

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
4

As Engrossed: H2/27/07

A Bill

SENATE BILL 202

5 By: Senator Faris
6 *By: Representative Edwards*
7

For An Act To Be Entitled

10 AN ACT CLARIFYING ARKANSAS LAWS CONCERNING BALLOT
11 BEARERS, AUTHORIZED AGENTS, AND ADMINISTRATORS;
12 AND FOR OTHER PURPOSES.
13

Subtitle

14 CLARIFYING ARKANSAS LAWS CONCERNING
15 BALLOT BEARERS, AUTHORIZED AGENTS, AND
16 ADMINISTRATORS.
17
18
19

20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
21

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

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

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

33 ~~(c) A copy of the affidavit shall be retained~~
34 ~~by the county clerk as an attachment to the application for an absentee~~
35 ~~ballot; or~~
36



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

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

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

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

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

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

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

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

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

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

1 his or her regular polling site.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

11 (e) 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 of upon to ten (10)
14 years.

15
16 SECTION 3. Arkansas Code § 7-5-405(a)(2), concerning information
17 required on absentee ballot applications, is amended to read as follows:

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

19 (A) The following statement:

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

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

25 (i) Unavoidably absent from the polling site on
26 election day;

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

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

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

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

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

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

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

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

9
10 SECTION 4. Arkansas Code § 7-5-409 is amended to read as follows:

11 7-5-409. Materials furnished to qualified voters.

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

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

20 (C) The county clerk shall notify the applicant of the
21 reason for the rejection.

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

26 (b) If the applicant is registered or is otherwise eligible to vote
27 absentee, the county clerk, prior to mailing or delivering the ballot, shall
28 detach the ballot stub and deposit the ballot stub into a sealed box
29 designated as "Absentee Stub Box" and deliver or mail to the applicant or
30 deliver pursuant to subsections (d)-(f) of this section to the person who
31 delivers the application to the office of the county clerk pursuant to § 7-5-
32 403 the following materials:

33 (1) An official ballot for each election named in the
34 application;

35 (2) Instructions for voting and returning the ballot to the
36 county clerk;

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

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

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

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

17 (B) Blanks shall be provided for the voter to provide his
18 or her printed name, signature, address, date of birth, signature of
19 administrator, authorized agent, or designated bearer, and address of the
20 administrator, authorized agent, or designated bearer;

21 (5) A sealable envelope upon which shall be printed or written
22 the words: "Return Envelope", the address of the county clerk, the precinct
23 of the voter, and the words: "ABSENTEE BALLOT,,,
24 ELECTION"; and

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

26
27 "AGENT AUTHORIZATION FORM

28
29 If applicable, fill out and sign this form and place it in the Return
30 Envelope

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

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4 signature of voter
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8 printed name of voter
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12 address of voter
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16 date of birth of voter"

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

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

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

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

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

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

36 ~~(e) The county clerk shall require the person picking up absentee~~

1 ~~ballots for another person to sign a register under oath to be maintained by~~
 2 ~~the county clerk. The designated bearer register shall contain the following~~
 3 ~~information: printed name of designated bearer, address of designated bearer,~~
 4 ~~printed name of voter, and signature of designated bearer. The register shall~~
 5 ~~contain the following oath on each page: "IF YOU PROVIDE FALSE INFORMATION ON~~
 6 ~~THIS FORM, YOU MAY BE GUILTY OF PERJURY AND SUBJECT TO A FINE OF UP TO TEN~~
 7 ~~THOUSAND DOLLARS (\$10,000) OR IMPRISONMENT FOR UP TO TEN YEARS, OR BOTH,~~
 8 ~~UNDER FEDERAL AND STATE LAWS".~~

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

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

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

26 ~~(i)~~(g) Upon delivery of an absentee ballot to an individual authorized
 27 to receive an absentee ballot, the county clerk shall mark the precinct voter
 28 registration list to indicate that the individual has received an absentee
 29 ballot.

30
 31 *SECTION 5. Arkansas Code § 7-5-411 is amended to read as follows:*
 32 *7-5-411. Methods of voting absentee.*

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

35 *(1)(A) By ballot cast by mail which must be received in the*
 36 *office of the county clerk of the county of residence of the voter not later*

1 than 7:30 p.m. on election day.

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

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

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

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

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

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

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

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

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

/s/ Faris