

By: Slaton

H.B. No. 3942

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; creating a criminal offense.

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;

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

12 (C) a statement by the applicant that the
13 applicant has not been issued a number described by Paragraph (A) or
14 (B);

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 14.001, Election Code, is amended by
11 adding Subsections (e) and (f) to read as follows:

12 (e) Notwithstanding Subsection (a), the registrar may not
13 issue a renewal certificate to a voter before December 31, 2021,
14 unless the voter's political party affiliation, if any, appears on
15 the list described by Section 18.005(a). The registrar must issue a
16 renewal certificate to each voter entitled to a renewal certificate
17 under this section not later than January 20, 2022. This subsection
18 expires January 31, 2022.

19 (f) A renewal certificate issued in January 2022 is
20 considered to have been issued in the prior year for purposes of
21 Subsection (c). This subsection expires December 31, 2023.

22 SECTION 4. Section 15.001(a), Election Code, is amended to
23 read as follows:

24 (a) Each voter registration certificate issued must
25 contain:

26 (1) the voter's name in the form indicated by the
27 voter, subject to applicable requirements prescribed by Section

1 13.002 and by rule of the secretary of state;

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

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

6 (4) the number of the county election precinct in
7 which the voter resides;

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

10 (6) the voter's registration number;

11 (7) an indication of the period for which the
12 certificate is issued;

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

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

17 (10) a statement that voting with the certificate by a
18 person other than the person in whose name the certificate is issued
19 is a felony;

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

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

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

25 (14) the statement: "If any information on this
26 certificate changes or is incorrect, correct the information in the
27 space provided, sign below, and return this certificate to the

1 voter registrar.";

2 (15) the registrar's mailing address and telephone
3 number; and

4 (16) the jurisdictional or distinguishing number for
5 the following territorial units in which the voter resides, as
6 determined by the voter registrar:

7 (A) congressional district;

8 (B) state senatorial district;

9 (C) state representative district;

10 (D) commissioners precinct;

11 (E) justice precinct;

12 (F) city election precinct; and

13 (G) school district election precinct.

14 SECTION 5. Section 15.025(a), Election Code, is amended to
15 read as follows:

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

20 (1) the date the voter submits to the registrar a
21 notice of a change in registration information under Section 15.021
22 or a response under Section 15.053, indicating the change; or

23 (2) the date the voter submits a statement of
24 residence to an election officer under Section 63.0011 or a
25 registration application or change of address to an agency employee
26 under Chapter 20, indicating the change.

27 SECTION 6. Section 18.005(a), Election Code, is amended to

1 read as follows:

2 (a) Each original and supplemental list of registered
3 voters must:

4 (1) contain the voter's name, date of birth, and
5 registration number as provided by the statewide computerized voter
6 registration list;

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

9 (3) be arranged alphabetically by voter name; ~~and~~

10 (4) contain the notation required by Section 15.111;
11 and

12 (5) contain the political party affiliation of each
13 voter, if any.

14 SECTION 7. Section 63.011(a), Election Code, is amended to
15 read as follows:

16 (a) A person to whom Section 63.001(g), ~~or~~ 63.009, or
17 172.1115(c) applies may cast a provisional ballot if the person
18 executes an affidavit stating that the person:

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

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

22 SECTION 8. Section 112.002, Election Code, is amended by
23 adding Subsection (g) to read as follows:

24 (g) If the voter seeks a limited ballot for a party primary
25 election, the voter must indicate the political party the voter was
26 affiliated with at the address where the voter was previously
27 registered on the statement executed under Subsection (c). If the

1 early voting clerk can establish the voter's affiliation from the
2 previous registration, the voter is entitled to vote a limited
3 ballot in that party's primary.

4 SECTION 9. Section 142.004(a), Election Code, is amended to
5 read as follows:

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

- 8 (1) make an application for a place on the ballot; and
9 (2) not be affiliated with a political party at the
10 time the application is made.

11 SECTION 10. Section 142.008, Election Code, is amended to
12 read as follows:

13 Sec. 142.008. STATEMENT ON PETITION. The following
14 statement must appear at the top of each page of a candidate's
15 petition: "I know the purpose of this petition. I am not
16 affiliated with a political party that holds a primary election
17 ~~[have not voted in the general primary election or runoff primary~~
18 ~~election of any political party that has nominated, at either~~
19 ~~election, a candidate for the office of (insert office title) for~~
20 ~~which (insert candidate's name) is a candidate]."~~

21 SECTION 11. Section 142.009, Election Code, is amended to
22 read as follows:

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

- 25 (1) signed the petition on or before general primary
26 election day or, if a runoff primary is held for the office sought
27 by the candidate, on or before runoff primary election day; or

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

5 SECTION 12. Section 161.005(a), Election Code, is amended
6 to read as follows:

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

9 (1) be a qualified voter of the county and affiliated
10 with that political party; and

11 (2) except as provided by Subsection (c), not be a
12 candidate for nomination or election to, or be the holder of, an
13 elective office of the federal, state, or county government.

