

1 AN ACT relating to elections.

2 ***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

3 ➔Section 1. KRS 118.015 is amended to read as follows:

4 As used in this chapter, unless the context otherwise requires:

- 5 (1) A "political party" is an affiliation or organization of electors representing a
6 political policy and having a constituted authority for its government and regulation,
7 and whose candidate received at least twenty percent (20%) of the total vote cast at
8 the last preceding election at which presidential electors were voted for;
- 9 (2) The word "election" used in reference to a state, district, county, or city election,
10 includes the decisions of questions submitted to the qualified voters as well as the
11 choice of officers by them;
- 12 (3) A "ballot" or "official ballot" means the official presentation of offices and
13 candidates to be voted for, including write-in candidates, and all public questions
14 submitted for determination, and shall include a voting machine ballot, a paper
15 ballot, an absentee ballot, a federal provisional ballot, a federal provisional absentee
16 ballot, or a supplemental paper ballot which has been authorized for the use of the
17 voters in any primary, regular election, or special election by the Secretary of State
18 or the county clerk;
- 19 (4) "Ballot box" means any box, bag, or other container that can be locked, sealed, or
20 otherwise rendered tamper-resistant, for receiving ballots;
- 21 (5) "Voting equipment" means any physical component of a voting system and includes
22 voting machines where voting machines are in operation;
- 23 (6) "Voting machine" or "machine" means a part of a voting system that consists of:
- 24 (a) A direct recording electronic voting machine that:
- 25 1. Records votes by means of a ballot display provided with mechanical or
26 electro-operated components that may be actuated by the voter;
- 27 2. Processes the data by means of a computer program;

- 1 3. Records voting data and ballot images in internal and external memory
2 components; and
- 3 4. Produces a tabulation of the voting data stored in a removable memory
4 component and on a printed copy; or
- 5 (b) One (1) or more electronic devices that operate independently or as a
6 combination of a ballot marking device and an electronic or automatic vote
7 tabulating device;
- 8 (7) "Voting system" means:
- 9 (a) The total combination of physical, mechanical, electromechanical, or
10 electronic equipment, including the software, hardware, firmware, and
11 documentation required to program, control, and support that equipment, that
12 is used to:
- 13 1. Define ballots;
- 14 2. Cast and count votes;
- 15 3. Report or display election results; and
- 16 4. Maintain and produce any audit trail information; and
- 17 (b) The practices and associated documentation used to:
- 18 1. Identify system components and versions of those components;
- 19 2. Test the system during its development and maintenance;
- 20 3. Maintain records of system errors and defects;
- 21 4. Determine specific system changes to be made to a system after the
22 initial qualification of the system; and
- 23 5. Make available any materials to the voter, such as notices, instructions,
24 forms, or paper ballots;
- 25 (8) The word "resident" used in reference to a candidate in a state, district, county, or
26 city election shall mean actual resident, without regard to the residence of the
27 spouse of the candidate;

- 1 (9) "Political organization" means a political group not constituting a political party
2 within the meaning of subsection (1) of this section but whose candidate received
3 two percent (2%) or more of the vote of the state at the last preceding election for
4 presidential electors;~~and~~
- 5 (10) "Political group" means a political group not constituting a political party or a
6 political organization within the meaning of subsections (1) and (9) of this section;
- 7 **(11) "Batch elimination" means the simultaneous defeat of multiple candidates for**
8 **whom it is mathematically impossible to be elected;**
- 9 **(12) "Continuing ballot" means a ballot that is not an exhausted ballot;**
- 10 **(13) "Continuing candidate" means a candidate who has not been defeated;**
- 11 **(14) "Exhausted ballot" means a ballot that does not rank any continuing**
12 **candidate, contains an overvote at the highest continuing ranking, or contains**
13 **two (2) or more sequential skipped rankings before its highest continuing**
14 **ranking;**
- 15 **(15) "Highest continuing ranking" means the highest ranking on a voter's ballot for**
16 **a continuing candidate;**
- 17 **(16) "Last-place candidate" means the candidate with the fewest votes in a round of**
18 **the ranked-choice vote tallying;**
- 19 **(17) "Mathematically impossible to be elected," with respect to a candidate means**
20 **either:**
- 21 **(a) The candidate cannot be elected because the candidate's vote total in a**
22 **round of the ranked-choice voting tabulation plus all votes that could**
23 **possibly be transferred to the candidate in future rounds from candidates**
24 **with fewer votes or an equal number of votes would not be enough to**
25 **surpass the candidate with the next-higher vote total in the round; or**
- 26 **(b) The candidate has a lower vote total than a candidate described in**
27 **paragraph (a) of this subsection;**

