

FIRST REGULAR SESSION

HOUSE BILL NO. 948

93RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES COOPER (158) (Sponsor), SMITH (14), BAKER (123),
DAVIS, SATER AND MAY (Co-sponsors).

Read 1st time March 31, 2005 and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

2207L.011

AN ACT

To repeal sections 115.126, 115.223, 115.430, and 115.637, RSMo, and to enact in lieu thereof seven new sections relating to voting rights, with a penalty provision.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 115.126, 115.223, 115.430, and 115.637, RSMo, are repealed and
2 seven new sections enacted in lieu thereof, to be known as sections 115.203, 115.205, 115.219,
3 115.223, 115.430, 115.456, and 115.637, to read as follows:

**115.203. 1. No person shall pay or otherwise compensate any other person for
2 registering voters based on the number of:**

3 **(1) Voters registered by the other person;**

4 **(2) Voter registration applications collected by the other person; or**

5 **(3) Voter registration applications submitted to election officials by the other
6 person.**

7 **2. No person shall receive or accept payment or any other compensation from any
8 other person for registering voters based on the number of:**

9 **(1) Voters registered by the person receiving or accepting payment or other
10 compensation;**

11 **(2) Voter registration applications collected by the person receiving or accepting
12 payment or other compensation; or**

13 **(3) Voter registration applications submitted to election officials by the person
14 receiving or accepting payment or other compensation.**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

15 **3. No person who agrees or offers to submit a voter registration application for**
16 **another person shall knowingly destroy, deface, or conceal such voter registration**
17 **application.**

18 **4. Any person who accepts or receives a voter registration application from another**
19 **person and agrees or offers to submit such application to the election authority for the**
20 **registrant shall deliver the application to the election authority within seven days of**
21 **accepting or receiving the application.**

22 **5. A violation of this section is a class four election offense.**

115.205. 1. Any person who is paid or otherwise compensated for soliciting more
2 **than ten voter registration applications, other than a governmental entity or a person who**
3 **is paid or compensated by a governmental entity for such solicitation, shall be registered**
4 **with the secretary of state as a voter registration solicitor. A voter registration solicitor**
5 **shall register for every election cycle which begins on the day after the general election and**
6 **ends on the day of the general election two years later. A voter registration solicitor shall**
7 **be at least eighteen years of age and shall be a registered voter in the state of Missouri.**

8 **2. Each voting registration solicitor shall provide the following information in**
9 **writing to the secretary of state's office:**

10 **(1) The name of the voting registration solicitor;**

11 **(2) The residential address, including street number, city, state, and zip code;**

12 **(3) The mailing address, if different from the residential address;**

13 **(4) Whether the voting registration solicitor expects to be paid for soliciting voter**
14 **registrations;**

15 **(5) If the voter registration solicitor expects to be paid, the identity of the payor;**

16 **(6) The signature of the voter registration solicitor.**

17 **3. The solicitor information required in subsection 2 of this section shall be**
18 **submitted to the secretary of state's office with the following oath and affirmation:**

19 **"I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT**
20 **ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT."**

21 **4. Any voter registration solicitor who knowingly fails to register with the secretary**
22 **of state or knowingly submits false information to the secretary of state is guilty of a class**
23 **three election offense. Voter registration applications shall be accepted by the election**
24 **authority if such applications are otherwise valid, even if the voter registration solicitor**
25 **who procured the applications fails to register with or submits false information to the**
26 **secretary of state.**

115.219. 1. Any person who believes a violation of any provision of Title III of the
2 **Help America Voter Act of 2002 (HAVA), 42 U.S.C. Sections 15481 to 15485, has occurred,**

3 is occurring, or is about to occur may file a complaint with the elections division of the
4 secretary of state's office.

