

Senate Bill 232

By: Senators Harbin of the 16th, Miller of the 49th, Mullis of the 53rd, Thompson of the 14th, McNeill of the 3rd 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 primaries and elections generally, so as to require unique bar codes on individual absentee
3 ballots; to revise provisions regarding the preparation and mailing of absentee ballot
4 envelopes; to provide an oath for registrars and absentee ballot clerks opening and verifying
5 absentee ballots; to require voters to provide a copy of certain forms of identification with
6 their absentee ballots; to require a witness signature to the elector's oath on absentee ballots;
7 to provide for a period for a voter to cure a defect related to the identification provided by
8 the voter; to revise provisions regarding the opening, review, and verification of absentee
9 ballots; to provide for the delivery of copies of required forms of identification to the clerk
10 of the superior court of city clerk upon the conclusion of the primary or election; to revise
11 provisions relating to validation of provisional ballots; to provide for related matters; to
12 repeal conflicting laws; and for other purposes.

13 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

14 **SECTION 1.**

15 Chapter 2 of Title 21 of the Official Code of Georgia Annotated, relating to primaries and
16 elections generally, is amended in Code Section 21-2-383, relating to preparation and

17 delivery of ballots, form of ballots, casting ballot in person using DRE unit, and casting
18 ballot in person or as absentee using electronic ballot markers, by revising subsection (a) as
19 follows:

20 "(a) Ballots for use by absentee electors shall be prepared sufficiently in advance by the
21 superintendent and shall be delivered to the board of registrars or absentee ballot clerk as
22 provided in Code Section 21-2-384. Such ballots shall be marked 'Official Absentee Ballot'
23 and shall be in substantially the form for ballots required by Article 8 of this chapter,
24 except that in counties using voting machines or direct recording electronic (DRE) units
25 the ballots may be in substantially the form for the ballot labels required by Article 9 of this
26 chapter. Each such ballot shall have printed thereon a unique bar code that allows for the
27 tracking and identification of each such individual ballot. Every such ballot shall have
28 printed with other instructions thereon the following:

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

32 The form for either ballot shall be determined and prescribed by the Secretary of State,
33 except in municipal primaries or elections, in which the form of absentee ballots which
34 follows the paper ballot format shall be determined and prescribed by the superintendent."

35 **SECTION 2.**

36 Said chapter is further amended in Code Section 21-2-384, relating to preparation and
37 delivery of supplies, mailing of ballots, oath of absentee electors and persons assisting
38 absentee electors, master list of ballots sent, challenges, and electronic transmission of
39 ballots, by revising subsections (b) and (c) as follows:

40 "(b)(1) Except for ballots voted within the confines of the registrar's or absentee ballot
41 clerk's office, in addition to the mailing envelope addressed to the elector, the
42 superintendent, board of registrars, or absentee ballot clerk shall provide ~~two~~ three

envelopes for each official absentee ballot, of such size and shape as shall be determined by the Secretary of State, in order to permit the placing of ~~one~~ the smallest within the ~~other the next smallest, and then~~ both within the larger third envelope, and then all three within the mailing envelope.

(2) On the ~~smaller~~ smallest of the ~~two~~ three envelopes to be enclosed in the mailing envelope shall be printed:

(A) A unique bar code that matches the bar code required by subsection (a) of Code Section 21-2-383 on the absentee ballot to be enclosed in the envelope;

(B) The words 'Official Absentee Ballot' and nothing else; and

(C) An oath to be completed by the registrar or absentee ballot clerk who opens the outer mailing envelope and verifies the signature on and photo identification inside the oath envelope that shall be in substantially the following form:

'I, the undersigned, do swear (or affirm) that I opened the envelopes that contained the enclosed absentee ballot and that I reviewed the signature and enclosed identification of the elector and verified that the elector complied with the requirements of Article 10 of Chapter 2 of Title 21 of the O.C.G.A.

This, the _____ day of _____, _____.

Signature of Registrar or Clerk

Printed Name of Registrar or Clerk.'

