

Senate Bill 196

By: Senators Jones II of the 22nd, Henson of the 41st, Butler of the 55th, Jones of the 10th, Seay of the 34th and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 2 of Title 21 of the Official Code of Georgia Annotated, relating to
2 elections and primaries in general, so as to provide for new voting systems for use in
3 elections in this state; to provide for definitions; to provide for the qualifications of such
4 systems; to provide for the reimbursement of certain costs; to provide for ballot marking
5 devices; to provide for audits; to provide for conforming changes; to provide for related
6 matters; to provide for an effective date; 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 elections and
10 primaries in general, is amended by revising paragraphs (2), (4.1), and (18) of Code
11 Section 21-2-2, relating to definitions, and by adding new paragraphs to read as follows:

12 "(2) 'Ballot marking device' means the cards, paper, or other material placed on the
13 front of a voting machine containing the names of offices and candidates and statements
14 of questions to be voted on a pen, pencil, or similar writing tool, or an electronic ballot
15 marker designed for use in marking ballots printed on durable paper so that its
16 human-readable and verifiable mark may be detected as a vote so cast by an elector and
17 then counted by a ballot scanner.

18 (2.1) 'Ballot scanner' means an electronic recording device which receives an elector's
19 ballot and tabulates the votes on the ballot by its own devices; also known as a 'tabulating
20 machine.'"

21 "(4.1) 'Direct recording electronic' or 'DRE' voting equipment means a computer-driven
22 computer-driven unit for casting and counting votes on which an elector touches a video
23 screen or a button adjacent to a video screen to cast his or her vote. Such term shall not
24 include ballot marking devices or electronic ballot markers.

25 (4.2) 'Durable paper' means paper that is sufficiently sturdy to withstand repeated
 26 handling and long-term storage for the purposes of tabulation, scanning, retabulation,
 27 audits, and recounts."

28 "(7.1) 'Electronic ballot marker' means an electronic device that does not compute or
 29 retain votes; may integrate components such as a printer, touch screen monitor, audio
 30 output, and a navigational keypad; and uses electronic technology to mark a paper ballot
 31 at the direction of an elector in a manner that such elector can independently verify that
 32 the ballot was marked as such elector desired."

33 "(18) 'Official ballot' means a ballot, whether paper, mechanical, or electronic, which is
 34 furnished by the superintendent or governing authority in accordance with Code
 35 Section 21-2-280, including ~~ballots read by optical scanning tabulators~~ human-readable
 36 marks or text on durable paper that may be elector verified and counted as votes so cast
 37 by ballot scanners. An electronic image of a scanning ballot shall not be considered an
 38 official ballot."

39 "(19.1) 'Optical scanning voting system' means a system utilizing scanning ballots on
 40 which electors cast votes with a ballot marking device or electronic ballot marker after
 41 which such votes are counted by ballot scanners through optical or digital technology."

42 "(32.1) 'Scanning ballot' means a ballot printed on durable paper designed to be marked
 43 by an elector with a ballot marking device or electronic ballot marker or a blank durable
 44 paper ballot designed to be used in a ballot marking device or electronic ballot marker
 45 which then prints a ballot which can be read by the elector and is then capable of being
 46 inserted into a ballot scanner which can read and tabulate such votes."

47 **SECTION 2.**

48 Said chapter is further amended by revising paragraph (15) of subsection (a) of Code
 49 Section 21-2-50, relating to the powers and duties of the Secretary of State and prohibition
 50 against serving in a fiduciary capacity, as follows:

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

54 **SECTION 3.**

55 Said chapter is further amended by revising subsection (a) of Code Section 21-2-267, relating
 56 to equipment, arrangement, and storage at polling places, as follows:

57 "(a) The governing authority of each county and municipality shall provide and the
 58 superintendent shall cause all rooms used as polling places to be provided with suitable
 59 heat and light and, in precincts in which ballots are used, with a sufficient number of voting

60 compartments or booths with proper supplies in which the electors may conveniently mark
 61 their ballots, with a curtain, screen, or door in the upper part of the front of each
 62 compartment or booth so that in the marking thereof they may be screened from the
 63 observation of others. A curtain, screen, or door shall not be required, however, for the
 64 self-contained units used as voting booths in which direct recording electronic (DRE)
 65 voting units or electronic ballot markers are located if such booths have been designed so
 66 as to ensure the privacy of the elector. When practicable, every polling place shall consist
 67 of a single room, every part of which is within the unobstructed view of those present
 68 therein and shall be furnished with a guardrail or barrier closing the inner portion of such
 69 room, which guardrail or barrier shall be so constructed and placed that only such persons
 70 as are inside such rail or barrier can approach within six feet of the ballot box and voting
 71 compartments, or booths, or voting machines, as the case may be. The ballot box and
 72 voting compartments or booths shall be so arranged in the voting room within the enclosed
 73 space as to be in full view of those persons in the room outside the guardrail or barrier.
 74 The voting machine or machines shall be placed in the voting rooms within the enclosed
 75 space so that, unless its construction shall otherwise require, the ballot labels on the face
 76 of the machine can be plainly seen by the poll officers when the machine is not occupied
 77 by an elector. In the case of direct recording electronic (DRE) voting units or electronic
 78 ballot markers, the ~~units~~ devices shall be arranged in such a manner as to ensure the privacy
 79 of the elector while voting on such ~~units~~ devices, to allow monitoring of the ~~units~~ devices
 80 by the poll officers while the polls are open, and to permit the public to observe the voting
 81 without affecting the privacy of the electors as they vote."

