

By: Representatives Denny, Blackmon

To: Apportionment and  
Elections

## 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; AND FOR RELATED PURPOSES.

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

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

26 23-15-625. The registrar shall be responsible for printing  
27 applications for absentee voting as provided herein. At least  
28 sixty (60) days prior to any election in which absentee voting is  
29 provided for by law, the registrar shall order a sufficient number  
30 of applications to be printed; provided, however, that in the  
31 event a special election is called and set at a date which makes  
32 it impractical or impossible to print applications for absent  
33 elector's ballot sixty (60) days prior to such election, the  
34 registrar shall print such applications as soon as practicable  
35 after such election is called. The applications shall be printed  
36 with sequential numbers appearing on the application and the  
37 corresponding perforated stub. The registrar shall fill in the

38 date of the particular election on the application for which the  
39 application will be used. Upon receipt of the applications for  
40 the election from the printer, the registrar shall file an  
41 affidavit with the election commission and a duplicate original of  
42 the affidavit in the registrar's office stating the number of  
43 applications which he received from the printer.

44 The registrar shall be authorized to disburse applications  
45 for absentee ballots to any qualified elector within the county  
46 where he serves. The registrar shall keep a permanent ledger for  
47 the purpose of showing the number of applications and the persons  
48 to whom the applications were given. Any person who presents to  
49 the registrar the oral or written request for an absentee ballot  
50 application for a voter entitled to vote absentee by mail, other  
51 than the elector who seeks to vote by absentee ballot shall, in  
52 the presence of the registrar, sign the application and print on  
53 the application his or her name and address and the name of the  
54 elector for whom the application is being requested in the place  
55 provided for on the application for that purpose. If an elector  
56 picks up applications for another person, the elector shall  
57 indicate on the ledger the name or names of the persons for whom  
58 he is obtaining the applications.

59 The registrar in the county wherein a voter is qualified to  
60 vote upon receiving the envelope containing the absentee ballots  
61 shall keep an accurate list of all persons preparing such ballots,  
62 which list shall be kept in a conspicuous place accessible to the  
63 public near the entrance to his office. The registrar shall also  
64 furnish to each precinct manager a list of the names of all  
65 persons in each respective precinct voting absentee ballots to be  
66 posted in a conspicuous place at the polling place for public  
67 notice. The application on file with the registrar and the  
68 envelopes containing the ballots shall be kept by the registrar  
69 and deposited in the proper precinct ballot boxes before such  
70 boxes are delivered to the election commissioners or managers. At  
71 the time such boxes are delivered to the election commissioners or  
72 managers, the registrar shall also turn over a list of all such  
73 persons who have voted and whose ballots are in the box.

74 The registrar shall also be authorized to mail one (1)  
75 application to any qualified elector of the county for use in a

76 particular election.

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

79 23-15-627. The registrar shall be responsible for furnishing  
80 an absentee ballot application form to any elector authorized to  
81 receive an absentee ballot. Absentee ballot applications shall be  
82 furnished to a person only upon the oral or written request of the  
83 elector who seeks to vote by absentee ballot; however, the parent,  
84 child, spouse or sibling of the elector may orally request an  
85 absentee ballot application on behalf of the elector. An absentee  
86 ballot application must have the seal of the circuit or municipal  
87 clerk affixed to it and be initialed by the registrar or his  
88 deputy in order to be utilized to obtain an absentee ballot. A  
89 reproduction of an absentee ballot application shall not be valid  
90 unless it is a reproduction provided by the office of the  
91 registrar of the jurisdiction in which the election is being held  
92 and which contains the seal and initials required by this section.

93 Such application shall be substantially in the following form:

94 "OFFICIAL APPLICATION FOR ABSENT ELECTOR'S BALLOT \* \* \*

95 I, \_\_\_\_\_, duly qualified and registered in the \_\_\_\_ Precinct  
96 of the County of \_\_\_\_\_, and State of Mississippi, coming within  
97 the purview of the definition 'ABSENT ELECTOR' will be absent from  
98 the county of my residence on election day, or unable to vote in  
99 person because (check appropriate reason):

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

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

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

109 ( ) I am a disabled war veteran who is a patient in any

110 hospital and am a citizen of Mississippi or spouse or dependent of  
111 such veteran.

