

**Neutral Testimony on Senate Bill 149**  
Senate Committee on Ethics, Elections and Local Government

Davis Hammet  
January 29th, 2020

Chair Bowers, Members of the Committee,

SB 149 appears to have the goal of preemptively establishing law that provides relief to native born Kansans from the burden established under the 2011 law HB 2067 branded the SAFE Act. I'm providing neutral testimony in recognition that it is of utmost importance to shield citizens from government burdens that infringe on the exercise of fundamental rights which I believe SB 149 seeks to do; however, SB 149 may not be finely crafted to achieve its purpose of providing relief from Documentary Proof of Citizenship or DPOC.

**Statute Allows Alternative Methods of Satisfying Documentary Proof of Citizenship**

K.S.A. § [25-2309](#)(t) states “Nothing in this section shall prohibit an applicant from providing, or the secretary of state or county election officer from obtaining satisfactory evidence of United States citizenship, as described in subsection (1), at a different time or in a different manner than an application for registration is provided, as long as the applicant's eligibility can be adequately assessed by the secretary of state or county election officer as required by this section.” This allows the government to create alternative internal systems to satisfy the DPOC requirement. Originally, DPOC was pitched as a seamless experience for the voter registrant, and while then Secretary Kobach did not roll out DPOC in a manner that aligned with that pitch, there were some internal systems implemented along the way that provided relief from the burden of DPOC. One is especially relevant to SB 149.

**Birth/Voter Registration Data Link**

In January 2014, the Kansas Secretary of State (KSOS) and the Kansas Department of Health and Environment (KDHE) entered into an Interagency Agreement called “Birth/Voter Registration Data Link.” Under this agreement the Secretary of State would send a monthly list of voter registrants who had not provided Documentary Proof of Citizenship (DPOC) and were therefore held in “suspense” to the Department of Health and Environment who would compare the suspended voter list to Kansas birth certificate records at the Department of Vital Statistics.

From 2014 to 2017 this acted as proof of citizenship for roughly 62,000 matches out of the 158,000 registrants sent to KDHE. The Birth/Voter Registration Data Link allows DPOC to be satisfied without requiring Vital Statistics to furnish a certified copy of a birth certificate which would be required under SB 149.

This process for matching Kansans birth certificates stopped under the preliminary injunction and subsequent rulings in *Fish v. Kobach* and *Bednasek v. Kobach* that found DPOC is a violation of Federal Law and Unconstitutional. If *Fish* and *Bednasek* are overturned in the future and DPOC becomes enforceable, the Birth/Voter Registration Data Link agreement would conceivably begin to operate again and achieve the stated purpose of SB 149.

### **State Voter Registration Form Change Under SB 149**

SB 149 would mandate that following the “are you a citizen of the United States of America?” question on the voter registration form there would be a 219 word explanation of how the government may attempt to locate your proof of citizenship and 3 spaces to identify where a birth certificate may be found. This would significantly alter the look of registration forms.

### **Legal Status of Different Manners of Voter Registration**

In considering a preemptive relief system if DPOC is upheld in future court rulings, it’s important to note different registration methods fall under different legal statuses. If the *Bednasek* ruling is overturned, registrations under NVRA agencies such as the DMV or public assistance offices are still protected from DPOC under the *Fish* ruling. If both the *Fish* and *Bednasek* cases are overturned, registrations using the federal form are still protected from DPOC under the *League of Women Voters* ruling.

[Fish v. Kobach](#)/Schwab (D. Kan. No. 2:16-cv-02105; 10th Cir. No. 16-3147) Finding: DPOC is illegal under the federal National Voter Registration Act (NVRA). Specifically, applies to NVRA designated agencies such as the DMV. Status: Appealed to 10th Circuit

[Bednasek v. Kobach](#)/Schwab (D. Kan. No. 2:15-cv-09300; 10th Cir., No. 18-3186) Finding: DPOC is unconstitutional under the 14th amendment. Applies to all methods of voter registration. Status: Appealed to 10th Circuit

[League of Women Voters v. Newby](#) (D.D.C, No. 1:16-cv-00236; D.C. Cir. No. 16-5196) Finding: Federal Form cannot require DPOC without approval of EAC. Status: No indication the case will move. Preliminary injunction stands on remand to EAC which determined Newby did not have authority to allow DPOC.

### **Considerations**

It’s unclear how SB 149 would be implemented under the current court rulings regarding DPOC. If court rulings are overturned and DPOC is reinstated in the future, the state should consider developing a comprehensive system that ensures DPOC is truly seamless for all citizens of Kansas. A Kansas County Clerk once said, “I can either be a barrier or I can remove barriers.” I’m neutral today to uplift that message and urge the committee to carefully consider the best way to go about shielding Kansans from bureaucratic government burdens.

