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## SECRETARY OF STATE

### Voting equipment

- Amends the law governing the certification of voting equipment to include equipment that allows a person to vote using an electronic display and then transfers those votes onto an optical scan ballot or other paper record for tabulation.
- Specifies that voting equipment of that type is not considered a direct recording electronic voting machine for purposes of that law.
- Removes references to punch card ballots from that law.

### Address confidentiality program

- Modifies the address confidentiality program operated by the Secretary of State to serve victims of certain crimes.
- Requires that an applicant for the program live, work, or attend a school or institution of higher education in Ohio.
- Requires the application form to include a statement that the application assistant recommends that the applicant participate in the program.
- Requires the Secretary to issue each program participant a program authorization card with the participant's program mailing address.
- Allows, but does not require, a participant to provide that card to a governmental entity, employer, school, or institution of higher education as proof of the person's status.
- Modifies the types of mail that the Secretary must forward to a program participant and requires the Secretary to notify participants of the qualifying types of mail.
- Clarifies the voter registration deadlines that apply to program participants.

### Electronic notary

- Allows for a commissioned notary public to become an electronic notary public by submitting a registration form to, and being approved by, the Secretary.
- Authorizes the Secretary, with assistance from the Office of Information Technology in the Department of Administrative Services, to establish standards for approving electronic communications devices to be used by an electronic notary.



- Specifies that the requirement that a person acknowledging an instrument appear before a notary public taking the acknowledgement may be done through an electronic communications device approved by the Secretary.
- Specifies that an electronic signature, using an electronic communications device approved by the Secretary, may be used to acknowledge the execution of an instrument.

## **Voting equipment**

(R.C. 3506.01, 3506.06, and 3506.07)

### **New equipment**

The act amends the law governing voting equipment to allow the certification and use of a new type of equipment. Specifically, the act includes in the definition of "automatic tabulating equipment" equipment that allows for a voter's selections to be indicated by marks made on a paper record by an electronic marking device. The act specifies that equipment of that type is not considered a direct recording electronic voting machine (DRE) if it captures votes by means of a ballot display but transfers those votes onto an optical scan ballot or other paper record for tabulation.

For example, the act would allow the certification and use of voting equipment that allows a voter to make selections on an electronic display and then transfers those selections to a paper ballot that is scanned to count the votes.

### **Elimination of punch card references**

The act also removes references to punch card ballots from the law governing voting equipment. Previously, the definition of "marking device" and certain other provisions included references to a device that records a voter's choices by piercing the ballot so that it could be counted by a machine. Punch card ballots are no longer used in Ohio. The federal Help America Vote Act of 2002 provided grants as an incentive for states to replace their punch card voting systems and established requirements for voting equipment that some punch card systems may not meet.<sup>145</sup>

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<sup>145</sup> 52 U.S.C. 20902 and 21081(a). See also *Stewart v. Blackwell*, 444 F.3d 843 (6th Cir. 2006) and *Stewart v. Blackwell*, 473 F.3d 692 (6th Cir. 2007), in which Ohio's use of punch card ballots in some counties was challenged under the federal Voting Rights Act. The court did not reach a final ruling because Ohio stopped using punch card ballots while the case was pending.



## **Continuing types of equipment**

Continuing law allows boards of elections to use the following types of voting equipment:

- Automatic tabulating equipment, which means a device that automatically counts the votes recorded on a paper ballot. Currently, voters in many counties fill out a paper ballot that is then scanned by an optical scan voting machine, which counts the votes on the ballot. An optical scan voting machine is an example of automatic tabulating equipment.
- A DRE, which is a machine that records the votes entered into a display and records the votes using electronic memory. A DRE also must store the votes in a printed backup copy, known as a voter verified paper audit trail. Some counties currently use touchscreen DREs instead of optical scan voting machines for in-person voting.

## **Address confidentiality program**

(R.C. 111.42, 111.43, 111.44, 111.45, and 3503.16)

The act makes several changes to the address confidentiality program operated by the Secretary of State. The program shields the addresses of certain crime victims from public disclosure by allowing a participant to use an address designated by the Secretary, who then forwards mail to the participant's actual residence.

### **Qualifications**

The act requires that an applicant for the address confidentiality program live, work, or attend a school or an institution of higher education in Ohio.

### **Application**

Under the act, an application to participate in the program must include a statement that the assistant recommends that the applicant, or the minor, incompetent, or ward on whose behalf the application is made, participate in the program. Continuing law requires all applicants to use an application assistant, and the assistant must sign the application. An application assistant is an employee or volunteer at an agency or organization that serves victims of domestic violence, menacing by stalking,



human trafficking, rape, or sexual battery who has received training and certification from the Secretary to help individuals apply.<sup>146</sup>

### **Program authorization card**

The act requires the Secretary to issue an address confidentiality program authorization card to every participant. The card must be valid during the period that the participant remains certified to participate, and it must include the address at which the participant receives mail through the Secretary. A participant may provide the card to a governmental entity, employer, school, or institution of higher education as proof of the person's status.

