MISSISSIPPI LEGISLATURE REGULAR SESSION 2021

By: Representative Gibbs (72nd)

To: Apportionment and Elections

# HOUSE BILL NO. 658

AN ACT TO REVISE ABSENTEE VOTING PROCEDURES FOR STUDENTS ENROLLED AT A COLLEGE, UNIVERSITY OR COMMUNITY OR JUNIOR COLLEGE; TO AMEND SECTION 23-15-627, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT A STUDENT ENROLLED AT A COLLEGE, UNIVERSITY OR COMMUNITY OR JUNIOR COLLEGE SHALL NOT BE REQUIRED TO HAVE AN APPLICATION FOR AN ABSENTEE BALLOT NOTARIZED OR SIGNED BY AN OFFICIAL AUTHORIZED TO ADMINISTER OATHS FOR ABSENTEE BALLOTING; TO PROVIDE THAT THE STUDENT SHALL SIGN THE APPLICATION IN THE PROPER PLACE AND HAVE AN EMPLOYEE OF THE OFFICE OF THE REGISTRAR FOR THE COLLEGE, UNIVERSITY OR COMMUNITY OR JUNIOR COLLEGE WHERE THE STUDENT IS ENROLLED WITNESS HIS OR HER SIGNATURE AND SIGN THE APPLICATION IN THE PROPER PLACE; TO PROVIDE THAT SUCH EMPLOYEE SHALL NOT BE REQUIRED TO HAVE THE AUTHORITY TO ADMINISTER AN OATH; TO AMEND SECTION 23-15-631, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT A STUDENT ENROLLED AT A COLLEGE, UNIVERSITY OR COMMUNITY OR JUNIOR COLLEGE SHALL NOT BE REQUIRED TO HAVE HIS OR HER ABSENTEE BALLOT ENVELOPE NOTARIZED OR SIGNED BY AN OFFICIAL AUTHORIZED TO ADMINISTER OATHS FOR ABSENTEE BALLOTING; TO PROVIDE THAT THE ATTESTING WITNESS SHALL BE AN EMPLOYEE OF THE OFFICE OF THE REGISTRAR FOR THE COLLEGE, UNIVERSITY OR COMMUNITY OR JUNIOR COLLEGE WHERE THE STUDENT IS ENROLLED AND SHALL NOT BE REQUIRED TO HAVE THE AUTHORITY TO ADMINISTER AN OATH; TO AMEND SECTIONS 23-15-715 AND 23-15-721, MISSISSIPPI CODE OF 1972, TO CONFORM TO THE PRECEDING SECTIONS; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

**SECTION 1.** Section 23-15-627, Mississippi Code of 1972, is amended as follows:

23-15-627. Any elector described in Section 23-15-713 may request an absentee ballot application and vote in person at the

office of the registrar in the county in which he or she resides. The registrar shall be responsible for furnishing an absentee ballot application form to any elector authorized to receive an absentee ballot. Except as otherwise provided in Section 23-15-625, absentee ballot applications shall be furnished to a person only upon the oral or written request of the elector who seeks to vote by absentee ballot; however, the parent, child, spouse, sibling, legal guardian, those empowered with a power of attorney for that elector's affairs or agent of the elector, who is designated in writing and witnessed by a resident of this state who shall write his or her physical address on such designation, may orally request an absentee ballot application on behalf of the elector. The written designation shall be valid for one (1) year after the date of the designation. An absentee ballot application must have the seal of the circuit or municipal clerk affixed to it and be initialed by the registrar or his or her deputy in order to be used to obtain an absentee ballot. A reproduction of an absentee ballot application shall not be valid unless it is a reproduction provided by the office of the registrar of the jurisdiction in which the election is being held and which contains the seal and initials required by this section. Such application shall be substantially in the following form:

"OFFICIAL APPLICATION FOR ABSENT ELECTOR'S BALLOT

I, _____, duly qualified and registered in the ___ Precinct of the County of _____, and State of Mississippi, coming within

the purview of the definition 'ABSENT ELECTOR' will be absent from the county of my residence on election day, or unable to vote in person because (check appropriate reason):

( ) (PRESIDENTIAL APPLICANT ONLY:) I am currently a resident of Mississippi or have moved therefrom within thirty (30) days of the coming presidential election.

( ) I am an enlisted or commissioned member, male or female, of any component of the United States Armed Forces and am a citizen of Mississippi, or spouse or dependent of such member.

