

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2519 Session of
2008

INTRODUCED BY METCALFE, CUTLER, BARRAR, BENNINGHOFF, CAPPELLI,
CREIGHTON, CRUZ, DALLY, EVERETT, GEIST, GRELL, HELM, HERSHEY,
HICKERNELL, HORNAMAN, KAUFFMAN, KENNEY, MANTZ, MENSCH,
R. MILLER, MILNE, MOUL, MUSTIO, O'NEILL, SAYLOR, SCAVELLO,
R. STEVENSON, TRUE AND TURZAI, MAY 13, 2008

REFERRED TO COMMITTEE ON STATE GOVERNMENT, MAY 13, 2008

AN ACT

1 Amending the act of June 3, 1937 (P.L.1333, No.320), entitled
2 "An act concerning elections, including general, municipal,
3 special and primary elections, the nomination of candidates,
4 primary and election expenses and election contests; creating
5 and defining membership of county boards of elections;
6 imposing duties upon the Secretary of the Commonwealth,
7 courts, county boards of elections, county commissioners;
8 imposing penalties for violation of the act, and codifying,
9 revising and consolidating the laws relating thereto; and
10 repealing certain acts and parts of acts relating to
11 elections," further providing for manner of applying to vote.

12 The General Assembly of the Commonwealth of Pennsylvania
13 hereby enacts as follows:

14 Section 1. Section 1210 of the act of June 3, 1937
15 (P.L.1333, No.320), known as the Pennsylvania Election Code,
16 amended October 8, 2004 (P.L.807, No.97) and May 12, 2006
17 (P.L.178, No.45), is amended to read:

18 Section 1210. Manner of Applying to Vote; Persons Entitled
19 to Vote; Voter's Certificates; Entries to Be Made in District
20 Register; Numbered Lists of Voters; Challenges.--(a) At every
21 primary and election each elector [who appears to vote in that

1 election district for the first time and] who desires to vote
2 shall first present to an election officer a voter's
3 identification card issued by the county registration commission
4 or any one of the following forms of photo identification:

5 (1) a valid driver's license or identification card issued
6 by the Department of Transportation;

7 (2) a valid identification card issued by any other agency
8 of the Commonwealth;

9 (3) a valid identification card issued by the United States
10 Government;

11 (4) a valid United States passport;

12 (5) a valid student identification card;

13 (6) a valid employe identification card; or

14 (7) a valid armed forces of the United States identification
15 card.

16 The election officer shall examine the identification presented
17 by the elector and sign an affidavit stating that this has been
18 done.

19 (a.1) [Where the elector does not have a photo
20 identification as provided for in subsection (a), the elector
21 shall present for examination one of the following forms of
22 identification that shows the name and address of the elector:

23 (1) nonphoto identification issued by the Commonwealth, or
24 any agency thereof;

25 (2) nonphoto identification issued by the United States
26 Government, or agency thereof;

27 (3) a firearm permit;

28 (4) a current utility bill;

29 (5) a current bank statement;

30 (6) a paycheck;

1 (7) a government check.

2 The election officer shall examine the identification presented
3 by the elector and sign an affidavit stating that this has been
4 done.

5 (a.2) If the elector is unable to produce identification or
6 the elector's identification is challenged by the judge of
7 elections, the elector shall be permitted to cast a provisional
8 ballot in accordance with subsection (a.4).]

