

House Bill 1228

By: Representatives Drenner of the 86th, Henson of the 87th, and Benfield of the 85th

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 eliminate the use of direct recording electronic
3 (DRE) voting systems and voting machines in primaries and elections in this state; to provide
4 for certain audits of results; to provide for manual recounts of optical scan ballots; to provide
5 for related matters; to provide an effective date, intent of the General Assembly, and for
6 applicability; 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 repealing Parts 1, 2, and 5 of Article 9, relating to general
11 provisions, voting machines, and electronic recording voting systems, respectively, and
12 designating Parts 1 and 2 as reserved.

13 **SECTION 2.**

14 Said chapter is further amended by repealing Part 3 of Article 11, relating to preparation for
15 and conduct of primaries and elections in precincts using voting machines, and designating
16 said part as reserved.

17 **SECTION 3.**

18 Said chapter is further amended by revising paragraphs (1), (2), (4.1), (18), (19), (20), and
19 (40) of Code Section 21-2-2, relating to definitions, as follows:

20 "(1) 'Ballot' means 'official ballot' or 'paper ballot' and shall include the paper instrument,
21 ~~whether paper, mechanical, or electronic~~ including ballots that are read by optical
22 scanning tabulators, by which an elector casts his or her vote.

23 (2) ~~'Ballot labels' means the cards, paper, or other material placed on the front of a voting~~
 24 ~~machine containing the names of offices and candidates and statements of questions to~~
 25 ~~be voted on~~ Reserved."

26 ~~"(4.1) 'Direct recording electronic' or 'DRE' voting equipment means a computer driven~~
 27 ~~unit for casting and counting votes on which an elector touches a video screen or a button~~
 28 ~~adjacent to a video screen to cast his or her vote."~~

29 ~~"(18) 'Official ballot' means a paper ballot, whether paper, mechanical, or electronic,~~
 30 ~~which is furnished by the superintendent or governing authority in accordance with Code~~
 31 ~~Section 21-2-280, including ballots read by optical scanning tabulators.~~

32 ~~(19) 'Official ballot label' means a ballot label prepared in accordance with Article 9 of~~
 33 ~~this chapter and delivered by the superintendent to the poll officers in accordance with~~
 34 ~~Code Section 21-2-328~~ Reserved.

35 (20) 'Paper ballot' or 'ballot' means the forms described in ~~Article 8~~ Articles 8 and 9 of
 36 this chapter."

37 ~~"(40) 'Voting machine' is a mechanical device on which an elector may cast a vote and~~
 38 ~~which tabulates those votes by its own devices and is also known as a 'lever machine.'~~
 39 Reserved."

40 **SECTION 4.**

41 Said chapter is further amended by revising paragraphs (13), (14), and (15) of subsection (a)
 42 of Code Section 21-2-50, relating to the powers and duties of the Secretary of State, as
 43 follows:

44 ~~"(13) To prepare and furnish information for citizens on voter registration and voting;~~
 45 and

46 (14) To maintain the official list of registered voters for this state and the list of inactive
 47 voters required by this chapter; ~~and~~

48 ~~(15) To develop, program, build, and review ballots for use by counties and~~
 49 ~~municipalities on direct recording electronic (DRE) voting systems in use in the state."~~

50 **SECTION 5.**

51 Said chapter is further amended by revising paragraph (5) of Code Section 21-2-70, relating
 52 to the powers and duties of superintendents, as follows:

53 ~~"(5) To purchase, except voting machines, preserve, store, and maintain election~~
 54 ~~equipment of all kinds, including voting booths and ballot boxes, and to procure ballots~~
 55 ~~and all other supplies for primaries and elections;".~~

56 **SECTION 6.**

57 Said chapter is further amended by revising Code Section 21-2-72, relating to primary and
 58 election records to be open to public, as follows:

59 "21-2-72.

60 Except when otherwise provided by law or court order, the primary and election records
 61 of each superintendent, registrar, municipal governing authority, and committee of a
 62 political party or body, including registration statements, nomination petitions, affidavits,
 63 certificates, tally papers, returns, accounts, contracts, reports, and other documents in
 64 official custody, ~~except the contents of voting machines~~, shall be open to public inspection
 65 and may be inspected and copied by any elector of the county or municipality during usual
 66 business hours at any time when they are not necessarily being used by the custodian or his
 67 or her employees having duties to perform in reference thereto; provided, however, that
 68 such public inspection shall only be in the presence of the custodian or his or her employee
 69 and shall be subject to proper regulation for the safekeeping of such documents and subject
 70 to the further provisions of this chapter. The custodian shall also, upon request, if
 71 photocopying equipment is available in the building in which the records are housed, make
 72 and furnish to any member of the public copies of any of such records upon payment of the
 73 actual cost of copying the records requested."

74 **SECTION 7.**

75 Said chapter is further amended by revising subsection (a) of Code Section 21-2-101, relating
 76 to certification program for county and municipal election superintendents or election board
 77 designee, as follows:

78 "(a) All county and municipal election superintendents, chief registrars, and absentee ballot
 79 clerks or, in the case of a board of elections or a board of elections and registration, the
 80 designee of such board charged with the daily operations of such board shall become
 81 certified by completing a certification program approved by the Secretary of State by no
 82 later than December 31 of the year in which they are appointed. Such program may
 83 include instruction on, and may require the superintendent to demonstrate proficiency in,
 84 ~~the operation of the state's direct recording electronic voting equipment~~, the operation of
 85 the voting equipment used in such superintendent's jurisdiction; and in state and federal law
 86 and procedures related to elections. The local government employing the superintendent
 87 or designee shall cover the costs, if any, incurred by such superintendent's or designee's
 88 participation in the certification program. Such certification programs shall be offered by
 89 the Secretary of State on multiple occasions before December 31 of the year in which such
 90 superintendents or designees are appointed and shall not exceed 64 hours of classroom,
 91 online, and practical instruction as authorized and approved by the Secretary of State."

92 **SECTION 8.**

93 Said chapter is further amended by revising subsection (a) of Code Section 21-2-135, relating
 94 to designation of specific office sought where office has multiple officeholders with same
 95 title, as follows:

96 "(a)(1) In the case of a public office having multiple officeholders with the same title,
 97 each candidate, including write-in candidates, shall designate the specific office he or she
 98 is seeking, name the person such candidate is seeking to succeed, and give such other
 99 appropriate designation as may be required by the Secretary of State or election
 100 superintendent each time such candidate qualifies with his or her party in the case of a
 101 primary, files a notice of candidacy in the case of an election, or files a notice of
 102 candidacy as a write-in candidate. The designation of the specific office and the name
 103 of the person whom a candidate is seeking to succeed in the case of a public office having
 104 multiple officeholders shall be entered on the ballot ~~and ballot labels~~ in such manner that
 105 in the ensuing primary or election such candidate shall only oppose the other candidate
 106 or candidates, if any, who designated the same specific office and the same name.

