To: Elections

MISSISSIPPI LEGISLATURE REGULAR SESSION 2003

By: Senator(s) Smith

SENATE BILL NO. 2237

AN ACT TO REQUIRE A VOTER TO STATE HIS NAME, ADDRESS AND
MONTH AND DAY OF BIRTH PRIOR TO VOTING; TO REQUIRE A VOTER WHOSE
NAME AND MONTH, AND DAY OF BIRTH ARE THE SAME AS THOSE ON THE
PRECINCT REGISTRATION LIST TO SIGN THE RECEIPT BOOK PRIOR TO
VOTING AND TO VOTE WITHOUT UNDUE DELAY; TO REQUIRE A VOTER WHOSE
ADDRESS IS NOT THE SAME AS THAT ON THE VOTER REGISTRATION LIST TO
COMPLETE A VOTER REGISTRATION FORM OR CHANGE OF ADDRESS FOR THE
PURPOSE OF UPDATING THE REGISTRATION RECORDS; IF THE ADDRESS GIVEN
BY THE VOTER IS NOT IN THE PRECINCT THE ELECTION OFFICIALS SHALL
DIRECT THE VOTER TO THE PROPER PRECINCT OR INSTRUCT THE VOTER TO
CONTACT THE REGISTRAR TO DETERMINE HIS PROPER VOTING PLACE; TO
REQUIRE VOTERS WHOSE NAMES ARE NOT THE SAME AS THAT ON THE VOTER
REGISTRATION LIST TO COMPLETE A VOTER REGISTRATION APPLICATION FOR
THE PURPOSE OF UPDATING VOTER REGISTRATION RECORDS; TO REQUIRE ANY
OTHER VOTER WHOSE NAME, ADDRESS OR MONTH AND DAY OF BIRTH ARE NOT
THE SAME AS THOSE ON THE PRECINCT REGISTRATION LIST TO PRESENT
CERTAIN IDENTIFICATION DOCUMENTS AND, UPON SUCH PRESENTATION, BE
ALLOWED TO VOTE WITHOUT DELAY; TO PROVIDE THAT IF A VOTER IS
UNABLE TO PRESENT SUCH DOCUMENTS, THE VOTER SHALL BE ALLOWED TO
VOTE IF HE IS RECOGNIZED BY ELECTION OFFICIALS AS THE VOTER WHOSE
NAME IS ON THE PRECINCT REGISTRATION LIST OR UPON THE VOTER
SIGNING A STATEMENT UNDER OATH THAT HE IS THE PERSON ON THE
PRECINCT REGISTRATION LIST; TO PROVIDE PENALTIES FOR CERTAIN
VIOLATIONS OF THIS ACT; TO CREATE THE OFFENSE OF VOTER
INTIMIDATION; TO AMEND SECTIONS 23-15-627, 23-15-713 AND
23-15-715, MISSISSIPPI CODE OF 1972, TO ALLOW A VOTER TO VOTE
EARLY BY ABSENTEE BALLOT EARLY IN THE REGISTRAR'S OFFICE BEGINNING
TWO MONDAYS PRECEDING THE ELECTION THROUGH THE SATURDAY
IMMEDIATELY PRECEDING THE ELECTION; TO AMEND SECTIONS 23-15-11,
THE PROVISIONS OF THIS ACT; AND FOR RELATED PURPOSES.

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

SECTION 1. The provisions of Sections 1 through 3 of this
act shall be known as the "Voter Security Act of 2003."

