

By: Davis of Harris

H.B. No. 1821

A BILL TO BE ENTITLED

1 AN ACT
2 relating to requiring a voter to be affiliated with a political
3 party to vote in that party's primary election or otherwise
4 participate in that party's affairs.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Section 13.002(c), Election Code, is amended to
7 read as follows:

8 (c) A registration application must include:

- 9 (1) the applicant's first name, middle name, if any,
10 last name, and former name, if any;
- 11 (2) the month, day, and year of the applicant's birth;
- 12 (3) a statement that the applicant is a United States
13 citizen;
- 14 (4) a statement that the applicant is a resident of the
15 county;
- 16 (5) a statement that the applicant has not been
17 determined by a final judgment of a court exercising probate
18 jurisdiction to be:
- 19 (A) totally mentally incapacitated; or
20 (B) partially mentally incapacitated without the
21 right to vote;
- 22 (6) a statement that the applicant has not been
23 finally convicted of a felony or that the applicant is a felon
24 eligible for registration under Section 13.001;

1 (7) the applicant's residence address or, if the
2 residence has no address, the address at which the applicant
3 receives mail and a concise description of the location of the
4 applicant's residence;

5 (8) the following information:

6 (A) the applicant's Texas driver's license number
7 or the number of a personal identification card issued by the
8 Department of Public Safety or a statement by the applicant that the
9 applicant has not been issued a driver's license or personal
10 identification card; or

11 (B) if the applicant has not been issued a number
12 described by Paragraph (A), the last four digits of the applicant's
13 social security number or a statement by the applicant that the
14 applicant has not been issued a social security number;

15 (9) if the application is made by an agent, a statement
16 of the agent's relationship to the applicant; ~~and~~

17 (10) the city and county in which the applicant
18 formerly resided; and

19 (11) the applicant's political party affiliation, if
20 any.

21 SECTION 2. Section 13.122(a), Election Code, is amended to
22 read as follows:

23 (a) In addition to the other statements and spaces for
24 entering information that appear on an officially prescribed
25 registration application form, each official form must include:

26 (1) the statement: "I understand that giving false
27 information to procure a voter registration is perjury and a crime

1 under state and federal law.";

2 (2) a space for the applicant's registration number;

3 (3) a space for the applicant's Texas driver's license
4 number or number of a personal identification card issued by the
5 Department of Public Safety;

6 (4) a space for the applicant's telephone number;

7 (5) a space for the applicant's social security
8 number;

9 (6) a space for the applicant's sex;

10 (7) a statement indicating that the furnishing of the
11 applicant's telephone number and sex is optional;

12 (8) a space or box for indicating whether the
13 applicant or voter is submitting new registration information or a
14 change in current registration information;

15 (9) a statement instructing a voter who is using the
16 form to make a change in current registration information to enter
17 the voter's name and the changed information in the appropriate
18 spaces on the form;

19 (10) a statement that if the applicant declines to
20 register to vote, that fact will remain confidential and will be
21 used only for voter registration purposes;

22 (11) a statement that if the applicant does register
23 to vote, information regarding the agency or office to which the
24 application is submitted will remain confidential and will be used
25 only for voter registration purposes;

26 (12) a space or box for indicating whether the
27 applicant is interested in working as an election judge;

1 (13) a statement warning that a conviction for making
2 a false statement may result in imprisonment for up to the maximum
3 amount of time provided by law, a fine of up to the maximum amount
4 provided by law, or both the imprisonment and the fine; ~~and~~

5 (14) a space for the applicant's political party
6 affiliation; and

7 (15) any other voter registration information
8 required by federal law or considered appropriate and required by
9 the secretary of state.

