

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.

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

A Bill

HOUSE BILL 1570

4
5 By: Representative Hall
6
7

For An Act To Be Entitled

8
9 AN ACT AMENDING ARKANSAS ELECTION LAW CONCERNING
10 BALLOT BEARERS, AUTHORIZED AGENTS, AND
11 ADMINISTRATORS; AND FOR OTHER PURPOSES.
12

Subtitle

13
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

36 SECTION 2. Arkansas Code Title 7, Chapter 5, Subchapter 4 is amended



1 to add an additional section to read as follows:

2 7-5-419. Designated bearers, authorized agents and administrators.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

34 (2) The designated bearer and authorized agent register shall
35 contain the following oath on each page: "IF YOU PROVIDE FALSE INFORMATION
36 ON THIS FORM, YOU MAY BE GUILTY OF PERJURY AND SUBJECT TO A FINE OF UP TO TEN

1 THOUSAND DOLLARS (\$10,000) OR IMPRISONMENT FOR UP TO TEN YEARS, OR BOTH,
2 UNDER FEDERAL AND STATE LAWS".

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

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

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

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

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

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

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

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

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

28
29 SECTION 3. Arkansas Code § 7-5-405(a)(2), concerning information
30 required on absentee ballot applications, is amended to read as follows:

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

32 (A) The following statement:

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

36 (B) A statement in which the voter must indicate that he

1 or she is requesting an absentee ballot because he or she will be:

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

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

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

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

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

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

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

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

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

22

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

24 7-5-409. Materials furnished to qualified voters.

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

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

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

35 (2) If the county clerk is unable to contact the applicant to
36 cure the deficiency, the county clerk shall forward the application with the

1 reason for the rejection to the county board of election commissioners. The
2 board shall determine whether the applicant is a qualified elector.

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

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

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

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

16 (4)(A) A voter statement containing the following information:

17 "I reside at the address indicated on my application. I have enclosed in
18 the return envelope:

19 (i) My completed voter statement;

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

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

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

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

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

1 ELECTION"; and

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

3

4 "AGENT AUTHORIZATION FORM

5

6 If applicable, fill out and sign this form and place it in the Return

7 Envelope

8

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

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17 signature of voter

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21 printed name of voter

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25 address of voter

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29 date of birth of voter"

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

35 (2) The county clerk shall not mail more than two (2) absentee
36 ballots to the same address unless:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 validation of the identity of the authorized agent.

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

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

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

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

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

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