107 (2) In the case of a candidate, including a write-in candidate, seeking one of two or more
 108 municipal public offices, each having the same title and each being filled at the same
 109 election by the vote of the same electors, the applicable municipal charter or ordinance
 110 provisions shall govern whether such candidate shall designate the specific office he or
 111 she is seeking. If required to designate the specific office, the candidate shall name his
 112 or her incumbent or give other appropriate designation as specified in the charter or
 113 ordinance. Such designation shall be entered on the ballot ~~and ballot labels~~ in such
 114 manner that in the ensuing municipal primary or election such candidate shall only
 115 oppose the other candidate or candidates, if any, designating the same specific office."

116 **SECTION 9.**

117 Said chapter is further amended by revising subsection (b) of Code Section 21-2-153.1,
 118 relating to qualification of candidates for party nomination in a municipal primary, as
 119 follows:

120 "(b) After the expiration of the applicable qualification deadline prescribed in
 121 subsection (a) of this Code section, each candidate for nomination to a municipal office,
 122 having no opposing candidates within his or her own political party, shall automatically
 123 become the nominee of his or her party for such office if the applicable city charter or
 124 ordinance does not provide to the contrary. The name of such an unopposed candidate and
 125 the title of the nomination he or she is seeking shall not be placed upon the primary ballots
 126 ~~or ballot labels~~. The proper officials of his or her political party shall certify the candidate
 127 as the party nominee for the office involved for the purpose of having his or her name

128 placed upon the election ballots ~~or ballot labels~~. In applying Code Sections 21-2-131
 129 through 21-2-134, such an unopposed municipal candidate shall be deemed to have been
 130 nominated in a primary held by his or her political party."

131 **SECTION 10.**

132 Said chapter is further amended by revising subsection (a) of Code Section 21-2-230, relating
 133 to challenge of persons on list of electors by other elector, as follows:

134 "(a) Any elector of the county or municipality may challenge the right of any other elector
 135 of the county or municipality, whose name appears on the list of electors, to vote in an
 136 election. Such challenge shall be in writing and specify distinctly the grounds of such
 137 challenge. Such challenge may be made at any time prior to the elector whose right to vote
 138 is being challenged voting at the elector's polling place or, if such elector cast an absentee
 139 ballot, prior to 5:00 P.M. on the day before the election; ~~provided, however, that challenges~~
 140 ~~to persons voting by absentee ballot in person at the office of the registrars or the absentee~~
 141 ~~ballot clerk whose vote is cast on a DRE unit must be made prior to such person's voting."~~

142 **SECTION 11.**

143 Said chapter is further amended by revising subsection (a) of Code Section 21-2-267, relating
 144 to the arrangement of polling places, as follows:

145 "(a) The governing authority of each county and municipality shall provide and the
 146 superintendent shall cause all rooms used as polling places to be provided with suitable
 147 heat and light and, in precincts in which ballots are used, with a sufficient number of voting
 148 compartments or booths with proper supplies in which the electors may conveniently mark
 149 their ballots, with a curtain, screen, or door in the upper part of the front of each
 150 compartment or booth so that, in the marking thereof, they may be screened from the
 151 observation of others. ~~A curtain, screen, or door shall not be required, however, for the~~
 152 ~~self-contained units used as voting booths in which direct recording electronic (DRE)~~
 153 ~~voting units are located if such booths have been designed so as to ensure the privacy of~~
 154 ~~the elector.~~ When practicable, every polling place shall consist of a single room, every part
 155 of which is within the unobstructed view of those present therein and shall be furnished
 156 with a guardrail or barrier closing the inner portion of such room, which guardrail or barrier
 157 shall be so constructed and placed that only such persons as are inside such rail or barrier
 158 can approach within six feet of the ballot box and voting compartments, or booths, ~~or~~
 159 ~~voting machines~~, as the case may be. The ballot box and voting compartments or booths
 160 shall be so arranged in the voting room within the enclosed space as to be in full view of
 161 those persons in the room outside the guardrail or barrier. ~~The voting machine or machines~~
 162 ~~shall be placed in the voting rooms within the enclosed space so that, unless its~~

163 ~~construction shall otherwise require, the ballot labels on the face of the machine can be~~
 164 ~~plainly seen by the poll officers when the machine is not occupied by an elector. In the~~
 165 ~~case of direct recording electronic (DRE) voting units, the units shall be arranged in such~~
 166 ~~a manner as to ensure the privacy of the elector while voting on such units, to allow~~
 167 ~~monitoring of the units by the poll officers while the polls are open, and to permit the~~
 168 ~~public to observe the voting without affecting the privacy of the electors as they vote."~~

169 **SECTION 12.**

170 Said chapter is further amended by revising Code Section 21-2-280, relating to requirement
 171 as to conduct of primaries and elections by ballot, as follows:

172 "21-2-280.

173 All primaries and elections in this state shall be conducted by ballot, ~~except when voting~~
 174 ~~machines are used as provided by law. A ballot may be electronic or printed on paper.~~ All
 175 ballots used in any primary or election shall be provided by the superintendent or
 176 municipal governing authority in accordance with this article, and only official ballots
 177 furnished by the superintendent or governing authority shall be cast or counted in any
 178 primary or election in any precinct in which ballots are used."

179 **SECTION 13.**

180 Said chapter is further amended by revising Code Section 21-2-281, relating to voting by
 181 paper ballot when use of voting equipment impossible or impracticable, as follows:

182 "21-2-281.

183 In any primary or election in which the use of voting equipment is impossible or
 184 impracticable, ~~for the reasons set out in Code Section 21-2-334,~~ the primary or election
 185 may be conducted by paper ballot ~~in the manner provided in Code Section 21-2-334."~~

186 **SECTION 14.**

187 Said chapter is further amended by revising Code Section 21-2-283, relating to printing and
 188 safekeeping of ballots and labels by superintendent, as follows:

189 "21-2-283.

190 In any primary or election, the superintendent or municipal governing authority shall cause
 191 all the ballots ~~and ballot labels~~ to be printed accurately and in the form prescribed by this
 192 chapter, and the superintendent or municipal governing authority shall be responsible for
 193 the safekeeping of the same while in his or her or its possession or that of his or her or its
 194 agent. The superintendent or municipal governing authority shall keep a record of the
 195 number of official ballots printed and furnished to each precinct at each primary and

196 election and the number of stubs, unused ballots, and canceled ballots subsequently
 197 returned therefrom."

198 **SECTION 15.**

199 Said chapter is further amended by revising subsection (b) of Code Section 21-2-286, relating
 200 to printing specifications, numbering, and binding of ballots, as follows:

201 "(b)(~~1~~) Paper ballots other than those printed for optical scanning voting systems shall be
 202 at least six inches long and four inches wide and shall have a margin extending beyond any
 203 printing thereon. They shall be printed with the same kind of type, which shall not be
 204 smaller than the size known as 'brevier' or 'eight-point body,' upon white paper of uniform
 205 quality, without any impression or mark to distinguish one from another, and with
 206 sufficient thickness to prevent the printed matter from showing through, except that ballots
 207 being used in primaries held by more than one party may be of different colors or may have
 208 colored stripes or blocks to distinguish the ballots if the parties so agree. Each ballot shall
 209 be attached to a name stub, and all the ballots for the same precinct shall be bound together
 210 in books of 25, 50, or 100, in such manner that each ballot may be detached from its stub
 211 and removed separately. The ballots for each party to be used at a primary shall be bound
 212 separately. The name stubs of the ballots shall be consecutively numbered; and, in the case
 213 of primary ballots, the number shall be preceded by an initial or abbreviation designating
 214 the party name. The number and initial or abbreviation which appears upon the stub shall
 215 also be printed in the upper portion of the front of the ballot, separated from the remainder
 216 of the ballot by a horizontal perforated line so as to constitute a number strip and so
 217 prepared that the upper portion of the front of the ballot containing the number may be
 218 detached from the ballot before it is deposited in the ballot box. The number strip on the
 219 ballot shall also have the following words printed thereon: 'Tear off before depositing ballot
 220 in ballot box.'

