

The Advance Ballot Confidence (“ABC”) Act

(Note: the terms “advance ballot”, “county election officer”, and “county board of canvassers” in this model legislation may need to be changed to the appropriate terms to match the existing election code of the relevant state.)

AN ACT requiring signatures for both the request and acceptance of mailed advance ballots; setting the period of advance voting at ten days; requiring photo ID or its equivalent at the stage of requesting an advance ballot; providing for observation and review of the opening mailed advance ballot envelopes; providing for a ten day period of advance voting; and setting the deadline for receipt of an advance ballot at the close of polling on election day.

Be it enacted by the Legislature of the State of [State]:

Sec. 1. Advance voting ballot application identification requirements.

(a) Any registered voter may file with the county election officer where the person is a resident an application for an advance voting ballot. The signed application shall be transmitted only to the county election officer by personal delivery, mail, facsimile or as otherwise provided by law.

(b) If the registered voter is applying for an advance voting ballot to be transmitted in person, the voter shall provide one of the following forms of identification prior to receiving an advance voting ballot. The following forms of identification shall be valid if the identification contains the name and photograph of the voter and has not expired. Expired documents shall be valid if the bearer of the document is 65 years of age or older:

- (1) A driver's license issued by [State] or by another state or district of the United States;
- (2) a state nondriver's identification card issued by [State] or by another state or district of the United States;
- (3) a concealed carry of handgun license issued by [State] or a concealed carry of handgun or weapon license issued by another state or district of the United States;
- (4) a United States passport;
- (5) an employee badge or identification document issued by a municipal, county, state, or federal government office or agency;
- (6) a military identification document issued by the United States;
- (7) a student identification card issued by an accredited postsecondary institution of education in the state of [State];
- (8) a public assistance identification card issued by a municipal, county, state, or federal government office or agency; or
- (9) an identification card issued by an Indian tribe.

(c) If the registered voter is applying for an advance voting ballot to be transmitted by mail, the voter shall provide with the application for an advance voting ballot the voter's current and valid [State] driver's license number, nondriver's identification card number, or a photocopy of one of the following forms of identification prior to receiving an advance voting ballot. The following forms of identification shall be valid if the identification contains the name and photograph of the voter and has not expired. Expired documents shall be valid if the bearer of the document is 65 years of age or older:

- (1) A driver's license issued by [State] or by another state or district of the United States;
- (2) a state nondriver's identification card issued by [State] or by another state or district of the United States;

(3) a concealed carry of handgun license issued by [State] or a concealed carry of handgun or weapon license issued by another state or district of the United States;

(4) a United States passport;

(5) an employee badge or identification document issued by a municipal, county, state, or federal government office or agency;

(6) a military identification document issued by the United States;

(7) a student identification card issued by an accredited postsecondary institution of education in the state of [State];

(8) a public assistance identification card issued by a municipal, county, state, or federal government office or agency; or

(9) an identification card issued by an Indian tribe.

(d) No county election officer shall provide an advance voting ballot to a person who is requesting an advance voting ballot to be transmitted by mail unless the person signs the advance ballot application and:

(1) The county election official verifies that the signature of the person matches that on file in the county voter registration records, except that verification of the voter's signature shall not be required if a voter has a disability preventing the voter from signing. Signature verification may occur by electronic device or by human inspection. In the event that the signature of a person who is requesting an advance voting ballot does not match that on file, the county election officer shall attempt to contact the person and shall offer the person another opportunity to provide the person's signature for the purposes of verifying the person's identity. If the county election officer is unable to reach the person, the county election officer may transmit a provisional ballot, however, such provisional ballot may not be counted unless a signature is included therewith that can be verified; and

(2) the person provides such person's full [State] driver's license number, [State] nondriver's identification card number issued by the division of vehicles, or submits such person's application for an advance voting ballot and a copy of identification described in subsection (c). If a person applies for an advance voting ballot to be transmitted by mail but fails to provide identification pursuant to this subsection or the identification of the person cannot be verified by the county election officer, the county election officer shall provide the person an opportunity to provide identification pursuant to this subsection. For the purposes of this act, [State] state offices and offices of any subdivision of the state will allow any person seeking to vote by an advance voting ballot the use of a photocopying device to make one photocopy of an identification document at no cost.

(e) If a registered voter does not possess any of the forms of identification listed in subsection (b), the voter may sign an affidavit stating that he or she does not possess such identification and that he or she intends to vote, and the division of vehicles shall thereafter provide the voter a state nondriver's identification card containing the voter's photograph.

Sec. 2. Advance voting; transmission of ballots.

(a) When an application for an advance voting ballot that meets the requirements of section 1 has been filed with the county election officer, the county election officer shall transmit an appropriate ballot to the voter applying therefor. Unless an advance voting ballot is transmitted in person pursuant to this subsection, the county election officer shall transmit the advance voting ballot to the voter at one of the following addresses as specified by the voter on such application: (1) The voter's residential address or mailing address as indicated on the registration list; (2) the voter's temporary residential address; or (3) a medical care facility, psychiatric hospital, hospice, or adult

care home where the voter resides. No advance voting ballot shall be transmitted by the county election officer by any means prior to the 10th day before the election for which an application for an advance voting ballot has been received by such county election officer. If the advance voting ballot is transmitted by mail, such ballot shall be transmitted with printed instructions prescribed by the secretary of state and a ballot envelope bearing upon the outside a printed form containing lines for the voter to write his or her name and address, and a line for the voter to provide his or her signature, and bearing the same number as the number of the advance voting ballot. If the advance voting ballot is transmitted to the applicant in person in the office of the county election officer, such advance voting ballot and printed instructions shall be transmitted with an advance voting ballot envelope bearing the same number as the number of the ballot. All ballots shall be transmitted to the advance voting voter not more than 10 days before the election but within two business days of the receipt of such voter's application by the election officer or the commencement of such 10-day period. In primary elections required to be conducted on a partisan basis, the county election officer shall deliver to such voter the ballot of the political party of the applicant.

