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4

As Engrossed: S3/14/13 S3/19/13

A Bill

SENATE BILL 1067

5 By: Senator J. English
6

For An Act To Be Entitled

8 AN ACT TO PREVENT ELECTION MISCONDUCT; TO AMEND THE
9 LAWS CONCERNING ABSENTEE BALLOTS; AND FOR OTHER
10 PURPOSES.
11

Subtitle

12
13
14 TO PREVENT ELECTION MISCONDUCT; TO AMEND
15 THE LAWS CONCERNING ABSENTEE BALLOTS.
16
17

18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
19

20 *SECTION 1. Arkansas Code § 7-5-309 is amended to read as follows:*

21 *7-5-309. Voting procedure.*

22 *(a)(1) At general, primary, special, and school elections in counties*
23 *that use paper ballots, the county board of election commissioners shall*
24 *provide voting booths for each polling site in a number deemed appropriate by*
25 *the county board of election commissioners.*

26 *(2) Each voting booth shall be situated so as to permit a voter*
27 *to prepare his or her ballot screened from observation and shall be furnished*
28 *with any supplies and conveniences as will enable the voter to prepare his or*
29 *her ballot*

30 *(3) The voting booths shall be situated in the polling site in*
31 *plain view of the poll workers.*

32 *(4) A person ~~other than the poll workers and those admitted for~~*
33 *~~the purpose of voting shall not be permitted within the immediate voting~~*
34 *~~area, which shall be considered as within six feet (6') of the voting booths,~~*
35 *~~except by~~ unless the person is:*

36 *(A) A poll worker;*



1 (B) A voter;

2 (C) A voter's authorized assistant; or

3 (D) A person:

4 (i) Who has been granted the authority ~~of~~ to be
5 within six feet (6') of the voting booths by the election judge; and ~~then~~
6 only when

7 (ii) Whose presence is necessary to keep order and
8 enforce the law.

9 (b) Before giving the voter a ballot, a poll worker shall:

10 (1) Initial the back of the ballot;

11 (2) Remove the ballot stub; and

12 (3) Place the stub into the stub box provided.

13 (c)(1)(A) Upon receiving his or her ballot, the voter shall ~~proceed to~~
14 ~~mark it by placing an appropriate mark~~ appropriately.

15 (B) A voter shall not be allowed more than five (5) minutes
16 to mark his or her ballot.

17 (2) The voter or the voter's authorized assistant shall ~~then~~
18 ~~personally~~ deposit the ballot into the ballot box provided.

19 (d)(1) The voter shall not be required to sign, initial, or in any way
20 identify himself or herself with the ballot, the ballot stub, or the list of
21 voters other than in the manner set forth in this section.

22 (2) However, a poll worker may inspect the back of the ballot
23 before the voter deposits it to see if it has been initialed by an election
24 official.

25 (e) After having voted or having declined to do so, the voter shall
26 immediately depart from the polling site.

27 (f) A person shall not be permitted to carry a ballot outside of the
28 polling place.

29 (g)(1) If a paper ballot is left at a voting booth or anywhere else in
30 the polling site without being inserted into the ballot box by the voter or
31 the voter's authorized assistant before departing the polling site, a poll
32 worker shall:

33 (A) Write "Abandoned" on the face of the paper ballot;

34 (B) Place the paper ballot into an envelope marked
35 "Abandoned Ballot";

36 (C) Note in writing on the outside of the envelope all

1 *circumstances surrounding the abandoned ballot; and*

2 *(D) Preserve the abandoned ballot separately.*

3 *(2) The county board of election commissioners shall not count*
4 *the ballot.*

5 *(h)(1) If a paper ballot that is fed by a voter or the voter's*
6 *authorized assistant into an electronic vote tabulating device at the polling*
7 *site is rejected by the device but is still in the receiving part of the*
8 *counter and the voter has not reported to a poll worker his or her desire to*
9 *cancel or replace the ballot before departing the polling site, two (2) poll*
10 *workers shall take action to override warnings on the device and complete the*
11 *process of casting the ballot.*

12 *(2) The poll workers shall document:*

13 *(A) The time;*

14 *(B) The name of the voter;*

15 *(C) The names of the poll workers completing the process of*
16 *casting the ballot; and*