5 **2. Any complaint filed under this section shall:**

6 **(1) Be in writing, signed, and sworn to before a notary public commissioned by the**
7 **state of Missouri;**

8 **(2) Be filed within thirty days of the certification of the election in which the**
9 **violation is alleged to have occurred; and**

10 **(3) State the following:**

11 **(a) The name and mailing address of the person or persons alleged to have**
12 **committed the violation of Title III of HAVA described in the complaint;**

13 **(b) A description of the act or acts that the person filing the complaint believes is**
14 **a violation of Title III of HAVA; and**

15 **(c) The nature of the injury suffered or is about to be suffered by the person filing**
16 **the complaint.**

17 **3. The elections division shall promptly provide a copy of the complaint by certified**
18 **mail to:**

19 **(1) All persons identified in the complaint as possible violators of Title III of**
20 **HAVA; and**

21 **(2) The election authority in whose jurisdiction the violation is alleged to have**
22 **occurred or is about to occur.**

23 **4. The elections division may consolidate complaints filed under this section.**

24 **5. Upon the proper filing of a complaint under this section, the secretary of state**
25 **shall appoint a presiding officer who shall conduct an investigation of the complaint.**

26 **6. At the request of the person filing the complaint or if the presiding officer**
27 **believes that the circumstances so dictate, the presiding officer shall conduct a hearing on**
28 **the complaint and prepare a record on the hearing, such hearing to be conducted within**
29 **ten days of the request of the person filing the complaint.**

30 **7. Upon completion of the investigation, the presiding officer shall submit the**
31 **results to the elections division, which shall then issue a written report. The elections**
32 **division shall provide a copy of the report by certified mail to:**

33 **(1) The person who filed the complaint;**

34 **(2) The person or persons alleged to have committed the violation; and**

35 **(3) The election authority in whose jurisdiction the violation is alleged to have**
36 **occurred.**

37 **8. The report described in subsection 7 of this section shall:**

38 **(1) Indicate the date when the complaint was received by the elections division;**

39 **(2) Contain findings of fact regarding the alleged violation and state whether a**
40 **violation of Title III of HAVA has occurred;**

41 **(3) State what steps, if any, the person or persons alleged to have committed a**
42 **violation have taken to correct and/or prevent any reoccurrence;**

43 **(4) Suggest any additional measures that could be taken to correct the violation;**

44 **(5) Indicate the date a violation was corrected or is expected to be corrected;**

45 **(6) Provide any additional information or recommendations useful in resolving the**
46 **complaint.**

47 **9. If the elections division determines that there is a violation of Title III of HAVA,**
48 **the elections division shall determine and provide the appropriate remedy, as authorized**
49 **by law to do so. If the elections division determines that it is not authorized by law to**
50 **provide an appropriate remedy, the elections division shall, if possible, refer the matter to**
51 **the appropriate agency or office that has jurisdiction.**

115.223. Whenever a voter's name has been removed from the registration records by
2 an election authority, the voter may appeal the removal to the circuit court. Unless prohibited
3 by court rule, the petition may be filed in an associate circuit court division. No formal pleading
4 shall be required, and it shall be sufficient for the voter to present to the court an application
5 verified by affidavit setting forth that [his] **the voter's** name has been removed from the
6 registration records, the date of such removal, and any other information showing [his] **the**
7 **voter's** qualification to vote. The application shall first be presented to the election authority,
8 which shall either restore the voter's name to the registration records or furnish a statement
9 showing the reason the voter's name was removed from the records. The court shall hear and
10 dispose of such application forthwith. Evidence may be introduced for and against the
11 application. If the court sustains the application, the court shall notify the election authority of
12 its action, and the election authority shall restore the applicant's name to the registration records
13 and note that it was restored by order of the court. No person whose name is restored to the
14 registration records by order of the court shall be protected by such order if [he] **such person** is
15 challenged or prosecuted for false registration or false voting. If a voter's name [is] **has been**
16 **removed from the registration records and the voter discovers such removal more than**
17 **fifteen days prior to the election, any appeal to the circuit court shall be filed on or before**
18 **fourteen days prior to the election and shall be decided by the court before election day.**
19 **If a voter's name has been removed from the registration records and the voter discovers**
20 **such removal within fourteen days of the election, any appeal to the circuit court shall be**
21 **expeditiously filed with and decided by the court. If a court restored to the registration**
22 records [by the election authority or by order of the court] on election day, the voter shall be
23 permitted to [vote] **cast a provisional ballot under section 115.430** in the office of the election

24 authority **and the vote shall be counted if the voter was eligible to vote. A copy of the voter's**
25 **pleading or application, the election authority statement, and the court order shall be**
26 **attached to the provisional ballot envelope.**

115.430. 1. This section shall apply to primary and general elections where candidates
2 for federal or statewide offices are nominated or elected and any election where statewide issue
3 or issues are submitted to the voters. **The provisional ballot contained in this section shall**
4 **contain the statewide candidates and issues, and federal candidates. The congressional**
5 **district on the provisional ballot shall be for the address contained on the affidavit**
6 **provided for in this section.**