10 SECTION 3. Section 15.001(a), Election Code, is amended to
11 read as follows:

12 (a) Each voter registration certificate issued must
13 contain:

14 (1) the voter's name in the form indicated by the
15 voter, subject to applicable requirements prescribed by Section
16 13.002 and by rule of the secretary of state;

17 (2) the voter's residence address or, if the residence
18 has no address, the address at which the voter receives mail and a
19 concise description of the location of the voter's residence;

20 (3) the month, day, and year of the voter's birth;

21 (4) the number of the county election precinct in
22 which the voter resides;

23 (5) the voter's effective date of registration if an
24 initial certificate;

25 (6) the voter's registration number;

26 (7) an indication of the period for which the
27 certificate is issued;

1 (8) a statement explaining the circumstances under
2 which the voter will receive a new certificate;

3 (9) a space for indicating [~~stamping~~] the voter's
4 political party affiliation;

5 (10) a statement that voting with the certificate by a
6 person other than the person in whose name the certificate is issued
7 is a felony;

8 (11) a space for the voter's signature;

9 (12) a statement that the voter must sign the
10 certificate personally, if able to sign, immediately on receipt;

11 (13) a space for the voter to correct the information
12 on the certificate followed by a signature line;

13 (14) the statement: "If any information on this
14 certificate changes or is incorrect, correct the information in the
15 space provided, sign below, and return this certificate to the
16 voter registrar.";

17 (15) the registrar's mailing address and telephone
18 number; and

19 (16) the jurisdictional or distinguishing number for
20 the following territorial units in which the voter resides, as
21 determined by the voter registrar:

22 (A) congressional district;

23 (B) state senatorial district;

24 (C) state representative district;

25 (D) commissioners precinct;

26 (E) justice precinct;

27 (F) city election precinct; and

1 (G) school district election precinct.

2 SECTION 4. Section 15.025(a), Election Code, is amended to
3 read as follows:

4 (a) Except as provided by Subsections (b) and (d) and
5 Section 162.003(d), the registration of a voter described by this
6 subsection whose information is changed on the registration records
7 becomes effective as to the change on the 30th day after:

8 (1) the date the voter submits to the registrar a
9 notice of a change in registration information under Section
10 15.021 or a response under Section 15.053, indicating the change;
11 or

12 (2) the date the voter submits a statement of
13 residence to an election officer under Section 63.0011 or a
14 registration application or change of address to an agency employee
15 under Chapter 20, indicating the change.

16 SECTION 5. Section 18.005(a), Election Code, as amended by
17 Chapters 594 and 1295, Acts of the 80th Legislature, Regular
18 Session, 2007, is reenacted and amended to read as follows:

19 (a) Each original and supplemental list of registered
20 voters must:

21 (1) contain the voter's name, [~~or substitute post~~
22 ~~office box address, if required by Section 18.0051~~] date of birth,
23 and registration number as provided by the statewide computerized
24 voter registration list;

25 (2) contain the voter's residence address, except as
26 provided by Subsections (b) and (c) or Section 18.0051;

27 (3) be arranged alphabetically by voter name; [~~and~~]

1 (4) contain the notation required by Section 15.111;
2 and

3 (5) contain the political party affiliation of each
4 voter, if any.

5 SECTION 6. Section 63.011(a), Election Code, is amended to
6 read as follows:

7 (a) A person to whom Section 63.008(b), ~~[or]~~ 63.009(a), or
8 Section 172.1113(c) applies may cast a provisional ballot if the
9 person executes an affidavit stating that the person:

10 (1) is a registered voter in the precinct in which the
11 person seeks to vote; and

12 (2) is eligible to vote in the election.

13 SECTION 7. Section 112.002, Election Code, is amended by
14 adding Subsection (g) to read as follows:

15 (g) If the voter seeks a limited ballot for a party primary
16 election, the voter must indicate the political party the voter was
17 affiliated with at the address where the voter was previously
18 registered on the statement executed under Subsection (c). If the
19 early voting clerk can establish the voter's affiliation from the
20 previous registration, the voter is entitled to vote a limited
21 ballot in that party's primary.

