

By: Representatives Denny, Blackmon

To: Apportionment and
ElectionsCOMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 914

1 AN ACT TO AMEND SECTIONS 23-15-625, 23-15-627, 23-15-631,
2 23-15-635, 23-15-719 AND 23-15-753, MISSISSIPPI CODE OF 1972, TO
3 REQUIRE THAT BEFORE AN ABSENTEE BALLOT APPLICATION MAY BE
4 FURNISHED TO A VOTER, THE VOTER MUST MAKE AN ORAL OR WRITTEN
5 REQUEST FOR SUCH APPLICATION; TO PROVIDE THAT NO PERSON, OTHER
6 THAN THE PARENT, CHILD, SPOUSE OR SIBLING OF A VOTER, MAY ORALLY
7 REQUEST AN ABSENTEE BALLOT APPLICATION FOR SUCH VOTER; TO REQUIRE
8 THE REGISTRAR OR DEPUTY REGISTRAR TO AFFIX THE SEAL OF THE CIRCUIT
9 OR MUNICIPAL CLERK TO AND TO INITIAL ABSENTEE BALLOT APPLICATIONS
10 FURNISHED TO THE VOTER; TO PROVIDE THAT ONLY APPLICATIONS BEARING
11 SUCH SEAL AND INITIAL SHALL BE VALID; TO REQUIRE THAT ANY PERSON
12 WHO PROVIDES THE REGISTRAR WITH A WRITTEN REQUEST FOR AN ABSENTEE
13 BALLOT APPLICATION TO SIGN SUCH APPLICATION AND PROVIDE CERTAIN
14 OTHER INFORMATION; TO PROVIDE THAT NO PERSON WHO IS A CANDIDATE
15 FOR PUBLIC OFFICE MAY BE AN ATTESTING WITNESS FOR ANY ABSENTEE
16 BALLOT UPON WHICH SUCH PERSON'S NAME APPEARS; TO AUTHORIZE ANY
17 VOTER CASTING AN ABSENTEE BALLOT WHO DECLARES THAT HE REQUIRES
18 ASSISTANCE TO VOTE BY REASON OF BLINDNESS, TEMPORARY OR PERMANENT
19 PHYSICAL DISABILITY OR INABILITY TO READ OR WRITE, TO RECEIVE
20 CERTAIN ASSISTANCE; TO PROHIBIT ANY PERSON FROM BASING PAY FOR
21 ASSISTING VOTERS WHO VOTE BY ABSENTEE BALLOT ON THE NUMBER OF
22 VOTERS ASSISTED; TO AUTHORIZE THE REGISTRAR TO WRITE CERTAIN
23 INFORMATION THAT IS REQUIRED FOR AN ABSENTEE BALLOT APPLICATION ON
24 A FORM PRESCRIBED BY THE SECRETARY OF STATE IF THE PERSON
25 RECEIVING THE APPLICATION IS UNABLE TO WRITE THE INFORMATION
26 HIMSELF; TO PROHIBIT THE REGISTRAR FROM HAND DELIVERING ABSENTEE
27 BALLOTS TO VOTERS UNLESS THE BALLOTS ARE DELIVERED BY MAIL OR IN
28 THE OFFICE OF THE REGISTRAR; TO AUTHORIZE PERSONS WHO HAVE APPLIED
29 TO VOTE BY ABSENTEE BALLOT AND WHO ARE SIXTY-FIVE YEARS OF AGE OR
30 OLDER TO AUTOMATICALLY RECEIVE AN ABSENTEE BALLOT WITHOUT THE
31 NECESSITY FOR REAPPLICATION; AND FOR RELATED PURPOSES.

32 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

33 SECTION 1. Section 23-15-625, Mississippi Code of 1972, is
34 amended as follows:

35 23-15-625. The registrar shall be responsible for printing
36 applications for absentee voting as provided herein. At least
37 sixty (60) days prior to any election in which absentee voting is
38 provided for by law, the registrar shall order a sufficient number
39 of applications to be printed; provided, however, that in the
40 event a special election is called and set at a date which makes
41 it impractical or impossible to print applications for absent

42 elector's ballot sixty (60) days prior to such election, the
43 registrar shall print such applications as soon as practicable
44 after such election is called. The applications shall be printed
45 with sequential numbers appearing on the application and the
46 corresponding perforated stub. The registrar shall fill in the
47 date of the particular election on the application for which the
48 application will be used. Upon receipt of the applications for
49 the election from the printer, the registrar shall file an
50 affidavit with the election commission and a duplicate original of
51 the affidavit in the registrar's office stating the number of
52 applications which he received from the printer.