### **Mail forwarding**

The act modifies the types of mail that the Secretary must forward to program participants. Under the act, the Secretary must forward only the following:

- First class letters, flats, packages, or parcels delivered via the U.S. Postal Service, including priority, express, and certified mail;
- Packages or parcels that are clearly identifiable as containing pharmaceutical agents or medical supplies;
- Packages, parcels, periodicals, or catalogs that are clearly identifiable as being sent by a governmental entity;
- Packages, parcels, periodicals, or catalogs that have received prior forwarding authorization from the Secretary.

As a result, the act prevents the Secretary from forwarding certain items that do not fall within the exceptions described above. For example, with certain exceptions, the Secretary must not forward magazines, commercial mailings, or packages delivered by FedEx or UPS. Previously, the law required the Secretary to forward all first class mail to a participant, but did not include provisions for other types of mail.

The act also requires the Secretary to include information about the types of mail that may be forwarded, along with the other information that the Secretary must provide under continuing law, to new participants.

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<sup>146</sup> R.C. 111.41(A), not in the act.



## **Voter registration deadline**

The act states that a participant who is not currently registered to vote in Ohio must submit an application to register by the 30th day before election day to be eligible to vote in that election. This provision is consistent with continuing law that applies to all persons who are eligible to vote.<sup>147</sup>

Additionally, the act provides that a participant who is currently registered to vote in Ohio may submit an application at any time to request that the participant's registration record be kept confidential. This provision replaces a former law that stated that if a participant was registered to vote in Ohio, the participant could submit a confidential registration form to register at the participant's new address after the 30th day before election day and still be eligible to vote in that election.

Continuing law allows a registered elector who has moved and has not updated the elector's registration before the 30-day deadline to vote in the new precinct by casting a provisional ballot. However, the Address Confidentiality Program Law states that a program participant who has a confidential voter registration record may vote only by casting absent voter's ballots. It is not clear whether a participant who misses the deadline to update the participant's registration before an election may vote in that election by provisional ballot in the same manner as an elector who is not a program participant. Any person may cast a provisional ballot,<sup>148</sup> but the Address Confidentiality Program Law would appear to prevent that ballot from being counted.

## **Electronic notary**

(R.C. 147.541, 147.542, and 147.543)

The act allows for a commissioned notary public to become an electronic notary public at the discretion of the Secretary of State. An electronic notary is authorized to use electronic communications devices, approved by the Secretary, to fulfill the acknowledgement and signature requirements of a notary. The Secretary must establish standards for approving electronic communications devices that may be used by an electronic notary. Under the act, a notary may not use an electronic communications device to meet notary requirements for a deposition.

To be approved to become an electronic notary, a commissioned notary must submit a registration form to the Secretary. If approved, an electronic notary's commission expires and may be renewed at the same time the notary's underlying

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<sup>147</sup> See R.C. 3503.01 and 3503.19, not in the act.

<sup>148</sup> R.C. 3505.181(A)(1), not in the act.



commission expires. The Secretary may deny a registration if any required information is missing or incorrect, or if the notary identifies nonapproved technology to be used. The registration form must include:

- The notary public's full legal name and official notary public name;
- A description of the technology the notary public will use to create an electronic signature in performing official acts;
- Certification of compliance with electronic notary public standards developed by the Secretary;
- The notary public's email address;
- The signature of the notary public applying to use the electronic signature described in the form;
- Any decrypting instructions, codes, keys, or software that allow the registration to be read; and
- Any other information the Secretary may require.

Additionally, the act specifies that the requirement that the person acknowledging an instrument appear before a notary public taking the acknowledgement may be done by visually appearing through an electronic communications device approved by the Secretary. Under prior law, a person acknowledging an instrument was required to physically appear before a notary taking the acknowledgement.<sup>149</sup> The act also specifies that an electronic signature, using an electronic communications device approved by the Secretary, may be used to satisfy the requirement that a notary acknowledge the execution of an instrument.

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<sup>149</sup> See *Keck v. Keck*, 54 Ohio App.2d 128 (Ohio Ct. App., Fairfield County 1977), [http://www.cbalaw.org/cba\\_prod/Main/Resources/Public/Notary/FAQ.aspx](http://www.cbalaw.org/cba_prod/Main/Resources/Public/Notary/FAQ.aspx), and <http://ohionotaries.org/ohio-notary-101>.