22 SECTION 8. Section 142.004(a), Election Code, is amended to
23 read as follows:

24 (a) To be entitled to a place on the general election
25 ballot, a candidate must:

26 (1) make an application for a place on the ballot; and

27 (2) not be affiliated with a political party at the

1 time the application is made.

2 SECTION 9. Section 142.008, Election Code, is amended to
3 read as follows:

4 Sec. 142.008. STATEMENT ON PETITION. The following
5 statement must appear at the top of each page of a candidate's
6 petition: "I know the purpose of this petition. I am not
7 affiliated with a political party that holds a primary election
8 ~~[have not voted in the general primary election or runoff primary~~
9 ~~election of any political party that has nominated, at either~~
10 ~~election, a candidate for the office of (insert office title) for~~
11 ~~which (insert candidate's name) is a candidate]."~~

12 SECTION 10. Section 142.009, Election Code, is amended to
13 read as follows:

14 Sec. 142.009. PETITION TO BE CIRCULATED AFTER PRIMARY. A
15 signature on a candidate's petition is invalid if the signer:

16 (1) signed the petition on or before general primary
17 election day or, if a runoff primary is held for the office sought
18 by the candidate, on or before runoff primary election day; or

19 (2) is affiliated with a political party that holds a
20 primary election ~~[voted in the general or runoff primary election~~
21 ~~of a political party that made a nomination, at either primary, for~~
22 ~~the office sought by the candidate].~~

23 SECTION 11. Section 161.005(a), Election Code, is amended
24 to read as follows:

25 (a) To be eligible to be a candidate for or to serve as a
26 county or precinct chair of a political party, a person must:

27 (1) be a qualified voter of the county and affiliated

1 with that political party; and

2 (2) not be a candidate for nomination or election to,
3 or be the holder of, an elective office of the federal, state, or
4 county government.

5 SECTION 12. Section 162.001, Election Code, is amended to
6 read as follows:

7 Sec. 162.001. AFFILIATION WITH PARTY REQUIRED. [~~(a)~~] A
8 person must be affiliated with a political party to be eligible to:

9 (1) serve as a delegate to or otherwise participate in
10 a convention held by the party under this code;

11 (2) be elected as a member of or be appointed to fill a
12 vacancy on a state executive committee; [~~or~~]

13 (3) be appointed to fill a vacancy on a county
14 executive committee;

15 (4) vote in the party's primary election;

16 (5) be a candidate in the party's primary election;

17 (6) be the party's nominee for an office elected at the
18 general election for state and county officers; or

19 (7) be a presidential elector for the political party.

20 [~~(b) The affiliation requirement prescribed by Subsections~~
21 ~~(a)(2) and (3) applies only during a voting year in which the~~
22 ~~general election for state and county officers is held and does not~~
23 ~~apply until:~~

24 [~~(1) general primary election day, for a party holding~~
25 ~~a primary election; or~~

26 [~~(2) the date of the precinct conventions held under~~
27 ~~this title, for a party nominating by convention.]~~

1 SECTION 13. Section 162.003, Election Code, is amended to
2 read as follows:

3 Sec. 162.003. AFFILIATION PROCEDURE [~~BY VOTING IN~~
4 ~~PRIMARY~~]. (a) A person becomes affiliated with a political party
5 when the person notifies the registrar of the person's
6 affiliation[+

7 [~~(1) is accepted to vote in the party's primary~~
8 ~~election; or~~

9 [~~(2) applies for and is provided an early voting or~~
10 ~~limited primary ballot to be voted by mail].~~

11 (b) At the time a person registers to vote the person may:

12 (1) affiliate with a political party that holds a
13 primary election or a political party that makes its nominations by
14 convention regardless of whether the party has a state
15 organization; or

16 (2) indicate no affiliation with any political party.

17 (c) A registered voter who does not indicate an affiliation
18 with a political party of this state shall be listed as
19 "independent" on the voter's registration certificate and on the
20 list of registered voters.