( ) I am a member of the Merchant Marine or the American Red Cross and am a citizen of Mississippi or spouse or dependent of such member.

( ) I am a disabled war veteran who is a patient in any hospital and am a citizen of Mississippi or spouse or dependent of such veteran.

( ) I am a civilian attached to and serving outside of the United States with any branch of the Armed Forces or with the Merchant Marine or American Red Cross, and am a citizen of Mississippi or spouse or dependent of such civilian.

( ) I am a citizen of Mississippi temporarily residing outside the territorial limits of the United States and the District of Columbia.

( ) I am a student, teacher or administrator at a college, university, junior or community college, high, junior high, elementary or grade school, whose studies or employment at such

institution necessitates my absence from the county of my voting residence or spouse or dependent of such student, teacher or administrator who maintains a common domicile outside the county of my voting residence with such student, teacher or administrator.

( ) I will be outside the county on election day.

( ) I have a temporary or permanent physical disability, which may include, but is not limited to, a physician-imposed quarantine due to COVID-19 during the year 2020. Or, I am caring for a dependent that is under a physician-imposed quarantine due to COVID-19 beginning with July 8, 2020, and the same being repealed on December 31, 2020.

( ) I am sixty-five (65) years of age or older.

( ) I am the parent, spouse or dependent of a person with a temporary or permanent physical disability who is hospitalized outside his or her county of residence or more than fifty (50) miles away from his or her residence, and I will be with such person on election day.

( ) I am a member of the congressional delegation, or spouse or dependent of a member of the congressional delegation.

( ) I am required to be at work on election day during the times which the polls will be open.

I hereby make application for an official ballot, or ballots, to be voted by me at the election to be held in _____, on _____.

Mail 'Absent Elector's Ballot' to me at the following address _____.

( ) I wish to receive an absentee ballot for the runoff election _____.

I realize that I can be fined up to Five Thousand Dollars ($5,000.00) and sentenced up to five (5) years in the Penitentiary for making a false statement in this application and for selling my vote and violating the Mississippi Absentee Voter Law. (This sentence is to be in bold print.)

If you are temporarily or permanently disabled, you are not required to have this application notarized or signed by an official authorized to administer oaths for absentee balloting. You are required to sign this application in the proper place and have a person eighteen (18) years of age or older witness your signature and sign this application in the proper place.

If you are a student enrolled at a college, university or community or junior college, you are not required to have this application notarized or signed by an official authorized to administer oaths for absentee balloting. You are required to sign this application in the proper place and have an employee of the office of the registrar for the college, university or community or junior college where you are enrolled witness your signature and sign this application in the proper place.

DO NOT SIGN WITHOUT READING. (This sentence is to be in bold print.)

IN WITNESS WHEREOF I have hereunto set my hand and seal this the ____ day of ______, 2___.

_____

(Signature of absent elector)

SWORN TO AND SUBSCRIBED before me this the ____ day of _____, 2___.

_____

(Official authorized to administer oaths for absentee balloting.)

TO BE SIGNED BY WITNESS FOR VOTERS TEMPORARILY OR PERMANENTLY DISABLED:

I HEREBY CERTIFY that this application for an absent elector's ballot was signed by the above-named elector in my presence and that I am at least eighteen (18) years of age, this the _____ day of _____, 2___.

_____

(Signature of witness)

CERTIFICATE OF DELIVERY

I hereby certify that _____ (print name of voter) has requested that I, _____ (print name of person delivering application), deliver to the voter this absentee ballot application.

_____

(Signature of person delivering application)

_____

(Address of person delivering application)

TO BE SIGNED BY WITNESS FOR VOTERS WHO ARE STUDENTS AT ANY COLLEGE, UNIVERSITY OR COMMUNITY OR JUNIOR COLLEGE:

I HEREBY CERTIFY that this application for an absent elector's ballot was signed by the above-named student elector in my presence and that I am an employee of the office of the registrar for the college, university or community or junior college where the student is enrolled, this the day of , 2 .

(Signature of witness)

CERTIFICATE OF DELIVERY

I hereby certify that (print name of voter) has requested that I, (print name of person delivering application), deliver to the voter this absentee ballot application.

(Signature of person delivering application)

(Address of person delivering application)".