(3) On the back of the ~~larger~~ next smallest of the ~~two~~ three envelopes to be enclosed within the mailing envelope shall be printed instructions directing the elector to enclose a photocopy of one of the forms of identification specified in subsection (a) of Code Section 21-2-417 and the form of oath of the elector and the oath for persons assisting electors, as provided for in Code Section 21-2-409, and the penalties provided for in Code Sections 21-2-568, 21-2-573, 21-2-579, and 21-2-599 for violations of oaths, and on the

~~face of such envelope shall be printed the name and address of the board of registrars or absentee ballot clerk. The larger of the two envelopes~~ This envelope shall also display the elector's name and voter registration number, and shall also be known as the 'oath envelope'.

(4) The larger third envelope to be enclosed in the mailing envelope shall have the name and address of the board of registrars or absentee ballot clerk printed on it.

(5) The mailing envelope addressed to the elector shall contain the two three envelopes, the official absentee ballot, the uniform instructions for the manner of preparing and returning the ballot, in form and substance as provided by the Secretary of State, provisional absentee ballot information, if necessary, and a notice in the form provided by the Secretary of State of all withdrawn, deceased, and disqualified candidates and any substitute candidates pursuant to Code Sections 21-2-134 and 21-2-155 and nothing else. The uniform instructions shall include information specific to the voting system used for absentee voting concerning the effect of overvoting or voting for more candidates than one is authorized to vote for a particular office, notice that the elector must include a photocopy of one of the forms of identification specified in subsection (a) of Code Section 21-2-417, notice that the signature of the elector must be witnessed by a person attesting that the elector resides at his or her address of residence, and information concerning how the elector may correct errors in voting the ballot before it is cast including information on how to obtain a replacement ballot if the elector is unable to change the ballot or correct the error.

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

I, the undersigned, do swear (or affirm) that I am a citizen of the United States and of the State of Georgia; that I possess the qualifications of an elector required by the laws of the State of Georgia; that I am entitled to vote in the precinct containing my residence in the primary or election in which this ballot is to be cast; that I am eligible

to vote by absentee ballot; that I have not marked or mailed any other absentee ballot, nor will I mark or mail another absentee ballot for voting in such primary or election; nor shall I vote therein in person; and that I have read and understand the instructions accompanying this ballot; and that I have carefully complied with such instructions in completing this ballot. I understand that the offer or acceptance of money or any other object of value to vote for any particular candidate, list of candidates, issue, or list of issues included in this election constitutes an act of voter fraud and is a felony under Georgia law.

Signature or Mark of Elector

Printed Name of Elector

Signature or Mark of Witness

Printed Name of Witness

Oath of Person Assisting Elector (if any):

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

This, the _____ day of _____, _____.

Signature of Person Assisting
Elector

122

123

124

 Printed Name of Person

Assisting Elector

125 Reason for assistance (Check appropriate square):

126 ☐ Elector is unable to read the English language.127 ☐ Elector requires assistance due to physical disability.

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

129 Georgia law provides that any person who knowingly falsifies information so as to

130 vote illegally by absentee ballot or who illegally gives or receives assistance in voting,

131 as specified in Code Section 21-2-568 or 21-2-573, shall be guilty of a felony.'

132 (2) In the case of absent uniformed services or overseas voters, if the presidential

133 designee under Section 705(b) of the federal Help America Vote Act promulgates a

134 standard oath for use by such voters, the Secretary of State shall be required to use such

135 oath on absentee ballot materials for such voters and such oath shall be accepted in lieu

136 of the oath set forth in paragraph (1) of this subsection."

137

SECTION 3.

