1		AN ACT relating to elections.
2	Be it	t enacted by the General Assembly of the Commonwealth of Kentucky:
3		→ Section 1. KRS 117.125 is amended to read as follows:
4	<u>(1)</u>	[Except for voting equipment that has been certified and in use on or before June
5		29, 2021, No voting system shall be approved for use after June 29, 2021, by the
6		State Board of Elections, either upon initial examination or reexamination, unless
7		the system has been certified under KRS 117.379. [ and is so constructed that it
8		shall: ]
9	<u>(2)</u>	In addition to the requirements of subsection (1) of this section, all voting systems
10		<u>shall:</u>
11		(a)[(1)] Ensure secrecy to the voter in the act of voting so that no person can see
12		or know for whom any other voter has voted or is voting, except for those
13		voters requiring assistance under KRS 117.255;
14		$(\underline{b})$ [(2)] Permit votes to be cast for any candidate entitled to have his or her name
15		printed upon the ballots at any primary, regular election, or special election,
16		and for or against any public question entitled to be placed upon the ballots;
17		$\underline{(c)}$ [(3)] Except at a primary, permit a voter to vote for all the candidates of one
18		(1) party or for one (1) or more candidates of every party having candidates
19		entitled to be voted for, or for one (1) or more independent, political
20		organization, or political group candidates;
21		$(\underline{d})$ [(4)] Permit a voter to vote for as many persons for an office as the voter is
22		lawfully entitled to vote for [, and no more];
23	<del>[(5)</del>	Prevent a voter from voting for more persons for any office than the voter is entitled
24		to vote for, and from voting for the same person, or for or against the same
25		question, more than once;]
26		(e) [(6)] Permit a voter to vote for or against any question the voter may have the
27		right to vote on, but no other;

1	<u>(f){(7)}</u>	Provide for a nonpartisan ballot;
2	$\underline{(g)}[(8)]$	Be capable of being adjusted for use in a primary so that a voter may not
3	vote	for any person except those seeking nomination as candidates of the
4	vote	r's party, as candidates for a nonpartisan office, or as candidates for an
5	offic	e of the Court of Justice;
6	<u>(h)[(9)]</u>	Permit each voter to vote for all the candidates for presidential electors
7	of ar	ny party by one (1) operation;
8	<u>(i)</u> [(10)]	Permit each voter to vote, in any regular or special election, for any
9	perso	on for whom the voter desires to vote whose name does not appear upon
10	the b	pallot by providing a method of write-in voting;
11	<u>(j)</u> [(11)]	Be safe, efficient, and accurate in the conduct of elections, and correctly
12	regis	ster and accurately count all votes cast for each person, and for or against
13	each	public question;
14	<u>(k) 1. [(1</u>	2) (a)] Provide each voter an opportunity to verify votes recorded on
15		the permanent paper ballot, either visually or using assistive voting
16		technology[, by producing a voter-verified paper audit trail];
17	<u>2.</u>	[(b)] Provide each voter an opportunity to change votes or correct any
18		error before the voter's ballot is cast and counted; and
19	<u>3.</u>	[(e)] Provide a voter who spoils his or her ballot another ballot as
20		provided under this chapter;
21	<u>(1)</u> [(13)]	Use an individual, discrete, permanent, paper ballot cast by the voter for
22	tabu	lating purposes;
23	<u>(m)</u> [(14)]	Preserve the paper ballot as $\underline{\textit{the}}[an]$ official record available for use in
24	<u>certi</u>	fication, any audit, or recount;
25	<u>(n)[(15)]</u>	Be suitably designed for the purpose used, constructed of a durable
26	mate	erial, and safely transportable;
27	$(a)^{[(16)]}$	Be capable of determining whether the voting equipment has been