(b) The county election officer shall compare the driver's license number, nondriver's identification card number or copy of other valid identification provided by a voter to the voter registration list verified by the division of vehicles in accordance with federal law. If no identification information was provided by the voter or if such information does not match the information on the voter registration list, the county election officer shall transmit a provisional advance voting ballot. Such provisional ballot shall not be counted by the county board of canvassers unless the voter has provided such information prior to the start of the meeting of the county board of canvassers.

Sec. 3. The receiving and verification of advance ballots.

(a) Upon receipt of the advance voting ballot, the voter shall cast his or her vote as follows: The voter shall make a cross or check mark in the square or parentheses opposite the name of each candidate or question for whom the voter desires to vote. The voter shall make no other mark, and shall allow no other person to make any mark, upon such ballot. If the advance voting ballot was transmitted by mail, the voter personally shall place the ballot in the ballot envelope bearing the same number as the ballot and seal the envelope. The voter shall complete the form on the ballot envelope and shall sign the same. The ballot envelope shall be mailed or transmitted in person to the county election officer.

(b) Any such voted ballot shall be transmitted to the county election officer before the close of the polls on election day. A ballot received after the close of polls on election day shall not be counted.

(c) No county election officer shall accept an advance voting ballot transmitted by mail unless the county election official verifies that the signature of the person on the advance voting ballot envelope matches that on file in the county voter registration records, except that verification of the voter's signature shall not be required if a voter has a disability preventing the voter from signing and the voter has notified the county election office of that disability prior to applying for the advance ballot. Signature verification may occur by electronic device or by human inspection. In the event that the signature of a person on the advance voting ballot envelope does not match that on file, the ballot shall not be counted.

(d) No county election officer shall accept an advance voting ballot transmitted by mail unless the county election official verifies that the number on the advance voting ballot envelope matches the number of the advance voting ballot that was transmitted to the voter.

(e) No county election office may receive advance voting ballots in a manner other than:

(1) through the United States mail, or

(2) receiving the advance voting ballot in person through delivery to the county election official.

(f) One observer designated in writing by each candidate may be present to observe the inspection and opening of advance ballot envelopes by the county election officials on election day.

(g) Such observers shall be permitted to observe from a position no greater than eight feet from the ballot.

(h) If the verification of voters' signatures is done electronically, such verification shall be done in a manner that observers may observe the outcome of the electronic verification prior to the opening of the advance voting ballot envelope.

(h) Each county election office shall also provide a method by which the public may observe the inspection and opening of advance ballot envelopes remotely, by live stream on the internet or by equivalent method.

(i) If a designated observer states an objection to the county election official's or electronic device's determination that the signature of the person on the advance voting ballot envelope matches or does not match that on file in the county voter registration records, the ballot shall not be removed from the advance voting ballot envelope; and the validity of the signature shall be adjudicated by the county board of canvassers. If the county board of canvassers determines that the signatures match, then the ballot shall be counted at that time.

Sec. 4. Advance voting; unlawful acts and penalties.

(a) No voter shall knowingly mark or transmit to the county election officer more than one advance voting ballot.

(b) Except as otherwise provided by law, no person other than the voter, shall knowingly mark, sign or transmit to the county election officer any advance voting ballot or advance voting ballot envelope.

(c) Except as otherwise provided by law, no person shall knowingly sign an application for an advance voting ballot for another person. This provision shall not apply if a voter has a disability preventing the voter from signing an application and the voter has notified the county election officer of such disability or if an immediate family member signs an application on behalf of another immediate family member with proper authorization being given.

(d) No person shall knowingly intercept, interfere with, or delay the transmission of advance voting ballots from the county election officer to the voter.

(e) No person shall knowingly and falsely affirm, declare or subscribe to any material fact in an affirmation form for an advance voting ballot or set of advance voting ballots.

(f) A voter may return such voter's advance voting ballot to the county election officer by personal delivery or by mail. Upon written designation by the voter, a person other than the voter may return the advance voting ballot by personal delivery or mail. Any such person designated by the voter shall sign a statement that such person has not exercised undue influence on the voting decisions of the voter and agrees to deliver the ballot as directed by the voter. This provision shall not apply if a voter has a disability preventing the voter from signing an application and the voter has notified the county election officer of such disability.

(g) Except as otherwise provided by federal law, no person shall knowingly backdate or otherwise alter a postmark or other official indication of the date of mailing of an advance voting ballot returned to the county election officer by mail for the purpose of indicating a date of mailing other than the actual date of mailing by the voter.

(h) No county election officer shall knowingly accept or count any advance ballot that does not comply with the requirements of section 3, or knowingly reject or fail to count any advance ballot that meets all of the requirements of section 3.

(i) No county election officer shall transmit to any voter an advance voting ballot if that voter has not requested such an advance voting ballot in accordance with section 1.

(i) Violation of any provision of this section is a severity level [9], nonperson felony.