To: Rules

MISSISSIPPI LEGISLATURE
REGULAR SESSION 2020

By: Senator(s) Blount, Simmons (12th),
Norwood, Jordan

SENATE BILL NO. 3062


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

SECTION 1. Section 23-15-713, Mississippi Code of 1972, is amended as follows:

23-15-713. (1) For the purpose of this subarticle, any duly qualified elector may vote as provided in this subarticle if the elector falls within at least one (1) of the following categories:

(a) Any qualified elector who is a bona fide student, teacher or administrator at any college, university, junior college, high, junior high, or elementary grade school whose studies or employment at such institution necessitates his or her absence from the county of his or her voting residence on the date of any primary, general or special election, or the spouse and dependents of that student, teacher or administrator if such
spouse or dependent(s) maintain a common domicile, outside of the
county of his or her voting residence, with such student, teacher
or administrator.

(b) Any qualified elector who is required to be away
from his or her place of residence on any election day due to his
or her employment as an employee of a member of the Mississippi
congressional delegation and the spouse and dependents of such
person if he or she shall be residing with such absentee voter
away from the county of the spouse's voting residence.

(c) Any qualified elector who is away from his or her
county of residence on election day for any reason.

(d) Any person who has a temporary or permanent
physical disability and who, because of such disability, is unable
to vote in person without substantial hardship to himself, herself
or others, or whose attendance at the voting place could
reasonably cause danger to himself, herself or others. * * *

(e) The parent, spouse or dependent of a person with a
temporary or permanent physical disability who is hospitalized
outside of his or her county of residence or more than fifty (50)
miles distant from his or her residence, if the parent, spouse or
dependent will be with such person on election day. * * *

(f) Any person who is sixty-five (65) years of age or
older.
(g) Any member of the Mississippi congressional delegation absent from Mississippi on election day, and the spouse and dependents of such member of the congressional delegation.

(h) Any qualified elector who will be unable to vote in person because he or she is required to be at work on election day during the times at which the polls will be open.

(2) Notwithstanding subsection (1) of this section, any duly qualified elector may vote as provided in this subarticle for the 2020 general election due to the COVID-19 pandemic.

SECTION 2. Section 23-15-627, Mississippi Code of 1972, is amended as follows:

23-15-627. Any elector described in Section 23-15-713 may request an absentee ballot application and vote in person at the office of the registrar in the county in which he or she resides. The registrar shall be responsible for furnishing an absentee ballot application form to any elector authorized to receive an absentee ballot. Except as otherwise provided in Section 23-15-625, absentee ballot applications shall be furnished to a person only upon the oral or written request of the elector who seeks to vote by absentee ballot; however, the parent, child, spouse, sibling, legal guardian, those empowered with a power of attorney for that elector's affairs or agent of the elector, who is designated in writing and witnessed by a resident of this state who shall write his or her physical address on such designation, may orally request an absentee ballot application on behalf of the
elector. The written designation shall be valid for one (1) year
after the date of the designation. An absentee ballot application
must have the seal of the circuit or municipal clerk affixed to it
and be initialed by the registrar or his or her deputy in order to
be used to obtain an absentee ballot. A reproduction of an
absentee ballot application shall not be valid unless it is a
reproduction provided by the office of the registrar of the
jurisdiction in which the election is being held and which
contains the seal and initials required by this section. Such
application shall be substantially in the following form:

"OFFICIAL APPLICATION FOR ABSENT ELECTOR'S BALLOT

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

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

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

  ( ) I am a member of the Merchant Marine or the American Red
Cross and am a citizen of Mississippi or spouse or dependent of
such member.
( ) I am a disabled war veteran who is a patient in any hospital and am a citizen of Mississippi or spouse or dependent of such veteran.

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

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

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

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

( ) I have a temporary or permanent physical disability, which may include, but is not limited to, * * * a concern for my health due to COVID-19 during the year 2020. Or, I am caring for a dependent that is * * * concerned for his or her health due to COVID-19 beginning with the effective date of this act and the same being repealed on December 31, 2020.
( ) I am sixty-five (65) years of age or older.

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

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

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

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

Mail 'Absent Elector's Ballot' to me at the following address __________.