21 (d) A registered voter may change the voter's affiliation
22 status by notifying the registrar as provided by Section 15.021.
23 The change becomes effective:

24 (1) in an odd-numbered year, the 30th day after the
25 date the voter submits notice of the change to the registrar under
26 Section 15.021; or

27 (2) in an even-numbered year:

1 (A) if the change is submitted on or before the
2 31st day before the date of the general primary, the 30th day after
3 the date the voter submits notice of the change; or

4 (B) for a change submitted after the time
5 described in Paragraph (A), January 1 of the following year.

6 (e) A person may also indicate a party affiliation at the
7 time the person submits a federal postcard application under
8 Chapter 101. For an application that indicates a party preference
9 submitted by a person:

10 (1) who is not a registered voter, the affiliation
11 takes effect on the earlier of:

12 (A) the first election at which the person is
13 eligible to vote following the submission of the application; or

14 (B) the 30th day after the day the application is
15 received; and

16 (2) who is a registered voter, any change in
17 affiliation takes effect at the time provided for a change under
18 Subsection (d).

19 (f) The secretary of state shall prescribe any additional
20 procedures necessary to implement this section.

21 SECTION 14. Section 162.010, Election Code, is amended to
22 read as follows:

23 Sec. 162.010. DURATION OF AFFILIATION. A party affiliation
24 expires on cancellation of a voter's registration or at the time a
25 change in affiliation takes effect under Section 162.003(d) [at the
26 end of the voting year in which the person became affiliated].

27 SECTION 15. Section 162.013, Election Code, is amended to

1 read as follows:

2 Sec. 162.013. VOID VOTE. A vote in a primary election is
3 void if the voter is not affiliated with the political party holding
4 the primary [~~previously voted in a primary election of another~~
5 ~~party or participated in a convention of another party during the~~
6 ~~same voting year~~].

7 SECTION 16. Section 162.014(a), Election Code, is amended
8 to read as follows:

9 (a) A person commits an offense if the person knowingly
10 votes or attempts to vote in a primary election or participates or
11 attempts to participate in a convention of a party without being
12 affiliated with that party [~~after having voted in a primary~~
13 ~~election or participated in a convention of another party during~~
14 ~~the same voting year~~].

15 SECTION 17. Section 172.021, Election Code, is amended by
16 amending Subsection (b) and adding Subsections (b-1) and (h) to
17 read as follows:

18 (b) In [~~An application must, in~~] addition to complying with
19 Section 141.031, an application must:

20 (1) indicate that, at the time of the application, the
21 applicant is affiliated with the political party whose nomination
22 for office the candidate seeks; and

23 (2) be accompanied by the appropriate filing fee or a
24 petition in lieu of the filing fee that satisfies the requirements
25 prescribed by Section 141.062.

26 (b-1) A political party may not require payment of a fee
27 under this section as a condition to applying for a place on the

1 ballot as a candidate for county chair or precinct chair.

2 (h) A signature on a petition under this section is not
3 valid if at the time of signing the signer is affiliated with a
4 political party other than the party whose nomination for office
5 the candidate seeks. A signature on a petition under this section
6 is valid if at the time of signing the signer is unaffiliated with a
7 political party.

8 SECTION 18. Section 172.026, Election Code, is amended to
9 read as follows:

10 Sec. 172.026. RESTRICTION ON PETITION SIGNER. On signing a
11 petition to be filed under Section 172.021, the signer becomes
12 ineligible to affiliate with [~~vote in a primary election or~~
13 ~~participate in a convention of~~] another political party during the
14 voting year in which the primary election is held.

15 SECTION 19. Section 172.027, Election Code, is amended to
16 read as follows:

17 Sec. 172.027. STATEMENT ON PETITION. The following
18 statement must appear at the top of each page of a petition to be
19 filed under Section 172.021: "I know that the purpose of this
20 petition is to entitle (insert candidate's name) to have his or her
21 name placed on the ballot for the office of (insert office title,
22 including any place number or other distinguishing number) for the
23 (insert political party's name) primary election. I understand
24 that by signing this petition I become ineligible to affiliate
25 with, vote in a primary election, or participate in a convention of
26 another party, including a party not holding a primary election,
27 during the voting year in which this primary election is held."

