

House Bill 128

By: Representative Holmes of the 48th, Post 1

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 2 of Title 21 of the Official Code of Georgia Annotated, relating to
2 elections and primaries generally, so as to permit absentee voting without qualification
3 during a certain period preceding an election or primary provided the elector shows proper
4 identification; to provide for definitions; to define the open absentee voting period; to
5 provide that the registrar's and absentee ballot clerk's offices shall be open for extended
6 hours during the open absentee voting period; to provide that absentee voting without
7 qualification shall be optional for municipalities; to provide a procedure for establishing
8 additional sites for receiving absentee ballots; to change provisions relating to penalties for
9 absentee voting improperly; to provide for related matters; to repeal conflicting laws; and for
10 other purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

12 style="text-align:center">**SECTION 1.**

13 Chapter 2 of Title 21 of the Official Code of Georgia Annotated, relating to elections and
14 primaries generally, is amended by striking subsection (c) of Code Section 21-2-215, relating
15 to the location, hours, and duties of boards of registrars, and inserting in lieu thereof a new
16 subsection to read as follows:

17 "(c) Except as provided in Code Section 21-2-382.1, the The main office of the board of
18 registrars in each county shall remain open for business during regular office hours on each
19 business day, except Saturday. The main office, or such other offices, shall be open at such
20 designated times other than the normal business hours as shall reasonably be necessary to
21 facilitate registration and at such other hours as will suit the convenience of the public."

22 style="text-align:center">**SECTION 2.**

23 Said chapter is further amended by striking Code Section 21-2-380, relating to the definition
24 of an absentee elector, and inserting in lieu thereof a new Code section to read as follows:

1 "21-2-380.

2 (a) As used in this article, the term 'absentee elector' means an elector of this state or a
3 municipality thereof who:

4 (1) Is required to be absent from his or her precinct during the time of the primary or
5 election he or she desires to vote in;

6 (2) Will perform any of the official acts or duties set forth in this chapter in connection
7 with the primary or election he or she desires to vote in;

8 (3) Because of physical disability or because of being required to give constant care to
9 someone who is physically disabled, will be unable to be present at the polls on the day
10 of such primary or election;

11 (4) Because the election or primary falls upon a religious holiday observed by such
12 elector, will be unable to be present at the polls on the day of such primary or election;

13 (5) Is required to remain on duty in his or her place of employment for the protection of
14 the health, life, or safety of the public during the entire time the polls are open when such
15 place of employment is within the precinct in which the voter resides; or

16 (6) Is 75 years of age or older; or

17 (7) Votes an absentee ballot without qualification during the open absentee voting
18 period.

19 (b) As used in this article, the term 'open absentee voting period' means the 15 days prior
20 to a primary or election when absentee voting without qualification is permitted pursuant
21 to Code Section 21-2-385.

22 (c) As used in this article, the term 'qualified absentee elector' means any absentee elector
23 who fits one of the qualifications listed in paragraphs (1) through (6) of subsection (a) of
24 this Code section."

25 SECTION 3.

26 Said chapter is further amended by striking Code Section 21-2-381, relating to application
27 and eligibility for an absentee ballot, and inserting in lieu thereof a new Code section to read
28 as follows:

29 "21-2-381.

30 (a)(1) Not more than 180 days prior to the date of the primary or election, or runoff of
31 either, in which the elector desires to vote, any qualified absentee elector may make,
32 either by mail, by facsimile transmission, or in person in the registrar's or absentee ballot
33 clerk's office, an application for an official ballot of the elector's precinct to be voted at
34 such primary, election, or runoff. In the case of an elector residing temporarily out of the
35 county or municipality or a physically disabled elector residing within the county or
36 municipality, the application for the elector's absentee ballot may, upon satisfactory proof

1 of relationship, be made by such elector's mother, father, grandparent, aunt, uncle, sister,
 2 brother, spouse, son, daughter, niece, nephew, grandchild, son-in-law, daughter-in-law,
 3 mother-in-law, father-in-law, brother-in-law, or sister-in-law of the age of 18 or over. The
 4 application shall be in writing and shall contain sufficient information for proper
 5 identification of the elector; the permanent or temporary address of the elector to which
 6 the absentee ballot shall be mailed; the identity of the primary, election, or runoff in
 7 which the elector wishes to vote; the reason for requesting the absentee ballot; and the
 8 name and relationship of the person requesting the ballot if other than the elector.

