

House Bill 1435 (COMMITTEE SUBSTITUTE)

By: Representatives Burmeister of the 119th, Brown of the 69th, Lunsford of the 110th, and Walker of the 107th

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 primaries and elections generally, so as to add certain definitions; to authorize an attendant
3 care giver to provide assistance in voting an absentee ballot; to provide for the manner of
4 assistance in voting for persons with disabilities; to provide for related matters; to provide
5 for an effective date; to repeal conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Chapter 2 of Title 21 of the Official Code of Georgia Annotated, relating to primaries and
9 elections generally, is amended by striking paragraph (9) of Code Section 21-2-2, relating
10 to definitions, and inserting in lieu thereof a new paragraph (9) and adding new paragraphs
11 (.1) and (.2) to read as follows:

12 "(.1) 'Activities of daily living' includes eating, toileting, grooming, dressing, shaving,
13 transferring, and other personal care services.

14 (.2) 'Attendant care services' means services and supports furnished to an individual with
15 a physical disability, as needed, to assist in accomplishing activities of daily living,
16 instrumental activities of daily living, and health related functions through hands-on
17 assistance, supervision, or cuing."

18 "(9) Reserved 'Health related functions' means functions that can be delegated or
19 assigned by licensed health care professionals under state law to be performed by an
20 attendant."

21 **SECTION 2.**

22 Said chapter is further amended by striking subsection (d) of Code Section 21-2-265, relating
23 to polling places and facilities for disabled voters, and inserting in lieu thereof a new
24 subsection (d) to read as follows:

25 "(d) The superintendent of a county or the governing authority of a municipality, in
26 selecting and fixing a polling place in each precinct, shall select, if practicable, a polling

1 place with suitable and appropriate access to ~~for~~ disabled ~~voters~~ electors. If no such
 2 practicable locations exist within the precinct, the superintendent of a county or the
 3 governing authority of a municipality may effect temporary modifications to such existing
 4 locations as will, in his or her or its judgment, provide more convenient and appropriate
 5 access to the polling place by the disabled ~~voter~~ elector. No polling place shall be selected
 6 or used under any circumstances which does not have suitable and appropriate access to
 7 for persons with disabilities for the purpose of voting; and any person, whether or not
 8 personally aggrieved, may bring an action for mandamus to require that all polling places
 9 in the county or municipality have suitable and appropriate access to for persons with
 10 disabilities for the purpose of voting."

11

SECTION 3.

12 Said chapter is further amended by striking paragraph (1) of subsection (c) of Code Section
 13 21-2-384, relating to preparation and delivery of absentee ballots, and inserting in lieu
 14 thereof a new paragraph (1) to read as follows:

15 "(c)(1) The oaths referred to in subsection (b) of this Code section shall be in
 16 substantially the following form:

17 I, the undersigned, do swear (or affirm) that I am a citizen of the United States and of
 18 the State of Georgia; that my residence address is _____ County, Georgia; that
 19 I possess the qualifications of an elector required by the laws of the State of Georgia;
 20 that I am entitled to vote in the precinct containing my residence in the primary or
 21 election in which this ballot is to be cast; that I am eligible to vote by absentee ballot;
 22 that I have not marked or mailed any other absentee ballot, nor will I mark or mail
 23 another absentee ballot for voting in such primary or election; nor shall I vote therein
 24 in person; and that I have read and understand the instructions accompanying this
 25 ballot; and that I have carefully complied with such instructions in completing this
 26 ballot. I understand that the offer or acceptance of money or any other object of value
 27 to vote for any particular candidate, list of candidates, issue, or list of issues included
 28 in this election constitutes an act of voter fraud and is a felony under Georgia law.

29

30 _____
 Elector's Residence

31 Address

1 _____
2 Month and Day of
3 Elector’s Birth

4 _____
5 Signature or Mark of Elector

6 Oath of Person Assisting Elector (if any):

7 I, the undersigned, do swear (or affirm) that I assisted the above-named elector in
8 marking such elector’s absentee ballot as such elector personally communicated such
9 elector’s preference to me; ~~that I am satisfied that such elector presently possesses the~~
10 ~~disability noted below;~~ and that ~~by reason of such disability~~ such elector is entitled to
11 receive assistance in voting under provisions of subsection (a) of Code Section
12 21-2-409.

