

Senate Amendments to House Bill No. 1827

TO THE CLERK OF THE HOUSE:

THIS IS TO INFORM YOU THAT THE SENATE HAS ADOPTED THE AMENDMENTS SET OUT BELOW:

AMENDMENT NO. 1

Amend by striking all after the enacting clause and inserting in lieu thereof the following:

22 SECTION 1. (1) Each person who shall appear to vote in
23 person at a polling place or the registrar's office shall be
24 required to identify himself or herself to an election manager or
25 the registrar by presenting current and valid photo identification
26 or a copy of a current utility bill, bank statement, government
27 check, paycheck or a government document that shows the name and
28 address of the person before such person shall be allowed to vote.

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

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

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

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

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

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

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

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

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

52 (i) A current and valid United States military
53 identification card; and

54 (j) Official voter registration card; and

55 (k) A current identification and valid customer
56 identification card containing a photograph of the elector issued
57 by a business.

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

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

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

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

73 (c) The person has completed the sentence based on the
74 conviction and is not under probation or parole for the
75 conviction;

76 (d) The person has paid full restitution for the crime
77 if such person was ordered by the sentencing court to make
78 restitution;

79 (e) The person has paid all fines, court costs and
80 other penalties imposed by the sentencing court upon conviction;
81 and

82 (f) Two (2) years have elapsed since the person has
83 satisfied the provisions of paragraphs (c), (d) and (e) of this
84 subsection.

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

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

93 (b) A determination by the registrar that the
94 requirements of paragraphs (a) and (b) of subsection (1) of this
95 section are met.

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

100 **SECTION 3.** (1) Within thirty (30) days after the issuance
101 of a death certificate for a person who resided in the county, the
102 Bureau of Vital Statistics of the State Board of Health, in
103 conjunction with the Secretary of State, shall notify the circuit
104 clerk of such county of the names of those for whom death
105 certificates have been issued. The circuit clerk shall make such
106 information available to the county election commissioners who are
107 charged with removing the names of deceased persons from voter
108 registration books.

109 (2) In order to comply with the provisions of this section,
110 the circuit clerk shall keep a book in which the clerk shall
111 record the names of the deceased persons and the date and manner
112 in which such names are made available to the county election
113 commissioners.

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

116 23-15-11. Every inhabitant of this state, except idiots and
117 insane persons, who is a citizen of the United States of America,
118 eighteen (18) years old and upwards, who has resided in this state
119 for thirty (30) days and for thirty (30) days in the county in
120 which he offers to vote, and for thirty (30) days in the
121 incorporated city or town in which he offers to vote, and who
122 shall have been duly registered as an elector pursuant to Section
123 23-15-33, and who has never been convicted of any crime listed in
124 Section 241, Mississippi Constitution of 1890, unless the
125 conviction has been expunged pursuant to the provisions of Section
126 2, House Bill No. 1827, 2004 Regular Session, shall be a qualified
127 elector in and for the county, municipality and voting precinct of
128 his residence, and shall be entitled to vote at any election upon
129 compliance with Section 1 of House Bill No. 1827, 2004 Regular
130 Session. Any person who will be eighteen (18) years of age or
131 older on or before the date of the general election and who is
132 duly registered to vote not less than thirty (30) days prior to
133 the primary election associated with such general election, may
134 vote in such primary election even though such person has not
135 reached his or her eighteenth birthday at the time such person
136 offers to vote at such primary election. No others than those
137 above included shall be entitled, or shall be allowed, to vote at
138 any election. The provisions of this section shall in no way be
139 used to determine the qualification of a juror; and nothing
140 contained herein shall be construed to repeal, modify or amend the
141 provisions of Section 13-5-1, Mississippi Code of 1972.

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

144 23-15-19. Except as otherwise provided in Section 2, House
145 Bill No. 1827, 2004 Regular Session, any person who has been
146 convicted of any crime listed in Section 241, Mississippi
147 Constitution of 1890, shall not be registered, or if registered
148 the name of such person shall be erased from the registration book
149 on which it may be found by the registrar or by the election
150 commissioners. Whenever any person shall be convicted in the

151 circuit court of his county of any of said crimes, the registrar
152 shall thereupon erase his name from the registration book; and
153 whenever any person shall be convicted of any of said crimes in
154 any other court of any county, the presiding judge thereof shall,
155 on demand, certify the fact in writing to the registrar, who shall
156 thereupon erase the name of such person from the registration book
157 and file said certificate as a record of his office. The
158 provisions of this section shall in no way be used to determine
159 the qualifications of a juror; and nothing contained herein shall
160 be construed to repeal, modify or amend the provisions of Section
161 13-5-1, Mississippi Code of 1972.

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

164 23-15-33. (1) Every person entitled to be registered as an
165 elector in compliance with the laws of this state and who has
166 signed his name on and properly completed the application for
167 registration to vote shall be registered by the registrar on the
168 registration books of the voting precinct of the residence of such
169 person.

