

Act 912 of the 1989 Regular Session.

Act 912

HB1929

By: Representative Mahony

"AN ACT TO AMEND VARIOUS SECTIONS OF CHAPTERS 5, 6, 7,  
AND 9 OF TITLE 7 TO REVISE VARIOUS ELECTION LAWS; AND  
FOR OTHER PURPOSES."

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

SECTION 1. Arkansas Code 7-5-205 is hereby amended to read as follows:  
"7-5-205. Write-in candidates' votes - When counted.

No votes for write-in candidates in general elections shall be counted or tabulated unless the candidate or his agent shall notify in writing the county board of election commissioners and either the Secretary of State if a state or district candidate, or a county clerk if a candidate for a county township or municipal office, of his intention to be a write-in candidate not later than sixty (60) days before the opening of the polls."

SECTION 2. Arkansas Code 7-5-311 is hereby amended to read as follows:  
"7-5-311. Disabled voters - Special procedures.

(a) The county boards of election commissioners and the county committees of the respective political parties with respect to general, special, and primary elections under their several jurisdictions shall make every reasonable effort to provide voting locations reasonably accessible to disabled voters and to accomplish reasonable and adequate methods whereby disabled voters may personally and secretly execute their ballots at the polling places. Similar provisions shall be made whereby disabled voters may cast an absentee ballot without third-party assistance if the voter so chooses.

(b) The State Board of Election Commissioners, after conferring with and obtaining the assistance of disabled persons or organizations of disabled citizens, may promulgate rules and regulations for special procedures to be followed by election officials at voting precincts that will assist in accommodating voting by disabled voters. The regulations may include the promulgation of the form of a special ballot, which reasonably complies with the form of the paper ballot now provided by law, to be used by visually impaired or disabled voters in executing their ballot. Such special ballots may be used at voting places in lawful elections in this state in lieu of voting by voting machine, electronic voting device, or the regular paper ballot, when requested by the disabled person, if suitable accommodations are not provided whereby voters may cast their votes in secret except by the use of the special ballot.

(c) All rules, regulations, and procedures authorized by the State Board of Election Commissioners to enable disabled persons to vote shall be designed to permit the voter to personally and secretly execute his ballot without the assistance of a third party unless third-party assistance is requested by the disabled voter.

(d) As used in this section, the term "disabled voter" shall mean the visually impaired and persons with physical or mental disabilities, but who are legally competent to vote in lawful elections in this state.

(e) The county board of election commissioners shall be responsible for

compliance with Public Law 98-435; except that county political parties shall be responsible for compliance with Public Law 98-435 for primary elections. The Secretary of State shall provide the chairman of each county board of election commissioners and the chairman of each county political party a copy of Public Law 98-435. The Secretary of State shall send the copy by certified mail."

SECTION 3. Arkansas Code 7-6-102 is hereby amended to read as follows:  
"7-6-102. Political practices pledge - Penalty for falsification.

(a) (1) Candidates for state or district offices shall file with the Secretary of State and candidates for county, municipal, or township offices shall file with the county clerk of the county not later than 12:00 noon on the first Tuesday of April, before the preferential primary election, a pledge in writing, stating that they are familiar with the requirements of 7-1-103, 7-1-104, 7-3-108, and 7-6-101 - 7-6-104 and will, in good faith, comply with their terms.

(2) Persons nominated as independent candidates shall file the political practices pledge at the time of filing the petition for nomination.

(3) Independent candidates for municipal office shall file their political practices pledges with the county clerk of the county not less than sixty (60) calendar days before the general election.

(4) Persons who wish to be write-in candidates shall file the political practices pledge at the time of filing the notice to be a write-in candidate. A write-in candidate shall file the political practices pledge with the Secretary of State if a candidate for a state or district office, or with the county clerk if a candidate for a county township or municipal office.

