

By: Senator(s) Harden (By Request)

To: Elections

SENATE BILL NO. 2580

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 PROHIBIT
8 A CANDIDATE FOR PUBLIC OFFICE FROM WITNESSING ABSENTEE BALLOT
9 APPLICATIONS; TO REQUIRE THE REGISTRAR OR DEPUTY REGISTRAR TO
10 AFFIX THE SEAL OF THE CIRCUIT OR MUNICIPAL CLERK TO AND TO INITIAL
11 ABSENTEE BALLOT APPLICATIONS FURNISHED TO THE VOTER; TO PROVIDE
12 THAT ONLY APPLICATIONS BEARING SUCH SEAL AND INITIAL SHALL BE
13 VALID; TO REQUIRE THAT ANY PERSON WHO PROVIDES THE REGISTRAR WITH
14 A WRITTEN REQUEST FOR AN ABSENTEE BALLOT APPLICATION TO SIGN SUCH
15 APPLICATION AND PROVIDE CERTAIN OTHER INFORMATION; TO PROVIDE THAT
16 NO PERSON WHO IS A CANDIDATE FOR PUBLIC OFFICE MAY BE AN ATTESTING
17 WITNESS FOR ANY ABSENTEE BALLOT UPON WHICH SUCH PERSON'S NAME
18 APPEARS; TO AUTHORIZE ANY VOTER CASTING AN ABSENTEE BALLOT WHO
19 DECLARES THAT HE REQUIRES ASSISTANCE TO VOTE BY REASON OF
20 BLINDNESS, TEMPORARY OR PERMANENT PHYSICAL DISABILITY OR INABILITY
21 TO READ OR WRITE, TO RECEIVE CERTAIN ASSISTANCE; TO MAKE IT
22 UNLAWFUL FOR ANY PERSON TO COMPENSATE ANOTHER PERSON FOR ASSISTING
23 VOTERS IN MARKING THEIR ABSENTEE BALLOT TO BASE SUCH COMPENSATION
24 ON THE NUMBER OF ABSENTEE BALLOTS ASSISTED OR THE NUMBER OF
25 ABSENTEE BALLOTS CAST BY PERSONS WHO HAVE RECEIVED SUCH
26 ASSISTANCE; AND FOR RELATED PURPOSES.

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

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

30 23-15-625. (1) The registrar shall be authorized to
31 disburse applications for absentee ballots to any qualified
32 elector within the county where he serves upon a proper request by
33 such elector for such application. The registrar shall keep a
34 permanent ledger for the purpose of showing the number of
35 applications and the persons to whom the applications were given.
36 Any person who presents to the registrar the oral or written
37 request for an absentee ballot application for a voter entitled to
38 vote absentee by mail, other than the elector who seeks to vote by
39 absentee ballot shall, in the presence of the registrar, sign such

40 application and print on the application his or her name and
41 address, the name of the elector for whom the application is being
42 requested and the person's relationship to the elector, if any, in
43 the place provided for on the application for such purpose. If an
44 elector picks up applications for another person, the elector
45 shall indicate on the ledger the name or names of the persons for
46 whom he is obtaining the applications.

47 (2) The registrar in the county wherein a voter is qualified
48 to vote upon receiving the envelope containing the absentee
49 ballots shall keep an accurate list of all persons preparing such
50 ballots, which list shall be kept in a conspicuous place
51 accessible to the public near the entrance to his office. The
52 registrar shall also furnish to each precinct manager a list of
53 the names of all persons in each respective precinct voting
54 absentee ballots to be posted in a conspicuous place at the
55 polling place for public notice. The application on file with the
56 registrar and the envelopes containing the ballots shall be kept
57 by the registrar and deposited in the proper precinct ballot boxes
58 before such boxes are delivered to the election commissioners or
59 managers. At the time such boxes are delivered to the election
60 commissioners or managers, the registrar shall also turn over a
61 list of all such persons who have voted and whose ballots are in
62 the box.

