86R13650 JRJ-F

By:  Fallon S.B. No. 1926

A BILL TO BE ENTITLED

AN ACT

relating to the procedures for accepting certain voters without photo identification; providing for additional elements and prosecutorial authority to related offenses.

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

SECTION 1.  Sections 63.001(b), (d), (e), (f), and (i), Election Code, are amended to read as follows:

(b)  Except as provided by Subsection (h), on offering to vote, a voter must present to an election officer at the polling place:

(1)  one form of photo identification listed in Section 63.0101(a); or

(2)  one form of identification listed in Section 63.0101(b) accompanied by the affidavit [~~declaration~~] described by Subsection (i).

(d)  If, as determined under Subsection (c), the voter's name is on the precinct list of registered voters and the voter's identity can be verified from the documentation presented under Subsection (b), the voter shall be accepted for voting. [~~An election officer may not question the reasonableness of an impediment sworn to by a voter in a declaration described by Subsection (i).~~]

(e)  On accepting a voter, an election officer shall indicate beside the voter's name on the list of registered voters that the voter is accepted for voting. If the voter executes a [~~declaration of~~] reasonable impediment affidavit to meet the requirement for identification under Subsection (b), the election officer must affix the voter's voter registration number to the affidavit [~~declaration~~] either in numeric or bar code form.

(f)  After determining whether to accept a voter, an election officer shall return the voter's documentation to the voter. The election officer may make photographic evidence of the voter's documentation before returning it to the voter.

(i)  If the requirement for identification prescribed by Subsection (b)(1) is not met, an election officer shall notify the voter that the voter may be accepted for provisional voting only under Section 63.011 if the voter meets the requirement for identification prescribed by Subsection (b)(2) and executes an affidavit swearing [~~a declaration declaring~~] the voter has a reasonable impediment to meeting the requirement for identification prescribed by Subsection (b)(1). An election officer shall indicate on the envelope in which the voter's provisional ballot is placed that the voter was accepted for voting under this subsection. A person is subject to prosecution for perjury under Chapter 37, Penal Code, or Section 63.0013 for a false statement or false information on the affidavit. The election officer shall orally notify the voter that the voter may be prosecuted for a crime if the voter's claims are not true or the voter has been issued a form of identification listed in Section 63.0101(a) if the impediment indicated by the voter is an impediment other than described by Subdivision (3)(D) [~~declaration~~]. The secretary of state shall prescribe the form of the affidavit [~~declaration~~]. The form shall include:

(1)  a notice that a person is subject to prosecution for perjury under Chapter 37, Penal Code, or Section 63.0013 for a false statement or false information on the declaration;

(2)  a statement that the voter swears or affirms that the information contained in the declaration is true, that the person described in the declaration is the same person appearing at the polling place to sign the declaration, and that the voter faces a reasonable impediment to procuring the identification prescribed by Subsection (b)(1);

(3)  a place for the voter to indicate one of the following impediments:

(A)  lack of transportation;

(B)  lack of birth certificate or other documents needed to obtain the identification prescribed by Subsection (b)(1);

(C)  work schedule;

(D)  lost or stolen identification;

(E)  disability or illness;

(F)  family responsibilities; and

(G)  the identification prescribed by Subsection (b)(1) has been applied for but not received;

(4)  a place for the voter to sign and date the declaration;

(5)  a place for the election judge to sign and date the declaration;

(6)  a place to note the polling place at which the declaration is signed; and

(7)  a place for the election judge to note which form of identification prescribed by Subsection (b)(2) the voter presented.

SECTION 2.  Section 63.0013, Election Code, as added by Chapter 410 (S.B. 5), Acts of the 85th Legislature, Regular Session, 2017, is amended to read as follows:

Sec. 63.0013.  FALSE STATEMENT ON [~~DECLARATION OF~~] REASONABLE IMPEDIMENT AFFIDAVIT. (a) A person commits an offense if the person intentionally makes a false statement or provides false information on an affidavit [~~a declaration~~] executed under Section 63.001(i) or encourages or enables another to do so.

(b)  An offense under this section is a state jail felony.

SECTION 3.  Section 63.004(a), Election Code, is amended to read as follows:

(a)  The secretary of state may prescribe forms that combine the poll list, the signature roster, or any other form used in connection with the acceptance of voters at polling places with each other or with the list of registered voters. The secretary shall prescribe any special instructions necessary for using the combination forms. The combination forms must include space for an election officer to indicate whether a voter executed a [~~declaration of~~] reasonable impediment affidavit under Section 63.001(i).

