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State of Minnesota

HOUSE OF REPRESENTATIVES

SIXTH SPECIAL SESSION

H. F. No. 22

11/12/2020 Authored by Drazkowski, Bahr, Miller and Munson
The bill was read for the first time and referred to the Committee on Government Operations

1.1 A bill for an act
1.2 relating to elections; establishing a procedure for provisional balloting; amending
1.3 Minnesota Statutes 2020, sections 204C.10; 204C.12, subdivision 3; 204C.14,
1.4 subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 204C.

1.5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.6 Section 1. Minnesota Statutes 2020, section 204C.10, is amended to read:

1.7 204C.10 POLLING PLACE ROSTER; VOTER SIGNATURE CERTIFICATE;
1.8 VOTER RECEIPT.

1.9 (a) An individual seeking to vote shall sign a polling place roster or voter signature
1.10 certificate which states that the individual is at least 18 years of age, a citizen of the United
1.11 States, has resided in Minnesota for 20 days immediately preceding the election, maintains
1.12 residence at the address shown, is not under a guardianship in which the court order revokes
1.13 the individual's right to vote, has not been found by a court of law to be legally incompetent
1.14 to vote or has the right to vote because, if the individual was convicted of a felony, the
1.15 felony sentence has expired or been completed or the individual has been discharged from
1.16 the sentence, is registered and has not already voted in the election. The roster must also
1.17 state: "I understand that deliberately providing false information is a felony punishable by
1.18 not more than five years imprisonment and a fine of not more than \$10,000, or both."

1.19 (b) At the presidential nomination primary, the polling place roster must also state: "I
1.20 am in general agreement with the principles of the party for whose candidate I intend to
1.21 vote." This statement must appear separately from the statements required in paragraph (a).
1.22 The felony penalty provided for in paragraph (a) does not apply to this paragraph.

2.1 (c) ~~A judge may,~~ Before the applicant signs the roster or voter signature certificate, a  
 2.2 judge must confirm the applicant's name, address, and date of birth. A voter whose  
 2.3 registration status is listed as challenged or whose eligibility to vote is challenged as permitted  
 2.4 by section 204C.12 may not sign the polling place roster, but may cast a provisional ballot  
 2.5 as provided in section 204C.135.

2.6 (d) After the applicant signs the roster or voter signature certificate, the judge shall give  
 2.7 the applicant a voter's receipt. The voter shall deliver the voter's receipt to the judge in  
 2.8 charge of ballots as proof of the voter's right to vote, and thereupon the judge shall hand to  
 2.9 the voter the ballot. The voters' receipts must be maintained ~~during the time for notice of~~  
 2.10 ~~filing an election contest.~~

2.11 (e) Whenever a challenged status appears on the polling place roster, an election judge  
 2.12 must ensure that the challenge is concealed or hidden from the view of any voter other than  
 2.13 the voter whose status is challenged.

2.14 Sec. 2. Minnesota Statutes 2020, section 204C.12, subdivision 3, is amended to read:

2.15 Subd. 3. **Determination of residence.** In determining the legal residence of a challenged  
 2.16 individual, the election judges shall be governed by the principles contained in section  
 2.17 200.031. If the challenged individual's answers to the questions show ineligibility to vote  
 2.18 in that precinct, the individual shall not be allowed to vote. If the individual has marked  
 2.19 ballots but not yet deposited them in the ballot boxes before the election judges determine  
 2.20 ineligibility to vote in that precinct, the marked ballots shall be placed ~~unopened~~ with the  
 2.21 spoiled ballots. If the answers to the questions fail to show that the individual is not eligible  
 2.22 to vote in that precinct and the challenge is not withdrawn, the election judges shall ~~verbally~~  
 2.23 ~~administer the oath on the voter certificate to the individual. After taking the oath and~~  
 2.24 ~~completing and signing the voter certificate, the challenged individual shall be allowed to~~  
 2.25 ~~vote~~ permit the voter to cast a provisional ballot, in the manner provided in section 204C.135.

2.26 Sec. 3. [204C.135] PROVISIONAL BALLOTS.

2.27 Subdivision 1. Casting of provisional ballots. (a) The following voters seeking to vote  
 2.28 are entitled to cast a provisional ballot in the manner provided by this section:

2.29 (1) a voter whose registration status is listed as "challenged" on the polling place roster;  
 2.30 and

2.31 (2) a voter whose eligibility to vote is challenged as permitted by section 204C.12.

3.1 (b) A voter seeking to vote a provisional ballot must sign a provisional ballot roster and  
3.2 complete a provisional ballot envelope. The envelope must contain a space for the voter to  
3.3 list the voter's name, address of residence, date of birth, voter identification number, and  
3.4 any other information prescribed by the secretary of state. The voter must also swear or  
3.5 affirm, in writing, that the voter is eligible to vote, has not voted previously in the same  
3.6 election, and meets the criteria for registering to vote in the precinct in which the voter  
3.7 appears.