1 SECTION 20. Section 172.086, Election Code, is amended to
2 read as follows:

3 Sec. 172.086. PLEDGE ON BALLOT. The following pledge shall
4 be placed on the primary election ballot above the listing of
5 candidates' names: "I am a (insert appropriate political party)
6 and understand that I am ineligible to affiliate with another
7 political party or to vote or participate in another political
8 party's primary election or convention during this voting year."

9 SECTION 21. Section 172.088(c), Election Code, is amended
10 to read as follows:

11 (c) A petition signer may not at the time of signing be
12 affiliated with another political party. A political party by rule
13 may provide for permitting voters who are not affiliated with any
14 political party to be eligible to sign a petition under this section
15 ~~[restricting petition signers on the basis of party alignment or~~
16 ~~preference].~~

17 SECTION 22. Subchapter E, Chapter 172, Election Code, is
18 amended by adding Section 172.1113 to read as follows:

19 Sec. 172.1113. AFFILIATION WITH PARTY REQUIRED. (a) The
20 signature roster for a primary election must state at the top of
21 each page "A person commits a criminal offense if the person
22 knowingly votes in a primary election or participates in a
23 convention of a party without being affiliated with that party."

24 (b) Except as provided by Subsection (c), a person may not
25 be accepted for voting in a primary election of a political party
26 unless:

27 (1) the list of registered voters indicates that the

1 person is affiliated with that political party; or

2 (2) the voter's registration certificate indicates
3 that the voter is affiliated with that political party.

4 (c) A person who seeks to vote in a primary election but
5 cannot establish the person's party affiliation under Subsection
6 (b) may be accepted only for provisional voting under Section
7 63.011.

8 SECTION 23. Section 172.126(g), Election Code, is amended
9 to read as follows:

10 (g) A separate set of ballot boxes or other suitable
11 containers approved by the secretary of state shall be used for each
12 party's primary, except that one set of ballot boxes or other
13 containers may be used in a joint primary using an electronic voting
14 system in which the ballots are deposited by the voters directly
15 into a unit of automatic tabulating equipment. [~~The lists of~~
16 ~~registered voters and the voters' registration certificates shall~~
17 ~~be marked and stamped to show the appropriate party affiliation for~~
18 ~~each voter.~~] A separate list of registered voters shall be used for
19 each party's primary. The secretary of state by rule shall
20 prescribe requirements to ensure that one party's ballot is readily
21 distinguished from another's, which may include the use of
22 different colors of ink.

23 SECTION 24. Sections 181.006(f) and (g), Election Code, are
24 amended to read as follows:

25 (f) The following statement must appear at the top of each
26 page of the petition: "I know that the purpose of this petition is
27 to entitle the _____ Party to have its nominees placed on the

1 ballot in the general election for state and county officers. I am
2 not affiliated with another political party. [~~I have not voted in~~
3 ~~a primary election or participated in a convention of another party~~
4 ~~during this voting year, and I understand that I become ineligible~~
5 ~~to do so by signing this petition.~~] I understand that signing more
6 than one petition to entitle a party to have its nominees placed on
7 the general election ballot in the same election is prohibited."

8 (g) A person who is affiliated with another political party
9 [~~has voted in a primary election or participated in a convention of~~
10 ~~another party during the voting year in which the petition is~~
11 ~~circulated~~] is ineligible to sign the petition, and the signature
12 of such a person is invalid.

13 SECTION 25. Section 181.031(a), Election Code, is amended
14 to read as follows:

15 (a) To be entitled to be considered for nomination by a
16 convention held under this chapter, a person must:

- 17 (1) make an application for nomination; and
18 (2) be affiliated with the political party whose
19 nomination for office the candidate seeks.

