

SENATE BILL 241<sup>1</sup> ELECTIONS AND VOTING; REVISE COMPREHENSIVELY

**First Signature:** Senator Mike Dugan (30<sup>th</sup>)

**Co-Sponsors:** Senator Butch Miller (49<sup>th</sup>), Senator Steve Gooch (51<sup>st</sup>), Senator John Kennedy (18<sup>th</sup>), Senator Bill Cowsert (46<sup>th</sup>), Senator Lee Anderson (24<sup>th</sup>), Senator Jeff Mullis (53<sup>rd</sup>), Senator Dean Burke (11<sup>th</sup>), Senator Larry Walker, III (20<sup>th</sup>), Senator Frank Ginn (47<sup>th</sup>), Senator Jason Anavitarte (31<sup>st</sup>), Senator Tyler Harper (7<sup>th</sup>), Senator Brandon Beach (21<sup>st</sup>), Senator Marty Harbin (16<sup>th</sup>), Senator Sheila McNeil (3<sup>rd</sup>), Senator Bruce Thompson (14<sup>th</sup>), Senator Blake Tillery (19<sup>th</sup>), Senator Chuck Payne (54<sup>th</sup>), Senator Carden Summers (13<sup>th</sup>), Senator Billy Hickman (4<sup>th</sup>), Senator Max Burns (23<sup>rd</sup>), Senator Randy Robertson (29<sup>th</sup>), Senator Matt Brass (28<sup>th</sup>), Senator Greg Dolezal (27<sup>th</sup>), Senator Ben Watson (1<sup>st</sup>), Senator Lindsey Tippins (37<sup>th</sup>), Senator Burt Jones (25<sup>th</sup>), Senator Chuck Hufstetler (52<sup>nd</sup>), Senator Russ Goodman (8<sup>th</sup>), Senator Bo Hatchett (50<sup>th</sup>), Senator Clint Dixon (45<sup>th</sup>)

**Summary:** “A BILL to be entitled an Act to comprehensively revise elections and voting; to amend Chapter 2 of Title 21 of the O.C.G.A., relating to elections and primaries generally, so as to provide for the establishment of a voter intimidation and illegal election activities hotline; to limit the ability of the State Election Board and the Secretary of State to enter into certain consent agreements; to amend Article 1 of Chapter 13 of Title 50 of the O.C.G.A., relating to general provisions regarding administrative procedure, so as to provide for the submission and suspension of emergency rules by the State Election Board; to provide for severability; to provide for related matters; to repeal conflicting laws; and for other purposes.”<sup>2</sup>

**Status:** House Second Readers on March 10, 2021.<sup>3</sup>

TEXT OF SENATE BILL 241 (COMMITTEE SUBSTITUTE LC 28 0292S)<sup>4</sup>

A BILL to be entitled an Act to comprehensively revise elections and voting; to amend Chapter 2 of Title 21 of the O.C.G.A., relating to elections and primaries generally, so as to provide for the establishment of a voter intimidation and illegal election activities hotline; to limit the ability of the State Election Board and the Secretary of State to enter into certain consent

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<sup>1</sup> S.B. 241, 156<sup>th</sup> Gen. Assemb., 1<sup>st</sup> Reg. Sess. (Ga. 2021), <https://www.legis.ga.gov/api/legislation/document/20212022/199987>.

<sup>2</sup> 2020-2021 Regular Session-SB. 241, *Elections and Voting; revise comprehensively*, GA. GEN. ASSEMB., <https://www.legis.ga.gov/legislation/60009> (last visited Dec. 5, 2021) [hereinafter S.B. 241 Status Sheet].

<sup>3</sup> *Id.*

<sup>4</sup> S.B. 241.

agreements; to amend Article 1 of Chapter 13 of Title 50 of the O.C.G.A., relating to general provisions regarding administrative procedure, so as to provide for the submission and suspension of emergency rules by the State Election Board; to provide for severability; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

### SECTION 1.

Chapter 2 of Title 21 of the Official Code of Georgia Annotated, relating to elections and primaries generally, is amended by revising Code Section 21-2-3, which was previously reserved, as follows:

"21-2-3. The Attorney General shall establish and maintain a telephone hotline for the use of electors of this state to file complaints and allegations of voter intimidation and illegal election activities. Such hotline shall, in addition to complaints and reports from identified persons, also accept anonymous tips regarding voter intimidation and election fraud. The Attorney General shall review each complaint or allegation of voter intimidation or illegal election activities within three business days and determine if such complaint or report should be investigated or prosecuted. Reserved."

