

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

Act 224 of the Regular Session

As Engrossed: S2/7/07 H2/27/07

A Bill

1 State of Arkansas
2 86th General Assembly
3 Regular Session, 2007

SENATE BILL 230

4
5 By: Senator Faris
6 By: Representative Edwards

7
8
9 **For An Act To Be Entitled**

10 AN ACT TO AMEND ARKANSAS LAW CONCERNING
11 PROVISIONAL VOTING PROCEDURES; AND FOR OTHER
12 PURPOSES.

13
14 **Subtitle**

15 AN ACT TO AMEND ARKANSAS LAW CONCERNING
16 PROVISIONAL VOTING PROCEDURES.

17
18
19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

20
21 SECTION 1. Arkansas Code § 7-1-101 is amended to read as follows:

22 7-1-101. Definitions. ~~{Effective January 1, 2006.}~~

23 As used in this title, unless the context or chapter otherwise
24 requires:

25 (1) "Administrator" means the administrative head of a long-term
26 care or residential care facility licensed by the state who is authorized in
27 writing by a patient of the long-term care or residential care facility to
28 deliver the application for an absentee ballot and to obtain or deliver the
29 absentee ballot to the county clerk;

30 (2) "Audit log" means an electronically stored record of events
31 and ballot images from which election officials may produce a permanent paper
32 record with a manual audit capacity for a voting system using voting
33 machines;

34 (3) "Authorized agent" means a person who is identified and
35 authorized to deliver the application, obtain a ballot, and deliver the



1 ballot on the day of the election to the county clerk by an applicant who is
2 medically unable to cast a ballot at a polling site due to unforeseen medical
3 necessity as set forth in an affidavit from the administrative head of a
4 hospital or long-term or residential care facility;

5 (4) "Canvassing" means examining and counting the returns of
6 votes cast at a public election to determine authenticity;

7 (5) "Constitutional officers of this state" means the offices of
8 the Governor, Lieutenant Governor, Secretary of State, Attorney General,
9 Auditor of State, Treasurer of State, and Commissioner of State Lands;

10 (6) "Counting location" means a location selected by the county
11 board of election commissioners with respect to all elections for the
12 automatic processing or counting, or both, of votes;

13 (7) "Designated bearer" means any person who is identified and
14 authorized by the applicant to obtain from the county clerk or to deliver to
15 the county clerk the applicant's ballot;

16 (8) "Election official" or "election officer" means a person who
17 is a member of the county board of election commissioners or a person who is
18 a poll worker designated by a county board of election commissioners to be an
19 election clerk, election judge, or election sheriff;

20 (9) "Electronic vote tabulating device" means a device used to
21 electronically scan a marked paper ballot for the purposes of tabulation;

22 (10) "Fail-safe voting" means the mechanism established under
23 the National Voter Registration Act of 1993 that allows voters who have moved
24 within the same county to vote at their new precinct without having updated
25 their voter registration records;

26 (11) "First-time voter" means any registered voter who has not
27 previously voted in a federal election in the state;

28 (12) "General or special election" means the regular biennial or
29 annual elections for election of United States, state, district, county,
30 township, and municipal officials and the special elections to fill vacancies
31 therein and special elections to approve any measure. The term as used in
32 this act shall not apply to school elections for officials of school
33 districts;

34 (13) "Majority party" means that political party in the State of
35 Arkansas whose candidates were elected to a majority of the constitutional
36 offices of this state in the last preceding general election;

1 (14) "Marking device" means any approved device for marking a
2 paper ballot with ink or other substances which will enable the votes to be
3 tabulated by means of an electronic vote tabulating device;

4 (15) "Minority party" means that political party whose
5 candidates were elected to less than a majority of the constitutional offices
6 of this state in the last preceding general election or the political party
7 which polled the second greatest number of votes for the office of Governor
8 in the last preceding general election if all of the elected constitutional
9 officers of this state are from a single political party;

10 (16) "Party certificate" means a written statement or receipt
11 signed by the secretary or chair of the county committee or of the state
12 committee, as the case may be, of the political party evidencing the name and
13 title proposed to be used by the candidate on the ballot, the position the
14 candidate seeks, payment of the fees, and filing of the party pledge, if any,
15 required by the political party;

16 (17)(A) "Political party" means any group of voters which at the
17 last preceding general election polled for its candidate for Governor in the
18 state or nominees for presidential electors at least three percent (3%) of
19 the entire vote cast for the office.