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

65 23-15-627. (1) The registrar shall be responsible for
66 furnishing an absentee ballot application form to any elector
67 authorized to receive an absentee ballot. Absentee ballot
68 applications shall be furnished to an elector who seeks to vote by
69 absentee ballot only upon the oral or written request of such
70 elector, or furnished to any other person for an elector who seeks
71 to vote by absentee ballot only upon the written request of such
72 elector; provided, however, that the parent, child, spouse or
73 sibling of such an elector may orally request an absentee ballot
74 application on behalf of such elector. An absentee ballot
75 application must have the seal of the circuit or municipal clerk
76 affixed to it and be initialed by the registrar or his deputy in
77 order to be utilized to obtain an absentee ballot. A reproduction

78 of an absentee ballot application shall not be valid unless it is
79 a reproduction provided by the office of the registrar of the
80 jurisdiction in which the election is being held and which
81 contains the seal and initials required by this section. Such
82 application shall be substantially in the following form:

83 "OFFICIAL APPLICATION FOR ABSENT ELECTOR'S BALLOT

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

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

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

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

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

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

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

108 () I am a student, teacher or administrator at a college,
109 university, junior or community college, high, junior high,
110 elementary or grade school, whose studies or employment at such
111 institution necessitates my absence from the county of my voting

112 residence or spouse or dependent of such student, teacher or
113 administrator who maintains a common domicile outside the county
114 of my voting residence with such student, teacher or
115 administrator.

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

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

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

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

124 () I am a member of the congressional delegation, or spouse
125 or dependent of a member of the congressional delegation.

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

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

130 Send 'Absent Elector's Ballot' to me at the following address
131 _____.

132 I realize that I can be fined up to Five Thousand Dollars
133 (\$5,000.00) and sentenced up to five (5) years in the penitentiary
134 for making a false statement in this application and for selling
135 my vote and violating the Mississippi Absentee Voter Law. (This
136 sentence is to be in bold print.)

137 If you are temporarily or permanently disabled, you are not
138 required to have this application notarized or signed by an
139 official authorized to administer oaths for absentee balloting.
140 You are required to sign this application in the proper place and
141 have a person eighteen (18) years of age or older witness your
142 signature and sign this application in the proper place.

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

145 IN WITNESS WHEREOF I have hereunto set my hand and seal this

146 the ____ day of _____, 19__.

147 _____
148 (Signature of absent elector)

149 SWORN TO AND SUBSCRIBED before me this the ____ day of _____,
150 19__.

151 _____

152 (Official authorized to administer oaths for absentee
153 balloting or witness in the case of an elector temporarily or
154 permanently disabled.)

155 CERTIFICATE OF DELIVERY

156 I hereby certify that _____ (print name of voter)
157 has requested that I, _____ (print name of person
158 delivering application), deliver to the voter this absentee ballot
159 application.

160 _____
161 Signature of person delivering application

162 _____
163 Address

164 _____
165 City, State and Zip Code

166 _____
167 Telephone Number"

168 (2) No person who is a candidate for public office may be a
169 witness on an Official Application for Absent Elector's Ballot.

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

172 23-15-631. (1) The registrar shall enclose with each ballot
173 provided to an absent elector separate printed instructions
174 furnished by him containing the following:

175 (a) All absentee voters, excepting those with temporary
176 or permanent physical disabilities or those who are sixty-five
177 (65) years of age or older, who mark their ballots in the county
178 of the residence shall use the registrar of that county as the
179 witness. Said absentee voter shall come to the office of the
180 registrar and neither the registrar nor his deputy shall be
181 required to go out of the registrar's office to serve as an

182 attesting witness.

183 (b) Upon receipt of the enclosed ballot, you will not
184 mark same except in view or sight of the attesting witness. In
185 the sight or view of the attesting witness, mark the ballot
186 according to instructions.