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

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

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

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

187 23-15-631. (1) The registrar shall enclose with each ballot
188 provided to an absent elector separate printed instructions
189 furnished by him containing the following:

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

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

202 (c) After marking the ballot, fill out and sign the
203 "ELECTOR'S CERTIFICATE" on back of the envelope so that the
204 signature shall be across the flap of the envelope so as to insure
205 the integrity of the ballot. All absent electors shall have the
206 attesting witness sign the "ATTESTING WITNESS CERTIFICATE" across
207 the flap on back of the envelope. Place necessary postage on the
208 envelope and deposit it in the post office or some government
209 receptacle provided for deposit of mail so that the absent
210 elector's ballot, excepting presidential absentee ballots, will
211 reach the registrar in which your precinct is located not later
212 than 5:00 p.m. on the day preceding the date of the election, or
213 by personally delivering such ballot to the registrar's office not
214 later than 12:00 noon on the Saturday immediately preceding
215 elections held on Tuesday, the Thursday immediately preceding
216 elections held on Saturday, and the second day immediately
217 preceding elections held on other days.

218 Any notary public, United States postmaster, assistant United
219 States postmaster, United States postal supervisor, clerk in

220 charge of a contract postal station, or any officer having
221 authority to administer an oath or take an acknowledgment may be
222 an attesting witness; provided, however, that in the case of an
223 absent elector who is temporarily or permanently physically
224 disabled, the attesting witness may be any person eighteen (18)
225 years of age or older and such person is not required to have the
226 authority to administer an oath. If a postmaster, assistant
227 postmaster, postal supervisor, or clerk in charge of a contract
228 postal station acts as an attesting witness, his signature on the
229 elector's certificate must be authenticated by the cancellation
230 stamp of their respective post offices. If one or the other
231 officers herein named acts as attesting witness, his signature on
232 the elector's certificate, together with his title and address,
233 but no seal, shall be required. Any affidavits made by an absent
234 elector who is in the Armed Forces may be executed before a
235 commissioned officer, warrant officer, or noncommissioned officer
236 not lower in grade than sergeant rating or any person authorized
237 to administer oaths.

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

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

245 (f) Any voter casting an absentee ballot who declares
246 that he requires assistance to vote by reason of blindness,
247 temporary or permanent physical disability or inability to read or
248 write, shall be entitled to receive assistance in the marking of
249 his absentee ballot and in completing the affidavit on the
250 absentee ballot envelope. The voter may be given assistance by
251 anyone of the voter's choice other than a candidate whose name
252 appears on the absentee ballot being marked, or the voter's
253 employer, or agent of that employer. In order to ensure the
254 integrity of the ballot, any person who provides assistance to an

255 absentee voter shall be required to sign and complete the
256 "Certificate of Person Providing Voter Assistance" on the absentee
257 ballot envelope.

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

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

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

268 23-15-639. (1) At the close of the regular balloting and at
269 the close of the polls, the election managers of each voting
270 precinct shall first take the envelopes containing the absentee
271 ballots of such electors from the box, and the name, address and
272 precinct inscribed on each such envelope shall be announced by the
273 election managers. The signature on the application shall then be
274 compared with the signature on the back of the envelope. If it
275 corresponds and the affidavit, if one is required, is sufficient
276 and the election managers find that the applicant is a registered
277 and qualified voter or otherwise qualified to vote, and that he
278 has not appeared in person and voted at such election, the
279 envelope shall then be opened and the ballot removed from the
280 envelope, without its being unfolded, or permitted to be unfolded
281 or examined. Having observed and found the ballot to be regular
282 as far as can be observed from its official endorsement, the
283 election managers shall deposit it in the ballot box with the
284 other ballots before counting any ballots and enter the voter's
285 name in the receipt book provided for that purpose and mark
286 "VOTED" in the pollbook or poll list as if he had been present and
287 voted in person. If voting machines are used, all absentee
288 ballots shall be placed in the ballot box before any ballots are
289 counted, and the election managers in each precinct shall

290 immediately count such absentee ballots and add them to the votes
291 cast in the voting machine or device.

292 (2) The election managers shall also take such action as may
293 be prescribed by the Secretary of State to ensure compliance with
294 the identification requirements of the Help America Vote Act of
295 2002.

