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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 1334 Session of  
2021

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INTRODUCED BY MALONEY, METCALFE, BERNSTINE, COOK, COX, DAVANZO,  
HAMM, JOZWIAK, KAUFFMAN, ROTHMAN, ROWE, RYAN, SILVIS AND  
ZIMMERMAN, MAY 5, 2021

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REFERRED TO COMMITTEE ON STATE GOVERNMENT, MAY 5, 2021

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AN ACT

1 Providing for secure and fair elections and the authentication  
2 of United States citizenship.

3 The General Assembly of the Commonwealth of Pennsylvania  
4 hereby enacts as follows:

5 Section 1. Short title.

6 This act shall be known and may be cited as the Secure and  
7 Fair Elections Act.

8 Section 2. Definitions.

9 The following words and phrases when used in this act shall  
10 have the meanings given to them in this section unless the  
11 context clearly indicates otherwise:

12 "Applicant." A resident of Pennsylvania seeking to register  
13 to vote in Federal, State and local elections under this act.

14 "Application." The form approved by the Secretary of the  
15 Commonwealth to register an applicant to vote under this act.  
16 The National Mail Voter Registration Form issued as provided  
17 under Federal law shall be accepted as an application.

1 "Division of Vital Records." The Division of Vital Records  
2 of the Department of Health of the Commonwealth.

3 "Evidence of United States citizenship." One of the  
4 following, or a legible photocopy of one of the following,  
5 documents:

6 (1) The applicant's driver's license or nondriver's  
7 identification card issued by the Commonwealth or an  
8 equivalent governmental agency of another state if the agency  
9 indicates on the applicant's driver's license or nondriver's  
10 identification card that the individual has provided  
11 satisfactory proof of United States citizenship.

12 (2) The applicant's birth certificate that verifies  
13 United States citizenship to the satisfaction of the county  
14 board of elections or the Secretary of the Commonwealth.

15 (3) Pertinent pages of the applicant's United States  
16 valid or expired passport identifying the applicant and the  
17 applicant's passport number, or presentation to the county  
18 board of elections of the applicant's United States passport.

19 (4) The applicant's United States naturalization  
20 documents or the number of the applicant's certificate of  
21 naturalization. If only the number of the certificate of  
22 naturalization is provided, the applicant's name shall not be  
23 included on the registration roll until the number of the  
24 certificate of naturalization is verified with the United  
25 States Bureau of Citizenship and Immigration Services by the  
26 county board of elections or the Secretary of the  
27 Commonwealth, under 8 U.S.C. § 1373(c) (relating to  
28 communication between government agencies and the Immigration  
29 and Naturalization Service).

30 (5) Other documents or methods of proof of United States

1 citizenship issued by the Federal Government under the  
2 Immigration and Nationality Act, as amended (66 Stat. 163, 8  
3 U.S.C. § 1101 et seq.).

4 (6) The applicant's Bureau of Indian Affairs card  
5 number, tribal treaty card number or tribal enrollment  
6 number.

7 (7) The applicant's consular report of birth abroad of a  
8 citizen of the United States of America.

9 (8) The applicant's certificate of citizenship issued by  
10 the United States Citizenship and Immigration Services.

11 (9) The applicant's certification of report of birth  
12 issued by the United States Department of State.

13 (10) The applicant's American Indian card, with KIC  
14 classification, issued by the United States Department of  
15 Homeland Security.

16 (11) The applicant's final adoption decree showing the  
17 applicant's name and United States birthplace.

18 (12) The applicant's official United States military  
19 record of service showing the applicant's place of birth in  
20 the United States.

21 (13) An extract from a United States hospital record of  
22 birth created at the time of the applicant's birth indicating  
23 the applicant's place of birth in the United States.

24 (14) Any other information or documentation related to  
25 an applicant's United States citizenship if the State  
26 Election Board assesses the information or documentation as  
27 satisfactory.

28 "State Election Board." The board established under section  
29 5.

30 Section 3. Application.

1 This act shall apply notwithstanding any other law.

2 Section 4. Registration.

3 The following shall apply:

4 (1) Applications, promulgated by the Secretary of the  
5 Commonwealth, shall give voter eligibility requirements and  
6 necessary information to prevent duplicative voter  
7 registrations and enable the relevant election officer to  
8 assess the eligibility of the applicant, administer voter  
9 registration, identify the applicant and determine the  
10 qualifications of the applicant as an elector and the facts  
11 authorizing the individual to be registered. Applications  
12 shall contain a statement that the applicant shall be  
13 required to provide qualifying identification when voting.

14 (2) The Secretary of the Commonwealth shall create a  
15 process for each county board of elections to indicate  
16 whether an applicant has provided with the application the  
17 information necessary to assess the eligibility of the  
18 applicant, including the applicant's United States  
19 citizenship. This section shall be interpreted and applied in  
20 accordance with Federal law. No eligible applicant whose  
21 qualifications have been assessed and deemed sufficient shall  
22 be denied registration.