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

203 Any notary public, United States postmaster, assistant United
204 States postmaster, United States postal supervisor, clerk in
205 charge of a contract postal station, or any officer having
206 authority to administer an oath or take an acknowledgment may be
207 an attesting witness; provided, however, that in the case of an
208 absent elector who is temporarily or permanently physically
209 disabled, the attesting witness may be any person eighteen (18)
210 years of age or older and such person is not required to have the
211 authority to administer an oath. If a postmaster, assistant
212 postmaster, postal supervisor, or clerk in charge of a contract
213 postal station acts as an attesting witness, his signature on the
214 elector's certificate must be authenticated by the cancellation
215 stamp of their respective post offices. If one or the other

216 officers herein named acts as attesting witness, his signature on
217 the elector's certificate, together with his title and address,
218 but no seal, shall be required. Any affidavits made by an absent
219 elector who is in the armed forces may be executed before a
220 commissioned officer, warrant officer, or noncommissioned officer
221 not lower in grade than sergeant rating, or any person authorized
222 to administer oaths.

223 (d) When the application accompanies the ballot it
224 shall not be returned in the same envelope as the ballot but shall
225 be returned in a separate pre-addressed envelope provided by the
226 registrar.

227 (e) No person who is a candidate for public office may
228 be an attesting witness for any absentee ballot upon which such
229 person's name appears.

230 (f) Any voter casting an absentee ballot who declares
231 that he requires assistance to vote by reason of blindness,
232 temporary or permanent physical disability or inability to read or
233 write, shall be entitled to receive assistance in the marking of
234 his absentee ballot and in completing the affidavit on the
235 absentee ballot envelope. The voter may be given assistance by
236 anyone of the voter's choice other than a candidate whose name
237 appears on the absentee ballot being marked, or the voter's
238 employer, or agent of that employer or officer or agent of the
239 voter's union. In order to ensure the integrity of the ballot,
240 any person who provides assistance to an absentee voter shall be
241 required to sign and complete the "Certificate of Person Providing
242 Voter Assistance" on the absentee ballot envelope. A person who
243 provides assistance in the marking of an absentee ballot shall not
244 be the attesting witness to such absentee ballot, unless the
245 person is the parent, child, spouse or sibling of the absentee
246 voter.

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

250 and registrar.

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

253 23-15-635. (1) The form of the elector's certificate * * *,
254 attesting witness certification and certificate of person
255 providing voter assistance on the back of the envelope used by
256 voters who do not use the registrar of their county of residence
257 as an attesting witness shall be as follows:

258 "ELECTOR'S CERTIFICATE

259 STATE OF _____

260 COUNTY OR PARISH OF _____

261 I, _____ do solemnly swear that this envelope contains
262 the ballot marked by me indicating my choice of the candidates or
263 propositions to be submitted at the election to be held on the ____
264 day of _____ 19____, and I hereby authorize the registrar to
265 place this envelope in the ballot box on my behalf, and I further
266 authorize the election managers to open this envelope and place my
267 ballot among the other ballots cast before such ballots are
268 counted, and record my name on the poll list as if I were present
269 in person and voted.

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

271 _____
272 (Signature of voter)

273 CERTIFICATE OF ATTESTING WITNESS

274 Personally appeared before me, on this the ____ day of
275 _____, 19____, the above-named voter, known by me to be the
276 person named, who after being duly sworn or having affirmed,
277 subscribed the foregoing oath or affirmation. That said voter
278 exhibited to me his blank ballot; that said ballot was not marked
279 or voted before the said voter exhibited the ballot to me; that
280 said voter then retired out of my presence, but within my sight,
281 and voted his ballot so that I could not see how he voted; that no
282 one was present with said voter as he marked his ballot; that the
283 said voter was not solicited or advised by me to vote for any

284 candidate, question or issue, and that the voter, after marking
285 his ballot, placed it in the envelope, closed and sealed the
286 envelope in my presence, and signed and swore or affirmed the
287 above certificate.

288 _____
289 (Attesting witness) (Address)

290 _____
291 (Official title) (City and State)

292 CERTIFICATE OF PERSON PROVIDING VOTER ASSISTANCE

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

302 _____
303 Signature of person providing assistance

304 _____
305 _____
306 Printed name of person providing assistance

307 _____
308 Address of person providing assistance

309 _____
310 _____
311 Date and time assistance provided

312 _____
313 _____
314 Family relationship to voter (if any)

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

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

319 23-15-719. (1) Immediately upon completion of an
320 application filed pursuant to the provisions of paragraph (a) of
321 Section 23-15-715, the registrar shall deliver the necessary
322 ballots to the applicant. The elector shall fill in his ballot in
323 secret. After the applicant has properly marked the ballot and

324 properly folded it, he shall deposit it in the envelope furnished
325 him by the registrar.