17 *(D) All other circumstances surrounding the abandoned*
18 *ballot.*

19
20 *SECTION 2. Arkansas Code § 7-5-310 is amended to read as follows:*

21 *7-5-310. Privacy – Assistance to disabled voters.*

22 *(a) Each voter shall be provided the privacy to mark his or her ballot.*
23 *Privacy shall be provided by the poll workers at each polling site or by the*
24 *county clerk, if the county clerk conducts early voting, to ensure that a*
25 *voter desiring privacy is not singled out.*

26 *(b)(1) A voter shall inform the poll workers at the time that the voter*
27 *presents himself or herself to vote that he or she is unable to mark or cast*
28 *the ballot without help and needs assistance in casting his or her ballot.*

29 *(2) The voter shall be directed to a voting machine equipped for*
30 *use by persons with disabilities by which he or she may elect to cast his or*
31 *her ballot without assistance, or the voter may request assistance with*
32 *either the paper ballot or the voting machine, depending on the voting system*
33 *in use for the election, by:*

34 *(A) Two (2) poll workers; or*

35 *(B) A person named by the voter.*

36 *(3) If the voter is assisted by two (2) poll workers, one (1) of*

1 the poll workers shall observe the voting process and one (1) may assist the
 2 voter in marking and casting the ballot according to the wishes of the voter
 3 without comment or interpretation.

4 (4)(A) If the voter is assisted by one (1) person named by the
 5 voter, he or she may assist the voter in marking and casting the ballot
 6 according to the wishes of the voter without any comment or interpretation.

7 (B) ~~No~~ A person other than the following shall not assist
 8 more than six (6) voters in marking and casting a ballot ~~at~~ during an
 9 election unless the person is:

10 (i) A poll worker;

11 (ii) The county clerk during early voting; or

12 (iii) A deputy county clerk during early voting.

13 (5)(A) ~~It shall be the duty of the~~ The poll workers at the
 14 polling site ~~to~~ and the county clerk who is conducting early voting shall
 15 make and maintain a ~~list of the names and addresses~~ register of all persons
 16 assisting voters.

17 (B) The register of persons assisting voters shall include:

18 (i) The following oath in bold lettering at the top
 19 of each page: "THE VOTER WHOSE NAME IS PRINTED BESIDE MY NAME BELOW HAS
 20 PERSONALLY INFORMED A POLL WORKER OR COUNTY CLERK THAT HE OR SHE REQUIRES
 21 ASSISTANCE TO VOTE. I WILL ASSIST THE VOTER IN MARKING AND CASTING HIS OR HER
 22 BALLOT ACCORDING TO THE WISHES OF THE VOTER. I WILL NOT COMMENT ON OR
 23 INTERPRET THE BALLOT OR ITS CONTENTS. I UNDERSTAND THAT UNLESS I AM A POLL
 24 WORKER, COUNTY CLERK, OR DEPUTY CLERK I CANNOT PROVIDE ASSISTANCE TO MORE
 25 THAN SIX (6) VOTERS. I UNDERSTAND THAT IF I PROVIDE FALSE INFORMATION ON THIS
 26 REGISTER, I MAY BE GUILTY OF PERJURY AND SUBJECT TO A FINE OF UP TO TEN
 27 THOUSAND DOLLARS (\$10,000) OR IMPRISONMENT FOR UP TO TEN (10) YEARS, OR
 28 BOTH.";

29 (ii) The printed name of the voter being assisted;

30 (iii) The printed name and address of the person
 31 providing the assistance; and

32 (iv) The signature of the person providing the
 33 assistance.

34 (C) A person shall not approach a voter and offer
 35 assistance to cast a ballot if the voter is:

36 (i) In the polling site or early voting location;

1 (ii) Waiting in line to cast his or her vote at the
 2 polling site or early voting location; or

3 (iii) Within one hundred feet (100') of the primary
 4 entrance to the polling site or early voting location.

5 (c) ~~Any~~ If a voter who informs a poll worker or county clerk at a
 6 polling site or early voting location that he or she is unable to stand in
 7 line for extended periods of time because of physical, sensory, or other
 8 ~~disability who presents himself or herself for voting and who then informs a~~
 9 ~~poll worker at the polling site that he or she is unable to stand in line for~~
 10 ~~extended periods of time shall be entitled to and assisted by a poll worker~~
 11 the poll worker or county clerk shall allow and assist the voter to advance
 12 to the head of any the line of voters then waiting in line to vote at the
 13 polling site or early voting location.

