

By: Representative Reynolds

To: Apportionment and
Elections

HOUSE BILL NO. 1

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; and

60 (k) A current identification and valid customer
61 identification card containing a photograph of the elector issued
62 by a business.

63 (3) If an elector is unable to produce any of the items of
64 identification listed in subsections (1) and (2) of this section,
65 he or she shall sign a statement under oath on a form approved by
66 the Secretary of State, swearing or affirming that he or she is
67 the person identified on the pollbooks. One (1) of the election
68 managers, or the circuit clerk or deputy circuit clerk in the case
69 of absentee voting, shall sign the statement as a witness to the

70 oath taken by the elector. The person shall be allowed to vote
71 without undue delay. Any elector who falsely swears or affirms
72 the statement prescribed in this subsection shall be guilty of a
73 felony and, upon conviction, shall be fined not more than Five
74 Thousand Dollars (\$5,000.00) or imprisoned not less than one (1)
75 year, but not more than five (5) years, or both.

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

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

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

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

91 (c) The person has completed the sentence based on the
92 conviction and is not under probation or parole for the
93 conviction;

94 (d) The person has paid full restitution for the crime
95 if such person was ordered by the sentencing court to make
96 restitution; and

97 (e) The person has paid all fines, court costs and
98 other penalties imposed by the sentencing court upon conviction.

99 (2) A person whose conviction has been expunged pursuant to
100 subsection (1) of this section and who is otherwise qualified to
101 vote, shall be registered as an elector pursuant to Section
102 23-15-33 upon:

103 (a) Presentation to the proper registrar of a discharge
104 certificate or court order evidencing the completion of the
105 sentence for the conviction and any probation based on the
106 conviction; and

107 (b) A determination by the registrar that the
108 requirements of paragraphs (a) and (b) of subsection (1) of this
109 section are met.

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

114 **SECTION 3.** (1) Within thirty (30) days after the issuance
115 of a death certificate for a person who resided in the county, the
116 Bureau of Vital Statistics of the State Board of Health, in
117 conjunction with the Secretary of State, shall notify the circuit
118 clerk of such county of the names of those for whom death
119 certificates have been issued. The circuit clerk shall make such
120 information available to the county election commissioners who are
121 charged with removing the names of deceased persons from voter
122 registration books.

123 (2) In order to comply with the provisions of this section,
124 the circuit clerk shall keep a book in which the clerk shall
125 record the names of the deceased persons and the date and manner
126 in which such names are made available to the county election
127 commissioners.

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

130 23-15-11. Every inhabitant of this state, except idiots and
131 insane persons, who is a citizen of the United States of America,
132 eighteen (18) years old and upwards, who has resided in this state
133 for thirty (30) days and for thirty (30) days in the county in
134 which he offers to vote, and for thirty (30) days in the
135 incorporated city or town in which he offers to vote, and who

136 shall have been duly registered as an elector pursuant to Section
137 23-15-33, and who has never been convicted of any crime listed in
138 Section 241, Mississippi Constitution of 1890, unless the
139 conviction has been expunged pursuant to the provisions of Section
140 2, House Bill No. _____, 2004 First Extraordinary Session, shall be
141 a qualified elector in and for the county, municipality and voting
142 precinct of his residence, and shall be entitled to vote at any
143 election upon compliance with Section 2 of House Bill No. _____,
144 2004 First Extraordinary Session. Any person who will be eighteen
145 (18) years of age or older on or before the date of the general
146 election and who is duly registered to vote not less than thirty
147 (30) days prior to the primary election associated with such
148 general election, may vote in such primary election even though
149 such person has not reached his or her eighteenth birthday at the
150 time such person offers to vote at such primary election. No
151 others than those above included shall be entitled, or shall be
152 allowed, to vote at any election. The provisions of this section
153 shall in no way be used to determine the qualification of a juror;
154 and nothing contained herein shall be construed to repeal, modify
155 or amend the provisions of Section 13-5-1.

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

158 23-15-19. Except as otherwise provided in Section 2, House
159 Bill No. _____, 2004 First Extraordinary Session, any person who
160 has been convicted of any crime listed in Section 241, Mississippi
161 Constitution of 1890, shall not be registered, or if registered
162 the name of such person shall be erased from the registration book
163 on which it may be found by the registrar or by the election
164 commissioners. Whenever any person shall be convicted in the
165 circuit court of his county of any of said crimes, the registrar
166 shall thereupon erase his name from the registration book; and
167 whenever any person shall be convicted of any of said crimes in
168 any other court of any county, the presiding judge thereof shall,

169 on demand, certify the fact in writing to the registrar, who shall
170 thereupon erase the name of such person from the registration book
171 and file said certificate as a record of his office. The
172 provisions of this section shall in no way be used to determine
173 the qualifications of a juror; and nothing contained herein shall
174 be construed to repeal, modify or amend the provisions of Section
175 13-5-1.

