

By: Representatives Reynolds, Franks,
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To: Apportionment and
Elections

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 1827

1 AN ACT TO REQUIRE PERSONS WHO APPEAR TO VOTE IN PERSON AT A
2 POLLING PLACE OR THE REGISTRAR'S OFFICE TO IDENTIFY THEMSELVES BY
3 PRESENTING CERTAIN TYPES OF IDENTIFICATION TO AN ELECTION MANAGER
4 OR THE REGISTRAR BEFORE THEY ARE ALLOWED TO VOTE; TO ALLOW AN
5 ELECTOR WHO IS UNABLE TO PRODUCE THE REQUIRED IDENTIFICATION TO
6 SIGN A STATEMENT UNDER OATH IN A FORM APPROVED BY THE SECRETARY OF
7 STATE; TO PROVIDE THAT ANY PERSON WHO INTIMIDATES A VOTER SHALL BE
8 GUILTY OF A FELONY; TO PROVIDE THAT CERTAIN CONVICTED PERSONS MAY,
9 WITH PROPER DOCUMENTATION, REGISTER TO VOTE IF THE PERSON IS
10 OTHERWISE A QUALIFIED ELECTOR; TO REQUIRE THE BUREAU OF VITAL
11 STATISTICS TO PROVIDE EACH CIRCUIT CLERK WITH THE NAMES OF
12 DECEASED PERSONS WITHIN THE COUNTY WITHIN 30 DAYS; TO AMEND
13 SECTIONS 23-15-11 AND 23-15-19, MISSISSIPPI CODE OF 1972, IN
14 CONFORMITY THERETO; TO AMEND SECTION 23-15-33, MISSISSIPPI CODE OF
15 1972, TO REQUIRE THE REGISTRAR TO ISSUE A REGISTRATION CARD TO
16 EVERY PERSON ENTITLED TO BE REGISTERED AS AN ELECTOR; TO AMEND
17 SECTION 23-15-631 AND 23-15-639, MISSISSIPPI CODE OF 1972, TO
18 AUTHORIZE THE SECRETARY OF STATE TO TAKE CERTAIN ACTION TO ENSURE
19 THAT THE IDENTIFICATION REQUIREMENTS OF THE HELP AMERICA VOTE ACT
20 OF 2002 ARE MET IN REGARD TO ABSENTEE BALLOTS; TO AMEND SECTIONS
21 23-15-541 AND 23-15-719, MISSISSIPPI CODE OF 1972, IN CONFORMITY
22 THEREWITH; AND FOR RELATED PURPOSES.

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

24 **SECTION 1.** (1) Each person, except a person who was born
25 before January 1, 1940, and is not otherwise required to present
26 identification under the federal Help America Vote Act of 2002,
27 who shall appear to vote in person at a polling place or the
28 registrar's office shall be required to identify himself or
29 herself to an election manager or the registrar by presenting
30 current and valid photo identification or a copy of a current
31 utility bill, bank statement, government check, paycheck or a
32 government document that shows the name and address of the person
33 before such person shall be allowed to vote.

34 (2) The identification required by subsection (1) of this
35 section shall include, but not be limited to, the following:

36 (a) A current and valid Mississippi driver's license;

37 (b) A current and valid identification card issued by a
38 branch, department, agency or entity of the State of Mississippi;

39 (c) A current and valid United States passport;

40 (d) A current and valid employee identification card
41 containing a photograph of the elector and issued by any branch,
42 department, agency or entity of the United States government, the
43 State of Mississippi, or any county, municipality, board,
44 authority or other entity of this state;

45 (e) A current and valid employee identification card
46 containing a photograph of the elector and issued by any employer
47 of the elector in the ordinary course of the employer's business;

48 (f) A current and valid student identification card
49 containing a photograph of the elector from any public or private
50 college, university, or postgraduate, technical or professional
51 school located within the State of Mississippi;

52 (g) A current and valid Mississippi license to carry a
53 pistol or revolver;

54 (h) A current and valid pilot's license issued by the
55 Federal Aviation Administration or other authorized agency of the
56 United States;

57 (i) A current and valid United States military
58 identification card; and

59 (j) Official voter registration card.

60 (3) If an elector is unable to produce any of the items of
61 identification listed in subsections (1) and (2) of this section,
62 he or she shall sign a statement under oath on a form approved by
63 the Secretary of State, swearing or affirming that he or she is
64 the person identified on the pollbooks. One (1) of the election
65 managers, or the circuit clerk or deputy circuit clerk in the case
66 of absentee voting, shall sign the statement as a witness to the
67 oath taken by the elector. The person shall be allowed to vote
68 without undue delay. Any elector who falsely swears or affirms
69 the statement prescribed in this subsection shall be guilty of a

70 felony and, upon conviction, shall be fined not more than Five
71 Thousand Dollars (\$5,000.00) or imprisoned not less than one (1)
72 year, but not more than five (5) years, or both.

