

By: Representative Whittington

To: Apportionment and
Elections

HOUSE BILL NO. 1402

1 AN ACT TO AMEND SECTION 23-15-13, MISSISSIPPI CODE OF 1972,
2 TO AUTHORIZE AN ELECTOR WHO IS TEMPORARILY OR PERMANENTLY
3 PHYSICALLY DISABLED AND WHOSE VOTING PRECINCT IS NOT ACCESSIBLE
4 DUE TO SUCH TEMPORARY OR PERMANENT PHYSICAL DISABILITY TO HAVE HIS
5 OR HER REGISTRATION TRANSFERRED TO THE NEAREST WARD OR VOTING
6 PRECINCT THAT IS ACCESSIBLE TO SUCH ELECTOR; TO AMEND SECTION
7 23-15-573, MISSISSIPPI CODE OF 1972, TO CONFORM TO THE PRECEDING
8 SECTION; AND FOR RELATED PURPOSES.

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

10 **SECTION 1.** Section 23-15-13, Mississippi Code of 1972, is
11 amended as follows:

12 23-15-13. (1) An elector who moves from one ward or voting
13 precinct to another ward within the same municipality or voting
14 precinct within the same county shall not be disqualified to vote,
15 but he or she shall be entitled to have his or her registration
16 transferred to his or her new ward or voting precinct upon making
17 written request therefor at any time up to thirty (30) days prior
18 to the election at which he or she offers to vote, and if the
19 removal occurs within thirty (30) days of such election he or she
20 shall be entitled to vote in his or her new ward or voting
21 precinct by affidavit ballot as provided in Section 23-15-573.

22 (2) (a) An elector who is temporarily or permanently
23 physically disabled and whose voting precinct is not accessible
24 due to such temporary or physical disability shall be entitled to
25 have his or her registration transferred to the nearest voting
26 precinct that is able to accommodate such elector's physical
27 disability, subject to the following conditions:

28 (i) A written request that is submitted no later
29 than thirty (30) days before the date of the election and explains

30 the elector's need to transfer because of a temporary or permanent
31 physical disability;

32 (ii) The registrar of the county to whom the
33 request to transfer is made shall verify that the elector's voting
34 precinct is not accessible to such elector due to such elector's
35 disability.

36 (b) An elector who fails to request a transfer within
37 the time provided in this section shall be entitled to vote in his
38 or her new ward or voting precinct by affidavit ballot as provided
39 in Section 23-15-573.

40 **SECTION 2.** Section 23-15-573, Mississippi Code of 1972, is
41 amended as follows:

42 23-15-573. (1) If any person declares that he is a
43 registered voter in the jurisdiction in which he offers to vote
44 and that he is eligible to vote in the election, but his name does
45 not appear upon the pollbooks, or that he is not able to cast a
46 regular election day ballot under a provision of state or federal
47 law but is otherwise qualified to vote, or that he has been
48 illegally denied registration:

49 (a) A poll manager shall notify the person that he may
50 cast an affidavit ballot at the election.

51 (b) The person shall be permitted to cast an affidavit
52 ballot at the polling place upon execution of a written affidavit
53 before one (1) of the managers of election stating that the
54 individual:

55 (i) Believes he is a registered voter in the
56 jurisdiction in which he desires to vote and is eligible to vote
57 in the election; or

58 (ii) Is not able to cast a regular election day
59 ballot under a provision of state or federal law but is otherwise
60 qualified to vote; or

61 (iii) Believes that he has been illegally denied
62 registration; or

63 (iv) Believes his registration was transferred to
64 the jurisdiction in which he desires to vote due to such voter's
65 temporary or permanent physical disability, as provided by Section
66 23-15-15.

67 (c) The manager shall allow the individual to prepare
68 his vote which shall be delivered by him to the proper election
69 official who shall enclose it in an envelope with the written
70 affidavit of the voter, seal the envelope and mark plainly upon it
71 the name of the person offering to vote.

72 (2) The affidavit shall include:

73 (a) The complete name, all required addresses and
74 telephone numbers;

75 (b) A statement that the affiant believes he is
76 registered to vote in the jurisdiction in which he offers to vote;

77 (c) The signature of the affiant; and

78 (d) The signature of a poll manager at the precinct at
79 which the affiant offers to vote.

80 (3) (a) A separate register shall be maintained for
81 affidavit ballots and the affiant shall sign the register upon
82 completing the affidavit ballot.

83 (b) In canvassing the returns of the election, the
84 executive committee in primary elections, or the election
85 commissioners in other elections, shall examine the records and
86 allow the ballot to be counted, or not counted as it appears
87 legal.

88 (4) When a person is offered the opportunity to vote by
89 affidavit ballot, he shall be provided with written information
90 that informs the person how to ascertain whether his affidavit
91 ballot was counted and, if the vote was not counted, the reasons
92 the vote was not counted.

93 (5) The Secretary of State shall, by rule duly adopted,
94 establish a uniform affidavit and affidavit ballot envelope which
95 shall be used in all elections in this state. The Secretary of

96 State shall print and distribute a sufficient number of affidavits
97 and affidavit ballot envelopes to the registrar of each county for
98 use in elections. The registrar shall distribute the affidavits
99 and affidavit ballot envelopes to municipal and county executive
100 committees for use in primary elections and to municipal and
101 county election commissioners for use in other elections.

102 (6) County registrars and municipal registrars shall
103 implement a secure free access system that complies with the Help
104 America Vote Act of 2002, by which persons who vote by affidavit
105 ballot may determine if their ballots were counted, and if not,
106 the reasons the ballot was not counted.

107 (7) Any person who votes in any election as a result of a
108 federal or state court order or other order extending the time
109 established by law for closing the polls, may only vote by
110 affidavit ballot. Any affidavit ballot cast under this subsection
111 shall be separated and kept apart from other affidavit ballots
112 cast by voters not affected by the order.

113 **SECTION 3.** The Attorney General of the State of Mississippi
114 shall submit this act, immediately upon approval by the Governor,
115 or upon approval by the Legislature subsequent to a veto, to the
116 Attorney General of the United States or to the United States
117 District Court for the District of Columbia in accordance with the
118 provisions of the Voting Rights Act of 1965, as amended and
119 extended.

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