9 (a.3) All electors[, including any elector that shows
10 identification pursuant to subsection (a),] shall subsequently
11 sign a voter's certificate in blue, black or blue-black ink with
12 a fountain pen or ball point pen, and, unless he is a State or
13 Federal employe who has registered under any registration act
14 without declaring his residence by street and number, he shall
15 insert his address therein, and hand the same to the election
16 officer in charge of the district register. Such election
17 officer shall thereupon announce the elector's name so that it
18 may be heard by all members of the election board and by all
19 watchers present in the polling place and shall compare the
20 elector's signature on his voter's certificate with his
21 signature in the district register. If, upon such comparison,
22 the signature upon the voter's certificate appears to be
23 genuine, the elector who has signed the certificate shall, if
24 otherwise qualified, be permitted to vote: Provided, That if the
25 signature on the voter's certificate, as compared with the
26 signature as recorded in the district register, shall not be
27 deemed authentic by any of the election officers, such elector
28 shall not be denied the right to vote for that reason, but shall
29 be considered challenged as to identity and required to make the
30 affidavit and produce the evidence as provided in subsection (d)

1 of this section. When an elector has been found entitled to
2 vote, the election officer who examined his voter's certificate
3 and compared his signature shall sign his name or initials on
4 the voter's certificate, shall, if the elector's signature is
5 not readily legible, print such elector's name over his
6 signature, and the number of the stub of the ballot issued to
7 him or his number in the order of admission to the voting
8 machines, and at primaries a letter or abbreviation designating
9 the party in whose primary he votes shall also be entered by one
10 of the election officers or clerks. As each voter is found to be
11 qualified and votes, the election officer in charge of the
12 district register shall write or stamp the date of the election
13 or primary, the number of the stub of the ballot issued to him
14 or his number in the order of admission to the voting machines,
15 and at primaries a letter or abbreviation designating the party
16 in whose primary he votes, and shall sign his name or initials
17 in the proper space on the registration card of such voter
18 contained in the district register.

19 As each voter votes, his name in the order of voting shall be
20 recorded in two (2) numbered lists of voters provided for that
21 purpose, with the addition of a note of each voter's party
22 enrollment after his name at primaries.

23 (a.4) (1) At all elections an individual who claims to be
24 properly registered and eligible to vote at the election
25 district but whose name does not appear on the district register
26 and whose registration cannot be determined by the inspectors of
27 election or the county election board shall be permitted to cast
28 a provisional ballot. Individuals who are voting for the first
29 time at the election district shall be required to produce
30 identification pursuant to subsection (a) or (a.1) and if unable

1 to do so shall be permitted to cast a provisional ballot. An
2 individual presenting a judicial order to vote shall be
3 permitted to cast a provisional ballot.

4 (2) Prior to voting the provisional ballot, the elector
5 shall be required to sign an affidavit stating the following:

6 I do solemnly swear or affirm that my
7 name is _____, that my date of birth is _____,
8 and at the time that I registered I resided at _____ in
9 the municipality of _____ in _____ County of
10 the Commonwealth of Pennsylvania and that this is the only
11 ballot that I cast in this election.

12 Signature of Voter/Elector

13 Current Address

14 Check the Reason for Casting the Provisional Ballot.

15 Signed by Judge of Elections and minority inspector

16 (3) After the provisional ballot has been cast, the
17 individual shall place it in a secrecy envelope. The individual
18 shall place the secrecy envelope in the provisional ballot
19 envelope and shall place his signature on the front of the
20 provisional ballot envelope. All provisional ballots shall
21 remain sealed in their provisional ballot envelopes for return
22 to the county board of elections.

23 (4) Within seven calendar days of the election, the county
24 board of elections shall examine each provisional ballot
25 envelope that is received to determine if the individual voting
26 that ballot was entitled to vote at the election district in the
27 election. One authorized representative of each candidate in an
28 election and one representative from each political party shall
29 be permitted to remain in the room in which the determination is
30 being made. Representatives shall be permitted to keep a list of

1 those persons who cast a provisional ballot and shall be
2 entitled to challenge any determination of the county board of
3 elections with respect to the counting or partial counting of
4 the ballot under this section. Upon challenge of any provisional
5 ballot under this clause, the ballot envelope shall be marked
6 "challenged" together with the reason for the challenge, and the
7 provisional ballot shall be set aside pending final
8 determination of the challenge according to the following
9 procedure:

10 (i) Provisional ballots marked "challenged" shall be placed
11 unopened in a secure, safe and sealed container in the custody
12 of the county board of elections until it shall fix a time and
13 place for a formal hearing of all such challenges, and notice
14 shall be given where possible to all provisional electors thus
15 challenged and to every attorney, watcher or candidate who made
16 the challenge.