1 (18) "Office elected by ranked-choice voting" means any member of the General
 2 Assembly, as well as the Office of Governor, Lieutenant Governor, Attorney
 3 General, Secretary of State, Auditor, Commissioner of Agriculture, and
 4 Treasurer;

5 (19) "Overvote" means a circumstance in which a voter has ranked more than one (1)
 6 candidate at the same ranking;

7 (20) "Round" means an instance of the sequence of voting tabulation steps
 8 established in Section 4 of this Act;

9 (21) "Skipped ranking" means a circumstance in which a voter has left a ranking
 10 blank and ranks a candidate at a subsequent ranking; and

11 (22) "Under-voted" means when a voter marks or delineates a selection of two (2) or
 12 more candidates, but does not rank the voter's order of preference for the
 13 candidates.

14 ➔SECTION 2. A NEW SECTION OF KRS CHAPTER 118 IS CREATED TO
 15 READ AS FOLLOWS:

16 For a regular or special election, candidates who seek an office elected by ranked-
 17 choice voting shall only be elected by ranked-choice voting. Ranked-choice voting shall
 18 not be applicable to primaries.

19 ➔SECTION 3. A NEW SECTION OF KRS CHAPTER 118 IS CREATED TO
 20 READ AS FOLLOWS:

21 (1) For an election for an office elected by ranked-choice voting that has more than
 22 two (2) choices, the ballot shall:

23 (a) Be laid out to allow the voter to rank the candidates for an office in order of
 24 preference;

25 (b) Allow for a voter to include one (1) write-in candidate if he or she desires;
 26 and

27 (c) Be in a simple and easy to understand format.

1 (2) When ranked-choice voting is used to elect a candidate to elected office:

2 (a) The voter may rank his or her preferences for the candidates for that office,
3 but shall not be required to rank all candidates for that office;

4 (b) A mark or delineation by the voter for only one (1) candidate shall be
5 interpreted as a vote of rank one (1) for that particular candidate, with no
6 other candidate being ranked; and

7 (c) A mark or delineation by the voter for two (2) or more candidates, but
8 which does not rank the voter's order of preference for the candidates, shall
9 not count as votes for any candidates, and shall cause the ballot to be
10 identified as under-voted.

11 (3) If a ballot is considered under-voted and the voter used a paper ballot, the voter
12 may upon surrendering the ballot, request and vote upon another ballot. The
13 original ballot that is considered under-voted shall be marked as spoiled and the
14 requirements of KRS 117.385 related to spoiled ballots shall be applicable.

15 ➔SECTION 4. A NEW SECTION OF KRS CHAPTER 118 IS CREATED TO
16 READ AS FOLLOWS:

17 Except as provided in subsections (2) and (3) of this section, the following procedures
18 shall be used to determine the winner in an election for an office elected by ranked-
19 choice voting:

20 (1) Tallying shall proceed in rounds. In each round, the number of votes for each
21 continuing candidate shall be counted. Each continuing ballot counts as one (1)
22 vote for its highest-ranked continuing candidate for that round. Exhausted
23 ballots shall not be counted for any continuing candidate. The round then ends
24 with one (1) of the following two (2) potential outcomes:

25 (a) If there are two (2) or fewer continuing candidates, the candidate with the
26 most votes is declared the winner of the election; or

27 (b) If there are more than two (2) continuing candidates, the last-place

1 candidate is defeated and a new round begins.

