

As Engrossed: 2/17/95 2/24/95 3/31/95

1 **State of Arkansas**
2 **80th General Assembly**
3 **Regular Session, 1995**

A Bill

ACT 948 OF 1995
SENATE BILL 462

4 **By: Senators Harriman and Malone**

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For An Act To Be Entitled

8 "AN ACT TO AMEND ARKANSAS CODE 7-5-401, 7-5-402, 7-5-403,
9 7-5-405 and 7-5-413 TO ESTABLISH EARLY VOTING; AND FOR
10 OTHER PURPOSES."

11

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Subtitle

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"TO ESTABLISH EARLY VOTING"

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

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17 SECTION 1. Arkansas Code 7-5-401 is amended to read as follows:

18 "7-5-401. Duties of county clerk.

19 The county clerk shall be the custodian of the absentee and early voting
20 ballots. The county clerk shall be furnished a suitable room at the county
21 court-house and shall exercise all the powers and duties concerning the
22 application for, the issuance of, and the voting of absentee and early voting
23 *ballots required by law of the county clerk.*"

24

25 SECTION 2. Arkansas Code 7-5-402 is amended to read as follows:

26 "7-5-402. Voter qualification.

27 The following persons, if possessing the qualifications of electors, may
28 cast an absentee ballot in any election:

29 (1) Any person who will be unavoidably absent from his voting
30 place on the day of election; and

31 (2) Any person who will be unable to attend the polls on election
32 day because of illness or physical disability."

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34 SECTION 3. Arkansas Code 7-5-403 is amended to read as follows:

35 "7-5-403. Applications for ballots.

36 (a) Applications for absentee ballots must be signed by the applicant

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1 or, if sent by facsimile machine transmitted over telephone lines, must bear a
2 verifiable facsimile of the applicant's signature. Delivery of the request
3 for an absentee ballot to the county clerk may be made in one (1) of the
4 following ways, and in no other manner:

5 (1) For applications submitted using the form prescribed in
6 § 7-5-405:

7 (A) In person at the office of the county clerk of the
8 county of residence of the voter, no later than the time the county clerk_s
9 office regularly closes *on the day immediately preceding the day of the*
10 *election*;

11 (B) Applications by mail must be received in the office of
12 the county clerk of the county of residence of the voter not later than one
13 (1) day before the election for which the application was made.

14 (C) A relative or designated bearer may deliver the
15 completed application to the office of the county clerk of the county of
16 residence of the applicant not later than the time the county clerk_s office
17 regularly closes on the day before the day of the election. Relative includes
18 husband, wife, son, son-in-law, daughter, daughter-in-law, sister, sister-in-
19 law, brother, brother-in-law, father, father-in-law, mother, mother-in-law,
20 grandparent, grandchild, aunt, uncle, niece, nephew, great-grandparent, or
21 great-grandchild of the applicant. A voter who is homebound and having no
22 relative in the county may designate any qualified elector in the county to
23 deliver the application;

24 (D) A person designated as the authorized agent of the
25 applicant may deliver the application to the office of the county clerk of
26 the county of residence of the applicant not later than 1:30 p.m. on the day
27 of the election. An authorized agent must submit to the county clerk an
28 affidavit of the administrative head of a hospital or nursing home located in
29 this state that the applicant is a patient in the hospital or nursing home and
30 is thereby unable to vote on the election day at his or her regular voting
31 place. A copy of the affidavit shall be retained by the county clerk as an
32 attachment to the application for an absentee ballot.

33 (E) An application for absentee ballot may be requested by
34 facsimile machine transmission in the county clerk's office and the clerk's
35 office may transmit the application form by facsimile machine transmission

1 over the telephone lines to applicants when the clerk's office is so equipped.
2 The completed _faxed_ application must be received in the office of the
3 county clerk of the county of residence of the voter not later than one (1)
4 day before the election for which the application was made. The completed
5 _faxed_ application will be accepted only upon verification of the facsimile
6 signature of the applicant by the county clerk. Once verified as a reasonable
7 likeness of the voter's signature the signature appearing on a facsimile copy
8 of an application shall be presumed to be authentic until proven otherwise.

