

SENATE BILL 1028

By Bowling

AN ACT to amend Tennessee Code Annotated, Title 2,  
relative to elections.

WHEREAS, hand-marked paper election ballots have become a major national issue concerning the security and purity of the ballot box; and

WHEREAS, in 2020, secure markings were generally accepted for use for electronically generated ballots; and

WHEREAS, additional concerns have been raised regarding the use of quick-response (QR) codes and bar codes for ballot tabulation, as compared to human readable text; and

WHEREAS, other states have already addressed concerns regarding the composition of their respective states' paper ballots; and

WHEREAS, efforts to secure the ballot have already been enacted in other states and are herein recommended, based on Georgia Senate Bill 189 from Georgia's 2023-2024 Regular Session and others; and

WHEREAS, these changes are necessary for a myriad of other reasons in order to maintain the integrity of both the ballot and our elections in Tennessee; now, therefore,

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 2-5-206(a), is amended by deleting the subsection and substituting the following:

(a)

(1) Voting machine ballot labels and names of candidates must be printed in black ink with office titles printed in black or red ink on clear material of

such size as will fit the ballot frame and in as plain, clear type as the space will reasonably permit.

(2) Except as otherwise authorized by law, all voting machine ballots in an election must use paper that includes a visible secure watermark, as required under § 2-5-212(a)(1)(A), and approved by the coordinator of elections, as required under § 2-5-212(a)(2). For purposes of this subdivision (a)(2), the watermark must be easily discernible for verification purposes by the counting board.

SECTION 2. Tennessee Code Annotated, Section 2-5-207(b)(2), is amended by deleting the subdivision and substituting the following:

(2) Except as otherwise authorized by law, all paper ballots in an election, including absentee ballots, must use paper that includes a visible secure watermark, as required under § 2-5-212(a)(1)(B), and approved by the coordinator of elections, as required under § 2-5-212(a)(2). For purposes of this subdivision (b)(2), the watermark must be easily discernible for verification purposes by the counting board.

SECTION 3. Tennessee Code Annotated, Section 2-5-208, is amended by adding the following as a new subsection:

( ) The coordinator of elections shall define the method and type of visible secure watermark used for election ballots, as provided for voting machine ballots under § 2-5-212(a)(1)(A) and for paper ballots under § 2-5-212(a)(1)(B), and the placement of the watermark on each form of ballot.

SECTION 4. Tennessee Code Annotated, Title 2, Chapter 5, Part 2, is amended by adding the following as a new section:

**2-5-212. Security features of ballots -- Tabulation.**

(a)

(1) All ballots cast by a voter and tabulated in a primary or general election must contain a visible secure watermark as a security feature, including:

(A) All voting machine ballots, as provided under § 2-5-206(a)(2);

and

(B) All paper ballots, as provided under § 2-5-207(b)(2).

(2) The coordinator of elections shall define the method and type of secure watermark used for each form of ballot and the placement of the watermark on the ballot, and may authorize the use of invisible ink or pre-printed opaque images to produce the watermark; provided, however, that the resulting watermark is visible on the ballot. For purposes of this subsection (a), the watermark must be easily discernible for verification purposes by the counting board.

(b) The official tabulation count of any ballot scanner must be based upon the text portion or the machine mark of the ballot; provided, however, that the mark:

(1) Clearly denotes the voter's selection; and

(2) Does not use a quick-response (QR) code, bar code, nor any other type of machine coding printed on the ballot for the purposes of tabulating a voter's selection on the ballot.

SECTION 5. Tennessee Code Annotated, Section 2-5-211, is amended by adding the following as a new subsection:

( ) A sample ballot is not required to contain a visible secure watermark under § 2-5-212.

SECTION 6. Tennessee Code Annotated, Section 2-6-202, is amended by adding the following as a new subsection:

( ) Absentee ballots are subject to scanning, posting, and auditing under the Tennessee Voter Confidence Act, compiled in title 2, chapter 20.

SECTION 7. Tennessee Code Annotated, Section 2-7-114(c)(1), is amended by adding the following after the last sentence of the subdivision:

Each paper ballot must contain a visible secure watermark, as required by § 2-5-212(a)(1)(B).