SECTION 2. (1) Before a person is permitted to vote, the
election manager, or the voter registrar in the case of absentee
voting in the office of the registrar, shall:

(a) Require the voter to state or communicate his name
in order to verify the existence of his name on the precinct voter
registration list.
(b) Require the voter to state or communicate his address and month and day of birth.

c) Determine that the voter's month and day of birth and address are the same as those on the precinct voter registration list.

d) If the voter's name, address and month and day of birth are the same as those on the precinct voter registration list, require the voter to sign his name, including his given name, his middle name or initial, if any, and his last name in the space provided in the precinct receipt book provided for that purpose to be used in that election only. If the voter is unable to sign his signature or make his mark or cross, the appropriate election official shall enter his initials and the voter's month and day of birth in the space provided for the voter's signature on the precinct receipt book or other sign in book maintained in the registrar's office, in the case of absentee voting in that office.

(e) Allow a voter whose name, address and month and day of birth are the same as those on the precinct voter registration list and who has signed his name on the precinct receipt book in compliance with paragraph (d) of this act to vote without undue delay.

(f) (i) If the address given by the voter is not the same as that on the precinct voter registration list, but the voter believes his address is within the precinct, require the voter to complete a voter registration application or change of address form for the purpose of updating voter registration records.

(ii) If the address given by the voter is not within the precinct or county, direct the voter to the proper precinct or county, if known by the election official, or instruct the voter to contact the registrar to determine his proper voting place.
(g) If the voter’s name is not the same as that on the
precinct voter registration list, require the voter to complete a
voter registration application for the purpose of updating the
voter registration records.

(h) If a person appears to vote and his name is not on
the precinct voter registration list and it is determined that the
person is not registered to vote, give such person the opportunity
to complete a voter registration application.

(i) Allow to vote without undue delay a voter who is
sixty-five (65) years of age or older on the date on which he is
voting after he has completed any voter registration application
or change of address form required under paragraph (f)(i) or (g)
of this subsection, if any.

(j) From a voter whose name, address or month and day
of birth are not the same as those on the precinct voter
registration list, require presentation of one (1) of the
following:

   (i) A valid Mississippi driver’s license;
   (ii) A valid identification card issued by a
        branch, department, agency or entity of the State of Mississippi;
   (iii) A valid United States passport;
   (iv) A valid employee identification card
        containing a photograph of the voter and issued by any branch,
        department, agency or entity of the United States government, the
        State of Mississippi, or any county, municipality, board,
        authority or other entity of this state;
   (v) A valid employee identification card
        containing a photograph of the voter and issued by an employer of
        the voter in the ordinary course of the employer’s business;
   (vi) A valid student identification card
        containing a photograph of the voter from any public or private
        college, university, or post-graduate, technical or professional
        school located within the State of Mississippi;
(vii) A valid Mississippi license to carry a pistol or revolver;

(viii) A valid pilot's license issued by the Federal Aviation Administration or other authorized agency of the United States;

(ix) A valid United States military identification card;

(x) A certified copy of the voter's birth certificate;

(xi) A valid social security card;

(xii) Certified naturalization documentation;

(xiii) An official voter registration card;

(xiv) A health record;

(xv) A tax receipt; or

(xvi) Any other generally recognized form of identification.

(k) Allow to vote without undue delay any voter whose address, name or month and day of birth are not the same as those on the precinct voter registration list and who do not present documentation as provided under paragraph (j) of this subsection, after signing the precinct receipt book, if such voter is personally recognized by the appropriate election official as the person on the precinct voter registration list.

(l) For a voter whose name, address or month and day of birth are not the same as those on the precinct voter registration list and who does not present documentation as provided under paragraph (j) of this subsection and are not personally recognized by the appropriate election official as the person on the precinct voter registration list, after signing the precinct receipt book, allow him to sign a statement under oath, in a form prescribed by the Secretary of State, swearing or affirming that he is the person on the precinct voter registration list. One (1) of the election managers, or the voter registrar in the case of absentee
voting in the office of the registrar, shall sign a statement as a witness to the oath taken by the elector. The voter shall then be allowed to vote without undue delay.