53 The registrar shall be authorized to disburse applications
54 for absentee ballots to any qualified elector within the county
55 where he serves. The registrar shall keep a permanent ledger for
56 the purpose of showing the number of applications and the persons
57 to whom the applications were given. Any person who presents to
58 the registrar the oral or written request for an absentee ballot
59 application for a voter entitled to vote absentee by mail, other
60 than the elector who seeks to vote by absentee ballot shall, in
61 the presence of the registrar, shall sign the application and
62 print on the application his or her name and address and the name
63 of the elector for whom the application is being requested in the
64 place provided for on the application for that purpose. However,
65 if for any reason such person is unable to write the information
66 required, then the registrar shall write the information on a
67 printed form which has been prescribed by the Secretary of State.
68 The form shall provide a place for such person to place his mark
69 after the form has been filled out by the registrar. If an
70 elector picks up applications for another person, the elector
71 shall indicate on the ledger the name or names of the persons for
72 whom he is obtaining the applications.

73 The registrar in the county wherein a voter is qualified to
74 vote upon receiving the envelope containing the absentee ballots
75 shall keep an accurate list of all persons preparing such ballots,
76 which list shall be kept in a conspicuous place accessible to the
77 public near the entrance to his office. The registrar shall also
78 furnish to each precinct manager a list of the names of all
79 persons in each respective precinct voting absentee ballots to be

80 posted in a conspicuous place at the polling place for public
81 notice. The application on file with the registrar and the
82 envelopes containing the ballots shall be kept by the registrar
83 and deposited in the proper precinct ballot boxes before such
84 boxes are delivered to the election commissioners or managers. At
85 the time such boxes are delivered to the election commissioners or
86 managers, the registrar shall also turn over a list of all such
87 persons who have voted and whose ballots are in the box.

88 The registrar shall also be authorized to mail one (1)
89 application to any qualified elector of the county for use in a
90 particular election.

91 SECTION 2. Section 23-15-627, Mississippi Code of 1972, is
92 amended as follows:

93 23-15-627. The registrar shall be responsible for furnishing
94 an absentee ballot application form to any elector authorized to
95 receive an absentee ballot. Absentee ballot applications shall be
96 furnished to a person only upon the oral or written request of the
97 elector who seeks to vote by absentee ballot; however, the parent,
98 child, spouse, sibling or agent of the elector may orally request
99 an absentee ballot application on behalf of the elector. An
100 absentee ballot application must have the seal of the circuit or
101 municipal clerk affixed to it and be initialed by the registrar or
102 his deputy in order to be utilized to obtain an absentee ballot.
103 A reproduction of an absentee ballot application shall not be
104 valid unless it is a reproduction provided by the office of the
105 registrar of the jurisdiction in which the election is being held
106 and which contains the seal and initials required by this section.

107 Such application shall be substantially in the following form:

108 "OFFICIAL APPLICATION FOR ABSENT ELECTOR'S BALLOT * * *

109 I, _____, duly qualified and registered in the ____ Precinct
110 of the County of _____, and State of Mississippi, coming within
111 the purview of the definition 'ABSENT ELECTOR' will be absent from
112 the county of my residence on election day, or unable to vote in
113 person because (check appropriate reason):

() (PRESIDENTIAL APPLICANT ONLY:) I am currently a resident of Mississippi or have moved therefrom within thirty (30) days of the coming presidential election.

() I am an enlisted or commissioned member, male or female, of any component of the United States Armed Forces and am a citizen of Mississippi, or spouse or dependent of such member.

() I am a member of the Merchant Marine or the American Red Cross and am a citizen of Mississippi or spouse or dependent of such member.

() I am a disabled war veteran who is a patient in any hospital and am a citizen of Mississippi or spouse or dependent of such veteran.

() I am a civilian attached to and serving outside of the United States with any branch of the Armed Forces or with the Merchant Marine or American Red Cross, and am a citizen of Mississippi or spouse or dependent of such civilian.

() I am a citizen of Mississippi temporarily residing outside the territorial limits of the United States and the District of Columbia.

() I am a student, teacher or administrator at a college, university, junior or community college, high, junior high, elementary or grade school, whose studies or employment at such institution necessitates my absence from the county of my voting residence or spouse or dependent of such student, teacher or administrator who maintains a common domicile outside the county of my voting residence with such student, teacher or administrator.

() I will be outside the county on election day.

() I have a temporary or permanent physical disability.

() I am sixty-five (65) years of age or older.

() I am the parent, spouse or dependent of a person with a temporary or permanent physical disability who is hospitalized outside his county of residence or more than fifty (50) miles away from his residence, and I will be with such person on election

148 day.

