

No. 23-125084-S

IN THE SUPREME COURT OF THE STATE OF KANSAS

**LEAGUE OF WOMEN VOTERS OF KANSAS; LOUD LIGHT; KANSAS
APPLESEED CENTER FOR LAW AND JUSTICE; TOPEKA INDEPENDENT
LIVING RESOURCE CENTER; CHARLEY CRABTREE; FAYE HUELSMANN;
and PATRICIA LEWTER**

Plaintiffs-Appellants

v.

**SCOTT SCHWAB, in his official capacity as Kansas Secretary of State; and KRIS
KOBACH, in his official capacity as Kansas Attorney General**

Defendants-Appellees

**DEFENDANTS-APPELLEES' RESPONSE TO
PLAINTIFFS-APPELLANTS' MOTION FOR AN INJUNCTION**

Appeal from the Kansas Court of Appeals Opinion
Dated March 17, 2023

Appeal from the District Court of Shawnee County, Kansas
Honorable Teresa Watson, District Judge
District Court Case No. 2021-CV-000299

Bradley J. Schlozman (KS Bar #17621)
HINKLE LAW FIRM LLC
1617 N. Waterfront Parkway, Ste. 400
Wichita, KS 67206
Telephone: (316) 660-6296
Facsimile: (316) 264-1518
Email: bschlozman@hinklaw.com

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I. – Introduction

In an apparent effort to circumvent the normal appellate process, get two more rounds of briefing (unconstrained, no less, by the otherwise applicable page limits), and cut short the Defendants’ time for filing their Supplemental Brief, Plaintiffs move for an injunction granting them – during the pendency of this appeal – all of the relief they seek in this case, i.e., a prohibition against the enforcement of the signature verification requirements (“SVR”) in K.S.A. 25-1124(h) and the ballot collection restrictions (“BCR”) in K.S.A. 25-2437(c). Defendants are unaware of this Court *ever* granting a motion of this nature in this tribunal. And there is no need to start now. Indeed, Plaintiffs’ motion is devoid of merit and Defendants respectfully urge the Court to summarily deny it.

II. – Legal Standard

A temporary injunction is intended to “merely preserve[] the relative positions of the parties until a full decision on the merits can be made.” *Steffes v. City of Lawrence*, 284 Kan. 380, 394, 160 P.3d 843 (2007). Typically, a party seeking such an injunction must demonstrate: (1) a substantial likelihood of eventually prevailing on the merits; (2) a reasonable probability that it will suffer irreparable injury without an injunction; (3) the absence of an adequate legal remedy; (4) the threat of injury outweighs whatever harm the injunction may cause the opposing party; and (5) the injunction will not be against the public interest. *Downtown Bar and Grill v. State*, 294 Kan. 188, 191, 273 P.3d 709 (2012).

But the proof threshold is considerably greater where, as here, a movant is seeking a “mandatory injunction” that alters the status quo and effectively awards all of the relief ultimately sought in the litigation, albeit on a temporary basis. As this Court explained in

Mid-America Pipeline Co. v. Wietharn, 246 Kan. 238, 242, 787 P.2d 716 (1990), a “mandatory injunction is an extraordinary remedy used to effectuate full and complete justice by commanding the performance of a positive act. Although the granting of a mandatory injunction is governed by the same rules as the granting of preventive injunctions, courts are more reluctant to grant a mandatory injunction.” For that reason, “[a] party seeking a mandatory injunction must *clearly be entitled* to that form of relief.” *Id.* (emphasis added) (citing *Prophet v. Builders, Inc.*, 204 Kan. 268, 273, 462 P.2d 122 (1969)). Plaintiffs come nowhere close to “clear entitlement to relief” in this suit.

III. – Plaintiffs Are Not Likely to Succeed on the Merits

The parties have repeatedly drafted briefs addressing the merits (or lack thereof) of Plaintiffs’ constitutional challenges to the SVR and BCR. Defendants have emphatically set forth their arguments in their Appellees’ Brief, Petition for Review (and corresponding Reply to Plaintiffs’ Response), and Response to Plaintiffs’ Motion to Expedite the Petition for Review. Defendants expressly incorporate those briefs into this response, and believe there is no need to burden the Court with a regurgitation of them here (as Plaintiffs do in their latest motion).

By filing this motion for injunction in the Supreme Court – after it was denied in the district court and after both the Court of Appeals and this Court each denied Plaintiffs’ motions to expedite (in which Plaintiffs advanced largely identical arguments regarding harms), Plaintiffs appear to be attempting to smoke out Defendants’ Supplemental Brief early, thereby truncating Defendants’ briefing period and giving themselves a preview of the points Defendants will soon make. Respectfully, Defendants will not bite on this lure.