### SECTION 2.

Said chapter is further amended in Subpart 1 of Part 1 of Article 2, relating to the State Election Board, by adding a new Code section to read as follows:

"21-2-35. The State Election Board, the members thereof, the Secretary of State, and any of their attorneys or staff shall not have any authority to enter into any consent agreement with any other person that limits, alters, or interprets any provision of this chapter without obtaining the approval of the General Assembly through a joint resolution."

### SECTION 3.

Said chapter is further amended in Part 3 of Article 2, relating to superintendents, by adding a new Code section to read as follows:

"21-2-78. (a) Notwithstanding any law to the contrary, the State Election Board, after due notice to the affected person or persons and the opportunity for a hearing before the State Election Board, may recommend in writing to the legislative delegation representing the jurisdiction involved that a county or municipal election

superintendent be temporarily removed from exercising the duties of election superintendent on the basis of malfeasance, misfeasance, neglect of duty, incompetence, or inability to perform the duties of election superintendent for the duration of the period from the time of the removal until January 1 following the next election in such county or municipality and the conclusion of any run-off election from such election, if any. (b) Within 15 days after receiving a recommendation of the superintendent's removal from office from the State Election Board in accordance with subsection (a) of this Code section, the legislative delegation by majority vote may temporarily remove such election superintendent from exercising his or her duties in accordance with this Code section. The duties of such election superintendent shall be filled for the period of suspension by the legislative delegation's appointment of a temporary election superintendent. In making such appointment, the legislative delegation by majority vote shall select a person or persons who have experience or training in managing and conducting elections to serve as temporary election superintendent. (c) In making the temporary appointment under subsection (b) of this Code section, the legislative delegation shall be authorized to appoint any qualified elector of this state, regardless of the county of residence of such elector."

#### SECTION 4.

Said chapter is further amended in subsection (b) of Code Section 21-2-232, relating to removal of elector's name from list of electors, by adding a new paragraph to read as follows:

"(3) Once becoming a member of the nongovernmental entity described in subsection (d) of Code Section 21-2-225, the Secretary of State shall obtain regular information from such entity regarding electors who may have moved to another state, died, or otherwise become ineligible to vote in Georgia. The Secretary of State shall use such information to conduct list maintenance on the list of eligible electors."

#### SECTION 5.

Said chapter is further amended by revising subsection (b) of Code Section 21-2-266, relating to use of public buildings as polling places, use of portable or movable facilities, and unrestricted access to residential communities, as follows:

"(b) The superintendent of a county or the governing authority of a municipality shall ~~have discretion to procure and provide~~ be responsible for procuring and providing portable or movable polling facilities of adequate size ~~for any precinct to replace any existing polling place~~, if needed. Portable or movable polling facilities shall only be deployed and used to replace an existing polling place when the existing polling place has been deemed to be unsafe for human occupation by a licensed commercial building inspector employed or contracted by the county or municipality or has suffered a failure of utility services that provide water or electricity. Portable or moveable polling places shall follow the same standards as they relate to voting access for those electors with disabilities as the existing polling place that such portable or moveable polling place is being used to replace. Portable or movable polling places shall be located within 2,640 feet of the existing polling place that has been deemed unsafe or suffered a loss of utility services that provide water or electricity. Any replacement of an existing polling place with a portable or movable polling place shall be presented before and approved by a superior court judge of the circuit in which the existing polling place is located prior to such replacement being used for elections. The superintendent of a county or the governing authority of a municipality shall be solely responsible for ensuring that all portable or movable polling facilities used by such county or municipality meet all safety and licensing requirements currently applicable under the law related to the operations of commercial vehicles and all applicable state, county, and municipal codes related to the accessibility and safety of portable and temporary structures."