17 (ii) The time for the hearing shall not be later than seven
18 days after the date of the challenge.

19 (iii) On the day fixed for the hearing, the county board
20 shall proceed without delay to hear the challenges and, in
21 hearing the testimony, the county board shall not be bound by
22 the Pennsylvania Rules of Evidence.

23 (iv) The testimony presented shall be stenographically
24 recorded and made part of the record of the hearing.

25 (v) The decision of the county board in upholding or
26 dismissing any challenge may be reviewed by the court of common
27 pleas of the county upon a petition filed by any petitioner
28 aggrieved by the decision of the county board. The appeal shall
29 be taken, within two days after the decision was made, whether
30 the decision was reduced to writing or not, to the court of

1 common pleas setting forth the objections to the county board's
2 decision and praying for an order reversing the decision.

3 (vi) Pending the final determination of all appeals, the
4 county board shall suspend any action in canvassing and
5 computing all challenged provisional ballots irrespective of
6 whether or not an appeal was taken from the county board's
7 decision.

8 (vii) Upon completion of the computation of the returns of
9 the county, the votes cast upon the challenged official
10 provisional ballots shall be added to the other votes cast
11 within the county.

12 (5) (i) Except as provided in subclause (ii), if it is
13 determined that the individual was registered and entitled to
14 vote at the election district where the ballot was cast, the
15 county board of elections shall compare the signature on the
16 provisional ballot envelope with the signature on the elector's
17 registration form and, if the signatures are determined to be
18 genuine, shall count the ballot if the county board of elections
19 confirms that the individual did not cast any other ballot,
20 including an absentee ballot, in the election.

21 (ii) A provisional ballot shall not be counted if:

22 (A) either the provisional ballot envelope under clause (3)
23 or the affidavit under clause (2) is not signed by the
24 individual;

25 (B) the signature required under clause (3) and the
26 signature required under clause (2) are either not genuine or
27 are not executed by the same individual; or

28 (C) a provisional ballot envelope does not contain a secrecy
29 envelope.

30 (iii) One authorized representative of each candidate in an

1 election and one representative from each party shall be
2 permitted to remain in the room in which deliberation or
3 determination of subclause (ii) is being made.

4 (6) If it is determined that the individual voting the
5 provisional ballot was not registered, the provisional ballot
6 shall not be counted and the ballot shall remain in the
7 provisional ballot envelope and shall be marked "Rejected as
8 Ineligible."

9 (7) The following shall apply:

10 (i) Except as provided in subclause (ii), if it is
11 determined that the individual voting the provisional ballot was
12 eligible to vote in the county in which the ballot was cast but
13 not at the election district where the ballot was cast, the
14 county board of elections shall open the envelope and only count
15 that portion of the ballot that the individual would have been
16 eligible to vote in his proper election district and at the
17 election district where the vote was cast if:

18 (A) the county board of elections confirms that the
19 individual did not cast any other ballot, including an absentee
20 ballot, in the election; and

21 (B) the individual casting the provisional ballot is a
22 resident of the county in which the provisional ballot was cast.

23 (ii) In the event that the individual casting the
24 provisional ballot is not found to be a resident of the county
25 in which the provisional ballot was cast, the ballot shall not
26 be counted.

27 (iii) In the event that the board of elections determines,
28 based on an evidentiary record, that the individual
29 intentionally and wilfully cast a provisional ballot in an
30 election district in which the individual was not eligible to

1 vote, the ballot shall not be counted.