20 (B) No group of electors shall assume a name or
21 designation which is so similar in the opinion of the Secretary of State to
22 that of an existing political party as to confuse or mislead the voters at an
23 election.

24 (C) When any political party fails to obtain three percent
25 (3%) of the total votes cast at an election for the office of Governor or
26 nominees for presidential electors, it shall cease to be a political party;

27 (18) "Polling site" means a location selected by the county
28 board of election commissioners where votes are cast;

29 (19) "Precinct" means the geographical boundary lines dividing a
30 county, municipality, township, or school district for voting purposes;

31 (20) "Primary election" means any election held by a political
32 party in the manner provided by law for the purpose of selecting nominees of
33 the political party for certification as candidates for election at any
34 general or special election in this state;

35 (21) "Provisional ballot" means a ballot:

36 (A) Cast by special procedures to record a vote when there

1 is some question concerning a voter's eligibility; and

2 (B) Counted contingent upon the verification of the
3 voter's eligibility;

4 ~~(21)~~(22) "Qualified elector" means a person who holds the
5 qualifications of an elector and who is registered pursuant to Arkansas
6 Constitution, Amendment 51;

7 ~~(22)~~(23) "Vacancy in election" means the vacancy in an elective
8 office created by death, resignation, or other good and legal cause, arising
9 prior to election to the office at a general or special election but arising
10 subsequent to the certification of the ballot;

11 ~~(23)~~(24) "Vacancy in nomination" means the circumstances in
12 which the person who received the majority of votes at the preferential
13 primary election or general primary election cannot accept the nomination due
14 to death or notifies the party that he or she will not accept the nomination
15 due to serious illness, moving out of the area from which the person was
16 elected as the party's nominee, or filing for another office preceding the
17 final date for certification of nominations;

18 ~~(24)~~(25)(A) "Vacancy in office" means the vacancy in an elective
19 office created by death, resignation, or other good and legal cause arising
20 subsequent to election to the office at a general or special election or
21 arising subsequent to taking office and prior to the expiration of the term
22 of office in those circumstances wherein the vacancy must be filled by a
23 special election rather than by appointment.

24 (B) The phrase "vacancy in office" shall not apply to the
25 election of a person at a general election to fill an unexpired portion of a
26 term of office;

27 ~~(25)~~(26) "Voting machine" means either:

28 (A) A direct recording electronic voting machine that:

29 (i) Records votes by means of a ballot display
30 provided with mechanical or electro-optical components that may be actuated
31 by the voter;

32 (ii) Processes the data by means of a computer
33 program;

34 (iii) Records voting data and ballot images in
35 internal and external memory components; and

36 (iv) Produces a tabulation of the voting data stored

1 in a removable memory component and in a printed copy; or

2 (B) An electronic device for marking a paper ballot to be
3 electronically scanned;

4 ~~(26)~~(27) "Voter-verified paper audit trail" means a
5 contemporaneous paper record of a ballot printed for the voter to confirm his
6 or her votes before the voter casts his or her ballot that:

7 (A) Allows the voter to verify the voter-verified paper
8 audit trail before the casting of the voter's ballot;

9 (B) Is not retained by the voter;

10 (C) Does not contain individual voter information;

11 (D) Is produced on paper that is sturdy, clean, and
12 resistant to degradation; and

13 (E) Is readable in a manner that makes the voter's ballot
14 choices obvious to the voter without the use of computer or electronic code;
15 and

16 ~~(27)~~(28) "Voting system" means:

17 (A) The total combination of mechanical,
18 electromechanical, or electronic equipment, including the software, firmware,
19 and documentation required to program, control, and support the equipment
20 that is used:

21 (i) To define ballots;

22 (ii) To cast and count votes;

23 (iii) To report or display election results; and

24 (iv) To maintain and produce any audit trail

25 information; and

26 (B) The practices and documentation used to:

27 (i) Identify system components and versions of

28 components;

29 (ii) Test the system during its development and

30 maintenance;

31 (iii) Maintain records of system errors and defects;

32 (iv) Determine specific system changes to be made to

33 a system after the initial qualification of the system; and

34 (v) Make available any materials to the voter,

35 including, but not limited to, notices, instructions, forms, or paper
36 ballots.

