

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas
93rd General Assembly
Regular Session, 2021

As Engrossed: H3/15/21 H3/29/21

A Bill

HOUSE BILL 1715

By: Representatives Lowery, Wing, Barker, Beaty Jr., Beck, Bentley, M. Berry, S. Berry, Boyd, Bragg, Brooks, Brown, Carr, Cavenaugh, Christiansen, Cloud, Coleman, C. Cooper, Cozart, Crawford, Dalby, M. Davis, Eaves, Eubanks, Evans, L. Fite, Gazaway, Gonzales, M. Gray, Haak, Hawks, Hollowell, Ladyman, Lundstrum, Maddox, McCollum, McGrew, McNair, S. Meeks, Payton, Penzo, Pilkington, Richmond, Rye, B. Smith, S. Smith, Speaks, Vaught, Warren, Watson, Wooten

By: Senators K. Hammer, M. Johnson, *Beckham, J. English, Rapert, D. Sullivan, D. Wallace*

For An Act To Be Entitled

AN ACT TO AMEND ARKANSAS LAW CONCERNING ABSENTEE BALLOTS; TO AMEND ELECTION LAW; TO AMEND THE LAW CONCERNING VOTING BY ABSENTEE BALLOT; TO AMEND THE LAW CONCERNING SPOILED BALLOTS; AND FOR OTHER PURPOSES.

Subtitle

TO AMEND ARKANSAS LAW CONCERNING ABSENTEE BALLOTS; TO AMEND ELECTION LAW; TO AMEND THE LAW CONCERNING VOTING BY ABSENTEE BALLOT; AND TO AMEND THE LAW CONCERNING SPOILED BALLOTS.

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

SECTION 1. Arkansas Code § 7-1-104(a)(8)(B), concerning penalties for miscellaneous felonies related to the voting process, is amended to read as follows:

(B) The possession by a person of more than ~~ten~~ ~~(10)~~ four (4) absentee ballots creates a rebuttable presumption of intent to defraud.

SECTION 2. Arkansas Code § 7-5-404(a)(1)(A), concerning applications



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for absentee ballots, is amended to read as follows:

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

SECTION 3. Arkansas Code § 7-5-404(a)(2)(A), concerning applications for absentee ballots, is amended to read as follows:

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

SECTION 4. Arkansas Code § 7-5-409(a)(1)(A), concerning materials furnished to qualified voters, is amended to read as follows:

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

SECTION 5. Arkansas Code § 7-5-409(b)(4)(A)(i) and (ii), concerning materials furnished to qualified voters, are amended to read as follows:

(4)(A)(i) A uniform voter statement created and approved by the State Board of Election Commissioners.

(ii) The voter statement shall include the following heading in bold capitalized letters: "THIS VOTER STATEMENT ~~MUST~~ SHALL BE COMPLETED AND RETURNED IN THE MAILING ENVELOPE OR THE ABSENTEE BALLOT WILL NOT BE COUNTED."

SECTION 6. Arkansas Code § 7-5-409(b)(4)(B), concerning materials furnished to qualified voters, is amended to read as follows:

(B) Blanks shall be provided for the voter to provide his or her printed name, signature, mailing address, residential voting address, date of birth, printed name and address of the administrator, authorized agent, or designated bearer, signature of administrator, authorized agent, or designated bearer, and address of the administrator, authorized agent, or designated bearer+.

SECTION 7. Arkansas Code § 7-5-409, concerning materials furnished to qualified voters, is amended to add *additional subsections* to read as follows:

(h) The county clerk or other designated election official providing materials to qualified voters shall not distribute:

(1) Unsolicited absentee ballot applications to electors; or

(2) Unsolicited absentee ballots to electors.

(i) The county clerk and other designated election officials providing materials to qualified voters may:

(1) Display a printable or downloadable absentee ballot application form on the internet;

(2) Post links to the absentee ballot application form on social media of any type; and

(3) Make paper copies of absentee ballot application forms available for distribution or to be available upon request by a qualified voter in:

(A) The county clerk's office; or

(B) Other governmental offices.

SECTION 8. Arkansas Code § 7-5-416(a)(1), concerning counting absentee ballots, is amended to read as follows:

(a)(1) The election officials for absentee ballots may meet in a place designated by the county board of election commissioners no earlier than the Tuesday before the election for the purpose of opening the outer envelope, processing, and canvassing of absentee ballot paper work of the outer envelope and no earlier than 8:30 a.m. on election day for the purpose of opening the inner absentee ballot envelope and counting the absentee ballots.