138 Said chapter is further amended in Code Section 21-2-385, relating to procedure for voting

139 by absentee ballot and advance voting, by revising subsection (a) as follows:

140 "(a) At any time after receiving an official absentee ballot, but before the day of the

141 primary or election, except electors who are confined to a hospital on the day of the

142 primary or election, the elector shall vote his or her absentee ballot, then fold the ballot, ~~and~~143 enclose the ballot and a photocopy of one of the forms of identification specified in144 subsection (a) of Code Section 21-2-417, and securely seal the same in the envelope on

145 which is printed 'Official Absentee Ballot.' This envelope shall then be placed in the

146 ~~second one,~~ envelope on which is printed the form of the oath of the elector; the name and

147 oath of the person assisting, if any; and other required identifying information. The elector
148 shall then fill out, subscribe, and swear to the oath printed on such envelope. Such
149 envelope shall then be securely sealed, placed in the envelope with the name and address
150 of the board of registrars or absentee ballot clerk printed on it, and the elector shall then
151 personally mail or personally deliver same to the board of registrars or absentee ballot
152 clerk, provided that mailing or delivery may be made by the elector's mother, father,
153 grandparent, aunt, uncle, brother, sister, spouse, son, daughter, niece, nephew, grandchild,
154 son-in-law, daughter-in-law, mother-in-law, father-in-law, brother-in-law, sister-in-law, or
155 an individual residing in the household of such elector. The absentee ballot of a disabled
156 elector may be mailed or delivered by the caregiver of such disabled elector, regardless of
157 whether such caregiver resides in such disabled elector's household. The absentee ballot
158 of an elector who is in custody in a jail or other detention facility may be mailed or
159 delivered by any employee of such jail or facility having custody of such elector. An
160 elector who is confined to a hospital on a primary or election day to whom an absentee
161 ballot is delivered by the registrar or absentee ballot clerk shall then and there vote the
162 ballot, seal it properly, and return it to the registrar or absentee ballot clerk. If the elector
163 registered to vote for the first time in this state by mail and has not previously provided the
164 identification required by Code Section 21-2-220 and votes for the first time by absentee
165 ballot and fails to provide the identification required by Code Section 21-2-220 with such
166 absentee ballot, such absentee ballot shall be treated as a provisional ballot and shall be
167 counted only if the registrars are able to verify the identification and registration of the
168 elector during the time provided pursuant to Code Section 21-2-419."

SECTION 4.

169

170 Said chapter is further amended in Code Section 21-2-386, relating to safekeeping,
171 certification, and validation of absentee ballots, rejection of ballot, delivery of ballots to
172 manager, duties of managers, precinct returns, and notification of challenged elector, by
173 revising subsections (a), (c), and (e) as follows:

174 "(a)(1)(A) The board of registrars or absentee ballot clerk shall keep safely, unopened,
175 and stored in a manner that will prevent tampering and unauthorized access all official
176 absentee ballots and all photocopies of the forms of identification specified in
177 subsection (a) of Code Section 21-2-417 received from absentee electors prior to the
178 closing of the polls on the day of the primary or election except as otherwise provided
179 in this subsection.

180 (B) Upon receipt of each ballot, a registrar or clerk shall open the outer envelope
181 provided for in paragraph (4) of subsection (b) of Code Section 21-2-384. The registrar
182 or clerk shall write the day and hour of the receipt of the ballot on ~~its~~ the envelope
183 provided for in paragraph (3) of subsection (b) of Code Section 21-2-384, and then
184 open such envelope. The registrar or clerk shall examine the photocopy of the form of
185 identification specified in subsection (a) of Code Section 21-2-417, then compare the
186 identifying information on the oath with the information on file in his or her office,
187 shall compare the signature or mark on the oath with the signature or mark on the
188 absentee elector's voter registration card or the most recent update to such absentee
189 elector's voter registration card and application for absentee ballot or a facsimile of said
190 signature or mark taken from said card or application, and shall, if the information and
191 signature appear to be valid and other identifying information appears to be correct, so
192 certify by signing or initialing his or her name below the voter's oath. Each elector's
193 name so certified shall be listed by the registrar or clerk on the numbered list of
194 absentee voters prepared for his or her precinct.

195 (B.1) The registrar or clerk shall then complete the oath on the envelope provided for
196 in paragraph (2) of subsection (b) of Code Section 21-2-384, and set such envelope
197 aside to be opened pursuant to paragraph (2) of this subsection.

