

By: Representatives Sullivan, Rotenberry,
Montgomery, Turner, Ward

To: Apportionment and
Elections

HOUSE BILL NO. 1388

1 AN ACT TO REQUIRE PERSONS, EXCEPT THOSE BORN BEFORE 1942, WHO
2 APPEAR TO VOTE IN PERSON AT A POLLING PLACE OR THE REGISTRAR'S
3 OFFICE TO IDENTIFY THEMSELVES BY PRESENTING CERTAIN TYPES OF
4 IDENTIFICATION TO AN ELECTION MANAGER OR THE REGISTRAR BEFORE THEY
5 ARE ALLOWED TO VOTE; TO PROVIDE THAT ANY PERSON WHO INTIMIDATES A
6 VOTER SHALL BE GUILTY OF A FELONY; TO AMEND SECTION 23-15-33,
7 MISSISSIPPI CODE OF 1972, TO PROVIDE THAT EVERY PERSON ENTITLED TO
8 BE REGISTERED AS AN ELECTOR SHALL BE ISSUED BY JANUARY 1, 2008, A
9 REGISTRATION CARD WITH THE ELECTOR'S PHOTOGRAPH AND THAT LISTS THE
10 IDENTIFICATION CARDHOLDER NUMBER REQUIRED UNDER THE PROVISIONS OF
11 LAW REGULATING THE STATEWIDE CENTRALIZED VOTER SYSTEM; TO AMEND
12 SECTION 23-15-169.1, MISSISSIPPI CODE OF 1972, TO REQUIRE THE
13 SECRETARY OF STATE AND THE COMMISSIONER OF PUBLIC SAFETY TO ENTER
14 INTO AN AGREEMENT TO PRODUCE VOTER REGISTRATION CARDS WITH
15 PHOTOGRAPHS OF THE REGISTERED ELECTOR BY A CERTAIN DATE; TO BRING
16 FORWARD SECTION 23-15-163, MISSISSIPPI CODE OF 1972, THAT PROVIDES
17 THE PURPOSES OF A CENTRALIZED STATEWIDE QUALIFIED VOTER FILE; TO
18 AMEND SECTIONS 23-15-631 AND 23-15-639, MISSISSIPPI CODE OF 1972,
19 TO AUTHORIZE THE SECRETARY OF STATE TO TAKE CERTAIN ACTION TO
20 ENSURE THAT THE IDENTIFICATION REQUIREMENTS OF THE HELP AMERICA
21 VOTE ACT OF 2002 ARE MET IN REGARD TO ABSENTEE BALLOTS; TO AMEND
22 SECTIONS 23-15-11, 23-15-541 AND 23-15-719, MISSISSIPPI CODE OF
23 1972, IN CONFORMITY THERETO; AND FOR RELATED PURPOSES.

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

25 **SECTION 1.** (1) Each person, except a person born before
26 1942, who shall appear to vote in person at a polling place or the
27 registrar's office shall be required to identify himself or
28 herself to an election manager or the registrar by presenting
29 current state-issued photo identification.

30 (2) (a) Through December 31, 2007, the identification
31 required by subsection (1) of this section shall be limited to,
32 the following:

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

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

38 (iii) A current and valid United States passport;

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

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

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

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

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

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

59 (x) Official voter registration card; or

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

63 (b) On and after January 1, 2008, the identification
64 required by subsection (1) of this section shall be limited to the
65 following:

66 (i) A current and valid Mississippi driver's
67 license; or

68 (ii) A voter registration card with the elector's
69 photograph and that lists the identification cardholder number

70 required under the provisions of law regulating the Statewide
71 Centralized Voter System.

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

79 **SECTION 2.** Section 23-15-33, Mississippi Code of 1972, is
80 amended as follows:

81 23-15-33. (1) Every person entitled to be registered as an
82 elector in compliance with the laws of this state and who has
83 signed his name on and properly completed the application for
84 registration to vote shall be registered by the registrar in the
85 voting precinct of the residence of such person through the
86 Statewide Elections Management System.

87 (2) Every person entitled to be registered as an elector in
88 compliance with the laws of this state and who registers to vote
89 pursuant to the National Voter Registration Act of 1993 shall be
90 registered by the registrar in the voting precinct of the
91 residence of such person through the Statewide Elections
92 Management System.

93 (3) Every person entitled to be registered as an elector in
94 compliance with this section shall be issued by January 1, 2008, a
95 registration card with the elector's photograph and that lists the
96 identification cardholder number required under the provisions of
97 law regulating the Statewide Centralized Voter System.

