

By: Representatives Reynolds, Franks,
Bailey, Blackmon, Calhoun, Dedeaux, Flaggs,
Gibbs, Jennings, Markham, Morris, Rotenberry,
Smith (59th), McBride

To: Apportionment and
Elections

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 MISDEMEANOR; TO PROVIDE THAT CERTAIN CONVICTED PERSONS
9 MAY, WITH PROPER DOCUMENTATION, REGISTER TO VOTE IF THE PERSON IS
10 OTHERWISE A QUALIFIED ELECTOR; TO AMEND SECTIONS 23-15-11 AND
11 23-15-19, MISSISSIPPI CODE OF 1972, IN CONFORMITY THERETO; TO
12 AMEND SECTION 23-15-33, MISSISSIPPI CODE OF 1972, TO REQUIRE THE
13 REGISTRAR TO ISSUE A REGISTRATION CARD TO EVERY PERSON ENTITLED TO
14 BE REGISTERED AS AN ELECTOR; TO AMEND SECTION 23-15-631 AND
15 23-15-639, MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE SECRETARY OF
16 STATE TO TAKE CERTAIN ACTION TO ENSURE THAT THE IDENTIFICATION
17 REQUIREMENTS OF THE HELP AMERICA VOTE ACT OF 2002 ARE MET IN
18 REGARD TO ABSENTEE BALLOTS; TO AMEND SECTIONS 23-15-541 AND
19 23-15-719, MISSISSIPPI CODE OF 1972, IN CONFORMITY THEREWITH; AND
20 FOR RELATED PURPOSES.

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

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

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

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

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

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

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

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

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

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

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

55 (i) A current and valid United States military
56 identification card; and

57 (j) Official voter registration card.

58 (3) If an elector is unable to produce any of the items
59 of identification listed in subsection (2) of this section, he or
60 she shall sign a statement under oath on a form approved by the
61 Secretary of State, swearing or affirming that he or she is the
62 person identified on the pollbooks. One (1) of the election
63 managers, or the circuit clerk or deputy circuit clerk in the case
64 of absentee voting, shall sign the statement as a witness to the
65 oath taken by the elector. The person shall be allowed to vote
66 without undue delay. Any elector who falsely swears or affirms
67 the statement prescribed in this subsection shall be guilty of a
68 felony and, upon conviction, shall be fined not more than Five

69 Thousand Dollars (\$5,000.00) or imprisoned not less than one (1)
70 year, but not more than five (5) years, or both.

71 (4) Any person who utilizes the provision of this section to
72 intimidate a voter or to prevent from voting a person who is
73 otherwise qualified to vote shall be guilty of a misdemeanor and,
74 upon conviction, shall be punished by imprisonment for not more
75 than six (6) months or fined in an amount not to exceed One
76 Thousand Dollars (\$1,000.00), or both.

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

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

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

85 (c) The person has completed the sentence based on the
86 conviction and is not under probation or parole for the
87 conviction.

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

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

96 (b) A determination by the registrar that the
97 requirements of paragraphs (a) and (b) of subsection (1) of this
98 section are met.

99 (3) The provisions of this section shall in no way be used
100 to determine the qualifications of a juror.

101 **SECTION 3.** Section 23-15-11, Mississippi Code of 1972, is
102 amended as follows:

103 23-15-11. Every inhabitant of this state, except idiots and
104 insane persons, who is a citizen of the United States of America,
105 eighteen (18) years old and upwards, who has resided in this state
106 for thirty (30) days and for thirty (30) days in the county in
107 which he offers to vote, and for thirty (30) days in the
108 incorporated city or town in which he offers to vote, and who
109 shall have been duly registered as an elector pursuant to Section
110 23-15-33, and who has never been convicted of any crime listed in
111 Section 241, Mississippi Constitution of 1890, unless the
112 conviction has been expunged pursuant to the provisions of Section
113 2, House Bill No. _____, 2004 Regular Session, shall be a qualified
114 elector in and for the county, municipality and voting precinct of
115 his residence, and shall be entitled to vote at any election upon
116 compliance with Section 2 of House Bill No. _____, 2004 Regular
117 Session. Any person who will be eighteen (18) years of age or
118 older on or before the date of the general election and who is
119 duly registered to vote not less than thirty (30) days prior to
120 the primary election associated with such general election, may
121 vote in such primary election even though such person has not
122 reached his or her eighteenth birthday at the time such person
123 offers to vote at such primary election. No others than those
124 above included shall be entitled, or shall be allowed, to vote at
125 any election. The provisions of this section shall in no way be
126 used to determine the qualification of a juror.