20 SECTION 26. Section 181.065, Election Code, is amended to
21 read as follows:

22 Sec. 181.065. PARTICIPANT TO BE AFFILIATED WITH PARTY
23 [~~REGISTERED VOTER~~]. To be eligible to participate in a precinct
24 convention held under this chapter, a person must be affiliated
25 with the political party [~~a registered voter of the precinct or a~~
26 ~~precinct resident who is eligible to vote a limited ballot~~].

27 SECTION 27. Section 182.0041(a), Election Code, is amended

1 to read as follows:

2 (a) To be entitled to be considered for nomination by a
3 convention held under this chapter, a person must:

- 4 (1) make an application for nomination; and
5 (2) be affiliated with the political party whose
6 nomination for office the candidate seeks.

7 SECTION 28. Sections 192.032(f) and (g), Election Code, are
8 amended to read as follows:

9 (f) The following statement must appear at the top of each
10 page of the petition: "I am not affiliated with a political party
11 that has held [~~did not vote this year in~~] a presidential primary
12 election this year."

13 (g) A signature on the petition is invalid if the signer:

- 14 (1) signs the petition on or before the date of the
15 presidential primary election in the presidential election year; or
16 (2) is affiliated with a political party that has held
17 [~~voted in~~] a presidential primary election during the presidential
18 election year.

19 SECTION 29. Section 203.011, Election Code, is amended to
20 read as follows:

21 Sec. 203.011. PARTY ALIGNMENT ON BALLOT. The party
22 alignment of each candidate shall be printed on the official ballot
23 next to the candidate's name. If a candidate is affiliated with a
24 political party, that party shall be printed next to the
25 candidate's name regardless of the party alignment provided on the
26 application under Section 203.005(b).

27 SECTION 30. Sections 162.004, 162.005, 162.006, 162.007,

1 162.008, 162.009, 162.011, 162.012, 172.1141, and 172.125,
2 Election Code, are repealed.

3 SECTION 31. (a) Not later than October 1, 2009, the voter
4 registrar of each county shall mail to each registered voter in the
5 county notice of the affiliation requirement necessary to vote in a
6 party primary election or to participate in the affairs of a
7 political party. The notice must:

8 (1) inform the voter that to vote in a party primary
9 election or to otherwise participate in the affairs of a political
10 party the voter must be affiliated with that party;

11 (2) inform the voter of the process of affiliation
12 with the voter registrar and state that if a voter does not provide
13 an affiliation, the voter's next registration certificate will
14 indicate that the voter is "independent" and unable to vote in a
15 party's primary;

16 (3) include a postage paid postcard that may be
17 returned to the voter registrar to indicate the voter's
18 affiliation; and

19 (4) be in the form prescribed by the secretary of
20 state.

21 (b) If a registered voter does not indicate a party
22 affiliation before December 1, 2009, the voter registrar shall list
23 the voter's initial affiliation status as "independent." A person
24 whose initial affiliation status is established as independent
25 under this subsection may affiliate with a political party not
26 later than the 31st day before the date of the general primary
27 election in 2010 by providing notice of affiliation to the voter

1 registrar. Notwithstanding Section 162.003(d), Election Code, as
2 added by this Act, the affiliation takes effect on receipt of the
3 notice by the voter registrar.

4 (c) The change in law made by Section 18.005(a), Election
5 Code, as amended by this Act, requiring that each list of registered
6 voters must indicate the political affiliation of each voter
7 applies only to a list of registered voters produced by a voter
8 registrar on or after December 1, 2009.

9 (d) The change in law made by Section 15.001(a), Election
10 Code, as amended by this Act, requiring that each voter
11 registration certificate must indicate the political affiliation
12 of the voter applies only to a certificate effective for voting on
13 or after January 1, 2010.

14 SECTION 32. This Act takes effect September 1, 2009.