14 SECTION 13. Section 162.001(a), Election Code, is amended
15 to read as follows:

16 (a) A person must be affiliated with a political party to be
17 eligible:

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

20 (2) to be elected as a member of or be appointed to
21 fill a vacancy on a state executive committee;

22 (3) to be appointed to fill a vacancy on a county
23 executive committee;

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

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

26 (6) to be the party's nominee for an office elected at
27 the general election for state and county officers;

1 (7) to be a presidential elector for the political
2 party; or

3 (8) [~~(4)~~] for any other purpose within the party as
4 adopted by state party rules.

5 SECTION 14. Section 162.003, Election Code, is amended to
6 read as follows:

7 Sec. 162.003. AFFILIATION PROCEDURE [~~BY VOTING IN PRIMARY~~].

8 (a) A person becomes affiliated with a political party by notifying
9 the registrar of the person's affiliation [~~when the person:~~

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

12 ~~[(2) returns an early voting or limited primary ballot~~
13 ~~voted by mail].~~

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

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

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

20 (c) Affiliation under Subsection (b)(1) takes effect on the
21 first anniversary of the date the person submits a registration
22 application to the registrar.

23 (d) A registered voter who does not indicate an affiliation
24 with a political party of this state shall be listed as
25 "independent" on the voter's registration certificate and on the
26 list of registered voters.

27 (e) A registered voter may change the voter's affiliation

1 status by notifying the registrar as provided by Section 15.021.
2 The change becomes effective on the first anniversary of the date
3 the voter submits notice of the change to the registrar under
4 Section 15.021.

5 (f) A person may also indicate a party affiliation at the
6 time the person submits a federal postcard application under
7 Chapter 101. The affiliation takes effect at the time provided for
8 a change under Subsection (e).

9 (g) The secretary of state shall prescribe any additional
10 procedures necessary to implement this section.

11 (h) Notwithstanding Subsection (c), if a person is 18 years
12 of age or younger at the time the person registers to vote,
13 affiliation under Subsection (b)(1) takes effect on the first
14 election at which the person is eligible to vote following the
15 submission of the registration application.

16 (i) Notwithstanding Subsections (c) and (e), if a person
17 notifies the registrar of the person's affiliation not later than
18 December 31, 2021, the affiliation takes effect on the first
19 election at which the person is eligible to vote following the
20 submission of the registration application or change, as
21 applicable. This subsection expires December 31, 2022.

22 SECTION 15. Section 162.010(a), Election Code, is amended
23 to read as follows:

24 (a) A [~~Except as provided by Subsection (b), a~~] party
25 affiliation expires on cancellation of a voter's registration or at
26 the time a change in affiliation takes effect under Section 162.003
27 [~~at the end of the voting year in which the person became~~

1 ~~affiliated~~].

2 SECTION 16. Section 162.013, Election Code, is amended to
3 read as follows:

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

9 SECTION 17. Sections 162.014(a), (c), and (d), Election
10 Code, are amended to read as follows:

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

17 (c) An offense under this section is a felony of the second
18 degree if the conduct constituting an offense under Subsection (a)
19 consists of knowingly voting in a primary election without being
20 affiliated with that party [~~after having voted in a primary~~
21 ~~election of another party during the same voting year~~].

22 (d) An offense under this section is a state jail felony if
23 the conduct constituting an offense under Subsection (a) consists
24 of knowingly attempting to vote in a primary election without being
25 affiliated with that party [~~after having voted in a primary~~
26 ~~election of another party during the same voting year~~].

27 SECTION 18. Section 162.017(e), Election Code, is amended

1 to read as follows:

2 (e) The preregistration process must [~~include the statement~~
3 ~~described by Section 162.004(a) and~~] require a preregistering
4 attendee to be affiliated [~~affiliate~~] with the party [~~by taking the~~
5 ~~eath described in Section 162.007(b)~~].

6 SECTION 19. Section 172.021, Election Code, is amended by
7 amending Subsection (b) and adding Subsections (b-3) and (h) to
8 read as follows:

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

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

14 (2) be accompanied by the appropriate filing fee or a
15 petition in lieu of the filing fee that satisfies the requirements
16 prescribed by Section 141.062. [~~A political party may not require~~
17 payment of a fee as a condition to applying for a place on the ballot
18 as a candidate for county chair or precinct chair.]

19 (b-3) A political party may not require payment of a fee
20 under this section as a condition to applying for a place on the
21 ballot as a candidate for county chair or precinct chair.

22 (h) A signature on a petition under this section is not
23 valid if at the time of signing the signer is affiliated with a
24 political party other than the party whose nomination for office
25 the candidate seeks. A signature on a petition under this section
26 is valid if at the time of signing the signer is unaffiliated with a
27 political party.

1 SECTION 20. Section 172.026, Election Code, is amended to
2 read as follows:

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

8 SECTION 21. Section 172.027, Election Code, is amended to
9 read as follows:

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

22 SECTION 22. Section 172.086, Election Code, is amended to
23 read as follows:

24 Sec. 172.086. PLEDGE ON BALLOT. The following pledge shall
25 be placed on the primary election ballot above the listing of
26 candidates' names: "I am a (insert appropriate political party)
27 and understand that I am ineligible to affiliate with another

1 political party or to vote or participate in another political
2 party's primary election or convention during this voting year."