# SB 149 Proposed Alterations to Voter Registration Form

## Kansas Voter R

### You can use this a

- register to vote
- change your na party

### To register to vote

- be a U.S. citizen
- have reached th election.
- have received fi parole, or condi
- have abandone

### How to register to

- Return your con Addresses are c county election application has

**"Proof of United States citizenship is required by Kansas law. You may, but are not required to provide proof of United States citizenship at the time you complete this application. If you do not provide proof of United States citizenship with your application and you were born in Kansas, checking the box to indicate you are a citizen of the United States of America constitutes consent for the county election officer or chief state election official, if the county election officer or chief state election official chooses to do so, to obtain your birth certificate from the state registrar of vital statistics for the purpose of establishing your citizenship. If you do not provide proof of United States citizenship with your application and you were not born in Kansas, checking the box to indicate you are a citizen of the United States of America, indicating your place of birth and providing the agency and agency address where the county election officer or chief state election official may obtain your certificate of birth shall constitute consent for the county election officer or chief state election official, if the county election officer or chief state election official chooses to do so, to obtain your birth certificate from the agency at the address you provide for the purpose of establishing your citizenship."**

Place of Birth \_\_\_\_\_  
 Agency of Birth \_\_\_\_\_  
 Address of Agency \_\_\_\_\_

Secretary of State,  
 available at [www.sos.ks.gov](http://www.sos.ks.gov).

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Rev. 1/15/19 tc

## Kansas Voter Registration Application

*Warning: If you submit a false voter registration application, you may be convicted and sentenced to up to 17 months in prison.*



**Qualifications:** If you mark "no" in response to either Question 1 or 2, do *not* complete this form.  
**1. Are you a citizen of the United States of America?**     Yes     No  
**2. Will you be 18 years of age on or before Election Day?**     Yes     No

Last Name (please print)		First Name		Middle	Jr. Sr. II III	<input type="radio"/> Male <input type="radio"/> Female
Residential Address (include apt. or space number)			City	County	Zip	
Mailing Address (if different than residential address)			City	Zip	Date Residence Established (MM/DD/YY)	
Birth Date (MM/DD/YY)	Daytime Phone Number (if available)	Naturalization Number (if applicable)		Driver's License Number or Last 4 Social Security (see instructions)		
<b>Party Affiliation:</b> Choose one of the following: <input type="radio"/> Democratic <input type="radio"/> Republican <input type="radio"/> Libertarian <input type="radio"/> Not affiliated with a party						
<b>Complete if previously registered (please print)</b>		Previous Name		Previous Residential Address (Street, City, State, Zip, County)		
<b>Signature:</b> I swear or affirm that I am a citizen of the United States and a Kansas resident, that I will be 18 years old before the next election, that if convicted of a felony, I have had my civil rights restored, that I have abandoned my former residence and/or other name, and that I have told the truth on this application.						
Signature				Date (MM/DD/YY)		

**For office use only:** Ward \_\_\_\_\_ Pct. \_\_\_\_\_ School Dist. \_\_\_\_\_ Member Dist. \_\_\_\_\_  
 Sen. \_\_\_\_\_ Rep. \_\_\_\_\_ CoComm \_\_\_\_\_ Section \_\_\_\_\_ Township \_\_\_\_\_ Range \_\_\_\_\_



