

By: Representatives Denny, Blackmon

To: Apportionment and
ElectionsHOUSE BILL NO. 914
(As Passed the House)

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, SIBLING OR LEGAL GUARDIAN OF A
7 VOTER, MAY ORALLY REQUEST AN ABSENTEE BALLOT APPLICATION FOR SUCH
8 VOTER; TO REQUIRE THE REGISTRAR OR DEPUTY REGISTRAR TO AFFIX THE
9 SEAL OF THE CIRCUIT OR MUNICIPAL CLERK TO AND TO INITIAL ABSENTEE
10 BALLOT APPLICATIONS FURNISHED TO THE VOTER; TO PROVIDE THAT ONLY
11 APPLICATIONS BEARING SUCH SEAL AND INITIAL SHALL BE VALID; TO
12 REQUIRE THAT ANY PERSON WHO PROVIDES THE REGISTRAR WITH A WRITTEN
13 REQUEST FOR AN ABSENTEE BALLOT APPLICATION TO SIGN SUCH
14 APPLICATION AND PROVIDE CERTAIN OTHER INFORMATION; TO PROVIDE THAT
15 NO PERSON WHO IS A CANDIDATE FOR PUBLIC OFFICE MAY BE AN ATTESTING
16 WITNESS FOR ANY ABSENTEE BALLOT UPON WHICH SUCH PERSON'S NAME
17 APPEARS; TO AUTHORIZE ANY VOTER CASTING AN ABSENTEE BALLOT WHO
18 DECLARES THAT HE REQUIRES ASSISTANCE TO VOTE BY REASON OF
19 BLINDNESS, TEMPORARY OR PERMANENT PHYSICAL DISABILITY OR INABILITY
20 TO READ OR WRITE, TO RECEIVE CERTAIN ASSISTANCE; TO PROHIBIT ANY
21 PERSON FROM BASING PAY FOR ASSISTING VOTERS WHO VOTE BY ABSENTEE
22 BALLOT ON THE NUMBER OF VOTERS ASSISTED; TO AUTHORIZE THE
23 REGISTRAR TO WRITE CERTAIN INFORMATION THAT IS REQUIRED FOR AN
24 ABSENTEE BALLOT APPLICATION ON A FORM PRESCRIBED BY THE SECRETARY
25 OF STATE IF THE PERSON RECEIVING THE APPLICATION IS UNABLE TO
26 WRITE THE INFORMATION HIMSELF; TO PROHIBIT THE REGISTRAR FROM HAND
27 DELIVERING ABSENTEE BALLOTS TO VOTERS UNLESS THE BALLOTS ARE
28 DELIVERED BY MAIL OR IN THE OFFICE OF THE REGISTRAR; AND FOR
29 RELATED PURPOSES.

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

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

33 23-15-625. The registrar shall be responsible for printing
34 applications for absentee voting as provided herein. At least
35 sixty (60) days prior to any election in which absentee voting is
36 provided for by law, the registrar shall order a sufficient number
37 of applications to be printed; provided, however, that in the
38 event a special election is called and set at a date which makes
39 it impractical or impossible to print applications for absent
40 elector's ballot sixty (60) days prior to such election, the

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

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

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

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

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

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

91 23-15-627. The registrar shall be responsible for furnishing
92 an absentee ballot application form to any elector authorized to
93 receive an absentee ballot. Absentee ballot applications shall be
94 furnished to a person only upon the oral or written request of the
95 elector who seeks to vote by absentee ballot; however, the parent,
96 child, spouse, sibling, legal guardian, those empowered with a
97 power of attorney for that elector's affairs or agent of the
98 elector may orally request an absentee ballot application on
99 behalf of the elector. An absentee ballot application must have
100 the seal of the circuit or municipal clerk affixed to it and be
101 initialed by the registrar or his deputy in order to be utilized
102 to obtain an absentee ballot. A reproduction of an absentee
103 ballot application shall not be valid unless it is a reproduction
104 provided by the office of the registrar of the jurisdiction in
105 which the election is being held and which contains the seal and
106 initials required by this section. Such application shall be
107 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):

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

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

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

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

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

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

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

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

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

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

144 () I am the parent, spouse or dependent of a person with a
145 temporary or permanent physical disability who is hospitalized
146 outside his county of residence or more than fifty (50) miles away

147 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,
216 excepting presidential absentee ballots, will reach the registrar
217 in which your precinct is located not later than 5:00 p.m. on the
218 day preceding the date of the election, or by personally
219 delivering such ballot to the registrar's office not later than
220 12:00 noon on the Saturday immediately preceding elections held on
221 Tuesday, the Thursday immediately preceding elections held on
222 Saturday, and the second day immediately preceding elections held
223 on other days.

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

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

248 (e) A person who is a candidate for public office may

249 not be an attesting witness for any absentee ballot upon which the
250 person's name appears.

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

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

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

270 23-15-635. (1) The form of the elector's certificate,
271 attesting witness certification and certificate of person
272 providing voter assistance on the back of the envelope used by
273 voters who do not use the registrar of their county of residence
274 as an attesting witness shall be as follows:

275 "ELECTOR'S CERTIFICATE

276 STATE OF _____

277 COUNTY OR PARISH OF _____

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

283 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)"

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

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

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

414 (2) It shall be unlawful for any person who pays or
415 compensates another person for assisting voters in marking their
416 absentee ballots to base the pay or compensation on the number of
417 absentee voters assisted or the number of absentee ballots cast by
418 persons who have received the assistance. Any person who violates

419 this section, upon conviction shall, be fined not less than One
420 Thousand Dollars (\$1,000.00) nor more than Five Thousand Dollars
421 (\$5,000.00), or imprisoned in the Penitentiary not less than one
422 (1) year nor more than five (5) years, or both.

423 SECTION 7. The Attorney General of the State of Mississippi
424 is hereby directed to submit this act, immediately upon approval
425 by the Governor, or upon approval by the Legislature subsequent to
426 a veto, to the Attorney General of the United States or to the
427 United States District Court for the District of Columbia in
428 accordance with the provisions of the Voting Rights Act of 1965,
429 as amended and extended.

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