Defendants will provide further explanation of why Plaintiffs' arguments have no merit in their forthcoming Supplemental Brief, which will be filed no later than July 24, 2023.

IV. – Plaintiffs Cannot Establish a Probability of Irreparable Harm

Plaintiffs' motion is also beyond dilatory. Plaintiffs filed their Petition *more than two years ago* (on June 21, 2021). They affirmatively chose *not* to pursue temporary injunctive relief on these particular claims at that time (despite seeking an injunction on another claim in their Petition, the appeal from which is currently pending before this Court in Case No. 124,378). Nearly *ten months later* (on April 7, 2022), Plaintiffs did seek a temporary injunction on these causes of action, but the district court dismissed the entire lawsuit two days later for failure to state a claim. During the roughly *eleven months* in which the case was then pending before the Court of Appeals while Plaintiffs appealed the dismissal, Plaintiffs never sought an injunction from the appellate court.¹ After the Court of Appeals issued its decision and Defendants filed a Petition for Review within weeks, Plaintiffs waited *more than three additional months* to file their motion for injunction with this Court. In short, Plaintiffs clearly felt no sense of urgency in seeking this relief.

Plaintiffs' extraordinary delay in seeking this temporary injunction also reinforces that the SVR and BCR impose no irreparable harm. *See Noble v. Butler*, 25 Kan. 645, 651

¹ Plaintiffs did ask the Court of Appeals to expedite its resolution of the case. While the Court of Appeals characterized its ruling on the motion as a "grant in part," it was effectively a denial insofar as the Court merely said that it would not grant extensions absent exigent circumstances and would endeavor to decide the case as quickly as possible. *See* Order dated May 19, 2022. The Court of Appeals ultimately issued its opinion nearly ten months later on March 17, 2023, six months after the oral argument.

(1881) (“Courts of equity require that persons shall themselves exercise reasonable diligence in the protection of their rights, and that they shall not depend slothfully upon the actions of courts of equity.”); *see also* 11A Charles Allen Wright et al., *Federal Practice and Procedure: Civil* § 2948.1 (3d. ed. 2013) (“A long delay by plaintiff after learning of the threatened harm also may be taken as an indication that the harm would not be serious enough to justify a preliminary injunction.”); *Fish v. Kobach*, 840 F.3d 710, 753 (10th Cir. 2016) (although “there is no categorical rule that delay bars the issuance of an injunction,” such delay “cuts against finding irreparable harm”).

Plaintiffs correctly note that there are always elections ongoing throughout the State, Mot. at 8, but they ignore what this means. As Defendants underscored in their Response to Plaintiffs’ Motion to Expedite (at page 3), if Plaintiffs were so worried about the application of the challenged statutes to municipal and school board races, then they could (and should) have sought temporary injunctive relief upon first filing this lawsuit back in the summer of 2021.

Plaintiffs also seem to pretend as if these statutes were enacted on a blank slate and that the regulation of advance voting emerged like an evil spirit blown in by an ominous wind. This ignores history. Kansas has been regulating absentee ballots since the legislature first authorized that mode of voting, *see, e.g., Burke v. State Bd. of Canvassers*, 152 Kan. 826, 107 P.2d 773, 776-77 (1940) (describing former affidavit requirement for casting absentee ballots), and Defendants are unaware of this Court ever having cast doubt on the validity of such regulations. As specifically relevant here, signature verification for advance ballot applications has been in place in Kansas since 2012, *see* 2011 Kan. Sess.

Laws Ch. 56, § 2(3) (amending K.S.A. 25-1122(e)); H.B. 2067 (2011) (passed 111-11 in the House, 36-3 in the Senate, and signed by governor). State law has implicitly provided for signature matching for advance ballots as well since at least 2019 when Kansas began requiring election officials to attempt to contact any voter who submitted an advance ballot with a signature that did not match at least one on file in the county election office.² See 2019 Kan. Sess. Laws. Ch. 36, § 1 (amending K.S.A. 25-1124(b); see also Conf. Comm. Report Br. – Sub. for Sen. Bill No. 130 (Apr. 2, 2019) (introduced by Democratic Senator Oletha Faust-Goudeau, and passed 38-1 in the Senate and 119-3 in the House). In fact, one of the individuals central to this litigation (Plaintiff Loud Light president Davis Hammet) spoke out in favor of the 2019 legislation. See Exhibit B (Wichita Eagle, “*Bill would give voters chance to fix errors on advance ballots,*” Feb. 24, 2019, at A1).