1	unlocked and operated or adjusted in any manner after once being locked;
2	[(17) Have a public counter with a register which is visible from the outside of the
3	counter or device that will show at all times during an election how many persons
4	have voted;
5	(18) Have a protective cumulative counter indicating the number of votes cast for each
6	person, and the votes cast for or against each public question which cannot be seen
7	reset, or tampered with without unlocking a covering device by a key or other
8	security apparatus that cannot unlock any other part of the equipment, and which
9	prevents changes to the cumulative counter once the system has been put into
10	operation on the day of any election;]
11	$(\underline{p})$ [(19)] Provide for the tabulating of votes at the precinct as required under KRS
12	117.275;
13	$(\underline{q})$ [(20)] Provide locks or other security apparatus by which the operation of the
14	voting equipment may be locked before the time for opening the polls and
15	after the time for closing the polls;
16	$(\underline{r})$ [(21)] Permit a voter to readily learn the method of operating it, to
17	expeditiously cast a vote for all candidates and on all questions of the voter's
18	choice, and when operated properly, register and record correctly and
19	accurately every vote cast;
20	(s) [(22)] Bear a number or other unique designation that will distinguish it from
21	any other voting equipment or voting system;
22	[(23) Produce a real-time audit log record for the voting system, and produce a paper
23	record with a manual audit capacity which shall be available as an official record for
24	any recount conducted related to any primary or election in which the system is
25	used;]
26	(t)[(24)] Be accessible for individuals with impairments, including nonvisual
27	accessibility for the blind or visually impaired, in a manner that provides the

1	same opportunity for access and participation, including privacy and
2	independence, as for other voters;
3	(u) [(25)] Meet or exceed the standards for a voting system established by the
4	Election Assistance Commission, as amended from time to time, and those
5	approved under KRS 117.379; and
6	$(v)$ {(26)} Meet such other requirements as may be established by the State Board
7	of Elections in administrative regulations promulgated under KRS Chapter
8	13A to reflect changes in technology to ensure the integrity and security of
9	voting systems.
10	(3) In addition to the requirements of subsections (1) and (2) of this section, voting
11	systems using electronic equipment shall:
12	(a) Prevent a voter from voting for more persons for any office than the voter is
13	entitled to vote for, and from voting for the same person, or for or against
14	the same question, more than once;
15	(b) Have a public counter with a register which is visible from the outside of the
16	counter or device that will show at all times during an election how many
17	persons have voted;
18	(c) Have a protective cumulative counter indicating the number of votes case
19	for each person, and the votes cast for or against each public question
20	which cannot be seen, reset, or tampered with without unlocking a covering
21	device by a key or other security apparatus that cannot unlock any other
22	part of the equipment, and which prevents changes to the cumulative
23	counter once the system has been put into operation on the day of any
24	election; and
25	(d) Produce a real-time audit log record for any electronic component of the
26	voting system.
27	(4) In addition to the requirements of subsections (1) and (2) of this section, voting

systems using paper ballots shall include a notification to the voter of the effect of

## 2 <u>casting multiple votes for a single office.</u>

3 → Section 2. KRS 117.155 is amended to read as follows:

The county clerk shall place all ballots required to be placed upon voting equipment in such a manner as will most nearly conform to the plan of arrangement prescribed by the Secretary of State under KRS 118.215. The county clerk shall then see that the counters referred to in *subsection* (3)(b) and (c) of Section 1 of this Act[KRS 117.125(17) and (18)] are set at zero, and shall lock the operating device and mechanism and the devices protecting the counters and ballots. The county clerk shall then enter in an appropriate book, opposite the number of each precinct the distinguishing number of the voting

→ Section 3. KRS 117.175 is amended to read as follows:

equipment or the unique designation to be used in that precinct.

The county clerk shall, with the county attorney, prepare a sufficient number of instruction cards containing instructions as to the proper method of voting by the use of the voting equipment, *including a notification to the voter of the effect of casting multiple votes for a single office on a paper ballot*, and instructions as to the proper method of casting a write-in vote. For federal provisional ballots and supplemental paper ballots, if approved as provided in KRS 118.215, the instruction cards shall indicate the offices, candidates, and questions which will appear on the federal provisional or supplemental paper ballots, the offices that will appear on the federal provisional or supplemental ballot, the instructions for marking and depositing the federal provisional or supplemental paper ballots, instructions for filling out the federal provisional or supplemental ballot, and instructions on how to properly execute the voter affirmations. The instruction cards shall be examined and approved by the county board of elections at the time the voting equipment is examined and approved. The instruction cards shall be delivered to each election clerk by the county clerk at the time that other election supplies are delivered and the election clerk shall post the instruction card at the polling place.

