



PROJECT VOTE
737-1/2 8th Street SE
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www.projectvote.org

PROVISIONAL VOTING

Model Bill

Section 1. Definition. “Provisional ballot” is a ballot issued at the polling place on Election Day for any reason authorized by the Help America Vote Act or state law to a person who would otherwise be denied an opportunity to vote a regular ballot.

Section 2. Provisional Ballot Design

- (a) **Visually Distinguishable from Regular Ballot.** Provisional ballots shall be visually distinguishable from regular ballots and shall be designed so that they are unable to be tallied by precinct voting machines.
- (b) **Voter Registration Application.** Provisional ballots shall be designed so as to serve as a voter registration application.
- (c) **Ease of Use.** Provisional ballots shall be clear and easy to read.

Section 3. Eligibility. Any person who would otherwise be denied an opportunity to vote a regular ballot may vote a provisional ballot for any reason authorized by the Help America Vote Act or state law, including but not limited to the following:

- (a) The voter's name does not appear in the poll book;
- (b) There is an indication in the poll book that the voter has requested an absentee ballot, but the voter wishes to vote at the polling place;
- (c) The voter is voting during polling hours that have been extended by court order; or,
- (d) Any other reason allowed by law;

Section 4. Procedures

- (a) **Poll Worker Training.** Poll workers shall be thoroughly trained to administer provisional voting in an accurate and consistent manner. Poll workers must be trained when to use provisional ballots, and when not to use them. Poll workers must also be able to communicate clearly to voters the prerequisites for provisional voting. Poll workers shall also have access to a statewide or countywide list of registered voters and their respective precincts.
- (b) **Correct Polling Location.** Prior to providing a person with a provisional ballot, poll workers shall make every effort to determine a person's voter registration status and correct voting location. If a poll worker determines that a person is registered to vote at another location, the poll worker shall direct the person to the correct polling location.



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- (c) Only if such a person refuses to go to the correct polling location or if, in the shared judgment of the poll worker and the potential voter, the person does not have time to reach the correct polling location and cast a regular ballot before the poll closes, shall the poll worker offer the person a provisional ballot.
- (d) **Issuing Provisional Ballots.** Provisional ballots must be issued, along with a provisional ballot outer envelope and a security envelope, to eligible voters.
- (e) **Duty of [Election Official] to Provide Means to Assess Registration Status and Precinct Location of Voters.** [ELECTION OFFICIAL] shall provide poll workers with the necessary means to determine a person's registration status and correct voting location, including a list of all registered voters in the jurisdiction, maps of polling locations, the geographic areas they cover, and the means to place a person's address within the correct polling jurisdiction.
- (f) **Minimum Number of Provisional Ballots.** Each polling locations shall have a minimum number of provisional ballots equal to 5% of its registered voters and no less than 15 ballots at each site.
- (g) **Requirement of Voter Affidavit.** A person who is eligible to vote a provisional ballot shall first complete and sign an affidavit attesting that the person believes him or herself to be a registered voter in the state of [NAME OF STATE] and eligible to vote under state law.
- (h) **Contents of Provisional Ballot Envelop.** The provisional ballot outer envelope must include a place for the voter's name; residential address, both present and former if applicable; date of birth; reason for the provisional ballot; the precinct number and the precinct polling location at which the voter has voted; and a space for [ELECTION OFFICIAL] to note the disposition of the provisional ballot. The provisional ballot outer envelope must also contain a place for the voter to sign the oath and a summary of the applicable penalty provisions of this chapter.
- (i) **Voting in Secret.** The voter shall vote the provisional ballot in secrecy and, when finished, place the provisional ballot in the security envelope, place the security envelope into the outer envelope, and return it to the precinct election official.
- (j) **Duty of [Election official] to Ensure Completeness of Ballot Envelop.** The election official shall ensure that the required information is completed on the outer envelope, have the voter sign it in the appropriate space, and place the envelope in a secure container.
- (k) **Informing Voters of Notification System.** The official shall then give the voter written information advising the voter how to ascertain whether the vote was counted and, if applicable, the reason why the vote was not counted.



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Section 5. Disposition

- (a) **Counting Provisional Ballots.** Election officials shall count the voter's choice for every race on a provisional ballot for which the voter is eligible to vote. When a voter casts a provisional ballot in the incorrect precinct, election officials shall count the votes on that ballot in every race for which voter would be entitled to vote if the voter had been in the correct precinct.
- (b) **Date of Provisional Ballot Canvass.** The state shall allow [NUMBER] days for the provisional ballot canvass.

Section 6. Remedial Registration

- (a) **Opportunity to Remedy Incomplete Provisional Ballots.** Voters shall be given an opportunity to remedy their provisional ballots. Provisional voters whose ballots are missing required information, such as proof of identity or signature, shall be notified and given a [NUMBER]-day period in which to supply the missing information.
- (b) **Provisional Ballots as a Remedy for Incomplete or Deficient Registration Applications.** Provisional ballots shall serve to remedy incomplete or otherwise deficient voter registration applications. In the event that a voter is denied the right to vote a regular ballot because of an incomplete or otherwise deficient voter registration application, the provisional ballot shall be used to complete said voter's application. The voter shall be deemed registered as of the date of the original application. Once the voter's application has been completed, the provisional ballot shall be counted.
- (c) **Registration of Unregistered Provisional Voters.** Election officials shall register provisional voters who are not already registered voters and who are eligible to be registered based on the information supplied on the provisional ballot envelope.

Section 7. Data Availability & Collection

- (a) **Free Notification System.** [ELECTION OFFICIAL] shall implement, through an internet website, toll-free telephone number, or other means, a system whereby an individual who voted a provisional ballot may, free of charge, determine if the voter's vote was counted, and, if the vote was not counted, the reason the vote was not counted.
- (b) **Data Collection and Reporting Requirements.** Jurisdictions shall collect data on provisional voting and report such data to the [CHIEF ELECTIONS OFFICIAL]. Each local jurisdiction shall track the number of provisional ballots issued, counted, and rejected. In the case of rejected provisional ballots, the local jurisdiction shall report in detail the basis for such rejections.

Section 8. Effective Date. This bill shall take effect on [DATE], 2010.