The point is that these provisions were in existence even *before* – one might say *long* before – the now-mandated training and more robust cure opportunities which govern the advance ballot administration process. Yet Plaintiffs’ irreparable harm theory requires

² Even before then, the legislature had required that voters sign their absentee ballot envelopes before returning them to the county election office. See K.S.A. 1985 Supp. 25-433(b) (part of the Mail Ballot Election Act of 1983) (discussed and upheld in *Sawyer v. Chapman*, 240 Kan. 409, 411-15, 729 P.2d 1220 (1986)). While the statute contained no *explicit* signature verification provision, it is nonsensical to think that the legislature intended to leave the matter to an honor system and that county election officials were obligated to count ballots containing a signature mismatch. Indeed, as early as 1933, voters wishing to vote absentee because they would be out of the State on Election Day had to submit an affidavit regarding their qualifications, which would have also included a signature. See K.S.A. 1933 Supp. 25-1102, 1104 (discussed in *Lemons v. Noller*, 144 Kan. 813, 826, 63 P.2d 177 (1936)). Again, the idea that there would be no checking of signatures, or that officials had to count signatures that did not match what was on file in the county election office, is illogical. At a certain point, common sense has to come into play here.

the Court to believe that signature verification is so inherently problematic that erroneously mismatched signatures will be the inevitable norm absent an injunction. This argument is not only preposterous, but it is at least eleven years too late.

Data released just last week further puts this dispute into context and underscores the absurdity of Plaintiffs' attack on the SVR. In particular, in the 2022 General Election, the first federal election held in the wake of the legislature's passage of the challenged laws at issue here, roughly 1,013,728 Kansans cast a valid ballot, 135,832 by mail. This was a near-record in terms of total turnout for a non-presidential election. Yet, as the U.S. Election Assistance Commission ("EAC") noted in its biennial Election Administration and Voting Survey (EAVS) issued on June 29, 2023, a mere *105 Kansas voters* had their ballots rejected due to a non-matching or incomplete signature during that election.³ *See* Ex. A-1.⁴ That's just 0.000103 (or barely 1/100 of 1%) of total votes and just 0.00077 (or only 7/100 of 1%) of all votes by mail.

While fraud cannot always be definitively ruled out, the typical reasons why a ballot is rejected due to a mismatched signature is because a parent signed the advance ballot

³ This Court can and should take judicial notice of this federal agency's report. *See Matter of Nwakanma*, 306 Kan. 704, 706, 397 P.3d 403 (2017) ("judicial notice may be taken of matters of public record in other courts or governmental bodies"); K.S.A. 60-409.

⁴ Defendants prepared Exhibit A for the Court's convenience. These figures can be found in the Excel spreadsheet – at column "IF," corresponding to Question C9e – of the EAVS Datasets Version 1.0 (released on June 29, 2023). This spreadsheet is available on the EAC's website at: <https://www.eac.gov/research-and-data/datasets-codebooks-and-surveys> (under the heading "2022"). The questions corresponding to the data in the Excel spreadsheet can be found in the "2022 Election Administration and Voting Survey Instrument," which is available at the same link. The question pertaining to non-matching or incomplete signatures – Question C9e – is found at page 28 of the document, which is page 31 of the PDF. We included the relevant excerpts from this document at Exhibit A-2.

envelope on behalf a child (or vice versa), one spouse signed on behalf of the other, or a voter scribbled chicken scratch or some other marking on the envelope's signature line that bore no resemblance to the signature on file in the county election office. Nearly all of these situations are addressed during the cure process when county election officials contact voters and give them an opportunity to fix the problem. Defendants thus believe there were few (if any) advance ballots improperly rejected due to a signature mismatch in 2022.

Admittedly, the preceding point about the typical reasons for signature mismatches – which are really just common sense, as anyone who has “signed” a keypad at the grocery store or a UPS delivery information acquisition device with a stray line or an X-mark that offers no clue as to the identity of the signer – are not part of the record (since there is no record). But even if one suspends reality and assumes, for argument's sake, that every single one of the 105 rejected ballots represented a proper signature, the idea that the entire SVR should be invalidated based on that trivial number borders on the farcical. *See State v. Jones*, 313 Kan. 917, 931, 492 P.3d 433 (2021) (“A facial challenge to the constitutionality of legislation is the most difficult challenge to mount successfully, since the challenger must establish that no set of circumstances exists under which the Act would be valid. . . . [T]he fact that the challenged legislation might operate unconstitutionally under some conceivable set of circumstances is insufficient to render it wholly invalid, since we have not recognized an overbreadth doctrine outside the limited context of the First Amendment.”) (cleaned up) (quoting *United States v. Salerno*, 481 U.S. 739, 745 (1987)).