7 2. (1) A voter claiming to be properly registered in the jurisdiction of the election
8 authority and eligible to vote in an election, but whose eligibility cannot be immediately
9 established upon examination of the precinct register or upon examination of the records on file
10 with the election authority, shall be entitled to vote a provisional ballot after providing a form
11 of personal identification required pursuant to section 115.427, or may vote at a central polling
12 place as established in section 115.115 where they may vote their appropriate ballot upon
13 verification of eligibility or vote a provisional ballot if eligibility cannot be determined. [The
14 provisional ballot contained in this section shall contain the statewide candidates and issues, and
15 federal candidates. The congressional district on the provisional ballot shall be for the address
16 contained on the affidavit provided for in this section. If the voter declares that the voter is
17 eligible to vote and the election authority determines that the voter is eligible to vote at another
18 polling place, the voter shall be directed to the correct polling place or a central polling place as
19 established by the election authority pursuant to subsection 5 of section 115.115. If the voter
20 refuses to go to the correct polling place or a central polling place, the voter shall be permitted
21 to vote a provisional ballot at the incorrect polling place, but such ballot shall not be counted.]

22 (2) **The following steps shall be taken to establish a voter's eligibility to vote at a**
23 **polling place:**

24 (a) **The election judge shall examine the precinct register as provided in section**
25 **115.425. If the voter is registered and eligible to vote at the polling place, the voter shall**
26 **receive a regular ballot;**

27 (b) **If the voter's eligibility cannot be immediately established by examining the**
28 **precinct register, the election judge shall contact the election authority. If the election**
29 **authority cannot immediately establish the voter is registered and eligible to vote at the**
30 **polling place upon examination of its records on file, or if the election judge is unable to**
31 **make contact with the election authority immediately, the voter shall be notified that the**
32 **voter is entitled to a provisional ballot.**

33 (3) **The voter shall have the duty to appear and vote at the correct polling place.**

34 **If an election judge determines that the voter is not eligible to vote at the current polling**
 35 **place and appears to be eligible to vote at another polling place, the voter shall be informed**
 36 **that the voter may cast a provisional ballot at the current polling place, or may travel to**
 37 **the correct polling place or a central polling place as established by the election authority**
 38 **under subsection 5 of section 115.115 where the voter may cast a regular ballot or**
 39 **provisional ballot if the voter's eligibility still cannot be determined. Provisional ballots**
 40 **cast at a polling place shall be counted only if the voter was eligible to vote at such polling**
 41 **place as provided in subsection 5 of this section.**

42 **(4) For a voter requesting an advance ballot, such voter shall be entitled to cast a**
 43 **provisional ballot when the voter's eligibility cannot be immediately established upon**
 44 **examination of the records on file with the election authority.**

45 **(5) Prior to accepting any provisional ballot at the polling place, the election judges**
 46 **shall determine that the information provided on the provisional ballot envelope by the**
 47 **provisional voter is consistent with the identification provided by such person under**
 48 **section 115.427.**

49 **3. (1) No person shall be entitled to receive a provisional ballot until such person**
 50 **has completed a provisional ballot affidavit on the provisional ballot envelope.**

51 **(2) The secretary of state shall produce appropriate sizes of provisional ballot**
 52 **envelopes and distribute them to each election authority according to their tabulating**
 53 **system. All provisional ballot envelopes shall be printed on a distinguishable color of**
 54 **paper. The provisional ballot envelope shall be in the form required by subsection 4 of this**
 55 **section.**

56 **(3) Once voted, the provisional ballot shall be placed and sealed in a provisional ballot**
 57 **envelope.**

58 **4. The provisional ballot in its envelope shall be deposited in the ballot box. The**
 59 **provisional ballot envelope shall be completed by the voter for use in determining eligibility.**
 60 **The provisional ballot envelope specified in this section shall contain a voter's certificate which**
 61 **shall be in substantially the following form:**

62 STATE OF

63 COUNTY OF

64 I do solemnly swear (or affirm) that my name is; that my date of birth is
 65; that the last four digits of my Social Security Number are; that I am
 66 registered to vote in County or City (if a City not within a County), Missouri; that I
 67 am a qualified voter of said County (or City not within a County); that I am eligible to vote at
 68 this polling place; and that I have not voted in this election.

