

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

Act 543 of the Regular Session

As Engrossed: H3/5/07 S3/14/07

A Bill

1 State of Arkansas  
2 86th General Assembly  
3 Regular Session, 2007

HOUSE BILL 1570

4  
5 By: Representatives Hall, E. Brown  
6  
7

8 **For An Act To Be Entitled**

9 AN ACT AMENDING ARKANSAS ELECTION LAW CONCERNING  
10 BALLOT BEARERS, AUTHORIZED AGENTS, AND  
11 ADMINISTRATORS; AND FOR OTHER PURPOSES.  
12

13 **Subtitle**

14 AN ACT AMENDING ARKANSAS ELECTION LAW  
15 CONCERNING BALLOT BEARERS, AUTHORIZED  
16 AGENTS, AND ADMINISTRATORS.  
17  
18

19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
20

21 SECTION 1. Arkansas Code § 7-5-403(a)(2)(A)(iv), concerning the  
22 delivery of absentee ballots, is amended to read as follows:

23 (iv)~~(a)~~ A person declared as the authorized agent of  
24 the applicant may deliver the application to the office of the county clerk  
25 of the county of residence of the applicant not later than 1:30 p.m. on the  
26 day of the election~~;~~ or

27 ~~(b) An authorized agent must submit to the~~  
28 ~~county clerk an affidavit of the administrative head of a hospital or nursing~~  
29 ~~home located in this state that the applicant is a patient of the hospital or~~  
30 ~~nursing home and is thereby unable to vote on the election day at his or her~~  
31 ~~regular polling site.~~

32 ~~(c) A copy of the affidavit shall be retained~~  
33 ~~by the county clerk as an attachment to the application for an absentee~~  
34 ~~ballot; or~~  
35



1 SECTION 2. Arkansas Code Title 7, Chapter 5, Subchapter 4 is amended  
2 to add an additional section to read as follows:

3 7-5-419. Designated bearers, authorized agents and administrators.

4 (a)(1) A designated bearer may deliver applications for absentee  
5 ballots to the county clerk and obtain absentee ballots from the county clerk  
6 for not more than two (2) voters.

7 (2) At no time shall a designated bearer have more than two (2)  
8 absentee ballots in his or her possession.

9 (3)(A) A designated bearer receiving an absentee ballot from the  
10 county clerk for a voter shall deliver the absentee ballot directly to the  
11 voter.

12 ((B)) A designated bearer receiving an absentee ballot  
13 from a voter shall deliver the absentee ballot directly to the county clerk.

14 (4)(A) A designated bearer may deliver to the county clerk the  
15 absentee ballots for not more than two (2) voters.

16 (B) The bearer shall be named on the voter statement  
17 accompanying the absentee ballot.

18 (5) In order to obtain an absentee ballot from the county clerk:

19 (A) The designated bearer shall show a form of current  
20 photographic identification to the clerk;

21 (B) The clerk shall print the bearer's name and address  
22 beside the voter's name on a register; and

23 (C) The bearer shall sign the register under oath  
24 indicating receipt of the voter's ballot.

25 (6) Upon delivering an absentee ballot to the clerk:

26 (A) The designated bearer shall present current  
27 photographic identification to the clerk;

28 (B) The clerk shall print the bearer's name and address  
29 beside the voter's name on a register; and

30 (C) The bearer shall sign the register under oath  
31 indicating delivery of the voter's ballot.

32 (b)(1) On the day of an election, an authorized agent may deliver  
33 applications for absentee ballots to the county clerk and obtain absentee  
34 ballots from the county clerk for not more than two (2) voters who cannot  
35 cast a ballot at the appropriate polling place on election day because the  
36 voter is a patient in a hospital or long-term care or residential care

1 facility licensed by the state.

2 (2) At no time shall an authorized agent have more than two (2)  
3 absentee ballots in his or her possession.

4 (3)(A) An authorized agent receiving an absentee ballot from the  
5 county clerk for a voter shall deliver the absentee ballot directly to the  
6 voter.

7 ((B)) An authorized agent receiving an absentee ballot  
8 from a voter shall deliver the absentee ballot directly to the county clerk.

9 (4)(A) In order for an authorized agent to obtain a ballot from  
10 the county clerk, the authorized agent shall submit to the county clerk an  
11 affidavit of the administrative head of a hospital or long-term care or  
12 residential care facility licensed by the state that the applicant is a  
13 patient of the hospital or long-term care or residential care facilities  
14 licensed by the state and is thereby unable to vote on the election day at  
15 his or her regular polling site.

16 (B) A copy of the affidavit shall be retained by the  
17 county clerk as an attachment to the application for an absentee ballot.