As for Plaintiffs' attack on BCR and the Secretary of State's recent public comments regarding mail voting about which Plaintiffs harrumph for multiple pages, Mot. at 8-10,

one wonders if Plaintiffs' counsel is familiar with the concept of sarcasm, particularly in the political arena.⁵ Plaintiffs also blind themselves to (and seek to distract the Court from) the context in which the Secretary made these statements. The Secretary was testifying in opposition to a bill (SB 208) that would have restricted each county to only one ballot drop box, located solely at the county election office. Nothing in his remarks had anything to do with the numerous and well-documented problems that ballot harvesting creates. At the very same hearing, in fact, the Attorney General offered examples of ballot harvesting fraud and highlighted why signature verification was so critical to the advance mail ballot process. *See* Kan. Legis., *Senate Federal & State Affairs Comm. 2/20/2023*, YOUTUBE, available at <https://www.youtube.com/watch?v=sWJUgtUmPvA&t=608s> (last visited July 4, 2023), at 9:16-10:37 and 7:41-8:55 (explaining that mail ballot fraud in Wyandotte County was the reason the State began requiring signature matching in 2011, and discussing documented ballot-harvesting fraud in North Carolina).

Ironically, the Secretary predicated his opinion as to the utility of ballot drop boxes in large part on the signature verification requirements that Kansas law imposes. *See id.* at 20:29-21:24. Yet Plaintiffs, while trumpeting his testimony, seek to invalidate the signature verification mandate, a core foundation of his opposition to the bill. Defendants are confident that the Court will see through this flimflam. In any event, the *Secretary's* own views on mail ballots are entirely irrelevant to the Court's resolution of this lawsuit. The

⁵ If these out-of-context quotations sound familiar, it is because they are recycled from Plaintiffs' motion (on March 9, 2023) asking the Court to take judicial notice of them. Defendants responded to that motion on March 14, highlighting their total irrelevancy and asymmetrical fit with judicial notice. Defendants see no need to repeat all of that here.

legislature has the authority to enact statutes in Kansas, not the Secretary. Whatever concerns the Secretary may have with the U.S. Postal Service have no bearing on this case, and they certainly do nothing to support Plaintiffs' claim of irreparable harm.

At the end of the day, Plaintiffs are basically claiming an irreparable harm because certain voters might not be able to select the specific means by which they cast and/or return their advance ballot. If that were sufficient to satisfy the irreparable harm standard, then Plaintiffs presumably could secure an injunction by making similar arguments about text voting or voting by e-mail instead of hand or mail delivery. Besides, not only are the potential injuries to the State that can flow from ballot harvesting well known, *see Brnovich v. DNC*, 141 S. Ct. 2321, 2347-48 (2021), but the U.S. Supreme Court has underscored that the relevant judicial inquiry is on the burden to the electorate *as a whole*, not on a handful of voters who might be adversely affected by a statute. *Id.* at 2339; *cf. Lemons*, 144 Kan. at 824 (“It is true, isolated instances may occur where a party, through absence or sickness, is unable to register, and so loses his vote; but the same result may follow where any failure to produce the required evidence occurs. . . . If the legislature has the right to require proof of a man’s qualification, it has a right to say when such proof shall be furnished, and before what tribunal, and unless that power is abused the courts may not interfere.”) (quoting *State v. Butts*, 31 Kan. 537, 555, 2 P. 618 (1884) (Brewer, J.)).

V. – The State Would Suffer Substantial Harm from the Issuance of an Injunction

In contrast to Plaintiffs’ allegations of hypothetical and speculative future harm, the State will suffer significant harm if this Court enjoins these statutes. Whatever else might

be said of Plaintiffs' embellished claims, they do not outweigh the injuries that Defendants (and the electorate as a whole) will suffer were the Court to grant Plaintiffs' motion.

While Plaintiffs focus exclusively on whether “fraud” has occurred – as if that is a prerequisite before a legislature can adopt prophylactic measures in this space – they ignore the fact that State election officials have spent the last two years adopting regulations to implement the SVR, training election workers responsible for the same, providing guidance on the implementation of the BCR, and seeking to instill confidence in an increasingly skeptical public about the integrity of our election process. County election officials have likewise devoted substantial time and resources since 2021 developing procedures and training staff to enforce these new statutes. To now halt the enforcement of these critical election administration provisions, which have already been successfully carried out in multiple elections, which have helped assure the public that our elections are free of fraud, which have had virtually no (if *any*) effect on individuals' voting rights, and which (particularly in the context of the SVR) represent the only basis for guaranteeing that the individual to whom an advance ballot was sent is the individual voting that ballot, would be greatly prejudicial to both the State and the public at large. *See Maryland v. King*, 567 U.S. 1301, 1303 (2012) (“[A]ny time a State is enjoined by a court from effectuating statutes enacted by representatives of its people, it suffers a form of irreparable injury.”) (quotation omitted).