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

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

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

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

128 ( ) I have a temporary or permanent physical disability.

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

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

135 ( ) I am a member of the congressional delegation, or spouse  
136 or dependent of a member of the congressional delegation.

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

139 I hereby make application for an official ballot, or ballots,  
140 to be voted by me at the election to be held in \_\_\_\_\_, on \_\_\_\_\_.

141 Send 'Absent Elector's Ballot' to me \* \* \* at the following  
142 address \_\_\_\_\_ \* \* \*.

143 I realize that I can be fined up to Five Thousand Dollars

144 (\$5,000.00) and sentenced up to five (5) years in the penitentiary  
145 for making a false statement in this application and for selling  
146 my vote and violating the Mississippi Absentee Voter Law. (This  
147 sentence is to be in bold print.)

148 If you are temporarily or permanently disabled, you are not  
149 required to have this application notarized or signed by an  
150 official authorized to administer oaths for absentee balloting.  
151 You are required to sign this application in the proper place and  
152 have a person eighteen (18) years of age or older witness your  
153 signature and sign this application in the proper place.

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

156 IN WITNESS WHEREOF I have hereunto set my hand and seal this  
157 the \_\_\_\_ day of \_\_\_\_\_, 19\_\_.

158 \_\_\_\_\_  
159 (Signature of absent elector)

160 \* \* \*

161 SWORN TO AND SUBSCRIBED before me this the \_\_\_\_ day of \_\_\_\_\_,  
162 19\_\_.

163 \_\_\_\_\_  
164 (Official authorized to administer oaths for absentee  
165 balloting or witness in the case of an elector temporarily or  
166 permanently disabled.)

167 \* \* \*

168 CERTIFICATE OF DELIVERY

169 I hereby certify that \_\_\_\_\_ (print name of voter)  
170 has requested that I, \_\_\_\_\_ (print name of person  
171 delivering application), deliver to the voter this absentee ballot  
172 application.

173 \_\_\_\_\_  
174 Signature of person delivering application

175 \_\_\_\_\_  
176 Address of person delivering application"

177 SECTION 3. Section 23-15-631, Mississippi Code of 1972, is

178 amended as follows:

179           23-15-631. (1) The registrar shall enclose with each ballot  
180 provided to an absent elector separate printed instructions  
181 furnished by him containing the following:

182           (a) All absentee voters, excepting those with temporary  
183 or permanent physical disabilities or those who are sixty-five  
184 (65) years of age or older, who mark their ballots in the county  
185 of the residence shall use the registrar of that county as the  
186 witness. Said absentee voter shall come to the office of the  
187 registrar and neither the registrar nor his deputy shall be  
188 required to go out of the registrar's office to serve as an  
189 attesting witness.

190           (b) Upon receipt of the enclosed ballot, you will not  
191 mark same except in view or sight of the attesting witness. In  
192 the sight or view of the attesting witness, mark the ballot  
193 according to instructions.

194           (c) After marking the ballot, fill out and sign the  
195 "ELECTOR'S CERTIFICATE" on back of the envelope so that the  
196 signature shall be across the flap of the envelope so as to insure  
197 the integrity of the ballot. All absent electors shall have the  
198 attesting witness sign the "ATTESTING WITNESS CERTIFICATE" on back  
199 of the envelope. Place necessary postage on the envelope and  
200 deposit it in the post office or some government receptacle  
201 provided for deposit of mail so that the absent elector's ballot,  
202 excepting presidential absentee ballots, will reach the registrar  
203 in which your precinct is located not later than 5:00 p.m. on the  
204 day preceding the date of the election, or by personally  
205 delivering such ballot to the registrar's office not later than  
206 12:00 noon on the Saturday immediately preceding elections held on  
207 Tuesday, the Thursday immediately preceding elections held on  
208 Saturday, and the second day immediately preceding elections held  
209 on other days.

210           Any notary public, United States postmaster, assistant United  
211 States postmaster, United States postal supervisor, clerk in

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

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

234 (e) A person who is a candidate for public office may  
235 not be an attesting witness for any absentee ballot upon which the  
236 person's name appears.