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

178 23-15-33. (1) Every person entitled to be registered as an
179 elector in compliance with the laws of this state and who has
180 signed his name on and properly completed the application for
181 registration to vote shall be registered by the registrar on the
182 registration books of the voting precinct of the residence of such
183 person.

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

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

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

199 **SECTION 7.** Section 23-15-631, Mississippi Code of 1972, is
200 amended as follows:

201 23-15-631. (1) The registrar shall enclose with each ballot
202 provided to an absent elector separate printed instructions
203 furnished by him containing the following:

204 (a) All absentee voters, excepting those with temporary
205 or permanent physical disabilities or those who are sixty-five
206 (65) years of age or older, who mark their ballots in the county
207 of the residence shall use the registrar of that county as the
208 witness. Said absentee voter shall come to the office of the
209 registrar and neither the registrar nor his deputy shall be
210 required to go out of the registrar's office to serve as an
211 attesting witness.

212 (b) Upon receipt of the enclosed ballot, you will not
213 mark same except in view or sight of the attesting witness. In
214 the sight or view of the attesting witness, mark the ballot
215 according to instructions.

216 (c) After marking the ballot, fill out and sign the
217 "ELECTOR'S CERTIFICATE" on back of the envelope so that the
218 signature shall be across the flap of the envelope so as to insure
219 the integrity of the ballot. All absent electors shall have the
220 attesting witness sign the "ATTESTING WITNESS CERTIFICATE" across
221 the flap on back of the envelope. Place necessary postage on the
222 envelope and deposit it in the post office or some government
223 receptacle provided for deposit of mail so that the absent
224 elector's ballot, excepting presidential absentee ballots, will
225 reach the registrar in which your precinct is located not later
226 than 5:00 p.m. on the day preceding the date of the election, or
227 by personally delivering such ballot to the registrar's office not
228 later than 12:00 noon on the Saturday immediately preceding
229 elections held on Tuesday, the Thursday immediately preceding
230 elections held on Saturday, and the second day immediately
231 preceding elections held on other days.

232 Any notary public, United States postmaster, assistant United
233 States postmaster, United States postal supervisor, clerk in

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

252 (d) When the application accompanies the ballot it
253 shall not be returned in the same envelope as the ballot but shall
254 be returned in a separate preaddressed envelope provided by the
255 registrar.

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

259 (f) Any voter casting an absentee ballot who declares
260 that he requires assistance to vote by reason of blindness,
261 temporary or permanent physical disability or inability to read or
262 write, shall be entitled to receive assistance in the marking of
263 his absentee ballot and in completing the affidavit on the
264 absentee ballot envelope. The voter may be given assistance by
265 anyone of the voter's choice other than a candidate whose name
266 appears on the absentee ballot being marked, or the voter's

267 employer, or agent of that employer. In order to ensure the
268 integrity of the ballot, any person who provides assistance to an
269 absentee voter shall be required to sign and complete the
270 "Certificate of Person Providing Voter Assistance" on the absentee
271 ballot envelope.

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

276 (3) The foregoing instructions required to be provided by
277 the registrar to the elector shall also constitute the substantive
278 law pertaining to the handling of absentee ballots by the elector
279 and registrar.

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

282 23-15-639. (1) At the close of the regular balloting and at
283 the close of the polls, the election managers of each voting
284 precinct shall first take the envelopes containing the absentee
285 ballots of such electors from the box, and the name, address and
286 precinct inscribed on each such envelope shall be announced by the
287 election managers. The signature on the application shall then be
288 compared with the signature on the back of the envelope. If it
289 corresponds and the affidavit, if one is required, is sufficient
290 and the election managers find that the applicant is a registered
291 and qualified voter or otherwise qualified to vote, and that he
292 has not appeared in person and voted at such election, the
293 envelope shall then be opened and the ballot removed from the
294 envelope, without its being unfolded, or permitted to be unfolded
295 or examined. Having observed and found the ballot to be regular
296 as far as can be observed from its official endorsement, the
297 election managers shall deposit it in the ballot box with the
298 other ballots before counting any ballots and enter the voter's
299 name in the receipt book provided for that purpose and mark

300 "VOTED" in the pollbook or poll list as if he had been present and
301 voted in person. If voting machines are used, all absentee
302 ballots shall be placed in the ballot box before any ballots are
303 counted, and the election managers in each precinct shall
304 immediately count such absentee ballots and add them to the votes
305 cast in the voting machine or device.

306 (2) The election managers shall also take such action as may
307 be prescribed by the Secretary of State to ensure compliance with
308 the identification requirements of the Help America Vote Act of
309 2002.

