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## **KANSAS VOTER REGISTRATION AND VOTING LAW CHANGES SINCE 1995**

This memorandum reviews changes to Kansas law since 1995 regarding registering to vote, voting by advance ballot, voting not by advance ballot, and election crimes. A starting point of 1995 was chosen because a major change to the practice of advance voting was enacted that year. In 1995, Kansas law was changed to state, “Any registered voter is eligible to vote by advance voting ballot on all offices and to vote by advance voting ballot on questions submitted on which such elector would otherwise be entitled to vote.” The bill changed “absentee ballot” to “advance ballot” and removed reasons that had been required for absentee voting (absence from the county, sickness, disability, religious belief or practice, or service as a judge or clerk on an election board). (1995 SB 232 [Ch. 192]; KSA 25-1119)

### **Table of Contents**

#### **Election Laws, General**

##### **Registering to Vote**

Procedures and Locations

Signature, Identification, and Other Information Required

Voter Registration Lists

Deadlines

##### **Voting by Advance Ballot**

Applications

Advance Ballot Application on Behalf of Another Person

Returning Advance Ballot Applications

Returning an Advance Ballot

Replacement Ballots

Correcting Deficiencies

Advance Voting in Person

Other Procedures

##### **Voting**

Providing Identification

Voting Procedures for Voters with Disability

Voting Procedures for Federal and Overseas Voters

Provisional Ballots

Voting Locations and Equipment

Other Procedures

Counting Votes and Ballots

##### **Election Crimes**

Registration Crimes

Advance Voting Crimes

Voting Crimes

Voter Intimidation Crimes

Vote Counting and Voting System Crimes

Other Election-related Crimes

## **Election Laws, General**

The law was changed to state neither the Executive Branch nor the Judicial Branch has authority to modify the state election laws; the Governor has no authority to modify election laws or procedures by issuance of an executive order; and the Secretary of State may not enter into any consent decree or other agreement with any state or federal court regarding the enforcement of any election law or the alteration of any election procedure without specific approval of that consent decree by the Legislative Coordinating Council. The law includes a severability clause for these provisions. (2021 HB 2332; New Sec. 1)

## **Registering to Vote**

### ***Procedures and Locations***

**Application distribution.** Any individual, not only county election officials or city clerks deputized by the county election official, could distribute an application for voter registration. (1996 Senate Sub. for HB 2079 [Ch. 187]; KSA 25-2303)

**Registration in certain offices.** In addition to the Division of Vehicles, any office of the State that provides public assistance, state-funded programs primarily engaged in providing services to persons with disability, recruitment offices of the armed forces, and the office of the city clerk in any city of the first or second class would provide voter registration services to persons who apply for the agency's services or assistance or upon completion of recertification, renewal, or change of address. (1996 Senate Sub. for HB 2079 [Ch. 187]; KSA 25-2303)

**Simultaneous application.** An application for a driver's license or a nondriver's identification card became an application for voter registration unless the applicant failed to sign the voter registration application. (1996 Senate Sub. for HB 2079 [Ch. 187]; KSA 25-2352)

**Hours.** Offices accepting registration applications could be open on Saturdays or extra hours, at the direction of county election officials. (1996 Senate Sub. for HB 2079 [Ch. 187]; KSA 25-2312)

**Returning an application.** A voter registration agency, in addition to the voter, could return the application. A voter registration agency has five days to return the application to the county election official. (1996 Senate Sub. for HB 2079 [Ch. 187]; KSA 25-2309)

**Notices.** Mailings from the county election office (ballots and notices of disposition of voter registration applications) were no longer required to be made by first-class mail. (1999 SB 230 [Ch. 105]; KSA 25-433)

A requirement that official election mailings be sent by first-class mail was repealed. (2000 HB 2854 [Ch. 49]; KSA 25-2316c)

**Changing party affiliation.** A voter may not change party affiliation from the candidate filing deadline (June 1) through the date when primary election results are certified by the Secretary of State (no later than September 1); formerly, a voter could change party affiliation up to 14 days before the primary election. (2014 HB 2210 [Ch. 2]; KSA 25-3304)

**Online registration.** The Secretary of State must issue a press release and post a notice on the Secretary's website when online voter registration is unavailable for 24 hours or more. (2017 HB 2158 [Ch. 49]; KSA 25-2360)

### ***Signature, Identification, and Other Information Required***

**Basic information required.** Anyone registering to vote was required to provide information pertaining to eligibility, voter identification, an affirmation about the applicant's eligibility to vote, and a permissible postal address. (Continuing law law required any official correspondence about registration to be sent by nonforwardable first class mail.) (1996 Senate Sub. for HB 2079 [Ch. 187]; KSA 25-2309)

A county election officer must record and maintain a residential address and a mailing address for each registered voter if the mailing address differs from the residential address. The residential address must correspond to the physical location where the voter resides and may not be a post office box or other address that does not correspond to a residence. Without a residential address, the person is not considered a validly registered voter. The address information must be recorded in any electronic database maintained by the county election officer. (2021 HB 2332; New Sec. 2)

**Affirming citizenship.** A county election officer must return a registration application to the applicant if the applicant failed to answer whether the applicant is a U.S. citizen and specify a period of time during which the applicant can correct the problem and be eligible to vote in the next election. (2004 SB 479 [Ch. 25]; KSA 25-2309)

A registration application must include check boxes for the applicant to affirm the applicant is a U.S. citizen and is or will be 18 years old or older on or before election day. The application must notify the applicant that identification will be required to vote. (2004 SB 479 [Ch. 25]; KSA 23-2309)

An applicant for registration was required to prove U.S. citizenship using certain documentation. (2011 HB 2067 [Ch. 56]; KSA 25-2309) In 2016, the U.S. District Court for Kansas placed a permanent injunction on enforcement based on the Equal Protection Clause of the *U.S. Constitution* and preemption under the National Voter Registration Act, upheld by the U.S. Court of Appeals for the Tenth Circuit in 2018 (*Fish v. Schwab*, 957 F.3d 1105). On December 14, 2020, the U.S. Supreme Court denied a petition for *certiorari* in the case, upholding the decision of the Tenth Circuit.

