

By: Representative Rotenberry

To: Apportionment and
Elections

HOUSE BILL NO. 382

1 AN ACT TO AMEND SECTIONS 23-15-627 AND 23-15-631, MISSISSIPPI
2 CODE OF 1972, TO PROHIBIT THE ISSUANCE OF AN ABSENTEE BALLOT TO
3 INCARCERATED PERSONS; AND FOR RELATED PURPOSES.

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

5 **SECTION 1.** Section 23-15-627, Mississippi Code of 1972, is
6 amended as follows:

7 23-15-627. The registrar shall be responsible for furnishing
8 an absentee ballot application form to any elector authorized to
9 receive an absentee ballot. Absentee ballot applications shall be
10 furnished to a person only upon the oral or written request of the
11 elector who seeks to vote by absentee ballot; however, the parent,
12 child, spouse, sibling, legal guardian, those empowered with a
13 power of attorney for that elector's affairs or agent of the
14 elector may orally request an absentee ballot application on
15 behalf of the elector. An absentee ballot application must have
16 the seal of the circuit or municipal clerk affixed to it and be
17 initialed by the registrar or his deputy in order to be utilized
18 to obtain an absentee ballot. A reproduction of an absentee
19 ballot application shall not be valid unless it is a reproduction
20 provided by the office of the registrar of the jurisdiction in
21 which the election is being held and which contains the seal and
22 initials required by this section. An application shall not be
23 accepted from a person who is imprisoned at the time of making the
24 application. Such application shall be substantially in the
25 following form:

26 "OFFICIAL APPLICATION FOR ABSENT ELECTOR'S BALLOT

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

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

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

38 () I am a member of the Merchant Marine or the American Red
39 Cross and am a citizen of Mississippi or spouse or dependent of
40 such member.

41 () I am a disabled war veteran who is a patient in any
42 hospital and am a citizen of Mississippi or spouse or dependent of
43 such veteran.

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

48 () I am a citizen of Mississippi temporarily residing
49 outside the territorial limits of the United States and the
50 District of Columbia.

51 () I am a student, teacher or administrator at a college,
52 university, junior or community college, high, junior high,
53 elementary or grade school, whose studies or employment at such
54 institution necessitates my absence from the county of my voting
55 residence or spouse or dependent of such student, teacher or
56 administrator who maintains a common domicile outside the county
57 of my voting residence with such student, teacher or
58 administrator.

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

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

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

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

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

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

71 () I am not currently serving a sentence of imprisonment.

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

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

76 I realize that I can be fined up to Five Thousand Dollars
77 (\$5,000.00) and sentenced up to five (5) years in the Penitentiary
78 for making a false statement in this application and for selling
79 my vote and violating the Mississippi Absentee Voter Law. (This
80 sentence is to be in bold print.)

81 If you are temporarily or permanently disabled, you are not
82 required to have this application notarized or signed by an
83 official authorized to administer oaths for absentee balloting.
84 You are required to sign this application in the proper place and
85 have a person eighteen (18) years of age or older witness your
86 signature and sign this application in the proper place.

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

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

91 _____

92 (Signature of absent elector)

93 SWORN TO AND SUBSCRIBED before me this the ____ day of _____,
94 2____.

95 _____
96 (Official authorized to administer oaths
97 for absentee balloting.)

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

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

104 _____
105 (Signature of witness)

106 CERTIFICATE OF DELIVERY

107 I hereby certify that _____ (print name of voter)
108 has requested that I, _____ (print name of person
109 delivering application), deliver to the voter this absentee ballot
110 application.

111 _____
112 (Signature of person delivering application)

113 _____
114 (Address of person delivering application)"

115 **SECTION 2.** Section 23-15-631, Mississippi Code of 1972, is
116 amended as follows:

117 23-15-631. (1) The registrar shall enclose with each ballot
118 provided to an absent elector separate printed instructions
119 furnished by him containing the following:

120 (a) All absentee voters, excepting those with temporary
121 or permanent physical disabilities or those who are sixty-five
122 (65) years of age or older, who mark their ballots in the county
123 of the residence shall use the registrar of that county as the
124 witness. Said absentee voter shall come to the office of the
125 registrar and neither the registrar nor his deputy shall be

126 required to go out of the registrar's office to serve as an
127 attesting witness.

