

By: Senator(s) King

To: Elections

SENATE BILL NO. 2121

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 AMEND
5 SECTIONS 23-15-631 AND 23-15-639, MISSISSIPPI CODE OF 1972, TO
6 AUTHORIZE THE SECRETARY OF STATE TO TAKE CERTAIN ACTION TO ENSURE
7 THAT THE IDENTIFICATION REQUIREMENTS OF THE HELP AMERICA VOTE ACT
8 OF 2002 ARE MET IN REGARD TO ABSENTEE BALLOTS; TO AMEND SECTIONS
9 23-15-11, 23-15-541 AND 23-15-719, MISSISSIPPI CODE OF 1972, IN
10 CONFORMITY THERETO; AND FOR RELATED PURPOSES.

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

12 **SECTION 1.** (1) Each person who shall appear to vote in
13 person at a polling place or the registrar's office shall be
14 required to identify himself or herself to an election manager or
15 the registrar by presenting current and valid photo
16 identification, a government document that shows the name and
17 address of the person or a social security card that shows the
18 name of the person, before such person shall be allowed to vote.

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

- 21 (a) A current and valid Mississippi driver's license;
22 (b) A current and valid identification card issued by a
23 branch, department, agency or entity of the State of Mississippi;
24 (c) A current and valid United States passport;
25 (d) A current and valid employee identification card
26 containing a photograph of the elector and issued by any branch,
27 department, agency or entity of the United States government, the
28 State of Mississippi, or any county, municipality, board,
29 authority or other entity of this state;

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

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

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

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

42 (i) A current and valid United States military
43 identification card; and

44 (j) Official voter registration card.

45 (3) Any person who utilizes the provisions of this section
46 to intimidate a voter, or to prevent from voting a person who is
47 otherwise qualified to vote, shall, upon conviction, be sentenced
48 to pay a fine of not less than Five Thousand Dollars (\$5,000.00),
49 or by imprisonment for not less than one (1) year nor more than
50 five (5) years, or both.

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

53 23-15-631. (1) The registrar shall enclose with each ballot
54 provided to an absent elector separate printed instructions
55 furnished by him containing the following:

56 (a) All absentee voters, excepting those with temporary
57 or permanent physical disabilities or those who are sixty-five
58 (65) years of age or older, who mark their ballots in the county
59 of the residence shall use the registrar of that county as the
60 witness. The absentee voter shall come to the office of the
61 registrar and neither the registrar nor his deputy shall be

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

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

68 (c) After marking the ballot, fill out and sign the
69 "ELECTOR'S CERTIFICATE" on back of the envelope so that the
70 signature shall be across the flap of the envelope so as to insure
71 the integrity of the ballot. All absent electors shall have the
72 attesting witness sign the "ATTESTING WITNESS CERTIFICATE" across
73 the flap on back of the envelope. Place necessary postage on the
74 envelope and deposit it in the post office or some government
75 receptacle provided for deposit of mail so that the absent
76 elector's ballot, excepting presidential absentee ballots, will
77 reach the registrar in which your precinct is located not later
78 than 5:00 p.m. on the day preceding the date of the election.

79 Any notary public, United States postmaster, assistant United
80 States postmaster, United States postal supervisor, clerk in
81 charge of a contract postal station, or any officer having
82 authority to administer an oath or take an acknowledgment may be
83 an attesting witness; provided, however, that in the case of an
84 absent elector who is temporarily or permanently physically
85 disabled, the attesting witness may be any person eighteen (18)
86 years of age or older and such person is not required to have the
87 authority to administer an oath. If a postmaster, assistant
88 postmaster, postal supervisor, or clerk in charge of a contract
89 postal station acts as an attesting witness, his signature on the
90 elector's certificate must be authenticated by the cancellation
91 stamp of their respective post offices. If one or the other
92 officers herein named acts as attesting witness, his signature on
93 the elector's certificate, together with his title and address,
94 but no seal, shall be required. Any affidavits made by an absent

95 elector who is in the Armed Forces may be executed before a
96 commissioned officer, warrant officer, or noncommissioned officer
97 not lower in grade than sergeant rating or any person authorized
98 to administer oaths.

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

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

106 (f) Any voter casting an absentee ballot who declares
107 that he requires assistance to vote by reason of blindness,
108 temporary or permanent physical disability or inability to read or
109 write, shall be entitled to receive assistance in the marking of
110 his absentee ballot and in completing the affidavit on the
111 absentee ballot envelope. The voter may be given assistance by
112 anyone of the voter's choice other than a candidate whose name
113 appears on the absentee ballot being marked, or the voter's
114 employer, or agent of that employer. In order to ensure the
115 integrity of the ballot, any person who provides assistance to an
116 absentee voter shall be required to sign and complete the
117 "Certificate of Person Providing Voter Assistance" on the absentee
118 ballot envelope.