98 **SECTION 3.** Section 23-15-169.1, Mississippi Code of 1972, is
99 amended as follows:

100 23-15-169.1. (1) The Secretary of State and the
101 Commissioner of Public Safety shall enter into an agreement to
102 grant the Secretary of State's Office "read only" access to the

103 driver's license database and identification cardholder database
104 for the purpose of matching information in the database of the
105 Statewide Centralized Voter System created in Section 23-15-163 et
106 seq. to the extent required to enable the Secretary of State to
107 verify the accuracy of information provided on applications for
108 voter registration in compliance with the Help America Vote Act of
109 2002.

110 (2) The Secretary of State and the Commissioner of Public
111 Safety shall enter into an agreement to produce voter registration
112 cards with photographs of the registered elector. Each card shall
113 contain the identification cardholder number required under the
114 provisions of law regulating the Statewide Centralized Voter
115 System. Such card shall be distributed to all qualified electors
116 by January 1, 2008, at no cost to such electors.

117 **SECTION 4.** Section 23-15-163, Mississippi Code of 1972, is
118 brought forward as follows:

119 23-15-163. The purposes of this subarticle are:

120 (a) To establish a centralized statewide qualified
121 voter file that consists of all qualified electors who are
122 registered to vote;

123 (b) To enhance the uniformity of the administration of
124 elections by creating and maintaining a centralized statewide file
125 of qualified voters;

126 (c) To increase the efficiency and decrease the cost of
127 maintaining voter registration records and implementing the
128 National Voter Registration Act of 1993;

129 (d) To increase the integrity of the voting process by
130 compiling a single centralized qualified voter file from county
131 voter roll data that will permit the name of each citizen of this
132 state to appear only once;

133 (e) To apply technology and information gathered by
134 principal executive departments of state government, state
135 agencies and local voter registrars in a manner that ensures that

136 accurate and current records of qualified voters are maintained
137 and to secure cooperation among all state and county entities to
138 develop systems and processes that are interfaced with the
139 Centralized Statewide Voter System; and

140 (f) To enable the state to receive federal funds which
141 may be available to carry out provisions of this subarticle.

142 **SECTION 5.** Section 23-15-631, Mississippi Code of 1972, is
143 amended as follows:

144 23-15-631. (1) The registrar shall enclose with each ballot
145 provided to an absent elector separate printed instructions
146 furnished by him containing the following:

147 (a) All absentee voters, excepting those with temporary
148 or permanent physical disabilities or those who are sixty-five
149 (65) years of age or older, who mark their ballots in the county
150 of the residence shall use the registrar of that county as the
151 witness. The absentee voter shall come to the office of the
152 registrar and neither the registrar nor his deputy shall be
153 required to go out of the registrar's office to serve as an
154 attesting witness.

155 (b) Upon receipt of the enclosed ballot, you will not
156 mark the ballot except in view or sight of the attesting witness.
157 In the sight or view of the attesting witness, mark the ballot
158 according to instructions.

159 (c) After marking the ballot, fill out and sign the
160 "ELECTOR'S CERTIFICATE" on back of the envelope so that the
161 signature shall be across the flap of the envelope so as to insure
162 the integrity of the ballot. All absent electors shall have the
163 attesting witness sign the "ATTESTING WITNESS CERTIFICATE" across
164 the flap on back of the envelope. Place necessary postage on the
165 envelope and deposit it in the post office or some government
166 receptacle provided for deposit of mail so that the absent
167 elector's ballot, excepting presidential absentee ballots, will

168 reach the registrar in which your precinct is located not later
169 than 5:00 p.m. on the day preceding the date of the election.

170 Any notary public, United States postmaster, assistant United
171 States postmaster, United States postal supervisor, clerk in
172 charge of a contract postal station, or any officer having
173 authority to administer an oath or take an acknowledgment may be
174 an attesting witness; provided, however, that in the case of an
175 absent elector who is temporarily or permanently physically
176 disabled, the attesting witness may be any person eighteen (18)
177 years of age or older and such person is not required to have the
178 authority to administer an oath. If a postmaster, assistant
179 postmaster, postal supervisor, or clerk in charge of a contract
180 postal station acts as an attesting witness, his signature on the
181 elector's certificate must be authenticated by the cancellation
182 stamp of their respective post offices. If one or the other
183 officers herein named acts as attesting witness, his signature on
184 the elector's certificate, together with his title and address,
185 but no seal, shall be required. Any affidavits made by an absent
186 elector who is in the Armed Forces may be executed before a
187 commissioned officer, warrant officer, or noncommissioned officer
188 not lower in grade than sergeant rating or any person authorized
189 to administer oaths.