( ) I wish to receive an absentee ballot for the runoff election ________________________________.

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

If you are temporarily or permanently disabled, you are not required to have this application notarized or signed by an official authorized to administer oaths for absentee balloting.

You are required to sign this application in the proper place and
have a person eighteen (18) years of age or older witness your signature and sign this application in the proper place.

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

IN WITNESS WHEREOF, I have hereunto set my hand * * * this the ___ day of _____, 2___.

_________________________________
(Signature of absent elector)

* * *

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

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

_________________________________
(Signature of witness)

CERTIFICATE OF DELIVERY

I hereby certify that _________________ (print name of voter) has requested that I, _________________ (print name of person delivering application), deliver to the voter this absentee ballot application.

_________________________________
(Signature of person delivering application)
SECTION 3. Section 23-15-631, Mississippi Code of 1972, is amended as follows:

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

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

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

(c) After marking the ballot, fill out and sign the "ELECTOR'S CERTIFICATE" on the back of the envelope so that the signature is across the flap of the envelope to ensure the integrity of the ballot. All absent electors shall have the attesting witness sign the "ATTESTING WITNESS CERTIFICATE" across the flap on the back of the envelope. Place the necessary postage on the envelope and deposit it in the post office or some
government receptacle provided for deposit of mail so that the absent elector's ballot will be postmarked on or before the date of the election and received by the registrar no more than five (5) business days after the election.

*** Any person eighteen (18) years of age or older **may be** an attesting witness and such person is not required to have the authority to administer an oath. ***

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

(e) A candidate for public office, or the spouse, parent or child of a candidate for public office, may not be an attesting witness for any absentee ballot upon which the candidate's name appears, unless the voter is related within the first degree to the candidate or the spouse, parent or child of the candidate.

(f) Any voter casting an absentee ballot who declares that he or she requires assistance to vote by reason of blindness, temporary or permanent physical disability or inability to read or write, shall be entitled to receive assistance in the marking of his or her absentee ballot and in completing the affidavit on the absentee ballot envelope. The voter may be given assistance by anyone of the voter's choice other than a candidate whose name appears on the absentee ballot being marked, the spouse, parent or
child of a candidate whose name appears on the absentee ballot
being marked or the voter's employer, an agent of that employer or
a union representative; however, a candidate whose name is on the
ballot or the spouse, parent or child of such candidate may
provide assistance upon request to any voter who is related within
the first degree. In order to ensure the integrity of the ballot,
any person who provides assistance to an absentee voter shall be
required to sign and complete the "Certificate of Person Providing
Voter Assistance" on the absentee ballot envelope.

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

(3) The Secretary of State shall prepare instructions on how
absent voters may comply with the identification requirements of
Section 23-15-563.

SECTION 4. Section 23-15-635, Mississippi Code of 1972, is
amended as follows:

23-15-635. * * * The form of the elector's certificate,
attesting witness certification and certificate of person
providing voter assistance on the back of the envelope used by
absentee voters who are not absent voters as defined in Section
23-15-673, shall be as follows:

"ELECTOR'S CERTIFICATE

STATE OF MISSISSIPPI
COUNTY OF __________

I, __________, under penalty of perjury, do solemnly * * * certify that this envelope contains the ballot marked by me indicating my choice of the candidates or propositions to be submitted at the election to be held on the ___ day of __________, 2____, and I hereby authorize the registrar to place this envelope in the ballot box on my behalf, and I further authorize the election managers to open this envelope and place my ballot among the other ballots cast before such ballots are counted, and record my name on the poll list as if I were present in person and voted.

I further * * * certify that I marked the enclosed ballot in secret.

Penalties for vote fraud are up to five (5) years in prison and a fine of up to Five Thousand Dollars ($5,000.00) * * * *(Miss. Code. Ann. Section 23-15-753.) Penalties for voter intimidation are up to one (1) year in jail and a fine of up to One Thousand Dollars ($1,000.00) * * * *(Miss. Code. Ann. Section 97-13-37.)

