

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

SENATE BILL 202

4  
5 By: Senator Faris  
6  
7

## For An Act To Be Entitled

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

### Subtitle

13  
14 CLARIFYING ARKANSAS LAWS CONCERNING  
15 BALLOT BEARERS, AUTHORIZED AGENTS, AND  
16 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)(A) A designated bearer may deliver to the county clerk the  
7 absentee ballots for not more than two (2) voters.

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

10 (3) In order to obtain an absentee ballot from the county clerk:

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

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

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

17 (4) Upon delivering an absentee ballot to the clerk:

18 (A) The designated bearer shall present 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 delivery of the voter's ballot.

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

30 (2)(A) In order for an authorized agent to obtain a ballot from  
31 the county clerk, the authorized agent shall submit to the county clerk an  
32 affidavit of the administrative head of a hospital or long-term care or  
33 residential facility licensed by the state that the applicant is a patient of  
34 the hospital or long-term care or residential facilities licensed by the  
35 state and is thereby unable to vote on the election day at his or her regular  
36 polling site.

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

3                   (3) In order to obtain an absentee ballot from the county clerk,  
 4 the:

5                   (A) Authorized agent shall present current photographic  
 6 identification to the clerk;

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

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

11                   (4) Upon delivering an absentee ballot to the county clerk, the:

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

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

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

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

20                   (2) The designated bearer and authorized agent register shall  
 21 contain the following oath on each page: "IF YOU PROVIDE FALSE INFORMATION  
 22 ON THIS FORM, YOU MAY BE GUILTY OF PERJURY AND SUBJECT TO A FINE OF UP TO TEN  
 23 THOUSAND DOLLARS (\$10,000) OR IMPRISONMENT FOR UP TO TEN YEARS, OR BOTH,  
 24 UNDER FEDERAL AND STATE LAWS".

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

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

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

36                   (B) Absentee ballots may be delivered to the county clerk

1 in person or by mail.

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

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

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

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

10  
 11 SECTION 3. Arkansas Code § 7-5-405(a)(2), concerning information  
 12 required on absentee ballot applications, is amended to read as follows:

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

14 (A) The following statement:

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

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

20 (i) Unavoidably absent from the polling site on  
 21 election day;

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

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

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

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

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

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

35 ~~(G)~~(F) The date, the voter's printed or typed name, voting  
 36 residence address, date of birth, and the voter's signature attesting to the

1 correctness of the information provided under penalty of perjury; and  
 2 ~~(H)~~(G) The election in which the voter wishes to cast a  
 3 ballot.

4  
 5 SECTION 4. Arkansas Code § 7-5-409 is amended to read as follows:  
 6 7-5-409. Materials furnished to qualified voters.

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

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

15 (C) The county clerk shall notify the applicant of the  
 16 reason for the rejection.

17 (2) If the county clerk is unable to contact the applicant to  
 18 cure the deficiency, the county clerk shall forward the application with the  
 19 reason for the rejection to the county board of election commissioners. The  
 20 board shall determine whether the applicant is a qualified elector.

21 (b) If the applicant is registered or is otherwise eligible to vote  
 22 absentee, the county clerk, prior to mailing or delivering the ballot, shall  
 23 detach the ballot stub and deposit the ballot stub into a sealed box  
 24 designated as "Absentee Stub Box" and deliver or mail to the applicant or  
 25 deliver pursuant to subsections (d)-(f) of this section to the person who  
 26 delivers the application to the office of the county clerk pursuant to § 7-5-  
 27 403 the following materials:

28 (1) An official ballot for each election named in the  
 29 application;

30 (2) Instructions for voting and returning the ballot to the  
 31 county clerk;

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

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

- 1 (i) My completed voter statement;
- 2 (ii) A copy of a current and valid photo
- 3 identification card or current utility bill, bank statement, government
- 4 check, paycheck, or other government document that shows my name and address,
- 5 if I registered to vote for the first time by mail; and
- 6 (iii) The ballot only envelope containing my marked
- 7 ballot; and

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

12 (B) Blanks shall be provided for the voter to provide his  
 13 or her printed name, signature, address, date of birth, signature of  
 14 administrator, authorized agent, or designated bearer, and address of the  
 15 administrator, authorized agent, or designated bearer;

16 (5) A sealable envelope upon which shall be printed or written  
 17 the words: "Return Envelope", the address of the county clerk, the precinct  
 18 of the voter, and the words: "ABSENTEE BALLOT, ....., .....,  
 19 ELECTION"; and

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

21  
 22 "AGENT AUTHORIZATION FORM

23  
 24 If applicable, fill out and sign this form and place it in the Return  
 25 Envelope

26  
 27 I hereby authorize ..... (insert his or her name) as my  
 28 authorized agent, to deliver this ballot as I am medically unable to vote on  
 29 election day. An affidavit verifying my medical status as unable to deliver  
 30 the application or to vote on the day of the election is attached or has been  
 31 provided with my application.

32  
 33 .....  
 34  
 35 signature of voter

36

1 .....

2

3 printed name of voter

4

5 .....

6

7 address of voter

8

9 .....

10

11 date of birth of voter"

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

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

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

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

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

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

31 ~~(e) The county clerk shall require the person picking up absentee~~  
32 ~~ballots for another person to sign a register under oath to be maintained by~~  
33 ~~the county clerk. The designated bearer register shall contain the following~~  
34 ~~information: printed name of designated bearer, address of designated bearer,~~  
35 ~~printed name of voter, and signature of designated bearer. The register shall~~  
36 ~~contain the following oath on each page: "IF YOU PROVIDE FALSE INFORMATION ON~~

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

8 ~~(g)~~ The county clerk shall not deliver in person or by any other means  
 9 of transmittal more than two (2) absentee ballots per election to the  
 10 individual authorized to receive the absentee ballots unless there are more  
 11 than two (2) persons lawfully registered at the same address as the  
 12 individual obtaining the absentee ballots, in which case the individual may  
 13 receive only the same number of absentee ballots as persons lawfully  
 14 registered at the same address.

15 ~~(h)~~(f) A designated bearer shall be allowed to pick up ~~only two (2)~~  
 16 absentee ballots from the county clerk ~~per election and shall be allowed to~~  
 17 ~~do so~~ only during the fifteen (15) days prior to a preferential primary  
 18 election, presidential preferential primary election, or general election, or  
 19 school election, and seven (7) days prior to a general primary election or  
 20 other runoff election.

21 ~~(i)~~(g) Upon delivery of an absentee ballot to an individual authorized  
 22 to receive an absentee ballot, the county clerk shall mark the precinct voter  
 23 registration list to indicate that the individual has received an absentee  
 24 ballot.

25  
 26 SECTION 5. Arkansas Code § 7-5-411(a)(2), concerning methods of  
 27 absentee voting, is amended to read as follows:

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

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