190 (d) When the application accompanies the ballot it
191 shall not be returned in the same envelope as the ballot but shall
192 be returned in a separate preaddressed envelope provided by the
193 registrar.

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

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

201 his absentee ballot and in completing the affidavit on the
202 absentee ballot envelope. The voter may be given assistance by
203 anyone of the voter's choice other than a candidate whose name
204 appears on the absentee ballot being marked, or the voter's
205 employer, or agent of that employer. In order to ensure the
206 integrity of the ballot, any person who provides assistance to an
207 absentee voter shall be required to sign and complete the
208 "Certificate of Person Providing Voter Assistance" on the absentee
209 ballot envelope.

210 (2) The foregoing instructions required to be provided by
211 the registrar to the elector shall also constitute the substantive
212 law pertaining to the handling of absentee ballots by the elector
213 and registrar.

214 (3) The Secretary of State shall prepare instructions on how
215 absent voters may comply with the identification requirements of
216 Section 1 of House Bill No. _____, 2007 Regular Session.

217 **SECTION 6.** Section 23-15-639, Mississippi Code of 1972, is
218 amended as follows:

219 23-15-639. (1) In elections in which direct recording
220 electronic voting systems are not utilized, the examination and
221 counting of absentee ballots shall be conducted as follows:

222 (a) At the close of the regular balloting and at the
223 close of the polls, the election managers of each voting precinct
224 shall first take the envelopes containing the absentee ballots of
225 such electors from the box, and the name, address and precinct
226 inscribed on each envelope shall be announced by the election
227 managers.

228 (b) The signature on the application shall then be
229 compared with the signature on the back of the envelope. If it
230 corresponds and the affidavit, if one is required, is sufficient
231 and the election managers find that the applicant is a registered
232 and qualified voter or otherwise qualified to vote, and that he
233 has not appeared in person and voted at the election, the envelope

234 shall then be opened and the ballot removed from the envelope,
235 without its being unfolded, or permitted to be unfolded or
236 examined.

237 (c) Having observed and found the ballot to be regular
238 as far as can be observed from its official endorsement, the
239 election managers shall deposit it in the ballot box with the
240 other ballots before counting any ballots and enter the voter's
241 name in the receipt book provided for that purpose and mark
242 "VOTED" in the pollbook or poll list as if he had been present and
243 voted in person. If voting machines are used, all absentee
244 ballots shall be placed in the ballot box before any ballots are
245 counted, and the election managers in each precinct shall
246 immediately count such absentee ballots and add them to the votes
247 cast in the voting machine or device.

248 (2) In elections in which direct recording electronic voting
249 systems are utilized, the examination and counting of absentee
250 ballots shall be conducted as follows:

251 (a) At the close of the regular balloting and at the
252 close of the polls, the election managers of each voting precinct
253 shall first take the envelopes containing the absentee ballots of
254 such electors from the box, and the name, address and precinct
255 inscribed on each envelope shall be announced by the election
256 managers.

257 (b) The signature on the application shall then be
258 compared with the signature on the back of the envelope. If it
259 corresponds and the affidavit, if one is required, is sufficient
260 and the election managers find that the applicant is a registered
261 and qualified voter or otherwise qualified to vote, and that he
262 has not appeared in person and voted at the election, the unopened
263 envelope shall be marked "ACCEPTED" and the election managers
264 shall enter the voter's name in the receipt book provided for that
265 purpose and mark "VOTED" in the pollbook or poll list as if he had
266 been present and voted in person.

267 (c) All absentee ballot envelopes shall then be placed
268 in the secure ballot transfer case and delivered to the officials
269 in charge of conducting the election at the central tabulation
270 point of the county. The official in charge of the election shall
271 open the envelopes marked "ACCEPTED" and remove the ballot from
272 the envelope.

273 (d) Having observed the ballot to be regular as far as
274 can be observed from its official endorsement, the absentee ballot
275 shall be processed through the central optical scanner. The
276 scanned totals shall then be combined with the direct recording
277 electronic voting system totals for the unofficial vote count.

278 When there is a conflict between an electronic voting system
279 and a paper record, then there is a rebuttable presumption that
280 the paper record is correct.

281 (3) The election managers shall also take such action as may
282 be prescribed by the Secretary of State to ensure compliance with
283 the identification requirements of Section 1 of House Bill No.
284 _____, 2007 Regular Session.

