

CHAPTER 190—S.F.No. 1218

An act relating to elections; changing certain procedures and requirements for absent voters; providing for privacy of certain voter registration information; amending Minnesota Statutes 2006, sections 201.091, subdivision 9; 203B.17, subdivision 2; 203B.19; 203B.20; 203B.21, subdivisions 2, 3; 203B.22; 203B.23; 203B.24; 203B.25; 203B.26; proposing coding for new law in Minnesota Statutes, chapter 203B; repealing Minnesota Statutes 2006, section 203B.16, subdivision 3.

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

Section 1. Minnesota Statutes 2006, section 201.091, subdivision 9, is amended to read:

Subd. 9. **Restricted data.** A list provided for public inspection or purchase, for jury selection, or in response to a law enforcement inquiry, must not include a voter's date of birth or any part of a voter's Social Security number, driver's license number, ~~or~~ identification card number, military identification card number, or passport number.

Sec. 2. Minnesota Statutes 2006, section 203B.17, subdivision 2, is amended to read:

Subd. 2. **Required information.** An application shall be accepted if it contains the following information stated under oath:

(a) the voter's name, birthdate, and present address of residence in Minnesota, or former address of residence in Minnesota if the voter is living permanently outside the United States;

(b) a statement indicating that the voter is in the military, or is the spouse or dependent of an individual serving in the military, or is temporarily outside the territorial limits of the United States, or is living permanently outside the territorial limits of the United States and voting under federal law;

(c) a statement that the voter expects to be absent from the precinct at the time of the election;

(d) the address to which absentee ballots are to be mailed;

(e) the voter's signature or the signature and relationship of the individual authorized to apply on the voter's behalf; and

(f) the voter's ~~military identification card number, passport number, or, Minnesota driver's license or state identification card number, or the last four digits of the voter's Social Security number;~~ if the voter does not have a valid passport or identification card, ~~the signed statement of an individual authorized to administer oaths or a commissioned or noncommissioned officer of the military not below the rank of sergeant or its equivalent, certifying that the voter or other individual requesting absentee ballots has attested to the truthfulness of the contents of the application under oath.~~

~~The oath taken must be the standard oath prescribed by section 101(b)(7) of the Uniformed and Overseas Citizens Absentee Voting Act.~~

~~A form for providing this information shall be prepared by each county auditor and shall be furnished to individuals who request it pursuant to this section. access to any of these documents, the voter or other individual requesting absentee ballots may attest to the truthfulness of the contents of the application under penalty of perjury.~~

Sec. 3. Minnesota Statutes 2006, section 203B.19, is amended to read:

203B.19 RECORDING APPLICATIONS.

Upon accepting an application, the county auditor shall record in the statewide registration system the voter's name, address of present or former residence in Minnesota, mailing address, school district number, passport number, Minnesota driver's license number or state identification card number, or the last four digits of the voter's Social Security number, and whether the voter is in the military or the spouse or dependent of an individual serving in the military, is a voter temporarily outside the territorial limits of the United States, or is living permanently outside the territorial limits of the United States and voting under federal law. The county auditor shall retain the record for six years. A voter whose name is recorded as provided in this section shall not be required to register under any other provision of law in order to vote under sections 203B.16 to 203B.27. Persons from whom applications are not accepted must be notified by the county auditor and provided with the reasons for the rejection.

No later than 60 days after the general election, the county auditor shall report to the secretary of state the combined number of absentee ballots transmitted to absent voters described in section 203B.16. No later than 60 days after the general election, the county auditor shall report to the secretary of state the combined number of absentee ballots returned and cast by absent voters described in section 203B.16. The secretary of state may require the information be reported by category under section 203B.16 or by precinct.

No later than 90 days after the general election, the secretary of state shall report to the federal Election Assistance Commission the number of absentee ballots transmitted to voters under section 203B.16.

Sec. 4. Minnesota Statutes 2006, section 203B.20, is amended to read:

203B.20 CHALLENGES.