69 I understand that if the above-provided information is not correct and the election

70 authority determines that I am not registered and eligible to vote, my vote will not be counted.
71 I further understand that knowingly providing false information is a violation of law and subjects
72 me to possible criminal prosecution.

73

74 (Signature of Voter)

75

76 (Current Address)

77 Subscribed and affirmed before me this day of, 20.....

78

79 (Signature of Election Official)

80

81 The voter may provide additional information to further assist the election authority in
82 determining eligibility, including the place and date the voter registered to vote, if known.

83 [4.] **5. (1) Prior to [certification of the election] counting any provisional ballot, the**
84 **election authority shall determine if the voter is registered and [entitled] eligible to vote and if**
85 **the vote was properly cast. The eligibility of provisional voters shall be determined**
86 **according to the requirements for a voter to cast a ballot in the election as set forth in**
87 **sections 115.133 and 115.135. A provisional voter is not eligible if the voter cast a**
88 **provisional ballot at the wrong polling place or if the voter previously voted by regular**
89 **ballot, advance ballot, or otherwise.**

90 (2) **When the ballot boxes are delivered to the election authority from the polling**
91 **places, the receiving teams shall separate the provisional ballots from the rest of the ballots**
92 **and place the sealed provisional ballot envelopes in a separate container. Teams of election**
93 **authority employees or teams of election judges with each team consisting of one member**
94 **of each major political party shall photocopy each provisional ballot envelope, such**
95 **photocopy to be used by the election authority to determine provisional voter eligibility.**
96 **The sealed provisional ballot envelopes shall be placed by the team in a sealed container**
97 **and shall remain therein until tabulation.**

98 (3) **To determine whether a provisional ballot is valid and entitled to be counted,**
99 **the election authority shall examine its records and verify that the provisional voter is**
100 **properly registered and eligible to vote in the election. If the provisional voter has**
101 **provided information regarding the registration agency where the provisional voter**
102 **registered to vote, the election authority shall make an inquiry of the registration agency**
103 **to determine whether the provisional voter is properly registered and eligible to vote in the**
104 **election.**

105 (4) **If the election authority determines that the provisional voter is registered and**

106 **eligible to vote in the election, the election authority shall provide documentation verifying**
107 **the voter's eligibility. Such documentation shall be noted on the copy of the provisional**
108 **ballot envelope and shall contain substantially the following information:**

109 (a) **The name of the provisional voter;**

110 (b) **The name of the reviewer;**

111 (c) **The date and time; and**

112 (d) **A description of evidence found that supports the voter's eligibility.**

113 (5) **The local election authority shall record on a provisional ballot**
114 **acceptance/rejection list the provisional ballot identification number and a notation**
115 **marking it as accepted.**

116 (6) **If the election authority determines that the provisional voter is not registered**
117 **and/or eligible to vote in the election, the election authority shall provide documentation**
118 **verifying the voter's ineligibility. Such documentation shall be noted on the copy of the**
119 **provisional ballot envelope and shall contain substantially the following information:**

120 (a) **The name of the provisional voter;**

121 (b) **The name of the reviewer;**

122 (c) **The date and time; and**

123 (d) **A description of why the voter is ineligible.**

124 (7) **The local election authority shall record on a provisional ballot**
125 **acceptance/rejection list the provisional ballot identification number and notation marking**
126 **it as rejected.**

127 (8) **If rejected, a photocopy of the envelope shall be made and used by the election**
128 **authority as a mail-in voter registration. The actual provisional ballot envelope shall be**
129 **kept as ballot material and the copy of the envelope shall be used by the election authority**
130 **for registration record keeping.**

131 **6. All provisional ballots cast by voters whose eligibility has been verified shall be**
132 **counted in accordance with the rules governing ballot tabulation. Provisional ballots shall**
133 **not be counted until all provisional ballots are determined either eligible or ineligible.** The
134 provisional ballot shall be counted only if the election authority determines that the voter is
135 registered and [entitled] **eligible** to vote. Provisional ballots voted in the wrong polling place
136 shall not be counted. If the voter is not registered but is qualified to register for future elections,
137 the affidavit shall be considered a [mail] **mail-in** application to register to vote pursuant to this
138 chapter.

