

Senate Bill 198

By: Senators Goggans of the 7th, Grant of the 25th and Unterman of the 45th

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 provide definitions; to cover all disabilities in
3 providing assistance in voting; to provide for related matters; to repeal conflicting laws; and
4 for other purposes.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

6 SECTION 1.

7 Chapter 2 of Title 21 of the Official Code of Georgia Annotated, relating to primaries and
8 elections generally, is amended by revising Code Section 21-2-2, relating to definitions, by
9 adding new paragraphs to read as follows:

10 "(4.2) 'Disability' means a physical or mental impairment that substantially limits one or
11 more major life activities of an elector with a disability."

12 "(10.1) 'Major life activities' means activities including, but not limited to, caring for
13 oneself, performing manual tasks, seeing, hearing, walking, standing, lifting, bending,
14 speaking, breathing, reading, learning, concentrating, thinking, communicating, and
15 working."

16 SECTION 2.

17 Said chapter is further amended by revising paragraph (1) of subsection (a) of Code
18 Section 21-2-381, relating to making of application for absentee ballot, determination of
19 eligibility by ballot clerk, furnishing of applications to colleges and universities, and persons
20 entitled to make application, as follows:

21 "(a)(1)(A) Except as otherwise provided in Code Section 21-2-219, not more than 180
22 days prior to the date of the primary or election, or runoff of either, in which the elector
23 desires to vote, any absentee elector may make, either by mail, by facsimile
24 transmission, by electronic transmission, or in person in the registrar's or absentee ballot

25 clerk's office, an application for an official ballot of the elector's precinct to be voted
26 at such primary, election, or runoff.

27 (B) In the case of an elector residing temporarily out of the county or municipality or
28 a ~~physically~~ disabled elector residing within the county or municipality, the application
29 for the elector's absentee ballot may, upon satisfactory proof of relationship, be made
30 by such elector's mother, father, grandparent, aunt, uncle, sister, brother, spouse, son,
31 daughter, niece, nephew, grandchild, son-in-law, daughter-in-law, mother-in-law,
32 father-in-law, brother-in-law, or sister-in-law of the age of 18 or over.

33 (C) The application shall be in writing and shall contain sufficient information for
34 proper identification of the elector; the permanent or temporary address of the elector
35 to which the absentee ballot shall be mailed; the identity of the primary, election, or
36 runoff in which the elector wishes to vote; and the name and relationship of the person
37 requesting the ballot if other than the elector.

38 (D) Except in the case of ~~physically~~ disabled electors residing in the county or
39 municipality, no absentee ballot shall be mailed to an address other than the permanent
40 mailing address of the elector as recorded on the elector's voter registration record or
41 a temporary out-of-county or out-of-municipality address.

42 (E) Relatives applying for absentee ballots for electors must also sign an oath stating
43 that facts in the application are true.

44 (F) If the elector is unable to fill out or sign such elector's own application because of
45 illiteracy or ~~physical~~ disability, the elector shall make such elector's mark, and the
46 person filling in the rest of the application shall sign such person's name below it as a
47 witness.

48 (G) Any elector meeting criteria of advanced age or disability specified by rule or
49 regulation of the State Election Board or any elector who is entitled to vote by absentee
50 ballot under the federal Uniformed and Overseas Citizens Absentee Voting Act, 42
51 U.S.C. Section 1973ff, et seq., as amended, may request in writing on one application
52 a ballot for a primary as well as for any runoffs resulting therefrom and for the election
53 for which such primary shall nominate candidates as well as any runoffs resulting
54 therefrom. If not so requested by such person, a separate and distinct application shall
55 be required for each primary, run-off primary, election, and run-off election. Except
56 as otherwise provided in this subparagraph, a separate and distinct application for an
57 absentee ballot shall always be required for the presidential preference primary held
58 pursuant to Article 5 of this chapter and for any special election or special primary."

SECTION 3.

