

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

A Bill

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."

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Subtitle

13 "TO ESTABLISH EARLY VOTING"

14

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

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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,
28 may 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
32 election day because of illness or physical disability."

33

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

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

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

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

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

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

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

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

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

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

11 (2) If the applicant does not use the form prescribed in §
12 7-5-405, he may make an application for an absentee ballot as follows:

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

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

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

28 (c) Citizens of the United States temporarily residing outside the
29 territorial limits of the United States and the District of Columbia, and
30 their spouses and dependents when residing with or accompanying them, may
31 request the absentee ballot for any one (1) or more elections during any one
32 (1) calendar year by submitting only one (1) application during that calendar
33 year in the manner prescribed by subsection (a) of this section."
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35 SECTION 4. Arkansas Code 7-5-404, pertaining to use of paper ballots

1 for voting by mail, is repealed.

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

4 "7-5-405. Application form.

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

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

12Date

13 To: County Clerk

14County

15, Arkansas

16 (1) I am a qualified elector of precinct in
17(City, Town),County, Arkansas. Because I:

18 {check one}

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

20 [] will be unable to attend the polls on election day because of illness or
21 physical disability,

22 I am requesting that you provide me with the appropriate absentee ballot(s)
23 for the following elections:

24 [] Preferential Primary [] Democratic [] Republican

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

26 [] Annual School Election

27 [] General Election

28 [] General Runoff

29 [] Special

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

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

32 [] personally delivering this application.

33 [] mailing this application.

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

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

1 brother-in-law, father-in-law, mother-in-law, grandparent, grandchild, aunt,
2 uncle, niece, nephew, great-grandparent, or great-grandchild or designated
3 bearer (circle one and insert their
4 name),....., to deliver this application.

5 authorizing (insert their name)
6 as my agent to deliver this application as I am medically unable to deliver
7 it. An affidavit verifying my medical status as unable to deliver the
8 application or to vote on the day of the election is attached.

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

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

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

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

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19

20 bearer (insert name of relative,
21 agent or designated bearer)

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

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26 printed or typed name of voter signature of voter

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28 residence address of voter date of birth

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30 city or town, zipcode."

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

33 "7-5-413. Voting machines - Discretionary use - Related duties.

34 (a) In any election in which voting machines are to be used in all or
35 part of the election precincts, the appropriate authority charged with

1 holding the election shall, within its discretion, determine by proper
2 resolution or order whether or not voting machines shall be used for absentee
3 or early voting by personal appearance at the election.

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

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

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

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

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SECTION 7. Subchapter 4 of Chapter 5 of Title 7 is amended by adding the following section:

"7-5-418. Early voting.

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

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

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

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

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

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

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

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

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

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

SECTION 8. All provisions of this act of a general and permanent nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas

1 Code Revision Commission shall incorporate the same in the Code.

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

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

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/s/Harriman and Malone

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

SB 462

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