139 **7. (1) After the election authority completes its review of the provisional voter's**
140 **eligibility under subsection 5 of this section, the election authority shall deliver the**
141 **provisional ballots and copies of the provisional ballot envelopes which include eligibility**

142 information to bipartisan counting teams, which may be the board of verification, for
143 review and tabulation. The election authority shall maintain a record of such delivery.
144 The record shall include the number of ballots delivered to each team and shall include a
145 signed receipt from two judges, one from each major political party. The election authority
146 shall provide each team with a ballot box and material necessary for tabulation.

147 (2) If the person named on the provisional ballot affidavit is found to have been
148 properly qualified and registered to cast a ballot in the election, the envelope shall be
149 opened and the ballot shall be placed in a ballot box to be counted.

150 (3) If the person named on the provisional ballot affidavit is found not to have been
151 properly qualified and registered to cast a ballot in the election or if the election authority
152 is unable to determine such person's right to vote, the envelope containing the provisional
153 ballot shall not be opened and the person's vote shall not be counted. The members of the
154 team shall follow the procedures set forth in subsection 5 of this section for rejected
155 provisional ballots.

156 (4) The votes shall be tallied and the returns made as provided in sections 115.447
157 to 115.525 for paper ballots. After the vote on all ballots assigned to a team have been
158 counted, the ballots, ballot envelopes, and copies of ballot envelopes with the eligibility
159 information provided by the election authority shall be enclosed in sealed containers
160 marked "Voted provisional ballots and ballot envelopes from the election held, 20..".
161 All rejected provisional ballots, ballot envelopes, and copies of ballot envelopes with the
162 eligibility information provided by the election authority shall be enclosed in sealed
163 containers marked "Rejected provisional ballots and ballot envelopes from the election
164 held, 20..". On the outside of each voted ballot and rejected ballot container, each
165 member of the team shall write their name and all such containers shall be returned to the
166 election authority. Upon receipt of the returns and ballots, the election authority shall
167 tabulate the provisional voter.

168 8. Challengers and watchers, as provided by sections 115.105 and 115.107, may be
169 present during all times that the bipartisan counting teams are reviewing and/or counting
170 the provisional ballots, the provisional ballot envelopes, and/or copies of the provisional
171 ballot envelopes which include eligibility information provided by the election authority.
172 The election authority shall notify the county chair of each major political party of the time
173 and location when bipartisan counting teams will be reviewing and/or counting the
174 provisional ballots, the provisional ballot envelopes, and/or the copies of the provisional
175 ballot envelopes which include the eligibility information provided by the election
176 authority.

177 9. The certificate of ballot cards shall:

- 178 **(1) Reflect the number of provisional envelopes delivered; and**
179 **(2) Reflect the number of sealed provisional envelopes with voted ballots deposited**
180 **in the ballot box.**

181 [5.] **10.** In counties where the voting system does not utilize a paper ballot, the election
182 authority shall provide the appropriate provisional ballots to each polling place.

183 [6.] **11.** The secretary of state may promulgate rules for purposes of ensuring the uniform
184 application of this section. No rule or portion of a rule promulgated pursuant to the authority of
185 this section shall become effective unless it has been promulgated pursuant to chapter 536,
186 RSMo.

187 [7.] **12.** The secretary of state shall design and provide to the election authorities the
188 envelopes and forms necessary to carry out the provisions of this section.

189 [8.] **13.** Pursuant to the Help America Vote Act of 2002, the secretary of state shall
190 ensure a free access system is established, such as a toll-free number or an Internet web site, that
191 any individual who casts a provisional ballot may access to discover whether the vote of that
192 individual was counted, and, if the vote was not counted, the reason that the vote was not
193 counted. At the time an individual casts a provisional ballot, the election authority shall give the
194 voter written information that states that any individual who casts a provisional ballot will be
195 able to ascertain under such free access system whether the vote was counted, and if the vote was
196 not counted, the reason that the vote was not counted.