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 Topeka, KS 66612-1594



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<b>Anderson County</b> 100 E. 4th Garnett, KS 66032	<b>Comanche County</b> 201 S. New York / Box 776 Coldwater, KS 67029	<b>Gove County</b> P.O. Box 128 Gove, KS 67736	<b>Kearny County</b> 304 N. Main / Box 86 Lakin, KS 67860	<b>Mitchell County</b> 111 S. Hersey / Box 190 Beloit, KS 67420	<b>Rawlins County</b> 607 Main Atwood, KS 67730	<b>Smith County</b> 218 S. Grant Smith Center, KS 66967
<b>Atchison County</b> 423 N. 5th Atchison, KS 66002	<b>Cowley County</b> 321 E. 10th Ave. Winfield, KS 67156	<b>Graham County</b> 410 N. Pomeroy Hill City, KS 67642	<b>Kingman County</b> 130 N. Spruce Kingman, KS 67068	<b>Montgomery County</b> 217 E. Myrtle / Box 446 Independence, KS 67301	<b>Reno County</b> 206 W. First Hutchinson, KS 67501	<b>Stafford County</b> 209 N. Broadway St John, KS 67576
<b>Barber County</b> 120 E. Washington Medicine Lodge, KS 67104	<b>Crawford County</b> 111 E. Forest / Box 249 Girard, KS 66743-0249	<b>Grant County</b> 108 S. Glenn Ulysses, KS 67880	<b>Kiowa County</b> 211 E. Florida Greensburg, KS 67054	<b>Morris County</b> 501 W. Main Council Grove, KS 66846	<b>Republic County</b> 1815 M. Street Belleville, KS 66935	<b>Stanton County</b> 201 N. Main / Box 190 Johnson, KS 67855
<b>Barton County</b> 1400 Main Rm 202 Great Bend, KS 67530	<b>Decatur County</b> P.O. Box 28 Oberlin, KS 67749	<b>Gray County</b> P.O. Box 487 Cimarron, KS 67835	<b>Labette County</b> 501 Merchant / Box 387 Oswego, KS 67356	<b>Morton County</b> 1025 Morton / Box 1116 Elkhart, KS 67950	<b>Rice County</b> 101 W. Commercial Lyons, KS 67554	<b>Stevens County</b> 200 E. 6th Hugoton, KS 67951
<b>Bourbon County</b> 210 S. National Fort Scott, KS 66701	<b>Dickinson County</b> 109 E. First / Box 248 Abilene, KS 67410	<b>Greeley County</b> P.O. Box 277 Tribune, KS 67879	<b>Lane County</b> 144 S. Lane / Box 788 Dighton, KS 67839	<b>Nemaha County</b> 607 Nemaha / Box 186 Seneca, KS 66538	<b>Riley County</b> 110 Courthouse Plaza Manhattan, KS 66502	<b>Sumner County</b> 501 N. Washington Wellington, KS 67152
<b>Brown County</b> 601 Oregon St Hiawatha, KS 66434	<b>Doniphan County</b> P.O. Box 278 Troy, KS 66087	<b>Greenwood County</b> 311 N. Main Eureka, KS 67045	<b>Leavenworth County</b> 300 Walnut Leavenworth, KS 66048	<b>Neosho County</b> 100 S. Main / Box 138 Erie, KS 66733	<b>Rooks County</b> 115 N. Walnut Stockton, KS 67669	<b>Thomas County</b> 300 N. Court Ave Colby, KS 67701
<b>Butler County</b> 205 W. Central El Dorado, KS 67042	<b>Douglas County</b> 1100 Massachusetts St Lawrence, KS 66044	<b>Hamilton County</b> 219 N. Main / Box 1167 Syracuse, KS 67878	<b>Lincoln County</b> 216 E. Lincoln Ave Lincoln, KS 67455	<b>Ness County</b> 202 W. Sycamore Ness City, KS 67560	<b>Rush County</b> 715 Elm / Box 220 LaCrosse, KS 67548	<b>Trego County</b> 216 Main WaKeeney, KS 67672
<b>Chase County</b> Courthouse Sq / Box 529 Cottonwood Falls, KS 66845	<b>Edwards County</b> 312 Massachusetts St Kinsley, KS 67547	<b>Harper County</b> 201 N. Jennings Anthony, KS 67003	<b>Linn County</b> P.O. Box 350 Mound City, KS 66056	<b>Norton County</b> 105 S. Kansas / Box 70 Norton, KS 67654	<b>Russell County</b> 4th & Main / Box 113 Russell, KS 67665	<b>Wabaunsee County</b> 215 Kansas / Box 278 Alma, KS 66401
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<b>Cheyenne County</b> 212 E. Wash. / Box 985 St Francis, KS 67756	<b>Ellsworth County</b> 210 N. Kansas Ellsworth, KS 67439	<b>Hodgeman County</b> 500 Main Jetmore, KS 67854	<b>Marion County</b> 200 S. Third, Suite 104 Marion, KS 66861	<b>Ottawa County</b> 307 N. Concord Ste 130 Minneapolis, KS 67467	<b>Sedgwick County</b> 510 N. Main Wichita, KS 67203-3798	<b>Wichita County</b> 206 S. 4th Drawer 968 Leoti, KS 67861
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<b>Clay County</b> 712 Fifth, Suite 102 Clay Center, KS 67432	<b>Ford County</b> 100 Gunsmoke Dodge City, KS 67801	<b>Jefferson County</b> P.O. Box 321 Oskaloosa, KS 66066	<b>McPherson County</b> 117 N. Maple McPherson, KS 67460	<b>Phillips County</b> 301 State St Phillipsburg, KS 67661	<b>Shawnee County</b> 3420 SW Van Buren Topeka, KS 66611	<b>Woodson County</b> 105 W. Rutledge Rm 103 Yates Center, KS 66783
<b>Cloud County</b> 811 Washington Concordia, KS 66901	<b>Franklin County</b> 315 S. Main Ottawa, KS 66067	<b>Jewell County</b> 307 N. Commercial Mankato, KS 66956	<b>Meade County</b> P.O. Box 278 Meade, KS 67864	<b>Pottawatomie County</b> 207 N. 1st / Box 187 Westmoreland, KS 66549	<b>Sheridan County</b> 925 9th St / Box 899 Hoxie, KS 67740	<b>Wyandotte County</b> 850 State Ave Kansas City, KS 66101