

# A Bill

1 State of Arkansas  
2 94th General Assembly  
3 Regular Session, 2023

SENATE BILL \_\_\_\_\_

4  
5 By: Representative  
6 By Senator

## For An Act to Be Entitled

7  
8 AN ACT TO AMEND THE LAW CONCERNING ELECTIONS  
9 AND TO RESTORE ELECTION INTEGRITY IN ARKANSAS  
10 AND AMENDED ELECTION PROCEDURES  
11

### Subtitle

12  
13 TO REPEAL DESIGNATED BEARERS IN ABSENTEE  
14 VOTING, CLARIFY WHO MAY HANDLE ABSENTEE  
15 BALLOTS, AND ESTABLISHING CRIMINAL PENALTIES  
16

17  
18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
19

20 SECTION 1. Arkansas Code Title 7, Chapter 5, Subchapter 4, Section 403 is amended  
21 as follows.

22 ~~(a)(1) A designated bearer may obtain absentee ballots for no more than two (2) voters per~~  
23 ~~election.~~

24 ~~(2)(A) A designated bearer shall not have more than two (2) absentee ballots in his or~~  
25 ~~her possession at any time.~~

26 ~~(B) If the county clerk knows or reasonably suspects that a designated bearer has~~  
27 ~~more than two (2) absentee ballots in his or her possession, the county clerk shall notify the~~  
28 ~~prosecuting attorney.~~

29 ~~(3)(A) A designated bearer receiving an absentee ballot from the county clerk for a voter~~  
30 ~~shall obtain the absentee ballot directly from the county clerk and deliver the absentee ballot~~  
31 ~~directly to the voter.~~

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1           ~~(B) A designated bearer receiving an absentee ballot from a voter shall obtain the~~  
2 ~~absentee ballot directly from the voter and deliver the absentee ballot directly to the county clerk.~~

3           ~~(4)(A) A designated bearer may deliver to the county clerk the absentee ballots for not~~  
4 ~~more than two (2) voters.~~

5           ~~(B) The designated bearer shall be named on the voter statement accompanying the~~  
6 ~~absentee ballot.~~

7           ~~(5) In order to obtain an absentee ballot from the county clerk:~~

8           ~~(A) The designated bearer shall show a form of current photographic identification~~  
9 ~~to the county clerk;~~

10           ~~(B) The county clerk shall print the designated bearer's name and address beside the~~  
11 ~~voter's name on a register;~~

12           ~~(C) The designated bearer shall sign the register under oath indicating receipt of the~~  
13 ~~voter's absentee ballot; and~~

14           ~~(D) The county clerk shall indicate beside the designated bearer's name on the register~~  
15 ~~that he or she obtained an absentee ballot for a voter.~~

16           ~~(6) When a designated bearer delivers an absentee ballot to the county clerk:~~

17           ~~(A) The designated bearer shall present current and valid photographic identification~~  
18 ~~to the county clerk;~~

19           ~~(B) The county clerk shall print the designated bearer's name and address beside the~~  
20 ~~voter's name on a register;~~

21           ~~(C) The designated bearer shall sign the register under oath indicating delivery of the~~  
22 ~~voter's absentee ballot;~~

23           ~~(D) The county clerk shall not accept an absentee ballot from a designated bearer who~~  
24 ~~does not sign the register under oath; and~~

25           ~~(E) The county clerk shall write or stamp the word "BEARER" and write the~~  
26 ~~designated bearer's name and address on the voter's absentee ballot return envelope.~~

27           ~~(7) When providing an absentee ballot to a designated bearer or receiving an absentee~~  
28 ~~ballot from a designated bearer, the county clerk shall provide to the designated bearer a written~~  
29 ~~notice informing the designated bearer that:~~

30           ~~(A) A designated bearer may obtain ballots for no more than two (2) voters per~~  
31 ~~election;~~

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1           ~~(B) A designated bearer shall at no time have more than two (2) ballots in his or her~~  
2 ~~possession;~~

3           ~~(C) A designated bearer shall not deliver ballots to the county clerk for more than two~~  
4 ~~(2) voters per election; and~~

5           ~~(D) Possession of an absentee ballot with the intent to defraud a voter or an election~~  
6 ~~official is a felony under § 7-1-104.~~

7           ~~(8) The county clerk shall post a notice of the rules concerning designated bearers and~~  
8 ~~authorized agents in each county clerk's office where absentee ballots are distributed or returned.~~

9           ~~(b)(a)~~(1) An authorized agent may deliver applications for absentee ballots to the county  
10 clerk and obtain absentee ballots from the county clerk for not more than two (2) voters per election  
11 who cannot cast a ballot at the appropriate polling place on election day because the voter is a  
12 patient in a hospital or long-term care or residential care facility licensed by the state.

13           (2) At no time shall an authorized agent have more than two (2) absentee ballots in his  
14 or her possession.

15           (3)(A) An authorized agent receiving an absentee ballot from the county clerk for a voter  
16 shall deliver the absentee ballot directly to the voter.

17           (B) An authorized agent receiving an absentee ballot from a voter shall deliver the  
18 absentee ballot directly to the county clerk.

19           (4)(A) In order for an authorized agent to obtain a ballot from the county clerk, the  
20 authorized agent shall submit to the county clerk an affidavit from the administrative head of a  
21 hospital or long-term care or residential care facility licensed by the state that the applicant is a  
22 patient of the hospital or long-term care or residential care facility licensed by the state and is  
23 thereby unable to vote on the election day at his or her regular polling site.