197 [9.] **14.** In accordance with the Help America Vote Act of 2002, any individual who
198 votes in an election as a result of a court order or any other order extending the time established
199 for closing the polls in section 115.407 may vote only by using a provisional ballot, and such
200 provisional ballot shall be separated and held apart from other provisional ballots cast by those
201 not affected by the order. Such ballots shall not be counted until such time as the ballots are
202 determined to be valid. **No state court shall have jurisdiction to extend the polling hours**
203 **established by law, including section 115.407; except that, during a declared state of**
204 **emergency of a statewide nature, the governor, the president pro tem of the Missouri**
205 **senate, and the speaker of the Missouri house of representatives shall jointly have the**
206 **authority to extend the polling hours established by law and the secretary of state shall**
207 **develop a plan for such an extension of the polling hours during a declared state of**
208 **emergency.**

115.456. 1. (1) The election authority shall be responsible for ensuring that the
2 **standards provided for in this subsection are followed when counting ballots cast using**
3 **punch card voting systems.**

4 **(2) Prior to tabulating ballots, all ballot cards shall be inspected by the election**
5 **authority for hanging chad and/or damaged ballots.**

6 **(3) Inspection of ballot cards shall be conducted using the following guidelines:**

7 **(a) The election authority shall appoint a bipartisan team to inspect all ballots**
8 **where a question exists about the condition of a ballot or existence of a hanging chad;**

9 **(b) All ballot card inspections conducted under this section shall be conducted by**
10 **examining the ballot card from the back of the card;**

11 **(c) If a ballot is determined to be damaged, the bipartisan team shall spoil the**
12 **original ballot and duplicate the voter's intent on the new ballot, provided that there is an**
13 **undisputed method of matching the duplicate card with its original after it has been placed**
14 **with the remainder of the ballot cards from the precinct; and**

15 **(d) If a chad is determined to be hanging by two or less corners, it shall be removed**
16 **prior to being tabulated.**

17 **(4) In jurisdictions using punch card systems, a valid vote for a write-in candidate**
18 **shall include the following:**

19 **(a) A distinguishing mark in the square immediately preceding the name of the**
20 **candidate;**

21 **(b) The name of the candidate. If the name of the candidate as written by the voter**
22 **is substantially as declared by the candidate it shall be counted, or in those circumstances**
23 **where the names of candidates are similar, the names of candidates as shown on voter**
24 **registration records shall be counted; and**

25 **(c) The name of the office for which the candidate is to be elected.**

26 **(5) Whenever a hand recount of votes is ordered of punch card ballots, the**
27 **provisions of this subsection shall be used to determine voter intent.**

28 **2. (1) The election authority shall be responsible for ensuring that the standards**
29 **provided for in this subsection are followed when counting ballots cast using optical scan**
30 **voting systems.**

31 **(2) Prior to tabulating ballots, all machines shall be programmed to reject blank**
32 **ballots where no votes are recorded or where an overvote is registered in any race.**

33 **(3) In jurisdictions using precinct-based tabulators, the voter who cast the ballot**
34 **shall review the ballot if rejected, if the voter wishes to make any changes to the ballot or**
35 **if the voter would like to spoil the ballot and receive another ballot.**

36 **(4) In jurisdictions using centrally based tabulators, if a ballot is so rejected it shall**
37 **be reviewed by a bipartisan team using the following criteria:**

38 **(a) If a ballot is determined to be damaged, the bipartisan team shall spoil the**
39 **original ballot and duplicate the voter's intent on the new ballot, provided that there is an**
40 **undisputed method of matching the duplicate card with its original after it has been placed**
41 **with the remainder of the ballot cards from such precinct; and**

42 (b) Voter intent shall be determined using the following criteria:

43 a. There is a distinguishing mark in the printed oval adjacent to the name of the
44 candidate or issue preference;

45 b. There is a distinguishing mark adjacent to the name of the candidate or issue
46 preference; or

47 c. The name of the candidate or issue preference is circled.

48 (5) In jurisdictions using optical scan systems, a valid vote for a write-in candidate
49 shall include the following:

50 (a) A distinguishing mark in the designated location preceding the name of the
51 candidate;

52 (b) The name of the candidate. If the name of the candidate as written by the voter
53 is substantially as declared by the candidate it shall be counted, or in those circumstances
54 where the names of candidates are similar, the names of candidates as shown on voter
55 registration records shall be counted; and

56 (c) The name of the office for which the candidate is to be elected.

57 (6) Whenever a hand recount of votes of optical scan ballots is ordered, the
58 provisions of this subsection shall be used to determine voter intent.

59 3. (1) The election authority shall be responsible for ensuring that the standards
60 provided for in this subsection are followed when counting ballots cast using paper ballots.