82 SECTION 4.

83 Said chapter is further amended by revising Code Section 21-2-293, relating to correction of
 84 mistakes and omissions on ballot, as follows:

85 "21-2-293.

86 (a) If the election superintendent discovers that a mistake or omission has occurred in the
 87 printing of official ballots or in the programming of the display of the official ballot on
 88 DRE voting equipment or electronic ballot markers for any primary or election, the
 89 superintendent is authorized on his or her own motion to take such steps as necessary to
 90 correct such mistake or omission if the superintendent determines that such correction is
 91 feasible and practicable under the circumstances; provided, however, that the
 92 superintendent gives at least 24 hours notice to the Secretary of State and any affected
 93 candidates of the mistake or omission prior to making such correction.

94 (b) When it is shown by affidavit that a mistake or omission has occurred in the printing
 95 of official ballots or in the programming of the display of the official ballot on DRE voting

96 equipment or electronic ballot markers for any primary or election, the superior court of
 97 the proper county may, upon the application of any elector of the county or municipality,
 98 require the superintendent to correct the mistake or omission or to show cause why he or
 99 she should not do so."

100 SECTION 5.

101 Said chapter is further amended by revising Code Section 21-2-300, relating to provision of
 102 new voting equipment by state, contingent upon appropriations, county responsibilities,
 103 education, and county and municipal contracts for equipment, as follows:

104 "21-2-300.

105 (a) ~~Provided that the General Assembly specifically appropriates funding to the Secretary~~
 106 ~~of State to implement this subsection, the~~ The equipment used for casting and counting
 107 votes in county, state, and federal elections shall, ~~by the July, 2004, primary election and~~
 108 ~~afterwards,~~ be the same in each county in this state and shall be provided to each county
 109 by the state, as determined by the Secretary of State. On and after July 1, 2019, all county,
 110 state, and federal elections in this state shall be conducted utilizing an optical scanning
 111 voting system. Each precinct shall be provided with one electronic ballot marker.

112 (b) Each county shall, prior to being provided with voting equipment by the state, provide
 113 polling places that are adequate for the operation of such equipment including, if necessary,
 114 the placement within the polling places of a sufficient number of electrical outlets and
 115 telephone lines.

116 (c) Each county shall, prior to being provided with voting equipment by the state, provide
 117 or contract for adequate technical support for the installation, set up, and operation of such
 118 voting equipment for each primary, election, and special primary and special election as
 119 the Secretary of State shall determine by rule or regulation.

120 (d) The Secretary of State shall be responsible for the development, implementation, and
 121 provision of a continuing program to educate voters, election officials, and poll workers
 122 in the proper use of such voting equipment. Each county shall bear the costs, including
 123 transportation, subsistence, and lodging, incurred by its election and registration officials
 124 in attending courses taught by or arranged by the Secretary of State for instruction in the
 125 use of the voting equipment.

126 (e)(1) Counties shall be authorized to contract with municipal governments for the use
 127 of such voting equipment in municipal elections under terms and conditions specified by
 128 the Secretary of State to assure that the equipment is properly used and kept secure.

129 (2) Notwithstanding the provisions of Code Section 21-2-45, counties may not levy a fee
 130 for use of state owned voting equipment but may require municipalities to reimburse the

131 county for the actual expenses related to the election or elections that are subject to the
 132 county and municipal contract.

133 (f) On and after July 1, 2019, no primaries, elections, or runoffs shall be conducted on
 134 direct recording electronic (DRE) voting systems in this state."

135 **SECTION 6.**

136 Said chapter is further amended by revising Code Section 21-2-365, relating to requirements
 137 for use of optical scanning voting systems, as follows:

138 "21-2-365.