23 (3) The county board of elections or the Secretary of  
24 the Commonwealth's office shall accept a completed  
25 application for registration, but an applicant's registration  
26 shall not be deemed to be completed until the applicant has  
27 provided, or the county board of elections or the Secretary  
28 of the Commonwealth's office has otherwise obtained,  
29 satisfactory evidence of United States citizenship.

30 Satisfactory evidence of United States citizenship shall be

1 provided in person at the time of filing the application for  
2 registration or by including with a mailed registration  
3 application a photocopy of one of the documents listed as  
4 evidence of United States citizenship, or by electronically  
5 transmitting via email or text message an image of one of the  
6 documents listed as evidence of United States citizenship.  
7 After an individual has submitted satisfactory evidence of  
8 United States citizenship, the county board of elections  
9 shall indicate this information in the individual's permanent  
10 voter file.

11 (4) If an applicant submits a completed application for  
12 registration but does not provide satisfactory evidence of  
13 United States citizenship, the applicant's registration shall  
14 be deemed provisional until satisfactory evidence of United  
15 States citizenship is obtained. The county board of elections  
16 shall indicate this information in the individual's permanent  
17 voter file and shall mail to the applicant a notice informing  
18 the applicant that the registration is provisional and is not  
19 yet completed and that evidence of citizenship must be  
20 received by the Secretary of the Commonwealth or county board  
21 of elections within 90 days of the date that the application  
22 for registration was received. If no evidence of citizenship  
23 is received by that date, the application shall be deleted  
24 from the individual's permanent voter file, and the applicant  
25 shall be notified of the deletion by the county board of  
26 elections. The deletion of the application shall not prevent  
27 the applicant from filing a new application at any time to  
28 begin the registration process again.

29 (5) The Secretary of the Commonwealth or the county  
30 board of elections shall, in a manner designated by the

1 Secretary of the Commonwealth, attempt to obtain evidence of  
2 United States citizenship on behalf of all applicants whose  
3 registration is provisional, thereby completing the  
4 applications, by performing the following:

5 (i) Determining if the Department of Motor Vehicles  
6 has already obtained evidence of United States  
7 citizenship from the applicant.

8 (ii) Determining if the Division of Vital Records  
9 possesses a birth record indicating that the applicant  
10 was born in Pennsylvania.

11 (iii) Obtaining an official record of United States  
12 citizenship from another state or from the Federal  
13 Government.

14 (6) If the Secretary of the Commonwealth or the county  
15 board of elections is able to successfully obtain evidence of  
16 United States citizenship on behalf of the applicant within  
17 the 90-day period described in paragraph (4), the Secretary  
18 of the Commonwealth or the county board of elections shall  
19 inform the applicant, deem the application to be completed  
20 and indicate this information in the applicant's permanent  
21 voter file.

22 (7) Any individual who is registered in Pennsylvania on  
23 the effective date of this act is deemed to have provided  
24 satisfactory evidence of United States citizenship and shall  
25 not be required to submit evidence of United States  
26 citizenship.

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

30 (9) A registered voter who moves from one residence to

1 another within this Commonwealth or who modifies the voter's  
2 registration records for any other reason shall not be  
3 required to submit evidence of United States citizenship.

4 (10) The following shall apply:

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

10 (A) Stating the inconsistency or inconsistencies  
11 related to the name or sex and the reason for the  
12 inconsistency; and

13 (B) Swearing under oath that, despite the  
14 inconsistency, the applicant is the individual  
15 reflected in the document provided as evidence of  
16 United States citizenship. There may not be an  
17 inconsistency between the date of birth on the  
18 document provided as evidence of United States  
19 citizenship and the date of birth provided on the  
20 application for registration. If an affidavit of  
21 identification is submitted by the applicant, the  
22 county board of elections or Secretary of the  
23 Commonwealth shall assess the eligibility of the  
24 applicant without regard to any inconsistency stated  
25 in the affidavit.

26 (ii) All documents submitted as evidence of United  
27 States citizenship shall be kept confidential by the  
28 county board of elections or the Secretary of the  
29 Commonwealth and maintained as provided by record  
30 retention laws.

1 (11) Nothing in this section shall prohibit an applicant  
2 from providing, or the Secretary of the Commonwealth or  
3 county board of elections from obtaining, one of the forms of  
4 evidence of United States citizenship, at a different time or  
5 in a different manner than an application for registration is  
6 provided, as long as the applicant's eligibility can be  
7 adequately assessed by the Secretary of the Commonwealth or  
8 county board of elections as required by this section and  
9 within the 90-day period described in paragraph (4).

10 Section 5. State Election Board.

11 (a) Establishment.--The State Election Board is established  
12 within the Department of State. The following shall apply:

13 (1) The State Election Board shall consist of the  
14 Lieutenant Governor, the Attorney General and the Secretary  
15 of the Commonwealth.