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

298 23-15-541. At all elections, the polls shall be opened at
299 seven o'clock in the morning and be kept open until seven o'clock
300 in the evening and no longer. Upon the opening of the polls, and
301 not before, the managers of the election shall designate two (2)
302 of their number, other than the manager theretofore designated to
303 receive the blank ballots, who shall thereupon be known
304 respectively as the initialing manager and the alternate
305 initialing manager. The alternate initialing manager, in the
306 absence of the initialing manager, shall perform all of the duties
307 and undertake all of the responsibilities of the initialing
308 manager. When any person entitled to vote shall appear to vote,
309 the managers shall identify the voter by requiring the voter to
310 submit identification as required by Section 1 of House Bill No.
311 1827, 2004 Regular Session, and then such person shall * * * sign
312 his name in a receipt book or booklet provided for that purpose
313 and to be used at that election only and said receipt book or
314 booklet shall be used in lieu of the list of voters who have voted
315 formerly made by the managers or clerks; whereupon and not before,
316 the initialing manager or, in his absence, the alternate
317 initialing manager shall indorse his initials on the back of an
318 official blank ballot, prepared in accordance with law, and at
319 such place on the back of the ballot that the initials may be seen
320 after the ballot has been marked and folded, and when so indorsed
321 he shall deliver it to the voter, which ballot the voter shall
322 mark in the manner provided by law, which when done the voter
323 shall deliver the same to the initialing manager or, in his
324 absence, to the alternate initialing manager, in the presence of

325 the others, and the manager shall see that the ballot so delivered
326 bears on the back thereof the genuine initials of the initialing
327 manager, or alternate initialing manager, and if so, but not
328 otherwise, the ballot shall be put into the ballot box; and when
329 so done one (1) of the managers or a duly appointed clerk shall
330 make the proper entry on the pollbook. If the voter is unable to
331 write his name on the receipt book, a manager or clerk shall note
332 on the back of the ballot that it was receipted for by his
333 assistance.

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

336 23-15-719. (1) Immediately upon completion of an
337 application filed pursuant to the provisions of paragraph (a) of
338 Section 23-15-715, the registrar shall deliver the necessary
339 ballots to the applicant. The registrar shall identify the
340 applicant by requiring him to present identification as required
341 by Section 1 of House Bill No. 1827, 2004 Regular Session, and
342 shall then deliver the ballots to the applicant by mail or to the
343 applicant in the registrar's office. The registrar shall not
344 personally hand deliver ballots to voters, unless he delivers the
345 ballots in the office of the registrar. The elector shall fill in
346 his ballot in secret. After the applicant has properly marked the
347 ballot and properly folded it, he shall deposit it in the envelope
348 furnished him by the registrar.

349 After he has sealed the envelope, he shall subscribe and
350 swear to an affidavit in the following form, which shall be
351 printed on the back of the envelope containing the applicant's
352 ballot:

353 "STATE OF MISSISSIPPI
354 COUNTY OF _____

355 I, _____, do solemnly swear that this envelope contains
356 the ballot marked by me indicating my choice of the candidates or
357 propositions to be submitted at the election to be held on the ____
358 day of _____, 2____, and I hereby authorize the registrar to
359 place this envelope in the ballot box on my behalf, and I further

360 authorize the election managers to open this envelope and place my
361 ballot among the other ballots cast before such ballots are
362 counted, and record my name on the poll list as if I were present
363 in person and voted.

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

365 _____
366 (Signature of voter)

367 SWORN TO AND SUBSCRIBED before me, _____, this the ____
368 day of _____, 2_____.

369 (Registrar) _____
370 (Registrar)"

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

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

378 "CERTIFICATE OF PERSON PROVIDING VOTER ASSISTANCE

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

388 _____
389 Signature of person providing assistance

390 _____
391 Printed name of person providing assistance

392 _____
393 Address of person providing assistance

394 _____

395 Date and time assistance provided

396

397 Family relationship to voter (if any)"

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

400 **SECTION 11.** The Attorney General of the State of Mississippi
401 shall submit this act, immediately upon approval by the Governor,
402 or upon approval by the Legislature subsequent to a veto, to the
403 Attorney General of the United States or to the United States
404 District Court for the District of Columbia in accordance with the
405 provisions of the Voting Rights Act of 1965, as amended and
406 extended.

407 **SECTION 12.** This act shall take effect and be in force from
408 and after January 1, 2005, if it is effectuated on or before that
409 date under Section 5 of the Voting Rights Act of 1965, as amended
410 and extended. If it is effectuated under Section 5 of the Voting
411 Rights Act of 1965, as amended and extended, after January 1,
412 2005, this act shall take effect and be in force from and after
413 the date it is effectuated under Section 5 of the Voting Rights
414 Act of 1965, as amended and extended.

**Further, amend by striking the title in its entirety and
inserting in lieu thereof the following:**

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 PROVIDE THAT
5 ANY PERSON WHO INTIMIDATES A VOTER SHALL BE GUILTY OF A FELONY; TO
6 PROVIDE THAT CERTAIN CONVICTED PERSONS MAY, WITH PROPER
7 DOCUMENTATION, REGISTER TO VOTE IF THE PERSON IS OTHERWISE A
8 QUALIFIED ELECTOR; TO REQUIRE THE BUREAU OF VITAL STATISTICS TO
9 PROVIDE EACH CIRCUIT CLERK WITH THE NAMES OF DECEASED PERSONS
10 WITHIN THE COUNTY WITHIN 30 DAYS; 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.

SS01\HB1827A.J

John O. Gilbert
Secretary of the Senate