SECTION 8. Tennessee Code Annotated, Section 2-9-101(d)(1), is amended by adding the following after the last sentence of the subdivision:

Each voting machine used by a county election commission must produce a ballot that contains a visible secure watermark, as required by § 2-5-212.

SECTION 9. Tennessee Code Annotated, Section 2-20-104(a)(1), is amended by deleting subdivisions (A) and (B) and substituting the following:

(A) Must be certified pursuant to § 2-9-110 and certified by the election assistance commission as having met the applicable voluntary systems guidelines. In addition, the precinct-based optical scanners must be tested to ensure the scanners operate in accordance with the guidelines;

(B) Must, with all relevant documentation, be made available by their vendors, at the request of the state election commission or the secretary of state for review by an independent expert, selected by the state election commission or the secretary of state, to ensure the functionality and security of its systems; and

(C) Must be capable of tabulating a ballot that contains a visible secure watermark feature, as required for ballots under § 2-5-212.

SECTION 10. Tennessee Code Annotated, Title 2, Chapter 20, is amended by adding the following new sections:

**2-20-109. Scanning of paper ballots - Creation of ballot scan images.**

(a)

(1) Notwithstanding any law to the contrary, all paper ballots tabulated in a primary or general election must be scanned so that a digital image of the ballot is rendered when the ballot is scanned.

(2) All paper ballot scan images must be of an image resolution of no less than six hundred (600) dots per square inch, or of the highest resolution possible for the certified voting system. All paper ballot scan images created pursuant to this section must be saved and maintained in a manner and duration specified by the secretary of state and applicable state and federal laws.

(b) Pursuant to an audit conducted under § 2-20-103 or § 2-20-111, and as provided under § 2-20-110, the secretary of state shall post on its website the scanned images of ballots created pursuant to this section and requested for review under the ballot audit.

(c) A paper ballot that is scanned pursuant to this section must be stored and processed according to the following process:

(1) After being scanned, the ballot must be immediately placed in a sealed, tamper-resistant container for storage and safekeeping;

(2) The container storing the scanned ballots must possess a label with a unique identifying number that corresponds to the voter precinct where the ballot was cast;

(3) The unique identifying number of the container must be recorded on the chain of custody documents, as specified by the secretary of state; and

(4) The chain of custody documents must be signed by each person responsible for taking custody of and storing ballots under this subsection (c),

and the date and time of the storage of ballots must be entered on the chain of custody documents.

**2-20-110. Posting of scanned paper ballots.**

(a)

(1) The secretary of state shall create and administer a statewide program for the purpose of posting on the secretary of state's website digital images of scanned paper ballots created by voting systems in an election pursuant to § 2-20-109 and requested for audit under § 2-20-103 or § 2-20-111.

(2) All posted scans must have a resolution of no less than two hundred (200) dots per inch.

(b)

(1) Digital images of the scanned ballots created as part of the preliminary tabulation process must be posted no later than five o'clock p.m. (5:00 p.m.) on the second Friday following the day of the election.

(2) Any additional scanned ballot images that are created in the tabulation process up to and including the final certification of any election must be summarily included in any scanned ballot postings by the secretary of state.

**2-20-111. Audit of paper ballot images.**

(a)

(1) The secretary of state shall create and administer a statewide program for the purpose of auditing paper ballot images through the use of optical character recognition technology, or other related technology, that can verify the human-readable text portion of a ballot.

(2) The auditing program must not be based on or utilize for tabulation any quick-response (QR) code, bar code, nor any other type of machine coding printed on the ballot.

(b) A report that includes all ballot types must be conducted and produced, and released prior to final certification of the election.

(c) The secretary of state may scan, post, and audit paper ballots pursuant to an audit conducted under § 2-20-103.

**2-20-112. Applicability.**

Sections 2-20-109 – 2-20-111 apply to all ballots used in primary or general elections; provided, however, the requirements of those sections apply only to ballots tabulated in an election in this state conducted on or after July 1, 2025.

SECTION 11. The headings in this act are for reference purposes only and do not constitute a part of the law enacted by this act. However, the Tennessee Code Commission is requested to include the headings in any compilation or publication containing this act.

SECTION 12. This act takes effect July 1, 2025, the public welfare requiring it.