Except as provided in this section, the eligibility or residence of a voter whose application for absentee ballots is recorded under section 203B.19 may be challenged in the manner set forth by section 201.195. The county auditor ~~or municipal clerk~~ shall not be required to serve a copy of the petition and notice of hearing on the challenged voter. If the absentee ballot application was submitted on behalf of a voter by an individual authorized under section 203B.17, subdivision 1, paragraph (a), the county auditor must attempt to notify the individual who submitted the application of the challenge. The county auditor may contact other registered voters to request information that may resolve any discrepancies appearing in the application. All reasonable doubt shall be resolved in favor of the validity of the application. If the voter's challenge is affirmed, the county auditor shall provide the challenged voter with a copy of the petition and the decision and shall inform the voter of the right to appeal as provided in section 201.195.

Sec. 5. Minnesota Statutes 2006, section 203B.21, subdivision 2, is amended to read:

Subd. 2. **Mailing of ballots; return.** Ballots and instructions for marking them, ballot envelopes, and return envelopes shall be sent by first class mail to addresses within the continental United States and by air mail to addresses outside the continental United States. The ballot envelope and return envelope shall be marked "Official Ballot," and shall contain sufficient postage to assure proper return delivery. The return envelope shall be addressed to comply with any method for return of absentee ballots as authorized under section 203B.08, subdivision 2. The requirements of this subdivision do not apply to ballots and related materials provided under section 203B.225.

Sec. 6. Minnesota Statutes 2006, section 203B.21, subdivision 3, is amended to read:

Subd. 3. **Back of return envelope.** On the back of the return envelope ~~an affidavit form~~ a certificate shall appear with space for:

(a) (1) the voter's address of present or former residence in Minnesota;

(2) the voter's current e-mail address, if the voter has one;

(b) (3) a statement indicating the category described in section 203B.16 to which the voter belongs;

(c) (4) a statement that the voter has not cast and will not cast another absentee ballot in the same election or elections;

(d) (5) a statement that the voter personally marked the ballots without showing them to anyone, or if physically unable to mark them, that the voter directed another individual to mark them; and

(e) (6) the same voter's military identification card number, passport number, or Minnesota driver's license or state identification card number, or the last four digits of the voter's Social Security number as provided on the absentee ballot application; if the voter does not have ~~a valid passport or identification card, the signature and certification of an individual authorized to administer oaths under federal law or the law of the place where the oath was administered or commissioned or noncommissioned personnel of the military not below the rank of sergeant or its equivalent~~ access to any of these documents, the voter may attest to the truthfulness of the contents of the certificate under penalty of perjury.

The ~~affidavit~~ certificate shall also contain a signed and dated oath in the form required by section 705 of the Help America Vote Act, Public Law 107-252, which must read:

"I swear or affirm, under penalty of perjury, that:

I am a member of the uniformed services or merchant marine on active duty or an eligible spouse or dependent of such a member; a United States citizen temporarily residing outside the United States; or other United States citizen residing outside the United States; and I am a United States citizen, at least 18 years of age (or will be by the date of the election), and I am eligible to vote in the requested jurisdiction; I have not been convicted of a felony, or other disqualifying offense, or been adjudicated mentally incompetent, or, if so, my voting rights have been reinstated; and I am not registering, requesting a ballot, or voting in any other jurisdiction in the United States except the jurisdiction cited in this voting form. In voting, I have marked and sealed my ballot in private and have not allowed any person to observe the marking of the ballot, except for those authorized to assist voters under state or federal law. I have not been influenced.

My signature and date below indicate when I completed this document.

The information on this form is true, accurate, and complete to the best of my knowledge. I understand that a material misstatement of fact in completion of this document may constitute grounds for a conviction for perjury."

Sec. 7. Minnesota Statutes 2006, section 203B.22, is amended to read:

203B.22 MAILING BALLOTS.

The county auditor shall mail the appropriate ballots, as promptly as possible, to an absent voter whose application has been recorded under section 203B.19. If the county auditor determines that a voter is not eligible to vote at the primary but will be eligible to vote at the general election, only general election ballots shall be mailed. Only one set of ballots shall be mailed to any applicant for any election, except that the county auditor may mail a replacement ballot to a voter whose ballot has been spoiled or lost in transit or whose mailing address has changed after the date on which the original application was submitted as confirmed by the county auditor. Ballots to be sent outside the United States shall be given priority in mailing. A county auditor may make use of any special service provided by the United States government for the mailing of voting materials under sections 203B.16 to 203B.27.