59

60 Said chapter is further amended by revising paragraph (1) of subsection (c) of Code
61 Section 21-2-384, relating to preparation and delivery of supplies, mailing of ballots, oath
62 of absentee electors and persons assisting absentee electors, master list of ballots sent,
63 challenges, and electronic transmission of ballots, as follows:

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

66 I, the undersigned, do swear (or affirm) that I am a citizen of the United States and of
67 the State of Georgia; that my residence address is _____ County, Georgia; that
68 I possess the qualifications of an elector required by the laws of the State of Georgia;
69 that I am entitled to vote in the precinct containing my residence in the primary or
70 election in which this ballot is to be cast; that I am eligible to vote by absentee ballot;
71 that I have not marked or mailed any other absentee ballot, nor will I mark or mail
72 another absentee ballot for voting in such primary or election; nor shall I vote therein
73 in person; and that I have read and understand the instructions accompanying this
74 ballot; and that I have carefully complied with such instructions in completing this
75 ballot. I understand that the offer or acceptance of money or any other object of value
76 to vote for any particular candidate, list of candidates, issue, or list of issues included
77 in this election constitutes an act of voter fraud and is a felony under Georgia law.

78 _____
79 Elector's Residence
80 Address

81 _____
82 Month and Day of
83 Elector's Birth

84 _____
85 Signature or Mark of Elector

86 Oath of Person Assisting Elector (if any):

87 I, the undersigned, do swear (or affirm) that I assisted the above-named elector in
88 marking such elector's absentee ballot as such elector personally communicated such
89 elector's preference to me; and that such elector is entitled to receive assistance in
90 voting under provisions of subsection (a) of Code Section 21-2-409.

91 This, the _____ day of _____, _____.

92

Signature of Person Assisting

93

Elector -- Relationship

94

95 Reason for assistance (Check appropriate square):

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

97 () Elector requires assistance due to ~~physical~~ disability.

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

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

102 Georgia law further provides that any person who knowingly falsifies information so
103 as to vote illegally by absentee ballot or who illegally gives or receives assistance in
104 voting, as specified in Code Section 21-2-568 or 21-2-573, shall be guilty of a felony."

105 **SECTION 4.**

106 Said chapter is further amended by revising subsections (a) and (b) of Code
107 Section 21-2-385, relating to procedure for voting by absentee ballot, as follows:

108 "(a) At any time after receiving an official absentee ballot, but before the day of the
109 primary or election, except electors who are confined to a hospital on the day of the
110 primary or election, the elector shall vote his or her absentee ballot, then fold the ballot and
111 enclose and securely seal the same in the envelope on which is printed 'Official Absentee
112 Ballot.' This envelope shall then be placed in the second one, on which is printed the form
113 of the oath of the elector, the name, relationship, and oath of the person assisting, if any,
114 and other required identifying information. The elector shall then fill out, subscribe, and
115 swear to the oath printed on such envelope. Such envelope shall then be securely sealed
116 and the elector shall then mail or personally deliver same to the board of registrars or
117 absentee ballot clerk, provided that delivery by a ~~physically~~ disabled elector may be made
118 by any adult person upon satisfactory proof that such adult person is such elector's mother,
119 father, grandparent, aunt, uncle, brother, sister, spouse, son, daughter, niece, nephew,
120 grandchild, son-in-law, daughter-in-law, mother-in-law, father-in-law, brother-in-law,
121 sister-in-law, or an individual residing in the household of such disabled elector. An
122 elector who is confined to a hospital on a primary or election day to whom an absentee
123 ballot is delivered by the registrar or absentee ballot clerk shall then and there vote the
124 ballot, seal it properly, and return it to the registrar or absentee ballot clerk. If the elector
125 registered to vote for the first time in this state by mail and has not previously provided the

126 identification required by Code Section 21-2-220 and votes for the first time by absentee
 127 ballot and fails to provide the identification required by Code Section 21-2-220 with such
 128 absentee ballot, such absentee ballot shall be treated as a provisional ballot and shall be
 129 counted only if the registrars are able to verify the identification and registration of the
 130 elector during the time provided pursuant to Code Section 21-2-419.