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SECTION 2. Arkansas Code § 7-5-306 is amended to read as follows:

7-5-306. Procedure when voter's name is not on the precinct voter registration list.

(a) If the voter's name is not on the precinct voter registration list, the election official shall permit the voter to vote only under the following conditions:

(1) The voter identifies himself or herself by stating his or her name and date of birth and is verified by the county clerk as a registered voter within the county and, if the county is divided into more than one (1) congressional district, within the same congressional district;

(2) The voter gives and affirms his or her current residence and the election official verifies with the county clerk that the voter's residence is within the precinct;

(3) The voter completes an updated voter registration application form; and

(4) The voter signs the precinct voter registration list.

(b) If the voter is not listed on the precinct voter registration list and the election official is unable to verify the voter's registration with the county clerk and the voter contends that he or she is a registered voter in the precinct in which he or she desires to vote and that he or she is eligible to vote, then the voter shall be permitted to cast a provisional ballot as follows:

~~(1) An election official at the polling place shall notify the individual that the individual may cast a provisional ballot in that election;~~

~~(2) The individual shall be permitted to cast a provisional ballot at that polling place upon the execution of a written affirmation by the individual before an election official at the polling place stating that the individual is:~~

~~(A) A registered voter in the precinct in which the individual desires to vote; and~~

~~(B) Eligible to vote in that election;~~

~~(3) The provisional ballot shall be counted only upon verification of the voter's registration status in the precinct by the county board of election commissioners before certification of the election; and~~

1 ~~(4)(A) Whenever a person casts a provisional ballot, the~~
2 ~~election official shall provide the voter written information that states~~
3 ~~that the individual who casts a provisional ballot will be able to ascertain~~
4 ~~whether the vote was counted, and if not, the reason the vote was not~~
5 ~~counted, by accessing a toll free telephone number, Internet website, or~~
6 ~~other free access system established by the Secretary of State for that~~
7 ~~purpose.~~

8 ~~(B) Access to information about an individual provisional~~
9 ~~ballot shall be restricted to the individual who cast the ballot.~~

10 ~~(c) The election official shall make a list of all voters who cast~~
11 ~~provisional ballots.~~

12
13 SECTION 3. Arkansas Code § 7-5-307 is repealed.

14 ~~7-5-307. Election official's initials.~~

15 ~~Before giving the voter a ballot, an election official shall:~~

16 ~~(1) Initial the back of the ballot;~~

17 ~~(2) Remove the ballot stub; and~~

18 ~~(3) Place the stub into the stub box provided.~~

19
20 SECTION 4. Arkansas Code § 7-5-308 is amended to read as follows:

21 ~~7-5-308. Ballots to remain in polling place~~ Provisional ballot
22 procedure.

23 ~~No person shall be permitted to carry a ballot outside of the polling~~
24 ~~place~~ (a) When the voter is required by law to cast a provisional ballot,
25 the ballot shall be cast pursuant to the following procedures:

26 (1) An election official at the polling place shall notify the
27 individual that the individual may cast a provisional ballot in that
28 election;

29 (2) The voter shall execute a written eligibility affirmation in
30 the presence of the election official stating that he or she is a registered
31 voter in the precinct in which he or she desires to vote and is eligible to
32 vote;

33 (3) The election official shall initial the back of the ballot,
34 remove the ballot stub from the provisional ballot, and place the stub in the
35 stub box provided;

36 (4) The voter shall mark his or her provisional ballot;

1 (5) The voter shall place the voted provisional ballot in a
2 ballot secrecy envelope marked "provisional ballot" and seal the envelope;

3 (6) The voter shall place the sealed provisional ballot envelope
4 containing the voted provisional ballot in a voter envelope, seal the
5 envelope, and give it to the election official;

6 (7) The election official shall provide the voter written
7 information instructing him or her on how to determine whether his or her
8 provisional ballot was counted, and if not, the reason the ballot was not
9 counted; and

10 (8) The election officials shall make a list of the names and
11 addresses of all persons voting a provisional ballot.

12 (b) Election officials shall preserve, secure, and separate all
13 provisional ballots from the remaining ballots so that the right of any
14 person to vote may be determined later by the county board of election
15 commissioners or the court in which an election contest may be filed.