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

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

127 **SECTION 3.** Section 23-15-639, Mississippi Code of 1972, is
128 amended as follows:

129 23-15-639. (1) In elections in which direct recording
130 electronic voting systems are not utilized, the examination and
131 counting of absentee ballots shall be conducted as follows:

132 (a) At the close of the regular balloting and at the
133 close of the polls, the election managers of each voting precinct
134 shall first take the envelopes containing the absentee ballots of
135 such electors from the box, and the name, address and precinct
136 inscribed on each envelope shall be announced by the election
137 managers.

138 (b) The signature on the application shall then be
139 compared with the signature on the back of the envelope. If it
140 corresponds and the affidavit, if one is required, is sufficient
141 and the election managers find that the applicant is a registered
142 and qualified voter or otherwise qualified to vote, and that he
143 has not appeared in person and voted at the election, the envelope
144 shall then be opened and the ballot removed from the envelope,
145 without its being unfolded, or permitted to be unfolded or
146 examined.

147 (c) Having observed and found the ballot to be regular
148 as far as can be observed from its official endorsement, the
149 election managers shall deposit it in the ballot box with the
150 other ballots before counting any ballots and enter the voter's
151 name in the receipt book provided for that purpose and mark
152 "VOTED" in the pollbook or poll list as if he had been present and
153 voted in person. If voting machines are used, all absentee
154 ballots shall be placed in the ballot box before any ballots are
155 counted, and the election managers in each precinct shall
156 immediately count such absentee ballots and add them to the votes
157 cast in the voting machine or device.

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

161 (a) At the close of the regular balloting and at the
162 close of the polls, the election managers of each voting precinct
163 shall first take the envelopes containing the absentee ballots of
164 such electors from the box, and the name, address and precinct
165 inscribed on each envelope shall be announced by the election
166 managers.

167 (b) The signature on the application shall then be
168 compared with the signature on the back of the envelope. If it
169 corresponds and the affidavit, if one is required, is sufficient
170 and the election managers find that the applicant is a registered
171 and qualified voter or otherwise qualified to vote, and that he
172 has not appeared in person and voted at the election, the unopened
173 envelope shall be marked "ACCEPTED" and the election managers
174 shall enter the voter's name in the receipt book provided for that
175 purpose and mark "VOTED" in the pollbook or poll list as if he had
176 been present and voted in person.

177 (c) All absentee ballot envelopes shall then be placed
178 in the secure ballot transfer case and delivered to the officials
179 in charge of conducting the election at the central tabulation
180 point of the county. The official in charge of the election shall
181 open the envelopes marked "ACCEPTED" and remove the ballot from
182 the envelope.

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

188 When there is a conflict between an electronic voting system
189 and a paper record, then there is a rebuttable presumption that
190 the paper record is correct.

191 (3) The appropriate election officials shall also take such
192 action as may be prescribed by the Secretary of State to ensure
193 compliance with the identification requirements of the Help
194 America Vote Act of 2002.

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

197 23-15-11. Every inhabitant of this state, except idiots and
198 insane persons, who is a citizen of the United States of America,
199 eighteen (18) years old and upwards, who has resided in this state
200 for thirty (30) days and for thirty (30) days in the county in
201 which he offers to vote, and for thirty (30) days in the
202 incorporated city or town in which he offers to vote, and who
203 shall have been duly registered as an elector pursuant to Section
204 23-15-33, and who has never been convicted of any crime listed in
205 Section 241, Mississippi Constitution of 1890, shall be a
206 qualified elector in and for the county, municipality and voting
207 precinct of his residence, and shall be entitled to vote at any
208 election upon compliance with Section 1 of Senate Bill No. 2121,
209 2007 Regular Session. Any person who will be eighteen (18) years
210 of age or older on or before the date of the general election and
211 who is duly registered to vote not less than thirty (30) days
212 prior to the primary election associated with such general
213 election, may vote in such primary election even though such
214 person has not reached his or her eighteenth (18th) birthday at
215 the time such person offers to vote at such primary election. No
216 others than those above included shall be entitled, or shall be
217 allowed, to vote at any election.