18 (5) In order to obtain an absentee ballot from the county clerk,  
19 the:

20 (A) Authorized agent shall present current photographic  
21 identification to the clerk;

22 (B) Clerk shall print the authorized agent's name and  
23 address beside the voter's name on a register; and

24 (C) Authorized agent shall sign the register under oath  
25 indicating receipt of the voter's ballot.

26 (6) Upon delivering an absentee ballot to the county clerk, the:

27 (A) Authorized agent shall show some form of current  
28 photographic identification to the clerk;

29 (B) Clerk shall print the authorized agent's name and  
30 address beside the voter's name on a register; and

31 (C) Authorized agent shall sign the register under oath  
32 indicating delivery of the voter's ballot.

33 (c)(1) The county clerk shall keep a register of designated bearers  
34 and authorized agents.

35 (2) The designated bearer and authorized agent register shall  
36 contain the following oath on each page: "IF YOU PROVIDE FALSE INFORMATION

1 ON THIS FORM, YOU MAY BE GUILTY OF PERJURY AND SUBJECT TO A FINE OF UP TO TEN  
2 THOUSAND DOLLARS (\$10,000) OR IMPRISONMENT FOR UP TO TEN YEARS, OR BOTH,  
3 UNDER FEDERAL AND STATE LAWS".

4 (d)(1) An administrator may deliver to the county clerk an application  
5 for an absentee ballot for any voter who is a patient of a long-term care or  
6 residential care facility licensed by the state and who names the  
7 administrator on his or her application as the administrator of the facility  
8 where the voter resides.

9 (2) An administrator may receive absentee ballots for as many  
10 qualified residents of the facility as apply for absentee ballots upon  
11 presentation of photographic identification to the county clerk.

12 (3)(A) An administrator may deliver the absentee ballot to the  
13 county clerk for any voter who names the administrator on his or her  
14 application and voter statement.

15 (B) Absentee ballots may be delivered to the county clerk  
16 in person or by mail.

17 (4) An administrator shall submit to the county clerk an  
18 affidavit, signed and dated by the administrator, stating:

19 (A) That he or she is the administrative head of a long-  
20 term care or residential care facility licensed by the state;

21 (B) The name and address of the facility; and

22 (C) That he or she has been authorized by the voters of  
23 his or her facility who named him or her in their application for absentee  
24 ballot and voter statement to deliver their absentee ballot.

25 (e) Any person who knowingly makes a false statement on an affidavit  
26 required by this section shall be guilty of perjury and subject to a fine of  
27 up to ten thousand dollars (\$10,000) or imprisonment of up to ten (10)  
28 years.

29  
30 SECTION 3. Arkansas Code § 7-5-405(a)(2), concerning information  
31 required on absentee ballot applications, is amended to read as follows:

32 (2) The form or forms shall contain the following information:

33 (A) The following statement:

34 "IF YOU PROVIDE FALSE INFORMATION ON THIS FORM, YOU MAY BE GUILTY OF  
35 PERJURY AND SUBJECT TO A FINE OF UP TO \$10,000 OR IMPRISONMENT FOR UP TO 10  
36 YEARS.";

1 (B) A statement in which the voter must indicate that he  
2 or she is requesting an absentee ballot because he or she will be:

3 (i) Unavoidably absent from the polling site on  
4 election day;

5 (ii) Unable to attend the polls on election day  
6 because of illness or physical disability; or

7 (iii) Unable to attend the polls on election day  
8 because of residence in a long-term care or residential facility licensed by  
9 the state;

10 (C) A statement by the voter indicating whether he or she  
11 resides outside the county;

12 (D) A statement indicating whether the voter is a United  
13 States citizen or spouse or dependent residing outside the territorial limits  
14 of the United States or District of Columbia;

15 (E) Mailing information for the ballot or the name and  
16 signature of a designated bearer, administrator, or authorized agent;

17 ~~(F) The voter's political party;~~

18 ~~(G)~~(F) The date, the voter's printed or typed name, voting  
19 residence address, date of birth, and the voter's signature attesting to the  
20 correctness of the information provided under penalty of perjury; and

21 ~~(H)~~(G) The election in which the voter wishes to cast a  
22 ballot.  
23

24 SECTION 4. Arkansas Code § 7-5-409 is amended to read as follows:

25 7-5-409. Materials furnished to qualified voters.

26 (a)(1)(A) The county clerk must satisfy himself or herself that the  
27 applicant for an absentee ballot is a qualified registered elector in the  
28 ward, precinct, or township in which he or she claims to be a resident or  
29 that the applicant is exempted from registration under § 7-5-406.