**Signature.** A signature on an application could be computerized, electronic, or digitized, as well as original. (1996 Senate Sub. for HB 2079 [Ch. 187]; KSA 25-2309)

The definition of what constitutes a signature on an application to register to vote was expanded to include a mark, initials, type, print, stamp, symbol, or other means, and may be made by another individual at the applicant's direction. (2004 House Sub. for SB 166 [Ch. 93]; KSA 25-2309)

**Address privacy.** A registered voter could request the voter's residence address not be made public on the voter registration lists, and the county election officer must take appropriate steps to ensure the residence address is not publicly disclosed. (2001 SB 127 [Ch. 128]; KSA 25-2309)

**Social Security number.** A registration application required the last four digits of the applicant's Social Security number; that number could not be released. (2001 SB 63 [Ch. 42]; KSA 25-2309) Amendments allowed the applicant to substitute the voter's driver's license number or nondriver's identification card number for Social Security number on the application. (2004 SB 479 [Ch. 25]; KSA 23-2309)

**Proving citizenship.** A certified copy of a birth certificate needed for purposes of meeting the citizenship requirement for voter registration would be provided at no charge. (2011 HB 2067 [Ch. 112]; 65-2418)

### ***Voter Registration Lists***

**Reasons to remove a name from the registration list.** The reasons for removing a voter's name from the registration book were changed from not voting in a presidential election to the voter confirming a move outside the county in writing or failing to respond to notices regarding failing to vote in succeeding general federal elections. (1996 Senate Sub. for HB 2079 [Ch. 187]; KSA 25-2316c)

The county election official is required to remove the name of a person convicted of a felony from the voter registration lists. (1996 Senate Sub. for HB 2079 [Ch. 187]; KSA 25-2316c)

**Information sources for maintaining the registration list.** A county election officer could use mass or targeted mailings, in addition to the National Change of Address files, in maintaining voter registration lists. (1999 SB 230 [Ch. 105]; KSA 25-2354)

Lists of deceased persons from the Social Security Administration were added to sources of information the county election official could use to remove a person's name from the registration list. (2001 SB 127 [Ch. 128]; KSA 25-2316c)

Information from the U.S. Postal Service (USPS) that a registered voter has moved from the county could trigger a notice to that voter that the voter could be removed from the registration list if the voter fails to vote in succeeding general elections. (2002 SB 502 [Ch. 146]; KSA 25-2316c)

**Inactive voters.** In the database of registered voters maintained by the Secretary of State since 1990, the Secretary is to maintain lists of active and inactive voters (those who failed to vote in two consecutive state or national elections or failed to respond to notices). (2001 SB 127 [Ch. 128]; KSA 25-2304)

No mail ballot may be sent to an inactive voter who appears to have moved outside the county, based on information provided by the USPS, and has been mailed a confirmation as required when the USPS provides such information. However, a voter may request a replacement ballot. (2008 SB 562 [Ch. 129]; KSA 25-433)

### ***Deadlines***

Registration ended the 15th day preceding the date of an election; if the postmark on a mailed application was illegible or missing, the cutoff was the 9th day preceding the election. (1996 Senate Sub. for HB 2079 [Ch. 187]; KSA 25-2311)

The deadline for voter registration was changed to the 21st day prior to the election (from the 15th day), to end the overlap between the beginning of advance voting and the end of voter registration. County election officers must accept and process applications received by voter registration agencies and the Division of Vehicles not later than the 21st day preceding the date of any election; mailed voter registration applications that are postmarked not later than the 21st day preceding the date of any election; or, if the postmark is illegible or missing, is received in the mail not later than the ninth day preceding the day of any election. (2011 Senate Sub. for HB 2080 [Ch. 112]; KSA 25-2311)

## **Voting by Advance Ballot**

**Additional history.** Laws of 1868 authorized voting for those absent from their township or ward on election day because of military service, with votes to be returned to the Secretary of State. (1868 Ch. 36 of the General Statutes, §45; KSA 25-1201 *et seq.*) Law enacted in 1901 authorized railroad employees who would be “unavoidably absent” from their township or ward on election day to vote in any precinct in the state and have that vote mailed to the county clerk and opened on the date of the canvass. (1901 HB 577 [Ch. 180]; KSA 25-1001 *et seq.*, repealed in 1965) In 1953, Kansas authorized special voting procedures for a qualified elector who is “sick or physically disabled and because of such sickness or physical disability is unable to attend and vote at his voting place upon the day of any primary or general election.” The procedures included a signed application with an attestation signed by a physician and an attestation on the return envelope that the voter had completed the enclosed ballot. The voter was required to complete the ballot, place it in the envelope, and complete the attestation on the envelope. (1953 HB 267 [Ch. 198]; KSA 25-1229 *et seq.*)

In 1967, Kansas authorized absentee voting, for those who would be absent from the county for the entire time the polls were open for a primary, general, or question-submitted election. A qualified elector of the same precinct or voting district could apply on the behalf of another. (1967 SB 391 [Ch. 208]; KSA 25-1124, 25-1122)

Permanent absentee voting status was authorized in 1984. A person with a permanent physical disability or illness was authorized to make or have made on their behalf an application for permanent absentee voter status. (1984 HB 3068 [Ch. 140]; KSA 25-1124)