221 ~~(2) Ballots for direct recording electronic voting systems shall be designed as prescribed~~
 222 ~~by the Secretary of State to ensure easy reading by electors."~~

223 **SECTION 16.**

224 Said chapter is further amended by revising subsection (a) of Code Section 21-2-300, relating
 225 to provision of new voting equipment by state, contingent upon appropriations, county
 226 responsibilities, education, and county and municipal contracts for equipment, as follows:

227 "21-2-300.

228 ~~(a) Provided that the General Assembly specifically appropriates funding to the Secretary~~
 229 ~~of State to implement this subsection, the~~ The equipment used for casting and counting
 230 votes in county, state, and federal elections shall, by the July, ~~2004~~ 2018, primary election

231 and afterwards, be the same in each county in this state and shall be provided to each
 232 county by the state, as determined by the Secretary of State. Such equipment shall be in
 233 conformity with the provisions of this chapter and shall use or produce a ballot that is
 234 capable of being counted manually without the need for mechanical or computer assistance,
 235 such as a paper ballot or optical scan ballot. The use of direct recording electronic (DRE)
 236 voting systems in this state shall be phased out by the replacement of such systems with
 237 voting equipment meeting the requirements of this chapter in 20 percent of the precincts
 238 in this state in 2013, 2014, 2015, 2016, and 2017 so that, by 2018, the use of DRE voting
 239 systems in this state shall be completely phased out."

240 **SECTION 17.**

241 Said chapter is further amended by adding a new Code section to read as follows:

242 "21-2-301.

243 On and after January 1, 2018, direct recording electronic (DRE) voting systems shall not
 244 be used in primaries and elections in this state. Until such time, DRE voting systems may
 245 be used in primaries and elections in this state under the former laws governing such
 246 systems as if such laws were still in effect."

247 **SECTION 18.**

248 Said chapter is further amended by revising Code Section 21-2-383, relating to preparation
 249 and delivery of absentee ballots, as follows:

250 "21-2-383.

251 (a) Ballots for use by absentee electors shall be prepared sufficiently in advance by the
 252 superintendent and shall be delivered to the board of registrars or absentee ballot clerk as
 253 provided in Code Section 21-2-384. Such ballots shall be marked 'Official Absentee Ballot'
 254 and shall be in substantially the form for ballots required by Article 8 of this chapter;
 255 ~~except that in counties using voting machines or direct recording electronic (DRE) units~~
 256 ~~the ballots may be in substantially the form for the ballot labels required by Article 9 of this~~
 257 ~~chapter.~~ Every such ballot shall have printed with other instructions thereon the following:

258 'I understand that the offer or acceptance of money or any other object of value to vote
 259 for any particular candidate, list of candidates, issue, or list of issues included in this
 260 election constitutes an act of voter fraud and is a felony under Georgia law.'

261 The form ~~for either~~ of the ballot shall be determined and prescribed by the Secretary of
 262 State, except in municipal primaries or elections, in which the form of absentee ballots
 263 which follows the paper ballot format shall be determined and prescribed by the
 264 superintendent.

265 ~~(b) Notwithstanding any other provision of this Code section, in jurisdictions in which~~
 266 ~~direct recording electronic (DRE) voting systems are used at the polling places on election~~
 267 ~~day, such direct recording electronic (DRE) voting systems shall be used for casting~~
 268 ~~absentee ballots in person at a registrar's or absentee ballot clerk's office or in accordance~~
 269 ~~with Code Section 21-2-382, providing for additional sites."~~

270 **SECTION 19.**

271 Said chapter is further amended by revising Code Section 21-2-385.1, relating to preferential
 272 treatment for older and disabled voters, as follows:

273 "21-2-385.1.

274 During the period of advance voting established pursuant to subsection (d) of Code Section
 275 21-2-385, each elector who is 75 years of age or older or who is disabled and requires
 276 assistance in casting an absentee ballot in person at the registrar's office, absentee ballot
 277 clerk's office, or other locations as provided for in Code Section 21-2-382 shall, upon
 278 request to a designated office employee or other individual, be authorized to ~~vote~~
 279 ~~immediately at the next available voting compartment or booth without having to wait in~~
 280 ~~line if such location utilizes direct recording electronic voting systems or be authorized to~~
 281 go to the head of any line necessary to cast a written absentee ballot. Notice of the
 282 provisions of this Code section shall be prominently displayed in the registrar's office or
 283 absentee ballot clerk's office."

284 **SECTION 20.**

285 Said chapter is further amended by revising subsection (e) of Code Section 21-2-386, relating
 286 to safekeeping, certification, and validation of absentee ballots, as follows:

287 "(e) If an absentee elector's right to vote has been challenged for cause, a poll officer shall
 288 open the envelopes and write 'Challenged,' the elector's name, and the alleged cause of
 289 challenge on the back of the ballot, without disclosing the markings on the face thereof, and
 290 shall deposit the ballot in the box; and it shall be counted as other challenged ballots are
 291 counted. ~~Where direct recording electronic voting systems are used for absentee balloting~~
 292 ~~and a challenge to an elector's right to vote is made prior to the time that the elector votes,~~
 293 ~~the elector shall vote on a paper or optical scanning ballot and such ballot shall be handled~~
 294 ~~as provided in this subsection.~~ The board of registrars or absentee ballot clerk shall
 295 promptly notify the elector of such challenge."

296

SECTION 21.

297 Said chapter is further amended by revising subsections (b) and (c) of Code
 298 Section 21-2-400, relating to duty of superintendent to obtain cards of instruction, blank
 299 forms of oaths, and other forms and supplies, as follows:

300 "(b) As an aid to electors, sample ballots or ballot labels may be printed and published in
 301 any newspaper generally and regularly circulated within the county or municipality, so long
 302 as the facsimile is labeled 'Sample Ballot' and is at least 25 percent larger or smaller than
 303 the official ballot. Reprints of such newspaper printings may be procured and distributed
 304 by any elector. Election officials may also prepare and distribute sample ballots ~~or ballot~~
 305 ~~labels~~ or portions thereof, provided they are labeled 'Sample Ballot' and are of a different
 306 color and at least 25 percent larger or smaller than the official ballot ~~or ballot label~~.