30 (B) The county clerk shall verify that the application has  
31 been properly signed by the applicant and, if necessary, the designated  
32 bearer, administrator, or authorized agent. If the application is not  
33 properly signed, the application shall be rejected by the county clerk.

34 (C) The county clerk shall notify the applicant of the  
35 reason for the rejection.

36 (2) If the county clerk is unable to contact the applicant to

1 cure the deficiency, the county clerk shall forward the application with the  
2 reason for the rejection to the county board of election commissioners. The  
3 board shall determine whether the applicant is a qualified elector.

4 (b) If the applicant is registered or is otherwise eligible to vote  
5 absentee, the county clerk, prior to mailing or delivering the ballot, shall  
6 detach the ballot stub and deposit the ballot stub into a sealed box  
7 designated as "Absentee Stub Box" and deliver or mail to the applicant or  
8 deliver pursuant to subsections (d)-(f) of this section to the person who  
9 delivers the application to the office of the county clerk pursuant to § 7-5-  
10 403 the following materials:

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

13 (2) Instructions for voting and returning the ballot to the  
14 county clerk;

15 (3) A ballot secrecy envelope on which there shall be written or  
16 printed the words: "Ballot Only";

17 (4)(A) A voter statement containing the following information:  
18 "I reside at the address indicated on my application. I have enclosed in  
19 the return envelope:

20 (i) My completed voter statement;

21 (ii) A copy of a current and valid photo  
22 identification card or current utility bill, bank statement, government  
23 check, paycheck, or other government document that shows my name and address,  
24 if I registered to vote for the first time by mail; and

25 (iii) The ballot only envelope containing my marked  
26 ballot; and

27 "THE INFORMATION I HAVE PROVIDED IS TRUE TO THE BEST OF MY KNOWLEDGE  
28 UNDER PENALTY OF PERJURY. IF I HAVE PROVIDED FALSE INFORMATION, I MAY BE  
29 SUBJECT TO A FINE OF UP TO TEN THOUSAND DOLLARS (\$10,000) OR IMPRISONMENT FOR  
30 UP TO TEN (10) YEARS, OR BOTH, UNDER FEDERAL OR STATE LAWS."

31 (B) Blanks shall be provided for the voter to provide his  
32 or her printed name, signature, address, date of birth, signature of  
33 administrator, authorized agent, or designated bearer, and address of the  
34 administrator, authorized agent, or designated bearer;

35 (5) A sealable envelope upon which shall be printed or written  
36 the words: "Return Envelope", the address of the county clerk, the precinct

1 of the voter, and the words: "ABSENTEE BALLOT, ....., .....,  
2 ELECTION"; and

3 (6) An authorized agent authorization form, as follows:  
4

5 "AGENT AUTHORIZATION FORM  
6

7 If applicable, fill out and sign this form and place it in the Return  
8 Envelope  
9

10 I hereby authorize ..... (insert his or her name) as my  
11 authorized agent, to deliver this ballot as I am medically unable to vote on  
12 election day. An affidavit verifying my medical status as unable to deliver  
13 the application or to vote on the day of the election is attached or has been  
14 provided with my application.  
15

16 .....

17  
18 signature of voter  
19

20 .....

21  
22 printed name of voter  
23

24 .....

25  
26 address of voter  
27

28 .....

29  
30 date of birth of voter"

31 (c)(1) Except for absentee ballots mailed to an address outside the  
32 county in which the applicant is registered, an absentee ballot shall be  
33 mailed to the address that appears on the applicant's registration record or  
34 absentee ballot application if the voter is temporarily at a different  
35 address.

36 (2) The county clerk shall not mail more than two (2) absentee

1 ballots to the same address unless:

2 (A) The address is outside the territorial limits of the  
3 United States and the District of Columbia;

4 (B) The address is for a long-term care or residential  
5 care facility licensed by the state; or

6 (C) There are more than two (2) persons lawfully  
7 registered at the same address.

8 (d) The county clerk shall not deliver absentee ballots to any person  
9 other than the absentee voter unless the person picking up the ballots  
10 provides satisfactory photo identification to the county clerk that he or she  
11 is ~~the person authorized by the absentee voter to pick up the ballots~~ the  
12 voter's designated bearer, authorized agent, or the administrator of a long-  
13 term care or residential care facility licensed by the state.