**SECTION 2.** Section 23-15-631, Mississippi Code of 1972, is amended as follows:

23-15-631. (1) The registrar shall enclose with each ballot mailed to an absent elector separate printed instructions furnished by the registrar containing the following:

(a) All absentee voters, excepting those with temporary or permanent physical disabilities or those who are sixty-five (65) years of age or older, who mark their ballots in the county of the residence shall use the registrar of that county as the witness. The absentee voter shall come to the office of the registrar and neither the registrar nor his or her deputy shall be required to go out of the registrar's office to serve as an attesting witness.

(b) Upon receipt of the enclosed ballot, you will not mark the ballot except in view or sight of the attesting witness. In the sight or view of the attesting witness, mark the ballot according to instructions.

(c) After marking the ballot, fill out and sign the "ELECTOR'S CERTIFICATE" on the back of the envelope so that the signature is across the flap of the envelope to ensure the integrity of the ballot. All absent electors shall have the attesting witness sign the "ATTESTING WITNESS CERTIFICATE" across the flap on the back of the envelope. Place the necessary postage on the envelope and deposit it in the post office or some government receptacle provided for deposit of mail so that the absent elector's ballot will be postmarked on or before the date of the election and received by the registrar no more than five (5) business days after the election.

Any notary public, United States postmaster, assistant United States postmaster, United States postal supervisor, clerk in

charge of a contract postal station, or other officer having authority to administer an oath or take an acknowledgment may be an attesting witness *** * ***. However, *** * *** in the case of an absent elector who is temporarily or permanently physically disabled, the attesting witness may be any person eighteen (18) years of age or older and such person is not required to have the authority to administer an oath. In the case of an absent elector who is a student enrolled at a college, university or community or junior college, the attesting witness may be an employee of the office of the registrar for the college, university or community or junior college where the student is enrolled, and such employee of the registrar is not required to have the authority to administer an oath. If a postmaster, assistant postmaster, postal supervisor, or clerk in charge of a contract postal station acts as an attesting witness, his or her signature on the elector's certificate must be authenticated by the cancellation stamp of their respective post offices. If an officer having authority to administer an oath or take an acknowledgement acts as attesting witness, his or her signature on the elector's certificate, together with his or her title and address, but no seal, shall be required. Any affidavits made by an absent elector who is in the Armed Forces may be executed before a commissioned officer, warrant officer, or noncommissioned officer not lower in grade than sergeant rating or any person authorized to administer oaths.

(d) When the application accompanies the ballot it shall not be returned in the same envelope as the ballot but shall be returned in a separate preaddressed envelope provided by the registrar.

(e) A candidate for public office, or the spouse, parent or child of a candidate for public office, may not be an attesting witness for any absentee ballot upon which the candidate's name appears, unless the voter is related within the first degree to the candidate or the spouse, parent or child of the candidate.

(f) Any voter casting an absentee ballot who declares that he or she requires assistance to vote by reason of blindness, temporary or permanent physical disability or inability to read or write, shall be entitled to receive assistance in the marking of his or her absentee ballot and in completing the affidavit on the absentee ballot envelope. The voter may be given assistance by anyone of the voter's choice other than a candidate whose name appears on the absentee ballot being marked, the spouse, parent or child of a candidate whose name appears on the absentee ballot being marked or the voter's employer, an agent of that employer or a union representative; however, a candidate whose name is on the ballot or the spouse, parent or child of such candidate may provide assistance upon request to any voter who is related within the first degree. In order to ensure the integrity of the ballot, any person who provides assistance to an absentee voter shall be

required to sign and complete the "Certificate of Person Providing Voter Assistance" on the absentee ballot envelope.

(2) The foregoing instructions required to be provided by the registrar to the elector shall also constitute the substantive law pertaining to the handling of absentee ballots by the elector and registrar.

(3) The Secretary of State shall prepare instructions on how absent voters may comply with the identification requirements of Section 23-15-563.

**SECTION 3.** Section 23-15-715, Mississippi Code of 1972, is amended as follows:

23-15-715. Any elector desiring an absentee ballot as provided in this subarticle may secure same if:

(a) Not more than forty-five (45) days nor later than 12:00 noon, or 5:00 p.m. during the year 2020, on the Saturday immediately preceding elections held on Tuesday, the Thursday immediately preceding elections held on Saturday, or the second day immediately preceding the date of elections held on other days, he or she shall appear in person before the registrar of the county in which he or she resides, or for municipal elections he or she shall appear in person before the city clerk of the municipality in which he or she resides and, when the elector so appears, he or she shall execute and file an application as provided in Section 23-15-627 and vote by absentee ballot, except that if the ballot has not been printed by forty-five (45) days

preceding the election, the elector may appear and file an application anytime before the election. Then the absentee ballot shall be mailed by the circuit clerk to the elector as soon as the ballot has been printed.