139 No optical scanning voting system shall be adopted or used unless it shall, at the time,
 140 satisfy the following requirements:

141 (1) It shall provide facilities for voting for such candidates as may be nominated and
 142 upon such questions as may be submitted;

143 (2) It shall permit each elector, in one operation per ballot, to vote for all the candidates
 144 of one party or body for presidential electors;

145 (3) Except as provided in paragraph (2) of this Code section for presidential electors, it
 146 shall permit each elector, at other than primaries, to vote a ticket selected from the
 147 nominees of any and all parties or bodies, from independent nominations, and from
 148 persons not in nomination;

149 (4) It shall permit each elector to vote, at any election, for any person and for any office
 150 for whom and for which he or she is lawfully entitled to vote, whether or not the name
 151 of such person or persons appears upon a ballot as a candidate for election; to vote for as
 152 many persons for an office as he or she is entitled to vote for; and to vote for or against
 153 any question upon which he or she is entitled to vote;

154 (5) ~~An optical scanning tabulator~~ A ballot scanner used in such system shall preclude the
 155 counting of votes for any candidate or upon any question for whom or upon which an
 156 elector is not entitled to vote; shall preclude the counting of votes for more persons for
 157 any office than he or she is entitled to vote for; and shall preclude the counting of votes
 158 for any candidate for the same office or upon any question more than once;

159 (6) It shall permit voting in absolute secrecy so that no person can see or know for whom
 160 any other elector has voted or is voting, save an elector whom he or she has assisted or
 161 is assisting in voting, as prescribed by law;

162 (7) It shall be constructed of material of good quality in a neat and workmanlike manner;

163 (8) It shall, when properly operated, record correctly and accurately every vote cast;

164 (9) It shall be so constructed that an elector may readily learn the method of operating
 165 it; ~~and~~

166 (10) It shall be safely transportable; and

167 (11) It shall allow the elector to inspect and verify such elector's votes before such ballot
 168 is cast and allow for the replacement of such ballot before it is cast if such elector's votes
 169 are incorrectly marked; and
 170 (12) The ballot marked by the elector is the official ballot which shall be used for all
 171 tabulations, recounts, audits, and contests."

172 **SECTION 7.**

173 Said chapter is further amended by revising subsection (a) of Code Section 21-2-369, relating
 174 to printing of ballots and arrangement, as follows:

175 "(a) The ballots shall be printed in black ink upon clear, white, or colored material, of such
 176 size and arrangement as will suit the construction of the ~~optical~~ ballot scanner, and in plain,
 177 clear type so as to be easily readable by persons with normal vision; provided, however,
 178 that red material shall not be used except that all ovals appearing on the ballot to indicate
 179 where a voter should mark to cast a vote may be printed in red ink."

180 **SECTION 8.**

181 Said chapter is further amended by revising Code Section 21-2-372, relating to ballot
 182 description, as follows:

183 "21-2-372.

184 Ballots shall be of suitable design, size, and stock to permit processing by a ~~tabulating~~
 185 ~~machine~~ ballot scanner and shall be printed in black ink on clear, white, or colored
 186 material. ~~In counties using a central count tabulating system, a serially numbered strip~~
 187 ~~shall be attached to each ballot in a manner and form similar to that prescribed in this~~
 188 ~~chapter for paper ballots."~~

189 **SECTION 9.**

190 Said chapter is further amended by revising subsections (a) and (b) of Code
 191 Section 21-2-374, relating to proper programming, proper order, testing, and supplies, as
 192 follows:

193 "(a) The superintendent of each county or municipality shall order the proper programming
 194 to be placed in each ~~tabulator~~ ballot scanner used in any precinct or central ~~tabulating~~
 195 ~~scanning~~ location.

196 (b) On or before the third day preceding a primary or election, including special primaries,
 197 special elections, and referendum elections, the superintendent shall have the ~~optical~~
 198 ~~scanning~~ ~~tabulators~~ ballot scanners tested to ascertain that they will correctly count the
 199 votes cast for all offices and on all questions. Public notice of the time and place of the test
 200 shall be made at least five days prior thereto; provided, however, that, in the case of a

201 runoff, the public notice shall be made at least three days prior thereto. Representatives of
 202 political parties and bodies, candidates, news media, and the public shall be permitted to
 203 observe such tests. The test shall be conducted by processing a preaudited group of ballots
 204 so marked as to record a predetermined number of valid votes for each candidate and on
 205 each question and shall include for each office one or more ballots which are improperly
 206 marked and one or more ballots which have votes in excess of the number allowed by law
 207 in order to test the ability of the ~~optical scanning tabulator~~ ballot scanner to reject such
 208 votes. The ~~optical scanning tabulator~~ ballot scanner shall not be approved unless it
 209 produces an errorless count. If any error is detected, the cause therefor shall be ascertained
 210 and corrected; and an errorless count shall be made before the ~~tabulator~~ ballot scanner is
 211 approved. The superintendent shall cause the pretested ~~tabulators~~ ballot scanners to be
 212 placed at the various polling places to be used in the primary or election. The
 213 superintendent shall require that each ~~optical scanning tabulator~~ ballot scanner be
 214 thoroughly tested and inspected prior to each primary and election in which it is used and
 215 shall keep such tested material as certification of an errorless count on each ~~tabulator~~ ballot
 216 scanner. In counties using central count ~~optical scanning tabulators~~ ballot scanners, the
 217 same test shall be repeated immediately before the start of the official count of the ballots
 218 and at the conclusion of such count. Precinct ~~tabulators~~ ballot scanners shall produce a
 219 zero tape prior to any ballots being inserted on the day of any primary or election."