218 **SECTION 5.** Section 23-15-541, Mississippi Code of 1972, is
219 amended as follows:

220 23-15-541. At all elections, the polls shall be opened at
221 seven o'clock in the morning and be kept open until seven o'clock
222 in the evening and no longer. Upon the opening of the polls, and
223 not before, the managers of the election shall designate two (2)

224 of their number, other than the manager theretofore designated to
225 receive the blank ballots, who shall thereupon be known
226 respectively as the initialing manager and the alternate
227 initialing manager. The alternate initialing manager, in the
228 absence of the initialing manager, shall perform all of the duties
229 and undertake all of the responsibilities of the initialing
230 manager. When any person entitled to vote shall appear to vote,
231 the managers shall identify the voter by requiring the voter to
232 submit identification as required by Section 1 of Senate Bill No.
233 2121, 2007 Regular Session, and then such person shall * * * sign
234 his name in a receipt book or booklet provided for that purpose
235 and to be used at that election only and said receipt book or
236 booklet shall be used in lieu of the list of voters who have voted
237 formerly made by the managers or clerks; whereupon and not before,
238 the initialing manager or, in his absence, the alternate
239 initialing manager shall indorse his initials on the back of an
240 official blank ballot, prepared in accordance with law, and at
241 such place on the back of the ballot that the initials may be seen
242 after the ballot has been marked and folded, and when so indorsed
243 he shall deliver it to the voter, which ballot the voter shall
244 mark in the manner provided by law, which when done the voter
245 shall deliver the same to the initialing manager or, in his
246 absence, to the alternate initialing manager, in the presence of
247 the others, and the manager shall see that the ballot so delivered
248 bears on the back thereof the genuine initials of the initialing
249 manager, or alternate initialing manager, and if so, but not
250 otherwise, the ballot shall be put into the ballot box; and when
251 so done one (1) of the managers or a duly appointed clerk shall
252 make the proper entry on the pollbook. If the voter is unable to
253 write his name on the receipt book, a manager or clerk shall note
254 on the back of the ballot that it was receipted for by his
255 assistance.

256 **SECTION 6.** Section 23-15-719, Mississippi Code of 1972, is
257 amended as follows:

258 23-15-719. (1) Immediately upon completion of an
259 application filed pursuant to the provisions of paragraph (a) of
260 Section 23-15-715, the registrar shall deliver the necessary
261 ballots to the applicant. The registrar shall identify the
262 applicant by requiring him to present identification as required
263 by Section 1 of Senate Bill No. 2121, 2007 Regular Session, and
264 shall then deliver the ballots to the applicant by mail or to the
265 applicant in the registrar's office. The registrar shall not
266 personally hand deliver ballots to voters, unless he delivers the
267 ballots in the office of the registrar. The elector shall fill in
268 his ballot in secret. After the applicant has properly marked the
269 ballot and properly folded it, he shall deposit it in the envelope
270 furnished him by the registrar.

271 After he has sealed the envelope, he shall subscribe and
272 swear to an affidavit in the following form, which shall be
273 printed on the back of the envelope containing the applicant's
274 ballot:

275 "STATE OF MISSISSIPPI
276 COUNTY OF _____

277 I, _____, do solemnly swear that this envelope contains
278 the ballot marked by me indicating my choice of the candidates or
279 propositions to be submitted at the election to be held on the ____
280 day of _____, 2____, and I hereby authorize the registrar to
281 place this envelope in the ballot box on my behalf, and I further
282 authorize the election managers to open this envelope and place my
283 ballot among the other ballots cast before such ballots are
284 counted, and record my name on the poll list as if I were present
285 in person and voted.

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

287 _____
288 (Signature of voter)

289 SWORN TO AND SUBSCRIBED before me, _____, this the ____
290 day of _____, 2____.

291 (Registrar) _____

292 (Registrar)"

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

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

300 "CERTIFICATE OF PERSON PROVIDING VOTER ASSISTANCE

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

310 _____

311 Signature of person providing assistance

312 _____

313 Printed name of person providing assistance

314 _____

315 Address of person providing assistance

316 _____

317 Date and time assistance provided

318 _____

319 Family relationship to voter (if any)"

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

322 **SECTION 7.** The Attorney General of the State of Mississippi
323 shall submit this act, immediately upon approval by the Governor,
324 or upon approval by the Legislature subsequent to a veto, to the
325 Attorney General of the United States or to the United States
326 District Court for the District of Columbia in accordance with the
327 provisions of the Voting Rights Act of 1965, as amended and
328 extended.

329 **SECTION 8.** This act shall take effect and be in force from
330 and after the date it is effectuated under Section 5 of the Voting
331 Rights Act of 1965, as amended and extended.