9 (2) If the applicant does not use the form prescribed in §
10 7-5-405, he may make an application for an absentee ballot as follows:

11 (A) A letter or postcard must be received in the office of
12 the county clerk not later than one (1) day before the date of the election.
13 The letter or postcard shall contain information sufficient to the county
14 board of election commissioners and the county clerk to accept the letter or
15 postcard in lieu of the application form.

16 (B) An applicant may transmit a written request for an
17 absentee ballot over the telephone lines which shall contain the voter's
18 signature and other information sufficient for acceptance in lieu of the
19 application form.

20 (b) Any person eligible to vote by absentee ballot may request the
21 county clerk to mail to an address within the continental United States an
22 application for an absentee ballot. The application shall remain in effect
23 for one (1) year unless revoked by the voter, and the county clerk shall
24 thereafter automatically mail, no later than *twenty-five (25)* days prior to
25 each election, an absentee ballot for each election.

26 (c) Citizens of the United States temporarily residing outside the
27 territorial limits of the United States and the District of Columbia, and
28 their spouses and dependents when residing with or accompanying them, may
29 request the absentee ballot for any one (1) or more elections during any one
30 (1) calendar year by submitting only one (1) application during that calendar
31 year in the manner prescribed by subsection (a) of this section."

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33 SECTION 4. Arkansas Code 7-5-404, pertaining to use of paper ballots for
34 voting by mail, is repealed.

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1 SECTION 5. Arkansas Code 7-5-405 is amended to read as follows:

2 "7-5-405. Application form.

3 Applications for absentee ballots may be made on a form furnished by the
4 county clerk, and the county clerk shall supply a form substantially similar
5 to the following form or an electronic facsimile of a substantially similar
6 form via telephonic transmission on request beginning sixty (60) days before
7 the election:

8 _IF YOU PROVIDE FALSE INFORMATION ON THIS FORM, YOU MAY BE GUILTY OF PERJURY
9 AND SUBJECT TO A FINE OF UP TO \$10,000 OR IMPRISONMENT FOR UP TO 10 YEARS.

10Date

11 To: County Clerk

12County

13, Arkansas

14 (1) I am a qualified elector of precinct in

15(City, Town),County, Arkansas. Because I:

16 {check one}

17 [] will be unavoidably absent from my voting place on election day, or

18 [] will be unable to attend the polls on election day because of illness or

19 physical disability,

20 I am requesting that you provide me with the appropriate absentee ballot(s)

21 for the following elections:

22 [] Preferential Primary [] Democratic [] Republican

23 [] General Primary (Runoff) [] Democratic [] Republican

24 [] Annual School Election

25 [] General Election

26 [] General Runoff

27 [] Special

28 [] All elections for calendar year {designate party}

29 (2) I am delivering this application by: {check one}

30 [] personally delivering this application.

31 [] mailing this application.

32 [] authorizing my [husband, wife, son, son-in-law,

33 daughter, daughter-in-law, sister, brother, father, mother, sister-in-law,

34 brother-in-law, father-in-law, mother-in-law, grandparent, grandchild, aunt,

35 uncle, niece, nephew, great-grandparent, or great-grandchild or designated

1 bearer (circle one and insert their
2 name),....., to deliver this application.
3 authorizing (insert their name) as
4 my agent to deliver this application as I am medically unable to deliver it.
5 An affidavit verifying my medical status as unable to deliver the application
6 or to vote on the day of the election is attached.

7 transmitting a signed facsimile of this application by
8 facsimile machine transmission over telephone lines to the office of the
9 county clerk.

10 (3) I will receive my ballot(s) by: {check one}

11 coming to the office of the county clerk to receive my
12 ballot(s) by the time the county clerk_s office regularly closes on the day
13 immediately preceding the day of the election.

14 mail. I request that you mail my ballot(s) to the
15 following address:

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17

18 bearer (insert name of relative,
19 agent or designated bearer)

20 The information I have provided is true to the best of my knowledge under
21 penalty of perjury. If I have provided false information, I may be subject to
22 a fine or imprisonment or both under federal or state laws.

23

24 printed or typed name of voter signature of voter

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26 residence address of voter date of birth

27

28 city or town, zipcode._"

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30 SECTION 6. Arkansas Code 7-5-413 is amended to read as follows:

31 "7-5-413. Voting machines - Discretionary use - Related duties.