149 () I am a member of the congressional delegation, or spouse
150 or dependent of a member of the congressional delegation.

151 () I am required to be at work on election day during the
152 times which the polls will be open.

153 I hereby make application for an official ballot, or ballots,
154 to be voted by me at the election to be held in _____, on _____.

155 Send 'Absent Elector's Ballot' to me * * * at the following
156 address _____ * * *.

157 I realize that I can be fined up to Five Thousand Dollars
158 (\$5,000.00) and sentenced up to five (5) years in the penitentiary
159 for making a false statement in this application and for selling
160 my vote and violating the Mississippi Absentee Voter Law. (This
161 sentence is to be in bold print.)

162 If you are temporarily or permanently disabled, you are not
163 required to have this application notarized or signed by an
164 official authorized to administer oaths for absentee balloting.
165 You are required to sign this application in the proper place and
166 have a person eighteen (18) years of age or older witness your
167 signature and sign this application in the proper place.

168 DO NOT SIGN WITHOUT READING. (This sentence is to be in bold
169 print.)

170 IN WITNESS WHEREOF I have hereunto set my hand and seal this
171 the ____ day of _____, 19__.

172 _____
173 (Signature of absent elector)

174 * * *

175 SWORN TO AND SUBSCRIBED before me this the ____ day of _____,
176 19__.

177 _____

178 (Official authorized to administer oaths for absentee
179 balloting or witness in the case of an elector temporarily or
180 permanently disabled.)

181 * * *

182 CERTIFICATE OF DELIVERY

183 I hereby certify that _____ (print name of voter)
184 has requested that I, _____ (print name of person
185 delivering application), deliver to the voter this absentee ballot
186 application.

187 _____
188 Signature of person delivering application

189 _____
190 Address of person delivering application"

191 SECTION 3. Section 23-15-631, Mississippi Code of 1972, is
192 amended as follows:

193 23-15-631. (1) The registrar shall enclose with each ballot
194 provided to an absent elector separate printed instructions
195 furnished by him containing the following:

196 (a) All absentee voters, excepting those with temporary
197 or permanent physical disabilities or those who are sixty-five
198 (65) years of age or older, who mark their ballots in the county
199 of the residence shall use the registrar of that county as the
200 witness. Said absentee voter shall come to the office of the
201 registrar and neither the registrar nor his deputy shall be
202 required to go out of the registrar's office to serve as an
203 attesting witness.

204 (b) Upon receipt of the enclosed ballot, you will not
205 mark same except in view or sight of the attesting witness. In
206 the sight or view of the attesting witness, mark the ballot
207 according to instructions.

208 (c) After marking the ballot, fill out and sign the
209 "ELECTOR'S CERTIFICATE" on back of the envelope so that the
210 signature shall be across the flap of the envelope so as to insure
211 the integrity of the ballot. All absent electors shall have the
212 attesting witness sign the "ATTESTING WITNESS CERTIFICATE" on back
213 of the envelope. Place necessary postage on the envelope and
214 deposit it in the post office or some government receptacle
215 provided for deposit of mail so that the absent elector's ballot,

excepting presidential absentee ballots, will reach the registrar in which your precinct is located not later than 5:00 p.m. on the day preceding the date of the election, or by personally delivering such ballot to the registrar's office not later than 12:00 noon on the Saturday immediately preceding elections held on Tuesday, the Thursday immediately preceding elections held on Saturday, and the second day immediately preceding elections held on other days.

Any notary public, United States postmaster, assistant United States postmaster, United States postal supervisor, clerk in charge of a contract postal station, or any officer having authority to administer an oath or take an acknowledgment may be an attesting witness; provided, however, that in the case of an absent elector who is temporarily or permanently physically disabled, the attesting witness may be any person eighteen (18) years of age or older and such person is not required to have the authority to administer an oath. If a postmaster, assistant postmaster, postal supervisor, or clerk in charge of a contract postal station acts as an attesting witness, his signature on the elector's certificate must be authenticated by the cancellation stamp of their respective post offices. If one or the other officers herein named acts as attesting witness, his signature on the elector's certificate, together with his title and address, but no seal, shall be required. Any affidavits made by an absent elector who is in the Armed Forces may be executed before a commissioned officer, warrant officer, or noncommissioned officer not lower in grade than sergeant rating or any person authorized to administer oaths.

(d) When the application accompanies the ballot it shall not be returned in the same envelope as the ballot but shall be returned in a separate preaddressed envelope provided by the registrar.

(e) A person who is a candidate for public office may not be an attesting witness for any absentee ballot upon which the

person's name appears.

