

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

State of Arkansas
94th General Assembly
Regular Session, 2023

As Engrossed: H3/2/23
A Bill

HOUSE BILL 1487

By: Representatives Lundstrum, Wing, Achor, Andrews, Barker, Beaty Jr., Beck, Bentley, M. Berry, Breaux, Brooks, K. Brown, M. Brown, Burkes, Joey Carr, C. Cooper, Cozart, Evans, C. Fite, L. Fite, Fortner, Furman, Gazaway, Gonzales, Gramlich, Haak, Hawk, Hollowell, Jean, Ladyman, Long, Lynch, McAlindon, McClure, McCollum, M. McElroy, McGrew, B. McKenzie, McNair, S. Meeks, Miller, Milligan, K. Moore, Pilkington, Puryear, R. Scott Richardson, Richmond, Rose, Rye, Tosh, Underwood, Vaught, Womack, Wooten

By: Senators K. Hammer, Dees, M. McKee, J. Petty, Stone

For An Act To Be Entitled

AN ACT TO CREATE THE BALLOT SECURITY ACT OF 2023; TO AMEND ELECTION LAW CONCERNING THE HANDLING OF ELECTION BALLOTS; AND FOR OTHER PURPOSES.

Subtitle

TO CREATE THE BALLOT SECURITY ACT OF 2023; AND TO AMEND ELECTION LAW CONCERNING THE HANDLING OF ELECTION BALLOTS.

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

SECTION 1. DO NOT CODIFY. Title.

This act shall be known and may be cited as the "Ballot Security Act Of 2023".

SECTION 2. Arkansas Code § 7-5-407(a), concerning the preparation and delivery of ballots, is amended to read as follows:

(a)(1) The county board of election commissioners shall:

(A) ~~prepare~~ Prepare official absentee ballots and securely deliver them to the county clerk for mailing to all qualified applicants as



soon as practicable but not later than forty-seven (47) days before a preferential primary election, general election, school election, nonpartisan general election, nonpartisan runoff election, or special election;

(B) Provide a ballot count report to the county clerk listing the:

(i) Date of delivery;

(ii) Method of delivery;

(iii) Total number of ballots provided by ballot style; and

(iv) Names and signatures of the persons delivering the ballots;

(C) Maintain the ballot count report for each additional delivery of ballots with separate entries per delivery by ballot style and date; and

(D) Keep a record of the ballot count report available to the public.

(2) Upon the receipt of the absentee ballots, the county clerk shall begin delivering ballots to absentee voters as soon as practicable and, no later than forty-six (46) days before the applicable election, shall deliver ballots to those absentee voters who made timely application under:

(A) Section 7-5-406; or

(B) The Uniformed and Overseas Citizens Absentee Voting Act, 52 U.S.C. § 20301 et seq., as existing on January 1, ~~2011~~ 2023.

SECTION 3. Arkansas Code § 7-5-416(a)(1) and (2), concerning counting of absentee ballots, are amended to read as follows:

(a)(1) The election officials for absentee ballots ~~may~~ shall 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.

(2) The county board of election commissioners shall:

(A) give Give public notice of the time and location of the opening, processing, canvassing, and counting of absentee ballots and

early voting ballots as provided in § 7-5-202; and

(B) Allow public access for the in-person viewing of the absentee canvassing process.

SECTION 4. Arkansas Code § 7-5-602(d), concerning the number of ballots, process for marking spoiled ballots, and the process for providing ballots to the election sites, is amended to read as follows:

(d)(1) A voter who shall by accident or mistake ~~may~~ mark or spoil any ballot so that he or she cannot conveniently or clearly vote on the ballot may return it to the poll workers and receive another ballot, not to exceed three (3) ballots in total.

(2)(A) Spoiled ballots shall be cancelled by a poll worker by using a stamp marked "CANCELLED" on the face 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".

(C) The election judge shall report the total number of spoiled ballots to the county board of election commissioners.