307 (c) The superintendent shall prepare sample or facsimile ballots ~~or ballot labels~~, as the case
 308 may be, for each general election which shall contain each question and the candidates who
 309 are offering for election for each office which will be voted upon in the county or
 310 municipality for distribution upon request to interested electors. Such sample or facsimile
 311 ballots ~~or ballot labels~~ shall comply with Code Section 21-2-575."

312

SECTION 22.

313 Said chapter is further amended by revising subsection (c) of Code Section 21-2-405, relating
 314 to meeting of poll officers at place of primary or election, as follows:

315 "(c) After the poll officers of a precinct have been organized, the chief manager shall
 316 designate one of the assistant managers to have custody of the electors list. In precincts in
 317 which ballots are used, the other assistant manager shall have charge of the receipt and
 318 deposit of ballots in the ballot box, the chief manager or one of the clerks shall issue the
 319 ballots to electors after they are found entitled to vote, and the other clerk shall have
 320 custody of the voter's certificate binder and shall place the voter's certificates therein as
 321 they are received and approved. ~~In precincts in which voting machines are used, the other~~
 322 ~~assistant manager or clerk shall have custody of the voter's certificate binder and shall place~~
 323 ~~the voter's certificates therein as they are received and approved, and the chief manager~~
 324 ~~shall have special charge of the operation of the voting machine; provided, however, that~~
 325 ~~the~~ The chief manager may make other arrangements for the division of the duties imposed
 326 by this chapter, so long as each poll officer is assigned some specific duty to perform. In
 327 municipal primaries being held with separate precinct managers, the chief managers
 328 appointed by each party shall jointly appoint the person or persons to be in charge of the
 329 electors list. In all precincts, the chief manager shall assign an assistant manager or a clerk
 330 to keep a numbered list of voters, in sufficient counterparts, during the progress of the
 331 voting."

332 **SECTION 23.**

333 Said chapter is further amended by revising subsection (c) of Code Section 21-2-408, relating
334 to poll watchers, as follows:

335 "(c) In counties or municipalities using ~~direct recording electronic (DRE) voting systems~~
336 ~~or~~ optical scanning voting systems, each political party may appoint two poll watchers in
337 each primary or election, each political body may appoint two poll watchers in each
338 election, each nonpartisan candidate may appoint one poll watcher in each nonpartisan
339 election, and each independent candidate may appoint one poll watcher in each election to
340 serve in the locations designated by the superintendent within the tabulating center. Such
341 designated locations shall include the check-in area, the computer room, the duplication
342 area, and such other areas as the superintendent may deem necessary to the assurance of
343 fair and honest procedures in the tabulating center. The poll watchers provided for in this
344 subsection shall be appointed and serve in the same manner as other poll watchers."

345 **SECTION 24.**

346 Said chapter is further amended by revising subsections (a), (b), and (f) of Code
347 Section 21-2-413, relating to conduct of voters, campaigners, and others at polling places
348 generally, as follows:

349 "(a) No elector shall be allowed to occupy a voting compartment or ~~voting machine~~ booth
350 already occupied by another except when giving assistance as permitted by this chapter.

351 (b) No elector shall remain in a voting compartment or ~~voting machine~~ booth an
352 unreasonable length of time; and, if such elector shall refuse to leave after such period, he
353 or she shall be removed by the poll officers."

354 "(f) All persons except poll officers, poll watchers, persons in the course of voting and
355 such persons' children under 18 years of age or any child who is 12 years of age or younger
356 accompanying such persons, persons lawfully giving assistance to electors, duly authorized
357 investigators of the State Election Board, and peace officers, when necessary for the
358 preservation of order, must remain outside the enclosed space during the progress of the
359 voting. Notwithstanding any other provision of this chapter, any elector shall be permitted
360 to be accompanied into the enclosed area and into a voting compartment or ~~voting machine~~
361 booth while voting by such elector's child or children under 18 years of age or any child
362 who is 12 years of age or younger unless the poll manager or an assistant manager
363 determines in his or her sole discretion that such child or children are causing a disturbance
364 or are interfering with the conduct of voting. Children accompanying an elector in the
365 enclosed space pursuant to this subsection shall not in any manner handle any ballot nor
366 operate any function of the voting equipment under any circumstances."

367 **SECTION 25.**

368 Said chapter is further amended by revising subsection (h) of Code Section 21-2-418,
369 relating to provisional ballots, as follows:

370 ~~"(h) Notwithstanding any other provision of this chapter to the contrary, in the event that~~
371 ~~the voting machines or DRE units at a polling place malfunction and cannot be used to cast~~
372 ~~ballots or some other emergency situation exists which prevents the use of such equipment~~
373 ~~to cast votes, provisional ballots may be used by the electors at the polling place to cast~~
374 ~~their ballots. In such event, the ballots cast by electors whose names appear on the electors~~
375 ~~list for such polling place shall not be considered provisional ballots and shall not require~~
376 ~~verification as provided by Code Section 21-2-419; provided, however, that persons whose~~
377 ~~names do not appear on the electors list for such polling place shall vote provisional ballots~~
378 ~~which shall be subject to verification under Code Section 21-2-419."~~

379 **SECTION 26.**

380 Said chapter is further amended by revising Code Section 21-2-482, relating to absentee
381 ballots for precincts using optical scanning voting equipment, as follows:

382 "21-2-482.

383 Ballots in a precinct using optical scanning voting equipment for use by absentee electors
384 shall be prepared sufficiently in advance by the superintendent and shall be delivered to the
385 board of registrars as provided in Code Section 21-2-384. Such ballots shall be marked
386 'Official Absentee Ballot' and shall be in substantially the form for ballots required by
387 Article 8 of this chapter, ~~except that in counties or municipalities using voting machines,~~
388 ~~direct recording electronic (DRE) units, or optical scanners, the ballots may be in~~
389 ~~substantially the form for the ballot labels required by Article 9 of this chapter or in such~~
390 form as will allow the ballot to be machine tabulated. Every such ballot shall have printed
391 on the face thereof the following: 'I understand that the offer or acceptance of money or any
392 other object of value to vote for any particular candidate, list of candidates, issue, or list of
393 issues included in this election constitutes an act of voter fraud and is a felony under
394 Georgia law.' The form for either ballot shall be determined and prescribed by the
395 Secretary of State."

396 **SECTION 27.**

397 Said chapter is further amended by adding a new Code section to read as follows:

398 "21-2-483.1.

399 (a)(1) In precincts using precinct based optical scanning tabulating machines, after the
400 polls close and all ballots have been processed by the tabulating machine and the results
401 of the tabulation have been obtained from the tabulating machine, the poll manager shall

402 randomly select one contested race from the ballot for a hand count. Such selection shall
403 be made by listing all of the contested races on the ballot individually on uniform sized
404 slips of paper, uniformly folding such slips of paper such that the name of the race cannot
405 be seen, placing the slips of paper into a container and mixing the slips thoroughly, and
406 then drawing from the container one slip of paper. Upon drawing the slip of paper, the
407 poll manager shall then announce the race that will be hand counted. The slips of paper
408 shall be available for examination by any member of the public who desires to do so.

