

House Bill 780

By: Representatives Maxwell of the 17<sup>th</sup>, England of the 108<sup>th</sup>, and Wilkinson of the 52<sup>nd</sup>

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 authorize the election superintendent in primaries,  
3 elections, and runoffs in which direct recording electronic voting systems are used for  
4 absentee voting to begin tabulating the absentee votes cast on such devices when the polls  
5 open for such primary, election, or runoff; to provide for procedures for such tabulation; to  
6 provide for related matters; to repeal conflicting laws; and for other purposes.

7 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

8 **SECTION 1.**

9 Chapter 2 of Title 21 of the Official Code of Georgia Annotated, relating to primaries and  
10 elections generally, is amended by revising subsection (a) of Code Section 21-2-386, relating  
11 to safekeeping, certification, and validation of absentee ballots, as follows:

12 "(a)(1)(A) The board of registrars or absentee ballot clerk shall keep safely, unopened,  
13 and stored in a manner that will prevent tampering and unauthorized access all official  
14 absentee ballots received from absentee electors prior to the closing of the polls on the  
15 day of the primary or election except as otherwise provided in this subsection.

16 (B) Upon receipt of each ballot, a registrar or clerk shall write the day and hour of the  
17 receipt of the ballot on its envelope. The registrar or clerk shall then compare the  
18 identifying information on the oath with the information on file in his or her office,  
19 shall compare the signature or mark on the oath with the signature or mark on the  
20 absentee elector's voter registration card and application for absentee ballot or a  
21 facsimile of said signature or mark taken from said card or application, and shall, if the  
22 information and signature appear to be valid and other identifying information appears  
23 to be correct, so certify by signing or initialing his or her name below the voter's oath.  
24 Each elector's name so certified shall be listed by the registrar or clerk on the numbered  
25 list of absentee voters prepared for his or her precinct.

26 (C) If the elector has failed to sign the oath, or if the signature does not appear to be  
27 valid, or if the elector has failed to furnish required information or information so  
28 furnished does not conform with that on file in the registrar's or clerk's office, or if the  
29 elector is otherwise found disqualified to vote, the registrar or clerk shall write across  
30 the face of the envelope 'Rejected,' giving the reason therefor. The board of registrars  
31 or absentee ballot clerk shall promptly notify the elector of such rejection, a copy of  
32 which notification shall be retained in the files of the board of registrars or absentee  
33 ballot clerk for at least one year.

34 (D) An elector who registered to vote by mail, but did not comply with subsection (c)  
35 of Code Section 21-2-220, and who votes for the first time in this state by absentee  
36 ballot shall include with his or her application for an absentee ballot or in the outer oath  
37 envelope of his or her absentee ballot either one of the forms of identification listed in  
38 subsection (a) of Code Section 21-2-417 or a copy of a current utility bill, bank  
39 statement, government check, paycheck, or other government document that shows the  
40 name and address of such elector. If such elector does not provide any of the forms of  
41 identification listed in this subparagraph with his or her application for an absentee  
42 ballot or with the absentee ballot, such absentee ballot shall be deemed to be a  
43 provisional ballot and such ballot shall only be counted if the registrars are able to  
44 verify current and valid identification of the elector as provided in this subparagraph  
45 within the time period for verifying provisional ballots pursuant to Code Section  
46 21-2-419.

47 (E) Three copies of the numbered list of voters shall also be prepared for such rejected  
48 absentee electors, giving the name of the elector and the reason for the rejection in each  
49 case. Three copies of the numbered list of certified absentee voters and three copies of  
50 the numbered list of rejected absentee voters for each precinct shall be turned over to  
51 the poll manager in charge of counting the absentee ballots and shall be distributed as  
52 required by law for numbered lists of voters.

53 (F) All absentee ballots returned to the board or absentee ballot clerk after the closing  
54 of the polls on the day of the primary or election shall be safely kept unopened by the  
55 board or absentee ballot clerk and then transferred to the appropriate clerk for storage  
56 for the period of time required for the preservation of ballots used at the primary or  
57 election and shall then, without being opened, be destroyed in like manner as the used  
58 ballots of the primary or election. The board of registrars or absentee ballot clerk shall  
59 promptly notify the elector by first-class mail that the elector's ballot was returned too  
60 late to be counted and that the elector will not receive credit for voting in the primary  
61 or election. All such late absentee ballots shall be delivered to the appropriate clerk and  
62 stored as provided in Code Section 21-2-390.

63 (G) Notwithstanding any provision of this chapter to the contrary, until the United  
64 States Department of Defense notifies the Secretary of State that the Department of  
65 Defense has implemented a system of expedited absentee voting for those electors  
66 covered by this subparagraph, absentee ballots cast in a primary, election, or runoff by  
67 eligible absentee electors who reside outside the county or municipality in which the  
68 primary, election, or runoff is held and are members of the armed forces of the United  
69 States, members of the merchant marine of the United States, spouses or dependents of  
70 members of the armed forces or merchant marine residing with or accompanying such  
71 members, or overseas citizens that are postmarked by the date of such primary, election,  
72 or runoff and are received within the three-day period following such primary, election,  
73 or runoff, if proper in all other respects, shall be valid ballots and shall be counted and  
74 included in the certified election results.