16 (c)(1) Whenever a person casts a provisional ballot, the election
17 official shall provide the voter written information that states that the
18 individual who casts a provisional ballot will be able to ascertain whether
19 the vote was counted, and if not, the reason the vote was not counted, by
20 accessing a toll-free telephone number, Internet website, or other free
21 access system established by the Secretary of State for that purpose.

22 (2) Access to information about an individual provisional ballot
23 shall be restricted to the individual who cast the ballot.

24 (d)(1) Any person who votes in an election as a result of a federal or
25 state court order or any other order extending the time established for
26 closing the polls may only vote in that election by casting a provisional
27 ballot.

28 (2) The ballot shall be separated and held apart from other
29 provisional ballots cast by those not affected by the order.

30 (e) Prior to certification of the results of the election, the county
31 board shall determine whether the provisional ballots are valid.

32 (f) If, upon examination of any provisional ballots, the county board
33 suspects that a violation of the election laws has occurred, the county board
34 may refer the matter to the prosecuting attorney.

35
36 SECTION 5. Arkansas Code § 7-5-309 is amended to read as follows:

1 7-5-309. Voting procedure.

2 (a)(1) At general, primary, special, and school elections in counties
3 which use paper ballots, the county board of election commissioners shall
4 provide in each polling site at least one (1) voting booth for each fifty
5 (50) registered electors voting in the last-preceding comparable election.

6 (2) Each voting booth shall be situated so as to permit voters
7 to prepare their ballots screened from observation and shall be furnished
8 with any supplies and conveniences as will enable the voter to prepare his or
9 her ballot.

10 (3) The voting booths shall be situated in the polling site in
11 plain view of the election officials.

12 (4) No person other than the election officials and those
13 admitted for the purpose of voting shall be permitted within the immediate
14 voting area, which shall be considered as within six feet (6') of the voting
15 booths, except by authority of the election officials and then only when
16 necessary to keep order and enforce the law.

17 (b) Before giving the voter a ballot, an election official shall:

18 (1) Initial the back of the ballot;

19 (2) Remove the ballot stub; and

20 (3) Place the stub into the stub box provided.

21 ~~(b)(c)~~(1)(A) Upon receiving his or her ballot, the voter shall proceed
22 to mark it by placing an appropriate mark.

23 (B) No voter shall be allowed more than five (5) minutes
24 to mark his ballot.

25 (2) The voter shall then personally deposit the ballot in the
26 ballot box provided.

27 ~~(e)(d)~~(1) The voter shall not be required to sign, initial, or in any
28 way identify himself or herself with the ballot, the ballot stub, or the list
29 of voters other than in the manner set forth in this section.

30 (2) However, an election official may inspect the back of the
31 ballot before the voter deposits it to see if it has been initialed by an
32 election official.

33 (e) No person shall be permitted to carry a ballot outside of the
34 polling place.

35 ~~(d)(f)~~ After having voted or having declined to do so, the voter shall
36 immediately depart from the polling site.

1
2 SECTION 6. Arkansas Code § 7-5-312 is amended to read as follows:
3 7-5-312. Challenge of voter's ballot by poll watchers, candidates, or
4 designees.

5 (a) Poll watchers shall include any:

6 (1) Candidate in person;

7 (2) Authorized representative of a candidate;

8 (3) Authorized representative of a group seeking the passage or
9 defeat of a measure on the ballot; and

10 (4) Authorized representative of a political party with a
11 candidate on the ballot.

12 ~~(a)(1)(b) Each candidate, group, or party may have, at any given time~~
13 ~~during the election, including early voting: During the progress of any~~
14 ~~election in this state, any candidate in person or by representative~~
15 ~~designated in writing, any group seeking the passage or defeat of a measure~~
16 ~~on the ballot by representative designated in writing, and any political~~
17 ~~party with a candidate on the ballot by representative designated in writing~~
18 ~~may:~~

19 ~~(A)(1) Have only one~~ One (1) authorized representative present
20 at any one (1) time at each location within a polling site where voters
21 identify themselves to election officials, so as to observe and ascertain the
22 identity of those persons presenting themselves to vote for the purpose of
23 challenging any voter who appears for the purpose of casting a ballot; and

24 ~~(B)(2) Have only one~~ One (1) authorized representative present
25 at any one (1) time at each location within the absentee ballot processing
26 site where absentee ballots are processed, so as to observe and ascertain the
27 identity of absentee voters for the purpose of challenging any absentee vote.