2 (2) A tie under this section between candidates for the most votes in the final round
 3 or a tie between last-place candidates in any round shall be decided by lot, and
 4 the candidate chosen by lot is defeated. The result of the tie resolution shall be
 5 recorded and reused in the event of a recount. The drawing of lot shall be in the
 6 presence of not fewer than three (3) other persons and in the manner as the State
 7 Board of Elections directs.

8 (3) Modification of a ballot for ranked-choice voting and tabulation is permitted in
 9 accordance with the following:

10 (a) The number of allowable rankings may be limited to no fewer than six (6);

11 or

12 (b) Two (2) or more candidates may be defeated simultaneously by batch
 13 elimination in any round of tabulation.

14 (4) For candidates of a political party, political group, or political organization or
 15 who are independents, the number of votes cast is the number of votes credited to
 16 that candidate after the initial counting in the first round as described in
 17 subsection (1) of this section and, if applicable, subsection (2) of this section.

18 ➔Section 5. KRS 117.125 is amended to read as follows:

19 Except for voting equipment that has been certified and in use on or before June 29, 2021,
 20 no voting system shall be approved for use after June 29, 2021, by the State Board of
 21 Elections, either upon initial examination or reexamination, unless the system has been
 22 certified under KRS 117.379 and is so constructed that it shall:

23 (1) Ensure secrecy to the voter in the act of voting so that no person can see or know for
 24 whom any other voter has voted or is voting, except for those voters requiring
 25 assistance under KRS 117.255;

26 (2) Permit votes to be cast for any candidate entitled to have his or her name printed
 27 upon the ballots at any primary, regular election, or special election, and for or

- 1 against any public question entitled to be placed upon the ballots;
- 2 (3) Except at a primary, permit a voter to vote for all the candidates of one (1) party or
3 for one (1) or more candidates of every party having candidates entitled to be voted
4 for, or for one (1) or more independent, political organization, or political group
5 candidates;
- 6 (4) Permit a voter to vote for as many persons for an office as the voter is lawfully
7 entitled to vote for, and no more;
- 8 (5) Prevent a voter from voting for more persons for any office than the voter is entitled
9 to vote for, and from voting for the same person, or for or against the same
10 question, more than once;
- 11 (6) Permit a voter to vote for or against any question the voter may have the right to
12 vote on, but no other;
- 13 (7) Provide for a nonpartisan ballot;
- 14 (8) Be capable of being adjusted for use in a primary so that a voter may not vote for
15 any person except those seeking nomination as candidates of the voter's party, as
16 candidates for a nonpartisan office, or as candidates for an office of the Court of
17 Justice;
- 18 (9) Permit each voter to vote for all the candidates for presidential electors of any party
19 by one (1) operation;
- 20 (10) Permit each voter to vote, in any regular or special election, for any person for
21 whom the voter desires to vote whose name does not appear upon the ballot by
22 providing a method of write-in voting;
- 23 (11) Be safe, efficient, and accurate in the conduct of elections, and correctly register and
24 accurately count all votes cast for each person, and for or against each public
25 question;
- 26 (12) (a) Provide each voter an opportunity to verify votes recorded on the permanent
27 paper ballot, either visually or using assistive voting technology, by producing

- 1 a voter-verified paper audit trail;
- 2 (b) Provide each voter an opportunity to change votes or correct any error before
3 the voter's ballot is cast and counted; and
- 4 (c) Provide a voter who spoils his or her ballot another ballot as provided under
5 this chapter;
- 6 (13) Use an individual, discrete, permanent, paper ballot cast by the voter for tabulating
7 purposes;
- 8 (14) Preserve the paper ballot as an official record available for use in any audit or
9 recount;
- 10 (15) Be suitably designed for the purpose used, constructed of a durable material, and
11 safely transportable;
- 12 (16) Be capable of determining whether the voting equipment has been unlocked and
13 operated or adjusted in any manner after once being locked;
- 14 (17) Have a public counter with a register which is visible from the outside of the
15 counter or device that will show at all times during an election how many persons
16 have voted;
- 17 (18) Have a protective cumulative counter indicating the number of votes cast for each
18 person, and the votes cast for or against each public question which cannot be seen,
19 reset, or tampered with without unlocking a covering device by a key or other
20 security apparatus that cannot unlock any other part of the equipment, and which
21 prevents changes to the cumulative counter once the system has been put into
22 operation on the day of any election;
- 23 (19) Provide for the tabulating of votes at the precinct as required under KRS 117.275;
- 24 (20) Provide locks or other security apparatus by which the operation of the voting
25 equipment may be locked before the time for opening the polls and after the time
26 for closing the polls;
- 27 (21) Permit a voter to readily learn the method of operating it, to expeditiously cast a