409 (2) After randomly selecting the race for a hand count, the manager or a poll officer
410 under the direction of the manager shall proceed to count the votes cast in the randomly
411 selected race as shown on the ballots. Such count shall be performed in the same manner
412 as for paper ballots as provided in Code Section 21-2-437 for the randomly selected race.
413 Upon the conclusion of the count, the manager or a poll officer under the direction of the
414 manager shall record the results of the hand count on the return sheet and shall compare
415 the results for the race to the results obtained from the tabulating machine for such race.
416 In the event of a discrepancy in the count between the totals for such race, the manager
417 or a poll officer under the direction of the manager shall post the results of the hand count
418 and one set of returns from the tabulating machine, noting any discrepancies found, at the
419 polling place for the information of the public.

420 (3) After performing the hand count of the race or races, the manager shall cause the
421 ballots to be securely sealed in the ballot box or other secure container and shall seal the
422 return sheets, tally sheets, one set of return tapes, and other completed forms in an
423 envelope for transfer to the election superintendent.

424 (b)(1) In jurisdictions in which the optical scan ballots are processed by central count
425 tabulating machines, after all ballots have been processed by the tabulating machine and
426 the results of the tabulation have been obtained from the tabulating machine, the election
427 superintendent or his or her designee shall randomly select one contested race from the
428 ballot for a hand count. Such selection shall be made by listing all of the contested races
429 on the ballot individually on uniform sized slips of paper, uniformly folding such slips
430 of paper such that the name of the race cannot be seen, placing the slips of paper into a
431 container and mixing the slips thoroughly, and then drawing from the container one slip
432 of paper. Upon drawing the slip of paper, the election superintendent or his or her
433 designee shall then announce the race that will be hand counted. The slips of paper shall
434 be available for examination by any member of the public who desires to do so.

435 (2) After randomly selecting the race for a hand count, the election superintendent or his
436 or her designee shall proceed to count the votes cast in the randomly selected race as
437 shown on the ballots. Such count shall be performed in the same manner as for paper
438 ballots as provided in Code Section 21-2-437 for the randomly selected race. Upon the

439 conclusion of the count, the election superintendent or his or her designee shall record the
 440 results of the hand count on the return sheet and shall compare the results for the race to
 441 the results obtained from the tabulating machine for such race. In the event of a
 442 discrepancy in the count between the totals for such race, the election superintendent or
 443 his or her designee shall post the results of the hand count and one set of returns from the
 444 tabulating machine, noting any discrepancies found, at the tabulating center for the
 445 information of the public.

446 (3) After performing the hand count of the race or races, the election superintendent or
 447 his or her designee shall cause the ballots to be securely sealed in ballot boxes or other
 448 secure containers.

449 (c) In the event of a discrepancy between the hand count totals and the totals from the
 450 tabulating machines, the election superintendent shall use the hand count totals as the
 451 official results. The superintendent shall immediately make the public aware of any such
 452 discrepancy by posting notice of such discrepancy at his or her office for the information
 453 of the public and on the official website of the county or municipality on which the county
 454 or municipality posts election returns if the county or municipality has such a website. The
 455 superintendent shall note on the official returns for the primary, election, or runoff, as
 456 appropriate, the vote totals that are based, in whole or in part, on hand counts as a result of
 457 a discrepancy between the hand count and the tabulating machine totals."

458 **SECTION 28.**

459 Said chapter is further amended by revising Code Section 21-2-493, relating to computation,
 460 canvassing, and tabulation of returns, as follows:

461 "21-2-493.

462 (a) The superintendent shall, at or before 12:00 Noon on the day following the primary or
 463 election, at his or her office or at some other convenient public place at the county seat or
 464 in the municipality, of which due notice shall have been given as provided by Code Section
 465 21-2-492, publicly commence the computation and canvassing of the returns and continue
 466 the same from day to day until completed. For this purpose, the superintendent may
 467 organize his or her assistants into sections, each of which may simultaneously proceed with
 468 the computation and canvassing of the returns from various precincts of the county or
 469 municipality in the manner provided by this Code section. Upon the completion of such
 470 computation and canvassing, the superintendent shall tabulate the figures for the entire
 471 county or municipality and sign, announce, and attest the same, as required by this Code
 472 section.

473 (b) The superintendent, before computing the votes cast in any precinct, shall compare the
 474 registration figure with the certificates returned by the poll officers showing the number

475 of persons who voted in each precinct or the number of ballots cast. If, upon consideration
476 by the superintendent of the returns and certificates before him or her from any precinct,
477 it shall appear that the total vote returned for any candidate or candidates for the same
478 office or nomination or on any question exceeds the number of electors in such precinct or
479 exceeds the total number of persons who voted in such precinct or the total number of
480 ballots cast therein, such excess shall be deemed a discrepancy and palpable error and shall
481 be investigated by the superintendent; and no votes shall be recorded from such precinct
482 until an investigation shall be had. Such excess shall authorize the summoning of the poll
483 officers to appear immediately with any primary or election papers in their possession. The
484 superintendent shall then examine all the registration and primary or election documents
485 whatever relating to such precinct in the presence of representatives of each party, body,
486 and interested candidate. Such examination may, if the superintendent deems it necessary,
487 include a recount or recanvass of the votes of that precinct and a report of the facts of the
488 case to the district attorney where such action appears to be warranted.

489 (c) In precincts in which paper or optical scan ballots have been used, the superintendent
490 may require the production of the ballot box and the recount of the ballots contained in
491 such ballot box, either generally or respecting the particular office, nomination, or question
492 as to which the excess exists, in the discretion of the superintendent, and may require the
493 correction of the returns in accordance with the result of such recount. If the ballot box is
494 found to contain more ballots than there are electors registered in such precinct or more
495 ballots than the number of voters who voted in such precinct at such primary or election,
496 the superintendent may, in his or her discretion, exclude the poll of that precinct, either as
497 to all offices, candidates, questions, or parties and bodies or as to any particular offices,
498 candidates, questions, or parties and bodies, as to which such excess exists.

499 ~~(d) In precincts in which voting machines have been used, the superintendent may require~~
500 ~~a recanvass of the votes recorded on the machines used in the precinct, as provided in Code~~
501 ~~Section 21-2-495~~ Reserved.

502 (e) In precincts in which paper ballots have been used, the general returns made by the poll
503 officers from the various precincts shall be read one after another in the usual order, slowly
504 and audibly, by one of the assistants who shall, in each case of a return from a precinct in
505 which ballots were used, read therefrom the number of ballots issued, spoiled, canceled,
506 and cast, respectively, whereupon the assistant having charge of the records of the
507 superintendent showing the number of ballots furnished for each precinct, including the
508 number of stubs and unused ballots and spoiled and canceled ballots returned, shall
509 publicly announce the number of the same respectively; and, unless it appears by such
510 number or calculations therefrom that such records and such general return correspond, no

511 further returns shall be read from the latter until all discrepancies are explained to the
512 satisfaction of the superintendent.

