

State of Arkansas As Engrossed: H3/15/21 H3/29/21

93rd General Assembly

# A Bill

Regular Session, 2021

HOUSE BILL 1715

By: Representatives Lowery, Wing, Barker, Beaty Jr., Beck, Bentley, M. Berry, S. Berry, Boyd, Bragg, Brooks, Brown, Carr, Cavanaugh, 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



1 for absentee ballots, is amended to read as follows:

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

6  
7 SECTION 3. Arkansas Code § 7-5-404(a)(2)(A), concerning applications  
8 for absentee ballots, is amended to read as follows:

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

12  
13 SECTION 4. Arkansas Code § 7-5-409(a)(1)(A), concerning materials  
14 furnished to qualified voters, is amended to read as follows:

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

19  
20 SECTION 5. Arkansas Code § 7-5-409(b)(4)(A)(i) and (ii), concerning  
21 materials furnished to qualified voters, are amended to read as follows:

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

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

28  
29 SECTION 6. Arkansas Code § 7-5-409(b)(4)(B), concerning materials  
30 furnished to qualified voters, is amended to read as follows:

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

1  
2 SECTION 7. Arkansas Code § 7-5-409, concerning materials furnished to  
3 qualified voters, is amended to add *additional subsections* to read as  
4 follows:

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

7 (1) Unsolicited absentee ballot applications to electors; or

8 (2) Unsolicited absentee ballots to electors.

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

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

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

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

18 (A) The county clerk's office; or

19 (B) Other governmental offices.

20  
21 SECTION 8. Arkansas Code § 7-5-416(a)(1), concerning counting absentee  
22 ballots, is amended to read as follows:

23 (a)(1) The election officials for absentee ballots may meet in a place  
24 designated by the county board of election commissioners no earlier than the  
25 Tuesday before the election for the purpose of opening the outer envelope,  
26 processing, and canvassing of absentee ballot paper work of the outer  
27 envelope and no earlier than 8:30 a.m. on election day for the purpose of  
28 opening the inner absentee ballot envelope and counting the absentee ballots.  
29

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

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

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

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

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

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

8 (B) The absentee ballots; and

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

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

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

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

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

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

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

24 ~~(4)~~(6) The processing and counting of absentee ballots shall be  
25 open to the public, and candidates and authorized poll watchers may be  
26 present in person or by a representative designated in writing under § 7-5-  
27 312 during the opening, processing, canvassing, and counting of the absentee  
28 ballots as provided in this subchapter.

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

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

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

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

3                   (i) The absentee ballots;

4                   (ii) Absentee ballot paperwork; or

5                   (iii) The inner envelope of an absentee ballot.

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

11  
12           SECTION 10. Arkansas Code § 7-5-416(b)(1)(C), concerning counting  
13 absentee ballots, is amended to read as follows:

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

18  
19           SECTION 11. Arkansas Code § 7-5-416(b)(1)(F)(ii), concerning counting  
20 absentee ballots, is amended to read as follows:

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

25  
26           SECTION 12. Arkansas Code § 7-5-416(b)(1)(G), concerning counting  
27 absentee ballots, is amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

1 ~~initialing~~ of the ballot.

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

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5 /s/Lowery  
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