(2) (a) Any voter who falsely represents his identity by signing another person's name on the precinct receipt book or other sign in book maintained in the registrar's office, in the case of absentee voting in that office, shall be guilty of a felony and, upon conviction, shall be fined not more than Five Thousand Dollars ($5,000.00), imprisoned not less than one (1) year, but not more than five (5) years, or both;

(b) Any voter who falsely swears or affirms the statement prescribed in subsection (1)(l) of this section shall be guilty of a felony and, upon conviction, shall be fined not more than Five Thousand Dollars ($5,000.00), imprisoned not less than one (1) year nor more than five (5) years, or both.

SECTION 3. Any person who willfully and deliberately utilizes any tactic, commits any act, engages in any conduct or conspires with another to interfere with the free, unimpeded and unfettered exercise of a person's constitutional right to vote, shall be guilty of the felony offense of voter intimidation and, upon conviction, shall be fined Five Thousand Dollars ($5,000.00) and imprisoned for not less than one (1) year nor more than five (5) years, or both.

SECTION 4. Section 23-15-627, Mississippi Code of 1972, is amended as follows:

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

"OFFICIAL APPLICATION FOR ABSENT ELECTOR'S BALLOT

I, _____, duly qualified and registered in the ___ Precinct
of the County of _____, and State of Mississippi, coming within
the purview of the definition 'ABSENT ELECTOR' will be absent from
the county of my residence on election day, or unable to vote in
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 day.

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

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

( ) I desire to vote early.

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

Mail 'Absent Elector's Ballot' to me at the following address ____________ (if eligible to vote by mail).

I realize that I can be fined up to Five Thousand Dollars ($5,000.00) and sentenced up to five (5) years in the Penitentiary for making a false statement in this application and for selling my vote and violating the Mississippi Absentee Voter Law. (This sentence is to be in bold print.)
If you are temporarily or permanently disabled, you are not required to have this application notarized or signed by an official authorized to administer oaths for absentee balloting. You are required to sign this application in the proper place and have a person eighteen (18) years of age or older witness your signature and sign this application in the proper place.

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

IN WITNESS WHEREOF I have hereunto set my hand and seal this the ___ day of ____, 2___.

_________________________________
(Signature of absent elector)

SWORN TO AND SUBSCRIBED before me this the ___ day of ____, 2___.

_________________________________
(Official authorized to administer oaths for absentee balloting.)

TO BE SIGNED BY WITNESS FOR VOTERS TEMPORARILY OR PERMANENTLY DISABLED:

I HEREBY CERTIFY that this application for an absent elector's ballot was signed by the above-named disabled elector in my presence and that I am at least eighteen (18) years of age, this the ___ day of ________________, 2___.

_________________________________
(Signature of witness)

CERTIFICATE OF DELIVERY

I hereby certify that _____________ (print name of voter) has requested that I, _____________ (print name of person delivering application), deliver to the voter this absentee ballot application.

_________________________________
(Signature of person delivering application)
SECTION 5. Section 23-15-713, Mississippi Code of 1972, is amended as follows:

23-15-713. For the purpose of this subarticle, any duly qualified elector may vote as provided in this subarticle if he be one who falls within the following categories:

(a) Any qualified elector who is a bona fide student, teacher or administrator at any college, university, junior college, high, junior high, or elementary grade school whose studies or employment at such institution necessitates his absence from the county of his voting residence on the date of any primary, general or special election, or the spouse and dependents of said student, teacher or administrator if such spouse or dependent(s) maintain a common domicile, outside of the county of his voting residence, with such student, teacher or administrator.

(b) Any qualified elector who is required to be away from his place of residence on any election day due to his employment as an employee of a member of the Mississippi congressional delegation and the spouse and dependents of such person if he or she shall be residing with such absentee voter away from the county of the spouse's voting residence.

(c) Any qualified elector who is away from his county of residence on election day for any reason.

(d) Any person who has a temporary or permanent physical disability and who, because of such disability, is unable to vote in person without substantial hardship to himself or others, or whose attendance at the voting place could reasonably cause danger to himself or others.