513 ~~(f) In precincts in which voting machines have been used, there shall be read from the~~
514 ~~general return the identifying number or other designation of each voting machine used and~~
515 ~~the numbers registered on the protective counter or device on each machine prior to the~~
516 ~~opening of the polls and immediately after the close of the same, whereupon the assistant~~
517 ~~having charge of the records of the superintendent showing the number registered on the~~
518 ~~protective counter or device of each voting machine prior to delivery at the polling place~~
519 ~~shall publicly announce the numbers so registered; and, unless it appears that such records~~
520 ~~and such general return correspond, no further returns shall be read from the latter until any~~
521 ~~and all discrepancies are explained to the satisfaction of the superintendent~~ Reserved.

522 (g) In precincts in which paper ballots have been used, when the records agree with such
523 returns regarding the number of ballots and the number of votes recorded for each
524 candidate, such votes for each candidate shall be read by an assistant slowly, audibly, and
525 in an orderly manner from the general return which has been returned unsealed; and the
526 figures announced shall be compared by other assistants with the general return which has
527 been returned sealed. The figures announced for all precincts shall be compared by one of
528 the assistants with the tally papers from the respective precincts. If any discrepancies are
529 discovered, the superintendent shall examine all of the return sheets, tally papers, and other
530 papers in his or her possession relating to the same precinct. If the tally papers and sealed
531 general return sheet agree, the unsealed general return shall be immediately corrected to
532 conform thereto. In every other case, the superintendent shall immediately cause the ballot
533 box of the precinct to be opened and the vote therein to be recounted in the presence of
534 interested candidates or their representatives; and, if the recount shall not be sufficient to
535 correct the error, the superintendent may summon the poll officers to appear immediately
536 with all election papers in their possession.

537 ~~(h) In precincts in which voting machines have been used, when the records agree with the~~
538 ~~returns regarding the number registered on the voting machine, the votes recorded for each~~
539 ~~candidate shall be read by an assistant slowly, audibly, and in an orderly manner from the~~
540 ~~general return sheet which has been returned unsealed; and the figures announced shall be~~
541 ~~compared by other assistants with the duplicate return sheet which has been returned~~
542 ~~sealed. If the voting machine is of the type equipped with a mechanism for printing paper~~
543 ~~proof sheets, such general and duplicate return sheets shall also be compared with such~~
544 ~~proof sheets, which have been returned as aforesaid. If any discrepancies are discovered,~~
545 ~~the superintendent shall examine all of the return sheets, proof sheets, and other papers in~~
546 ~~his or her possession relating to the same precinct. Such proof sheets shall be deemed to~~
547 ~~be prima-facie evidence of the result of the primary or election and to be prima facie~~

548 ~~accurate; and, if the proper proof sheets, properly identified, shall be mutually consistent~~
 549 ~~and if the general and duplicate returns or either of such returns from such precinct shall~~
 550 ~~not correspond with such proof sheets, they shall be corrected so as to correspond with~~
 551 ~~such proof sheets in the absence of allegation of specific fraud or error proved to the~~
 552 ~~satisfaction of the superintendent~~ Reserved.

553 (i) If any error or fraud is discovered, the superintendent shall compute and certify the
 554 votes justly, regardless of any fraudulent or erroneous returns presented to him or her, and
 555 shall report the facts to the appropriate district attorney for action.

556 (j) The superintendent shall see that the votes shown by each absentee ballot are added to
 557 the return received from the precinct of the elector casting such ballot.

558 (k) As the returns from each precinct are read, computed, and found to be correct or
 559 corrected as aforesaid, they shall be recorded on the blanks prepared for the purpose until
 560 all the returns from the various precincts which are entitled to be counted shall have been
 561 duly recorded; then they shall be added together, announced, and attested by the assistants
 562 who made and computed the entries respectively and shall be signed by the superintendent.
 563 The consolidated returns shall then be certified by the superintendent in the manner
 564 required by this chapter. Such returns shall be certified by the superintendent not later than
 565 5:00 P.M. on the Monday following the date on which such election was held, and such
 566 returns shall be immediately transmitted to the Secretary of State.

567 (l) In such case where the results of an election contest change the returns so certified, a
 568 corrected return shall be certified and filed by the superintendent which makes such
 569 corrections as the court orders."

570 **SECTION 29.**

571 Said chapter is further amended by revising subsections (a) and (b) of Code
 572 Section 21-2-495, relating to procedure for recount or recanvass of votes, as follows:

573 "(a) In precincts where paper or optical scan ballots have been used, the superintendent
 574 may, either of his or her own motion or upon petition of any candidate or political party,
 575 order the recount of all the ballots for a particular precinct or precincts for one or more
 576 offices in which it shall appear that a discrepancy or error, although not apparent on the
 577 face of the returns, has been made. Such recount may be held at any time prior to the
 578 certification of the consolidated returns by the superintendent and shall be conducted under
 579 the direction of the superintendent. Before making such recount, the superintendent shall
 580 give notice in writing to each candidate and to the county or municipal chairperson of each
 581 party or body affected by the recount. Each such candidate may be present in person or by
 582 representative, and each such party or body may send two representatives to be present at
 583 such recount. All such recounts in precincts in which optical scan ballots were used shall

584 be performed manually using the same vote counting procedures as for paper ballots and
585 shall not be counted by tabulating machines. If upon such recount, it shall appear that the
586 original count by the poll officers was incorrect, such returns and all papers being prepared
587 by the superintendent shall be corrected accordingly.

588 ~~(b) In precincts where voting machines have been used, whenever it appears that there is~~
589 ~~a discrepancy in the returns recorded for any voting machine or machines or that an error,~~
590 ~~although not apparent on the face of the returns, exists, the superintendent shall, either of~~
591 ~~his or her own motion or upon the sworn petition of three electors of any precinct, order~~
592 ~~a recanvass of the votes shown on that particular machine or machines. Such recanvass~~
593 ~~may be conducted at any time prior to the certification of the consolidated returns by the~~
594 ~~superintendent. In conducting such recanvass, the superintendent shall summon the poll~~
595 ~~officers of the precinct, and such officers, in the presence of the superintendent, shall make~~
596 ~~a record of the number of the seal upon the voting machine or machines and the number~~
597 ~~of the protective counter or other device; shall make visible the registering counters of each~~
598 ~~such machine; and, without unlocking the machine against voting, shall recanvass the vote~~
599 ~~thereon. Before making such recanvass, the superintendent shall give notice in writing to~~
600 ~~the custodian of voting machines, to each candidate, and to the county or municipal~~
601 ~~chairperson of each party or body affected by the recanvass. Each such candidate may be~~
602 ~~present in person or by representative, and each of such parties or bodies may send two~~
603 ~~representatives to be present at such recanvass. If, upon such recanvass, it shall be found~~
604 ~~that the original canvass of the returns has been correctly made from the machine and that~~
605 ~~the discrepancy still remains unaccounted for, the superintendent, with the assistance of the~~
606 ~~custodian, in the presence of the poll officers and the authorized candidates and~~
607 ~~representatives, shall unlock the voting and counting mechanism of the machine and shall~~
608 ~~proceed thoroughly to examine and test the machine to determine and reveal the true cause~~
609 ~~or causes, if any, of the discrepancy in returns from such machine. Each counter shall be~~
610 ~~reset at zero before it is tested, after which it shall be operated at least 100 times. After the~~
611 ~~completion of such examination and test, the custodian shall then and there prepare a~~
612 ~~statement, in writing, giving in detail the result of the examination and test; and such~~
613 ~~statement shall be witnessed by the persons present and shall be filed with the~~
614 ~~superintendent. If, upon such recanvass, it shall appear that the original canvass of the~~
615 ~~returns by the poll officers was incorrect, such returns and all papers being prepared by the~~
616 ~~superintendent shall be corrected accordingly; provided, however, that in the case of~~
617 ~~returns from any precinct wherein the primary or election was held by the use of a voting~~
618 ~~machine equipped with a mechanism for printing paper proof sheets, such proof sheets, if~~
619 ~~mutually consistent, shall be deemed to be prima-facie evidence of the result of the primary~~
620 ~~or election and to be prima facie accurate; and there shall not be considered to be any~~