127 **SECTION 4.** Section 23-15-19, Mississippi Code of 1972, is
128 amended as follows:

129 23-15-19. Except as otherwise provided in Section 2, House
130 Bill No. _____, 2004 Regular Session, any person who has been
131 convicted of any crime listed in Section 241, Mississippi
132 Constitution of 1890, shall not be registered, or if registered
133 the name of such person shall be erased from the registration book

134 on which it may be found by the registrar or by the election
135 commissioners. Whenever any person shall be convicted in the
136 circuit court of his county of any of said crimes, the registrar
137 shall thereupon erase his name from the registration book; and
138 whenever any person shall be convicted of any of said crimes in
139 any other court of any county, the presiding judge thereof shall,
140 on demand, certify the fact in writing to the registrar, who shall
141 thereupon erase the name of such person from the registration book
142 and file said certificate as a record of his office. The
143 provisions of this section shall in no way be used to determine
144 the qualifications of a juror.

145 **SECTION 5.** Section 23-15-33, Mississippi Code of 1972, is
146 amended as follows:

147 23-15-33. (1) Every person entitled to be registered as an
148 elector in compliance with the laws of this state and who has
149 signed his name on and properly completed the application for
150 registration to vote shall be registered by the registrar on the
151 registration books of the voting precinct of the residence of such
152 person.

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

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

164 (4) Every person entitled to be registered as an elector in
165 compliance with this section shall be issued by January 1, 2007, a

166 registration card that lists the elector's full name, current
167 address and precinct number.

168 **SECTION 6.** Section 23-15-631, Mississippi Code of 1972, is
169 amended as follows:

170 23-15-631. (1) The registrar shall enclose with each ballot
171 provided to an absent elector separate printed instructions
172 furnished by him containing the following:

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

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

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

199 elections held on Saturday, and the second day immediately
200 preceding elections held on other days.

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

221 (d) When the application accompanies the ballot it
222 shall not be returned in the same envelope as the ballot but shall
223 be returned in a separate preaddressed envelope provided by the
224 registrar.

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

228 (f) Any voter casting an absentee ballot who declares
229 that he requires assistance to vote by reason of blindness,
230 temporary or permanent physical disability or inability to read or
231 write, shall be entitled to receive assistance in the marking of

232 his absentee ballot and in completing the affidavit on the
233 absentee ballot envelope. The voter may be given assistance by
234 anyone of the voter's choice other than a candidate whose name
235 appears on the absentee ballot being marked, or the voter's
236 employer, or agent of that employer. In order to ensure the
237 integrity of the ballot, any person who provides assistance to an
238 absentee voter shall be required to sign and complete the
239 "Certificate of Person Providing Voter Assistance" on the absentee
240 ballot envelope.

241 (2) The Secretary of State shall prepare instructions on how
242 absent voters may comply with the identification requirements of
243 the Help America Vote Act of 2002 which shall be provided to the
244 registrar and enclosed with each absentee ballot.

245 (3) The foregoing instructions required to be provided by
246 the registrar to the elector shall also constitute the substantive
247 law pertaining to the handling of absentee ballots by the elector
248 and registrar.

249 **SECTION 7.** Section 23-15-639, Mississippi Code of 1972, is
250 amended as follows:

251 23-15-639. (1) At the close of the regular balloting and at
252 the close of the polls, the election managers of each voting
253 precinct shall first take the envelopes containing the absentee
254 ballots of such electors from the box, and the name, address and
255 precinct inscribed on each such envelope shall be announced by the
256 election managers. The signature on the application shall then be
257 compared with the signature on the back of the envelope. If it
258 corresponds and the affidavit, if one is required, is sufficient
259 and the election managers find that the applicant is a registered
260 and qualified voter or otherwise qualified to vote, and that he
261 has not appeared in person and voted at such election, the
262 envelope shall then be opened and the ballot removed from the
263 envelope, without its being unfolded, or permitted to be unfolded
264 or examined. Having observed and found the ballot to be regular

265 as far as can be observed from its official endorsement, the
266 election managers shall deposit it in the ballot box with the
267 other ballots before counting any ballots and enter the voter's
268 name in the receipt book provided for that purpose and mark
269 "VOTED" in the pollbook or poll list as if he had been present and
270 voted in person. If voting machines are used, all absentee
271 ballots shall be placed in the ballot box before any ballots are
272 counted, and the election managers in each precinct shall
273 immediately count such absentee ballots and add them to the votes
274 cast in the voting machine or device.

275 (2) The election managers shall also take such action as may
276 be prescribed by the Secretary of State to ensure compliance with
277 the identification requirements of the Help America Vote Act of
278 2002.