28 (c) In accordance with Arkansas Code §§ 7-5-316, 7-5-413, 7-5-
29 416, 7-5-527, and 7-5-615, a candidate in person or an authorized
30 representative of a candidate or political party may be present at a polling
31 site, central counting location, and absentee ballot counting location for
32 the purpose of witnessing the counting of ballots by election officials and
33 determining whether ballots are fairly and accurately counted.

34 ~~(2)(d) The document designating and authorizing a~~
35 ~~representative of a candidate, designating a representative of a group~~
36 ~~seeking the passage or defeat of a measure on the ballot, or designating and~~

1 a representative of a political party with a candidate on the ballot shall be
2 filed with the county clerk and a file-marked copy shall be presented by the
3 poll watcher to the election official ~~at~~ immediately upon entering the
4 polling site, absentee ballot processing site, or counting location in the
5 following form:

6
7 POLL WATCHER AUTHORIZATION FORM

8
9 Representative of a Candidate

10
11 I,, state that I am a candidate for the office of
12 in the election. I further state
13 that I have designated ~~is designated by me~~ as my
14 authorized representative at the election ~~for the purpose of Arkansas Code §§~~
15 ~~7-5-312, 7-5-316, 7-5-416, 7-5-417, and 7-5-615 in precinct~~ at polling sites
16 and absentee ballot processing sites in
17 County, Arkansas to observe and ascertain the identity of
18 persons presenting themselves to vote in person or by absentee for the
19 purpose of challenging any voter in accordance with Arkansas Code §§ 7-5-312,
20 7-5-416, and 7-5-417. I further state that I have designated and authorized
21 my representative named above to be present at the ballot counting locations
22 at in County, Arkansas for the purpose of witnessing the
23 counting of ballots by election officials and determining whether ballots are
24 fairly and accurately counted in accordance with Arkansas Code §§ 7-5-312, 7-
25 5-316, 7-5-413, 7-5-416, 7-5-527, and 7-5-615.

26
27 Representative of a Group

28
29 I,, state that I represent the
30 group which is seeking passage/defeat (circle one) of the ballot measure
31 entitled on the ballot in the election
32 at polling sites and absentee ballot processing sites
33 in County, Arkansas, to observe and ascertain
34 the identity of persons presenting themselves to vote in person or by
35 absentee for the purpose of challenging any voter in accordance with Arkansas
36 Code §§ 7-5-312, 7-5-416, and 7-5-417 ~~in precinct~~ in

1 County, Arkansas.

2

3 Representative of a Party

4

5 I,, state that I am the chairman or secretary of the
6 state/county (circle one) committee for the party with
7 candidates on the ballot in the election. I further state
8 that I have designated ~~is designated by me~~ as a an
9 authorized party representative at the election ~~for the purpose of Arkansas~~
10 ~~Code §§ 7-5-312, 7-5-316, 7-5-416, 7-5-417, and 7-5-615 in precinct at~~
11 polling sites and absentee ballot processing sites
12 in County, Arkansas, to observe and ascertain
13 the identity of persons presenting themselves to vote in person or by
14 absentee for the purpose of challenging any voter in accordance with Arkansas
15 Code §§ 7-5-312, 7-5-416, and 7-5-417. I further state that I have
16 designated and authorized my representative named above to be present at the
17 ballot counting locations at in County,
18 Arkansas, for the purpose of witnessing the counting of ballots by election
19 officials and determining whether ballots are fairly and accurately counted
20 in accordance with Arkansas Code §§ 7-5-312, 7-5-316, 7-5-413, 7-5-416, 7-5-
21 527, and 7-5-615.

22

23

24

25 Signature of Candidate, Group Representative, or Chairman/Secretary of the
26 State/County Committee

27

28 Acknowledged before me this day of, 20

29

30 Notary Public: My Commission Expires:

31

32 I do hereby state that I am familiar with the rights and responsibilities
33 of a poll watcher as outlined on the back of the poll watcher authorization
34 form and will in good faith comply with the provisions of same.