61 (2) Voter intent shall be determined using the following criteria:

62 (a) There is a distinguishing mark in the square adjacent to the name of the
63 candidate or issue preference;

64 (b) There is a distinguishing mark adjacent to the name of the candidate or issue
65 preference; or

66 (c) The name of the candidate or issue preference is circled.

67 (3) In jurisdictions using paper ballots, a valid vote for a write-in candidate shall
68 include the following:

69 (a) A distinguishing mark in the square immediately preceding the name of the
70 candidate;

71 (b) The name of the candidate. If the name of the candidate as written by the voter
72 is substantially as declared by the candidate it shall be counted, or in those circumstances
73 where the names of candidates are similar, the names of candidates as shown on voter
74 registration records shall be counted; and

75 (c) The name of the office for which the candidate is to be elected.

76 (4) Whenever a hand recount of votes of paper ballots is ordered, the provisions of
77 this subsection shall be used to determine voter intent.

78 **4. When write-in stickers are used, the sticker shall contain the name of a**
79 **candidate, office sought, and a distinguishing mark in the square immediately preceding**
80 **the name of the candidate and shall be approximately one inch by three inches in size with**
81 **black print on a white background. The sticker shall be placed by the voter on the write-in**
82 **line designating the office sought or the sticker shall be placed by the voter on the write-in**
83 **line on the secrecy envelope.**

 115.637. The following offenses, and any others specifically so described by law, shall
2 be class four election offenses and are deemed misdemeanors not connected with the exercise
3 of the right of suffrage. Conviction for any of these offenses shall be punished by imprisonment
4 of not more than one year or by a fine of not more than two thousand five hundred dollars or by
5 both such imprisonment and fine:

6 (1) Stealing or willfully concealing, defacing, mutilating, or destroying any sample
7 ballots that may be furnished by an organization or individual at or near any voting place on
8 election day, except that this subdivision shall not be construed so as to interfere with the right
9 of an individual voter to erase or cause to be erased on a sample ballot the name of any candidate
10 and substituting the name of the person for whom he intends to vote; or to dispose of the
11 received sample ballot;

12 (2) Printing, circulating, or causing to be printed or circulated, any false and fraudulent
13 sample ballots which appear on their face to be designed as a fraud upon voters;

14 (3) Purposefully giving a printed or written sample ballot to any qualified voter which
15 is intended to mislead the voter;

16 (4) On the part of any candidate for election to any office of honor, trust, or profit,
17 offering or promising to discharge the duties of such office for a less sum than the salary, fees,
18 or emoluments as fixed by law or promising to pay back or donate to any public or private
19 interest any portion of such salary, fees, or emolument as an inducement to voters;

20 (5) On the part of any canvasser appointed to canvass any registration list, willfully
21 failing to appear, refusing to continue, or abandoning such canvass or willfully neglecting to
22 perform his duties in making such canvass or willfully neglecting any duties lawfully assigned
23 to him;

24 (6) On the part of any employer, making, enforcing, or attempting to enforce any order,
25 rule, or regulation or adopting any other device or method to prevent an employee from engaging
26 in political activities, accepting candidacy for nomination to, election to, or the holding of,
27 political office, holding a position as a member of a political committee, soliciting or receiving
28 funds for political purpose, acting as chairman or participating in a political convention,
29 assuming the conduct of any political campaign, signing, or subscribing his name to any
30 initiative, referendum, or recall petition, or any other petition circulated pursuant to law;

31 (7) On the part of any person authorized or employed to print official ballots, or any
32 person employed in printing ballots, giving, delivering, or knowingly permitting to be taken any
33 ballot to or by any person other than the official under whose direction the ballots are being
34 printed, any ballot in any form other than that prescribed by law, or with unauthorized names,
35 with names misspelled, or with the names of candidates arranged in any way other than that
36 authorized by law;

37 (8) On the part of any election authority or official charged by law with the duty of
38 distributing the printed ballots, or any person acting on his behalf, knowingly distributing or
39 causing to be distributed any ballot in any manner other than that prescribed by law;

40 (9) Any person having in his possession any official ballot, except in the performance
41 of his duty as an election authority or official, or in the act of exercising his individual voting
42 privilege;

43 (10) Willfully mutilating, defacing, or altering any ballot before it is delivered to a voter;

44 (11) On the part of any election judge, willfully absenting himself from the polls on
45 election day without good cause or willfully detaining any election material or equipment and
46 not causing it to be produced at the voting place at the opening of the polls or within fifteen
47 minutes thereafter;