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

287 23-15-11. Every inhabitant of this state, except idiots and
288 insane persons, who is a citizen of the United States of America,
289 eighteen (18) years old and upwards, who has resided in this state
290 for thirty (30) days and for thirty (30) days in the county in
291 which he offers to vote, and for thirty (30) days in the
292 incorporated city or town in which he offers to vote, and who
293 shall have been duly registered as an elector pursuant to Section
294 23-15-33, and who has never been convicted of any crime listed in
295 Section 241, Mississippi Constitution of 1890, shall be a
296 qualified elector in and for the county, municipality and voting
297 precinct of his residence, and shall be entitled to vote at any
298 election upon compliance with Section 1 of House Bill No. _____,
299 2007 Regular Session. Any person who will be eighteen (18) years

300 of age or older on or before the date of the general election and
301 who is duly registered to vote not less than thirty (30) days
302 prior to the primary election associated with such general
303 election, may vote in such primary election even though such
304 person has not reached his or her eighteenth (18th) birthday at
305 the time such person offers to vote at such primary election. No
306 others than those above included shall be entitled, or shall be
307 allowed, to vote at any election.

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

310 23-15-541. At all elections, the polls shall be opened at
311 seven o'clock in the morning and be kept open until seven o'clock
312 in the evening and no longer. Upon the opening of the polls, and
313 not before, the managers of the election shall designate two (2)
314 of their number, other than the manager theretofore designated to
315 receive the blank ballots, who shall thereupon be known
316 respectively as the initialing manager and the alternate
317 initialing manager. The alternate initialing manager, in the
318 absence of the initialing manager, shall perform all of the duties
319 and undertake all of the responsibilities of the initialing
320 manager. When any person entitled to vote shall appear to vote,
321 the managers shall identify the voter by requiring the voter to
322 submit identification as required by Section 1 of House Bill No.
323 _____, 2007 Regular Session, and then such person shall * * * sign
324 his name in a receipt book or booklet provided for that purpose
325 and to be used at that election only and said receipt book or
326 booklet shall be used in lieu of the list of voters who have voted
327 formerly made by the managers or clerks; whereupon and not before,
328 the initialing manager or, in his absence, the alternate
329 initialing manager shall indorse his initials on the back of an
330 official blank ballot, prepared in accordance with law, and at
331 such place on the back of the ballot that the initials may be seen
332 after the ballot has been marked and folded, and when so indorsed

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

346 **SECTION 9.** Section 23-15-719, Mississippi Code of 1972, is
347 amended as follows:

348 23-15-719. (1) Immediately upon completion of an
349 application filed pursuant to the provisions of paragraph (a) of
350 Section 23-15-715, the registrar shall deliver the necessary
351 ballots to the applicant. The registrar shall identify the
352 applicant by requiring him to present identification as required
353 by Section 1 of House Bill No. _____, 2007 Regular Session, and
354 shall then deliver the ballots to the applicant by mail or to the
355 applicant in the registrar's office. The registrar shall not
356 personally hand deliver ballots to voters, unless he delivers the
357 ballots in the office of the registrar. The elector shall fill in
358 his ballot in secret. After the applicant has properly marked the
359 ballot and properly folded it, he shall deposit it in the envelope
360 furnished him by the registrar.

361 After he has sealed the envelope, he shall subscribe and
362 swear to an affidavit in the following form, which shall be
363 printed on the back of the envelope containing the applicant's
364 ballot:

365 "STATE OF MISSISSIPPI

366 COUNTY OF _____

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

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

377 _____

378 (Signature of voter)

379 SWORN TO AND SUBSCRIBED before me, _____, this the ___

380 day of _____, 2____.

381 (Registrar) _____

382 (Registrar)"

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

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

390 "CERTIFICATE OF PERSON PROVIDING VOTER ASSISTANCE

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

398 by the voter to me, and that I have marked the enclosed ballot in
399 accordance with the voter's instructions.

400 _____

401 Signature of person providing assistance

402 _____

403 Printed name of person providing assistance

404 _____

405 Address of person providing assistance

406 _____

407 Date and time assistance provided

408 _____

409 Family relationship to voter (if any)"

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

412 **SECTION 10.** The Attorney General of the State of Mississippi
413 shall submit this act, immediately upon approval by the Governor,
414 or upon approval by the Legislature subsequent to a veto, to the
415 Attorney General of the United States or to the United States
416 District Court for the District of Columbia in accordance with the
417 provisions of the Voting Rights Act of 1965, as amended and
418 extended.

419 **SECTION 11.** This act shall take effect and be in force from
420 and after the date it is effectuated under Section 5 of the Voting
421 Rights Act of 1965, as amended and extended.