128 (b) Upon receipt of the enclosed ballot, you will not
129 mark same except in view or sight of the attesting witness. In
130 the sight or view of the attesting witness, mark the ballot
131 according to instructions.

132 (c) After marking the ballot, fill out and sign the
133 "ELECTOR'S CERTIFICATE" on back of the envelope so that the
134 signature shall be across the flap of the envelope so as to insure
135 the integrity of the ballot. All absent electors shall have the
136 attesting witness sign the "ATTESTING WITNESS CERTIFICATE" across
137 the flap on back of the envelope. Place necessary postage on the
138 envelope and deposit it in the post office or some government
139 receptacle provided for deposit of mail so that the absent
140 elector's ballot, excepting presidential absentee ballots, will
141 reach the registrar in which your precinct is located not later
142 than 5:00 p.m. on the day preceding the date of the election, or
143 by personally delivering such ballot to the registrar's office not
144 later than 12:00 noon on the Saturday immediately preceding
145 elections held on Tuesday, the Thursday immediately preceding
146 elections held on Saturday, and the second day immediately
147 preceding elections held on other days.

148 Any notary public, United States postmaster, assistant United
149 States postmaster, United States postal supervisor, clerk in
150 charge of a contract postal station, or any officer having
151 authority to administer an oath or take an acknowledgment may be
152 an attesting witness; provided, however, that in the case of an
153 absent elector who is temporarily or permanently physically
154 disabled, the attesting witness may be any person eighteen (18)
155 years of age or older and such person is not required to have the
156 authority to administer an oath. If a postmaster, assistant
157 postmaster, postal supervisor, or clerk in charge of a contract
158 postal station acts as an attesting witness, his signature on the

159 elector's certificate must be authenticated by the cancellation
160 stamp of their respective post offices. If one or the other
161 officers herein named acts as attesting witness, his signature on
162 the elector's certificate, together with his title and address,
163 but no seal, shall be required. Any affidavits made by an absent
164 elector who is in the Armed Forces may be executed before a
165 commissioned officer, warrant officer, or noncommissioned officer
166 not lower in grade than sergeant rating or any person authorized
167 to administer oaths.

168 (d) When the application accompanies the ballot it
169 shall not be returned in the same envelope as the ballot but shall
170 be returned in a separate preaddressed envelope provided by the
171 registrar.

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

175 (f) Any voter casting an absentee ballot who declares
176 that he requires assistance to vote by reason of blindness,
177 temporary or permanent physical disability or inability to read or
178 write, shall be entitled to receive assistance in the marking of
179 his absentee ballot and in completing the affidavit on the
180 absentee ballot envelope. The voter may be given assistance by
181 anyone of the voter's choice other than a candidate whose name
182 appears on the absentee ballot being marked, or the voter's
183 employer, or agent of that employer. In order to ensure the
184 integrity of the ballot, any person who provides assistance to an
185 absentee voter shall be required to sign and complete the
186 "Certificate of Person Providing Voter Assistance" on the absentee
187 ballot envelope.

188 (g) Any person who is currently serving a sentence of
189 imprisonment may not make an application for an absentee ballot.

190 (2) The foregoing instructions required to be provided by
191 the registrar to the elector shall also constitute the substantive

192 law pertaining to the handling of absentee ballots by the elector
193 and registrar.

194 **SECTION 3.** The Attorney General of the State of Mississippi
195 shall submit this act, immediately upon approval by the Governor,
196 or upon approval by the Legislature subsequent to a veto, to the
197 Attorney General of the United States or to the United States
198 District Court for the District of Columbia in accordance with the
199 provisions of the Voting Rights Act of 1965, as amended and
200 extended.

201 **SECTION 4.** This act shall take effect and be in force from
202 and after the date it is effectuated under Section 5 of the Voting
203 Rights Act of 1965, as amended and extended.