→ Section 4. KRS 117.205 is amended to read as follows:

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Before the polls are open, and before permitting any person to vote on the day of the election, the election officers shall examine the voting equipment to ascertain whether it has been operated since the counters referred to in subsection (3)(b) and (c) of Section 1 of this Act[KRS 117.125(17) and (18)] were set at zero, and to ascertain whether the ballots are arranged as previously specified. If the voting equipment indicates that it has been operated or if the ballots are not properly arranged, the officers shall not unlock the operating device or mechanism, but shall immediately secure the attendance of the county clerk and one (1) member of the county board of elections other than the county clerk, who shall reset the counters at zero and relock the device covering the counters, or properly arrange the ballots, as the case may be, in the presence of the election officers. If the attendance of members of the board of elections cannot be obtained before the opening of the polls or within one (1) hour thereafter, the election officers shall notify the county clerk of the foregoing facts and obtain from the county clerk reserve voting equipment, and proceed to conduct the election. Any reserve voting equipment shall have been certified for use at the election by the county board of elections and prepared for use at the election by the election officers in the precinct in the same manner as the original voting equipment was prepared for the election. The voting equipment found to have been so operated shall be returned immediately to the custody of the county clerk, whose duty it shall be to promptly repair same so that it may be used as reserve voting equipment in the election if needed.

- Section 5. KRS 117.275 is amended to read as follows:
- 23 (1) At the count of the votes in any precinct, any candidate or slate of candidates and
  24 any representatives to witness and check the count of the votes therein, who are
  25 authorized to be appointed as is provided in subsection (9) of this section, shall be
  26 admitted and permitted to be present and witness the count.
- 27 (2) As soon as the polls are closed, and the last voter has voted, the judges at that time

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1		shall immediately lock and seal the voting equipment so that the voting and
2		counting mechanisms will be prevented from operating, and they shall sign a
3		certificate stating:
4		(a) That the voting equipment has been locked against voting and sealed;
5		(b) The number of voters, as shown on the public counters;
6		(c) The number registered on the protective or cumulative counter or device; and
7		(d) The number or other designation of the voting equipment.
8		The certificate, with any additional certificate previously prepared under KRS
9		117.035, shall be returned by the judges of election to the officials authorized by
10		law to receive it. The judges shall compare the number of voters, as shown by the
11		counter of the voting equipment, with the number of those who have voted as
12		shown by the protective or cumulative counter or device.
13	(3)	Where voting equipment is used which does not print the candidates' names along
14		with the total votes received on a general return sheet or record for that equipment,
15		the procedure to be followed shall be as follows:
16		(a) The judges, in the presence of the representatives mentioned in subsection (1)
17		of this section, if any, and of all other persons who may be lawfully within the
18		polling place, shall give full view of all the counter numbers;
19		(b) The judges shall enter, in ink, the total votes cast for each candidate, and slate
20		of candidates, and for and against each question on the return sheets; and
21		(c) Each precinct election officer shall sign the return sheets, and a copy of the
22		return sheets shall be posted on the precinct door.
23	(4)	Where voting equipment is used that prints the candidates' names along with the
24		total votes received on a return sheet or record for that equipment, the precinct
25		election officers shall sign the return sheets or record for the voting equipment,
26		which shall be posted on the door of the precinct.

(5) If any officer shall decline to sign the return sheets, he or she shall state the reason

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in writing, and a copy thereof, signed by the officer, shall be enclosed with the return sheets.

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Each of the return sheets, if applicable, and the record of the voting equipment shall be enclosed in an envelope. One (1) copy of the return sheets, if applicable, one (1) copy of the record of the voting equipment, and the write-in roll, if any write-in votes were cast in the precinct, shall be directed to the county board of elections of the county in which the election is being held. One (1) copy of the return sheets or record of the voting equipment shall be given to the county clerk of the county in which the election is being held and to each of the local governing bodies of the two (2) dominant political parties, but a local governing body of a dominant political party may decline a copy of the precinct election return by filing a written declination with the county board of elections prior to the election, and upon this declination, a printed copy shall not be issued to the political party so declining. The declination on file shall be effective for that election and any subsequent elections until revoked by the local governing body of a dominant political party by filing a written revocation with the county board of elections. The envelope shall have endorsed thereon a certificate of the election officers, stating the number or unique designation of the voting equipment, the precinct where it has been used, the number on the seal, and the number on the protective or cumulative counter or device at the close of the polls.

