



Lynn Fitch
ATTORNEY GENERAL
OPINIONS AND POLICY

August 15, 2024

The Honorable Michael Watson
Secretary of State, Mississippi
401 Mississippi Street
Jackson, Mississippi 39205

Re: Voter ID for Mail-In Absentee Voters

Dear Secretary Watson:

The Office of the Attorney General has received your request for an official opinion.

Questions Presented

1. Does Mississippi Constitution Section 249A, “Government issued photo identification required to vote,” prohibit an expansion of the requirement to present an acceptable form of photo ID to mail-in absentee voters?
2. Are the voter identification requirements set forth in Mississippi Code Annotated Section 23-15-563 applicable to mail-in absentee voters pursuant to Section 23-15-631(3)?
3. If the legislature imposed requirements to present an acceptable form of photo ID for mail-in absentee voters through Section 23-15-631(3), how would this requirement affect the procedures for Uniformed and Overseas Citizens Absentee Voting Act (“UOCAVA”) absentee voters through Sections 23-15-701, *et. seq.*? Does the separation of procedures for UOCAVA, including instructions to be provided to UOCAVA voters, into a separate sub-article from Section 23-15-631(3) also separate UOCAVA absentee voters from providing an acceptable form of photo ID if casting a ballot outside of the registrar’s office?

Brief Response

1. Section 249A is expressly limited to voting “in person at the polls or in person in the office of the circuit clerk”; thus, it does not prohibit a legislative or constitutional expansion of voter identification requirements for mail-in absentee voters.
2. Section 23-15-563’s voter identification requirements only apply to in-person voting: “[e]ach person who appears to vote *in person at a polling place or the registrar’s office*

shall be required to identify himself or herself to a poll manager or the registrar by presenting current and valid photo identification before such person shall be allowed to vote.” (emphasis added).

3. Given the response to question two, this question is moot.

Applicable Law and Discussion

You first ask whether Section 249A of the Mississippi Constitution prohibits an expansion of the requirement to present an acceptable form of photo ID to mail-in absentee voters. While Section 249A generally concerns government issued photo identification required to vote in Mississippi, Section 249A(1)(a) specifically provides that “[a] qualified elector who votes in a primary or general election, *either in person at the polls or in person in the office of the circuit clerk*, shall present a government issued photo identification before being allowed to vote.” (emphasis added). Section 249A does not address mail-in absentee voting in any regard. Thus, it is the opinion of this office that Section 249A does not prohibit a legislative or constitutional expansion of voter identification requirements for mail-in absentee voting.

You next ask if the voter identification requirements set forth in Section 23-15-563 are applicable to mail-in absentee voters pursuant to Section 23-15-631(3). Like Section 249A, Section 23-15-563 does not address mail-in absentee voting. Rather, as stated above, Section 23-15-563(1) only requires current, valid photo identification for individuals who are voting in person. Section 23-15-631(3) provides, “[t]he Secretary of State shall prepare instructions on how absent voters may comply *with the identification requirements of Section 23-15-563.*” (emphasis added). Accordingly, even though Section 23-15-631(3) does not distinguish between in-person absentee voting and mail-in absentee voting for purposes of the instructions the Secretary of State shall prepare, Section 23-15-563 does make that distinction, only requiring voter identification for absentee voting in person at the registrar’s office.

Because Section 23-15-563 only applies to in-person voting, and the legislature did not amend any provision of Section 23-15-631 to apply voter identification requirements to mail-in absentee voting, your third question is moot.

If this office may be of any further assistance to you, please do not hesitate to contact us.

Sincerely,

LYNN FITCH, ATTORNEY GENERAL

By: /s/ Maggie Kate Bobo

Maggie Kate Bobo
Special Assistant Attorney General