14 ~~(e) The county clerk shall require the person picking up absentee~~  
15 ~~ballots for another person to sign a register under oath to be maintained by~~  
16 ~~the county clerk. The designated bearer register shall contain the following~~  
17 ~~information: printed name of designated bearer, address of designated bearer,~~  
18 ~~printed name of voter, and signature of designated bearer. The register shall~~  
19 ~~contain the following oath on each page: "IF YOU PROVIDE FALSE INFORMATION ON~~  
20 ~~THIS FORM, YOU MAY BE GUILTY OF PERJURY AND SUBJECT TO A FINE OF UP TO TEN~~  
21 ~~THOUSAND DOLLARS (\$10,000) OR IMPRISONMENT FOR UP TO TEN YEARS, OR BOTH,~~  
22 ~~UNDER FEDERAL AND STATE LAWS".~~

23 ~~(f)~~(e) The county clerk shall not provide more than two (2) absentee  
24 ballots per election to any designated bearer or authorized agent, nor shall  
25 the county clerk accept delivery of more than two (2) absentee ballots per  
26 election from any designated bearer or authorized agent.

27 ~~(g) The county clerk shall not deliver in person or by any other means~~  
28 ~~of transmittal more than two (2) absentee ballots per election to the~~  
29 ~~individual authorized to receive the absentee ballots unless there are more~~  
30 ~~than two (2) persons lawfully registered at the same address as the~~  
31 ~~individual obtaining the absentee ballots, in which case the individual may~~  
32 ~~receive only the same number of absentee ballots as persons lawfully~~  
33 ~~registered at the same address.~~

34 ~~(h)~~(f) A designated bearer shall be allowed to pick up ~~only two (2)~~  
35 absentee ballots from the county clerk ~~per election and shall be allowed to~~  
36 ~~do so~~ only during the fifteen (15) days prior to a preferential primary



1 election, presidential preferential primary election, ~~or~~ general election, or  
2 school election, and seven (7) days prior to a general primary election or  
3 other runoff election.

4 ~~(i)~~(g) Upon delivery of an absentee ballot to an individual authorized  
5 to receive an absentee ballot, the county clerk shall mark the precinct voter  
6 registration list to indicate that the individual has received an absentee  
7 ballot.

8  
9 SECTION 5. Arkansas Code § 7-5-411 is amended to read as follows:

10 7-5-411. Methods of voting absentee.

11 (a) Absentee voting may be accomplished in one (1) of the following  
12 methods and in no other manner:

13 (1)(A) By ballot cast by mail which must be received in the  
14 office of the county clerk of the county of residence of the voter not later  
15 than 7:30 p.m. on election day.

16 (B)(i) However, except as provided in subdivision  
17 (a)(1)(B)(ii) of this section, by ballot applied for not later than thirty  
18 (30) days before the election by qualified electors outside the United States  
19 on election day which are signed, dated, postmarked, and mailed by the voters  
20 no later than the day of the election and received by the county clerk no  
21 later than 5:00 p.m. ten (10) calendar days after the date of the election.

22 (ii) Absentee ballots of uniformed services  
23 personnel serving in active status shall be counted if received by the county  
24 clerk no later than 5:00 p.m. ten (10) calendar days after the date of the  
25 election and if the absentee ballot was executed no later than the date of  
26 the election.

27 (C) Each absentee ballot shall be mailed separately by the  
28 voter and shall not be included with any other absentee ballot in a bulk  
29 mailing, except that an administrative head of a long-term care or  
30 residential facility or hospital may mail the absentee ballots of the  
31 residents and patients by bulk mail. Absentee ballots in any bulk mailing not  
32 otherwise permitted in this subsection shall not be counted;

33 (2)~~(A)~~ By delivery of the ballot to the county clerk of the  
34 county of residence of the voter not later than 7:30 p.m. on election day by  
35 the designated bearer, administrator, or the authorized agent of the absentee  
36 voter who is medically unable to vote at the regular polling site, ~~upon~~

1 ~~proper verification of the signature of the voter by the county clerk and~~  
2 ~~validation of the identity of the authorized agent.~~

3 ~~(B)(i) The designated bearer, administrator, or authorized~~  
4 ~~agent shall sign documentation upon delivery of absentee ballots to the~~  
5 ~~county clerk.~~

6 ~~(ii) However, no person may deliver absentee ballots~~  
7 ~~to the clerk's office for more than two (2) persons; or~~

8 (3) The voter may deliver the ballot to the county clerk  
9 of the county of his or her residence not later than the close of regular  
10 business hours on the day before the election.

11 ~~(b) Any person who knowingly makes a false statement on an affidavit~~  
12 ~~required by this section shall be guilty of perjury and subject to a fine of~~  
13 ~~up to ten thousand dollars (\$10,000) or imprisonment for up to ten (10)~~  
14 ~~years.~~

15 ~~(e)(b)~~ Any person who receives an absentee ballot according to the  
16 precinct voter registration list but who elects to vote by early voting or to  
17 vote at his or her polling site on election day shall be permitted to cast a  
18 provisional ballot.”

19  
20 /s/ Hall

21  
22 **APPROVED: 3/28/2007**  
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