14
 15 SECTION 3. Arkansas Code § 7-5-403 is amended to read as follows:

16 7-5-403. Designated bearers, authorized agents, and administrators.

17 (a)(1) A designated bearer may obtain absentee ballots ~~from the county~~
 18 ~~clerk for not~~ no more than two (2) voters per election.

19 (2)(A) ~~At no time shall a~~ A designated bearer shall not have
 20 more than two (2) absentee ballots in his or her possession at any time.

21 (B) If the county clerk knows or reasonably suspects that
 22 a designated bearer has more than two (2) absentee ballots in his or her
 23 possession, the county clerk shall notify the prosecuting attorney.

24 (3)(A) A designated bearer receiving an absentee ballot from the
 25 county clerk for a voter shall obtain the absentee ballot directly from the
 26 county clerk and deliver the absentee ballot directly to the voter.

27 (B) A designated bearer receiving an absentee ballot from
 28 a voter shall obtain the absentee ballot directly from the voter and deliver
 29 the absentee ballot directly to the county clerk.

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

32 (B) The designated bearer shall be named on the voter
 33 statement accompanying the absentee ballot.

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

35 (A) The designated bearer shall show a form of current
 36 photographic identification to the county clerk;

1 (B) The county clerk shall print the designated bearer's
2 name and address beside the voter's name on a register;

3 (C) The designated bearer shall sign the register under
4 oath indicating receipt of the voter's absentee ballot; and

5 (D) The county clerk shall indicate beside the designated
6 bearer's name on the register that he or she obtained an absentee ballot for
7 a voter.

8 (6) ~~Upon delivering~~ When a designated bearer delivers an
9 absentee ballot to the county clerk:

10 (A) The designated bearer shall present current and valid
11 photographic identification to the county clerk;

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

14 (C) The designated bearer shall sign the register under
15 oath indicating delivery of the voter's absentee ballot; ~~and~~

16 (D) The county clerk shall not accept an absentee ballot
17 from a designated bearer who does not sign the register under oath; and

18 (E) The county clerk shall write or stamp the word
19 "BEARER", and write the designated bearer's name and address on the voter's
20 absentee ballot return envelope.

21 (7) When providing an absentee ballot to a designated bearer or
22 receiving an absentee ballot from a designated bearer, the county clerk shall
23 provide to the designated bearer a written notice informing the designated
24 bearer that:

25 (A) A designated bearer may obtain ballots for no more
26 than two (2) voters per election;

27 (B) A designated bearer shall at no time have more than
28 two (2) ballots in his or her possession;

29 (C) A designated bearer ~~may~~ shall not deliver ballots to
30 the county clerk for ~~no~~ more than two (2) voters per election; and

31 (D) Possession of an absentee ballot with the intent to
32 defraud a voter or an election official is a felony under § 7-1-104.

33 (8) The county clerk shall post a notice of the rules concerning
34 designated bearers and authorized agents in each county clerk's office where
35 absentee ballots are distributed or returned.

36 (b)(1) An authorized agent may deliver applications for absentee

1 ballots to the county clerk and obtain absentee ballots from the county clerk
2 for not more than two (2) voters per election who cannot cast a ballot at the
3 appropriate polling place on election day because the voter is a patient in a
4 hospital or long-term care or residential care facility licensed by the
5 state.

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

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

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

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

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

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

24 (A) Authorized agent shall present current photographic
25 identification to the clerk;

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

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

30 (6) ~~Upon delivering~~ When an authorized agent delivers an
31 absentee ballot to the county clerk, the:

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

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

36 (C) Authorized agent shall sign the register under oath

1 indicating delivery of the voter's ballot; and

2 (D) The county clerk shall not accept an absentee ballot
3 from an authorized agent who does not sign the register under oath.

4 (7) The county clerk shall write or stamp the words "AUTHORIZED
5 AGENT" and the agent's name and address on the voter's absentee ballot return
6 envelope.

7 (8) The county clerk shall post a notice of the rules concerning
8 designated bearers and authorized agents in each county clerk's office where
9 absentee ballots are distributed or returned.

