

ARKANSAS SECRETARY OF STATE



Proposed Rules on Voter Identification

Proposed by the Arkansas Secretary of State
May 30, 2013

1.0 TITLE

1.01 These rules shall be known as the Rules on Voter Identification.

2.0 AUTHORITY AND PURPOSE

2.01 These rules are promulgated pursuant to Act 595 of 2013.

2.02 The purpose of these rules is to provide procedures for the issuance of a voter identification card and implementation of a program requiring Proof of Identity by voters.

3.0 DEFINITIONS

3.01 Application – As used in these rules, Application means an Application for a Voter Identification Card.

3.02 County Clerk – As used in these rules, the County Clerk is the official elected by the voters of a county to serve as County Clerk or a member of his or her staff.

3.03 Proof of Identity:

(1) A voter identification card issued pursuant to Ark. Code Ann. § 7-5-322 and these Rules OR

(2) A document or identification card that meets all of the following conditions:

(a) Shows the name of the person to whom the document was issued;

(b) Shows a photograph of the person to whom the document was issued;

(c) Is issued by the United States, the State of Arkansas, or an accredited postsecondary educational institution in the State of Arkansas; and

(d) If displaying an expiration date, the document or card is not expired or expired no more than four (4) years before the date of the election in which the person seeks to vote.

(3) Documents or identification cards that comply with the above requirements in 3.03 (1) and (2) for Proof of Identity, may include, without limitation, the following:

(a) A driver's license;

(b) A photo identification card;

- (c) A concealed handgun carry license;
- (d) A United States passport;
- (e) An employee badge or identification document;
- (f) A United States military identification document;
- (g) A student identification card issued by an accredited postsecondary educational institution in the State of Arkansas;
- (h) A public assistance identification card; and
- (i) A voter identification card as provided under Ark. Code Ann. § 7-5-322.

3.04 Voter Identification Card – Card issued by a County Clerk in Arkansas in compliance with the requirements of Act 595 of 2013 and these Rules.

4.0 EQUIPMENT AND TRAINING

4.01 The Secretary of State will provide to the County Clerk, the equipment, software and training needed for producing the Voter Identification Cards.

4.02 The equipment, software and training may be provided prior to the effective date of these Rules to allow a County Clerk to begin issuing Voter Identification Cards on January 1, 2014.

5.0 ELIGIBILITY

5.01 A Voter Identification Card shall be issued by the County Clerk to an applicant who meets the following requirements:

1. Does not have another valid form of Proof of Identity; and
2. a. Is registered to vote in the county where he or she is submitting the Application; or
b. Will be at least eighteen (18) years of age at the next election and has submitted a voter registration application to the County Clerk to whom he or she is submitting the Application.

5.02 The applicant shall sign an oath swearing or affirming that he or she does not possess a card or document that would qualify as Proof of Identity as defined in these rules.

6.0 APPLICATION

6.01 Applicant shall use the form designed and published by the Secretary of State to request a Voter Identification Card.

6.02 The Secretary of State shall post a copy of the Application on its website and shall make a copy of the form available upon request. The Secretary of State shall also provide a copy of the Application form to each of the seventy-five (75) County Clerks in the State of Arkansas.

6.03 The Application for a Voter Identification Card shall request the following information from an applicant:

(a) Full legal name

(b) Residential street address where the applicant is registered to vote

(c) Date of Birth

(d) Gender

(e) Height

(f) Weight

(g) Eye Color

(h) Hair Color

6.04 The Application shall include an oath or affirmation that the applicant does not possess a card or document that would qualify as Proof of Identity as defined in these rules. The oath shall specifically include the definition of Proof of Identity. The applicant shall make his or her signature before a Notary Public and have the signature notarized.

6.05 The Application shall include a space for the County Clerk to record what type of document(s) were presented by the applicant to demonstrate his or her identity.

7.0 VERIFICATION BY COUNTY CLERK

7.01 The County Clerk shall require the following before issuing a Voter Identification Card:

- (a) Completed Application; and
- (b) Notarized signature of the applicant on the oath affirming that the applicant does not possess any document or card that could be considered Proof of Identity under these rules.

7.02 The County Clerk shall require the presentation and verification of the following information before issuing a Voter Identification Card:

- (a) A photo or nonphoto identity document which includes both the applicant's full legal name and date of birth;
- (b) Documentation showing the applicant's name and residential address; and
- (c) Evidence that the applicant is registered to vote in the county where he or she is submitting the Application or will be at least eighteen (18) years of age at the next election and has submitted a voter registration application to the County Clerk to whom he or she is submitting the Application for an identification card.