VI. – Conclusion

Defendants request that this Court deny Plaintiffs' motion for injunction.

Respectfully submitted,

/s/ Bradley J. Schlozman

Anthony J. Powell (KS Bar #14981)
Solicitor General
Office of the KS Attorney General
120 SW 10th Ave., Room 200
Topeka, KS 66612-1597
Tel.: (785) 296-2215
Fax: (785) 291-3767
Email: anthony.powell@ag.ks.gov

Bradley J. Schlozman (KS Bar #17621)
Scott R. Schillings (KS Bar #16150)
HINKLE LAW FIRM LLC
1617 N. Waterfront Parkway, Ste. 400
Wichita, KS 67206
Tel: (316) 267-2000
Email: bschlozman@hinklaw.com
Email: sschillings@hinklaw.com

CERTIFICATE OF SERVICE

I certify that on July 5, 2023, I electronically filed the foregoing document with the Clerk of the Court pursuant to Kan. Sup. Ct. R. 1.11(b), which in turn caused electronic notifications of such filing to be sent to all counsel of record. I also certify that a true and correct copy of this document will be e-mailed to the following individuals:

Pedro L. Irigonegaray
Nicole Revenaugh
Jason Zavadil
J. Bo Turney
**IRIGONEGARAY, TURNEY, &
REVENAUGH LLP**
1535 S.W. 29th Street
Topeka, KS 66611
Tel: (785) 267-6115
Email: Pedro@ITRLaw.com
Email: Nicole@ITRLaw.com
Email: Jason@ITRLaw.com
Email: Bo@ITRLaw.com

David Anstaett
PERKINS COIE LLP
35 East Main Street, Suite 201
Madison, WI 53703
Tel: (608) 663-5408
Email: danstaett@perkinscoie.com

Elizabeth C. Frost
Justin Baxenberg
Henry J. Brewster
Mollie A. DiBrell
Richard A. Medina
Marisa A. O’Gara
ELIAS LAW GROUP LLP
10 G Street NE, Suite 600
Washington, DC 20002
Tel: (202) 968-4513
Email: efrost@elias.law
Email: jbaxenberg@elias.law
Email: hbrewster@elias.law
Email: mdibrell@elias.law
Email: rmedina@elias.law
Email: mogara@elias.law

/s/ Bradley J. Schlozman
Bradley J. Schlozman (KS Bar #17621)

Exhibit A-1

**(Excerpt from EAC's 2022 EAVS Report regarding
Rejected Advance Ballots in Kansas in 2022 General
Election Due to Signature Mismatch / Incomplete Signature)**

**Number of Advance Ballots Rejected Due to
Signature Mismatch/Incomplete Signatures in
Kansas in the 2022 General Election**

Jurisdiction_Name	State_Full	State_Abbr	Response to C9e
ALLEN COUNTY	KANSAS	KS	1
ANDERSON COUNTY	KANSAS	KS	0
ATCHISON COUNTY	KANSAS	KS	0
BARBER COUNTY	KANSAS	KS	0
BARTON COUNTY	KANSAS	KS	1
BOURBON COUNTY	KANSAS	KS	
BROWN COUNTY	KANSAS	KS	0
BUTLER COUNTY	KANSAS	KS	0
CHASE COUNTY	KANSAS	KS	0
CHAUTAUQUA COUNTY	KANSAS	KS	0
CHEROKEE COUNTY	KANSAS	KS	
CHEYENNE COUNTY	KANSAS	KS	0
CLARK COUNTY	KANSAS	KS	0
CLAY COUNTY	KANSAS	KS	0
CLOUD COUNTY	KANSAS	KS	0
COFFEY COUNTY	KANSAS	KS	0
COMANCHE COUNTY	KANSAS	KS	0
COWLEY COUNTY	KANSAS	KS	0
CRAWFORD COUNTY	KANSAS	KS	0
DECATUR COUNTY	KANSAS	KS	0
DICKINSON COUNTY	KANSAS	KS	1
DONIPHAN COUNTY	KANSAS	KS	0
DOUGLAS COUNTY	KANSAS	KS	9
EDWARDS COUNTY	KANSAS	KS	0
ELK COUNTY	KANSAS	KS	1
ELLIS COUNTY	KANSAS	KS	2
ELLSWORTH COUNTY	KANSAS	KS	0
FINNEY COUNTY	KANSAS	KS	1
FORD COUNTY	KANSAS	KS	0
FRANKLIN COUNTY	KANSAS	KS	0
GEARY COUNTY	KANSAS	KS	0
GOVE COUNTY	KANSAS	KS	0
GRAHAM COUNTY	KANSAS	KS	0
GRANT COUNTY	KANSAS	KS	0
GRAY COUNTY	KANSAS	KS	0
GREELEY COUNTY	KANSAS	KS	0
GREENWOOD COUNTY	KANSAS	KS	0
HAMILTON COUNTY	KANSAS	KS	0
HARPER COUNTY	KANSAS	KS	0
HARVEY COUNTY	KANSAS	KS	0
HASKELL COUNTY	KANSAS	KS	0
HODGEMAN COUNTY	KANSAS	KS	0
JACKSON COUNTY	KANSAS	KS	1
JEFFERSON COUNTY	KANSAS	KS	0
JEWELL COUNTY	KANSAS	KS	
JOHNSON COUNTY	KANSAS	KS	37