9 (2) Except in the case of physically disabled electors residing in the county or
 10 municipality, no absentee ballot shall be mailed to an address other than the permanent
 11 mailing address of the elector as recorded on the elector's voter registration record or a
 12 temporary out-of-county or out-of-municipality address.

13 (3) Relatives applying for absentee ballots for electors must also sign an oath stating that
 14 facts in the application are true.

15 (4) If the elector is unable to fill out or sign such elector's own application because of
 16 illiteracy or physical disability, the elector shall make such elector's mark, and the person
 17 filling in the rest of the application shall sign such person's name below it as a witness.

18 (5) One timely and proper application for an absentee ballot for use in a primary shall
 19 be sufficient to require the mailing of the absentee ballot for such primary as well as for
 20 any runoffs resulting therefrom and for the election for which such primary shall
 21 nominate candidates and any runoffs resulting therefrom to an eligible absentee elector
 22 who lives outside the county or municipality in which the election is held and is also a
 23 member of the armed forces of the United States, a member of the merchant marine of
 24 the United States, or a spouse or dependent of a member of the armed forces or the
 25 merchant marine residing with or accompanying said member or overseas citizen. Any
 26 elector meeting ~~criteria~~ the criterion of advanced age or disability specified by rule or
 27 regulation of the Secretary of State may request in writing on one application a ballot for
 28 a primary as well as for any runoffs resulting therefrom and for the election for which
 29 such primary shall nominate candidates as well as any runoffs resulting therefrom. If not
 30 so requested by such person a separate and distinct application shall be required for each
 31 primary, run-off primary, election, and run-off election. Notwithstanding the foregoing,
 32 a separate and distinct application for an absentee ballot shall always be required for the
 33 presidential preference primary held pursuant to Article 5 of this chapter and for any
 34 special election or special primary.

35 ~~(2)~~ (6) A properly executed registration card submitted under the provisions of
 36 subsection (b) of Code Section 21-2-219, if submitted within 180 days of a primary or
 37 election in which the registrant is entitled to vote, shall be considered to be an application

1 for an absentee ballot under this Code section, or for a special absentee ballot under Code
2 Section 21-2-381.1, as appropriate.

3 ~~(3)~~ (7) All applications for an official absentee ballot that are distributed by a person,
4 entity, or organization shall list thereon all of the legally acceptable categories of
5 qualified absentee electors contained in paragraphs (1) through (6) of subsection (a) of
6 Code Section 21-2-380 and shall require the elector to select the category which qualifies
7 the elector to vote by absentee ballot.

8 (b)(1) Upon receipt of a timely application, a registrar or absentee ballot clerk shall enter
9 thereon the date received and shall determine if the applicant is eligible to vote in the
10 primary or election involved. In order to be found eligible to vote an absentee ballot in
11 person at the registrar's office or absentee ballot clerk's office, such person shall show
12 one of the forms of identification listed in Code Section 21-2-417.

13 (2) If the applicant is found eligible, the registrar or absentee ballot clerk shall certify by
14 signing in the proper place on the application and shall either mail the ballot as provided
15 in this Code section or issue the ballot to the elector to be voted within the confines of the
16 registrar's or absentee ballot clerk's office or deliver the ballot in person to the elector if
17 such elector is confined to a hospital.

18 (3) If the applicant is found ineligible, the clerk or the board of registrars shall deny the
19 application by writing the reason for rejection in the proper space on the application and
20 shall promptly notify the applicant in writing of the ground of ineligibility, a copy of
21 which notification should be retained on file in the office of the board of registrars or
22 absentee ballot clerk for at least one year.

23 (4) If the registrar or clerk is unable to determine the identity of the elector from
24 information given on the application, the registrar or clerk should promptly write to
25 request additional information.

26 (5) In the case of an unregistered applicant who is eligible to register to vote, the clerk
27 or the board shall immediately mail a blank registration card as provided by Code Section
28 21-2-223, and such applicant, if otherwise qualified, shall be deemed eligible to vote by
29 absentee ballot in such primary or election, if the registration card, properly completed,
30 is returned to the clerk or the board on or before the last day for registering to vote in
31 such primary or election. If the closing date for registration in the primary or election
32 concerned has not passed, the clerk or registrar shall also mail a ballot to the applicant,
33 as soon as it is prepared and available; and the ballot shall be cast in such primary or
34 election if returned to the clerk or board not later than the close of the polls on the day of
35 the primary or election concerned.