7.03 Any of the following shall constitute a photo or nonphoto identity document required in Section 7.02 (a) above, if it contains both the applicant's full legal name and date of birth:

- (a) Original birth certificate or certified copy of a birth certificate;
 - (b) Copy of Marriage License Application;
 - (c) Notarized copy of Applicant's State or Federal Tax Return filed for the previous calendar year;
 - (d) Paycheck or paycheck stub bearing the imprinted name of the applicant's employer;
 - (e) An original of a Medicare or Medicaid statement received by the applicant;
 - (f) An original of the annual social security statement received by the applicant for the current or preceding calendar year;
 - (g) Certified school record or transcript for the current or preceding calendar year;
- or

(h) Naturalization documentation.

7.04 Any of the following shall be acceptable as documentation showing the applicant's name and residential address required in Section 7.02 (b) above, if the documentation contains the applicant's name and residential address:

(a) Utility or cable bill issued within the last sixty (60) days;

(b) Bank statement issued within the last sixty (60) days;

(c) Notarized copy of Applicant's State or Federal Tax Return filed for the previous calendar year;

(d) Currently valid residential rental contract and/or receipt for payment made within the last sixty (60) days for residential rent payments;

(e) Homeowners' insurance policy or bill for the current or preceding calendar year;

(f) Mortgage, payment coupon, deed, or property tax bill for the current or preceding calendar year;

(G) Personal property tax bill for the current or preceding calendar year;

(H) Current automobile registration receipt; or

(I) W-2 issued by applicant's employer for the preceding calendar year.

7.05 The County Clerk shall verify that the legal name, date of birth, and residential address on the documents provided as described in Sections 7.02, 7.03 and 7.04 above, match the name, date of birth and address on the voter registration record.

7.06 The County Clerk shall record on the Application submitted by the voter the type of document(s) that were presented by the applicant to demonstrate his or her identity.

7.07 If the applicant submits a voter registration application on the same day that he or she requests a Voter Identification Card, the County Clerk shall process the voter registration application in their routine manner to allow for validation of the voter registration information. The Voter Identification Card shall not be prepared until the Clerk has processed the voter registration application. The Voter Identification Card shall be mailed to the mailing address contained on the voter registration application.

8.0 FEE

8.01 No fee or charge shall be requested or collected for the Application for, or issuance of, a Voter Identification Card. The County Clerk shall not require or accept payment for a Voter Identification Card.

9.0 INFORMATION ON CARD

9.01 A Voter Identification Card shall contain the following information for the voter applying for the card:

- (a) Full legal name; and
- (b) Registrant ID number from the electronic voter registration system maintained by the County Clerk.

9.02 A Voter Identification Card shall also contain the following:

- (a) The name of the County issuing the card;
- (b) The date of issuance;
- (c) Color photograph of the voter applying for the card; and
- (d) The following statement in a prominent location: This card is valid for the sole purpose of voter identification in an election and for no other purpose.

9.03 If permitted by the software provided by the Secretary of the State, the Voter Identification Card shall contain the following:

- (a) A silhouette or outline of the County issuing the card;
- (b) Signature of the County Clerk;

9.04 The back of the card shall include information on where to return the card if it is found after being stolen, lost, or misplaced.

10.0 EXPIRATION

10.01 The Voter Identification Card shall remain valid as long as the person resides in the same county in which the Voter Identification Card was issued and remains registered to vote. If the voter moves to a different county, the voter must either:

(a) Return the Voter Identification Card to the County Clerk in which the card was issued; or

(b) Turn the Voter Identification Card into the County Clerk of his or her new residence.

10.02 The Clerk shall return the “old” Voter Identification Card to the County Clerk’s Office that issued the card.

10.03 If the voter moves out of the State of Arkansas, the voter shall return the Voter Identification Card to the County Clerk from which the card was issued.

11.0 PHOTOGRAPHS

11.01 Each Voter Identification Card shall include a color photograph of the voter applying for the card which shall be taken by the County Clerk at the time of Application. The photograph shall be taken without sunglasses, hat, headgear or other device that disguises or otherwise conceals the face or head of the applicant.

11.02 A waiver may be granted by the County Clerk allowing the applicant to wear headgear or a head covering for medical or religious purposes so long as the face is not disguised or otherwise concealed.

11.03 Any waiver granted pursuant to Section 11.02 above, must be in writing, and signed by the County Clerk. The waiver must be attached to the Application and remain in the County Clerk’s files with the voter’s Application for a Voter Identification Card.

11.04 The County Clerk shall maintain a copy of the photograph and attach it to the Application submitted by the voter.

12.0 DUPLICATES OR REPLACEMENT

12.01 If a voter misplaces or loses their Voter Identification Card and requests that a duplicate or replacement be issued, the voter shall submit an affidavit to the County Clerk, swearing or affirming that card previously issued has been

misplaced or lost. The voter shall also include in the affidavit a statement that he or she did not give, transfer or otherwise transmit the previous Voter Identification Card to another person. The voter shall complete a new Application, and provide all of the information required under these Rules for issuance of a Voter Identification Card.