Provisions in continuing law required the returned ballot to be sealed in an envelope with a signed declaration for the ballot to be counted; the bill allowed the ballot to be returned and placed into a locked ballot box in person without an envelope. (1995 SB 232 [Ch. 192]; KSA 25-1124)

## **Applications**

**Eligibility.** A registered voter who has changed name or residence within the county could apply for an advance ballot. (1997 SB 145 [Ch. 124]; KSA 25-2316c)

**Deadline for transmitting applications.** County election officers were authorized to transmit applications for advance ballots in their offices on the Saturday preceding the election. (1999 SB 230 [Ch. 105]; KSA 25-1122)

Deadlines for transmitting advance ballot applications by mail were moved back several days, to not after a week before the election. (2017 HB 2158 [Ch. 49]; KSA 25-1122)

**Identification.** A requirement the applicant for an advance ballot provide the applicant's date of birth was added. (2000 HB 2854 [Ch. 49]; KSA 25-1122d)

The voter identification provided by a voter applying for an advance ballot can not be made public. (2004 SB 479 [Ch. 25]; KSA 25-1122)

The county election officer is required to verify the signature of a person applying for an advance ballot against the person's registration signature. (2011 HB 2067 [Ch. 56]; KSA 25-1122) [*Note:* Exceptions have been added for those unable to sign; see [Voting Procedures for Voters with Disability](#).]

**Providing application materials.** Beginning January 1, 2022, any organization that or individual who uses mail to solicit registered voters to apply for advance ballots must include on the mailing, using a 14-point or larger font, on the exterior and each page except the application, the organization's or individual's name and address, organization leader's name, and a statement that the solicitation is not a government mailing. The application included must be the official application for advance ballot by mail provided by the Secretary of State. No portion of an application form can be completed prior to the mailing, and the mailing must contain an envelope addressed to the appropriate county election official for the mailing of the application. The provisions do not apply to the Secretary of State, any election official, any county office, or any entity required by federal law to provide such information. (2021 HB 2332; KSA 25-1122)

Only a person resident in or otherwise domiciled in Kansas may mail or cause to be mailed an application for an advance ballot. The Attorney General is required to investigate a reported violation. Each instance of mailing is a separate violation, subject to a civil penalty of \$20. (2021 HB 2332; KSA 25-1122)

### ***Advance Ballot Application on Behalf of Another Person***

Continuing law authorized a qualified elector to apply for an advance ballot on behalf of another person, with an affirmation from the voter not present. The bill added the qualified elector was authorized to transmit only one absentee ballot. Any additional applications would be for advance voting ballots to be transmitted by mail. (1995 SB 232 [Ch. 192]; KSA 25-1122)

Authority for another person to apply for an advance ballot on behalf of another person and transmit one ballot to the voter was removed. (1996 S. Sub. for H 2079 [Ch. 187]; KSA 25-1122, 25-1122d, 25-1123)

A person assisting a voter with applying for—added to marking or transmitting—an advance ballot must sign a statement that the person has not exercised undue influence on the voting decision. (1996 Senate Sub. for HB 2079 [Ch. 187]; KSA 25-1124)

### ***Returning Advance Ballot Applications***

**Method of return.** An application for an advance ballot could be transmitted by facsimile (added in 1997), personal delivery, mail or as otherwise provided by law. (1997 SB 145 [Ch. 124], 2000 HB 2328 [Ch. 151]; KSA 25-1122)

**Deadline for return.** Any person or group distributing applications for advance ballots must return that application within two days after the applicant signs the application. The

application must be returned only to the county election officer by methods provided by law. (2000 HB 2328 [Ch. 151], 2001 SB 127 [Ch. 125]; KSA 25-1128)

### ***Returning an Advance Ballot***

Provisions in continuing law required the returned ballot to be sealed in an envelope with a signed declaration for the ballot to be counted; the bill allowed the ballot to be returned and placed into a locked ballot box in person without an envelope. Continuing law also stated if any person renders assistance to a “sick, physically disabled or illiterate” voter in marking or transmitting such a ballot, the ballot was to be accompanied by a written statement on a form prescribed by the Secretary of State and containing a statement that the assistant had not exercised undue influence and the ballot had been marked as instructed by the voter. (1995 SB 232 [Ch. 192]; KSA 25-1124)

A new subsection with language regarding the provision of assistance to certain voters with disability also added that anyone transmitting an advance ballot on behalf of another person, at the request of the voter, must do so before the close of the polls on election day. (1997 SB 145 [Ch. 124]; KSA 25-1124) Language in this subsection regarding an application for an advance voting ballot filed by a “sick, physically disabled or illiterate voter or by a person rendering assistance to such voter” was removed. (2001 SB 124 [Ch. 81]; KSA 25-1124)

A voter may return such voter’s advance ballot by personal delivery or by mail, adding clarity to continuing law stating the ballot envelope shall be mailed or otherwise transmitted to the county election officer. (2011 HB 2067 [Ch. 56]; KSA 25-1124 and 25-1128)

If an advance ballot is to be returned by a person other than the voter, that person must be designated in writing by the voter; the person so designated must sign a statement that the designee has not exercised undue influence on the voter and agrees to deliver the ballot as directed by the voter. (2011 HB 2067 [Ch. 56]; KSA 25-1124 and 25-1128)

An advance ballot returned to any polling place in the county, added to returned to the county election office, before the closing of the polls would be counted. (2017 HB 2158 [Ch. 49]; KSA 25-1132)

A person is prohibited from knowingly transmitting or delivering an advance ballot to the county election officer or polling place on behalf of a voter unless the person submits, with the ballot, sworn statements affirming no undue influence was exercised, the person has not transmitted or delivered more than ten advance ballots on behalf of others, and the specific voter has authorized this transmission or delivery. (2021 Senate Sub. for HB 2183; New Sec. 2)