KEARNY COUNTY	KANSAS	KS	0
KINGMAN COUNTY	KANSAS	KS	0
KIOWA COUNTY	KANSAS	KS	0
LABETTE COUNTY	KANSAS	KS	0
LANE COUNTY	KANSAS	KS	0
LEAVENWORTH COUNTY	KANSAS	KS	0
LINCOLN COUNTY	KANSAS	KS	0
LINN COUNTY	KANSAS	KS	0
LOGAN COUNTY	KANSAS	KS	0
LYON COUNTY	KANSAS	KS	0
MCPHERSON COUNTY	KANSAS	KS	0
MARION COUNTY	KANSAS	KS	0
MARSHALL COUNTY	KANSAS	KS	0
MEADE COUNTY	KANSAS	KS	0
MIAMI COUNTY	KANSAS	KS	3
MITCHELL COUNTY	KANSAS	KS	0
MONTGOMERY COUNTY	KANSAS	KS	0
MORRIS COUNTY	KANSAS	KS	0
MORTON COUNTY	KANSAS	KS	0
NEMAHA COUNTY	KANSAS	KS	0
NEOSHO COUNTY	KANSAS	KS	0
NESS COUNTY	KANSAS	KS	0
NORTON COUNTY	KANSAS	KS	0
OSAGE COUNTY	KANSAS	KS	
OSBORNE COUNTY	KANSAS	KS	0
OTTAWA COUNTY	KANSAS	KS	0
PAWNEE COUNTY	KANSAS	KS	0
PHILLIPS COUNTY	KANSAS	KS	0
POTTAWATOMIE COUNTY	KANSAS	KS	1
PRATT COUNTY	KANSAS	KS	
RAWLINS COUNTY	KANSAS	KS	0
RENO COUNTY	KANSAS	KS	0
REPUBLIC COUNTY	KANSAS	KS	0
RICE COUNTY	KANSAS	KS	1
RILEY COUNTY	KANSAS	KS	2
ROOKS COUNTY	KANSAS	KS	0
RUSH COUNTY	KANSAS	KS	0
RUSSELL COUNTY	KANSAS	KS	0
SALINE COUNTY	KANSAS	KS	0
SCOTT COUNTY	KANSAS	KS	0
SEDGWICK COUNTY	KANSAS	KS	52
SEWARD COUNTY	KANSAS	KS	0
SHAWNEE COUNTY	KANSAS	KS	4
SHERIDAN COUNTY	KANSAS	KS	1
SHERMAN COUNTY	KANSAS	KS	0
SMITH COUNTY	KANSAS	KS	0
STAFFORD COUNTY	KANSAS	KS	Data not available
STANTON COUNTY	KANSAS	KS	0
STEVENS COUNTY	KANSAS	KS	0
SUMNER COUNTY	KANSAS	KS	0
THOMAS COUNTY	KANSAS	KS	1
TREGO COUNTY	KANSAS	KS	0

WABAUNSEE COUNTY	KANSAS	KS	0
WALLACE COUNTY	KANSAS	KS	2
WASHINGTON COUNTY	KANSAS	KS	0
WICHITA COUNTY	KANSAS	KS	0
WILSON COUNTY	KANSAS	KS	0
WOODSON COUNTY	KANSAS	KS	0
WYANDOTTE COUNTY	KANSAS	KS	8

Total			105
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Exhibit A-2

**(Excerpted pages from EAC's 2022 Election Administration
and Voting Survey Instrument)**



U.S. ELECTION ASSISTANCE COMMISSION (EAC) 2022 Election Administration and Voting Survey (EAVS)

The ongoing process of improving the United States' election systems relies in part on having accurate data about the way Americans cast their ballots. In 2002, Congress chartered the U.S. Election Assistance Commission (EAC) to collect information on the state of American elections and to make that information widely available to policymakers, advocates, scholars, journalists, and the general public. Since 2004, the EAC has sponsored a biennial survey as its primary tool for fulfilling its information collection mission. We are pleased to present the 2022 Election Administration and Voting Survey (EAVS), and we ask for your help in making it the most complete and accurate survey in its history.