36 (c) In those counties or municipalities in which the absentee ballot clerk or board of
37 registrars provides application forms for absentee ballots, the clerk or board shall provide

1 such quantity of the application form to the dean of each college or university located in
2 that county as said dean determines necessary for the students of such college or university.

3 (d)(1) A citizen of the United States permanently residing outside the United States is
4 entitled to make application for an absentee ballot from Georgia and to vote by absentee
5 ballot in any election for presidential electors and United States senator or representative
6 in Congress:

7 (A) If such citizen was last domiciled in Georgia immediately before his or her
8 departure from the United States; and

9 (B) If such citizen could have met all qualifications, except any qualification relating
10 to minimum voting age, to vote in federal elections even though, while residing outside
11 the United States, he or she does not have a place of abode or other address in Georgia.

12 (2) An individual is entitled to make application for an absentee ballot under
13 paragraph (1) of this subsection even if such individual's intent to return to Georgia may
14 be uncertain, as long as:

15 (A) He or she has complied with all applicable Georgia qualifications and requirements
16 which are consistent with 42 U.S.C. Section 1973ff concerning absentee registration for
17 and voting by absentee ballots;

18 (B) He or she does not maintain a domicile, is not registered to vote, and is not voting
19 in any other state or election district of a state or territory or in any territory or
20 possession of the United States; and

21 (C) He or she has a valid passport or card of identity and registration issued under the
22 authority of the Secretary of State of the United States or, in lieu thereof, an alternative
23 form of identification consistent with 42 U.S.C. Section 1973ff and applicable state
24 requirements, if a citizen does not possess a valid passport or card of identity and
25 registration.

26 (e) The Secretary of State is authorized to promulgate reasonable rules and regulations for
27 the implementation of ~~paragraph (1)~~ of subsection (a) of this Code section. Said rules and
28 regulations may include provisions for the limitation of opportunities for fraudulent
29 application, including, but not limited to, comparison of voter registration records with
30 death certificates."

31 SECTION 4.

32 Said chapter is further amended by striking Code Section 21-2-382, relating to additional
33 sites as additional registrar's office or place of registration for absentee ballots, and inserting
34 in lieu thereof two new Code sections to read as follows:

1 "21-2-382.

2 (a) Any other provisions of this chapter to the contrary notwithstanding, the board of
3 registrars or municipal governing authority, as appropriate, may establish by unanimous
4 vote additional sites as additional registrar's offices, absentee ballot clerk's offices, or
5 places of registration for the purpose of receiving absentee ballots under Code Section
6 21-2-381 and for the purpose of voting absentee ballots under Code Section 21-2-385,
7 provided that any such site is a branch of the county courthouse, a courthouse annex, a
8 government service center providing general government services, an authorized polling
9 place, or another government building generally accessible to the public.

10 (b) Any other provisions of this chapter to the contrary notwithstanding, in all counties of
11 this state having a population of 550,000 or more or having a population between 88,000
12 and 90,000 according to the United States decennial census of 1990 or any future such
13 census, any branch of the county courthouse or courthouse annex established within any
14 such county shall be an additional registrar's office or place of registration for the purpose
15 of receiving absentee ballots under Code Section 21-2-381 and for the purpose of voting
16 absentee ballots under Code Section 21-2-385.

17 21-2-382.1.

18 During the open absentee voting period and for the purpose of absentee voting without
19 qualification, the main office of the board of registrars, the absentee ballot clerk's office,
20 and other such locations within the city or county as may be designated by the board of
21 registrars or the governing authority of the municipality for the purpose of absentee voting
22 without qualification shall be open as follows:

23 (1) In counties with a population of 50,000 or less and in cities with a population of
24 25,000 or less according to the United States decennial census of 2000 or any future such
25 census, on at least two weekday evenings until at least 7:00 P.M. and for a reasonable
26 period of time on at least one weekend day, provided that such offices and such other
27 locations shall be open on the last Saturday of the open absentee voting period. Such
28 period of time shall not be less than four hours on each such weekend day; and

29 (2) In counties with a population of over 50,000 and cities with a population of over
30 25,000 according to the United States decennial census of 2000 or any future such census,
31 on at least four weekday evenings until at least 7:00 P.M. and for a reasonable period of
32 time on at least two weekend days, provided that such offices and such locations shall be
33 open on the last Saturday of the open absentee voting period. Such period of time shall
34 not be less than four hours on each such weekend day."

SECTION 5.

Said chapter is further amended by striking Code Section 21-2-385, relating to the procedure for voting by absentee ballot, and inserting in lieu thereof a new Code section to read as follows:

"21-2-385.