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

12 (2) The designated bearer and authorized agent register shall
13 contain the following oath on each page: "I ACKNOWLEDGE THAT ARKANSAS LAW
14 PROHIBITS DESIGNATED BEARERS AND AUTHORIZED AGENTS FROM RECEIVING OR
15 RETURNING MORE THAN TWO (2) ABSENTEE BALLOTS PER ELECTION. I HAVE COMPLIED
16 WITH THE ARKANSAS LAW. IF YOU I UNDERSTAND THAT IF I PROVIDE FALSE
17 INFORMATION ON THIS FORM, YOU I MAY BE GUILTY OF PERJURY AND SUBJECT TO A
18 FINE OF UP TO TEN THOUSAND DOLLARS (\$10,000) OR IMPRISONMENT FOR UP TO TEN
19 (10) YEARS, OR BOTH, UNDER FEDERAL AND STATE LAWS."

20 (d)(1)(A) An administrator may deliver to the county clerk an
21 application for an absentee ballot for any voter who is a patient of a long-
22 term care or residential care facility licensed by the state and who ~~names~~
23 authorizes the administrator ~~on his or her application as the administrator~~
24 ~~of the facility where the voter resides~~ to obtain an absentee ballot on his
25 or her behalf.

26 (B) The absentee ballot application shall identify the
27 administrator by name as the administrator of the facility where the voter
28 resides.

29 (2) ~~An~~ Upon presentation of photographic identification to the
30 county clerk, an administrator may receive absentee ballots for as many
31 qualified residents of the facility as apply:

32 (A) Apply for absentee ballots upon presentation of
33 photographic identification to the county clerk; and

34 (B) Identify the administrator in the voter's absentee
35 ballot application.

36 (3)(A) An administrator may deliver the absentee ballot to the

1 county clerk for any voter who names the administrator on his or her
2 application and voter statement.

3 (B) Absentee ballots may be delivered to the county clerk
4 in person by the administrator or by mail.

5 (4) ~~An~~ Before obtaining an absentee ballot, an administrator
6 shall submit to the county clerk an affidavit, signed and dated by the
7 administrator, stating:

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

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

11 (C) That he or she has been authorized by the voters of
12 who reside in his or her facility who named him or her in their applications
13 for absentee ballot and voter statement to deliver their absentee ballots, to
14 obtain from the county clerk and return to the county clerk absentee ballots
15 on their behalf; and

16 (D) That each of the voters for whom the administrator
17 seeks to obtain an absentee ballot has named the administrator on his or her
18 application.

19 (5)(A) The county clerk shall provide a log to the administrator
20 with the absentee ballots.

21 (B) The administrator shall record on the log whether the
22 administrator or his or her staff provides assistance to a voter in marking
23 his or her ballot or completing the voter statement.

24 (C) A person shall not provide assistance to more than six
25 (6) voters.

26 (6)(A) The administrator shall ensure that each person assisting
27 a voter in marking his or her ballot or completing the voter statement signs
28 the log.

29 (B) The log shall be returned to the county clerk with the
30 absentee ballots.

31 (C) If the voter did not obtain assistance, the
32 administrator shall provide a signed written statement to the county clerk
33 indicating that no assistance was provided.

34 (7) The log under this section shall include:

35 (A) The following oath in bold lettering at the top of
36 each page: "THE VOTER WHOSE NAME IS PRINTED BESIDE MY NAME BELOW HAS

1 PERSONALLY INFORMED THAT HE OR SHE REQUIRES ASSISTANCE TO VOTE. I WILL ASSIST
 2 THE VOTER IN MARKING AND CASTING HIS OR HER BALLOT ACCORDING TO THE WISHES OF
 3 THE VOTER. I WILL NOT COMMENT ON OR INTERPRET THE BALLOT OR ITS CONTENTS. I
 4 UNDERSTAND THAT I CANNOT PROVIDE ASSISTANCE TO MORE THAN SIX (6) VOTERS. I
 5 UNDERSTAND THAT IF I PROVIDE FALSE INFORMATION ON THIS REGISTER, I MAY BE
 6 GUILTY OF PERJURY AND SUBJECT TO A FINE OF UP TO TEN THOUSAND DOLLARS
 7 (\$10,000) OR IMPRISONMENT FOR UP TO TEN (10) YEARS, OR BOTH.”;

8 (B) The printed name of the voter being assisted;

9 (C) The printed name and address of the person providing
 10 the assistance; and

11 (D) The signature of the person providing the assistance.

12 (8) The county clerk shall attach a copy of the administrator’s
 13 affidavit to each application for an absentee ballot delivered by the
 14 administrator to the county clerk.