SECTION 9. Arkansas Code § 7-5-416(a)(3)-(5), concerning counting absentee ballots, are amended to read as follows:

(3) The county clerk shall provide the county board of election commissioners with a daily count of absentee applications received, to be reported weekly or upon request of the county board of election commissioners.

(4) The county clerk shall provide the county board of election

commissioners with a daily count of absentee ballots received, to be reported weekly or upon request of the county board of election commissioners.

(5) The county clerk shall forward the following items to the election officials designated by the county board of election commissioners to open, process, canvass, and count absentee ballots:

(A) The absentee ballot applications sorted alphabetically ~~or~~ and by precinct;

(B) The absentee ballots; and

(C) A written report containing the following information:

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

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

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

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

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

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

~~(4)~~(6) The processing and counting of absentee ballots shall be open to the public, and candidates and authorized poll watchers may be present in person or by a representative designated in writing under § 7-5-312 during the opening, processing, canvassing, and counting of the absentee ballots as provided in this subchapter.

~~(5)(A)~~(7)(A) Absentee and early votes shall be counted prior to the closing of the polls on election day as provided under this section.

(B)(i) The county board of election commissioners shall report by precinct the initial count of early votes and absentee ballot votes to the Secretary of State as provided under § 7-5-701 as soon as practical after the polls close on election day.

(ii) No election results of the precinct shall be printed, posted, or released until after the polls close on election day.

(8)(A) After the outer envelope of an absentee ballot is opened, a county clerk and deputies of the county clerk shall not have access to:

(i) The absentee ballots;

(ii) Absentee ballot paperwork; or

(iii) The inner envelope of an absentee ballot.

(B) The county board of election commissioners may grant a county clerk or deputies of the county clerk access to the absentee ballot materials in subdivision (a)(8)(A) of this section if the access is granted by an affirmative vote of the county board of election commissioners for a specific purpose and for a designated election.

SECTION 10. Arkansas Code § 7-5-416(b)(1)(C), concerning counting absentee ballots, is amended to read as follows:

(C) If the required materials are not properly placed in the outer absentee ballot envelope, a second election official shall open the inner absentee ballot envelope to verify the contents no earlier than 8:30 a.m. on election day;

SECTION 11. Arkansas Code § 7-5-416(b)(1)(F)(ii), concerning counting absentee ballots, is amended to read as follows:

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

SECTION 12. Arkansas Code § 7-5-416(b)(1)(G), concerning counting absentee ballots, is amended to read as follows:

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

(ii) The election officials shall compare the name of the bearer written on the absentee ballot application with the information

on the voter statement, and if the information does not compare, the ballot shall be a provisional ballot.

(iii) An absentee ballot designated as a provisional ballot for the lack of a designation of, or name of, a designated bearer shall be counted only if the county board of election commissioners does not determine that the provisional ballot is invalid and should not be counted based on other grounds;

SECTION 13. Arkansas Code § 7-5-416(b)(1)(L)(ii), concerning counting absentee ballots, is amended to read as follows:

(ii) The voter statements shall be made available for public inspection and copying during regular business hours no earlier than 8:30 a.m. on the day following the actual delivery of the statement of the number of outstanding ballots and provisional ballots to the Secretary of State, and declaration of preliminary and unofficial results of the election under § 7-5-701(a)(3)(C).

SECTION 14. Arkansas Code § 7-5-416(c), concerning counting absentee ballots, is amended to read as follows:

(c) If any person casting an absentee ballot dies before the polls open on election day, his or her ~~vote~~ ballot shall be accepted by the county clerk if the absentee ballot is:

(1) Signed, dated, postmarked, and mailed before the date of death;

(2) Signed, dated, and delivered to the county clerk by a designated bearer, authorized agent, or administrator before the date of death; or

(3) The ballot of a member of the armed services or Arkansas National Guard in active duty or state active duty executed before the date of death.

SECTION 15. Arkansas Code § 7-5-602(d)(2), concerning ballots, the number of ballots, the marking device used on ballots, and spoiled ballots, is amended to read as follows:

(2)(A) Spoiled ballots shall be cancelled by a poll ~~worker's~~ writing worker by using a stamp marked "CANCELLED" on its the face and

~~initialing~~ of the ballot.

(B) The poll worker shall write the date and time, and print and sign his or her name next to the stamp marked "CANCELLED".

/s/Lowery