

1 **State of Arkansas**
2 **79th General Assembly**
3 **Regular Session, 1993**
4 **By: Senator Scott**

A Bill

SENATE BILL 61

For An Act To Be Entitled

8 "AN ACT TO AMEND SECTIONS OF THE ARKANSAS CODE RELATING TO
9 COUNTING OF ABSENTEE BALLOTS WHEREBY CANDIDATES, POLITICAL
10 PARTIES, OR AUTHORIZED REPRESENTATIVES THEREOF SHALL BE
11 PERMITTED TO INSPECT STATEMENTS, BALLOTS, AND BALLOT
12 STUBS; TO PROVIDE THAT WILLFUL FAILURE OF ELECTION
13 OFFICIALS TO COMPLY WITH THESE SECTIONS OF THE ARKANSAS
14 CODE IS A MISDEMEANOR; AND FOR OTHER PURPOSES."

Subtitle

17 "TO ALLOW CANDIDATES, POLITICAL PARTIES, OR THEIR
18 REPRESENTATIVES TO INSPECT ABSENTEE BALLOTS, BALLOT STUBS,
19 AND ACCOMPANYING STATEMENTS."

21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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23 *SECTION 1. Arkansas Code Annotated §7-5-416 is amended by adding three*
24 *new subdivisions at the end thereof to read as follows:*

25 *"(e) The county board of election commissioners shall explain the*
26 *procedure for opening, counting, and canvassing of ballots to the election*
27 *judges and clerk.*

28 *(f) Willful failure of the county board of election commissioners,*
29 *clerks, or judges to comply with this section is a Class A misdemeanor.*

30 *(g) Any person who pleads guilty or nolo contendere to or is found*
31 *guilty of willfully violating the provisions of this section is prohibited*
32 *from serving as a judge, clerk, or member of the county board of election*
33 *commissioner.*

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35 *SECTION 2. Arkansas Code Annotated §7-5-417 is amended to read as*

1 follows:

2 "7-5-417. Challenge of votes.

3 (a) Upon request to a judge or clerk, any candidate, political party,
4 or authorized representative thereof shall be permitted to inspect any or all
5 applications for absentee ballots and all other records and information
6 available to determine whether the ballot was cast by a person entitled to
7 vote in the precinct to determine if the person, if any, who picked up and
8 delivered the absentee ballot to the voter and who returned it to the clerk
9 was eligible to do so and if the ballot was delivered to the clerk within the
10 time provided by law. Such inspection shall be permitted at the time the
11 ballots are being counted and for a reasonable period of time.

12 (b) When the statement, including the name and voting precinct of a
13 voter, is read by the judge of election, and after an inspection of the
14 statement is made following a request to do so, any person may challenge the
15 vote in the manner provided by law for personal voting challenges, and the
16 judges shall receive the evidence or testimony to establish the challenge.

17 (c) If it is proved to the satisfaction of the judges that the person
18 challenged was not entitled to vote in the precinct in which he claims to be a
19 resident, if the statement is not in proper form, or if for any other legal
20 reason the vote should not be counted, the ballot shall be rejected, but it
21 shall be preserved together with the stub, statement, and large envelope for
22 the same period of time that the statements are preserved.

23 (d) If the judges of election determine that the challenged voter is
24 qualified and that the vote should be counted, it shall be handled in the same
25 manner as challenged ballots in a regular voting precinct.

26 (e) The county board of election commissioners shall explain the
27 procedure for challenge of absentee ballots to the election judges and clerks.

28 (f) Willful failure of the county board of election commissioners,
29 clerks, or judges to comply with this section is a Class A misdemeanor.

30 (g) Any person who pleads guilty or nolo contendere to or is found
31 guilty of willfully violating the provisions of this section is prohibited
32 from serving as a judge, clerk, or member of the county board of election
33 commissioners."

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35 SECTION 3. All provisions of this act of a general and permanent nature

1 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
2 Revision Commission shall incorporate the same in the Code.

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4 SECTION 4. If any provision of this act or the application thereof to
5 any person or circumstance is held invalid, such invalidity shall not affect
6 other provisions or applications of the act which can be given effect without
7 the invalid provision or application, and to this end the provisions of this
8 act are declared to be severable.

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10 SECTION 5. All laws and parts of laws in conflict with this act are
11 hereby repealed.

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13 SECTION 6. EMERGENCY. It is found and determined by the General
14 Assembly of the State of Arkansas that confusion currently exists in the
15 counties as to the procedures for counting and challenging absentee ballots;
16 that election commissioners, clerks, and judges allegedly are not following
17 statutory procedures for counting; and challenging absentee ballots; that this
18 act being necessary for the immediate preservation of the public peace,
19 health, and safety, an emergency is hereby declared to exist and this act
20 shall be in force and effect from and after its passage.

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23 /s/ Senator Scott

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As Engrossed: 1/27/93 3/1/93

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