(f) Any voter casting an absentee ballot who declares that he requires assistance to vote by reason of blindness, temporary or permanent physical disability or inability to read or write, shall be entitled to receive assistance in the marking of his absentee ballot and in completing the affidavit on the absentee ballot envelope. The voter may be given assistance by anyone of the voter's choice other than a candidate whose name appears on the absentee ballot being marked, or the voter's employer, or agent of that employer or officer or agent of the voter's union. In order to ensure the integrity of the ballot, any person who provides assistance to an absentee voter shall be required to sign and complete the "Certificate of Person Providing Voter Assistance" on the absentee ballot envelope.

(2) The foregoing instructions required to be provided by the registrar to the elector shall also constitute the substantive law pertaining to the handling of absentee ballots by the elector and registrar.

SECTION 4. Section 23-15-635, Mississippi Code of 1972, is amended as follows:

23-15-635. (1) The form of the elector's certificate, attesting witness certification and certificate of person providing voter assistance on the back of the envelope used by voters who do not use the registrar of their county of residence as an attesting witness shall be as follows:

"ELECTOR'S CERTIFICATE

STATE OF _____

COUNTY OR PARISH OF _____

I, _____, do solemnly swear that this envelope contains the ballot marked by me indicating my choice of the candidates or propositions to be submitted at the election to be held on the ____ day of _____, 19____, and I hereby authorize the registrar to place this envelope in the ballot box on my behalf, and I further authorize the election managers to open this envelope and place my

284 ballot among the other ballots cast before such ballots are
285 counted, and record my name on the poll list as if I were present
286 in person and voted.

287 I further swear that I marked the enclosed ballot in secret.

288 _____
289 (Signature of voter)

290 CERTIFICATE OF ATTESTING WITNESS

291 Personally appeared before me, on this the ____ day of
292 _____, 19____, the above-named voter, known by me to be the
293 person named, who after being duly sworn or having affirmed,
294 subscribed the foregoing oath or affirmation. That said voter
295 exhibited to me his blank ballot; that said ballot was not marked
296 or voted before the said voter exhibited the ballot to me; * * *
297 that the said voter was not solicited or advised by me to vote for
298 any candidate, question or issue, and that the voter, after
299 marking his ballot, placed it in the envelope, closed and sealed
300 the envelope in my presence, and signed and swore or affirmed the
301 above certificate.

302 _____
303 (Attesting witness) (Address)
304 _____
305 (Official title) (City and State)

306 CERTIFICATE OF PERSON PROVIDING VOTER ASSISTANCE

307 (To be completed only if the voter has received assistance in
308 marking the enclosed ballot.) I hereby certify that the
309 above-named voter declared to me that he or she is blind,
310 temporarily or permanently physically disabled, or cannot read or
311 write, and that the voter requested that I assist the voter in
312 marking the enclosed absentee ballot. I hereby certify that the
313 ballot preferences on the enclosed ballot are those communicated
314 by the voter to me, and that I have marked the enclosed ballot in
315 accordance with the voter's instructions.

316 _____
317 Signature of person providing assistance

318 _____
319 Printed name of person providing assistance
320 _____
321 Address of person providing assistance
322 _____
323 Date and time assistance provided
324 _____
325 Family relationship to voter (if any)

326 (2) The envelope used pursuant to this section shall not
327 contain the form prescribed pursuant to Section 23-15-719.

328 SECTION 5. Section 23-15-719, Mississippi Code of 1972, is
329 amended as follows:

330 23-15-719. (1) Immediately upon completion of an
331 application filed pursuant to the provisions of paragraph (a) of
332 Section 23-15-715, the registrar shall deliver the necessary
333 ballots to the applicant. The registrar shall only deliver the
334 ballots to the applicant by mail or to the applicant in the
335 registrar's office. The registrar shall not personally hand
336 deliver ballots to voters, unless he delivers the ballots in the
337 office of the registrar. The elector shall fill in his ballot in
338 secret. After the applicant has properly marked the ballot and
339 properly folded it, he shall deposit it in the envelope furnished
340 him by the registrar.

341 After he has sealed the envelope, he shall subscribe and
342 swear to an affidavit in the following form, which shall be
343 printed on the back of the envelope containing the applicant's
344 ballot:

345 "STATE OF MISSISSIPPI
346 COUNTY OF _____

347 I, _____, do solemnly swear that this envelope contains
348 the ballot marked by me indicating my choice of the candidates or
349 propositions to be submitted at the election to be held on the ____
350 day of _____, 19____, and I hereby authorize the registrar to
351 place this envelope in the ballot box on my behalf, and I further

352 authorize the election managers to open this envelope and place my
353 ballot among the other ballots cast before such ballots are
354 counted, and record my name on the poll list as if I were present
355 in person and voted.