(e) The parent, spouse or dependent of a person with a temporary or permanent physical disability who is hospitalized outside of his county of residence or more than fifty (50) miles distant from his residence, if the parent, spouse or dependent will be with such person on election day.
(f) Any person who is sixty-five (65) years of age or older.

(g) Any member of the Mississippi congressional delegation absent from Mississippi on election day, and the spouse and dependents of such member of the congressional delegation.

(h) Any qualified elector who will be unable to vote in person because he is required to be at work on election day during the times at which the polls will be open.

(i) Any qualified elector who desires to vote early.

SECTION 6. Section 23-15-715, Mississippi Code of 1972, is amended as follows:

23-15-715. Any elector desiring an absentee ballot as provided in this subarticle may secure same if:

(a) Except as otherwise provided in this section, not more than forty-five (45) days nor later than 12:00 noon on the Saturday immediately preceding elections held on Tuesday, the Thursday immediately preceding elections held on Saturday, or the second day immediately preceding the date of elections held on other days, he shall appear in person before the registrar of the county in which he resides, or for municipal elections he shall appear in person before the city clerk of the municipality in which he resides and, when the elector so appears, he shall execute and file an application as provided in Section 23-15-627 and vote by absentee ballot, except that if the ballot has not been printed by forty-five (45) days preceding the election, the elector may appear and file an application anytime before the election. Then the absentee ballot shall be mailed by the circuit clerk to the elector as soon as the ballot has been printed.

(b) Within forty-five (45) days next prior to any election, any elector who cannot comply with paragraph (a) of this section by reason of temporarily residing outside the county, or any person who has a temporary or permanent physical disability, persons who are sixty-five (65) years of age or older, or any
person who is the parent, spouse or dependent of a temporarily or permanently physically disabled person who is hospitalized outside of his county of residence or more than fifty (50) miles away from his residence and such parent, spouse or dependent will be with such person on election day, may make application for an absentee ballot by mailing the appropriate application to the registrar.

Only persons temporarily residing out of the county of their residence, persons having a temporary or permanent physical disability, persons who are sixty-five (65) years of age or older, or any person who is the parent, spouse or dependent of a temporarily or permanently physically disabled person who is hospitalized outside of his county of residence or more than fifty (50) miles away from his residence, and such parent, spouse or dependent will be with such person on election day, may obtain absentee ballots by mail under the provisions of this subsection and as provided by Section 23-15-713. Applications of persons temporarily residing outside the county shall be sworn to and subscribed before an official who is authorized to administer oaths or other official authorized to witness absentee balloting as provided in this chapter, said application to be accompanied by such verifying affidavits as required by this chapter. The applications of persons having a temporary or permanent physical disability shall not be required to be accompanied by an affidavit but shall be witnessed and signed by a person eighteen (18) years of age or older. The registrar shall send to such absent voter a proper absentee voter ballot within twenty-four (24) hours, or as soon thereafter as the ballots are available, containing the names of all candidates who qualify or the proposition to be voted on in such election, and with such ballot there shall be sent an official envelope containing upon it in printed form the recitals and data hereinafter required.

(c) If the elector is voting early pursuant to Section 23-15-713(i), on the second Monday preceding the election nor
later than 12:00 noon on the Saturday preceding the election, he
shall appear in person before the registrar of the county in which
he resides, or for municipal elections he shall appear in person
before the city clerk of the municipality in which he resides and,
when the elector so appears, he shall execute and file an
application as provided in Section 23-15-627 and vote by absentee
ballot.