A county election officer is prohibited from accepting an advance ballot transmitted by mail unless the county election officer first verifies the signature on the advance ballot envelope matches the signature on file in the county voter registration records. The officer may use electronic verification or human inspection. The ballot will not be counted if the signature on the envelope does not match the signature on file. Signature verification is not required if the voter has a disability that prevents them from signing the ballot or that prevents them from signing in a way that matches the signature on file. (2021 Senate Sub. for HB 2183; KSA 25-1124)

**Assisting an advance voter.** The envelope for an advance ballot must contain a signature block for the advance voter, a signature block for the person assisting the advance voter, and a signature block for the person who signs the advance ballot envelope on behalf of a

person physically unable to sign such envelope. In the last case, the signature constitutes an affidavit that the voter is physically unable to sign and the signatory swears the information is true and correct, and signing an advance ballot envelope under false pretenses constitutes the crime of perjury. (2018 HB 2539 [Ch. 116]; KSA 25-1121)

No candidate for office may assist any voter in marking or signing an advance ballot, unless that candidate is the Secretary of State, an election official, or a county election office in the performance of that person's duties. Violation is a class C misdemeanor. (2021 Senate Sub. for HB 2183; KSA 25-1124)

### ***Replacement Ballots***

A voter who has not received an advance ballot or whose ballot is destroyed or spoiled could request a replacement ballot. The replacement ballot could be delivered in person or by mail. The county election officer was required to keep a record of replaced ballots. (1995 SB 232 [Ch. 192]; KSA 25-1122; provisions moved: 1999 SB 230 [Ch. 105]; KSA 25-1122f)

### ***Correcting Deficiencies***

**Providing a signature.** If the person applying for an advance ballot does not provide the required signature or identification, the county election office must provide information about the voter's right to vote a provisional ballot and to provide an opportunity to cure the signature problem and provide the identification required. (2011 HB 2067 [Ch. 56]; KSA 25-1122)

**Contact about a deficiency.** The county election office must make an attempt to contact each voter who submitted an advance ballot without a signature or with a signature that does not match the signature on file and allow the voter to correct the deficiency, before the final county canvass. (2019 Sub. for SB 130 [Ch. 36]; KSA 25-1124)

**Deadline.** Days were added between the election and when the county election officer presents original records to the county board of canvassers, to allow additional time for the voter of a provisional ballot to provide proof of identity. The day was changed from the Friday after the election to the following Monday or, if notice has been published, the second Thursday after the election. (2011 HB 2067 [Ch. 56]; KSA 25-3104)

### ***Advance Voting in Person***

Advance voting in person could be done on the Tuesday next preceding an election (or an earlier date the county election officer could designate), each succeeding business day until noon on the day preceding the election, and on Saturday (if the county election officer so provided). (1995 SB 232 [Ch. 192]; KSA 25-1122)

A voter who received an advance ballot may vote a regular ballot on election day if the voter returns the advance ballot and the judge or clerk voids the advance ballot. (1997 SB 145 [Ch. 124]; KSA 25-2908)

## ***Other Procedures***

**Voter's address.** An advance ballot could be sent only to certain specific addresses requested by the voter, such as a residential address, other mailing address, or a medical care facility; the restriction did not apply if the voter was “sick, physically disabled, or illiterate” (now “who has a temporary illness or disability or who is not proficient in reading the English language”). (1997 SB 145 [Ch. 124]; KSA 25-1123)

**Deadline.** An advance ballot could not be sent or given to the voter before the 20th day before the election; the county election official must send an advance ballot the 20th day before the election or within 2 business days of receiving the application; an envelope for returning the ballot with a declaration that the voter marked the enclosed ballot and sealed it in the envelope was required in continuing law. (1995 SB 232 [Ch. 192]; KSA 25-1123)

**List maintenance.** A county election officer may remove a person from the advance voting list if the person had not voted by advance ballot in two consecutive general elections; the voter could renew the application after notification from the county election officer. (2001 SB 127 [Ch. 141]; KSA 25-1122)

## **Voting**

The Help America Vote Act of 2002 Administrative Complaint Act was added to provide a uniform, nondiscriminatory administrative procedure for the resolution of any complaint alleging a violation of any provision of Title III of the Help America Vote Act of 2002 (HAVA), including a violation that has occurred, is occurring, or is about to occur. Topic of provisions of HAVA Title III include voting systems (accessibility, audit capacity), information to be posted at voting sites, the use of provisional ballots, a computerized statewide voter registration list, and registering to vote by mail. (2004 SB 479 [Ch. 25]; KSA 25-4701 - 25-4716)

## ***Providing Identification***

**Identification of first-time voter.** A ballot cast by a first-time voter would not be counted if the voter fails to provide valid identification. A “first-time voter” was defined as one who had not previously voted in any election in the county or had re-registered after being removed from the voting list. Acceptable forms of identification were listed. (2004 SB 479 [Ch. 25]; KSA 25-3002) A first-time voter unable or unwilling to provide identification or whose name and address did not match the registration book entry had until the meeting of the county board of canvassers to provide valid identification, in person, by mail, or by electronic means. The ballot must be counted if the county board of canvassers determines the voter's identification is valid and the provisional ballot was properly cast. These provisions were repealed in 2011. (2004 SB 479 [Ch. 25], 2011 HB 2067 [Ch. 56]; KSA 25-1122)

**Verification.** The county election officer is required to compare certain information provided by a first-time voter with information verified by the Division of Vehicles and was prohibited from transmitting an advance ballot if the voter provided no identification or the information does not match information on the voter registration list. (2004 SB 479 [Ch. 25]; KSA 25-1123) In 2011, “first-time” was removed from this provision, and the county election officer was instructed to send a provisional advance ballot. (2011 HB 2067 [Ch. 56]; KSA 25-1123)