24           (B) A copy of the affidavit shall be retained by the county clerk as an attachment to  
25 the application for an absentee ballot.

26           (5) In order to obtain an absentee ballot from the county clerk, the:

27           (A) Authorized agent shall present current photographic identification to the clerk;

28           (B) Clerk shall print the authorized agent's name and address beside the voter's name  
29 on a register; and

30           (C) Authorized agent shall sign the register under oath indicating receipt of the voter's  
31 ballot.

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1 (6) When an authorized agent delivers an absentee ballot to the county clerk, the:

2 (A) Authorized agent shall show some form of current photographic identification to  
3 the clerk;

4 (B) Clerk shall print the authorized agent's name and address beside the voter's name  
5 on a register;

6 (C) Authorized agent shall sign the register under oath indicating delivery of the  
7 voter's ballot; and

8 (D) The county clerk shall not accept an absentee ballot from an authorized agent  
9 who does not sign the register under oath.

10 (7) The county clerk shall write or stamp the words "AUTHORIZED AGENT" and the  
11 agent's name and address on the voter's absentee ballot return envelope.

12 (8) The county clerk shall post a notice of the rules concerning designated bearers and  
13 authorized agents in each county clerk's office where absentee ballots are distributed or returned.

14 ~~(e)(b)~~(1) The county clerk shall keep a register of ~~designated bearers and~~ authorized agents.

15 (2) The ~~designated bearer and~~ authorized agent register shall contain the following oath  
16 on each page: "I ACKNOWLEDGE THAT ARKANSAS LAW PROHIBITS DESIGNATED  
17 BEARERS AND AUTHORIZED AGENTS FROM RECEIVING OR RETURNING MORE  
18 THAN TWO (2) ABSENTEE BALLOTS PER ELECTION. I HAVE COMPLIED WITH THE  
19 ARKANSAS LAW. I UNDERSTAND THAT IF I PROVIDE FALSE INFORMATION ON  
20 THIS FORM, I MAY BE GUILTY OF PERJURY AND SUBJECT TO A FINE OF UP TO TEN  
21 THOUSAND DOLLARS (\$10,000) OR IMPRISONMENT FOR UP TO TEN (10) YEARS, OR  
22 BOTH, UNDER FEDERAL AND STATE LAWS."

23 ~~(d)(c)~~(1)(A) An administrator may deliver to the county clerk an application for an absentee  
24 ballot for any voter who is a patient of a long-term care or residential care facility licensed by the  
25 state and who authorizes the administrator to obtain an absentee ballot on his or her behalf.

26 (B) The absentee ballot application shall identify the administrator by name as the  
27 administrator of the facility where the voter resides.

28 (2) Upon presentation of photographic identification to the county clerk, an  
29 administrator may receive absentee ballots for as many qualified residents of the facility as:

30 (A) Apply for absentee ballots; and

31 (B) Identify the administrator in the voter's absentee ballot application.

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1 (3)(A) An administrator may deliver the absentee ballot to the county clerk for any voter  
2 who names the administrator on his or her application and voter statement.

3 (B) Absentee ballots may be delivered to the county clerk in person by the  
4 administrator or by mail.

5 (4) Before obtaining an absentee ballot, an administrator shall submit to the county clerk  
6 an affidavit, signed and dated by the administrator, stating:

7 (A) That he or she is the administrative head of a long-term care or residential care  
8 facility licensed by the state;

9 (B) The name and address of the facility;

10 (C) That he or she has been authorized by the voters who reside in his or her facility  
11 to obtain from the county clerk and return to the county clerk absentee ballots on their behalf;

12 (D) That each of the voters for whom the administrator seeks to obtain an absentee  
13 ballot has named the administrator on his or her application; and

14 (E) That the administrator understands that Arkansas law requires that the  
15 administrator assist the voter by marking or casting a ballot on behalf of the voter without any  
16 comment or interpretation.

17 (5) The county clerk shall attach a copy of the administrator's affidavit to each  
18 application for an absentee ballot delivered by the administrator to the county clerk.

19 (6) When the ballots are returned by the administrator in person or by mail, the county  
20 clerk shall write or stamp the word "ADMINISTRATOR" and write the administrator's name on  
21 the voter's absentee ballot return envelope.

22 ~~(e)~~(d) Any person who knowingly makes a false statement on an affidavit required by this  
23 section shall be guilty of perjury and subject to a fine of up to ten thousand dollars (\$10,000) or  
24 imprisonment of up to ten (10) years.

25 (e)(1) Except as set forth in this statute, any person who is not an authorized agent or  
26 authorized administrator who intentionally or willfully violates this paragraph shall be guilty of a  
27 class D felony and a conviction shall be deemed as an "infamous crime." Additionally, such person  
28 shall not be permitted to serve as an election official or obtain absentee ballots for himself or any  
29 other person in any future elections.

30 (2) If absentee ballots are found in the possession of a person in violation of this statute,  
31 then a prima facie presumption of election fraud exists and the ballots shall not be counted.

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1           (f)(1) An authorized agent or authorized administrator who intentionally or willfully  
2 violates this paragraph shall be guilty of a class D felony and a conviction shall be deemed as an  
3 “infamous crime.” Additionally, such person shall not be permitted to serve as an election official  
4 or obtain absentee ballots for himself or any other person in any future elections.

5           (2) If absentee ballots are found in the possession of a person in violation of this statute,  
6 then a prima facie presumption of election fraud exists and the ballots shall not be counted.