15 (9) When the ballots are returned by the administrator in person
 16 or by mail, the county clerk shall write or stamp the word “ADMINISTRATOR”
 17 and write the administrator’s name on the voter’s absentee ballot return
 18 envelope.

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

22
 23 SECTION 4. Arkansas Code § 7-5-404 is amended to read as follows:

24 7-5-404. Applications for ballots.

25 (a)(1)(A) Applications for absentee ballots must be signed by the
 26 applicant and verified by the county clerk by checking the voter’s name,
 27 address, date of birth, and signature from the registration records ~~or, if~~
 28 unless the application is sent by electronic means.

29 (B) If the application is sent by electronic means, the
 30 application must bear a verifiable facsimile of the applicant’s signature.

31 (2)(A) If the signatures on the absentee ballot application and
 32 the voter registration record are not similar, the county clerk shall not
 33 provide an absentee ballot to the voter.

34 (B) If the absentee ballot request is rejected under
 35 subdivision (a)(2)(A) of this section, the county clerk shall:

36 (i) Provide notice promptly to the voter of the

1 rejection;

2 (ii) Allow the voter to resubmit the request; and

3 (iii) Electronically record the rejection in the
4 permanent system maintained by the county clerk.

5 (C) The notice to the voter under subdivision (a)(2)(B) of
6 this section shall be made by:

7 (i) The most efficient means available including
8 without limitation by telephone or email; and

9 (ii) Written notice sent by first-class mail to the
10 address where the voter is registered to vote.

11 (3) Delivery of the request for an absentee ballot to the county
12 clerk may be made in one (1) of the following ways, and in no other manner:

13 (A) For applications submitted using the form prescribed
14 in § 7-5-405:

15 (i) In person at the office of the county clerk of
16 the county of residence of the voter no later than the time the county
17 clerk's office regularly closes on the day before election day;

18 (ii) Applications by mail must be received in the
19 office of the county clerk of the county of residence of the voter not later
20 than seven (7) days before the election for which the application was made;

21 (iii) A designated bearer may deliver the completed
22 application to the office of the county clerk of the county of residence of
23 the applicant not later than the time the county clerk's office regularly
24 closes on the day before the day of the election;

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

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

33 (vi)(a) Delivery by electronic means to the county
34 clerk's office of the county of residence of the voter not later than seven
35 (7) days before the election for which the application was made.

36 (b) The completed application sent by

1 *electronic means will be accepted only upon verification of the facsimile*
2 *signature of the applicant by the county clerk.*

3 *(c) Once verified as a reasonable likeness of*
4 *the voter's signature, the signature appearing on a copy of an application*
5 *sent by electronic means shall be presumed to be authentic until proven*
6 *otherwise; or*

7 *(B) If the applicant does not use the form prescribed in §*
8 *7-5-405, he or she may make an application for an absentee ballot as follows:*

9 *(i) A letter or postcard must be received in the*
10 *office of the county clerk not later than seven (7) days before the date of*
11 *the election. The letter or postcard shall contain information sufficient for*
12 *the county board of election commissioners and the county clerk to accept the*
13 *letter or postcard in lieu of the application form; or*

14 *(ii) An applicant may transmit a written request for*
15 *an absentee ballot by electronic means that shall contain the voter's*
16 *signature and other information sufficient for acceptance in lieu of the*
17 *application form.*

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

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

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

31 *(ii) The election cycle shall include any one (1)*
32 *election and the corresponding runoff election.*

33 *(C)(i) For a voter residing in a long-term care or*
34 *residential care facility licensed by the state the application shall remain*
35 *in effect for one (1) calendar year unless withdrawn by the voter.*

36 *(ii) The county clerk automatically shall mail, no*

1 later than twenty-five (25) days before each election, an absentee ballot for
2 each election unless before mailing the administrator of the facility has
3 presented an absentee ballot request from the voter authorizing the
4 administrator to receive the absentee ballot on behalf of the voter for that
5 election.

6 (D)(i) For a voter with a disability as defined in § 7-5-
7 311, the application shall remain in effect for one (1) calendar year unless
8 withdrawn by the voter.

9 (ii) The county clerk automatically shall mail, no
10 later than twenty-five (25) days before each election, an absentee ballot for
11 each election.