SECTION 7. Section 23-15-11, Mississippi Code of 1972, is
amended as follows:

23-15-11. Every inhabitant of this state, except idiots and
insane persons, who is a citizen of the United States of America,
eighteen (18) years old and upwards, who has resided in this state
for thirty (30) days and for thirty (30) days in the county in
which he offers to vote, and for thirty (30) days in the
incorporated city or town in which he offers to vote, and who
shall have been duly registered as an elector pursuant to Section
23-15-33, and who has never been convicted of any crime listed in
Section 241, Mississippi Constitution of 1890, shall be a
qualified elector in and for the county, municipality and voting
precinct of his residence, and shall be entitled to vote at any
election upon compliance with the provision of Section 2 of Senate
Bill No. 2237, 2003 Regular Session. Any person who will be
eighteen (18) years of age or older on or before the date of the
general election and who is duly registered to vote not less than
thirty (30) days prior to the primary election associated with
such general election, may vote in such primary election even
though such person has not reached his or her eighteenth birthday
at the time such person offers to vote at such primary election.
No others than those above included shall be entitled, or shall be
allowed, to vote at any election.

SECTION 8. Section 23-15-541, Mississippi Code of 1972, is
amended as follows:
23-15-541. At all elections, the polls shall be opened at seven o’clock in the morning and be kept open until seven o’clock in the evening and no longer. Upon the opening of the polls, and not before, the managers of the election shall designate two (2) of their number, other than the manager theretofore designated to receive the blank ballots, who shall thereupon be known respectively as the initialing manager and the alternate initialing manager. The alternate initialing manager, in the absence of the initialing manager, shall perform all of the duties and undertake all of the responsibilities of the initialing manager. When any person entitled to vote shall appear to vote, he shall first be required by the managers and clerks to comply with the provisions of Section 2 of Senate Bill No. 2237, 2003 Regular Session, whereupon and not before, the initialing manager or, in his absence, the alternate initialing manager shall indorse his initials on the back of an official blank ballot, prepared in accordance with law, and at such place on the back of the ballot that the initials may be seen after the ballot has been marked and folded, and when so indorsed he shall deliver it to the voter, which ballot the voter shall mark in the manner provided by law, which when done the voter shall deliver the same to the initialing manager or, in his absence, to the alternate initialing manager, in the presence of the others, and the manager shall see that the ballot so delivered bears on the back thereof the genuine initials of the initialing manager, or alternate initialing manager, and if so, but not otherwise, the ballot shall be put into the ballot box; and when so done one (1) of the managers or a duly appointed clerk shall make the proper entry on the pollbook. If the voter is unable to write his name on the receipt book, a manager or clerk shall note on the back of the ballot that it was receipted for by his assistance.

SECTION 9. 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) or (c) of Section 23-15-715, the registrar shall require the applicant to comply with Section 2 of Senate Bill No. 2237, 2003 Regular Session, and shall then deliver the necessary ballots to the applicant. The registrar shall only deliver the ballots to the applicant by mail or to the applicant in the registrar's office. The registrar shall not personally hand deliver ballots to voters, unless he delivers the ballots in the office of the registrar. 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 __________, 2___, 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 ___ day of __________, 2___.
After the completion of the requirements of this section, the elector shall deliver the envelope containing the ballot to the registrar.  

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

"CERTIFICATE OF PERSON PROVIDING VOTER ASSISTANCE  
(To be completed only if the voter has received assistance in marking the enclosed ballot.) I hereby certify that the above-named voter declared to me that he or she is blind, temporarily or permanently physically disabled, or cannot read or write, and that the voter requested that I assist the voter in marking the enclosed absentee ballot. I hereby certify that the ballot preferences on the enclosed ballot are those communicated by the voter to me, and that I have marked the enclosed ballot in accordance with the voter's instructions.  

______________________________  
Signature of person providing assistance  
______________________________  
Printed name of person providing assistance  
______________________________  
Address of person providing assistance  
______________________________  
Date and time assistance provided  
______________________________  
Family relationship to voter (if any)"  

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

SECTION 10. The Attorney General of the State of Mississippi shall 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 11. This act shall take effect and be in force from
and after the date it is effectuated under Section 5 of the Voting
Rights Act of 1965, as amended and extended.