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

312 23-15-541. At all elections, the polls shall be opened at
313 seven o'clock in the morning and be kept open until seven o'clock
314 in the evening and no longer. Upon the opening of the polls, and
315 not before, the managers of the election shall designate two (2)
316 of their number, other than the manager theretofore designated to
317 receive the blank ballots, who shall thereupon be known
318 respectively as the initialing manager and the alternate
319 initialing manager. The alternate initialing manager, in the
320 absence of the initialing manager, shall perform all of the duties
321 and undertake all of the responsibilities of the initialing
322 manager. When any person entitled to vote shall appear to vote,
323 the managers shall identify the voter by requiring the voter to
324 submit identification as required by Section 1 of House Bill No.
325 ____, 2004 First Extraordinary Session, and then such person
326 shall * * * sign his name in a receipt book or booklet provided
327 for that purpose and to be used at that election only and said
328 receipt book or booklet shall be used in lieu of the list of
329 voters who have voted formerly made by the managers or clerks;
330 whereupon and not before, the initialing manager or, in his
331 absence, the alternate initialing manager shall indorse his
332 initials on the back of an official blank ballot, prepared in

333 accordance with law, and at such place on the back of the ballot
334 that the initials may be seen after the ballot has been marked and
335 folded, and when so indorsed he shall deliver it to the voter,
336 which ballot the voter shall mark in the manner provided by law,
337 which when done the voter shall deliver the same to the initialing
338 manager or, in his absence, to the alternate initialing manager,
339 in the presence of the others, and the manager shall see that the
340 ballot so delivered bears on the back thereof the genuine initials
341 of the initialing manager, or alternate initialing manager, and if
342 so, but not otherwise, the ballot shall be put into the ballot
343 box; and when so done one (1) of the managers or a duly appointed
344 clerk shall make the proper entry on the pollbook. If the voter
345 is unable to write his name on the receipt book, a manager or
346 clerk shall note on the back of the ballot that it was receipted
347 for by his assistance.

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

350 23-15-719. (1) Immediately upon completion of an
351 application filed pursuant to the provisions of paragraph (a) of
352 Section 23-15-715, the registrar shall deliver the necessary
353 ballots to the applicant. The registrar shall identify the
354 applicant by requiring him to present identification as required
355 by Section 1 of House Bill No. _____, 2004 First Extraordinary
356 Session, and shall then deliver the ballots to the applicant by
357 mail or to the applicant in the registrar's office. The registrar
358 shall not personally hand deliver ballots to voters, unless he
359 delivers the ballots in the office of the registrar. The elector
360 shall fill in his ballot in secret. After the applicant has
361 properly marked the ballot and properly folded it, he shall
362 deposit it in the envelope furnished him by the registrar.

363 After he has sealed the envelope, he shall subscribe and
364 swear to an affidavit in the following form, which shall be

365 printed on the back of the envelope containing the applicant's
366 ballot:

367 "STATE OF MISSISSIPPI
368 COUNTY OF _____

369 I, _____, do solemnly swear that this envelope contains
370 the ballot marked by me indicating my choice of the candidates or
371 propositions to be submitted at the election to be held on the ____
372 day of _____, 2____, and I hereby authorize the registrar to
373 place this envelope in the ballot box on my behalf, and I further
374 authorize the election managers to open this envelope and place my
375 ballot among the other ballots cast before such ballots are
376 counted, and record my name on the poll list as if I were present
377 in person and voted.

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

379 _____
380 (Signature of voter)

381 SWORN TO AND SUBSCRIBED before me, _____, this the ____
382 day of _____, 2____.

383 (Registrar) _____
384 (Registrar)"

385 After the completion of the requirements of this section, the
386 elector shall deliver the envelope containing the ballot to the
387 registrar.

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

392 "CERTIFICATE OF PERSON PROVIDING VOTER ASSISTANCE

393 (To be completed only if the voter has received assistance in
394 marking the enclosed ballot.) I hereby certify that the
395 above-named voter declared to me that he or she is blind,
396 temporarily or permanently physically disabled, or cannot read or
397 write, and that the voter requested that I assist the voter in

398 marking the enclosed absentee ballot. I hereby certify that the
399 ballot preferences on the enclosed ballot are those communicated
400 by the voter to me, and that I have marked the enclosed ballot in
401 accordance with the voter's instructions.

402 _____
403 Signature of person providing assistance

404 _____
405 Printed name of person providing assistance

406 _____
407 Address of person providing assistance

408 _____
409 Date and time assistance provided

410 _____
411 Family relationship to voter (if any)"

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

414 **SECTION 11.** The Attorney General of the State of Mississippi
415 shall submit this act, immediately upon approval by the Governor,
416 or upon approval by the Legislature subsequent to a veto, to the
417 Attorney General of the United States or to the United States
418 District Court for the District of Columbia in accordance with the
419 provisions of the Voting Rights Act of 1965, as amended and
420 extended.

421 **SECTION 12.** This act shall take effect and be in force from
422 and after January 1, 2005, if it is effectuated on or before that
423 date under Section 5 of the Voting Rights Act of 1965, as amended
424 and extended. If it is effectuated under Section 5 of the Voting
425 Rights Act of 1965, as amended and extended, after January 1,
426 2005, this act shall take effect and be in force from and after
427 the date it is effectuated under Section 5 of the Voting Rights
428 Act of 1965, as amended and extended.