(7) Following the tabulation of all votes cast in the election, including absentee votes and write-in votes, the county board shall mail a copy of the precinct-by-precinct summary of the tabulation sheets showing the results from each precinct to the State Board of Elections and the county clerk shall mail or deliver the precinct signature rosters from each precinct to the State Board of Elections during the period established by KRS 117.355(3).

(8) As soon as possible after the completion of the *tabulation*, *a count for certification* 

1	shall be initiated. [count, the] Two (2) judges of different political parties shall:
2	(a) Open the box of cast ballots and sort the ballots into lots of fifty (50) or one
3	hundred (100), along with one (1) partial lot for the remainder of ballots
4	less than the lot size;
5	(b) Tabulate for each lot the number of votes received by each candidate and
6	the number of votes for and against each public question, and complete a
7	tally sheet for each lot;
8	(c) After both judges have completed a tally for an individual lot, compare both
9	tallies. If the tallies are identical, the judges shall certify the tally sheet as
10	complete; and
11	(d) If tallies of both judges for an individual lot are not identical, tally a second
12	time separately and record the tally on a new tally sheet. If the tallies are
13	then identical, the judges may discard the initial tally sheet and certify the
14	second tally sheet as complete. If the tally is not then identical, the lot shall
15	be referred to the county board of elections in accordance with subsection
16	(15) of this section.
17	(9) After all ballots are tallied and counted, the judges shall return to the county board
18	of elections the keys to the voting equipment received and receipted for by them,
19	and the county clerk in which the precinct is located shall have the voting
20	equipment properly boxed or securely covered and removed to a proper and secure
21	place of storage.
22	(10)[(9)] In primaries, each candidate or group of candidates may designate to the
23	county board of elections a representative to witness and check the vote count. In
24	regular elections, the governing authority of each political party, each candidate for
25	member of board of education, nonpartisan candidate, political group candidate,
26	political organization candidate, independent candidate, or independent ticket may
27	designate a representative to the county board of elections to witness and check the

1	vote count. The county board of elections shall authorize representatives of the
2	news media to witness the vote count.
3	(11)[(10)] For all federal provisional ballots, if applicable, and supplemental paper
4	ballots if approved as provided in KRS 118.215, after the polls are closed, the two
5	(2) judges shall return to the county clerk's office the locked federal provisional
6	ballot receptacle and the supplemental paper ballot box, all ballot stubs, spoiled
7	ballots, and unvoted ballots at the same time as the tabulation of votes from the
8	voting equipment is delivered. The county clerk shall issue a receipt for the number
9	of ballot stubs, unvoted ballots, spoiled ballots, and the ballot boxes or ballot
10	receptacle.
11	(12)[(11)] The county board of elections, or its designee, shall count and tally the
12	supplemental paper ballots[ that have not been tabulated by automatic tabulating
13	equipment at the precinct, either] manually[ or with the use of tabulating equipment
14	that has been certified by the State Board of Elections for use for that purpose in the
15	county clerk's office]. The results of the vote tally shall be certified by the county
16	board of elections to the county clerk and to the Secretary of State.
17	(13)[(12)] The county board of elections shall tabulate the valid federal provisional
18	ballots. The results of the vote tally shall be certified by the county board of
19	elections to the county clerk and to the Secretary of State. The county board shall
20	mail a copy of the precinct-by-precinct summary of the valid federal provisional
21	ballot tabulation sheets showing the results from each precinct to the State Board of
22	Elections.
23	(14)[(13)] The county board of elections shall authorize the candidates, slates of
24	candidates, or their representatives, and representatives of the news media to be
25	present during the counting of the supplemental and federal provisional paper
26	ballots.
27	(15) (a) Election results shall not be certified by the county board of elections