____________________
(Signature of voter)

CERTIFICATE OF ATTESTING WITNESS

Under penalty of perjury, I affirm that the above-named voter personally appeared before me, on this the ___ day of __________, 2____, and is known by me to be the person named, and who * * * subscribed the foregoing oath or affirmation. That the voter
exhibited to me his or her blank ballot; that the ballot was not
marked or voted before the voter exhibited the ballot to me; that
the voter was not solicited or advised by me to vote for any
candidate, question or issue, and that the voter, after marking
his or her ballot, placed it in the envelope, closed and sealed
the envelope in my presence, and signed and swore or affirmed the
above certificate.

_________________________  __________________________
(Attesting witness)  (Address)

_________________________  __________________________
(Title)  (City and State)

CERTIFICATE OF PERSON PROVIDING VOTER ASSISTANCE

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

Penalties for vote fraud are up to five (5) years in prison
and a fine of up to Five Thousand Dollars ($5,000.00) * * *
intimidation are up to one (1) year in jail and a fine of up to
One Thousand Dollars ($1,000.00) * * * (Miss. Code. Ann. Section 97-13-37.)

___________________________________________
Signature of person providing assistance

___________________________________________
Printed name of person providing assistance

___________________________________________
Address of person providing assistance

___________________________________________
Date and time assistance provided

___________________________________________
Family relationship to voter (if any)"

* * *

SECTION 5. Section 23-15-641, Mississippi Code of 1972, is amended as follows:

23-15-641. (1) For all absentee votes received by mail, if * * * it is found that the signatures do not correspond, or that the applicant is not a duly qualified elector in the precinct, or otherwise qualified to vote, or that the ballot envelope is open or has been opened and resealed, or the voter is not eligible to vote absentee, the previously cast vote shall not be allowed. Without opening the voter's envelope the resolution board shall mark across its face "REJECTED", with the reason therefor.
(2) For all absentee votes received by mail, if the ballot envelope contains more than one (1) ballot of any kind, the ballot shall not be counted but shall be marked "REJECTED", with the reason therefor, and the registrar shall promptly notify the voter of such rejection. The voter's envelopes and affidavits, and the voter's envelope with its contents unopened, when such vote is rejected, shall be retained and preserved in the same manner as other ballots at the election. Such votes may be challenged in the same manner and for the same reasons that any other vote cast in such election may be challenged.

(3) If the officials find that the absentee voter is otherwise disqualified to vote, the envelope shall not be opened and a commissioner or executive committee member shall write across the face of the envelope "REJECTED" giving the reason therefor, and the registrar shall promptly notify the voter of such rejection.

(4) The ballots marked "REJECTED" shall be placed in a separate envelope in the secure ballot transfer case and delivered to the officials in charge of conducting the election at the central tabulation point of the county.

(5) All electors voting absentee shall be provided with written information to inform the person how to ascertain whether his or her ballot was counted and, if rejected, the reason therefor.
SECTION 6. Section 23-15-719, Mississippi Code of 1972, is amended as follows:

23-15-719. (1) Except where the registrar has already mailed a ballot with an application, upon receipt of a properly completed application form by an elector qualified to vote absentee as provided in this subarticle, the registrar shall mail the absent voter an absentee ballot within one (1) business day, or as soon as the absentee ballot is prepared and available, containing the names of all the candidates and propositions, if any, to be voted on in the election. The registrar shall include with the absentee ballot an official envelope that complies with the provisions of this subarticle, as well as information to comply with Section 23-15-641(3) related to the status of the elector's ballot. The registrar shall identify the applicant by requiring him to present identification as required by Section 23-15-563, and shall then deliver the ballots to the applicant by mail or to the applicant in the registrar's office. The registrar shall not personally hand deliver ballots to voters. After the applicant has properly marked the ballot and properly folded it, he shall deposit it in the envelope furnished him by the registrar.

After the absentee voter has sealed the envelope, he or she shall subscribe and * * * affirm a certificate and mail the ballot to the address provided on the absentee ballot official envelope. The * * * certificate shall be in the following form, which shall...
be printed on the back of the envelope containing the applicant's ballot:

"ELECTORS CERTIFICATE

* * * STATE OF MISSISSIPPI

COUNTY OF ___________

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

I further * * * certify that I marked the enclosed ballot in secret.