12 (c) The following may request an absentee ballot for one (1) or more
13 elections, up to and including the next ~~two~~ (2) regularly scheduled general
14 ~~elections~~ election for federal office, including without limitation any
15 runoff elections that may occur as a result of the outcome of the general
16 elections, by submitting one (1) application during that period of time in
17 the manner provided under subsection (a) of this section:

18 (1) A citizen of the United States temporarily residing outside
19 the territorial limits of the United States;

20 (2) A member of the uniformed services of the United States
21 while in active duty or service, including his or her spouse or dependent,
22 who by reason of active duty or service of the member is absent from the
23 place of residence where the member, spouse, or dependent is otherwise
24 qualified to vote; and

25 (3) A member of the Merchant Marine while in active duty or
26 service, including his or her spouse or dependent, who by reason of the
27 active duty or service of the member is absent from the place of residence
28 where the member, spouse, or dependent is otherwise qualified to vote.

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

31 (1) Electronic mail; or

32 (2) Facsimile machine.

33
34 SECTION 5. Arkansas Code § 7-5-405(b)(3), concerning the form for the
35 application for absentee ballot, is amended to read as follows:

36 (3) Persons whose applications would be valid through the next

1 ~~two (2)~~ regularly scheduled general ~~elections~~ election for federal office,
2 including any resulting runoff elections.

3
4 SECTION 6. Arkansas Code § 7-5-408 is amended to read as follows:

5 7-5-408. List of applications – Preparation, preservation, and
6 inspection.

7 (a) The county clerk shall make a list of the applications for
8 absentee ballots as the applications are received and shall keep the list of
9 applications and retain the application forms after the election in which
10 they are to be used for the same period as is required for retaining ballots.

11 (b) When each absentee ballot is returned to the county clerk, the
12 clerk shall indicate on the list of applications that the absentee ballot was
13 returned.

14 (c) The list and applications shall be available to public inspection
15 during regular business hours from sixty (60) days prior to the election
16 until they are destroyed.

17 (d)(1) The county clerk shall record in the electronic voter
18 registration system the date the county clerk receives the voter's:

19 (A) Absentee ballot application; and

20 (B) Absentee ballot.

21 (2) Except as provided in subdivision (d)(3) of this section
22 during the sixty (60) days before election day, the county clerk shall record
23 in the electronic voter registration system:

24 (A) Within one (1) business day after the receipt of the
25 voter's absentee ballot, the date the county clerk received the voter's
26 absentee ballot; and

27 (B) Within two (2) business days after receipt of the
28 voter's absentee ballot application, the date the county clerk received the
29 absentee ballot application.

30 (3) If a voter's absentee ballot is received by the county clerk
31 on election day, the county clerk immediately shall record the date the
32 absentee ballot was received.

33 (4) The county clerk shall not provide an absentee ballot to an
34 election official for counting unless the ballot has been marked as received
35 in the electronic voter registration system.

36

1 SECTION 7. Arkansas Code § 7-5-409(a)(1)(A), concerning qualifications
2 to receive an absentee ballot, is amended to read as follows:

3 7-5-409. Materials furnished to qualified voters.

4 (a)(1)(A) The county clerk must satisfy himself or herself that the
5 applicant for an absentee ballot is a qualified registered elector in the
6 ward, precinct, or township in which he or she claims to be a resident or
7 that the applicant ~~is exempted from~~ does not require prior registration under
8 § 7-5-406.

9
10 SECTION 8. Arkansas Code § 7-5-409(b)(4)(B), concerning certain
11 information included on the voter statement, is amended to read as follows:

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

17
18 SECTION 9. Arkansas Code § 7-5-409(g), concerning records maintained
19 regarding absentee ballots, is amended to read as follows:

20 (g) Upon delivery of an absentee ballot to an individual authorized to
21 receive an absentee ballot, the county clerk shall mark the electronic voter
22 registration list and the precinct voter registration list to indicate that
23 an absentee ballot has been delivered to the voter.

24
25 SECTION 10. Arkansas Code § 7-5-412 is amended to read as follows:

26 7-5-412. Marking and return of absentee ballots – Delivery of mailed
27 absentee ballots.