(b) All political practices pledge forms for state or district offices and county, municipal, or township offices shall be required to contain the following additional pledge:

'I hereby certify that I have never been convicted of a felony in Arkansas or in any other jurisdiction outside of Arkansas.'

(c) Any person who has been convicted of a felony and signs the pledge stating that he has not been convicted of a felony shall be guilty of a Class D felony.

(d) For purposes of this section, a person shall be qualified to be a candidate for a state, district, county, municipal, and township office and may certify that he has never been convicted of a felony if his record was expunged in accordance with 16-93-301 - 16-93-303, or a similar expunction statute in another state, provided, the candidate presents a certificate of expunction from the court that convicted the prospective candidate.

(e) The failure of any candidate to sign and file the pledge shall be justifiable grounds to keep the candidate's name from appearing on the ballot. However, within five (5) days following the first Tuesday in April before the preferential primary election or within five (5) days from which the pledge is required to be filed, the Secretary of State or the county clerk shall notify, by certified mail which requires a return receipt signed by the candidate, those candidates who have failed to file a signed political practice pledge. Such notice shall include a copy of the written pledge required by this section. Failure of the state or district candidate to file with the Secretary of State or of the county, municipal, or township candidate to file with the county clerk within twenty (20) days of receipt or refusal of this notice shall prevent the candidate's name from appearing on the ballot."

SECTION 4. Arkansas Code 7-7-303 (a) is hereby amended to read as follows:

"(a) The election precincts in all political party primary elections

shall be the same as established by the county board of election commissioners for general elections. The county committee of a political party may change the boundaries of existing precincts or create new precincts, or additional voting boxes within precincts, for the holding of primary elections, but the boundaries of election precincts may not be changed at a date later than the date prescribed in 7-7-203 (f)."

SECTION 5. Arkansas Code 7-7-304 (d) is hereby amended to read as follows:

"(d) Where there are two (2) or more nominees to be selected for the same office, such as Associate Justice of the Supreme Court, State Senator, State Representative, justice of the peace, alderman, or for any other office or place, the proper committee shall require the candidates to designate in writing a particular position, i.e., Position Number 1, Position Number 2, Position Number 3, etc., at the time a party pledge is required to be filed with the secretary of the committee. An independent candidate shall designate his position prior to circulation of his petition. When a candidate has once filed and designated for a certain position, he shall not be permitted to thereafter change the position."

SECTION 6. The cost of the initial publication in a newspaper the text of a statewide initiative and related information as required in Arkansas Code 7-9-107 (e), as added by Act 280 of the Regular Session of the Seventy-Seventh General Assembly, shall be paid by the sponsor of the statewide initiative."

SECTION 7. Arkansas Code 7-5-405 is hereby amended to read as follows:  
"7-5-405. Application form.

Applications for absentee ballots may be made on a form furnished by the county clerk, and the county clerk shall supply the following form on request beginning sixty (60) days before the election:

'County Clerk. . . . . County  
. . . . ., Arkansas

(1) Because of . . . . ., I will be absent from my voting precinct on the date of the . . . . . election(s) to be held on . . . . ., 19. . . . .; therefore I am requesting that you provide me with the appropriate absentee ballot(s).

(2) (Voter is to indicate (x) one of the following methods for delivery of this application)

. . . . . A. I am personally delivering this application.

. . . . . B. I am mailing this application.

. . . . . C. I hereby authorize my husband, wife, son, daughter, sister, brother, father, mother, sister-in-law, brother-in-law, father-in-law, mother-in-law, grandparent, grandchild, aunt, uncle, niece, nephew, great-grandparent, or great-grandchild (circle one and insert their name), . . . . ., to deliver this application.

. . . . . D. I hereby authorize . . . . . as my agent to deliver this application as I am medically unable to deliver it. An affidavit verifying my medical status as unable to deliver the application or to vote on the day of the election is attached.

(3) (Voter is to indicate (x) one of the following methods for receiving the ballot(s))

. . . . . A. I will come to the office of the county clerk to receive my ballot(s) by 5:00 p.m. on the day immediately preceding the day of the election.