12.02 If a voter changes their address within the county or damages their Voter Identification Card and returns it to the County Clerk's Office that issued the card, the Clerk may provide a replacement Voter Identification Card as long as the applicant is still a registered voter within the county. The County Clerk shall follow all of the procedures described in these rules for destruction of the damaged card.

12.03 If a duplicate or replacement card is issued, the County Clerk shall make a notation in the voter's record in the electronic voter registration system that a duplicate or replacement card was issued to the voter. The date that the duplicate or replacement card was issued shall be included in the notation in the voter's record in the electronic voter registration system.

13.0 CHANGE OF COUNTY

13.01 If a voter changes his residential address to a different county and needs a Voter Identification Card, the voter shall submit a new Application to the County Clerk's Office where he or she is now registered to vote. The applicant shall provide all of the information under these Rules for issuance of a Voter Identification Card.

13.02 A voter who changes his residential address to a different county may use a Voter Identification Card issued by the Clerk in County where he or she previously resided as a form of identification for obtaining a new Voter Identification Card as long as her or she is still registered and otherwise eligible to vote in the County where he or she previously resided.

14.0 ADDITIONAL COUNTY CLERK RESPONSIBILITIES

14.01 The County Clerk must maintain the following:

- (a) A copy of every Application for a Voter Identification Card;
- (b) A copy of the photograph taken of the applicant; and

(c) A copy of any written waiver provided to the applicant.

- 14.02** The photograph shall be scanned and attached to the applicant's voter registration record in the electronic voter registration system.
- 14.03** The County Clerk shall make a notation in the voter's record in the electronic voter registration system that a Voter Identification Card was issued to the voter. The date that the card was issued should be included in the notation in the voter's record in the electronic voter registration system.
- 14.04** By the fifth day of each month the County Clerk shall submit to the Secretary of State a report identifying the number of Voter Identification Cards he or she has issued in the prior month. The method for reporting the number of Voter Identification Cards issued, shall be determined by the Secretary of State and may be electronic or paper, at the Secretary's discretion.
- 14.05** The County Clerk shall destroy any Voter Identification Card that is returned to the Clerk's office if the card was issued by that County Clerk's Office. If any person returns or submits a Voter Identification Card issued by another County Clerk's Office, the County Clerk shall transmit or return the Card to the County of origin.
- 14.06** Prior to destroying a Voter Identification Card, the County Clerk shall ensure that a notation has been entered in the electronic voter registration system that the Card was returned. A notation shall also be made on the Application that the Voter Identification Card was returned.
- 14.07** If a duplicate or replacement card is issued, the County Clerk shall make a notation in the voter's record in the electronic voter registration system that a duplicate or replacement card was issued to the voter. The date that the duplicate or replacement card was issued shall be included in the notation in the voter's record in the electronic voter registration system.
- 14.08** The County Clerk is responsible for inventory, security and integrity of the equipment and the system used to create the identification cards.

15.0 USE OF CARD

- 15.01** A Voter Identification Card is valid for the sole purpose of providing photo identification for voting purposes in the county in which it was issued. Each Voter Identification Card issued by a County Clerk shall contain the following statement in a prominent location: This card is valid for the sole purpose of voter identification in an election and for no other purpose.

16.0 RESIDENTS OF LONG-TERM CARE FACILITIES EXEMPT

16.01 A resident of a long-term care or residential care facility licensed by the State of Arkansas is not required to provide Proof of Identity before voting. In lieu of Proof of Identity, a resident is required to provide documentation from the administrator of the facility attesting that the person is a resident of the facility.

16.02 A letter, on facility letterhead, signed by the administrator which specifically identifies the full name of the resident in the body of the letter is sufficient to meet the documentation requirement.

17.0 IDENTIFICATION REQUIRED WITH ABSENTEE BALLOTS

17.01 When voting by absentee ballot, a voter must submit with the voter statement a copy of a current and valid photo identification or a copy of a current utility bill, bank statement, government check, paycheck, or other government document that shows the name and address of the voter unless the voter is:

(i) A member of the uniformed services on active duty who is absent from the county on election day because of active duty;

(ii) A member of the merchant marine who is absent from the county on election day because of his or her service in the merchant marine; or

(iii) The spouse or dependent of a member identified in sections (i) or (ii) above, who is absent from the county on election day because of the active duty or service of the member.

17.02 A copy of a Voter Identification Card issued pursuant to Act 595 of 2013 and these Rules can be submitted by an absentee voter to meet the identity requirement.

18.0 TRAINING

18.01 Any training provided by the Secretary of State, prior to January 1, 2014 shall be sufficient to meet the requirements for training herein.

19.0 ELECTIONS COVERED

19.01 These rules apply to all elections held in the State of Arkansas which occur on or after January 1, 2014.

20.0 EFFECTIVE DATE

20.01 These rules are effective beginning January 1, 2014.