**Identification required.** Every person voting at the polls on election day (with some exceptions) was required to provide a form of identification from among the types listed and containing the name and photograph of the voter. Expired documents are acceptable if the voter is 65 years of age or older. (2011 HB 2067 [Ch. 112]; KSA 25-2908)

The Division of Vehicles is prohibited from charging any fees for a nondriver's identification card issued for the purpose of meeting voter identification requirements. (2011 HB 2067 [Ch. 56 and 112]; 8-1324)

### ***Voting Procedures for Voters with Disability***

**Additional history.** A “sick, physically disabled or illiterate voter” could request assistance in marking or transmitting an absentee ballot. Anyone assisting the voter was required to sign an affidavit stating the person had not exercised undue influence and had marked the ballot as instructed; failing to sign and submit the affidavit was a class E felony. (1984 SB 571 [Ch. 141]; KSA 25-1124)

**Application for advance ballot.** An application for an advance ballot by or on behalf of a “sick, physically disabled, or illiterate” voter could be filed during the regular advance ballot application period until the close of the polls on election day; the ballot could be returned to the county election officer until the close of the polls on election day. (1997 SB 145 [Ch. 124]; KSA 25-1124)

**Definition.** “Disability” was defined to mean a physical or mental impairment that substantially limits one or more major life activities, a record of such impairment, or being regarded as having such an impairment. (2004 House Sub. for SB 166 [Ch. 93]; KSA 25-2909)

**Voting location accessibility.** Voting location accessibility standards were updated to require, with no exceptions or stated standards, that all voting places be made accessible, either by permanent or temporary means. (2004 House Sub. for SB 166 [Ch. 93]; KSA 25-2710)

**Vote secrecy.** Law requiring voting in absolute secrecy be provided was clarified to provide an exception for a person who requests assistance due to temporary illness or disability or a lack of proficiency in reading the English language. (2007 HB 2081 [Ch. 125]; KSA 25-4406)

**Voting systems.** An exception was made to the requirement the board of county commissioners and the county election officer provide a sufficient number of voting system units to authorize the Secretary of State to acquire electronic voting systems to assist counties in meeting HAVA requirements for each polling place to have at least one voting device accessible to individuals with disability. (2007 HB 2081 [Ch. 125]; KSA 25-4407)

**Assistance provided.** Voters with disability were authorized to request a ballot be brought to them outside the voting place, at a location within a 250-foot radius of the entrance. (2004 House Sub. for SB 166 [Ch. 93]; KSA 25-2909)

A person assisting an applicant for an advance ballot or with the ballot itself must sign a statement affirming the assisting individual has not influenced the voter and has completed the application or ballot as the voter instructed. (2018 HB 2539 [Ch. 116]; KSA 25-1124)

A voter with a disability that prevents the voter from being able to provide a signature was specifically authorized to request assistance with signing and application for or marking an advance ballot or from providing written permission for another individual to return the person's ballot to the county election officer. (2018 HB 2539 [Ch. 116]; KSA 25-1124)

### ***Voting Procedures for Federal and Overseas Voters***

**Application period.** The period of time federal services voters could apply for a ballot was expanded from only prior to an election held in August and November of even-numbered years (which would not have included municipal or special district elections) to any election in which the voter is otherwise entitled to vote. This applies to a voter qualified and eligible to vote by federal services absentee ballot (members of the armed forces of the United States, while in the active service, and their spouses and dependents; members of the U.S. merchant marines and their spouses and dependents; and U.S. citizens residing outside the territorial limits of the United States and their spouses and dependents when residing with or accompanying them). (2004 SB 479 [Ch. 25]; KSA 25-1216)

**Responsibility.** The Secretary of State became the officer responsible for disseminating federal services voting information and accepting ballot applications; the Secretary can utilize the services of county election officials. (2004 SB 479 [Ch. 25]; KSA 25-1223)

**Races and questions on ballots.** Ballots for federal services voters were expanded to include all offices and any proposition or question for which the voter was otherwise entitled to vote, such as local questions, state constitutional amendments, and political party precinct committee positions. This follows requirements of the federal Uniformed and Overseas Citizens Absentee Voting Act. (2011 SB 103 [Ch. 27]; KSA 25-1218)

**Electronic return.** Federal services voters could apply for registration and an absentee ballot by electronic mail or other electronic method authorized by the Secretary of State. These voters can return the ballot by electronic means if the transmittal states the voter agrees to waive the voter's right to a secret ballot. (2011 SB 103 [Ch. 27]; KSA 25-1216)

### ***Provisional Ballots***

**Moving within the county.** A voter who had moved within the county was permitted to update the voter's registration record and vote a provisional ballot at the voter's new polling place or at a central location determined by the county election officer. (1996 Senate Sub. for HB 2079 [Ch. 187]; KSA 25-414 and 25-2316c)

**Qualifications questioned.** A voter whose qualifications were questioned could vote a "provisional ballot" rather than a "challenged ballot." The voter who had changed name or moved to another county, or who the election officials knew or suspected was not a qualified elector, could vote a provisional ballot. The voter of a provisional ballot could register at the polls, and the application would be attached to the envelope containing the provisional ballot. The election officer was required to notify the voter of the disposition of the application. (1996 Senate Sub. for HB 2079 [Ch. 187]; KSA 25-409, 25-414, 25-2316c)

**Advance ballot not used.** If an advance ballot was requested but not used, the voter would receive a provisional ballot. (2003 SB 102 [Ch. 112]; KSA 25-1122f, 25-2908)