621 ~~discrepancy or error in the returns from any such precinct, such as to require a recanvass~~
 622 ~~of the vote, if all available proof sheets, from the voting machine used therein, identified~~
 623 ~~to the satisfaction of the superintendent and shown to his or her satisfaction to have been~~
 624 ~~produced from proper custody, shall be mutually consistent; and, if the general and~~
 625 ~~duplicate returns, or either of such returns from such precincts shall not correspond with~~
 626 ~~such proof sheets, they and all other papers being prepared by the superintendent shall be~~
 627 ~~corrected so as to correspond with such proof sheets in the absence of allegation of specific~~
 628 ~~fraud or error proved to the satisfaction of the superintendent by the weight of the evidence;~~
 629 ~~and only in such case shall the vote of such precinct be recanvassed under this Code section~~
 630 Reserved."

631 **SECTION 30.**

632 Said chapter is further amended by revising Code Section 21-2-500, relating to delivery of
 633 voting materials, as follows:

634 "21-2-500.

635 (a) Immediately upon completing the returns required by this article, in the case of
 636 elections other than municipal elections, the superintendent shall deliver in sealed
 637 containers to the clerk of the superior court or, if designated by the clerk of the superior
 638 court, to the county records manager or other office or officer under the jurisdiction of a
 639 county governing authority which maintains or is responsible for records, as provided in
 640 Code Section 50-18-99, the used and void ballots and the stubs of all ballots used; one copy
 641 of the oaths of poll officers; and one copy of each numbered list of voters, tally paper,
 642 ~~voting machine paper proof sheet~~, and return sheet involved in the primary or election. In
 643 addition, the superintendent shall deliver ~~copies of the voting machine ballot labels~~, the
 644 computer chips containing ballot tabulation programs, copies of computer records of ballot
 645 design, and similar items or an electronic record of the program by which votes are to be
 646 recorded or tabulated, which is captured prior to the election, and which is stored on some
 647 alternative medium such as a CD-ROM or floppy disk simultaneously with the
 648 programming of the PROM or other memory storage device. The clerk, county records
 649 manager, or the office or officer designated by the clerk shall hold such ballots and other
 650 documents under seal, unless otherwise directed by the superior court, for at least 24
 651 months, after which time they shall be presented to the grand jury for inspection at its next
 652 meeting. Such ballots and other documents shall be preserved in the office of the clerk,
 653 county records manager, or officer designated by the clerk until the adjournment of such
 654 grand jury, and then they may be destroyed, unless otherwise provided by order of the
 655 superior court.

656 (b) The superintendent shall retain all unused ballots for 30 days after the election or
 657 primary and, if no challenge or contest is filed prior to or during that period that could
 658 require future use of such ballots, may thereafter destroy such unused ballots. If a
 659 challenge or contest is filed during that period that could require the use of such ballots,
 660 they shall be retained until the final disposition of the challenge or contest and, if remaining
 661 unused, may thereafter be destroyed.

662 (c) Immediately upon completing the returns required by this article, the municipal
 663 superintendent shall deliver in sealed containers to the city clerk the used and void ballots
 664 and the stubs of all ballots used; one copy of the oaths of poll officers; and one copy of
 665 each numbered list of voters, tally paper, ~~voting machine paper proof sheet~~, and return
 666 sheet involved in the primary or election. In addition, the municipal superintendent shall
 667 deliver ~~copies of the voting machine ballot labels~~, the computer chips containing ballot
 668 tabulation programs, copies of computer records of ballot design, and similar items or an
 669 electronic record of the program by which votes are to be recorded or tabulated, which is
 670 captured prior to the election, and which is stored on some alternative medium such as a
 671 CD-ROM or floppy disk simultaneously with the programming of the PROM or other
 672 memory storage device. Such ballots and other documents shall be preserved under seal
 673 in the office of the city clerk for at least 24 months; and then they may be destroyed unless
 674 otherwise provided by order of the mayor and council if a contest has been filed or by court
 675 order, provided that the electors list, voter's certificates, and duplicate oaths of assisted
 676 electors shall be immediately returned by the superintendent to the county or municipal
 677 registrar as appropriate."

678 **SECTION 31.**

679 Said chapter is further amended by revising Code Section 21-2-545, relating to procedure as
 680 to unopposed candidates, as follows:

681 "21-2-545.

682 Any other provision of law to the contrary notwithstanding, in the event there is no
 683 opposed candidate in a precinct in a special primary, no special primary shall be held in
 684 such precinct. The proper officials of the unopposed candidate's political party shall certify
 685 him or her as the party nominee for the office involved for the purpose of having his or her
 686 name placed upon the special election ballots ~~or ballot labels~~. Where feasible, the
 687 superintendent shall provide notice reasonably calculated to inform the affected electorate
 688 that no special primary election is to be conducted. Each such unopposed candidate shall
 689 be deemed to have voted for himself or herself. The superintendent shall certify any such
 690 unopposed candidate as nominated in the same manner as he or she certifies other
 691 candidates nominated pursuant to Code Section 21-2-493."

692

SECTION 32.

693 Said chapter is further amended by revising paragraphs (6), (7), and (8) of Code Section
694 21-2-566, relating to interference with primaries and elections generally, as follows:

695 "(6) Knowingly deposits fraudulent ballots in the ballot box; or
696 ~~(7) Knowingly registers fraudulent votes upon any voting machine; or~~
697 ~~(8)(7) Willfully tampers with any electors list, voter's certificate, numbered list of voters,~~
698 ~~ballot box, voting machine, direct recording electronic (DRE) equipment, or tabulating~~
699 ~~machine".~~

700

SECTION 33.

701 Said chapter is further amended by revising Code Section 21-2-568, relating to entry into
702 voting compartment or booth while another voting, as follows:

703 "21-2-568.

704 (a) Any person who knowingly:

705 (1) Goes into the voting compartment or ~~voting machine~~ booth while another is voting
706 or marks the ballot or registers the vote for another, except in strict accordance with this
707 chapter;

708 (2) Interferes with any elector marking his or her ballot or registering his or her vote;

709 (3) Attempts to induce any elector before depositing his or her ballot to show how he or
710 she marks or has marked his or her ballot; or

711 (4) Discloses to anyone how another elector voted, without said elector's consent, except
712 when required to do so in any legal proceeding

713 shall be guilty of a felony.