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Signature of the Poll Watcher

Acknowledged before me this day of, 20

Notary Public: My Commission Expires:

I do hereby acknowledge filing ~~the~~ this poll watcher authorization form with the county clerk's office.

.....

Signature of County Clerk

~~(3)(e) The poll~~ Poll watcher rights and responsibilities shall be printed on the back of the ~~poll watcher authorization form as follows~~ document in the following form:

POLL WATCHER RIGHTS AND RESPONSIBILITIES

~~A poll watcher may be:~~

~~* A candidate in person or by representative designated by a candidate;~~

~~* A representative designated by any group seeking passage or defeat of a measure on the ballot; or~~

~~* A representative of a party with a candidate on the ballot.~~

~~Official recognition of poll watchers:~~

~~* Only one (1) poll watcher per candidate, group, or party at any one (1) time may be officially recognized as a poll watcher at each location within a polling site where voters identify themselves to election officials;~~

~~* Only one (1) poll watcher per candidate, group, or party at any one (1) time may be officially recognized as a poll watcher at each location within~~

1 ~~the absentee ballot processing site where absentee ballots are processed;~~

2

3 ~~* Only one (1) poll watcher per candidate or party at any one (1) time may~~
4 ~~be officially recognized as a poll watcher at the counting of the ballots;~~
5 ~~and~~

6

7 ~~* Poll watchers must display a valid affidavit in the form of a "Poll~~
8 ~~Watcher Authorization Form".~~

9

10 ~~-Poll watchers may:~~

11

12 ~~* Observe the election officials;~~

13

14 ~~* Stand close enough to the precinct voter registration lists so as to~~
15 ~~hear the voter's name and observe the voter's signature;~~

16

17 ~~* Compile lists of persons voting;~~

18

19 ~~* Challenge ballots upon notification to an election official before the~~
20 ~~ballot is issued to the voter and upon completing a "Challenged Ballot Form";~~

21

22 ~~* Call to the attention of the election sheriff any occurrence believed to~~
23 ~~be an irregularity or violation of election law. The poll watcher may not~~
24 ~~discuss the occurrence unless the election sheriff invites the discussion;~~
25 ~~and~~

26

27 ~~* Be present at the opening, processing, and canvassing of absentee~~
28 ~~ballots for the purpose of challenging the vote in the manner provided by law~~
29 ~~for personal voting challenges.~~

30

31 ~~Poll watchers representing a candidate or political party may:~~

32

33 ~~* Remain at the polling site after the poll closes if ballots are counted~~
34 ~~at the poll, be present at the counting of votes by electronic tabulation~~
35 ~~equipment at a centralized location, and be present at the counting of~~
36 ~~absentee ballots for the purpose of witnessing the counting of ballots by~~

1 ~~election officials; and~~

2
3 ~~* Upon request made to an election official, inspect any or all ballots at~~
4 ~~the time the ballots are being counted.~~

5
6 ~~-Poll watchers may not:~~

7
8 ~~* Be within six feet (6') of any voting machine or booth used by voters to~~
9 ~~cast their ballot;~~

10
11 ~~* Electioneer inside the polling site or within one hundred feet (100') of~~
12 ~~the primary exterior entrance used by voters to the building containing the~~
13 ~~polling site;~~

14
15 ~~* Speak to any voter or in any way attempt to influence a voter inside the~~
16 ~~polling site or within one hundred feet (100') of the primary exterior~~
17 ~~entrance used by voters to the building containing the polling site; or~~

18
19 ~~* Disrupt the orderly conduct of the election.~~

20
21 A poll watcher may be:

22 (1) A candidate in person;

23 (2) An authorized representative of a candidate;

24 (3) An authorized representative of a group seeking the passage or
25 defeat of a measure on the ballot; or

26 (4) An authorized representative of a party with a candidate on the
27 ballot.

28
29 Official recognition of poll watchers:

30 (1) Only one (1) authorized poll watcher per candidate, group, or party
31 at any one (1) given time may be officially recognized as a poll watcher at
32 each location within a polling site where voters identify themselves to
33 election officials;

34 (2) Only one (1) authorized poll watcher per candidate, group, or party
35 at any one (1) given time may be officially recognized as a poll watcher at
36 each location within the absentee ballot processing site where absentee

1 ballots are processed; and

2 (3) Only one (1) authorized poll watcher per candidate or party at any
3 one (1) given time may be officially recognized as a poll watcher at the
4 counting of the ballots.