13 This, the _____ day of _____.

14 _____
15 Signature of Person Assisting
16 Elector -- Relationship

17 Reason for assistance (Check appropriate square):

- 18 () Elector is unable to read the English language.
19 () Elector ~~has following~~ requires assistance due to physical disability
20 _____.

21 The forms upon which such oaths are printed shall contain the following information:

22 Georgia law provides, in subsection (b) of Code Section 21-2-409, that no person shall
23 assist more than ten electors in any primary, ~~or election,~~ or runoff in which there is no
24 federal candidate on the ballot.

25 Georgia law further provides that any person who knowingly falsifies information so
26 as to vote illegally by absentee ballot or who illegally gives or receives assistance in
27 voting, as specified in Code Section 21-2-568, 21-2-573, or 21-2-579, shall be guilty
28 of a misdemeanor.”

29 **SECTION 4.**

30 Said chapter is further amended by striking subsection (b) of Code Section 21-2-385, relating
31 to procedure for voting by absentee ballot, and inserting in lieu thereof a new subsection (b)
32 to read as follows:

33 “(b) A physically disabled or illiterate elector may receive assistance in preparing his or
34 her ballot from one of the following: any elector who is qualified to vote in the same

1 county or municipality as the disabled or illiterate elector; an attendant care provider or a
 2 person providing attendant care; or the mother, father, grandparent, aunt, uncle, brother,
 3 sister, spouse, son, daughter, niece, nephew, grandchild, son-in-law, daughter-in-law,
 4 mother-in-law, father-in-law, brother-in-law, or sister-in-law of the disabled or illiterate
 5 elector. The person rendering assistance to the elector in preparing the ballot shall sign the
 6 oath printed on the same envelope as the oath to be signed by the elector. If the disabled
 7 or illiterate elector is sojourning outside his or her own county or municipality, a notary
 8 public of the jurisdiction may give such assistance and shall sign the oath printed on the
 9 same envelope as the oath to be signed by the elector. No person shall assist more than ten
 10 such electors in any primary, election, or runoff in which there is no federal candidate on
 11 the ballot."

SECTION 5.

12
 13 Said chapter is further amended by striking subsection (a) of Code Section 21-2-402, relating
 14 to preparation of voter’s certificates by Secretary of State, and inserting in lieu thereof a new
 15 subsection (a) to read as follows:

16 "(a) At each primary and election, the Secretary of State shall prepare and furnish to each
 17 superintendent a suitable number of voter’s certificates which shall be in substantially the
 18 following form:

VOTER’S CERTIFICATE

20 I hereby certify that I am qualified to vote at the (primary or election) held on
 21 _____, that I have not and will not vote elsewhere in this (primary or election)
 22 in my own name or in any other name, and that I am a citizen of the United States and am
 23 not currently serving a sentence for a felony conviction. I understand that making a false
 24 statement on this certificate is a felony under Code Section 21-2-562.

25 Signature _____

26 Current residence address of elector:
27 _____

28 Elector’s date of birth: _____

29 Name or initials of poll officer receiving voter’s certificate: _____

30 In case of physical disability or illiteracy, fill out the following:

31 ~~I hereby certify that the voter is unable to sign his or her name by reason of the following:~~

32 _____
33 _____

1 Reason for assistance (Check appropriate square):

2 () Elector is unable to read the English language.

3 () Elector requires assistance due to physical disability.

4 _____

5 Signature of poll officer

6 Number of stub of ballot or number of admission to voting machine: _____"

7 **SECTION 6.**

8 Said chapter is further amended by striking Code Section 21-2-409, relating to assisting
9 electors who cannot read English or who have physical disabilities, and inserting in lieu
10 thereof a new Code Section 21-2-409 to read as follows:

11 "21-2-409.