3.8 Once the voter has completed the provisional ballot envelope, the voter must be allowed  
3.9 to cast a provisional ballot. The provisional ballot must be in the same form as the official  
3.10 ballot available in the precinct on election day. A completed provisional ballot shall be  
3.11 sealed in a secrecy envelope. The secrecy envelope shall be sealed inside the voter's  
3.12 provisional ballot envelope and deposited by the voter in a secure, sealed provisional ballot  
3.13 box. Completed provisional ballots may not be combined with other voted ballots in the  
3.14 polling place.

3.15 (c) The form of the secrecy and provisional ballot envelopes shall be prescribed by the  
3.16 secretary of state. The provisional ballot envelope must be a color other than that provided  
3.17 for absentee ballot envelopes and must be prominently labeled "Provisional Ballot Envelope."

3.18 (d) Provisional ballots and related documentation shall be delivered to and securely  
3.19 maintained by the county auditor or municipal clerk in the same manner as required for  
3.20 other election materials under sections 204C.27 and 204C.28.

3.21 Subd. 2. **Counting provisional ballots.** (a) A voter who casts a provisional ballot in the  
3.22 polling place may personally appear before the county auditor or municipal clerk no later  
3.23 than seven calendar days following the election to prove that the voter's provisional ballot  
3.24 should be counted. The county auditor or municipal clerk must count a provisional ballot  
3.25 in the final certified results from the precinct if:

3.26 (1) the statewide voter registration system indicates that the voter is eligible to vote or,  
3.27 if challenged, the voter presents evidence of the voter's eligibility to vote; and

3.28 (2) the voter presents proof of residence in the precinct in the manner permitted by  
3.29 section 201.061, subdivision 3.

3.30 (b) If a voter does not appear before the county auditor or municipal clerk within seven  
3.31 calendar days following the election or otherwise does not satisfy the requirements of  
3.32 paragraph (a), or if the data listed on the items of identification presented by the voter does  
3.33 not match the data submitted by the voter on the provisional ballot envelope, the voter's  
3.34 provisional ballot must not be counted.

4.1 (c) The county auditor or municipal clerk must notify, in writing, any provisional voter  
 4.2 who does not appear within seven calendar days of the election that their provisional ballot  
 4.3 was not counted because of the voter's failure to appear before the county auditor or municipal  
 4.4 clerk within the time permitted by law to determine whether the provisional ballot should  
 4.5 be counted.

4.6 Subd. 3. **Provisional ballots; reconciliation.** Before counting any provisional ballots  
 4.7 in the final vote totals from a precinct, the county auditor must verify that the number of  
 4.8 signatures appearing on the provisional ballot roster from that precinct is equal to or greater  
 4.9 than the number of accepted provisional ballots submitted by voters in the precinct on  
 4.10 election day. Any discrepancy must be resolved before the provisional ballots from the  
 4.11 precinct may be counted. Excess provisional ballots to be counted must be randomly  
 4.12 withdrawn in the manner required by section 204C.20, subdivision 2, after the period for a  
 4.13 voter to appear to prove residence and identity has expired and the ballots to be counted  
 4.14 have been separated from the provisional ballot envelopes.

4.15 Sec. 4. Minnesota Statutes 2020, section 204C.14, subdivision 1, is amended to read:

4.16 Subdivision 1. **Violations; penalty.** (a) No individual shall intentionally:

4.17 ~~(a)~~ (1) misrepresent the individual's identity in applying for a ballot, depositing a ballot  
 4.18 in a ballot box, requesting a provisional ballot or requesting that a provisional ballot be  
 4.19 counted, or attempting to vote by means of a voting machine or electronic voting system;

4.20 ~~(b)~~ (2) vote more than once at the same election;

4.21 ~~(c)~~ (3) put a ballot in a ballot box for any illegal purpose;

4.22 ~~(d)~~ (4) give more than one ballot of the same kind to an election judge to be placed in a  
 4.23 ballot box;

4.24 ~~(e)~~ (5) aid, abet, counsel or procure another to go into any precinct for the purpose of  
 4.25 voting in that precinct, knowing that the other individual is not eligible to vote in that  
 4.26 precinct; or

4.27 ~~(f)~~ (6) aid, abet, counsel or procure another to do any act in violation of this section.

4.28 (b) A violation of this section is a felony.

4.29 Sec. 5. **EFFECTIVE DATE.**

4.30 This act is effective June 1, 2021, and applies to elections held on or after that date.