The questions in this survey ask for information about ballots cast, voter registration, overseas and military voting, mail voting, Election Day activities, voting technology, and other important issues.

The section concerning the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA) serves as the EAC's standardized format for state reporting of UOCAVA voting information as required by 52 U.S.C. §20302. States that complete and timely submit this section to the EAC will fulfill their UOCAVA reporting requirement under 52 U.S.C. §20302(c).

Additionally, the EAC is mandated by the National Voter Registration Act (NVRA) to collect information from states concerning the impact of that statute on the administration of federal elections. With this information, the EAC is required to make a report to Congress and provide recommendations for the improvement of federal and state procedures, forms, and other NVRA matters. States that respond in a timely manner to all questions in this survey concerning voter registration-related matters will meet their NVRA reporting requirements under 52 U.S.C. §20508 and EAC regulations.

The EAC recognizes the burden that asking for these data places on state and local election officials, and we have worked to minimize that burden as much as possible. In advance, we thank you for your cooperation and look forward to answering any questions you might have.

Information supplied by:

Name	Title
Office/Agency Name	
Email Address	

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C9. Number of Mail Ballots Rejected by Reason They Were Rejected

For question C9a, provide the total number of mail ballots that were returned by voters and were rejected. Then, in questions C9b–C9q, divide the total as reported in C9a into the categories indicating the reason the mail ballots were rejected. Use options C9r–C9t for any ballots that cannot be placed in the categories given in C9b through C9q. The numbers reported in C9b through C9t should sum to the total number of ballots rejected in C9a.

Category of Mail Ballots	Total
C9a. TOTAL number of mail ballots rejected	
C9b. Ballot was not received on time/missed the deadline	
C9c. Ballot did not have a voter signature	
C9d. Ballot did not have a witness signature	
C9e. Ballot had a non-matching or incomplete signature	
C9f. Ballot was returned in an unofficial envelope	
C9g. Ballot was missing from the envelope	
C9h. Ballot was not placed in a required secrecy envelope	
C9i. Multiple ballots were returned in one envelope	
C9j. Envelope was not sealed	
C9k. Returned ballot did not have required postmark	
C9l. No resident address was on the envelope	
C9m. Voter was deceased	
C9n. Voter already cast another ballot that was accepted (by mail or in person)	
C9o. Voter did not provide the required documentation (such as identification, affidavit, or statement) or documentation was incomplete	
C9p. Voter was not eligible to cast a ballot in the jurisdiction	
C9q. No ballot application on record	
C9r. Other: _____	
C9s. Other: _____	
C9t. Other: _____	
C9 Comments:	

F11. General Comments

The EAC welcomes any general comments that the representatives of your jurisdiction may wish to share regarding the experiences in administering the November 2022 general election, such as problems with voting system anomalies*, recounts, staffing, challenges to eligibility, long lines, or noteworthy successes or challenges overcome. Use as much space as you need. Please feel free to attach additional pages as necessary.

*An anomaly is as an irregular or inconsistent action or response from the voting system or system component, resulting in some disruption to the election process. Incidents resulting from administrator error or procedural deficiencies are not considered anomalies for purposes of this survey question (see the EAC Voting Systems Testing and Certification Program Manual).

F11 Comments:

END OF SURVEY

THANK YOU FOR RESPONDING TO THIS SURVEY

This information collection is required for the U.S. Election Assistance Commission (EAC) to meet its statutory requirements under the Help America Vote Act (HAVA) of 2002 (52 U.S.C. 20901), the National Voter Registration Act (NVRA; 52 U.S.C. 20502 et seq.), and the Uniformed and Overseas Citizens Absentee Voters Act (UOCAVA; 52 U.S.C. 20302). Respondent’s obligation to reply to this information collection is mandatory as required under NVRA (52 U.S.C. 20502 et seq.) and UOCAVA (52 U.S.C. 20302); respondents include the 50 states, the District of Columbia, and the U.S. territories. This information will be made publicly available on the EAC website (<https://www.eac.gov>). According to the Paperwork Reduction Act of 1994, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid Office of Management and Budget (OMB) control number. The valid OMB control number for this information collection is OMB Control No. 3265-0006 (expires 04/30/2025). The annualized time required to complete this information collection is estimated to average 101 hours per state response. This estimate includes the time for reviewing the instructions, gathering information, and completing the form. Comments regarding this burden estimate should be sent to the U.S. Election Assistance Commission: 2022 Election Administration and Voting Survey, 633 3rd Street NW, Suite 200, Washington, DC 20001.