28 (a) Upon receiving the blank absentee ballot, voter statement, and
29 envelopes, whether in the office of the county clerk or elsewhere, the voter
30 shall mark the absentee ballot and place the absentee ballot in the provided
31 envelope. He or she shall then seal the envelope containing the absentee
32 ballot and place it in the other provided outer envelope with the following:

33 (1) The completed and executed voter statement, including
34 identification of the designated bearer, authorized agent, or administrator
35 when appropriate; and

36 (2) A copy of a current and valid photographic identification or

1 a copy of a current utility bill, bank statement, government check, paycheck,
2 or other government document that shows the name and address of the first-
3 time voter, for first-time voters who registered by mail. However, this
4 requirement does not apply if:

5 (A) The voter registered to vote by mail and provided the
6 identification at that time; or

7 (B) The first-time voter registered to vote by mail and
8 submitted his or her driver's license number or at least the last four (4)
9 digits of his or her social security number at the time and this information
10 matches the information in an existing state identification record bearing
11 the same number, name, and date of birth as provided in the registration.

12 (b) A voter who desires to cast an absentee ballot but who does not
13 meet the identification requirements of subdivision (a)(2) of this section
14 may cast his or her absentee ballot by mail, and the absentee ballot shall be
15 considered as a provisional ballot.

16 (c) Absentee After recording receipt of the absentee ballot in the
17 electronic voter registration system, absentee ballots received by mail on
18 election day before the polls close shall be delivered promptly by the county
19 clerk to the election officials designated to canvass and count absentee
20 ballots.

21

22 SECTION 12. Arkansas Code § 7-5-416 is amended to read as follows:

23 7-5-416. Counting of absentee ballots.

24 (a)(1) The election officials for absentee ballots shall meet ~~in the~~
25 ~~courthouse~~ in a place designated by the county board of election
26 commissioners no earlier than 8:30 a.m. on election day for the purpose of
27 processing absentee ballots.

28 (2) The county board shall give public notice of the time and
29 location of the opening, processing, canvassing, and counting of absentee
30 ballots and early voting ballots as provided in § 7-5-202.

31 (3) ~~The~~ On election day, the county clerk shall forward the
32 following items to the election officials designated by the county board to
33 open, process, canvass, and count absentee ballots:

34 (A) The absentee ballot applications sorted alphabetically
35 or by precinct ~~to the election officials for absentee ballots.;~~

36 (B) The absentee ballots; and

1 (C) A written report containing the following information:

2 (i) The number of absentee ballot applications
3 received by the county clerk;

4 (ii) The number of absentee ballots sent by the
5 county clerk;

6 (iii) The number of absentee ballots returned to the
7 county clerk;

8 (iv) The number of absentee ballots rejected by the
9 county clerk and the reason for the rejection;

10 (v) The number of absentee ballots marked as
11 received on the paper absentee ballot applications list; and

12 (vi) If the number of absentee ballots returned to
13 the county clerk and the number of absentee ballots marked as received on the
14 paper absentee ballot lists are different and the reason for the difference
15 is known, the reason for the difference.

16 (4) The processing and counting of absentee ballots shall be
17 open to the public, and candidates and ~~political parties~~ authorized poll
18 watchers may be present in person or by a representative designated in
19 writing ~~pursuant to~~ under § 7-5-312 during the opening, processing,
20 canvassing, and counting of the absentee ballots as provided in this
21 subchapter.

22 (5)(A) Absentee or early votes may be counted prior to the
23 closing of the polls on election day.

24 (B) The results shall not be printed, posted, or released
25 until after the polls close on election day.

26 (b)(1) The opening, processing, counting, and canvassing of absentee
27 ballots shall be conducted as follows:

28 (A) One (1) of the election officials shall open outer
29 absentee ballot envelopes one (1) by one (1) and verify the contents;

30 (B) If the required materials are properly placed in the
31 outer absentee ballot envelope, the election official shall proceed to read
32 aloud from the voter statement the name of the voter;

33 (C) If the required materials are not properly placed in
34 the outer absentee ballot envelope, a second election official shall open the
35 inner absentee ballot envelope to verify the contents;

36 (D) If all required materials are present within one (1)

1 or the other envelopes, the election officials shall put the materials in the
2 proper envelopes while preserving the secrecy of the voter's ballot and shall
3 proceed to read aloud from the voter statement the name of the voter and the
4 voting precinct in which the voter claims to be a legal voter;

5 (E) As each outer envelope is opened and the name of the
6 voter is read, the election officials for the absentee box shall list in
7 duplicate the name and voting precinct of the voter;

8 (F)(i) After the election official reads aloud from the
9 statement, the election officials shall compare the name, address, date of
10 birth, and signature of the voter's absentee application with the voter's
11 statement and, for first-time voters who registered by mail, the first-time
12 voter's identification document unless the voter previously provided
13 identification at the time of mailing the voter registration application.