73 (4) Any person who utilizes the provisions of this section
74 to intimidate a voter or to prevent from voting a person who is
75 otherwise qualified to vote shall be guilty of a felony and, upon
76 conviction, shall be punished by imprisonment for not less than
77 one (1) year, but not more than five (5) years or fined in an
78 amount not to exceed Five Thousand Dollars (\$5,000.00), or both,
79 per occurrence of intimidation.

80 **SECTION 2.** (1) The conviction of a person convicted of a
81 crime listed in Section 241, Mississippi Constitution of 1890,
82 shall be expunged by operation of law for the limited purpose of
83 allowing the person to register to vote and allowing that person
84 to vote if:

85 (a) The person is a first time offender;

86 (b) The conviction is for a crime that is a nonviolent
87 crime as defined in Section 47-7-3(1)(g); and

88 (c) The person has completed the sentence based on the
89 conviction and is not under probation or parole for the
90 conviction.

91 (2) A person whose conviction has been expunged pursuant to
92 subsection (1) of this section and who is otherwise qualified to
93 vote, shall be registered as an elector pursuant to Section
94 23-15-33 upon:

95 (a) Presentation to the proper registrar of a discharge
96 certificate or court order evidencing the completion of the
97 sentence for the conviction and any probation based on the
98 conviction; and

99 (b) A determination by the registrar that the
100 requirements of paragraphs (a) and (b) of subsection (1) of this
101 section are met.

102 (3) The provisions of this section shall in no way be used
103 to determine the qualifications of a juror; and nothing contained
104 herein shall be construed to repeal, modify or amend the
105 provisions of Section 13-5-1, Mississippi Code of 1972.

106 **SECTION 3.** (1) Within thirty (30) days after the issuance
107 of a death certificate for a person who resided in the county, the
108 Bureau of Vital Statistics of the State Board of Health, in
109 conjunction with the Secretary of State, shall notify the circuit
110 clerk of such county of the names of those for whom death
111 certificates have been issued. The circuit clerk shall make such
112 information available to the county election commissioners who are
113 charged with removing the names of deceased persons from voter
114 registration books.

115 (2) In order to comply with the provisions of this section,
116 the circuit clerk shall keep a book in which the clerk shall
117 record the names of the deceased persons and the date and manner
118 in which such names are made available to the county election
119 commissioners.

120 **SECTION 4.** Section 23-15-11, Mississippi Code of 1972, is
121 amended as follows:

122 23-15-11. Every inhabitant of this state, except idiots and
123 insane persons, who is a citizen of the United States of America,
124 eighteen (18) years old and upwards, who has resided in this state
125 for thirty (30) days and for thirty (30) days in the county in
126 which he offers to vote, and for thirty (30) days in the
127 incorporated city or town in which he offers to vote, and who
128 shall have been duly registered as an elector pursuant to Section
129 23-15-33, and who has never been convicted of any crime listed in
130 Section 241, Mississippi Constitution of 1890, unless the
131 conviction has been expunged pursuant to the provisions of Section
132 2, House Bill No. 1827, 2004 Regular Session, shall be a qualified
133 elector in and for the county, municipality and voting precinct of
134 his residence, and shall be entitled to vote at any election upon

135 compliance with Section 2 of House Bill No. 1827, 2004 Regular
136 Session. Any person who will be eighteen (18) years of age or
137 older on or before the date of the general election and who is
138 duly registered to vote not less than thirty (30) days prior to
139 the primary election associated with such general election, may
140 vote in such primary election even though such person has not
141 reached his or her eighteenth birthday at the time such person
142 offers to vote at such primary election. No others than those
143 above included shall be entitled, or shall be allowed, to vote at
144 any election. The provisions of this section shall in no way be
145 used to determine the qualification of a juror; and nothing
146 contained herein shall be construed to repeal, modify or amend the
147 provisions of Section 13-5-1, Mississippi Code of 1972.

148 **SECTION 5.** Section 23-15-19, Mississippi Code of 1972, is
149 amended as follows:

150 23-15-19. Except as otherwise provided in Section 2, House
151 Bill No. 1827, 2004 Regular Session, any person who has been
152 convicted of any crime listed in Section 241, Mississippi
153 Constitution of 1890, shall not be registered, or if registered
154 the name of such person shall be erased from the registration book
155 on which it may be found by the registrar or by the election
156 commissioners. Whenever any person shall be convicted in the
157 circuit court of his county of any of said crimes, the registrar
158 shall thereupon erase his name from the registration book; and
159 whenever any person shall be convicted of any of said crimes in
160 any other court of any county, the presiding judge thereof shall,
161 on demand, certify the fact in writing to the registrar, who shall
162 thereupon erase the name of such person from the registration book
163 and file said certificate as a record of his office. The
164 provisions of this section shall in no way be used to determine
165 the qualifications of a juror; and nothing contained herein shall
166 be construed to repeal, modify or amend the provisions of Section
167 13-5-1, Mississippi Code of 1972.