Exhibit B

(Wichita Eagle article – Feb. 24, 2019)



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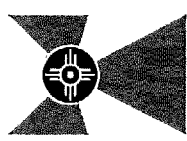
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The Wichita Eagle

Bill would give voters chance to fix errors on advance ballots

BY JONATHAN SHORMAN
jshorman@wichitaeagle.com

TOPEKA

Hundreds of voters' mail-in ballots weren't counted last fall because the voters didn't sign them. Instead, they were discarded.

But after just a few hundred votes decided the Republican primary for governor, lawmakers are pursuing a change to state law to allow potentially hundreds of additional ballots to be counted in the future.

The consequences could be huge for close races.

It's impossible to know if the

proposed changes would have altered the outcome of the August primary election, when Kris Kobach beat Jeff Colyer by 343 votes. But numerous voters whose ballots didn't count would have had the chance to fix their errors.

Voters would also no longer wonder whether their vote

counted, because officials would have to try to reach them if there's a problem.

"This would just help them notify that voter ... I just think it's going to be so helpful to make sure people know their votes are counted," said Sen. Oletha Faust Goudeau, D-Wichita.

Current Kansas law requires voters to sign mail-in ballot envelopes. Voters who forget to sign their envelopes have only until the end of Election Day to fix the error. Miss that window and election officials are nearly certain not to count the ballot.

Senate Bill 130 would require election officials to try to notify voters who send in ballot envelopes with missing signatures

SEE BALLOT, 4A



LOCAL

NEW GROUP TO PROMOTE TECH

FlagshipKansas.Tech will hold its kickoff event in Wichita, and expects state and local officials to attend. 2A



JAIME GREEN The Wichita Eagle

Sedgwick County Election Commissioner Tabitha Lehman said she supports giving voters more time to correct mistakes before ballots are counted, citing the number of ballots rejected in the 2018 elections.

FROM PAGE 1A
BALLOT

before ballots are officially counted at county canvass meetings. The change also would apply to any voter whose signature on a ballot envelope doesn't match the signature on file with the county.

Voters would have an additional week or longer to provide a signature, until the canvass in each county. Voters might also be more likely to try to fix problems on their ballots if they know their vote could help decide a particularly close race.

Across the state, potentially hundreds of voters would have additional time to correct a mistake and make their ballot count. Several hundred ballots were rejected statewide during the last election because they

lacked signatures, according to Bryan Caskey, state director of elections.

Election officials across the state support the idea. The Kansas County Clerk and Election Officials Association backs the legislation, as well as Sedgwick County Election Commissioner Tabitha Lehman.

Lehman said voters have until 7 p.m. on Election Day to add their signatures to their ballot envelopes if they forget. After that, voters with missing or mismatched signatures are out of luck, even though Kansas law allows mail-in ballots that arrive until the Friday after the election to be counted.

In Sedgwick County alone, officials decided not to count 80 ballots without signatures during the August primary. Sedgwick County officials rejected 380 ballots in the

general election because of a missing signature, Lehman said.

Lehman said the number of ballots rejected in November was a significant jump for the county. During the 2016 election, the county rejected about 90 ballots for the same reason.

"This is why this has come up and we need to address this and give people time to cure this," Lehman said.

Lehman said the higher number of ballots rejected for a missing signature is partly because more people are voting by mail than before.

More than a third of Kansas voters cast their ballots in advance. In the November election, nearly 38 percent of Kansas voters voted in advance. In the 2016 election, 42 percent voted in advance.

Voting rights advocates have raised concerns over the limited amount of time Kansas voters now have to correct a missing or mismatched signature, in part because of the razor-thin margin between Kobach and Colyer.

Davis Hammet, president of the Kansas-based liberal advocacy group Loud Light, sued Johnson County election officials to reveal the names of voters whose ballots had been rejected because of missing or mismatched signatures. Earlier this month, a judge ruled the refusal to provide the names violated the state's open records laws.

A legislative committee voted unanimously Friday to send the bill to the Senate floor. Hammet praised lawmakers for doing so.

"This should be one of the least controversial things they deal with this year," Hammet said about the legislation. "It's obviously a glaring gap in our election laws."

At least a dozen states give voters time to fix signature errors on their mail-in ballot envelopes, said Tammy Patrick, a senior advisor at the Washington, D.C.-based Democracy Fund.

Patrick said the legislation may also help voters whose signatures change and who, because of that, are more likely to have their ballot envelopes questioned for a signature mismatch.

Typically, those are young voters whose signatures are still maturing and elderly voters, whose signatures begin to degrade in their 60s and 70s, she said.

"I think those are definitely populations where they would benefit," Patrick said.

Though Senate Bill 130 is headed to the Senate floor, it's unclear when senators might debate the legislation. If it passes the Senate, the House would also have to approve the bill before it heads to Gov. Laura Kelly's desk.

Jonathan Shorman:
 785-296-3895,
 @jonshorman