356 I further swear that I marked the enclosed ballot in secret.

357 _____

358 (Signature of voter)

359 SWORN TO AND SUBSCRIBED before me, _____, this the ____

360 day of _____, 19____.

361 (Registrar) _____

362 (Registrar)"

363 After the completion of the requirements of this section, the
364 elector shall deliver the envelope containing the ballot to the
365 registrar.

366 (2) If the voter has received assistance in marking his
367 ballot, the person providing the assistance shall complete the
368 following form which shall be printed on the back of the envelope
369 containing the applicant's ballot:

370 "CERTIFICATE OF PERSON PROVIDING VOTER ASSISTANCE

371 (To be completed only if the voter has received assistance in
372 marking the enclosed ballot.) I hereby certify that the
373 above-named voter declared to me that he or she is blind,
374 temporarily or permanently physically disabled, or cannot read or
375 write, and that the voter requested that I assist the voter in
376 marking the enclosed absentee ballot. I hereby certify that the
377 ballot preferences on the enclosed ballot are those communicated
378 by the voter to me, and that I have marked the enclosed ballot in
379 accordance with the voter's instructions.

380 _____

381 Signature of person providing assistance

382 _____

383 Printed name of person providing assistance

384 _____

385 Address of person providing assistance

386

387

Date and time assistance provided

388

389

Family relationship to voter (if any)"

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391

(3) The envelope used pursuant to this section shall not contain the form prescribed by Section 23-15-635.

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SECTION 6. Section 23-15-753, Mississippi Code of 1972, is amended as follows:

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23-15-753. (1) Any person who willfully, unlawfully and feloniously procures, seeks to procure, or seeks to influence the vote of any person voting by absentee ballot, by the payment of money, the promise of payment of money, or by the delivery of any other item of value or promise to give the voter any item of value, or by promising or giving the voter any favor or reward in an effort to influence his vote, or any person who aids, abets, assists, encourages, helps, or causes any person voting an absentee ballot to violate any provision of law pertaining to absentee voting, or any person who sells his vote for money, favor, or reward, has been paid or promised money, a reward, a favor or favors, or any other item of value, or any person who shall willfully swear falsely to any affidavit provided for in Sections 23-15-621 through 23-15-735, shall be guilty of the crime of "vote fraud" and, upon conviction, shall be sentenced to pay a fine of not less than Five Hundred Dollars (\$500.00) nor more than Five Thousand Dollars (\$5,000.00), or by imprisonment in the county jail for no more than one (1) year, or by both * * * fine and imprisonment, or by being sentenced to the State Penitentiary for not less than one (1) year nor more than five (5) years.

(2) It shall be unlawful for any person who pays or compensates another person for assisting voters in marking their absentee ballots to base the pay or compensation on the number of absentee voters assisted or the number of absentee ballots cast by persons who have received the assistance. Any person who violates this section, upon conviction shall, be fined not less than One

Thousand Dollars (\$1,000.00) nor more than Five Thousand Dollars (\$5,000.00), or imprisoned in the Penitentiary not less than one (1) year nor more than five (5) years, or both.

SECTION 7. (1) The application for an absentee ballot of a person who is sixty-five (65) years of age or older shall be accompanied by a statement signed by the applicant indicating that he is sixty-five (65) years of age or older.

(2) An application accompanied by the statement provided for in subsection (1) of this section shall entitle the person to automatically receive an absentee ballot for all elections on a continuing basis without the necessity for reapplication.

(3) The registrar of each county shall keep an accurate list of the names and addresses of all persons whose applications for absentee ballot are accompanied by the statement set forth in subsection (1) of this section. Sixty (60) days before each election, the registrar shall deliver the list to the commissioners of election who shall examine the list and delete from it the names of all persons listed who are no longer qualified electors of the county. Upon completion of the examination, the commissioners of election shall return the list to the registrar by no later than forty-five (45) days before the election.

(4) The registrar shall send a ballot to all persons who are determined by the commissioners of election to be qualified electors pursuant to subsection (3) of this section by no later than forty (40) days before the election.

SECTION 8. The Attorney General of the State of Mississippi is hereby directed to submit this act, immediately upon approval by the Governor, or upon approval by the Legislature subsequent to a veto, to the Attorney General of the United States or to the United States District Court for the District of Columbia in accordance with the provisions of the Voting Rights Act of 1965, as amended and extended.

SECTION 9. This act shall take effect and be in force from

454 and after the date it is effectuated under Section 5 of the Voting
455 Rights Act of 1965, as amended and extended.