3 SECTION 23. Section 172.088(c), Election Code, is amended
4 to read as follows:

5 (c) A petition signer may not at the time of signing be
6 affiliated with another political party. A political party by rule
7 may provide for permitting voters who are not affiliated with any
8 political party to be eligible to sign a petition under this section
9 ~~[restricting petition signers on the basis of party alignment or~~
10 ~~preference].~~

11 SECTION 24. Subchapter E, Chapter 172, Election Code, is
12 amended by adding Section 172.1115 to read as follows:

13 Sec. 172.1115. AFFILIATION WITH PARTY REQUIRED. (a) The
14 signature roster for a primary election must state at the top of
15 each page: "A person commits a criminal offense if the person
16 knowingly votes in a primary election or participates in a
17 convention of a party without being affiliated with that party."

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

21 (1) the list of registered voters indicates that the
22 person is affiliated with that political party; or

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

25 (c) A person who seeks to vote in a primary election but
26 cannot establish the person's party affiliation under Subsection
27 (b) may be accepted only for provisional voting under Section

1 63.011.

2 SECTION 25. Section 172.126(g), Election Code, is amended
3 to read as follows:

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

17 SECTION 26. Sections 181.006(f) and (g), Election Code, are
18 amended to read as follows:

19 (f) The following statement must appear at the top of each
20 page of the petition: "I know that the purpose of this petition is
21 to entitle the _____ Party to have its nominees placed on the
22 ballot in the general election for state and county officers. I am
23 not affiliated with another political party. [~~I have not voted in a~~
24 ~~primary election or participated in a convention of another party~~
25 ~~during this voting year, and I understand that I become ineligible~~
26 ~~to do so by signing this petition.] I understand that signing more
27 than one petition to entitle a party to have its nominees placed on~~

1 the general election ballot in the same election is prohibited."

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

7 SECTION 27. Section 181.031(a), Election Code, is amended
8 to read as follows:

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

- 11 (1) make an application for nomination; and
12 (2) be affiliated with the political party whose
13 nomination for office the candidate seeks.

14 SECTION 28. Section 181.065, Election Code, is amended to
15 read as follows:

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

21 SECTION 29. Section 182.0041(a), Election Code, is amended
22 to read as follows:

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

- 25 (1) make an application for nomination; and
26 (2) be affiliated with the political party whose
27 nomination for office the candidate seeks.

1 SECTION 30. Sections 192.032(f) and (g), Election Code, are
2 amended to read as follows:

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

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

8 (1) signs the petition on or before the date of the
9 presidential primary election in the presidential election year; or

10 (2) is affiliated with a political party that has held
11 [~~voted in~~] a presidential primary election during the presidential
12 election year.

13 SECTION 31. Section 203.011, Election Code, is amended to
14 read as follows:

15 Sec. 203.011. PARTY ALIGNMENT ON BALLOT. The party
16 alignment of each candidate shall be printed on the official ballot
17 next to the candidate's name. If a candidate is affiliated with a
18 political party, that party shall be printed next to the
19 candidate's name regardless of the party alignment provided on the
20 application under Section 203.005(b).

21 SECTION 32. Sections 162.001(b), 162.004, 162.005,
22 162.006, 162.007, 162.008, 162.009, 162.010(b), 162.011, 162.012,
23 172.1141, and 172.125, Election Code, are repealed.

24 SECTION 33. (a) Not later than October 1, 2021, the voter
25 registrar of each county shall mail to each registered voter in the
26 county notice of the affiliation requirement necessary to vote in a
27 party primary election or to participate in the affairs of a

1 political party. The notice must:

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

5 (2) inform the voter of the process of affiliation
6 with the voter registrar and state that if a voter does not provide
7 an affiliation, the voter's next registration certificate will
8 indicate that the voter is "independent" and unable to vote in a
9 party's primary;

10 (3) include a postage paid postcard that may be
11 returned to the voter registrar to indicate the voter's
12 affiliation; and

13 (4) be in the form prescribed by the secretary of
14 state.

15 (b) If a registered voter does not indicate a party
16 affiliation before December 31, 2021, the voter registrar shall
17 list the voter's initial affiliation status as "independent."

18 (c) The change in law made by Section [18.005\(a\)](#), Election
19 Code, as amended by this Act, requiring that each list of registered
20 voters must indicate the political affiliation of each voter
21 applies only to a list of registered voters produced by a voter
22 registrar on or after December 31, 2021.

23 (d) The change in law made by Section [15.001\(a\)](#), Election
24 Code, as amended by this Act, requiring that each voter
25 registration certificate must indicate the political affiliation
26 of the voter applies only to a certificate effective for voting on
27 or after January 1, 2022.

1 SECTION 34. This Act takes effect September 1, 2021.