48 (12) On the part of any election authority or official, willfully neglecting, refusing, or
49 omitting to perform any duty required of him by law with respect to holding and conducting an
50 election, receiving and counting out the ballots, or making proper returns;

51 (13) On the part of any election judge, or party watcher or challenger, furnishing any
52 information tending in any way to show the state of the count to any other person prior to the
53 closing of the polls;

54 (14) On the part of any voter, except as otherwise provided by law, allowing his ballot
55 to be seen by any person with the intent of letting it be known how he is about to vote or has
56 voted, or knowingly making a false statement as to his inability to mark his ballot;

57 (15) On the part of any election judge, disclosing to any person the name of any
58 candidate for whom a voter has voted;

59 (16) Interfering, or attempting to interfere, with any voter inside a polling place;

60 (17) On the part of any person at any registration site, polling place, counting location
61 or verification location, causing any breach of the peace or engaging in disorderly conduct,
62 violence, or threats of violence whereby such registration, election, count or verification is
63 impeded or interfered with;

64 (18) Exit polling, surveying, sampling, electioneering, distributing election literature,
65 posting signs or placing vehicles bearing signs with respect to any candidate or question to be
66 voted on at an election on election day inside the building in which a polling place is located or

67 within [twenty-five] **fifty** feet of the building's outer door closest to the polling place, or, on the
68 part of any person, refusing to remove or permit removal from property owned or controlled by
69 him, any such election sign or literature located within such distance on such day after request
70 for removal by any person;

71 (19) Stealing or willfully defacing, mutilating, or destroying any campaign yard sign on
72 private property, except that this subdivision shall not be construed to interfere with the right of
73 any private property owner to take any action with regard to campaign yard signs on the owner's
74 property and this subdivision shall not be construed to interfere with the right of any candidate,
75 or the candidate's designee, to remove the candidate's campaign yard sign from the owner's
76 private property after the election day.

2 [115.126. 1. Notwithstanding any provision of this chapter to the
3 contrary, election authorities shall establish a plan to implement an advance
4 voting period when eligible registered voters may vote before any general
5 election in presidential election years at the office of the election authority and
6 up to four other polling places designated by and under the control of the election
7 authority. Such plan shall provide that the permissible advance voting period
8 shall begin fourteen days prior to such election and end at 5:00 p.m. on the
9 Wednesday before the day of such election.

10 2. Election authorities shall, pursuant to subsection 1 of this section,
11 establish in their plans the hours and locations for advance voting. The election
12 authority shall have all advance voting locations open on all business days during
13 the advance voting period, and may have all advance voting locations open on
14 Saturdays, Sundays and holidays during the advance voting period.

15 3. Except as provided in this section, advance voting procedures shall be
16 conducted pursuant to sections 115.407 to 115.445. The secretary of state shall
17 design the necessary application for use in an advance voting program pursuant
18 to this section. All election authorities in this state shall submit to the secretary
19 of state a plan to implement the advance voting period by December 31, 2002.
20 The secretary of state shall assist election authorities in developing a plan for the
21 implementation of an advance voting program.

22 4. The plans established pursuant to this section shall also require that
23 before the precinct registers are delivered to the polling places for an election, the
24 election authority shall record in the precinct registers the names of all voters
25 who have submitted an advance voting ballot. The election judge shall not allow
26 any person who has voted an advance voting ballot in the election to vote at the
27 polls on election day. If it is determined that any voter submitted an advance
28 voting ballot and voted at the polls on election day, such person, having voted
29 more than once, is guilty of a class one election offense pursuant to subdivision
30 (2) of section 115.631.

30 5. The secretary of state may promulgate rules to effectuate the

31 provisions of this section.

32 6. Any rule or portion of a rule, as that term is defined in section 536.010,
33 RSMo, that is created under the authority delegated in this section shall become
34 effective only if it complies with and is subject to all of the provisions of chapter
35 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter
36 536, RSMo, are nonseverable and if any of the powers vested with the general
37 assembly pursuant to chapter 536, RSMo, to review, to delay the effective date
38 or to disapprove and annul a rule are subsequently held unconstitutional, then the
39 grant of rulemaking authority and any rule proposed or adopted after August 28,
40 2002, shall be invalid and void.]