

1 State of Arkansas  
2 88th General Assembly  
3 Regular Session, 2011  
4

As Engrossed: H3/17/11 S3/30/11

# A Bill

HOUSE BILL 2074

5 By: Representative Slinkard  
6

## For An Act To Be Entitled

8 AN ACT TO AMEND ARKANSAS LAW CONCERNING THE  
9 TRANSMISSION OF ABSENTEE BALLOT APPLICATIONS; AND FOR  
10 OTHER PURPOSES.  
11

### Subtitle

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14 TO AMEND ARKANSAS LAW CONCERNING THE  
15 TRANSMISSION OF ABSENTEE BALLOT  
16 APPLICATIONS.  
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18  
19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
20

21 *SECTION 1. Arkansas Code § 7-5-404 is amended to read as follows:*

22 *7-5-404. Applications for ballots.*

23 *(a)(1) Applications for absentee ballots must be signed by the*  
24 *applicant and verified by the county clerk by checking the voter's name,*  
25 *address, date of birth, and signature from the registration records or, if*  
26 *sent by ~~facsimile machine transmitted over telephone lines~~ electronic means,*  
27 *the application must bear a verifiable facsimile of the applicant's*  
28 *signature.*

29 *(2) Delivery of the request for an absentee ballot to the county*  
30 *clerk may be made in one (1) of the following ways, and in no other manner:*

31 *(A) For applications submitted using the form prescribed*  
32 *in § 7-5-405:*

33 *(i) In person at the office of the county clerk of*  
34 *the county of residence of the voter no later than the time the county*  
35 *clerk's office regularly closes on the day before election day;*

36 *(ii) Applications by mail must be received in the*



1 office of the county clerk of the county of residence of the voter not later  
2 than seven (7) days before the election for which the application was made;

3 (iii) A designated bearer may deliver the completed  
4 application to the office of the county clerk of the county of residence of  
5 the applicant not later than the time the county clerk's office regularly  
6 closes on the day before the day of the election;

7 (iv) A person declared as the authorized agent of  
8 the applicant may deliver the application to the office of the county clerk  
9 of the county of residence of the applicant not later than 1:30 p.m. on the  
10 day of the election;

11 (v) An administrator may deliver the application in  
12 person at the office of the county clerk of the county of residence of the  
13 voter no later than the time the county clerk's office regularly closes on  
14 the day before election day; or

15 (vi)(a) Delivery by ~~facsimile machine transmission~~  
16 electronic means to the county clerk's office of the county of residence of  
17 the voter not later than seven (7) days before the election for which the  
18 application was made.

19 (b) The completed ~~facsimile-transmitted~~  
20 application sent by electronic means will be accepted only upon verification  
21 of the facsimile signature of the applicant by the county clerk.

22 (c) Once verified as a reasonable likeness of  
23 the voter's signature, the signature appearing on a ~~facsimile~~ copy of an  
24 application sent by electronic means shall be presumed to be authentic until  
25 proven otherwise; or

26 (B) If the applicant does not use the form prescribed in §  
27 7-5-405, he or she may make an application for an absentee ballot as follows:

28 (i) A letter or postcard must be received in the  
29 office of the county clerk not later than seven (7) days before the date of  
30 the election. The letter or postcard shall contain information sufficient for  
31 the county board of election commissioners and the county clerk to accept the  
32 letter or postcard in lieu of the application form; or

33 (ii) An applicant may transmit a written request for  
34 an absentee ballot ~~over the telephone lines~~ by electronic means that shall  
35 contain the voter's signature and other information sufficient for acceptance  
36 in lieu of the application form.

1           (b)(1) Any person eligible to vote by absentee ballot may request the  
2 county clerk to mail to an address within the continental United States an  
3 application for an absentee ballot.

4           (2)(A) For those persons voting by absentee ballot who reside  
5 outside the county in which they are registered to vote, the application  
6 shall remain in effect for one (1) year unless revoked by the voter, and the  
7 county clerk shall thereafter automatically mail, no later than twenty-five  
8 (25) before each election, an absentee ballot for each election.

9           (B)(i) Except for persons of long-term care or residential  
10 facilities licensed by the state or other persons who are voters with  
11 disabilities as defined in § 7-5-311(d), for those persons voting by absentee  
12 ballot who reside within the county in which they are registered to vote, the  
13 application shall be valid for only one (1) election cycle.

14           (ii) The election cycle shall include any one (1)  
15 election and the corresponding runoff election.

16           ~~(e) Citizens of the United States temporarily residing outside the~~  
17 ~~territorial limits of the United States may request the absentee ballot for~~  
18 ~~any one (1) or more elections through the next two (2) regularly scheduled~~  
19 ~~general elections for federal office, including any runoff elections that may~~  
20 ~~occur as a result of the outcome of the general elections, by submitting only~~  
21 ~~one (1) application during that period of time in the manner prescribed by~~  
22 ~~subsection (a) of this section.~~

23           (c) The following may request an absentee ballot for one (1) or more  
24 elections, up to and including the next two (2) regularly scheduled general  
25 elections for federal office, including without limitation any runoff  
26 elections that may occur as a result of the outcome of the general elections,  
27 by submitting one (1) application during that period of time in the manner  
28 provided under subsection (a) of this section:

29           (1) A citizen of the United States temporarily residing outside  
30 the territorial limits of the United States;

31           (2) A member of the uniformed services of the United States  
32 while in active duty or service, including his or her spouse or dependent,  
33 who by reason of active duty or service of the member is absent from the  
34 place of residence where the member, spouse, or dependent is otherwise  
35 qualified to vote; and

36           (3) A member of the Merchant Marine while in active duty or

1 service, including his or her spouse or dependent, who by reason of the  
2 active duty or service of the member is absent from the place of residence  
3 where the member, spouse, or dependent is otherwise qualified to vote.