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1	without an exact match of voter tailies and ballot cast tailies. To certify, the
2	county board of elections shall compare the tallies of voters and compare
3	with the tallies of cast ballots, including spoiled ballots, federal provisional
4	ballots, and supplemental provisional ballots.
5	(b) If the tallies between voters and ballots are an exact match, the results shall
6	be certified by the county board of elections to the county clerk and the
7	Secretary of State as the official result of the election.
8	(c) If the tallies between voters and ballots or among ballots are not an exact
9	match, the county board of elections shall:
10	1. File a report with the local grand jury in accordance with KRS
11	<u>117.355; and</u>
12	2. Keep all the tally sheets, papers, or notes in accordance with
13	subsection (17) of this section; and
14	3. Recommend to the State Board of Elections to certify the election in
15	net result only if the difference in tallied votes exceeds the number of
16	discrepancy within a contest or if the contest is unopposed, or to
17	request resources for further investigation by the board.
18	When the certification of the tally sheets are complete, the election clerk shall
19	publicly announce the results and shall, on demand of any candidate or any
20	person present, furnish a certified copy of the results. The certificate shall
21	include the names of all candidates appearing on the ballot, and shall be signed
22	by the officer of elections and the precinct judges who performed the tallies, and
23	may be used as evidence in a court of competent jurisdiction.
24	(16) A voting system shall not be physically unattended between the close of any
25	election and the certified results.
26	(17)[(14)] Except as otherwise required in this chapter, all records and papers relating to
27	specified elections shall be retained for twenty-two (22) months, and the county

clerk shall retain the voted federal provisional ballots, voter affirmations, election official affirmations, and the supplemental paper ballots for twenty-two (22) months and the unvoted federal provisional ballots, the voter affirmations, election official affirmations, and the supplemental paper ballots for sixty (60) days after each election day, after which time they shall be destroyed in a manner to render them unreadable by the county board of elections if no contest or recount action has been filed.

→ Section 6. KRS 117.295 is amended to read as follows:

- (1) For a period of ten (10) days following any primary, and for a period of thirty (30) days following any regular or special election, the voting equipment shall remain locked against voting and the ballot boxes containing all paper ballots shall remain locked, except that the voting equipment and the ballot boxes may be opened and all the data and figures therein examined:
  - (a) Upon the order of any court of competent jurisdiction, or judge thereof;
- 15 (b) By direction of any legislative committee or board authorized and empowered 16 to investigate and report upon contested elections;
  - (c) By a county board of elections <u>in the process of certification or</u> under the direction of the State Board of Elections pursuant to a risk-limiting audit; or
  - (d) As required to conduct a recount under KRS 120.157.

All the data and figures shall be examined by the court, judge, county board of elections, State Board of Elections, or committee in the presence of the officer having the custody of the voting equipment, ballots, and ballot boxes. In the event of a contest of election, the court in which the contest is pending or the committee before which the contest is being heard may, upon motion of any party to the contest, issue an order requiring that the voting equipment, ballots, and ballot boxes shall remain continuously locked for further time as may be reasonable or necessary, with due regard for the preparation of the voting equipment for a

succeeding primary, regular election, or special election, but in no event shall the

- 2 order compel that the voting equipment remain locked to a time within thirty (30)
- days next preceding any approaching primary, regular election, or special election.
- 4 (2) During the period when the voting equipment and the ballot boxes are required to
- 5 be kept locked, the keys thereto shall remain in the possession of the county board
- of elections. After that period, it shall be the duty of the county board of elections to
- 7 return the keys to the custody of the county clerk.
- Section 7. KRS 117.383 is amended to read as follows:
- 9 The State Board of Elections shall promulgate administrative regulations under KRS
- 10 Chapter 13A which shall maintain the maximum degree of correctness, impartiality, and
- efficiency of the procedures of voting and shall provide methods to:
- 12 (1) Count, tabulate, and record votes;
- 13 (2) Place items on any ballot which shall, as closely as possible, follow the
- requirements pertaining to ballots;
- 15 (3) Design the ballots to include a system to ensure an accurate record of all voting
- 16 activities;
- 17 (4) Instruct voters in the use of the voting system, including any ballot marking device;
- 18 (5) Provide for checking the accuracy of the voting system;
- 19 (6) Provide necessary supplies, including those necessary for a write-in vote, to ensure
- voter privacy;
- 21 (7) As part of the official canvass, provide for a manual recount of randomly selected
- precincts representing three percent (3%) to five percent (5%) of the total ballots
- cast in each election;
- 24 (8) Provide for the conducting and review of an audit of any component of a voting
- 25 system or any voting equipment, and a review of any audit log;
- 26 (9) Provide for the conducting and review of an election audit, including a risk-limiting
- audit, and risk-limiting audit pilot program;