220

SECTION 10.

221 Said chapter is further amended by revising Code Section 21-2-375, relating to delivery of
 222 equipment to polling places, protection for equipment, and required accessories, as follows:

223 "21-2-375.

224 (a) In counties using precinct count ~~optical scanning tabulators~~ based ballot scanners, the
 225 superintendent shall deliver the proper ~~optical scanning tabulator~~ ballot scanner to the
 226 polling places at least one hour before the time set for opening of the polls at each primary
 227 or election and shall cause each to be set up in the proper manner for use in voting.

228 (b) The superintendent shall provide ample protection against molestation of and injury
 229 to the ~~optical scanning tabulator~~ ballot scanner and, for that purpose, shall call upon any
 230 law enforcement officer to furnish such assistance as may be necessary; and it shall be the
 231 duty of the law enforcement officer to furnish such assistance when so requested by the
 232 superintendent.

233 (c) The superintendent shall at least one hour before the opening of the polls:

234 (1) Provide sufficient lighting to enable electors, while in the voting booth, to read the
 235 ballot, which lighting shall be suitable for the use of poll officers in examining the booth;
 236 and such lighting shall be in good working order before the opening of the polls;

- 237 (2) Prominently post directions for voting ~~on the optical scanning ballot~~ within the voting
 238 booth; at least two sample ballots in use for the primary or election shall be posted
 239 prominently outside the enclosed space within the polling place;
- 240 (3) Ensure that the precinct ~~count optical scanning tabulator~~ based ballot scanner shall
 241 have a seal securing the memory pack in use throughout the election day; such seal shall
 242 not be broken unless the ~~tabulator~~ ballot scanner is replaced due to malfunction; ~~and~~
- 243 (4) Provide one electronic ballot marker for the precinct; and
- 244 ~~(4)(5)~~ (5) Provide such other materials and supplies as may be necessary or as may be
 245 required by law."

246 **SECTION 11.**

247 Said chapter is further amended by revising Code Section 21-2-377, relating to custody and
 248 storage when not in use, as follows:

249 "21-2-377.

250 (a) The superintendent shall designate a person or persons who shall have custody of the
 251 ~~optical scanning tabulators~~ ballot scanners of the county or municipality when they are not
 252 in use at a primary or election and shall provide for his or her compensation and for the
 253 safe storage and care of ~~the optical scanning tabulators~~ such ballot scanners.

254 (b) All ~~optical scanning tabulators~~ ballot scanners, when not in use, shall be properly
 255 covered and stored in a suitable place or places."

256 **SECTION 12.**

257 Said chapter is further amended in Article 9, relating to voting machines and vote recorders
 258 generally, by adding a new part to read as follows:

259 "Part 6

260 21-2-379.21.

261 Each polling place in this state utilizing optical scanning voting systems shall be equipped
 262 with at least one electronic ballot marker that meets the requirements as set forth in this
 263 part that is accessible to individuals with disabilities.

264 21-2-379.22.

265 No electronic ballot marker shall be adopted or used in primaries or elections in this state
 266 unless it, at the time, satisfies the following requirements:

267 (1) Provides facilities for marking ballots for all candidates and for all referendums or
 268 questions for which the elector shall be entitled to vote in a primary or election;

- 269 (2) Permits each elector, in one operation, to mark a vote for presidential electors for all
 270 the candidates of one party or body for the office of presidential elector;
 271 (3) Permits each elector to mark votes, at any election, for any person and for any office
 272 for whom and for which he or she is lawfully entitled to vote, whether or not the name
 273 of such person or persons appears as a candidate for election; to mark votes for as many
 274 persons for an office as he or she is entitled to vote for; and to mark votes for or against
 275 any question upon which he or she is entitled to vote;
 276 (4) Precludes the marking of votes for any candidate or upon any question for whom or
 277 upon which an elector is not entitled to vote; precludes the marking of votes for more
 278 persons for any office than the elector is entitled to vote for; and precludes the marking
 279 of votes for any candidate for the same office or upon any question more than once;
 280 (5) Permits voting in absolute secrecy so that no person can see or know any other
 281 elector's votes, except when he or she has assisted the elector in voting, as prescribed by
 282 law;
 283 (6) Is constructed of good quality material in a neat and workmanlike manner;
 284 (7) When properly operated, marks correctly and accurately every vote cast;
 285 (8) Is so constructed that an elector may readily learn the method of operating it; and
 286 (9) Is safely transportable.

287 21-2-379.23.

- 288 (a) The ballot appearance and the display of ballot information on an electronic ballot
 289 marker shall conform as nearly as practicable to Code Sections 21-2-379.4 and 21-2-379.5.
 290 (b) The form and arrangement of ballots marked and printed by an electronic ballot marker
 291 shall be prescribed by the Secretary of State.