**After-hours ballot.** A voter voting after hours pursuant to a court or other order is entitled to cast a provisional ballot. (2004 SB 479 [Ch. 25.]; KSA 25-414) Those after-hours provisional ballot envelopes are to be separated from provisional envelopes containing ballots cast and the voter's application for registration. (2004 SB 479 [Ch. 25]; KSA 25-3008)

### ***Voting Locations and Equipment***

**Locations.** A county election officer in a county with a population greater than 250,000 could designate satellite voting sites for in-person advance voting. (1999 SB 230 [Ch. 105]; KSA 25-1122) Use of satellite voting sites was authorized in all counties in 2008. (2008 SB 65 [Ch. 3]; KSA 25-1122)

Every nursing facility, assisted living facility, and hospital-based long-term care unit could serve as a voting place for its residents who are registered to vote, starting in 2010. (2008 SB 562 [Ch. 129]; KSA 25-2812)

At the discretion of the county election official, a voter could vote at any polling place in the county on election day. (2019 Sub. for SB 130 [Ch. 36]; KSA 25-2701)

**Equipment.** The board of county commissioners and the county election officer determine the electronic or electromechanical voting system approved by the Secretary of State for use in the county; a provision authorizing the county's voters to petition and vote on whether to adopt an electronic or electromechanical voting stem was removed. (2007 HB 2081 [Ch. 125]; KSA 25-4403) Provisions providing for lever machines and punch card ballots were repealed. (2007 HB 2081 [Ch. 125]; KSA 25-1301 *et seq.*)

The Secretary of State's responsibility to examine electronic voting systems was clarified to include operating systems, firmware, and software. The Secretary of State must certify such a system before it is used at any election. (2007 HB 2081 [Ch. 125]; KSA 25-4404)

Any electronic or electromechanical voting systems approved by the Secretary of State must comply with HAVA and other related federal law. (2007 HB 2081 [Ch. 125]; KSA 25-4406)

No board of county commissioners is authorized to purchase, lease, or rent any direct recording electronic voting system. Any electronic or electromechanical voting system purchased, leased, or rented must provide a paper record of each vote cast at the time the vote is cast and have the ability to be tested both before an election and prior to the canvass. (2018 HB 2639 [Ch. 116]; KSA 25-4403)

### ***Other Procedures***

**Distribution in emergency.** The Secretary of State was authorized to designate temporary alternative methods for the distribution of ballots in cases of war, natural or man-made disasters, equipment failures or other emergency conditions or circumstances that make it impossible for voters in a voting area to obtain ballots as provided by law. (2000 HB 2844 [Ch. 48]; KSA 25-622)

**Hours.** Voting hours across the state were standardized to 7 a.m.-7 p.m. (or 12 continuous hours from 6 a.m. to 8 p.m., if so set and announced by the county election officer) in the Central time zone and 6 a.m. to 6 p.m. (or 12 continuous hours from 5 a.m. to 7 p.m. if so

set and announced by the county election officer) in the Mountain time zone. (2001 SB 126 [Ch. 124]; KSA 25-106)

**Posted notices.** Voters' rights and responsibilities are to be posted at each polling place on election day. (2002 SB 502 [Ch. 146]; KSA 25-2706)

**Instructions.** A sample ballot, notification of the election date, and the polling place hours were added to the printed instructions county election officers must furnish to election boards. (2004 SB 479 [Ch. 25]; KSA 25-2706)

**Staffing.** Instruction of election board judges and clerks before each election became mandatory rather than permissive; it is to be provided by the county election officer. (2004 SB 479 [Ch. 25]; KSA 25-2806) The instruction must cover their election duties, including procedures for complying with federal and state laws and regulations. The Secretary of State is to determine the form and content of the instruction. (2004 SB 479 [Ch. 25]; KSA 25-124)

The county election officer is authorized to allocate staffing resources as needed at the voting place except that two members of the election board, one of which is the supervising judge, is to be on duty the entire time the polls are open. [KAR 7-45-1 authorizes a county election officer to assign a continuous shift that is approximately half the time the polls are open, if certain restrictions are met.] (2007 HB 2081 [Ch. 125]; KSA 25-2810)

**Concealed carry.** The Personal and Family Protection Act, authorizing concealed carry, prohibited a licensee from carrying a concealed weapon into any polling place on the day an election is held. (2006 SB 418 [Ch. 32]; KSA 75-7c10) This provision was amended in 2013 to prohibit carrying of a concealed handgun into a posted building (2013 Senate Sub. for HB 2052 [Ch. 105], 75-7c10) In 2015, the language became, "The carrying of a concealed handgun shall not be prohibited in any building unless such building is conspicuously posted in accordance with rules and regulations adopted by the Attorney General." (2015 SB 45 [Ch. 16]; KSA 75-7c10)

**Poll agents.** Provisions were added to authorize a poll agent to be a registered Kansas voter (or, if ages 14-17, meeting all requirements to be a voter except age) or a member of the candidate's immediate family; formerly a poll agent could be only, or be appointed by, the chairperson of the county party committee, a chairperson of a committee concerned with a question-submitted election, a chairperson of a state party committee, any candidate, any precinct committeeman or precinct committeewoman, or any write-in candidate who has filed an affidavit of write-in. Each poll agent's written appointment was required to be filed with the county election officer and carried with the poll agent while on duty. [At all elections, authorized poll agents are allowed to be present and observe the proceedings at all original, intermediate, and final canvasses of elections and at the time and place of casting ballots, subject to such limitations in law, and their conduct is to be as directed by the supervising judge within the polling place. A poll agent must wear a badge issued by the county election officer and containing specified information. KSA 25-3005] (2007 HB 2128 [Ch. 196]; KSA 25-3005a)

**Disclosing voter names.** The name of a voter cannot be disclosed until the final canvass of the election, unless the voter is an advance voter. (2013 SB 122 [Ch. 101]; KSA 25-2422)