198 (C) If the elector has failed to sign the oath, enclose a photocopy of one of the forms
199 of identification specified in subsection (a) of Code Section 21-2-417, or if the
200 signature or identification does not appear to be valid, or if the elector has failed to
201 furnish required information or information so furnished does not conform with that on
202 file in the registrar's or clerk's office, or if the elector is otherwise found disqualified to
203 vote, the registrar or clerk shall write across the face of the envelope 'Rejected,' giving
204 the reason therefor. The board of registrars or absentee ballot clerk shall promptly
205 notify the elector of such rejection, a copy of which notification shall be retained in the
206 files of the board of registrars or absentee ballot clerk for at least two years. Such
207 elector shall have until the end of the period for verifying provisional ballots contained
208 in subsection (c) of Code Section 21-2-419 to cure the problem resulting in the rejection
209 of the ballot. The elector may cure a failure to sign the oath, an invalid signature, or
210 missing information by submitting an affidavit to the board of registrars or absentee
211 ballot clerk along with a copy of one of the forms of identification enumerated in
212 subsection (c) of Code Section 21-2-417 before the close of such period. The affidavit
213 shall affirm that the ballot was submitted by the elector, is the elector's ballot, and that
214 the elector is registered and qualified to vote in the primary, election, or runoff in
215 question. If the board of registrars or absentee ballot clerk finds the affidavit and
216 identification to be sufficient, the absentee ballot shall be counted.

217 (D) An elector who registered to vote by mail, but did not comply with subsection (c)
218 of Code Section 21-2-220, and who votes for the first time in this state by absentee
219 ballot shall include with his or her application for an absentee ballot or in the outer ~~oath~~
220 envelope of his or her absentee ballot either one of the forms of identification listed in
221 subsection (a) of Code Section 21-2-417 or a copy of a current utility bill, bank

statement, government check, paycheck, or other government document that shows the name and address of such elector. If such elector does not provide any of the forms of identification listed in this subparagraph with his or her application for an absentee ballot or with the absentee ballot, such absentee ballot shall be deemed to be a provisional ballot and such ballot shall only be counted if the registrars are able to verify current and valid identification of the elector as provided in this subparagraph within the time period for verifying provisional ballots pursuant to Code Section 21-2-419. The board of registrars or absentee ballot clerk shall promptly notify the elector that such ballot is deemed a provisional ballot and shall provide information on the types of identification needed and how and when such identification is to be submitted to the board of registrars or absentee ballot clerk to verify the ballot.

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

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

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

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

(3) A county election superintendent may, in his or her discretion, after 7:00 A.M. on the day of the primary, election, or runoff open the ~~inner~~ envelopes marked 'Official Absentee Ballot' in accordance with the procedures prescribed in this subsection and begin tabulating the absentee ballots. If the county election superintendent chooses to

open the ~~inner~~ envelopes marked 'Official Absentee Ballot' and begin tabulating such ballots prior to the close of the polls on the day of the primary, election, or runoff, the superintendent shall notify in writing, at least seven days prior to the primary, election, or runoff, the Secretary of State of the superintendent's intent to begin the absentee ballot tabulation prior to the close of the polls. The county executive committee or, if there is no organized county executive committee, the state executive committee of each political party and political body having candidates whose names appear on the ballot for such election in such county shall have the right to designate two persons and each independent and nonpartisan candidate whose name appears on the ballot for such election in such county shall have the right to designate one person to act as monitors for such process. In the event that the only issue to be voted upon in an election is a referendum question, the superintendent shall also notify in writing the chief judge of the superior court of the county who shall appoint two electors of the county to monitor such process.

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

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

(6) All persons conducting the tabulation of absentee ballots during the day of a primary, election, or runoff, including the vote review panel required by Code Section 21-2-483, and all monitors and observers shall be sequestered until the time for the closing of the

polls. All such persons shall have no contact with the news media; shall have no contact with other persons not involved in monitoring, observing, or conducting the tabulation; shall not use any type of communication device including radios, telephones, and cellular telephones; shall not utilize computers for the purpose of ~~e-mail~~ email, instant messaging, or other forms of communication; and shall not communicate any information concerning the tabulation until the time for the closing of the polls; provided, however, that supervisory and technical assistance personnel shall be permitted to enter and leave the area in which the tabulation is being conducted but shall not communicate any information concerning the tabulation to anyone other than the county election superintendent; the staff of the superintendent; those persons conducting, observing, or monitoring the tabulation; and those persons whose technical assistance is needed for the tabulation process to operate.