292 21-2-379.24.

- 293 (a) Any person or organization owning, manufacturing, or selling, or being interested in
 294 the manufacture or sale of, any type of electronic ballot marker may request that the
 295 Secretary of State examine such device. Any ten or more electors of this state may, at any
 296 time, request that the Secretary of State reexamine any such device previously examined
 297 and approved by him or her. Before any such examination or reexamination, the person,
 298 persons, or organization requesting such examination or reexamination shall pay to the
 299 Secretary of State the reasonable expenses of such examination or reexamination. The
 300 Secretary of State shall publish and maintain on his or her website the cost of such
 301 examination or reexamination. The Secretary of State may at any time, in his or her
 302 discretion, reexamine any such device.

303 (b) The Secretary of State shall thereupon examine or reexamine such device and shall
304 make and file in his or her office a report, attested by his or her signature and the seal of
305 his or her office, stating whether, in his or her opinion, the type of device so examined can
306 be safely and accurately used by electors at primaries and elections as provided in this
307 chapter. If such report states that such type of device can be so used, such device shall be
308 deemed approved, and devices of its type may be adopted for use at primaries and elections
309 as provided in this chapter.

310 (c) Any device that is not so approved shall not be used at any primary or election and if,
311 upon reexamination, a previously approved device appears to be no longer safe or accurate
312 for use by electors at primaries or elections as provided in this chapter because of an
313 inability to accurately record votes, the approval of the same shall immediately be revoked
314 by the Secretary of State, and no such device shall thereafter be used or purchased for use
315 in this state.

316 (d) Any vendor who completes a sale of an electronic ballot marker that has not been
317 certified by the Secretary of State to a governmental body in this state shall be subject to
318 a penalty of \$100,000.00, payable to the State of Georgia, plus reimbursement of all costs
319 and expenses incurred by the governmental body in connection with such sale. The State
320 Election Board shall have the authority to impose such penalty upon a finding that such a
321 sale has occurred.

322 (e) Once a device has been so approved, any improvement or change that does not impair
323 its accuracy, efficiency, or capacity shall not necessitate a reexamination or reapproval of
324 such device, or of its type.

325 (f) Neither the Secretary of State, nor any custodian, nor the governing authority of any
326 county or municipality or a member of such governing authority, nor any other person
327 involved in the examination process shall have any pecuniary interest in any device or in
328 the manufacture or sale thereof.

329 21-2-379.25.

330 (a) The superintendent of each county or municipality shall cause the proper ballot design
331 and style to be programmed for each electronic ballot marker which is to be used in any
332 precinct within such county or municipality, shall cause each such device to be placed in
333 proper order for voting, and shall examine each unit before it is sent to a polling place for
334 use in a primary or election to verify that each device is properly recording votes and
335 producing proper ballots.

336 (b) The superintendent may appoint, with the approval of the county or municipal
337 governing authority, as appropriate, a custodian of the electronic ballot markers, and deputy
338 custodians as may be necessary, whose duty shall be to prepare the devices to be used in

339 the county or municipality at the primaries and elections to be held therein. Each custodian
 340 and deputy custodian shall receive from the county or municipality such compensation as
 341 shall be fixed by the governing authority of such county or municipality. Such custodian
 342 shall, under the direction of the superintendent, have charge of and represent the
 343 superintendent during the preparation of the devices as required by this chapter. The
 344 custodian and deputy custodians shall serve at the pleasure of the superintendent and each
 345 shall take an oath of office prepared by the Secretary of State before each primary or
 346 election, which shall be filed with the superintendent.

347 (c) On or before the third day preceding a primary or election, including special primaries,
 348 special elections, and referendum elections, the superintendent shall have each electronic
 349 ballot marker tested to ascertain whether it will correctly record the votes cast for all offices
 350 and on all questions and produce a ballot reflecting such choices of the elector in a manner
 351 that the State Election Board shall prescribe by rule or regulation. Public notice of the time
 352 and place of the test shall be made at least five days prior thereto; provided, however, that,
 353 in the case of a runoff, the public notice shall be made at least three days prior thereto.
 354 Representatives of political parties and bodies, news media, and the public shall be
 355 permitted to observe such tests.

356 21-2-379.26.

357 (a) All electronic ballot markers and related equipment, when not in use, shall be properly
 358 stored and secured under conditions as shall be specified by the Secretary of State.

359 (b) The superintendent shall store the devices and related equipment under his or her
 360 supervision or shall designate another person or entity to provide secure storage of such
 361 devices and related equipment when it is not in use at a primary or election. The
 362 superintendent shall provide compensation for the safe storage and care of such devices and
 363 related equipment if such devices and related equipment are stored by another person or
 364 entity."