14 (ii) If the county board of election commissioners
15 determines that the application and the voter's statement do not compare as
16 to name, address, date of birth, and signature, the absentee ballot shall not
17 be counted.

18 (iii) If a first-time voter fails to provide the
19 required identification with the absentee ballot or at the time of mailing
20 the voter registration application, then the absentee application, absentee
21 ballot envelope, and voter's statement shall be placed in an envelope marked
22 "provisional" and the absentee ballot shall be considered a provisional
23 ballot;

24 (G) The election officials shall compare the name and
25 address of the bearer, agent or administrator written on the absentee ballot
26 return envelope with the information on the voter statement. If the
27 information does not match, then the outer envelope, absentee application,
28 secrecy envelope containing the ballot, and the voter's statement shall be
29 placed in an envelope marked "provisional" and the absentee ballot shall be
30 considered a provisional ballot;

31 (H) If the absentee voter fails to return the voter
32 statement, the vote shall not be counted;

33 ~~(H)(I)~~ Failure of the voter to submit the required
34 absentee materials in the proper envelopes shall not be grounds for
35 disqualifying the voter;

36 (J) If the voter statement does not authorize a bearer,

1 agent, or administrator to receive or return his or her absentee ballot and
2 the ballot was received or returned by a bearer, agent, or administrator, the
3 vote shall not be counted;

4 ~~(I)~~(K) If no challenge is made by a qualified poll
5 watcher, the election official shall remove the inner envelope, without
6 opening the inner envelope containing the ballot, and place it in the ballot
7 box without marking it in any way;

8 ~~(J)~~(L)(i) After all of the outer envelopes have been
9 opened and a list has been made in duplicate of the name and voting precinct
10 of the voters as required in this section, the election officials of the
11 absentee box shall preserve all the statements of voters and the voters'
12 identification documents and deliver them to the county clerk, who shall file
13 and keep them for the same length of time after the election as is required
14 for retention of other ballots.

15 (ii) The voter statements shall be made available
16 for public inspection during regular business hours.

17 (iii) The voters' identification documents shall not
18 be subject to public inspection except as part of a judicial proceeding to
19 contest the election;

20 ~~(K)~~(M) When all of the inner envelopes containing the
21 ballots have been placed in the ballot box, the ballot box shall be shaken
22 thoroughly to mix the ballots; and

23 ~~(L)~~(N) The ballot box shall be opened and the ballots
24 canvassed and counted.

25 (2) No election results shall be printed or released prior to
26 the closing of the polls on election day.

27 (c) If any person casting an absentee ballot dies before the polls
28 open on election day, his or her vote shall not be counted.

29 (d) It is the intent of this section to permit the election officials
30 for absentee ballots to meet and process, canvass, and count absentee ballots
31 according to this section prior to the closing of the polls on election day.

32 (e)(1) Absentee votes shall be cast on paper ballots.

33 (2)(A) The ballots shall first be counted for write-in votes by
34 the election officials.

35 (B) Then, at the discretion of the county board, the
36 ballots may be either hand counted or counted on an electronic vote

1 *tabulating device.*

2 *(f)(1) Absentee ballots marked as "special runoff ballots" received*
3 *from a qualified voter from one (1) of the categories in § 7-5-406(a) ~~and who~~*
4 *~~is temporarily residing outside the territorial limits of the United States~~*
5 *shall be opened for general primary elections and general runoff elections*
6 *according to the procedures described in subsection (b) of this section.*

7 *(2) However, in counting the special runoff ballot, one (1) of*
8 *the election officials shall open the envelope containing the special runoff*
9 *ballot and read the numbers indicated next to the names of the two (2)*
10 *candidates in the general primary election or in the general runoff election.*

11 *(3) The candidate with the highest ranking shall receive the*
12 *vote.*

13 *(4) A special runoff ballot received with the preferential*
14 *primary absentee ballot shall be counted in the general primary election, and*
15 *a special runoff ballot received with the general election absentee ballot*
16 *shall be counted in the general runoff election.*

17 *(5) The Secretary of State shall prepare instructions for*
18 *opening, counting, and canvassing special runoff ballots and provide the*
19 *instructions to each county board of election commissioners.*

20

21

/s/J. English

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