237 (f) Any voter casting an absentee ballot who declares  
238 that he requires assistance to vote by reason of blindness,  
239 temporary or permanent physical disability or inability to read or  
240 write, shall be entitled to receive assistance in the marking of  
241 his absentee ballot and in completing the affidavit on the  
242 absentee ballot envelope. The voter may be given assistance by  
243 anyone of the voter's choice other than a candidate whose name  
244 appears on the absentee ballot being marked, or the voter's  
245 employer, or agent of that employer or officer or agent of the

246 voter's union. In order to ensure the integrity of the ballot,  
247 any person who provides assistance to an absentee voter shall be  
248 required to sign and complete the "Certificate of Person Providing  
249 Voter Assistance" on the absentee ballot envelope. A person who  
250 provides assistance in the marking of an absentee ballot shall not  
251 be the attesting witness to the absentee ballot, unless the person  
252 is the parent, child, spouse or sibling of the absentee voter.

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

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

259 23-15-635. (1) The form of the elector's certificate,  
260 attesting witness certification and certificate of person  
261 providing voter assistance on the back of the envelope used by  
262 voters who do not use the registrar of their county of residence  
263 as an attesting witness shall be as follows:

264 "ELECTOR'S CERTIFICATE

265 STATE OF \_\_\_\_\_

266 COUNTY OR PARISH OF \_\_\_\_\_

267 I, \_\_\_\_\_, do solemnly swear that this envelope contains  
268 the ballot marked by me indicating my choice of the candidates or  
269 propositions to be submitted at the election to be held on the \_\_\_\_  
270 day of \_\_\_\_\_, 19\_\_\_\_, and I hereby authorize the registrar to  
271 place this envelope in the ballot box on my behalf, and I further  
272 authorize the election managers to open this envelope and place my  
273 ballot among the other ballots cast before such ballots are  
274 counted, and record my name on the poll list as if I were present  
275 in person and voted.

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

277 \_\_\_\_\_  
278 (Signature of voter)

279 CERTIFICATE OF ATTESTING WITNESS



280 Personally appeared before me, on this the \_\_\_\_ day of  
281 \_\_\_\_\_, 19\_\_\_\_, the above-named voter, known by me to be the  
282 person named, who after being duly sworn or having affirmed,  
283 subscribed the foregoing oath or affirmation. That said voter  
284 exhibited to me his blank ballot; that said ballot was not marked  
285 or voted before the said voter exhibited the ballot to me; that  
286 said voter then retired out of my presence, but within my sight,  
287 and voted his ballot so that I could not see how he voted; that no  
288 one was present with said voter as he marked his ballot; that the  
289 said voter was not solicited or advised by me to vote for any  
290 candidate, question or issue, and that the voter, after marking  
291 his ballot, placed it in the envelope, closed and sealed the  
292 envelope in my presence, and signed and swore or affirmed the  
293 above certificate.

294 \_\_\_\_\_  
295 (Attesting witness) (Address)  
296 \_\_\_\_\_  
297 (Official title) (City and State)

298 CERTIFICATE OF PERSON PROVIDING VOTER ASSISTANCE

299 (To be completed only if the voter has received assistance in  
300 marking the enclosed ballot.) I hereby certify that the  
301 above-named voter declared to me that he or she is blind,  
302 temporarily or permanently physically disabled, or cannot read or  
303 write, and that the voter requested that I assist the voter in  
304 marking the enclosed absentee ballot. I hereby certify that the  
305 ballot preferences on the enclosed ballot are those communicated  
306 by the voter to me, and that I have marked the enclosed ballot in  
307 accordance with the voter's instructions.

308 \_\_\_\_\_  
309 Signature of person providing assistance

310 \_\_\_\_\_  
311 Printed name of person providing assistance

312 \_\_\_\_\_  
313 Address of person providing assistance

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\_\_\_\_\_  
Date and time assistance provided  
\_\_\_\_\_  
Family relationship to voter (if any)

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

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

23-15-719. (1) Immediately upon completion of an application filed pursuant to the provisions of paragraph (a) of Section 23-15-715, the registrar shall deliver the necessary ballots to the applicant. The elector shall fill in his ballot in secret. After the applicant has properly marked the ballot and properly folded it, he shall deposit it in the envelope furnished him by the registrar.