365 **SECTION 13.**

366 Said chapter is further amended by revising subsection (e) of Code Section 21-2-413, relating
 367 to conduct of voters, campaigners, and others at polling places generally, as follows:

368 "(e) No person shall use photographic or other electronic monitoring or recording devices,
 369 cameras, or cellular telephones while such person is in a polling place while voting is
 370 taking place; provided, however, that a poll manager, in his or her discretion, may allow
 371 the use of photographic devices in the polling place under such conditions and limitations
 372 as the election superintendent finds appropriate, and provided, further, that no photography
 373 shall be allowed of a ballot or the face of a voting machine; ~~or DRE unit;~~ or electronic

374 ballot marker while an elector is voting such ballot or machine; ~~or DRE unit; or using such~~
 375 electronic ballot marker and no photography shall be allowed of an electors list, electronic
 376 electors list, or the use of an electors list or electronic electors list. This subsection shall
 377 not prohibit the use of photographic or other electronic monitoring or recording devices,
 378 cameras, or cellular telephones by poll officials for official purposes."

379 **SECTION 14.**

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

396 **SECTION 15.**

397 Said chapter is further amended by revising subsection (k) of Code Section 21-2-493, relating
 398 to computation, canvassing, and tabulation of returns; investigation of discrepancies in vote
 399 counts; recount procedure; certification of returns; and change in returns, as follows:

400 "(k) As the returns from each precinct are read, computed, and found to be correct or
 401 corrected as aforesaid, they shall be recorded on the blanks prepared for the purpose until
 402 all the returns from the various precincts which are entitled to be counted shall have been
 403 duly recorded; then they shall be added together, announced, and attested by the assistants
 404 who made and computed the entries respectively and shall be signed by the superintendent.
 405 The consolidated returns shall then be certified by the superintendent in the manner
 406 required by this chapter. Such returns shall be certified by the superintendent not later than
 407 5:00 P.M. on the ~~Monday~~ eighth calendar day following the date on which such election
 408 was held and such returns shall be immediately transmitted to the Secretary of State."

409 **SECTION 16.**

410 Said chapter is further amended by revising Code Section 21-2-498, which was previously
411 reserved, as follows:

412 "21-2-498.

413 (a) As used in this Code section, the term:

414 (1) 'Audit unit' means the ballots cast in a precinct, another identifiable set of ballots,
415 such as all the ballots tabulated on one ballot scanner or a batch of ballots, or a single
416 ballot or ballot card. The ballots cast in a precinct, another identifiable set of ballots, or
417 a single ballot or ballot card may only be used as an audit unit for purposes of this Code
418 section if all of the following conditions are satisfied:

419 (A) The relevant optical scanner is able to produce a report of the votes cast in the
420 precinct, on the specific set of ballots, or on the single ballot or ballot card, except for
421 ballot-polling audits;

422 (B) That report, known for purposes of this Code section as the 'unofficial audit unit
423 results,' is made public for all audit units prior to the commencement of the audit; and

424 (C) Each cast ballot of record is assigned to exactly one audit unit.

425 (2) 'Ballot-polling audit' means a risk-limiting audit that manually examines individual
426 ballots without comparison to unofficial audit unit results.

427 (3) 'Contest' for purposes of this Code section means a portion of an election concerning
428 an office or concerning a measure for which there is at least one opposing choice on the
429 ballot.

430 (4) 'Risk-limiting audit' means a hand counted audit of ballots that ensures a large,
431 predetermined minimum chance of requiring a full manual tally whenever a full manual
432 tally would show an electoral outcome that differs from the unofficial reported outcome
433 for the audited contest. The risk limit of a risk-limiting audit is 100 percent minus this
434 minimum chance; that is, the risk limit is the largest chance that the audit will not include
435 a full manual tally, if that tally would show an electoral outcome that differs from the
436 unofficial reported outcome. A risk-limiting audit necessarily involves manually
437 inspecting physical ballots to ascertain elector intent. A risk-limiting audit continues to
438 inspect ballots manually until either the audit finds strong statistical evidence that the
439 unofficial reported outcome agrees with the outcome that a full manual tally of the votes
440 would find or a full manual tally has been conducted, in which case, the results according
441 to that full manual tally become official results to be certified.

442 (5) 'Risk-measuring audit' is a procedure that reports the risk limit for which a
443 risk-limiting audit conducted at that risk limit would have stopped on the basis of all the
444 evidence that the audit collected, that is, without inspecting additional ballots beyond
445 those the audit did inspect.

446 (6) 'Substantive anonymity' means the inability of an independent observer of a ballot,
 447 or replica thereof, to use public records to determine beyond reasonable doubt the identity
 448 of the person who marked or caused the ballot to be marked. The Secretary of State shall
 449 promulgate rules to define the term 'independent observer' such that the elector and
 450 persons associated with the elector, including any person who assisted the elector, are
 451 excluded.