32 (a) In any election in which voting machines are to be used in all or
33 part of the election precincts, the appropriate authority charged with holding
34 the election shall, within its discretion, determine by proper resolution or
35 order whether or not voting machines shall be used for absentee or early

1 voting by personal appearance at the election.

2 (b) If it is determined by that authority that voting machines shall be
3 used for absentee or early voting by personal appearance, a voting machine or
4 machines shall be placed in the office of the clerk who is to conduct the
5 absentee or early voting for the election in accordance with this subchapter.
6 The clerk shall follow the legal requirements for voting set forth in Arkansas
7 Constitution, Amendment 51 insofar as applicable to absentee or early voting.
8 Those persons entitled under the law to vote absentee or early by personal
9 appearance at the clerk's office shall cast their votes on voting machines
10 under the laws applicable to absentee or early voting, and the clerk shall
11 enter on a list the name of each voter at the time he votes.

12 (c) After the regular business hours, the clerk shall seal the machines
13 at the close of each day's voting in the presence of authorized poll watchers,
14 if any, and the seal shall be broken by the clerk in the presence of the
15 authorized watchers, if any, the following morning when the voting begins.
16 Voting absentee or early by machine will be concluded on the day before
17 election day at the time the county clerk's office regularly closes. When
18 absentee or early voting is concluded, the clerk shall lock and seal the
19 machines.

20 (d) At the time designated by law for the closing of the polls on
21 election day, a set of judges and clerks for the machines used for absentee or
22 early voting shall open the machines and canvass the vote in the manner
23 provided for regular polling places. After the canvass has been made, the
24 machines shall be locked and sealed and shall remain locked against voting for
25 the same period as required for other machines used in the election. The
26 results of the canvass shall be returned to the appropriate authority to be
27 tabulated and canvassed with and in the same manner as the returns of other
28 election precincts.

29 (e) Any candidate or political party may be present in person or by
30 representative designated in writing during the progress of absentee or early
31 voting and at the canvass of the results in any election for the purpose of
32 determining whether or not the votes in any election are fairly and accurately
33 cast and counted."

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35 SECTION 7. Subchapter 4 of Chapter 5 of Title 7 is amended by adding

1 the following section:

2 "7-5-418. Early voting.

3 (a) Early voting shall be available to any qualified elector who
4 applies at the office of the County Clerk during regular office hours
5 beginning *fifteen (15)* days before an election and ending on the day before
6 election day at the time the County Clerk's office regularly closes.

7 (b) Before a person is permitted to cast an early vote, the county
8 clerk shall:

9 (1) Request the voter to identify himself by stating his *name*,
10 date of birth and address in order to verify his registration;

11 (2) If the voter's name or address is not the same as that in the
12 county voter registration record files, request the voter to complete an
13 updated voter registration application form;

14 (3) Request the voter to sign an early voting roster or early
15 voting request form and print his name, address and the date on the roster or
16 form.

17 (4) Enter the voter's precinct number on the early voting roster
18 or early voting request form.

19 (c) If the voter is not listed in the county voter registration record
20 file and the county clerk is unable to verify the voter's registration and the
21 voter contends that he or she is eligible to vote, then the voter may vote a
22 challenged ballot which shall only be counted upon verification of the voter's
23 registration status.

24 (d) The county clerk shall furnish voting locations that adequately
25 allows the early voter to personally and secretly execute his or her ballot.

26 (e) Upon casting his or her ballot, the voter shall then deposit the
27 ballot and the stub in the appropriate box in the same manner as for votes
28 cast on the day of the election.

29 (f) Early votes shall be maintained in the same manner and counted at
30 the same time as votes cast on the day of the election."

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32 SECTION 8. All provisions of this act of a general and permanent nature
33 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
34 Revision Commission shall incorporate the same in the Code.

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1 SECTION 9. If any provision of this act or the application thereof to
2 any person or circumstance is held invalid, such invalidity shall not affect
3 other provisions or applications of the act which can be given effect without
4 the invalid provision or application, and to this end the provisions of this
5 act are declared to be severable.

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

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/s/Harriman and Malone

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APPROVED: 4-6-95

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