714 (b) Any person who, while giving lawful assistance to another, attempts to influence the
715 vote of the elector he or she is assisting or marks a ballot or registers a vote in any other
716 way than that requested by the voter he or she is assisting shall be guilty of a felony and,
717 upon conviction thereof, shall be sentenced to imprisonment for not less than one nor more
718 than ten years or to pay a fine not to exceed \$100,000.00, or both."

719

SECTION 34.

720 Said chapter is further amended by revising Code Section 21-2-575, relating to counterfeit
721 ballots or ballot labels, as follows:

722 "21-2-575.

723 (a) Any person who makes, constructs, or has in his or her possession any counterfeit of
724 an official ballot ~~or ballot label~~ shall be guilty of a felony.

725 (b) This Code section shall not be applied to facsimile ballots printed and published as an
726 aid to electors in any newspaper generally and regularly circulated within this state, so long

727 as such facsimile ballot is at least 25 percent larger or smaller than the official ballot of
 728 which it is a facsimile. This Code section shall not be applied to any sample or facsimile
 729 ballots ~~or ballot labels~~ obtained under Code Section 21-2-400. Nothing in this Code
 730 section shall be so construed as to prohibit the procurement and distribution of reprints of
 731 the said newspaper printings; nor shall it be so construed as to prohibit the preparation and
 732 distribution by election officials of facsimile ballots ~~and ballot labels~~ or portions thereof,
 733 provided that they are of a different color and at least 25 percent larger or smaller than the
 734 official ballots ~~or ballot labels~~.

735 (c) Nothing in this Code section shall be so construed as to prohibit any person from
 736 procuring and distributing reprints or portions of reprints of any sample or facsimile ballots
 737 ~~or ballot labels~~ as provided in Code Section 21-2-400, provided such reprints or portions
 738 of reprints are of a different color and at least 25 percent larger or smaller than the official
 739 ballots ~~or ballot labels~~."

740 **SECTION 35.**

741 Said chapter is further amended by revising Code Section 21-2-579, relating to fraudulently
 742 allowing ballot or voting machine to be seen, as follows:

743 "21-2-579.

744 Any voter at any primary or election who:

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

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

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

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

758 shall be guilty of a misdemeanor."

759 **SECTION 36.**

760 Said chapter is further amended by revising Code Section 21-2-580, relating to tampering
 761 with, damaging, improper preparation of, or prevention of proper operation of voting
 762 machines, as follows:

763 "21-2-580.

764 ~~Any person who:~~

765 ~~(1) Unlawfully opens, tampers with, or damages any voting machine to be used or being~~
 766 ~~used at any primary or election;~~

767 ~~(2) Willfully prepares a voting machine for use in a primary or election in improper order~~
 768 ~~for voting; or~~

769 ~~(3) Prevents or attempts to prevent the correct operation of such machine~~
 770 ~~shall be guilty of a felony Reserved."~~

771 **SECTION 37.**

772 Said chapter is further amended by revising Code Section 21-2-581, relating to unauthorized
 773 making or possession of voting machine key, as follows:

774 "21-2-581.

775 ~~Any unauthorized person who makes or knowingly has in his or her possession a key to a~~
 776 ~~voting machine to be used or being used in any primary or election shall be guilty of a~~
 777 ~~felony Reserved."~~

778 **SECTION 38.**

779 Said chapter is further amended by revising Code Section 21-2-582, relating to tampering
 780 with, damaging, or preventing of proper operation of direct recording electronic equipment
 781 or tabulating device, as follows:

782 "21-2-582.

783 Any person who tampers with or damages any ~~direct recording electronic (DRE)~~
 784 ~~equipment~~ or tabulating computer or device to be used or being used at or in connection
 785 with any primary or election or who prevents or attempts to prevent the correct operation
 786 of any ~~direct recording electronic (DRE) equipment~~ or tabulating computer or device shall
 787 be guilty of a felony."

788 **SECTION 39.**

789 Said chapter is further amended by revising subsection (a) of Code Section 21-2-582.1,
 790 relating to penalty for voting equipment modification, as follows:

791 "(a) For the purposes of this Code section, the term 'voting equipment' ~~shall mean a voting~~
 792 ~~machine; means a tabulating machine; or optical scanning voting system; or direct~~
 793 ~~recording electronic voting system."~~

794 **SECTION 40.**

795 Said chapter is further amended by revising Code Section 21-2-587, relating to frauds by poll
 796 officers, as follows:

797 "21-2-587.

798 Any poll officer who willfully:

- 799 (1) Makes a false return of the votes cast at any primary or election;
 800 (2) Deposits fraudulent ballots in the ballot box or certifies as correct a false return of
 801 ballots;
 802 (3) ~~Registers fraudulent votes upon any voting machine or certifies as correct a return~~
 803 ~~of fraudulent votes cast upon any voting machine~~ Reserved;
 804 (4) Makes any false entries in the electors list;
 805 (5) Destroys or alters any ballot, voter's certificate, or electors list;
 806 (6) Tampers with any ~~voting machine, direct recording electronic (DRE) equipment, or~~
 807 ~~tabulating computer or device~~;
 808 (7) Prepares or files any false voter's certificate not prepared by or for an elector actually
 809 voting at such primary or election; or
 810 (8) Fails to return to the officials prescribed by this chapter, following any primary or
 811 election, any ~~keys of a voting machine, ballot box, general or duplicate return sheet, tally~~
 812 ~~paper, oaths of poll officers, affidavits of electors and others, record of assisted voters,~~
 813 ~~numbered list of voters, electors list, voter's certificate, spoiled and canceled ballots,~~
 814 ~~unused ballots deposited, written, or affixed in or upon a voting machine, DRE memory~~
 815 ~~cards, or any certificate or any other paper or record required to be returned under this~~
 816 ~~chapter~~
 817 shall be guilty of a felony and, upon conviction thereof, shall be sentenced to imprisonment
 818 for not less than one nor more than ten years or to pay a fine not to exceed \$100,000.00,
 819 or both."

820 **SECTION 41.**

821 Said chapter is further amended by revising Code Section 21-2-591, relating to poll officers
 822 permitting unlawful assistance to voters, as follows:

823 "21-2-591.

824 Any poll officer who permits a voter to be accompanied by another into the voting
 825 compartment or ~~voting machine~~ booth when such poll officer knows that the disability

826 which the voter declared at the time of registration no longer exists or that the disability
827 which the voter declared at the time of voting did not exist shall be guilty of a
828 misdemeanor.”

829 **SECTION 42.**

830 This Act shall become effective on January 1, 2013, and shall apply to all offenses
831 committed on and after such date. The enactment of this Act shall not affect any
832 prosecutions for acts occurring before the effective date of this Act and shall not act as an
833 abatement of any such prosecutions. It is the intention of the General Assembly that the use
834 of direct recording electronic (DRE) voting systems be phased out over a period of five years
835 and that, during such five-year phase-out period, such devices may continue to be used in
836 elections in Georgia under the former laws related to such devices as if such laws were still
837 in effect.

838 **SECTION 43.**

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