452 (7) 'Unofficial final results' means election results published prior to commencement of
 453 the audit in the form of sums of individual votes, or when applicable, other records of
 454 votes per contest tabulated for all eligible and legally cast ballots.

455 (8) 'Unofficial reported outcome' means the name or names of a prevailing candidate or
 456 candidates, or decision concerning a measure, as determined from the unofficial final
 457 results.

458 (b) Beginning with the 2020 presidential preference primary, the Secretary of State in
 459 conjunction with local election superintendents shall be authorized to conduct post-election
 460 risk-limiting audits for any special or general primary, special or general election, any
 461 runoffs of such primaries or elections, or any ballot question, in accordance with
 462 requirements set forth by rule or regulation of the State Election Board.

463 (c) On and after January 1, 2024, the Secretary of State in conjunction with local election
 464 superintendents shall conduct post-election risk-limiting audits for all federal and
 465 gubernatorial primary and general elections, any runoff of such elections, and any
 466 state-wide ballot question, in accordance with requirements set forth by rule or regulation
 467 of the State Election Board.

468 (d) In conducting each audits, the Secretary of State and local election superintendents
 469 shall:

470 (1) Determine which other contests are required to be audited to a prespecified risk limit.
 471 Contests may be added for reasons of expressed public interest or concern after unofficial
 472 final results are published pursuant to rules promulgated by the State Election Board.

473 The remaining contests shall be automatically subject to a risk-measuring audit:

474 (2) Set the risk limit for each contest subject to a risk-limiting audit. The risk limit for
 475 a contest for state Senate, state House of Representatives, or any contest whose district
 476 has more than 50,000 registered electors shall be no larger than 10 percent;

477 (3) Provide notice of the time and place of a public, independently verifiable random
 478 selection of ballots or audit units to be manually inspected and of the times and places of
 479 the conduct of audits;

480 (4) Make available to the public a report of the unofficial final results for the contest,
 481 including, if applicable, the results for each audit unit in the contest, prior to the random

482 selection of ballots or audit units to be manually tallied and prior to the commencement
 483 of the audit;

484 (5) Make available to the public the evidence that formed the basis for the sample size
 485 and random selection of the audit units so that the public can examine the process;

486 (6) Conduct the audit upon tabulation of the unofficial final results;

487 (7) Conduct the audit in public view by manually interpreting the actual ballots that the
 488 electors themselves marked or verified, not an image or a duplicated ballot or a bar code
 489 associated with the ballot, without access to previous interpretations of the votes on such
 490 ballots;

491 (8) Subject to selection for audit all eligible cast ballots, including ballots cast in polling
 492 places, absentee ballots, advance voting ballots, accepted provisional ballots, and
 493 hand-marked originals of ballots duplicated to permit machine counting, including both
 494 machine counted ballots and hand counted ballots;

495 (9) Treat electronic replicas of each ballot described in paragraph (8) of this subsection
 496 as part of the publicly accessible record of the election and subject to retention and
 497 preservation for a period no shorter than that for voted paper ballots;

498 (10) Subject to redaction any instance of a ballot described in paragraph (8) of this
 499 subsection for which substantive anonymity is not achieved to protect elector privacy
 500 prior to scanning, tabulation, and possible selection for audit;

501 (11) Treat any ballot selected for audit for which substantive anonymity cannot yet be
 502 achieved by redaction and that by law cannot be exposed to the public as inaccessible to
 503 the audit, in a manner that guarantees that the audit will not terminate sooner than it
 504 would if the elector's intent for such ballot were known;

505 (12) Prior to final certification of the results for all contests, correct any discovered
 506 discrepancies in vote interpretation; and

507 (13) When the evidence gained from the manual tally of a random sample of ballots is
 508 insufficient to attain the risk limit, the risk-limiting audit shall sample more ballots,
 509 continuing until completion of a full manual tally, if needed, to attain the risk limit. The
 510 vote counts according to the manual tallies of each of the audited units shall replace the
 511 corresponding subsets of unofficial final results for the purpose of determining the
 512 official certified results and contest outcome.

513 (e)(1) The results of any audits conducted under this Code section shall be published on
 514 the website of the Secretary of State within two business days of the audit's completion.

515 (2) If the audit involved a manual tally of one or more entire precincts, then the names
 516 and numbers of all precincts audited and a comparison of the applicable unofficial audit
 517 unit results with the hand counts for each precinct shall be published with the audit results
 518 on the website of the Secretary of State.

519 (3) If the audit units are sets of ballots or single ballots or cards, a comparison of the
 520 applicable unofficial audit unit results and the results derived from manual examination
 521 shall be published on the website of the Secretary of State.

522 (4) For jurisdictions that have equipment incapable of providing a report of elector
 523 selections on individual ballots, a ballot-polling audit may be authorized by the Secretary
 524 of State.

525 (5) For a ballot-polling audit, the results derived from manual observation of each
 526 sampled ballot shall be published on the website of the Secretary of State.