Sec. 8. **[203B.225] TRANSMITTING AND RETURNING BALLOTS.**

Subdivision 1. **Transmitting ballot and certificate of voter eligibility.** A voter described in section 203B.16 may include in an application for absentee ballots a request that the ballots, instructions, and a certificate of voter eligibility meeting the requirements of section 203B.21, subdivision 3, be transmitted to the voter electronically. Upon receipt of a properly completed application requesting electronic transmission, the county auditor shall electronically transmit the requested materials to the voter.

Subd. 2. **Returning voted ballots.** The voter must return the voted ballots and the certificate of voter eligibility to the county auditor in a sealed envelope.

Sec. 9. **[203B.227] WRITE-IN ABSENTEE BALLOT.**

An eligible voter who will be outside the territorial limits of the United States during the 180 days prior to the state general election may use a state write-in absentee ballot to vote in any federal, state, or local election. In a state or local election, a vote for a political party without specifying the name of a candidate must not be counted.

Sec. 10. Minnesota Statutes 2006, section 203B.23, is amended to read:

203B.23 APPLICATION RECORDS, DELIVERY TO ELECTION JUDGES ABSENTEE BALLOT BOARD.

Subdivision 1. **Establishment.** ~~When election materials are transmitted to the municipal clerks as provided in section 204B.28, subdivision 2, the county auditor shall also transmit a certified copy of the record of applications compiled as provided in section 203B.19, for absentee ballots to be cast at that election in that town, school district, or city. A certified copy of the record of additional applications received by the county auditor after the ballots have been delivered shall also be delivered to the appropriate municipal clerk. Each municipal clerk shall in turn deliver to the election judges in the appropriate precincts the application records received from the county auditor.~~ The county auditor must establish an absentee ballot board for ballots issued under sections 203B.16 to 203B.27. The board may consist of staff trained and certified as election judges, in which

case, the board is exempt from sections 204B.19, subdivision 5, and 204C.15, relating to party balance in appointment of judges and to duties to be performed by judges of different major political parties.

Subd. 2. **Duties.** The absentee ballot board must examine all returned absentee ballot envelopes for ballots issued under sections 203B.16 to 203B.27 and accept or reject the absentee ballots in the manner provided in section 203B.24. If the certificate of voter eligibility is not printed on the return or administrative envelope, the certificate must be attached to the ballot secrecy envelope.

The absentee ballot board must immediately examine the return envelopes and mark them "accepted" or "rejected" during the 30 days before the election. If an envelope has been rejected at least five days before the election, the ballots in the envelope must be considered spoiled ballots and the official in charge of the absentee ballot board must provide the voter with a replacement absentee ballot and return envelope in place of the spoiled ballot.

Subd. 3. **Applicable laws.** Except as otherwise provided in this section, all the laws applicable to absentee ballots and absentee voters and all other provisions of the Minnesota Election Law apply to an absentee ballot board.

Sec. 11. Minnesota Statutes 2006, section 203B.24, is amended to read:

203B.24 DUTIES OF ELECTION JUDGES.

Subdivision 1. **Check of voter eligibility; proper execution of affidavit certificate.** Upon receipt of an absentee ballot returned as provided in sections 203B.16 to 203B.27, the election judges shall compare the voter's name with the names ~~appearing on their copy of the application records~~ recorded under section 203B.19 in the statewide registration system to insure that the ballot is from a voter eligible to cast an absentee ballot under sections 203B.16 to 203B.27. The election judges shall mark the return envelope "Accepted" and initial or sign the return envelope below the word "Accepted" if the election judges are satisfied that:

(1) the voter's name on the return envelope appears in substantially the same form as on the application records provided to the election judges by the county auditor;

(2) the voter has signed the federal oath prescribed pursuant to section 705(b)(2) of the Help America Vote Act, Public Law 107-252;

(3) the voter has set forth the same voter's military identification number or passport number, or, if those numbers do not appear, a person authorized to administer oaths under federal law or the law of the place where the oath was administered or a witness who is military personnel with a rank at or above the rank of sergeant or its equivalent has signed the ballot Minnesota driver's license or state identification card number, or the last four digits of the voter's Social Security number as submitted on the application, if the voter has one of these documents; and

(4) the voter has not already voted at that election, either in person or by absentee ballot.