**Ballot language statements.** County election officials were authorized to request the preparation of a ballot language statement to explain the language of any municipal ballot

question; such preparation can be requested from the county attorney, district attorney, or county counselor, or the Secretary of State, depending on the circumstances. Ballot language statements must fairly and accurately explain what a vote for and a vote against the question represents. (2014 HB 2130 [Ch. 98]; KSA 25-623)

**Time limit.** The limit on time a voter can spend in the voting booth when other voters are waiting was increased from five minutes to ten minutes. (2015 HB 2104 [Ch. 88]; KSA 25-2901)

### ***Counting Votes and Ballots***

**Counting advance ballots.** An advance ballot so damaged or defective it cannot be counted with optical scanning equipment must be counted manually. (2007 HB 2081 [Ch. 125]; KSA 25-4611)

An advance ballot returned to any polling place in the county, added to returned to the county election office, before the closing of the polls would be counted. (2017 HB 2158 [Ch. 49]; KSA 25-1132)

Advance ballots postmarked before the close of the polls and received by the county election officer no later than the third day following the election date (unless additional time was permitted by the Secretary of State) must be delivered to the county canvassers like other advance ballots. (2017 HB 2158 [Ch. 49]; KSA 25-1132) The authority for the Secretary of State to extend the deadline was removed. (2021 Senate Sub. for HB 2183; KSA 25-1132)

**Counting provisional ballots.** The county board of canvassers was required to open all provisional ballots deemed to be valid and include those votes in its final canvass. (2001 SB 126 [Ch. 124]; KSA 25-409)

If a vote is challenged on the grounds the voter changed addresses within the county, the voter may provide an affirmation, and election judges must provide written information stating how the voter can learn whether the provisional vote was counted. (2004 SB 479 [Ch. 25]; KSA 25-409)

**Counting write-in votes.** If a tally of write-in votes was not provided, the county election officer is authorized to appoint a special write-in board, which would unseal ballots and count any write-in votes. (2003 HB 2214 [Ch. 48]; KSA 25-3008)

**Transmitting results.** County election officials were authorized to transmit results to the Secretary of State using a secure electronic transmission method, in addition to registered mail or designated messenger. (2004 HB 2606 [Ch. 126]; KSA 25-3202)

**Audit required.** A manual audit or tally of each vote cast in 1.0 percent of precincts (with a minimum of one per county) is required. (2018 HB 2539 [Ch. 116]; KSA 25-3009)

## **Election Crimes**

### ***Registration Crimes***

**Voter registration suppression.** The crime of voter registration suppression was created and defined as knowingly destroying any application for voter registration signed by a person, obstructing the delivery of any signed application to the county election officer or the chief state election official, or failing to deliver any application to the appropriate county election officer or the chief state election official as required by law. (2001 SB 128 [Ch. 125]; KSA 25-2421a)

**Providing application materials without certain disclosures.** Soliciting a registered voter by mail to file an application for an advance ballot and including an application for the advance ballot in the mailing without meeting certain requirements (described in Voting by Advance Ballot, [Applications](#) above) is a class C nonperson misdemeanor. (2021 HB 2332; KSA 25-1122)

### ***Advance Voting Crimes***

**Interfering with advance voting.** Intercepting, interfering with, or delaying the transmission of an advance ballot became a crime. It is a level 9 nonperson felony. (1997 SB 145 [Ch. 124]; KSA 25-1128)

Exercising undue influence over the voter who uses an advance ballot became a crime, as a level 9 nonperson felony. (1997 SB 145 [Ch. 124]; KSA 25-1124)

Regarding applications for advance ballots, criminal interfering with, delaying the transmission of, or sending an application to a place other than the county election office became a crime. It is a level 9 nonperson felony. (2000 HB 2328 [Ch. 151]; KSA 25-1128)

Knowingly transmitting or delivering an advance ballot to the county election officer or polling place on behalf of a voter became a crime, unless the person submits with the ballot sworn statements affirming no undue influence was exercised, the person has not transmitted or delivered more than ten advance ballots on behalf of others, and the specific voter has authorized this transmission or delivery. Violation is a level 9 nonperson felony. (2021 Senate Sub. for HB 2183; New Sec. 2)

No candidate for office can assist a voter in marking an advance ballot or signing an advance ballot form, unless that candidate is the Secretary of State or an election official in the performance of the duties of the office. Violation is a class C misdemeanor. (2021 Senate Sub. for HB 2183; New Sec. 2 and KSA 25-1124)

**Advance voting suppression.** The crime of advance voting suppression was created, as a level 9 nonperson felony, and defined as knowingly, with intent to impede, obstruct, or exert undue influence on the election process by:

- Destroying or altering another person's advance ballot without written consent of the registered voter;
- Obstructing the delivery of the advance ballot to the voter, or obstructing the return of the completed ballot to the county election officer;

- Failing to deliver an advance ballot to the county election officer within two business days or before the close of polls on election day;
- Using undue influence on an advance voter in applying for, delivering, or marking an advance ballot; or
- Opening an advance ballot envelope sealed by the voter or examining or disclosing the contents except as required by official duties as prescribed by law.