527 (f) The State Election Board shall promulgate rules, regulations, and procedures necessary
 528 to implement and administer the provisions of this Code section.

529 (g) In connection with the promulgation of the rules, the Secretary of State and State
 530 Election Board shall consult statistical experts with experience in election auditing,
 531 equipment vendors, and election superintendents and shall consider best practices for
 532 conducting risk-limiting audits."

533 **SECTION 17.**

534 Said chapter is further amended by revising paragraph (8) of Code Section 21-2-566, relating
 535 to interference with primaries and elections generally, as follows:

536 "(8) Willfully tampers with any electors list, voter's certificate, numbered list of voters,
 537 ballot box, voting machine, direct recording electronic (DRE) equipment, electronic
 538 ballot marker, or tabulating machine"

539 **SECTION 18.**

540 Said chapter is further amended by revising paragraph (3) of Code Section 21-2-579, relating
 541 to fraudulently allowing ballot or voting machine to be seen, casting unofficial ballot, and
 542 receiving unauthorized assistance in voting, as follows:

543 "(3) Without having made the affirmation under oath or declaration required by Code
 544 Section 21-2-409, or when the disability which he or she declared at the time of
 545 registration no longer exists, permits another to accompany him or her into the voting
 546 compartment or voting machine booth or to mark his or her ballot or to register his or her
 547 vote on the voting machine or direct recording electronic (DRE) equipment or to use an
 548 electronic ballot marker; or"

549 **SECTION 19.**

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

553 "21-2-580.

554 Any person who:

555 (1) Unlawfully opens, tampers with, or damages any voting machine or electronic ballot
556 marker or tabulating machine to be used or being used at any primary or election;

557 (2) Willfully prepares a voting machine or an electronic ballot marker or tabulating
558 machine for use in a primary or election in improper order for voting; or

559 (3) Prevents or attempts to prevent the correct operation of such voting machine or
560 electronic ballot marker or tabulating or voting machine

561 shall be guilty of a felony."

562 **SECTION 20.**

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

566 "21-2-582.

567 Any person who tampers with or damages any direct recording electronic (DRE)
568 equipment or electronic ballot marker or tabulating ~~computer~~ machine or device to be used
569 or being used at or in connection with any primary or election or who prevents or attempts
570 to prevent the correct operation of any direct recording electronic (DRE) equipment or
571 electronic ballot marker or tabulating ~~computer~~ machine or device shall be guilty of a
572 felony."

573 **SECTION 21.**

574 Said chapter is further amended by revising Code Section 21-2-582.1, relating to penalty for
575 voting equipment modification, as follows:

576 "21-2-582.1.

577 (a) For the purposes of this Code section, the term 'voting equipment' shall mean a voting
578 machine, tabulating machine, optical scanning voting system, ~~or~~ direct recording electronic
579 voting system, or electronic ballot marker.

580 (b) Any person or entity, including, but not limited to, a manufacturer or seller of voting
581 equipment, who alters, modifies, or changes any aspect of such voting equipment without
582 prior approval of the Secretary of State is guilty of a felony."

583 **SECTION 22.**

584 Said chapter is further amended by revising Code Section 21-2-587, relating to frauds by poll
585 workers, as follows:

586 "21-2-587.

587 Any poll officer who willfully:

588 (1) Makes a false return of the votes cast at any primary or election;

589 (2) Deposits fraudulent ballots in the ballot box or certifies as correct a false return of
590 ballots;

591 (3) Registers fraudulent votes upon any voting machine or certifies as correct a return
592 of fraudulent votes cast upon any voting machine;

593 (4) Makes any false entries in the electors list;

594 (5) Destroys or alters any ballot, voter's certificate, or electors list;

595 (6) Tampers with any voting machine, direct recording electronic (DRE) equipment,
596 electronic ballot marker, or tabulating computer machine or device;

597 (7) Prepares or files any false voter's certificate not prepared by or for an elector actually
598 voting at such primary or election; or

599 (8) Fails to return to the officials prescribed by this chapter, following any primary or
600 election, any keys of a voting machine; ballot box; general or duplicate return sheet;
601 tally paper; oaths of poll officers; affidavits of electors and others; record of assisted
602 voters; numbered list of voters; electors list; voter's certificate; spoiled and canceled
603 ballots; ballots deposited, written, or affixed in or upon a voting machine; DRE,
604 electronic ballot marker, or tabulating machine memory cards; or any certificate or any
605 other paper or record required to be returned under this chapter

606 shall be guilty of a felony and, upon conviction thereof, shall be sentenced to imprisonment
607 for not less than one nor more than ten years or to pay a fine not to exceed \$100,000.00,
608 or both."

609 **SECTION 23.**

610 This Act shall become effective upon its approval by the Governor or upon its becoming law
611 without such approval.

612 **SECTION 24.**

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