(7) The absentee ballots shall be tabulated in accordance with the procedures of this chapter for the tabulation of absentee ballots. As such ballots are tabulated, they shall be placed into locked ballot boxes and may be transferred to locked ballot bags, if needed, for security. The persons conducting the tabulation of the absentee ballots shall not cause the tabulating equipment to produce any count, partial or otherwise, of the absentee votes cast until the time for the closing of the polls."

"(c) Except as otherwise provided in this Code section, after the close of the polls on the day of the primary, election, or runoff, a manager shall then open the ~~outer~~ oath envelope in such manner as not to destroy the oath printed thereon and shall deposit the ~~inner~~ envelope marked 'Official Absentee Ballot' in a ballot box reserved for absentee ballots. In the event that an ~~outer~~ oath envelope is found to contain an absentee ballot that is not in an ~~inner~~ envelope marked 'Official Absentee Ballot', the ballot shall be sealed in an ~~inner~~ envelope marked 'Official Absentee Ballot', initialed and dated by the person sealing the ~~inner~~ such envelope, and deposited in the ballot box and counted in the same manner as other absentee ballots, provided that such ballot is otherwise proper. Such manager with

two assistant managers, appointed by the superintendent, with such clerks as the manager deems necessary shall count the absentee ballots following the procedures prescribed by this chapter for other ballots, insofar as practicable, and prepare an election return for the county or municipality showing the results of the absentee ballots cast in such county or municipality."

"(e) If an absentee elector's right to vote has been challenged for cause, a poll officer shall write 'Challenged,' the elector's name, and the alleged cause of challenge on the ~~outer~~ oath envelope and shall deposit the ballot in a secure, sealed ballot box; and it shall be counted as other challenged ballots are counted. Where direct recording electronic voting systems are used for absentee balloting and a challenge to an elector's right to vote is made prior to the time that the elector votes, the elector shall vote on a paper or optical scanning ballot and such ballot shall be handled as provided in this subsection. The board of registrars or absentee ballot clerk shall promptly notify the elector of such challenge."

SECTION 5.

Said chapter is further amended by revising Code Section 21-2-390, relating to delivery of election materials to clerk of superior court or city clerk after primary or election, and accounting for ballots by registrars or municipal absentee ballot clerks as follows:

"21-2-390.

All official absentee ballots, photocopies of the forms of identification specified in subsection (a) of Code Section 21-2-417, and envelopes on which the forms of affidavits and jurats appear shall be delivered to the clerk of the superior court or the city clerk upon the conclusion of the primary or election and shall be safely kept by him or her for the period required by law and then shall be destroyed. The applications for such ballots shall be retained by the board of registrars or the municipal absentee ballot clerk for at least 24 months and then may be destroyed. On the day following the primary or election, the board of registrars or the municipal absentee ballot clerk shall transmit all canceled,

356 spoiled, and rejected absentee ballots and copies of requests for cancellation of absentee
357 ballots to the clerk of the superior court or the city clerk to be held with other election
358 materials as provided in Code Section 21-2-500. The registrars or the municipal absentee
359 ballot clerk shall also transmit an accounting of all absentee ballots, including the number
360 furnished by the registrars or the municipal absentee ballot clerk, the number issued to
361 electors, the number spoiled, and the number rejected."

362 **SECTION 6.**

363 Said chapter is further amended in Code Section 21-2-419, relating to validation of
364 provisional ballots and reporting to Secretary of State, by revising subsection (a) as follows:
365 "(a) A person shall cast a provisional ballot on the same type of ballot that is utilized by
366 the county or municipality. Such provisional ballot shall be sealed in ~~double~~ triple
367 envelopes as provided in Code Section 21-2-384 and shall be deposited by the person
368 casting such ballot in a secure, sealed ballot box."

369 **SECTION 7.**

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