16 (2) The State Election Board shall meet at the call of  
17 the Secretary of the Commonwealth and shall assess  
18 information or documentation provided by any applicant for  
19 voter registration as evidence of United States citizenship  
20 under the voter registration requirements of this act.

21 (3) Meetings of the board may occur remotely, virtually  
22 or by telephone, at the discretion of the Secretary of the  
23 Commonwealth.

24 (b) Procedure.--If an applicant is a United States citizen  
25 but cannot provide satisfactory evidence of United States  
26 citizenship, the applicant may submit evidence, including any  
27 information, affidavits or documentation, that the applicant  
28 believes demonstrates the applicant's United States citizenship.  
29 The following shall apply:

30 (1) An applicant seeking an assessment of evidence under

1 this section may directly contact the office of the Secretary  
2 of the Commonwealth by submitting a voter registration  
3 application or the National Mail Voter Registration Form and  
4 any supporting information or evidence of United States  
5 citizenship. Upon receipt of this information or  
6 documentation, the Secretary of the Commonwealth shall notify  
7 the appropriate county board of elections that the  
8 application is pending.

9 (2) The county board of elections shall give the  
10 applicant an opportunity for a hearing, upon the applicant's  
11 request in writing, and an opportunity to present any  
12 additional evidence to the county board of elections. Notice  
13 of the hearing shall be given to the applicant at least five  
14 days prior to the hearing date. An applicant shall have the  
15 opportunity to be represented by counsel at the hearing.

16 (3) The county board of elections shall assess the  
17 information or documentation provided by the applicant to  
18 determine whether the applicant has provided satisfactory  
19 evidence of United States citizenship. A decision of the  
20 county board of elections shall be determined by a majority  
21 vote of the county board of elections.

22 (4) If an applicant submits an application and any  
23 supporting information or documentation prior to the close of  
24 registration for an election cycle, a determination by the  
25 county board of elections shall be issued at least five days  
26 before the election date.

27 (5) If the county board of elections finds that the  
28 information or documentation presented by an applicant  
29 constitutes satisfactory evidence of United States  
30 citizenship, the applicant shall meet the requirements under

1 this act to provide satisfactory evidence of United States  
2 citizenship.

3 (6) If the county board of elections finds that the  
4 information or documentation presented by an applicant does  
5 not constitute satisfactory evidence of United States  
6 citizenship, the applicant shall have the right to appeal the  
7 determination by the county board of elections by instituting  
8 an action under 8 U.S.C. § 1503 (relating to denial of rights  
9 and privileges as national). A negative assessment of an  
10 applicant's eligibility by the county board of elections  
11 shall be reversed if the applicant obtains a declaratory  
12 judgment under 8 U.S.C. § 1503 demonstrating that the  
13 applicant is a national of the United States.

14 Section 6. No fee for birth certificates or identification card  
15 for qualifying individuals.

16 (a) Birth certificates.--The following shall apply:

17 (1) The Division of Vital Records shall not charge or  
18 accept any fee for a certified copy of a birth certificate if  
19 the certificate is requested by an individual who is 17 years  
20 of age or older for purposes of meeting the voter  
21 registration requirements of this act. The individual shall  
22 swear under oath that the individual:

23 (i) plans to register to vote in Pennsylvania; and

24 (ii) does not possess any of the documents that  
25 constitute evidence of United States citizenship.

26 (2) The affidavit shall specifically list the documents  
27 that constitute evidence of United States citizenship as  
28 defined in this act.

29 (b) Identification cards.--The Division of Vital Records  
30 shall not charge or accept any fee for a certified copy of a

1 birth certificate if the certificate is requested by an  
2 individual who is 17 years of age or older for the purpose of  
3 obtaining a fee-waived nondriver identification card in order to  
4 meet the voting requirements under this act. The individual  
5 shall swear under oath that the individual:

6 (1) is registered to vote in Pennsylvania; and

7 (2) has executed the affidavit under subsection (a).

8 (c) Transmittal fee.--The board of commissioners of each  
9 county in this Commonwealth shall designate a county office or  
10 department to provide assistance at no charge to an individual  
11 applying for a birth certificate from the Division of Vital  
12 Records for the purpose of registering to vote. The designated  
13 county office or department shall transmit the necessary forms  
14 to the Division of Vital Records at no cost to the individual  
15 applying for the birth certificate.

16 (d) Regulations.--The Department of Health shall adopt rules  
17 and regulations in order to implement the provisions of this  
18 section.

19 Section 7. Rules and regulations.

20 The Secretary of the Commonwealth shall promulgate rules and  
21 regulations necessary to implement this act.

22 Section 8. Severability.

23 The provisions of this act are severable. If any provision of  
24 this act or its application to any person or circumstance is  
25 held invalid, the invalidity shall not affect other provisions  
26 or applications of this act which can be given effect without  
27 the invalid provision or application.

28 Section 9. Effective date.

29 This act shall take effect immediately.