1 vote for all candidates and on all questions of the voter's choice, and when operated
2 properly, register and record correctly and accurately every vote cast;

3 (22) Bear a number or other unique designation that will distinguish it from any other
4 voting equipment or voting system;

5 (23) Produce a real-time audit log record for the voting system, and produce a paper
6 record with a manual audit capacity which shall be available as an official record for
7 any recount conducted related to any primary or election in which the system is
8 used;

9 (24) Be accessible for individuals with impairments, including nonvisual accessibility
10 for the blind or visually impaired, in a manner that provides the same opportunity
11 for access and participation, including privacy and independence, as for other
12 voters;

13 (25) **Permit a voter to vote in accordance with ranked-choice voting in a regular**
14 **election for eligible candidates;**

15 **(26)** Meet or exceed the standards for a voting system established by the Election
16 Assistance Commission, as amended from time to time, and those approved under
17 KRS 117.379; and

18 **(27)**~~(26)~~ Meet such other requirements as may be established by the State Board of
19 Elections in administrative regulations promulgated under KRS Chapter 13A to
20 reflect changes in technology to ensure the integrity and security of voting systems.

21 ➔Section 6. KRS 117.187 is amended to read as follows:

22 (1) The State Board of Elections shall regularly provide special training regarding the
23 election laws and methods of enforcement to all members of county boards of
24 elections, county attorneys, Commonwealth's attorneys, and certain members of the
25 Department of Kentucky State Police.

26 (2) The county board of elections shall provide special training before each primary,
27 regular election, and any special election to all election officers, alternates, and

1 certified challengers regarding their duties and the penalties for failure to perform.
2 Election officers, including alternates, and certified challengers shall attend the
3 training session, unless excused by the county board of elections for reason of
4 illness or other emergency. Any person who fails to attend a training session
5 without being excused shall be prohibited from serving as an election officer or
6 challenger for a period of five (5) years. The training provided by the county board
7 of elections shall include but not be limited to the following:

- 8 (a) Operation of the voting equipment, and voting system as applicable;
- 9 (b) Posting of necessary signs and notices at the polling place;
- 10 (c) Voter assistance;
- 11 (d) Maintaining precinct rosters;
- 12 (e) Confirmation of a voter's identity;
- 13 (f) Challenge of a voter;
- 14 (g) Completing changes of address or name at the polling place;
- 15 (h) Qualifications for voting in a primary;
- 16 (i) Electioneering and exit polling;
- 17 (j) Write-in voting procedures;
- 18 (k) Persons who may be in the voting room;
- 19 (l) Election violations and penalties;
- 20 (m) Assistance which may be provided by law enforcement officers;
- 21 (n) Election reports;
- 22 (o) Disability awareness;
- 23 (p) Provisional voting and provisional absentee voting;
- 24 (q) Election emergency contingency plan;
- 25 (r) Elections, voting equipment, and voting systems security plan;
- 26 (s) Proof of identification;~~and~~
- 27 (t) Information concerning the secure online portal to request a mail-in absentee

1 ballot; and

2 (u) The election process of ranked-choice voting.

3 (3) The county attorney or the county attorney's designee may attend the training
4 session for election officers to assist in explaining the duties and penalties for
5 failure to perform.

6 (4) Compensation in the minimum amount of ten dollars (\$10) for reimbursement of
7 actual expenses shall be paid by the county to the election officers for attending the
8 training session.

9 ➔Section 7. KRS 118.425 is amended to read as follows:

10 (1) The State Board of Elections shall issue certificates of election where the successful
11 candidate was voted for by the state at large, was voted for by a district greater than
12 one (1) county, or was a candidate for member of Congress or the General
13 Assembly.