5
6 Poll watcher credentials:

7 (1) Except for candidates in person, poll watchers must present a valid
8 affidavit in the form of a "Poll Watcher Authorization Form" to an election
9 official immediately upon entering the polling or counting location.

10 (2) Candidates in person are not required to present a "Poll Watcher
11 Authorization Form'" but must present some form of identification to an
12 election official immediately upon entering the polling or counting location
13 for the purpose of confirming the poll watcher as a candidate on the ballot.

14
15 Poll watchers may:

16 (1) Observe the election officials;

17 (2) Stand close enough to the precinct voter registration lists so as
18 to hear the voter's name and observe the voter's signature;

19 (3) Compile lists of persons voting;

20 (4) Challenge ballots upon notification to an election official before
21 the voter signs the precinct voter registration list and upon completing a
22 "Challenged Ballot Form";

23 (5) Call to the attention of the election sheriff any occurrence
24 believed to be an irregularity or violation of election law. The poll watcher
25 may not discuss the occurrence unless the election sheriff invites the
26 discussion; and

27 (6) Be present at the opening, processing, and canvassing of absentee
28 ballots for the purpose of challenging absentee votes in the manner provided
29 by law for personal voting challenges.

30
31 Poll watchers representing a candidate or political party may:

32 (1) Remain at the polling site after the poll closes if ballots are
33 counted at the poll;

34 (2) Be present at the counting of votes by hand or by an electronic
35 vote tabulating device at a central location;

36 (3) Be present at the counting of absentee ballots for the purpose of

1 witnessing the counting of ballots by election officials and determining
2 whether ballots are fairly and accurately counted; and

3 (4) Upon request made to an election official, inspect any or all
4 ballots at the time the ballots are being counted.

5
6 Poll watchers may not:

7 (1) Be within six feet (6') of any voting machine or booth used by
8 voters to cast their ballot;

9 (2) Electioneer inside the polling site or within one hundred feet
10 (100') of the primary exterior entrance used by voters to the building
11 containing the polling site;

12 (3) Speak to any voter or in any way attempt to influence a voter
13 inside the polling site or within one hundred feet (100') of the primary
14 exterior entrance used by voters to the building containing the polling site;
15 or

16 (4) Disrupt the orderly conduct of the election.

17
18 (f) Poll watcher rights and responsibilities shall be posted in plain
19 view at each polling site, absentee ballot processing site, and counting
20 site.

21 ~~(b)(g)(1) When the ballot of any voter is thus challenged, it shall be~~
22 ~~treated as a provisional ballot. It shall be the duty of the election~~
23 ~~officials in the election precinct to make and retain a list of the names of~~
24 ~~all persons voting a provisional ballot. The following procedure shall be~~
25 ~~followed:~~

26 ~~(A) The voter shall mark his or her ballot;~~

27 ~~(B) The voter shall place the ballot in a single~~
28 ~~provisional ballot envelope and seal the envelope; and~~

29 ~~(C) The voter shall place the sealed provisional ballot~~
30 ~~envelope and challenge form in a provisional voter envelope.~~

31 (2) The poll watcher shall notify an election official of the
32 challenge before the voter signs the precinct voter registration list.

33 (3) The poll watcher shall complete a challenged ballot form.

34 (4) The election official shall inform the voter that his or her
35 ballot is being challenged.

36 (5) The procedures for casting a provisional ballot under § 7-5-

1 308 shall be followed.

2 ~~(2) All provisional ballots shall be preserved, secured, and~~
3 ~~separated from the remaining ballots to the end that the right of any person~~
4 ~~to vote may be determined later by the county board of election commissioners~~
5 ~~or the court in which an election contest may thereafter be filed.~~

6 ~~(c)(1) Prior to certification of the results of the election, the~~
7 ~~county board shall determine whether the provisional ballots are valid.~~

8 ~~(2) If, upon examination of any provisional ballots, the county~~
9 ~~board suspects that a violation of the election laws has occurred, the county~~
10 ~~board may refer the matter to the prosecuting attorney.~~

11
12 /s/ Faris

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14 APPROVED: 3/9/2007

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