131 (b) A physically disabled or illiterate elector may receive assistance in preparing his or her
 132 ballot from one of the following: any elector who is qualified to vote in the same county
 133 or municipality as the disabled or illiterate elector; an attendant care provider or a person
 134 providing attendant care; or the mother, father, grandparent, aunt, uncle, brother, sister,
 135 spouse, son, daughter, niece, nephew, grandchild, son-in-law, daughter-in-law,
 136 mother-in-law, father-in-law, brother-in-law, or sister-in-law of the disabled or illiterate
 137 elector. The person rendering assistance to the elector in preparing the ballot shall sign the
 138 oath printed on the same envelope as the oath to be signed by the elector. If the disabled
 139 or illiterate elector is sojourning outside his or her own county or municipality, a notary
 140 public of the jurisdiction may give such assistance and shall sign the oath printed on the
 141 same envelope as the oath to be signed by the elector. No person shall assist more than ten
 142 such electors in any primary, election, or runoff in which there is no federal candidate on
 143 the ballot. Any person who willfully violates this subsection shall be guilty of a felony
 144 and, upon conviction thereof, shall be sentenced to imprisonment for not less than one nor
 145 more than ten years or to pay a fine not to exceed \$100,000.00, or both, for each such
 146 violation."

147 **SECTION 5.**

148 Said chapter is further amended by revising subsection (a) of Code Section 21-2-402, relating
 149 to preparation of voter's certificates by Secretary of State, form of certificates, binders for
 150 certificates, and other voter's certificates, as follows:

151 "(a) At each primary and election, the Secretary of State shall prepare and furnish to each
 152 superintendent a suitable number of voter's certificates which shall be in substantially the
 153 following form:

154 **VOTER'S CERTIFICATE**

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

160 Signature _____

161 Current residence address of elector:
162 _____

163 Elector's date of birth: _____

164 Name or initials of poll officer receiving voter's certificate: _____

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

166

167

168 Reason for assistance (Check appropriate square):

169 Elector is unable to read the English language.

170 Elector requires assistance due to ~~physical~~ disability.

171 _____

172 Signature of poll officer

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

174 **SECTION 6.**

175 Said chapter is further amended by revising subsection (b) of Code Section 21-2-431, relating
176 to execution of voter's certificate, procedure upon qualification of elector, elector unable to
177 sign name, voting outside precinct of residence, and registration as prerequisite to voting, as
178 follows:

179 "(b) If any elector was unable to sign his or her name at the time of registration or if,
180 having been able to sign his or her name when registered, he or she subsequently shall have
181 become, through ~~physical~~ disability, unable to sign his or her name when he or she applies
182 to vote, he or she shall establish his or her identity to the satisfaction of the poll officers;
183 and in such case he or she shall not be required to sign a voter's certificate, but a certificate
184 shall be prepared for him or her by a poll officer."

185 **SECTION 7.**

186 Said chapter is further amended by revising subsection (b) of Code Section 21-2-451, relating
187 to execution of voter's certificate, procedure upon qualification of elector, elector unable to
188 sign name, voting outside of precinct of residence, and registration prerequisite to voting, as
189 follows:

190 "(b) If any elector was unable to sign his or her name at the time of registration or, if
191 having been able to sign his or her name when registered, he or she subsequently shall have
192 become, through ~~physical~~ disability, unable to sign his or her name when he or she applies
193 to vote, he or she shall establish his or her identity to the satisfaction of the poll officers;
194 and in such case he or she shall not be required to sign a voter's certificate, but a certificate
195 shall be prepared for him or her by a poll officer."

196

SECTION 8.

197 Said chapter is further amended by revising Code Section 21-2-579, relating to fraudulently
 198 allowing ballot or voting machine to be seen, casting unofficial ballot, and receiving
 199 unauthorized assistance in voting, as follows:

200 "21-2-579.

201 Any voter at any primary or election who:

202 (1) Allows his or her ballot or the face of the voting machine used by him or her to be
 203 seen by any person with the apparent intention of letting it be known for a fraudulent
 204 purpose how he or she is about to vote;

205 (2) Casts or attempts to cast any other than the official ballot which has been given to
 206 him or her by the proper poll officer, or advises or procures another to do so;

207 (3) Without having made the affirmation under oath or declaration required by Code
 208 Section 21-2-409, or when the disability which he or she declared at the time of
 209 registration no longer exists, permits another to accompany him or her into the voting
 210 compartment or voting machine booth or to mark his or her ballot or to register his or her
 211 vote on the voting machine or direct recording electronic (DRE) equipment; or

212 (4) States falsely to any poll officer that because of his or her inability to read the English
 213 language or because of blindness, near-blindness, or other ~~physical~~ disability he or she
 214 cannot mark the ballot or operate the voting machine without assistance

215 shall be guilty of a misdemeanor."

216

SECTION 9.

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