14 (2) Except as provided in subsection (3) of this section, not later than the second
15 Monday after the election, the county board of elections shall issue certificates of
16 election where the successful candidate was voted for by the electors of one (1)
17 county, or of a district less than one (1) county, except members of Congress,
18 members of the General Assembly, and designated officers filing with the Secretary
19 of State. The right to contest or recount an election in accordance with KRS Chapter
20 120 shall not be impaired. The county board of elections of the candidate's
21 residence shall issue certificates of election where the successful candidate was
22 voted for by the electors of a city or school district whose boundaries extend beyond
23 those of a single county. The board shall forward the certificate to the elected
24 candidate. If the board finds that two (2) or more candidates have received the
25 highest and equal number of votes for the same office, the board shall determine by
26 lot which of the candidates is elected.

27 (3) In counties containing cities of the first class, not later than the thirtieth day of

1 December after the election, the county board of elections shall issue certificates of
2 election where the successful candidate was voted for by the electors of the county,
3 except members of Congress, members of the General Assembly, and designated
4 officers filing with the Secretary of State. The right to contest or recount an election
5 in accordance with KRS Chapter 120 shall not be impaired. The county board of
6 elections of the candidate's residence shall issue certificates of election where the
7 successful candidate was voted for by the electors of a city whose boundaries
8 extend beyond those of a single county. The board shall forward the certificate to
9 the elected candidate. If the board finds that two (2) or more candidates have
10 received the highest and equal number of votes for the same office, the board shall
11 determine by lot which of the candidates is elected.

12 (4) In the case of all offices voted for, and in the case of public questions submitted to
13 the vote of the people of the state at large or of a district greater than one (1) county,
14 the county board of elections shall make out duplicate certificates of the total
15 number of votes received by each of the candidates for the office and the total
16 number of votes for and against each of the questions on a form prescribed by the
17 State Board of Elections through the promulgation of administrative regulations in
18 accordance with KRS Chapter 13A. The certificate of the total number of votes
19 shall be certified to the Secretary of State's Office not later than 12 p.m., prevailing
20 time, on the Friday following the election. For special elections the certificate of the
21 total number of votes shall be certified to the Secretary of State's Office not later
22 than 12 p.m., prevailing time, on the day following the election. The clerk shall
23 keep one (1) of the certificates in his or her office. He or she shall not later than
24 three (3) days after receiving the certificate from the board, forward the other
25 certificate by mail to the Secretary of State who shall deliver it to the State Board of
26 Elections.

27 (5) The State Board of Elections shall meet, to count and tabulate the votes received by

1 the different candidates as certified to the Secretary of State no later than the third
2 Monday after the election. The right to contest or recount an election in accordance
3 with KRS Chapter 120 shall not be impaired. A majority of the members of the
4 board shall constitute a quorum and may act. The board shall make out the
5 certificates of election in the office of the board from the returns made. The board
6 shall make out duplicate certificates of election, in writing, over the signatures of its
7 members. The board shall forward the original certificate, by mail, to the elected
8 candidate. The duplicate shall be retained in the office of the board. In the case of
9 the election of a representative in Congress, an additional certificate shall be made
10 and sent, by mail, to the clerk of the House of Representatives.

11 (6) The certificate of election shall be issued to the candidate receiving the highest
12 number of votes in the territory from which the election is to be made. Except as
13 provided for those candidates for office elected by ranked-choice voting as
14 prescribed in Sections 2 and 3 of this Act, if two (2) or more persons are found to
15 have received the highest and an equal number of votes for the same office, the
16 election shall be determined by lot in the manner the board directs, in the presence
17 of not less than three (3) other persons. In the case of elections for electors of
18 President and Vice President of the United States, the board shall issue a certificate
19 of election to each elector of the political party or organization whose candidates for
20 President and Vice President received the highest number of votes and the
21 determination by the board that the candidates of any political party or organization
22 for President and Vice President have received the highest number of votes shall
23 constitute a determination that the electors nominated by that party have been
24 elected.