(3) The cancelled ballots shall be securely preserved separately from other ballots with the total number of cancelled ballots and returned to the county board of election commissioners and shall be open to public inspection.

SECTION 5. Arkansas Code Title 7, Chapter 5, Subchapter 6, is amended to add an additional section to read as follows:

7-5-617. Transport of ballots and chain of custody.

(a) Marked absentee or provisional ballots shall be transported in a secure manner during the election period between locations, including without limitation between:

(1) Polling sites;

(2) Vote centers;

(3) Offices of the county clerk;

(4) Designated absentee or provisional ballot counting

facilities; or

(5) Other government offices.

(b) Marked absentee ballots shall be transported in a secure manner by at least two (2) election officials with the marked absentee ballots inside

of a sealed ballot transfer container to the location designated by the county board of election commissioners.

(c) Marked absentee or provisional ballots are subject to the following procedure as a chain of custody:

(1) A person collecting marked absentee or provisional ballots shall swear an oath in the same form as § 7-4-110;

(2) A marked absentee or provisional ballot team shall include a minimum of two (2) election officials;

(3) The ballot transport team shall complete and sign a ballot transfer form upon removing the marked absentee or provisional ballots, including the following information, the:

(A) Date;

(B) Time;

(C) Location the marked absentee or provisional ballots are picked up;

(D) Number of marked absentee or provisional ballots per container;

(E) Identity of each person collecting the ballots; and

(F) Destination location for delivery of the marked absentee or provisional ballots;

(4) The ballot transport team shall immediately transfer the secured marked absentee or provisional ballots to the county board of election commissioners, or its designee; and

(5)(A) The county board of election commissioners or its designee shall sign the marked absentee or provisional ballot transfer form upon receipt of the marked absentee or provisional ballots.

(B) The marked absentee or provisional ballot transfer form under subsection (c)(3) of this section shall be considered a public record.

(d)(1) Upon receiving a sealed ballot envelope from a person casting a provisional ballot, the poll worker or election official shall verify that the information requested on the outer ballot envelope is complete.

(2) The poll worker or election official shall clearly write and sign his or her name, the polling location, the date, and the reason the ballot is considered provisional on the outer envelope and record the information.

(3)(A) The poll worker shall direct the person casting the provisional ballot to place the ballot envelope into the secure container for provisional ballots.

(B) The secure container for provisional ballots shall be located within the enclosed space in the polling place where it can be monitored by poll workers and observed by the public.

(e)(1) Once the polls have closed, two (2) election officials shall return the secure container of provisional ballots to the county board of election commissioners with the following information marked clearly on the exterior of each secure container, the:

(A) Total number of marked provisional ballots;

(B) Location the provisional ballots were collected; and

(C) Identity of the election officials transporting the marked provisional ballots.

(2)(A) Upon receipt of the provisional ballots, the county board of election commissioners, or its designee, shall electronically record the:

(i) First and last name of the person casting the provisional ballot;

(ii) Address of the person casting the provisional ballot;

(iii) Date of birth of the person casting the provisional ballot;

(iv) Date the provisional ballot was marked;

(v) Early voting or polling location, including precinct number, where the provisional ballot was marked;

(vi) Name of the election official recorded on the sealed outer envelope;

(vii) Reason for the provisional ballot reflected on the sealed outer envelope; and

(viii) Other information deemed necessary by the county board of election commissioners.

(B) The county board of election commissioners shall create one (1) paper copy of the outside of each outside provisional envelope to be delivered to the county clerk.

(C) The county board of election commissioners shall provide the provisional ballot envelope copies and the electronic provisional

ballot list to the county clerk no later than one (1) business day following election day.

(3) Following receipt of the electronic provisional ballot list, including the provisional ballot envelope copies, the county board of election commissioners shall reconcile the total number of provisional ballots reviewed by the county clerk to the total number of provisional ballots received and secured by the county board of election commissioners.

/s/Lundstrum