MISSISSIPPI LEGISLATURE REGULAR SESSION 2021

By: Representative Anderson (110th)

To: Apportionment and Elections

HOUSE BILL NO. 803

AN ACT TO AUTHORIZE THE SECRETARY OF STATE TO ESTABLISH A SECURE WEBSITE TO ENABLE STUDENT VOTERS TO SUBMIT ELECTRONIC ABSENTEE BALLOT APPLICATIONS; TO ESTABLISH THE DOCUMENTS WHICH MUST BE SUBMITTED BY THE STUDENT TO APPROVE SUCH APPLICATIONS; TO PROVIDE THAT UPON APPROVAL, STUDENT ABSENTEE VOTERS MAY BE AUTOMATICALLY MAILED ABSENTEE BALLOTS FOR ALL ELECTIONS THAT OCCUR FOR A CERTAIN PERIOD OF TIME; TO AMEND SECTIONS 23-15-627, 23-15-631, 23-15-715 AND 23-15-721, MISSISSIPPI CODE OF 1972, TO CONFORM; AND FOR RELATED PURPOSES.

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

SECTION 1. (1) For purposes of this article, "student absentee voter" or "student absentee elector" means an individual who is a registered elector and who is enrolled in any institution of higher education whose studies at the institution require the individual's absence from the municipality or county of his or her voting residence on the date of any primary, general or special election.

(2) A student absentee elector may submit an electronic absentee ballot application using the following procedures:

(a) The student absentee elector must print and complete the application for absentee electors as described in

Section 2 of this act. The application must be signed and stamped by the registrar or a registrar's deputy for the institution in which the student is enrolled;

(b) The student must copy his or her student identification card issued by the institution of higher education in which he or she is enrolled; and

(c) The student must upload the application, copy of the student identification card and enter any other information as may be required into the secure Internet website established by the Secretary of State.

(3) If approved, a student's application to receive absentee ballots by mail is valid from the date of approval until the next following June 30.

SECTION 2. (1) The Secretary of State shall establish a secure Internet website to permit student absentee electors to submit an electronic absentee ballot application. The software used by the Secretary of State for accepting and processing applications must be capable of the following:

(a) Uploading a copy of the elector's student identification card issued by the institution in which the student is enrolled; and

(b) Accepting an electronic absentee ballot application for student voters, as described in this section.

(2) The electronic absentee ballot application for student voters shall be substantially similar to the following form:

"OFFICIAL ELECTRONIC APPLICATION FOR ABSENTEE ELECTOR'S BALLOT

STUDENT ABSENTEE ELECTORS

I, _____, duly qualified and registered in the ___ Precinct of the County of _____, and State of Mississippi, coming within the purview of the definition 'STUDENT ABSENTEE ELECTOR' will be absent from the county or municipality of my residence on election day (check all that apply):

( ) I am a student at a college, university, junior college, community college or other institution of higher education whose studies at such institution necessitate my absence from the county of my voting residence.

( ) I am a student at a college, university, junior college, community college or other institution of higher education whose studies at such institution necessitate my absence from the municipality of my voting residence.

I hereby assert that I am a student at _____ (name of university or college of enrollment).

I hereby make application for an official ballot, or ballots, to be voted by me for any election in which I am entitled to vote to be held on any day between July 1,_____ and June 30,_____.

My permanent physical address is _____.

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

I realize that if approved, my application to receive ballots by mail will expire on June 30, _____, and that I must submit a new electronic application for absentee elector's ballots.

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.)

As a student absentee elector, 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 the registrar of the institution of higher education in which you are enrolled, or a deputy of such registrar to 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 student absentee elector)

TO BE SIGNED AND SEALED BY WITNESS FOR STUDENT ABSENTEE ELECTOR:

I HEREBY CERTIFY that this application for an absentee elector's ballot was signed by the above-named student elector in

my presence, that I am the registrar of the institution of higher education in which the above-named student elector is enrolled or a deputy of such registrar, and that I have verified the above-named student's enrollment in such institution, this the _____ day of _____, 2___.

_____

(Signature of registrar or deputy registrar)

_____

(Print name of university/college)

_____

(Affix official imprint, stamp or seal of university/college)"

(3) The Secretary of State shall verify the student elector's electronic absentee ballot application. If any of the information within the application does not match or the information does not match that on file with the elector's registration record, the ballot application shall be denied. The student absentee elector shall be notified of the reason for denial.

(4) The Secretary of State shall forward approved absentee ballot applications to the circuit and municipal clerks of the student absentee voter's residence. Upon receipt, the circuit and municipal clerks shall affix their seals to the applications and initial them.

(5) An approved request for an absentee ballot to be mailed to a student voter shall remain valid until June 30 of each year. No less than thirty (30) days before the expiration of a designation to receive absentee ballots under this section, the Secretary of State shall send an announcement through electronic mail or postal mail to approved student absentee voters explaining that they must submit a new electronic absentee ballot application.

(6) The Secretary of State is authorized to promulgate additional rules and regulations as may be necessary to effectuate the intent of Sections 1 and 2 of this act.

SECTION 3. 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 Sections 1 and 2 of this act and 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. Except as provided in Sections 1 and 2 of this act, 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.

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)"

SECTION 4. 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 *** * ***, those who are sixty-five (65) years of age or older or those who are student absentee voters as defined in Section 1 of this act, 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; provided, however, that in the case of an absent elector who is temporarily or permanently physically disabled or who is a student absentee voter as defined in Section 1 of this act, 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. 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 5. 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 prior to 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, or 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, 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, or any person who is the parent, spouse or dependent of a temporarily or permanently physically disabled person who is hospitalized outside of his county of residence or more than fifty (50) miles away from his residence, and such parent, spouse or dependent will be with such person on election day, 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, said 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 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.

(d) Within fourteen (14) days next before any election, any student absentee voter, as defined in Section 1 of this act, may make application for an absentee ballot by submitting the appropriate electronic application to the Secretary of State. Applications of student absentee voters shall be sworn to and subscribed before the registrar or deputy registrar of the institution of higher education in which the student is enrolled. The application shall be accompanied by the verifying documents as required by Sections 1 and 2 of this act. Only student absentee voters, as defined in Section 1 of this act, may obtain absentee ballots by mail under the provisions of this paragraph. The registrar shall send to the student absentee 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.

SECTION 6. 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 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 or who are student absentee electors receiving a ballot under Section 23-15-715(c) 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.

(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 7. This act shall take effect and be in force from and after July 1, 2021.