168 **SECTION 6.** Section 23-15-33, Mississippi Code of 1972, is
169 amended as follows:

170 23-15-33. (1) Every person entitled to be registered as an
171 elector in compliance with the laws of this state and who has
172 signed his name on and properly completed the application for
173 registration to vote shall be registered by the registrar on the
174 registration books of the voting precinct of the residence of such
175 person.

176 (2) Every person entitled to be registered as an elector in
177 compliance with the laws of this state and who registers to vote
178 pursuant to the National Voter Registration Act of 1993 shall be
179 registered by the registrar on the registration books of the
180 voting precinct of the residence of such person.

181 (3) Every person entitled to be registered as an elector in
182 compliance with the laws of this state and who has registered to
183 vote in federal elections pursuant to the National Voter
184 Registration Act of 1993 prior to August 11, 2000, shall be
185 registered by the registrar on the registration books of the
186 voting precinct of the residence of such person.

187 (4) Every person entitled to be registered as an elector in
188 compliance with this section shall be issued by January 1, 2007, a
189 registration card that lists the elector's full name, current
190 address and precinct name or number.

191 **SECTION 7.** 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" across
213 the flap on back of the envelope. Place necessary postage on the
214 envelope and deposit it in the post office or some government
215 receptacle provided for deposit of mail so that the absent
216 elector's ballot, excepting presidential absentee ballots, will
217 reach the registrar in which your precinct is located not later
218 than 5:00 p.m. on the day preceding the date of the election, or
219 by personally delivering such ballot to the registrar's office not
220 later than 12:00 noon on the Saturday immediately preceding
221 elections held on Tuesday, the Thursday immediately preceding
222 elections held on Saturday, and the second day immediately
223 preceding elections held 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 Secretary of State shall prepare instructions on how
265 absent voters may comply with the identification requirements of

266 the Help America Vote Act of 2002 which shall be provided to the
267 registrar and enclosed with each absentee ballot.

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

272 **SECTION 8.** Section 23-15-639, Mississippi Code of 1972, is
273 amended as follows:

274 23-15-639. (1) At the close of the regular balloting and at
275 the close of the polls, the election managers of each voting
276 precinct shall first take the envelopes containing the absentee
277 ballots of such electors from the box, and the name, address and
278 precinct inscribed on each such envelope shall be announced by the
279 election managers. The signature on the application shall then be
280 compared with the signature on the back of the envelope. If it
281 corresponds and the affidavit, if one is required, is sufficient
282 and the election managers find that the applicant is a registered
283 and qualified voter or otherwise qualified to vote, and that he
284 has not appeared in person and voted at such election, the
285 envelope shall then be opened and the ballot removed from the
286 envelope, without its being unfolded, or permitted to be unfolded
287 or examined. Having observed and found the ballot to be regular
288 as far as can be observed from its official endorsement, the
289 election managers shall deposit it in the ballot box with the
290 other ballots before counting any ballots and enter the voter's
291 name in the receipt book provided for that purpose and mark
292 "VOTED" in the pollbook or poll list as if he had been present and
293 voted in person. If voting machines are used, all absentee
294 ballots shall be placed in the ballot box before any ballots are
295 counted, and the election managers in each precinct shall
296 immediately count such absentee ballots and add them to the votes
297 cast in the voting machine or device.

298 (2) The election managers shall also take such action as may
299 be prescribed by the Secretary of State to ensure compliance with
300 the identification requirements of the Help America Vote Act of
301 2002.

302 **SECTION 9.** Section 23-15-541, Mississippi Code of 1972, is
303 amended as follows:

304 23-15-541. At all elections, the polls shall be opened at
305 seven o'clock in the morning and be kept open until seven o'clock
306 in the evening and no longer. Upon the opening of the polls, and
307 not before, the managers of the election shall designate two (2)
308 of their number, other than the manager theretofore designated to
309 receive the blank ballots, who shall thereupon be known
310 respectively as the initialing manager and the alternate
311 initialing manager. The alternate initialing manager, in the
312 absence of the initialing manager, shall perform all of the duties
313 and undertake all of the responsibilities of the initialing
314 manager. When any person entitled to vote shall appear to vote,
315 the managers shall identify the voter by requiring the voter to
316 submit identification as required by Section 1 of House Bill No.
317 1827, 2004 Regular Session, and then such person shall * * * sign
318 his name in a receipt book or booklet provided for that purpose
319 and to be used at that election only and said receipt book or
320 booklet shall be used in lieu of the list of voters who have voted
321 formerly made by the managers or clerks; whereupon and not before,
322 the initialing manager or, in his absence, the alternate
323 initialing manager shall indorse his initials on the back of an
324 official blank ballot, prepared in accordance with law, and at
325 such place on the back of the ballot that the initials may be seen
326 after the ballot has been marked and folded, and when so indorsed
327 he shall deliver it to the voter, which ballot the voter shall
328 mark in the manner provided by law, which when done the voter
329 shall deliver the same to the initialing manager or, in his
330 absence, to the alternate initialing manager, in the presence of

331 the others, and the manager shall see that the ballot so delivered
332 bears on the back thereof the genuine initials of the initialing
333 manager, or alternate initialing manager, and if so, but not
334 otherwise, the ballot shall be put into the ballot box; and when
335 so done one (1) of the managers or a duly appointed clerk shall
336 make the proper entry on the pollbook. If the voter is unable to
337 write his name on the receipt book, a manager or clerk shall note
338 on the back of the ballot that it was receipted for by his
339 assistance.

340 **SECTION 10.** Section 23-15-719, Mississippi Code of 1972, is
341 amended as follows:

342 23-15-719. (1) Immediately upon completion of an
343 application filed pursuant to the provisions of paragraph (a) of
344 Section 23-15-715, the registrar shall deliver the necessary
345 ballots to the applicant. The registrar shall identify the
346 applicant by requiring him to present identification as required
347 by Section 1 of House Bill No. 1827, 2004 Regular Session, and
348 shall then deliver the ballots to the applicant by mail or to the
349 applicant in the registrar's office. The registrar shall not
350 personally hand deliver ballots to voters, unless he delivers the
351 ballots in the office of the registrar. The elector shall fill in
352 his ballot in secret. After the applicant has properly marked the
353 ballot and properly folded it, he shall deposit it in the envelope
354 furnished him by the registrar.

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

359 "STATE OF MISSISSIPPI
360 COUNTY OF _____

361 I, _____, do solemnly swear that this envelope contains
362 the ballot marked by me indicating my choice of the candidates or
363 propositions to be submitted at the election to be held on the ____

364 day of _____, 2____, and I hereby authorize the registrar to
365 place this envelope in the ballot box on my behalf, and I further
366 authorize the election managers to open this envelope and place my
367 ballot among the other ballots cast before such ballots are
368 counted, and record my name on the poll list as if I were present
369 in person and voted.

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

371 _____
372 (Signature of voter)

373 SWORN TO AND SUBSCRIBED before me, _____, this the ____
374 day of _____, 2____.

375 (Registrar) _____
376 (Registrar)"

377 After the completion of the requirements of this section, the
378 elector shall deliver the envelope containing the ballot to the
379 registrar.

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

384 "CERTIFICATE OF PERSON PROVIDING VOTER ASSISTANCE

385 (To be completed only if the voter has received assistance in
386 marking the enclosed ballot.) I hereby certify that the
387 above-named voter declared to me that he or she is blind,
388 temporarily or permanently physically disabled, or cannot read or
389 write, and that the voter requested that I assist the voter in
390 marking the enclosed absentee ballot. I hereby certify that the
391 ballot preferences on the enclosed ballot are those communicated
392 by the voter to me, and that I have marked the enclosed ballot in
393 accordance with the voter's instructions.

394 _____
395 Signature of person providing assistance
396 _____

397 Printed name of person providing assistance

398 _____

399 Address of person providing assistance

400 _____

401 Date and time assistance provided

402 _____

403 Family relationship to voter (if any)"

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

406 **SECTION 11.** The Attorney General of the State of Mississippi
407 shall submit this act, immediately upon approval by the Governor,
408 or upon approval by the Legislature subsequent to a veto, to the
409 Attorney General of the United States or to the United States
410 District Court for the District of Columbia in accordance with the
411 provisions of the Voting Rights Act of 1965, as amended and
412 extended.

413 **SECTION 12.** This act shall take effect and be in force from
414 and after January 1, 2005, if it is effectuated on or before that
415 date under Section 5 of the Voting Rights Act of 1965, as amended
416 and extended. If it is effectuated under Section 5 of the Voting
417 Rights Act of 1965, as amended and extended, after January 1,
418 2005, this act shall take effect and be in force from and after
419 the date it is effectuated under Section 5 of the Voting Rights
420 Act of 1965, as amended and extended.