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

"STATE OF MISSISSIPPI  
COUNTY 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 ballot among the other ballots cast before such ballots are counted, and record my name on the poll list as if I were present in person and voted.

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

\_\_\_\_\_  
(Signature of voter)

SWORN TO AND SUBSCRIBED before me, \_\_\_\_\_, this the \_\_\_

348 day of \_\_\_\_\_, 19\_\_\_\_.

349 (Registrar) \_\_\_\_\_

350 (Registrar)"

351 After the completion of the requirements of this section, the  
352 elector shall deliver the envelope containing the ballot to the  
353 registrar.

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

358 "CERTIFICATE OF PERSON PROVIDING VOTER ASSISTANCE

359 (To be completed only if the voter has received assistance in  
360 marking the enclosed ballot.) I hereby certify that the  
361 above-named voter declared to me that he or she is blind,  
362 temporarily or permanently physically disabled, or cannot read or  
363 write, and that the voter requested that I assist the voter in  
364 marking the enclosed absentee ballot. I hereby certify that the  
365 ballot preferences on the enclosed ballot are those communicated  
366 by the voter to me, and that I have marked the enclosed ballot in  
367 accordance with the voter's instructions.

368 \_\_\_\_\_  
369 Signature of person providing assistance

370 \_\_\_\_\_  
371 Printed name of person providing assistance

372 \_\_\_\_\_  
373 Address of person providing assistance

374 \_\_\_\_\_  
375 Date and time assistance provided

376 \_\_\_\_\_  
377 Family relationship to voter (if any)"

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

380 SECTION 16. Section 23-15-753, Mississippi Code of 1972, is  
381 amended as follows:

382           23-15-753. (1) Any person who willfully, unlawfully and  
383 feloniously procures, seeks to procure, or seeks to influence the  
384 vote of any person voting by absentee ballot, by the payment of  
385 money, the promise of payment of money, or by the delivery of any  
386 other item of value or promise to give the voter any item of  
387 value, or by promising or giving the voter any favor or reward in  
388 an effort to influence his vote, or any person who aids, abets,  
389 assists, encourages, helps, or causes any person voting an  
390 absentee ballot to violate any provision of law pertaining to  
391 absentee voting, or any person who sells his vote for money,  
392 favor, or reward, has been paid or promised money, a reward, a  
393 favor or favors, or any other item of value, or any person who  
394 shall willfully swear falsely to any affidavit provided for in  
395 Sections 23-15-621 through 23-15-735, shall be guilty of the crime  
396 of "vote fraud" and, upon conviction, shall be sentenced to pay a  
397 fine of not less than Five Hundred Dollars (\$500.00) nor more than  
398 Five Thousand Dollars (\$5,000.00), or by imprisonment in the  
399 county jail for no more than one (1) year, or by both \* \* \* fine  
400 and imprisonment, or by being sentenced to the State Penitentiary  
401 for not less than one (1) year nor more than five (5) years.

402           (2) It shall be unlawful for any person who pays or  
403 compensates another person for assisting voters in marking their  
404 absentee ballots to base the pay or compensation on the number of  
405 absentee voters assisted or the number of absentee ballots cast by  
406 persons who have received the assistance. Any person who violates  
407 this section, upon conviction shall, be fined not less than One  
408 Thousand Dollars (\$1,000.00) nor more than Five Thousand Dollars  
409 (\$5,000.00), or imprisoned in the Penitentiary not less than one  
410 (1) year nor more than five (5) years, or both.

411           SECTION 7. The Attorney General of the State of Mississippi  
412 is hereby directed to submit this act, immediately upon approval  
413 by the Governor, or upon approval by the Legislature subsequent to  
414 a veto, to the Attorney General of the United States or to the  
415 United States District Court for the District of Columbia in

416 accordance with the provisions of the Voting Rights Act of 1965,  
417 as amended and extended.

418 SECTION 8. This act shall take effect and be in force from  
419 and after the date it is effectuated under Section 5 of the Voting  
420 Rights Act of 1965, as amended and extended.