4 (d) As used in this section, "electronic means" means a scanned image  
5 sent by:

6 (1) Electronic mail; or

7 (2) Facsimile machine.

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9 SECTION 2. Arkansas Code § 7-5-405(b)(3), concerning applications for  
10 absentee voting, is amended to read as follows:

11 ~~(3)(A)~~ Persons whose applications would be valid through  
12 the next two (2) regularly scheduled general elections for federal office,  
13 including any resulting runoff elections.

14 ~~(B) This shall include citizens of the United States~~  
15 ~~temporarily residing outside the territorial limits of the United States.~~

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17 SECTION 3. Arkansas Code § 7-5-406(b) and (c), concerning absentee  
18 voting by members of uniformed services and other citizens residing outside  
19 the United States, are amended to read as follows:

20 (b)(1) The ballot or ballots shall be transmitted according to federal  
21 regulations state and federal laws, rules, and regulations.

22 ~~(2) The Secretary of State shall provide the county clerks with~~  
23 ~~copies of these regulations at least ninety (90) calendar days before each~~  
24 ~~general election.~~ The Secretary of State shall establish and transmit to  
25 each county clerk and each county board of election commissioners procedures  
26 in accordance with state and federal law that:

27 (A) Allow absent uniformed services voters and absent  
28 overseas voters to request, either by mail or electronically, voter  
29 registration applications and absentee ballot applications for all elections  
30 in the state;

31 (B) Allow county clerks to send by mail or electronically,  
32 in accordance with the preferred method of transmission designated by the  
33 absent uniformed services voter or absent overseas voter, voter registration  
34 applications and absentee ballot applications;

35 (C) Allow the absent uniformed services voter or absent  
36 overseas voter to designate whether the voter prefers that the voter

1 registration application or absentee ballot application be transmitted by  
2 mail or electronically;

3 (D) Allow the transmission by mail and, to the extent  
4 funding is available, electronically of blank absentee ballots to absent  
5 uniformed services voters and absent overseas voters for all elections in the  
6 state in a manner that expedites the transmission of absentee ballots;

7 (E) Allow county clerks and county boards of election  
8 commissioners to accept and process marked absentee ballots of absent  
9 uniformed services voters and absent overseas voters;

10 (F) Ensure, to the extent practicable, the protection of  
11 the security and integrity of the voter registration and absentee ballot  
12 request process and the privacy of the identity and other personal data of an  
13 absent uniformed services voter or absent overseas voter who requests or is  
14 sent a voter registration application, absentee ballot application, or  
15 absentee ballot throughout the process of making a request or being sent an  
16 application or ballot; and

17 (G) Establish, to the extent funding is available, a free  
18 access system by which an absent uniformed services voter or absent overseas  
19 voter may determine whether the absentee ballot of the absent uniformed  
20 services voter or overseas voter has been received by the appropriate  
21 election official.

22 (3) The Secretary of State shall:

23 (A) Provide each county clerk and each county board of  
24 election commissioners with written copies of the procedures under  
25 subdivision (b)(2) of this section by February 1 of each even-numbered year;  
26 and

27 (B) Promptly notify each county clerk and each county  
28 board of election commissioners of changes in relevant laws, rules,  
29 regulations, or procedures.

30 ~~(3)(4)~~ Notwithstanding any other provisions in this title, if  
31 selected by ~~the United States Department of Defense~~ any grantor, this state  
32 or any county in this state may participate in ~~the~~ a Federal Voting  
33 Assistance ~~Program's pilot~~ Program project which allows members of the  
34 uniformed services and voters overseas to register to vote and to vote in  
35 elections electronically, according to state and federal laws, rules, and  
36 regulations, if funds are available.

1           (c)(1)(A) Except as provided in subdivision (c)(1)(B) of this section,  
 2 for the qualified electors in the categories named in subsection (a) of this  
 3 section who are temporarily outside the territorial limits of the United  
 4 States, the county board of election commissioners shall prepare a special  
 5 absentee ballot for each preferential primary and general election to be sent  
 6 to the voter in addition to the regular absentee ballot.

7                     (B) The county board of election commissioners shall not  
 8 prepare a special absentee ballot for a nonpartisan judicial election.

9           (2)(A) The special absentee ballot shall contain a list of all  
 10 offices contested by three (3) or more candidates and the candidates  
 11 qualifying for the election in each office.

12                     (B) The special absentee ballot shall permit the elector  
 13 to vote in the general primary election or in a general runoff election by  
 14 indicating his or her order of preference for each candidate for each office.

15                     (C)(i) To indicate his or her order of preference for each  
 16 candidate for each office, the voter shall put the number one (1) next to the  
 17 name of the candidate who is the voter's first choice, the number two (2) for  
 18 the voter's second choice, and so forth, so that, in consecutive numerical  
 19 order, a number indicating the voter's preference is written by the voter  
 20 next to the candidate's name on the ballot.

21                     (ii) However, the voter shall not be required to  
 22 indicate his or her preference for more than one (1) candidate on the ballot  
 23 if he or she chooses.

24           (3) The special absentee ballot shall be marked as a "special  
 25 runoff ballot".

26           (4) Instructions shall be sent with the special absentee ballot  
 27 to the voter explaining the ~~instant~~ special runoff voting process.

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 29                                 /s/Slinkard

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 32   **APPROVED: 04/04/2011**

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