(b) Within forty-five (45) days next * * * before any election, any elector who cannot comply with paragraph (a) of this section by reason of temporarily residing outside the county, or any person who has a temporary or permanent physical disability, persons who are sixty-five (65) years of age or older, * * * any person who is the parent, spouse or dependent of a temporarily or permanently physically disabled person who is hospitalized outside of his or her county of residence or more than fifty (50) miles away from his or her residence and such parent, spouse or dependent will be with such person on election day, or any student enrolled at a college, university or community or junior college, may make application for an absentee ballot by mailing the appropriate application to the registrar. Only persons temporarily residing out of the county of their residence, persons having a temporary or permanent physical disability, persons who are sixty-five (65) years of age or older, * * * any person who is the parent, spouse or dependent of a temporarily or permanently physically disabled person who is hospitalized outside of his or her county of residence or more than fifty (50) miles away from his or her residence, and such parent, spouse or dependent will be with such person on election day, or any student enrolled at a

college, university or community or junior college, may obtain absentee ballots by mail under the provisions of this * * * paragraph and as provided by Section 23-15-713. Applications of persons temporarily residing outside the county shall be sworn to and subscribed before an official who is authorized to administer oaths or other official authorized to witness absentee balloting as provided in this chapter, * * * such application to be accompanied by such verifying affidavits as required by this chapter. The applications of persons having a temporary or permanent physical disability shall not be required to be accompanied by an affidavit but shall be witnessed and signed by a person eighteen (18) years of age or older. The applications of students enrolled at a college, university or community or junior college shall not be required to be accompanied by an affidavit but shall be witnessed and signed by an employee of the office of the registrar for the college, university or community or junior college where the student is enrolled. Such employee is not required to have the authority to administer an oath. The registrar shall send to such absent voter a proper absentee voter ballot within twenty-four (24) hours, or as soon thereafter as the ballots are available, containing the names of all candidates who qualify or the proposition to be voted on in such election, and with such ballot there shall be sent an official envelope containing upon it in printed form the recitals and data hereinafter required.

(c) Except when the voter has requested a runoff ballot on the initial absentee ballot application, upon request for a runoff ballot pursuant to Section 23-15-719, the registrar shall mail together the absentee ballot application and the absentee ballot to the absent voter for the runoff election.

**SECTION 4.** Section 23-15-721, Mississippi Code of 1972, is amended as follows:

23-15-721. (1) Absentee ballots requested under the provisions of Section 23-15-715 for electors temporarily residing outside the county of residence shall be mailed to the elector's address outside of the county in which he or she is registered, and except as provided in subsection (2) of this section, such electors shall appear before any official authorized to administer oaths or other official authorized to witness absentee balloting as provided in this article. The elector shall exhibit to such official his or her absentee ballot unmarked and thereupon proceed in secret to fill in the ballot. After the elector has properly marked the ballot and properly folded it, he or she shall deposit it in the envelope furnished him or her. After the elector has sealed the envelope he or she shall deliver it to the official before whom he or she is appearing and shall subscribe and swear to the elector's certificate provided for in Section 23-15-635, which affidavit shall be printed on the back of the envelope as provided for in Section 23-15-635 containing the elector's ballot.

(2) Electors who are temporarily or permanently physically disabled shall sign the elector's certificate and the certificate of attesting witness shall be signed by any person eighteen (18) years of age or older. Electors who are students enrolled at a college, university or community or junior college shall sign the elector's certificate, and the certificate of attesting witness shall be signed by an employee of the office of the registrar for the college, university or community or junior college where the student is enrolled.

(3) After the completion of the requirements of this section, the elector shall mail the envelope containing the ballot to the registrar in the county wherein the elector is qualified to vote. The ballots must be postmarked by the date of the election and received by the registrar no more than five (5) business days after the election to be counted; any received after such time shall be handled as provided in Section 23-15-647 and shall not be counted.

**SECTION 5.** This act shall take effect and be in force from and after July 1, 2021.