election Board shall assess the information or documentation provided by the applicant to determine whether the applicant has provided satisfactory evidence of United States citizenship. A decision of the State Election Board shall be determined by a majority vote of the election board.

(4) If an applicant submits an application and any supporting information or documentation prior to the close of registration for an election cycle, a determination by the State Election Board shall be issued at least five days before such election date.

(5) If the State Election Board finds that the information or documentation presented by such applicant constitutes satisfactory evidence of United States citizenship, such applicant will have met the requirements under this act to provide satisfactory evidence of United States citizenship.

(6) If the State Election Board finds that the information or documentation presented by an applicant does not constitute satisfactory evidence of United States citizenship, such applicant shall have the right to appeal such determination by the State Election Board by instituting an action under 8 U.S.C. § 1503. Any negative assessment of an applicant's eligibility by the State Election Board shall be reversed if the applicant obtains a declaratory judgment pursuant to 8 U.S.C. § 1503 demonstrating that such applicant is a national of the United States.

**Sec. 4. No Fee for Birth Certificates for Qualifying Individuals.** (a) The *[Department of Vital Statistics]* shall not charge or accept any fee for a certified copy of a birth certificate if the

certificate is requested by any person who is 17 years of age or older for purposes of meeting the voter registration requirements of this act. Such person shall swear under oath: (1) that such person plans to register to vote in the state; and (2) that such person does not possess any of the documents that constitute evidence of United States citizenship as defined in this act. The affidavit shall specifically list the documents that constitute evidence of United States citizenship as defined in this act.

(b) The registrar shall not charge or accept any fee for a certified copy of a birth certificate if the certificate is requested by any person who is 17 years of age or older for the purpose of obtaining a fee-waived nondriver identification card in order to meet the voting requirements under this act. Such person shall swear under oath: (1) that such person is registered to vote in the state; and (2) such person has executed the affidavit described in subsection (a).

(c) The Registrar shall adopt rules and regulations in order to implement the provisions of this Section.

**Sec. 5. No Transmittal Fee for Birth Certificates.** The *[boards of county commissioners]* shall designate a county office or department to provide assistance at no charge to any person applying for a birth certificate from the registrar for the purpose of registering to vote. Such county departments shall transmit the necessary forms to the *[Department of Vital Statistics]* at no cost to the person applying for the birth certificate.

**Sec. 6. Rule and Regulations.** The Secretary of State may adopt rules and regulations in order to implement this act.

**Sec. 7 Severability.** If any provision of this act is held to be unconstitutional under the United States Constitution or the *[State]* Constitution, that provision shall be severed from the act, and the other provisions of this act shall remain valid and in effect.

**Sec. 8. Effective Date.** This act shall take effect and be in force from and after its publication.