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

330 "STATE OF MISSISSIPPI

331 COUNTY OF

332 I, _____, do solemnly swear that this envelope contains
333 the ballot marked by me indicating my choice of the candidates or
334 propositions to be submitted at the election to be held on the ____
335 day of _____, 19____, and I hereby authorize the registrar to
336 place this envelope in the ballot box on my behalf, and I further
337 authorize the election managers to open this envelope and place my
338 ballot among the other ballots cast before such ballots are
339 counted, and record my name on the poll list as if I were present
340 in person and voted.

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

342 _____
343 (Signature of voter)

344 SWORN TO AND SUBSCRIBED before me, _____, this the ____
345 day of _____, 19____.

346 (Registrar) _____
347 (Registrar)"

348 After the completion of the requirements of this section, the
349 elector shall deliver the envelope containing the ballot to the
350 registrar.

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

355 "CERTIFICATE OF PERSON PROVIDING VOTER ASSISTANCE

356 (To be completed only if the voter has received assistance in
357 marking the enclosed ballot.) I hereby certify that the
358 above-named voter declared to me that he or she is blind,

359 temporarily or permanently physically disabled, or cannot read or
360 write, and that the voter requested that I assist the voter in
361 marking of the enclosed absentee ballot. I hereby certify that
362 the ballot preferences on the enclosed ballot are those
363 communicated by the voter to me, and that I have marked the
364 enclosed ballot in accordance with the voter's instructions.

365 _____
366 Signature of person providing assistance

367 _____
368 Printed name of person providing assistance

369 _____
370 Address of person providing assistance

371 _____
372 _____
373 Date and time assistance provided

374 _____
375 _____
376 Family relationship to voter (if any)"

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

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

381 23-15-753. (1) Any person who willfully, unlawfully and
382 feloniously procures, seeks to procure, or seeks to influence the
383 vote of any person voting by absentee ballot, by the payment of
384 money, the promise of payment of money, or by the delivery of any
385 other item of value or promise to give such voter any item of
386 value, or by promising or giving such voter any favor or reward in
387 an effort to influence his vote, or any person who aids, abets,
388 assists, encourages, helps, or causes any person voting an
389 absentee ballot to violate any provision of law pertaining to
390 absentee voting, or any person who sells his vote for money,
391 favor, or reward, has been paid or promised money, a reward, a
392 favor or favors, or any other item of value, or any person who
393 shall willfully swear falsely to any affidavit provided for in
394 Sections 23-15-621 through 23-15-735, shall be guilty of the crime
395 of "vote fraud" and, upon conviction, shall be sentenced to pay a
396 fine of not less than Five Hundred Dollars (\$500.00) nor more than

397 Five Thousand Dollars (\$5,000.00), or by imprisonment in the
398 county jail for no more than one (1) year, or by both such fine
399 and imprisonment, or by being sentenced to the State Penitentiary
400 for not less than one (1) year nor more than five (5) years.

401 (2) It shall be unlawful for any person who pays or
402 compensates another person for assisting voters in marking their
403 absentee ballots to base such pay or compensation on the number of
404 absentee voters assisted or the number of absentee ballots cast by
405 persons who have received such assistance. Any person who
406 violates the provisions of this subsection shall be guilty of a
407 felony and, 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 State Penitentiary for not less
410 than one (1) year nor more than five (5) years, or by both such
411 fine and imprisonment.

412 SECTION 7. The Attorney General of the State of Mississippi
413 is hereby directed to submit this act, immediately upon approval
414 by the Governor, or upon approval by the Legislature subsequent to
415 a veto, to the Attorney General of the United States or to the
416 United States District Court for the District of Columbia in
417 accordance with the provisions of the Voting Rights Act of 1965,
418 as amended and extended.

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