279 **SECTION 8.** Section 23-15-541, Mississippi Code of 1972, is
280 amended as follows:

281 23-15-541. At all elections, the polls shall be opened at
282 seven o'clock in the morning and be kept open until seven o'clock
283 in the evening and no longer. Upon the opening of the polls, and
284 not before, the managers of the election shall designate two (2)
285 of their number, other than the manager theretofore designated to
286 receive the blank ballots, who shall thereupon be known
287 respectively as the initialing manager and the alternate
288 initialing manager. The alternate initialing manager, in the
289 absence of the initialing manager, shall perform all of the duties
290 and undertake all of the responsibilities of the initialing
291 manager. When any person entitled to vote shall appear to vote,
292 the managers shall identify the voter by requiring the voter to
293 submit identification as required by Section 1 of House Bill No.
294 _____, 2004 Regular Session, and then such person shall * * * sign
295 his name in a receipt book or booklet provided for that purpose
296 and to be used at that election only and said receipt book or
297 booklet shall be used in lieu of the list of voters who have voted

298 formerly made by the managers or clerks; whereupon and not before,
299 the initialing manager or, in his absence, the alternate
300 initialing manager shall indorse his initials on the back of an
301 official blank ballot, prepared in accordance with law, and at
302 such place on the back of the ballot that the initials may be seen
303 after the ballot has been marked and folded, and when so indorsed
304 he shall deliver it to the voter, which ballot the voter shall
305 mark in the manner provided by law, which when done the voter
306 shall deliver the same to the initialing manager or, in his
307 absence, to the alternate initialing manager, in the presence of
308 the others, and the manager shall see that the ballot so delivered
309 bears on the back thereof the genuine initials of the initialing
310 manager, or alternate initialing manager, and if so, but not
311 otherwise, the ballot shall be put into the ballot box; and when
312 so done one (1) of the managers or a duly appointed clerk shall
313 make the proper entry on the pollbook. If the voter is unable to
314 write his name on the receipt book, a manager or clerk shall note
315 on the back of the ballot that it was received for by his
316 assistance.

317 **SECTION 9.** 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 registrar shall identify the
323 applicant by requiring him to present identification as required
324 by Section 1 of House Bill No. _____, 2004 Regular Session, and
325 shall then deliver the ballots to the applicant by mail or to the
326 applicant in the registrar's office. The registrar shall not
327 personally hand deliver ballots to voters, unless he delivers the
328 ballots in the office of the registrar. The elector shall fill in
329 his ballot in secret. After the applicant has properly marked the

330 ballot and properly folded it, he shall deposit it in the envelope
331 furnished him by the registrar.

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

336 "STATE OF MISSISSIPPI

337 COUNTY OF _____

338 I, _____, do solemnly swear that this envelope contains
339 the ballot marked by me indicating my choice of the candidates or
340 propositions to be submitted at the election to be held on the ___
341 day of _____, 2____, and I hereby authorize the registrar to
342 place this envelope in the ballot box on my behalf, and I further
343 authorize the election managers to open this envelope and place my
344 ballot among the other ballots cast before such ballots are
345 counted, and record my name on the poll list as if I were present
346 in person and voted.

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

348 _____
349 (Signature of voter)

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

352 (Registrar) _____
353 (Registrar)"

354 After the completion of the requirements of this section, the
355 elector shall deliver the envelope containing the ballot to the
356 registrar.

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

361 "CERTIFICATE OF PERSON PROVIDING VOTER ASSISTANCE

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

371 _____

372 Signature of person providing assistance

373 _____

374 Printed name of person providing assistance

375 _____

376 Address of person providing assistance

377 _____

378 Date and time assistance provided

379 _____

380 Family relationship to voter (if any)"

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

383 **SECTION 10.** The Attorney General of the State of Mississippi
384 shall submit this act, immediately upon approval by the Governor,
385 or upon approval by the Legislature subsequent to a veto, to the
386 Attorney General of the United States or to the United States
387 District Court for the District of Columbia in accordance with the
388 provisions of the Voting Rights Act of 1965, as amended and
389 extended.

390 **SECTION 11.** This act shall take effect and be in force from
391 and after January 1, 2005, if it is effectuated on or before that
392 date under Section 5 of the Voting Rights Act of 1965, as amended
393 and extended. If it is effectuated under Section 5 of the Voting
394 Rights Act of 1965, as amended and extended, after January 1,

395 2005, this act shall take effect and be in force from and after
396 the date it is effectuated under Section 5 of the Voting Rights
397 Act of 1965, as amended and extended.