If the identification number described in clause (3) does not match the number as submitted on the application, the election judges must make a reasonable effort to satisfy themselves through other information provided by the applicant, or by an individual

authorized to apply on behalf of the voter, that the ballots were returned by the same person to whom the ballots were transmitted.

An absentee ballot ~~case~~ cast pursuant to sections 203B.16 to 203B.27 may only be rejected for the lack of one of clauses (1) to (4). In particular, failure to place the ballot within the security envelope before placing it in the outer white envelope is not a reason to reject an absentee ballot.

Election judges must note the reason for rejection on the back of the envelope in the space provided for that purpose.

Failure to return unused ballots shall not invalidate a marked ballot, but a ballot shall not be counted if the affidavit certificate on the return envelope is not properly executed. In all other respects the provisions of the Minnesota Election Law governing deposit and counting of ballots shall apply.

Subd. 2. ~~Voting more than once~~ **Recording accepted and rejected ballots.** The election judges shall compare the voter's name with the names ~~appearing on their copy of the application records to insure that the voter has not already returned a ballot in the election~~ recorded under section 203B.19 in the statewide registration system. For each returned ballot, the election judges must indicate on the record in the statewide registration system whether ~~an~~ the absentee ballot was accepted for each applicant whose name appears on the record or rejected. ~~If a voter whose application has been recorded under section 203B.19 casts a ballot in person on election day, no absentee ballot shall be counted for that voter. If more than one return envelope is received from a voter whose application has been recorded under section 203B.19, the ballots in the return envelope bearing the latest date shall be counted and the uncounted ballots shall be returned by the election judges with the rejected ballots. The election judges must preserve the record and return it to the county auditor or municipal clerk with the election day materials.~~

Sec. 12. Minnesota Statutes 2006, section 203B.25, is amended to read:

203B.25 DEATH OF VOTER; INDIVIDUALS VOTING UNDER SPECIAL ABSENTEE ELECTION DAY SPECIAL PROCEDURES.

Subdivision 1. Death of voter. If the election judges receive proof that a voter who has returned an absentee ballot as provided in sections 203B.16 to 203B.27 has died before the time when voting is scheduled to begin on election day, the ballot of that voter shall be returned by the election judges with the rejected ballots. Notwithstanding the other provisions of this section, the counting of the absentee ballot of a deceased voter shall not invalidate the election.

Subd. 2. Voting more than once. If a voter whose application has been recorded under section 203B.19 casts a ballot in person on election day, an absentee ballot from that voter must not be counted. If more than one return envelope is received from a voter whose application has been recorded under section 203B.19, the ballots in the return envelope bearing the latest date must be counted and the uncounted ballots must be returned by the election judges with the rejected ballots.

Sec. 13. Minnesota Statutes 2006, section 203B.26, is amended to read:

203B.26 SEPARATE RECORD.

A separate record of the ballots of absent voters cast under sections 203B.16 to 203B.27 must be ~~kept in~~ generated from the statewide registration system for each precinct

and provided to the election judges in the polling place on election day, along with the returned envelopes marked "accepted" by the absentee ballot board. The content of the record must be in a form prescribed by the secretary of state. The election judges in the polling place must note on the record any envelopes that had been marked "accepted" by the absentee ballot board but were not counted. The election judges must preserve the record and return it to the county auditor or municipal clerk with the election day materials.

Sec. 14. **REPEALER.**

Minnesota Statutes 2006, section 203B.16, subdivision 3, is repealed.

Sec. 15. **EFFECTIVE DATE.**

This act is effective for elections held after June 1, 2008.

Presented to the governor April 14, 2008

Signed by the governor April 17, 2008, 8:42 a.m.