1	(10) Provide a method for maintaining sufficient documents, including ballots and
2	records, so that votes can be recounted;
3	(11) Include a voter education program to notify a voter of the effect of casting
4	multiple votes for a single office on a paper ballot, as required by 52 U.S.C. sec
5	<u>21081.</u>
6	(12)[(11)] Except as otherwise required in this chapter, all records and papers relating to
7	specified elections be retained for twenty-two (22) months, such documents and
8	records shall be maintained for thirty (30) days following an election; and
9	(13) [(12)] Unless contrary to the Help America Vote Act of 2002, ensure that all federa
10	provisional voting shall be conducted in a manner as prescribed by KRS Chapters
11	116 to 120.
12	→ Section 8. KRS 117.066 is amended to read as follows:
13	(1) The county board of elections may, pursuant to KRS 117.055 and subsection (3) or
14	this section, designate a single voting location for more than one (1) precinct if the
15	voting location is equipped with voting equipment capable of providing or
16	accepting separate ballots without endangering the integrity of the ballots or withou
17	violating any other election law.
18	(2) If a single voting location for more than one (1) precinct is approved under
19	subsection (3) of this section, the primary or election shall be conducted as follows:
20	(a) One (1) voting equipment may be used for more than one (1) precinct is
21	ballots are tabulated for each separate precinct, and if separate ballots may be
22	placed upon any voting equipment to be used without endangering the
23	integrity of the ballots or without violating any other election law. Otherwise
24	separate voting equipment shall be used for each precinct. In the instance of a
25	precinct which has a small number of voters such that the use of separate
26	voting equipment would be cost-prohibitive, the county clerk may make
27	application to the State Board of Elections to use supplemental paper ballots

1			under KRS 118.215 to conduct the voting for the small precinct on any
2			primary or election day. If the use of supplemental paper ballots is approved
3			by the State Board of Elections, at the close of voting on any primary or
4			election day, the locked supplemental paper ballot box shall be transported to
5			the county board of elections along with the federal provisional ballot
6			receptacle, and ballots shall be counted by the county board of elections as
7			provided by KRS 117.275(11) to (17)[(10) to (14)];
8		(b)	Separate precinct voter rosters shall be maintained for each precinct, and steps
9			shall be taken to ensure that voters cast their ballot in their duly authorized
10			precinct; and
11		(c)	A separate set of election forms and reports required by this chapter and the
12			State Board of Elections shall be maintained for each precinct.
13	(3)	The	county board of elections may petition the State Board of Elections to allow the
14		cons	solidation of precincts and the consolidation of precinct election officers at any
15		voti	ng location where voters of more than one (1) precinct vote. The petition shall
16		be o	on a form prescribed by the State Board of Elections in administrative
17		regu	lations promulgated under KRS Chapter 13A and shall include:
18		(a)	A list of all precincts designated to vote at the voting location;
19		(b)	The address and type of facility of the voting location;
20		(c)	The number and type of voting systems or voting equipment to be used at the
21			voting location;
22		(d)	The number of registered voters in each precinct designated to vote at the
23			voting location;
24		(e)	An explanation of the reasons why the consolidation is desirable;
25		(f)	The plan for additional precinct officers at the voting location, the manner in

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staffed with election officials;

which they will be assigned, and whether the voting location will be fully

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1		(g)	The plan for how the county clerk will publicize the location for where the
2			voting shall occur, in addition to how each location shall be noted
3			conspicuously to residents of the county as a "Vote Center"; and
4		(h)	The plan for how the voting location will serve as a focal point to meet the
5			needs of a diverse community.
6	(4)	If th	e petition submitted under subsection (3) of this section is approved by the State
7		Boar	rd of Elections, the precinct election officers designated to serve as election
8		offic	eers for more than one (1) precinct shall meet the eligibility requirements of
9		KRS	S 117.045.