2 (8) On election night, immediately upon completion of the
3 count and tabulation of the votes cast, the judge of election
4 shall prepare and certify under oath a tally displaying the
5 number of provisional ballots received from the election board
6 and the number of provisional ballots cast and transmitted to
7 the county board of elections. The judge of election shall
8 record on the tabulation the name of the individual into whose
9 possession the provisional ballots were passed for transmission
10 to the county board of elections.

11 (9) All provisional ballots and the tally of provisional
12 ballots tabulated under clause (8) in the possession of an
13 election board official shall be promptly returned by the judge
14 of election to the custody of the proper county election board
15 in accordance with sections 1113-A(j), 1225(b) and 1228(a).

16 (10) One authorized representative of each candidate in an
17 election and one representative from each political party shall
18 be permitted to remain in the room where provisional ballots are
19 received by the county board of elections.

20 (11) The department shall establish a World Wide Web site
21 and a toll-free telephone number to permit an individual who
22 cast a provisional ballot to determine whether the vote of that
23 individual was counted and, if the vote was not counted, the
24 reason that it was not counted.

25 (12) For purposes of this subsection, "provisional ballot"
26 means a ballot issued to an individual who claims to be a
27 registered elector by the judge of elections on election day
28 when the individual's name does not appear on the general
29 register and the individual's registration cannot be verified.

30 (b) If any elector was unable to sign his name at the time

1 of registration, or, if having been able to sign his name when
2 registered, he subsequently shall have lost his sight or lost
3 the hand with which he was accustomed to sign his name, or shall
4 have been otherwise rendered by disease or accident unable to
5 sign his name when he applies to vote, he shall establish his
6 identity to the satisfaction of the election officers, and in
7 such case he shall not be required to sign a voter's
8 certificate, but a certificate shall be prepared for him by one
9 of the election officers, upon which the facts as to such
10 disability shall be noted and attested by the signature of such
11 election officer.

12 (c) No person who applies to vote shall be permitted by any
13 election officer or clerk or other person to see the signature
14 recorded as his in the district register until after he shall
15 have signed his name to the voter's certificate.

16 (d) No person, except a qualified elector who is in actual
17 military or naval service under a requisition of the President
18 of the United States or by the authority of this Commonwealth,
19 and who votes under the provisions of Article XIII of this act,
20 shall be entitled or permitted to vote at any primary or
21 election at any polling place outside the election district in
22 which he resides, nor shall he be permitted to vote in the
23 election district in which he resides, unless he has been
24 personally registered as an elector and his registration card
25 appears in the district register of such election district,
26 except by order of the court of common pleas as provided in this
27 act, and any person, although personally registered as an
28 elector, may be challenged by any qualified elector, election
29 officer, overseer, or watcher at any primary or election as to
30 his identity, as to his continued residence in the election

1 district or as to any alleged violation of the provisions of
2 section 1210 of this act, and if challenged as to identity or
3 residence, he shall produce at least one qualified elector of
4 the election district as a witness, who shall make affidavit of
5 his identity or continued residence in the election district:
6 Provided, however, That no person shall be entitled to vote as a
7 member of a party at any primary, unless he is registered and
8 enrolled as a member of such party upon the district register,
9 which enrollment shall be conclusive as to his party membership
10 and shall not be subject to challenge on the day of the primary.

11 (e) A person who wilfully commits fraud or who conspires to
12 wilfully commit fraud in relation to any of the provisions of
13 this section commits a felony of the third degree and, upon
14 conviction, shall be sentenced to pay a fine not exceeding
15 fifteen thousand dollars (\$15,000) or to undergo a term of
16 imprisonment of not more than seven years, or both. An
17 individual convicted under this subsection shall be barred for
18 life from serving as a judge, inspector or clerk of election,
19 machine inspector translator, county election board official,
20 poll watcher or in any other official capacity relating to the
21 sanctity, observation or conduct of Pennsylvania elections.

22 Section 2. This act shall take effect in 60 days.