..... B. I authorize the mailing of my ballot(s) to the following address:

.....  
.....

C. I authorize the delivery of my ballot(s) to the following person: .....

.....  
printed or typed name of voter

.....  
signature of voter

.....  
residence address of voter per registration card

.....  
date of birth

.....  
county and precinct of voter"

SECTION 8. Arkansas Code 7-5-409 (b) is hereby amended to read as follows:

(b) If the applicant is registered or is otherwise eligible to vote absentee, the county clerk shall deliver or mail to the applicant or deliver to the person who delivers the application to the office of the county clerk pursuant to 7-5-403 the following materials:

(1) An official ballot for each election named in the application;

(2) A small envelope on which there shall be no identifying marks. This envelope shall have a gummed flap separated by waxed paper or other appropriate protective insert from the remaining balloting materials;

(3) A large envelope upon which shall be printed the address of the county clerk and the words: "ABSENTEE BALLOT, ....., 19. . . ." This large envelope shall have a gummed flap separated by waxed paper or other protective insert from the remaining balloting materials;

(4) A blank statement in the following form: "I, ....., do swear that on the date of the election to be held, ....., 19. . ., I will be unavoidably absent from my voting precinct, because of ....., I am a qualified, registered elector of the . . . . (ward, precinct, or township) of ....., Arkansas. I have enclosed my ballot, duly marked, in a small envelope which I shall place with this statement and my ballot stub in a large envelope. I will not vote again in this election. (Check one) . . . . I am personally delivering my ballot. . . . I am mailing this ballot to the county clerk. . . . I am hereby authorizing my husband, wife, son, daughter, sister, brother, father, mother, sister-in-law, brother-in-law, father-in-law, mother-in-law, grandparent, grandchild, aunt, uncle, niece, nephew, great-grandparent, great-grandchild (circle one and insert their name) , ....., to deliver this ballot to the county clerk. . . . I am hereby authorizing . . . . (insert their name) as my agent to deliver this ballot as I am medically unable to vote on election day.

.....  
Signature

.....  
Address

SECTION 9. Arkansas Code 7-5-411 (a) is hereby amended to read as follows:

"(a) Absentee voting may be accomplished in one (1) of the three (3)

following methods, and in no other manner:

(1) On ballots cast in the office of the county clerk in the county of residence of the voter during regular business hours of any day not earlier than the fifteenth day before election day and not later than on the day before election day at the time the county clerk's office regularly closes;

(2) By ballot cast by mail which must be received in the office of the county clerk of the county of residence of the voter not later than 7:30 p.m. on election day. However, absentee ballots applied for not later than thirty (30) days immediately preceding the election, by qualified electors outside the United States on election day which are signed and dated by the voters no later than the day of the election and received by the county clerk no later than 5:00 p.m. ten (10) calendar days after the date of the election;

(3) By delivery of the ballot to the office of the county clerk of the county of residence of the voter not later than 7:30 p.m. on election day by a person related to the voter, which includes the husband, wife, son, daughter, sister, brother, father, mother, sister-in-law, brother-in-law, father-in-law, mother-in-law, grandparent, grandchild, aunt, uncle, niece, nephew, great-grandparent, or great-grandchild of the voter, or the authorized agent of the absentee voter who is medically unable to vote at the regular place of voting upon proper verification of the signature of the voter by the county clerk and validation of the identity of the bearer. However, no person may deliver absentee ballots to the clerk's office for more than two (2) persons. The voter may deliver the ballot to the office of the county clerk of the county of his or her residence not later than 5:30 p.m. on the day immediately preceding the date of the election."

SECTION 10. All provisions of this Act of a general and permanent nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code Revision Commission shall incorporate the same in the Code.

SECTION 11. All laws and parts of laws in conflict with this Act are hereby repealed.

APPROVED: March 23, 1989

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