“Undue influence” was defined to mean coercion, compulsion, or restraint as to diminish the voter’s free agency, and by overcoming the power of resistance, or obliges or causes such voter to adopt the will of another, and “deliver” was defined to mean hand-deliver, mail, or otherwise transmit an advance voting ballot. (2007 HB 2128 [Ch. 196]; KSA 25-2433)

**“Knowingly” committing an advance voting crime.** The definitions of advance voting crimes were amended to require “knowingly” marking or transmitting more than one advance voting ballot; “knowingly” interfering with or delaying the transmission; “knowingly” marking, signing, or transmitting the ballot or envelope by a person other than the advance voter; and “knowingly” and falsely affirming, declaring, or subscribing to any material fact in an affirmation form. (2011 HB 2067 [Ch. 56]; KSA 25-1128)

**Misrepresenting a voter’s choices.** If another person assists the voter with an application for an advance ballot or with the ballot itself, failure of the assisting individual to complete or sign these documents as the voter instructed became a level 9 nonperson felony. (2018 HB 2539 [Ch. 116]; KSA 25-1124)

**Delivering an advance ballot under certain circumstances.** No individual can return more than ten advance ballots to the county election officer or a polling place. The person delivering an advance ballot on behalf of another person must submit an accompanying written statement at the time of delivery by that person. The statement must include, on a form established by the Secretary of State, two sworn statements: a sworn statement from the person delivering the ballot affirming they have not exercised undue influence on the voting decision of the voter, nor delivered more than ten advance voting ballots on behalf of other persons during the election, and a sworn statement by the voter affirming the authorization of the person to deliver the ballot and that the person delivering the ballot has not exercised undue influence on the voting decision of the voter. Violation is a class B misdemeanor. (2021 Senate Sub. for HB 2183; New Sec. 2)

**Altering a postmark.** Knowingly backdating or otherwise altering a postmark or other official indication of the date of mailing of an advance ballot became a crime, if the intent was to make the mailing date appear different from the actual date the voter or the voter’s designee mailed the ballot. Violation is a level 9 nonperson felony. (Senate Sub. for HB 2183; KSA 25-1128)

## ***Voting Crimes***

**Voting without being qualified.** The severity level of the crime of voting or attempting to vote without being qualified was increased, from a class A misdemeanor to a severity level 7 nonperson felony. “Without being qualified” is defined as voting in a district in which one is not a registered voter or voting but not meeting the qualifications of an elector. (2015 SB 34 [Ch. 87]); KSA 25-2416)

**Voting more than once.** A separate crime of voting more than once was created; it had been incorporated in the crime of voting without being qualified. The separate crime is defined as intentionally voting or attempting to vote more than once in the same jurisdiction in an election held on a particular date, voting in more than one U.S. jurisdiction in an election held on a particular date, or inducing or aiding any person to take the above actions. The crime is a severity level 7 nonperson felony. (2015 SB 34 [Ch. 87]; KSA 25-2434)

**Electioneering.** The crime of electioneering—which includes exhibiting or distributing materials that clearly indicate support for or opposition to a candidate or question within 250 feet of a polling place—was expanded to include a candidate touching or handling a voter’s ballot during the voting process, except on behalf of an immediate family member; distributing or counting ballots; hindering or obstructing a voter from voting or entering or leaving a polling place; or hindering or obstructing an election board worker from performing election duties. The prohibition does not apply to the Secretary of State, an election official, or county election office. (2021 Senate Sub. for HB 2183; KSA 25-2430)

### ***Voter Intimidation Crimes***

The crime of intimidation of voters was expanded to include mailing, publishing, broadcasting, telephoning, or transmitting by any means false information intended to keep one or more voters from casting a ballot or applying for or returning an advance ballot. The crime continued to be defined to include intimidating, threatening, coercing or attempting to intimidate, threaten, or coerce any person for the purpose of interfering with the right of such person to vote or to vote as he may choose, or of causing such person to vote for, or not to vote for, any candidate for any office or question submitted at any election. Intimidation of voters is a level 7 nonperson felony. (2001 SB 128 [Ch. 125]; KSA 25-2415)

### ***Vote Counting and Voting System Crimes***

**System tampering.** The definition of the crime of electronic or electromechanical voting system fraud was updated to add the unlawful or unauthorized possession of programs, operating systems, firmware, software, or ballots to intentionally tampering with, altering, disarranging, defacing, impairing or destroying any such voting system, as a level 9 nonperson felony. (2007 HB 2081 [Ch. 125]; KSA 25-4414)

**Counting system fraud.** The definition of optical scanning equipment fraud was updated to include being in possession of optical scanning equipment or related computer programs, operating systems, firmware, or software, in addition to being in unlawful possession of ballots or intentionally tampering with, altering, disarranging, defacing, impairing, or destroying any ballot or optical scanning equipment or component part. It is a level 9 nonperson felony. (2007 HB 2081 [Ch. 125]; KSA 25-4612)

**Election tampering.** The definition of election tampering—making or changing an election record—was expanded to include changing or attempting to change, alter, destroy, or conceal any vote cast by paper ballot or computer; changing or attempting to change any vote by manipulating computer hardware or software, election machines, wireless or cellular transmissions, or vote tabulation methods; or knowingly producing false vote totals, unless the person is lawfully carrying out an election duty. Violation is a level 7 nonperson felony. (2021 HB 2332; KSA 25-2423)

**Accepting moneys to conduct an election.** The Transparency in Revenues Underwriting Act created the crime of election officials knowingly accepting moneys, directly or indirectly, for any expenditures related to conducting, funding, or facilitating election administration. Moneys otherwise provided by law, including appropriations, are excluded. Violation is a level 9 nonperson felony. (2021 Senate Sub. for HB 2183; New Sec. 1)

### ***Other Election-related Crimes***

**False representation of an election official.** The crime of false representation of an election official was created. It is defined as representing oneself as an election official, engaging in conduct that gives the appearance of being an election official, or engaging in conduct that would cause another person to believe a person engaging in the conduct is an election official, and knowingly communicating that representation by telephone, mail, email, website, any other online activity, or any other means of communication. “Election official” is defined to mean the Secretary of State, an employee of the Secretary, any county election commissioner or county clerk, or any employee of an election commissioner or county clerk. Violation is a level 7 nonperson felony. (2021 Senate Sub. for HB 2183; New Sec. 3)