_______________________
(Signature of voter)"

* * *

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

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

"CERTIFICATE OF PERSON PROVIDING VOTER ASSISTANCE

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

___________________________________________
Signature of person providing assistance

___________________________________________
Printed name of person providing assistance

___________________________________________
Address of person providing assistance

___________________________________________
Date and time assistance provided

___________________________________________
Family relationship to voter (if any)"

(3) The envelope used pursuant to this section shall not contain the form prescribed by Section 23-15-635 and shall have printed on the flap on the back of the envelope in bold print and
in a distinguishing color, the following: "YOUR VOTE WILL BE
REJECTED AND NOT COUNTED IF THIS ENVELOPE IS NOT SIGNED ACROSS THE
FLAP OF THIS ENVELOPE BY YOU AND AN ATTESTING WITNESS."

SECTION 7. Section 23-15-721, Mississippi Code of 1972, is
amended as follows:

23-15-721. (1) Absentee ballots requested under the
provisions of Section 23-15-715 for electors temporarily residing
outside the county of residence shall be mailed to the elector's
address outside of the county in which he or she is
registered * * *. The elector shall exhibit to * * * an attesting
witness his or her absentee ballot unmarked and thereupon proceed
in secret to fill in the ballot. After the elector has properly
marked the ballot and properly folded it, he or she shall deposit
it in the envelope furnished him or her. After the elector has
sealed the envelope he or she shall deliver or mail it to the
registrar in the county wherein the elector is qualified to
vote * * * and shall subscribe and * * * affirm to the * * *
following certificate * * *

"ELECTOR'S CERTIFICATE

STATE OF MISSISSIPPI

COUNTY OF __________

I, __________, under penalty of perjury, do solemnly certify

that this envelope contains the ballot marked by me indicating my

choice of the candidates or propositions to be submitted at the

election to be held on the ___ day of __________, 2____, and I

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hereby authorize the registrar to place this envelope in the
ballot box on my behalf, and I further authorize the election
managers to open this envelope and place my ballot among the other
ballots cast before such ballots are counted, and record my name
on the poll list as if I were present in person and voted.

I further certify that I marked the enclosed ballot in
secret.

Penalties for vote fraud are up to five (5) years in prison
and a fine of up to Five Thousand Dollars ($5,000.00), (Miss.
are up to one (1) year in jail and a fine of up to One Thousand
Dollars ($1,000.00), (Miss. Code. Ann. Section 97-13-37.)

______________________
(Signature of voter)

CERTIFICATE OF ATTESTING WITNESS

Under penalty of perjury, I certify that the above-named
voter personally appeared before me, on this the ___ day of
______, 2____, and is known by me to be the person named, and
who subscribed the foregoing certification. That the voter
exhibited to me his or her blank ballot; that the ballot was not
marked or voted before the voter exhibited the ballot to me; that
the voter was not solicited or advised by me to vote for any
candidate, question or issue, and that the voter, after marking
his or her ballot, placed it in the envelope, closed and sealed
the envelope in my presence, and signed the above certificate.
(Attesting witness)  (Address)

(Title)  (City and State)

CERTIFICATE OF PERSON PROVIDING VOTER ASSISTANCE

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

Penalties for vote fraud are up to five (5) years in prison and a fine of up to Five Thousand Dollars ($5,000.00), (Miss. Code. Ann. Section 23-15-753.) Penalties for voter intimidation are up to one (1) year in jail and a fine of up to One Thousand Dollars ($1,000.00), (Miss. Code. Ann. Section 97-13-37.)

___________________________________________
Signature of person providing assistance

___________________________________________
Printed name of person providing assistance

___________________________________________
Address of person providing assistance
Date and time assistance provided

Family relationship to voter (if any)

* * *

( * * *2) After the completion of the requirements of this section, the elector shall mail the envelope containing the ballot to the registrar in the county wherein the elector is qualified to vote. The ballots must be postmarked by the date of the election and received by the registrar no more than five (5) business days after the election to be counted; any received after such time shall be handled as provided in Section 23-15-647 and shall not be counted.

SECTION 8. This act shall take effect and be in force from and after its passage.