(a) At any time after receiving an official absentee ballot, but before the day of the primary or election, except electors who are confined to a hospital on the day of the primary or election, the elector shall vote his or her absentee ballot, then fold the ballot and enclose and securely seal the same in the envelope on which is printed 'Official Absentee Ballot.'

This envelope shall then be placed in the second one, on which is printed the form of the oath of the elector; the name, relationship, and oath of the person assisting, if any; and other required identifying information. The elector shall then fill out, subscribe, and swear to the oath printed on such envelope. Such envelope shall then be securely sealed and the elector shall then mail or personally deliver same to the board of registrars or absentee ballot clerk, provided that delivery by a physically disabled elector may be made by any adult person upon satisfactory proof that such adult person is such elector's mother, father, grandparent, aunt, uncle, brother, sister, spouse, son, daughter, niece, nephew, grandchild, son-in-law, daughter-in-law, mother-in-law, father-in-law, brother-in-law, sister-in-law, or an individual residing in the household of such disabled elector. An elector who is confined to a hospital on a primary or election day to whom an absentee ballot is delivered by the registrar or absentee ballot clerk shall then and there vote the ballot, seal it properly, and return it to the registrar or absentee ballot clerk.

(b) A physically disabled or illiterate elector may receive assistance in preparing his or her ballot from one of the following: any elector who is qualified to vote in the same county or municipality as the disabled or illiterate elector or the mother, father, grandparent, aunt, uncle, brother, sister, spouse, son, daughter, niece, nephew, grandchild, son-in-law, daughter-in-law, mother-in-law, father-in-law, brother-in-law, or sister-in-law of the disabled or illiterate elector. The person rendering assistance to the elector in preparing the ballot shall sign the oath printed on the same envelope as the oath to be signed by the elector. If the disabled or illiterate elector is sojourning outside his or her own county or municipality, a notary public of the jurisdiction may give such assistance and shall sign the oath printed on the same envelope as the oath to be signed by the elector. No person shall assist more than ten such electors in any primary, election, or runoff.

(c) When an elector applies in person for an absentee ballot, after the absentee ballots have been printed, the absentee ballot shall be issued to the elector at the time of the application therefor within the confines of the registrar's or absentee ballot clerk's office; and the elector shall then and there vote and return the absentee ballot as provided in subsections

1 (a) and (b) of this Code section. The board of registrars or absentee ballot clerk shall
 2 furnish accommodations to the elector to ensure the privacy of the elector while voting his
 3 or her absentee ballot.

4 (d) Absentee voting without qualification is permitted in county, state, and federal
 5 elections during the open absentee voting period which shall begin on the fifteenth day
 6 prior to a primary or election and shall end at 12:00 Noon on the day before the primary
 7 or election. Municipalities may establish by a duly passed ordinance absentee voting
 8 without qualification for municipal elections in compliance with this chapter. During the
 9 open absentee voting period, an elector may vote an absentee ballot without meeting any
 10 of the qualifications listed in paragraphs (1) through (6) of subsection (a) of Code Section
 11 21-2-380 by appearing in person at the main office of the board of registrars or absentee
 12 ballot clerk or at any such other location within the city or county as may be designated
 13 pursuant to Code Section 21-2-382, presenting proper identification as defined in Code
 14 Section 21-2-417, and requesting an absentee ballot. If the elector is qualified to vote, the
 15 elector shall receive an absentee ballot and shall then and there vote and return such ballot
 16 as provided in subsections (a) and (b) of this Code section. The board of registrars or
 17 absentee ballot clerk shall furnish accommodations to the elector to ensure the privacy of
 18 the elector while voting his or her absentee ballot."

19 SECTION 6.

20 Said chapter is further amended by striking Code Section 21-2-573, relating to absentee
 21 voting by an unqualified elector, and inserting in lieu thereof a new Code section to read as
 22 follows:

23 "21-2-573.

24 (a) Except as provided in subsection (b) of this Code section, any ~~Any~~ person who votes
 25 or attempts to vote by absentee ballot at any primary or election under Article 10 of this
 26 chapter and who is not a qualified to vote absentee elector as defined in subsection (c) of
 27 Code Section 21-2-380 shall be guilty of a misdemeanor.

28 (b) The provisions of subsection (a) of this Code section shall not apply to a person who
 29 votes an absentee ballot without qualification during the open absentee voting period."

30 SECTION 7.

31 All laws and parts of laws in conflict with this Act are repealed.