SECTION 4.  Sections 63.011(a) and (b), Election Code, are amended to read as follows:

(a)  A person to whom Section 63.001(g) or (i) or 63.009 applies may cast a provisional ballot if the person executes an affidavit stating that the person:

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

(2)  is eligible to vote in the election.

(b)  A form for an affidavit required by this section must be printed on an envelope in which the provisional ballot voted by the person may be placed and must include:

(1)  a space for entering the identification number of the provisional ballot voted by the person; [~~and~~]

(2)  a space for an election officer to indicate whether the person presented a form of identification described by Section 63.0101(a); and

(3)  a space for an election officer to indicate whether the person was accepted for voting under Section 63.001(i) [~~63.0101~~].

SECTION 5.  Subchapter B, Chapter 65, Election Code, is amended by adding Section 65.0521 to read as follows:

Sec. 65.0521.  DUTY OF SECRETARY OF STATE. The secretary of state shall prescribe procedures to establish a web portal by which the early voting ballot board of the county in which a provisional ballot is cast may search information provided to the secretary of state by the Department of Public Safety to verify that a voter who was accepted for voting under Section 63.001(i) and cast a provisional ballot has not been issued identification by the Department of Public Safety if the impediment indicated by the voter is an impediment other than described by Section 63.001(i)(3)(D).

SECTION 6.  Section 65.054, Election Code, is amended by amending Subsection (b) and adding Subsection (e) to read as follows:

(b)  A provisional ballot shall be accepted if the board determines that:

(1)  from the information in the affidavit or contained in public records, the person is eligible to vote in the election and has not previously voted in that election;

(2)  the person:

(A)  meets the identification requirements of Section 63.001(b)(1) [~~63.001(b)~~] at the time the ballot was cast or in the period prescribed under Section 65.0541 or meets the identification requirements of Section 63.001(b)(2) at the time the ballot was cast and the board verifies the person under Section 65.0521;

(B)  notwithstanding Chapter 110, Civil Practice and Remedies Code, executes an affidavit under penalty of perjury that states the voter has a religious objection to being photographed and the voter has consistently refused to be photographed for any governmental purpose from the time the voter has held this belief; or

(C)  executes an affidavit under penalty of perjury that states the voter does not have any identification meeting the requirements of Section 63.001(b) as a result of a natural disaster that was declared by the president of the United States or the governor, occurred not earlier than 45 days before the date the ballot was cast, and caused the destruction of or inability to access the voter's identification; and

(3)  the voter has not been challenged and voted a provisional ballot solely because the voter did not meet the requirements for identification prescribed by Section 63.001(b)(1) [~~63.001(b)~~].

(e)  If the board determines that a voter who was accepted for voting under Section 63.001(i) and cast a provisional ballot has been issued identification by the Department of Public Safety and Subsections (b)(2)(B) and (C) do not apply, the board shall notify the county or district attorney and the attorney general for prosecution.

SECTION 7.  Section 272.011(b), Election Code, is amended to read as follows:

(b)  The secretary of state shall prepare the translation for election materials required to be provided in a language other than English or Spanish for the following state prescribed voter forms:

(1)  voter registration application form required by Section 13.002;

(2)  the confirmation form required by Section 15.051;

(3)  the voting instruction poster required by Section 62.011;

(4)  the reasonable impediment affidavit [~~declaration~~] required by Section 63.001(b);

(5)  the statement of residence form required by Section 63.0011;

(6)  the provisional ballot affidavit required by Section 63.011;

(7)  the application for a ballot by mail required by Section 84.011;

(8)  the carrier envelope and voting instructions required by Section 86.013; and

(9)  any other voter forms that the secretary of state identifies as frequently used and for which state resources are otherwise available.

SECTION 8.  Section 273.021, Election Code, is amended by adding Subsection (a-1) and amending Subsection (b) to read as follows:

(a-1)  The attorney general may prosecute an offense under Section 63.0013 or an offense of perjury under Chapter 37, Penal Code, if the offense was committed in relation to voting under Section 63.001(i).

(b)  The attorney general may appear before a grand jury in connection with an offense the attorney general is authorized to prosecute under Subsection (a) or (a-1).

SECTION 9.  This Act takes effect September 1, 2019.