12 (a) No elector shall receive any assistance in voting at any primary or election unless he
13 or she is unable to read the English language or he or she has a ~~physical~~ disability which
14 renders him or her unable to see or mark the ballot or operate the voting equipment or to
15 enter the voting compartment or booth without assistance. ~~The~~ A person assisting an
16 elector shall take an oath that shall be administered to him or her and placed in writing by
17 identify himself or herself to a manager, giving the reason why the elector requires
18 assistance poll worker who shall record such information on the disabled elector's voter
19 certificate showing that such person provided assistance in voting to such elector. ~~The~~
20 ~~printed name and the signature of such person assisting the elector shall be provided on the~~
21 ~~oath. An elector who declares that by reason of blindness he or she is unable to cast a vote~~
22 ~~as he or she wishes may receive assistance on the basis of the blind elector's declaration~~
23 ~~without the necessity of an oath. The printed name and the signature of such person~~
24 ~~assisting a blind elector shall be provided on the declaration.~~

25 (b)(1) In elections in which there is a federal candidate on the ballot, any elector who is
26 entitled to receive assistance in voting under this Code section shall be permitted by the
27 managers to select any person of the elector's choice except the elector's employer or
28 agent of that employer or officer or agent of the elector's union.

29 (2) In all other elections, any elector who is entitled to receive assistance in voting under
30 this Code section shall be permitted by the managers to select (1) any elector, except a
31 poll officer or poll watcher, who is a resident of the precinct in which the elector
32 requiring assistance is attempting to vote; or (2) the mother, father, sister, brother, spouse,
33 or child of the elector entitled to receive assistance, to enter the voting compartment or
34 booth with him or her to assist in voting, such assistance to be rendered inside the voting
35 compartment or booth. No person shall assist more than ten such electors in any primary,
36 election, or runoff covered by this paragraph. No person whose name appears on the

1 ballot as a candidate at a particular election nor the mother, father, grandparent, aunt,
 2 uncle, sister, brother, spouse, son, daughter, niece, nephew, grandchild, son-in-law,
 3 daughter-in-law, mother-in-law, father-in-law, brother-in-law, or sister-in-law of that
 4 candidate may offer assistance during that particular election under the provisions of this
 5 Code section to any voter who is not related to such candidate. For the purposes of this
 6 paragraph, 'related to such candidate' shall mean the candidate's mother, father,
 7 grandparent, aunt, uncle, sister, brother, spouse, son, daughter, niece, nephew, grandchild,
 8 son-in-law, daughter-in-law, mother-in-law, father-in-law, brother-in-law, or
 9 sister-in-law.

10 (c) The oaths or declarations of assisted electors shall be returned by the chief manager to
 11 the superintendent. The oaths or declarations of assisted electors shall be available in the
 12 superintendent's office for public inspection."

13 SECTION 7.

14 Said chapter is further amended by striking subsection (b) of Code Section 21-2-431, relating
 15 to execution of voter's certificates, and inserting in lieu thereof a new subsection (b) to read
 16 as follows:

17 "(b) If any elector was unable to sign his or her name at the time of registration or if,
 18 having been able to sign his or her name when registered, he or she subsequently shall have
 19 become, through physical disability, unable to sign his or her name when he or she applies
 20 to vote, he or she shall establish his or her identity to the satisfaction of the poll officers;
 21 and in such case he or she shall not be required to sign a voter's certificate, but a certificate
 22 shall be prepared for him or her by a poll officer, ~~upon which the facts as to such disability~~
 23 ~~shall be noted and attested by the signature of such poll officer."~~

24 SECTION 8.

25 Said chapter is further amended by striking subsection (b) of Code Section 21-2-451, relating
 26 to execution of voter's certificate, and inserting in lieu thereof a new subsection (b) to read
 27 as follows:

28 "(b) If any elector was unable to sign his or her name at the time of registration or, if
 29 having been able to sign his or her name when registered, he or she subsequently shall have
 30 become, through physical disability, unable to sign his or her name when he or she applies
 31 to vote, he or she shall establish his or her identity to the satisfaction of the poll officers;
 32 and in such case he or she shall not be required to sign a voter's certificate, but a certificate
 33 shall be prepared for him or her by a poll officer, ~~upon which the facts as to such disability~~
 34 ~~shall be noted and attested by the signature of such poll officer."~~

1 **SECTION 9.**

2 This Act shall become effective on January 1, 2007.

3 **SECTION 10.**

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