75 (2) After the opening of the polls on the day of the primary, election, or runoff, the  
76 registrars or absentee ballot clerks shall be authorized to open the outer envelope on  
77 which is printed the oath of the elector in such a manner as not to destroy the oath printed  
78 thereon; provided, however, that the registrars or absentee ballot clerk shall not be  
79 authorized to remove the contents of such outer envelope or to open the inner envelope  
80 marked 'Official Absentee Ballot,' except as otherwise provided in this Code section. At  
81 least three persons who are registrars, deputy registrars, poll workers, or absentee ballot  
82 clerks must be present before commencing; and three persons who are registrars, deputy  
83 registrars, or absentee ballot clerks shall be present at all times while the outer envelopes  
84 are being opened. After opening the outer envelopes, the ballots shall be safely and  
85 securely stored until the time for tabulating such ballots.

86 (3) A county election superintendent may, in his or her discretion, after 7:00 A.M. on the  
87 day of the primary, election, or runoff, open the inner envelopes in accordance with the  
88 procedures prescribed in this subsection and begin tabulating the absentee ballots.  
89 Additionally, in those primaries, elections, and runoffs in which direct recording  
90 electronic voting systems are used for casting absentee ballots as authorized pursuant to  
91 subsection (b) of Code Section 21-2-383, a county election superintendent may, in his or  
92 her discretion, after 7:00 A.M. on the day of such primary, election, or runoff, begin  
93 tabulating the absentee ballots cast on the direct recording electronic voting systems in  
94 accordance with the procedures set forth in this subsection and in subsections (c) through  
95 (g) of Code Section 21-2-379.11. If the county election superintendent chooses to ~~open~~  
96 ~~the inner envelopes and~~ begin tabulating such ballots prior to the close of the polls on the  
97 day of the primary, election, or runoff, the superintendent shall notify in writing, at least  
98 seven days prior to the primary, election, or runoff, the county executive committee or,  
99 if there is no organized county executive committee, the state executive committee of

100 each political party and political body having candidates whose names appear on the  
101 ballot for such election in such county and each independent and nonpartisan candidate  
102 whose name appears on the ballot for such primary, election, or runoff in such county of  
103 the superintendent's intent to begin the absentee ballot tabulation prior to the close of the  
104 polls and their right to appoint monitors to observe the tabulation. Such committee shall  
105 have the right to designate two persons and each independent and nonpartisan candidate  
106 whose name appears on the ballot for such election in such county shall have the right to  
107 designate one person to act as monitors for such process. In the event that the only issue  
108 to be voted upon in an election is a referendum question, the chief judge of the superior  
109 court of the county shall appoint two electors of the county to monitor such process.

110 (4) The county election superintendent shall publish a written notice in the  
111 superintendent's office of the superintendent's intent to begin the absentee ballot  
112 tabulation prior to the close of the polls and publish such notice at least one week prior  
113 to the primary, election, or runoff in the legal organ of the county.

114 (5) The process for opening the inner envelopes of and tabulating absentee ballots on the  
115 day of a primary, election, or runoff as provided in this subsection shall be a confidential  
116 process to maintain the secrecy of all ballots and to protect the disclosure of any balloting  
117 information before 7:00 P.M. on election day. No absentee ballots shall be tabulated  
118 before 7:00 A.M. on the day of a primary, election, or runoff.

119 (6) All persons conducting the tabulation of absentee ballots during the day of a primary,  
120 election, or runoff, including the vote review panel required by Code Section 21-2-483,  
121 and all monitors and observers shall be sequestered until the time for the closing of the  
122 polls. All such persons shall have no contact with the news media; shall have no contact  
123 with other persons not involved in monitoring, observing, or conducting the tabulation;  
124 shall not use any type of communication device including radios, telephones, and cellular  
125 telephones; shall not utilize computers for the purpose of electronic mail, instant  
126 messaging, or other forms of communication; and shall not communicate any information  
127 concerning the tabulation until the time for the closing of the polls; provided, however,  
128 that supervisory and technical assistance personnel shall be permitted to enter and leave  
129 the area in which the tabulation is being conducted but shall not communicate any  
130 information concerning the tabulation to anyone other than the county election  
131 superintendent; the staff of the superintendent; those persons conducting, observing, or  
132 monitoring the tabulation; and those persons whose technical assistance is needed for the  
133 tabulation process to operate.

134 (7) The absentee ballots shall be tabulated in accordance with the procedures of this  
135 chapter for the tabulation of absentee ballots. As such ballots are tabulated, they shall be  
136 placed into locked ballot boxes and may be transferred to locked ballot bags, if needed,

137 for security. The persons conducting the tabulation of the absentee ballots shall not cause  
138 the tabulating equipment to produce any count, partial or otherwise, of the absentee votes  
139 cast until the time for the closing of the polls."

140 **SECTION 2.**

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