#### SECTION 6.

Said chapter is further amended by revising Code Section 21-2-380, relating to "absentee elector" defined and when reason for absentee ballot not required, as follows:

"21-2-380. (a) As used in this article, the term 'absentee elector' means an elector of this state or a municipality thereof who casts a ballot in a primary, election, or runoff other than in person at the polls on the day of such primary, election, or runoff. or at an advance voting location pursuant to subsection (d) of Code Section 21-2-385 and who: (1) Is required to be absent from his or her precinct during the hours designated for advance voting pursuant to subsection (d) of Code Section 21-2-385 and hours designated for voting on the day of the primary, election, or runoff in which he or she desires to vote; (2)

Will perform any of the official acts or duties set forth in this chapter in connection with the primary, election, or runoff in which he or she desires to vote; (3) Because of physical disability or because of being required to give constant care to someone who is physically disabled, will be unable to be present at the polls on the day of such primary, election, or runoff; (4) Because the primary, election, or runoff falls upon a religious holiday observed by such elector, will be unable to be present at the polls on the day of such primary, election, or runoff; (5) Is required to remain on duty in his or her place of employment during the entire time the polls are open when such place of employment is within the precinct in which the elector resides; (6) Is 65 years of age or older; or (7) Is entitled to vote by absentee ballot under the federal Uniformed and Overseas Citizens Absentee Voting Act, 52 U.S.C. Section 20301, et seq., as amended. (b) An elector who votes by absentee ballot shall not be required to provide a reason in order to cast an absentee ballot in any primary, election, or runoff casts an absentee ballot in person at the registrar's or absentee ballot clerk's office or other authorized location during the advance voting period immediately preceding the date of a primary, election, or runoff as specified in subsection (d) of Code Section 21-2-385 shall not be required to demonstrate a reason as provided in subsection (a) of this Code section in order to cast such ballot."

#### SECTION 7.

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

"(C)(i) Any person applying for an absentee-by-mail ballot shall make application in writing on the form made available by the Secretary of State. In order to confirm the identity of the elector, such form shall require the elector to provide his or her name, date of birth, address as registered, address where the elector wishes the ballot to be mailed, and the elector's Georgia driver's license number or identification card number issued pursuant to Article 5 of Chapter 5 of Title 40. If such elector does not have a Georgia driver's license or identification card issued pursuant to Article 5 of Chapter 5 of Title 40, the elector shall swear or affirm this fact in the manner prescribed in the application and the elector shall provide a copy of a form of identification listed in subsection (c) of Code Section 21-2-417. The form made available

by the Secretary of State shall include a space to affix a photocopy or electronic image of such identification. In addition to the web application described in this paragraph, the Secretary of State shall develop a method to allow secure electronic transmission of such application form. The application shall be in writing and shall contain sufficient information for proper identification of the elector; the permanent or temporary address of the elector to which the absentee ballot shall be mailed; also include the reason for requesting the absentee ballot as provided in Code Section 21-2-380; the identity of the primary, election, or runoff in which the elector wishes to vote; and the name and relationship of the person requesting the ballot if other than the elector; and an oath for the elector or relative making application on behalf of such elector to sign swearing or affirming that the elector is a qualified elector of this state and that the facts presented in the application are true. Submitting false information on an application for an absentee ballot shall be a violation of Code Sections 21-2-560 and 21-2-571. (ii) The Secretary of State shall be authorized to create a web application that allows an elector to submit an absentee ballot application via an online portal. Such application shall verify the identity of the elector by matching the elector's name, date of birth, and Georgia driver's license or identification card number issued pursuant to Article 5 of Chapter 5 of Title 40 contained in the state voter registration system with the name, date of birth, and Georgia driver's license or identification card number issued pursuant to Article 5 of Chapter 5 of Title 40 entered into the web application. Such application shall require the elector to swear or affirm that he or she is a qualified elector of this state and that the facts presented on the application are true. (iii) The blank application for absentee ballot shall be made available online by the Secretary of State, but neither the Secretary of State nor any election superintendent, registrar, absentee ballot clerk, or employee or agent thereof shall send absentee ballot applications directly to any elector except upon request of such elector or relative of such elector authorized to request an absentee ballot for such elector. No person or entity other than a relative authorized to request an absentee ballot for such elector or a person signing as assisting an illiterate or physically disabled elector shall send any elector an absentee ballot application that is pre-filled with the elector's personal identifying information, in whole or in part. Any blank application for absentee ballot sent by any person or entity shall utilize the form made available by the Secretary of State. (D) Except in the case of physically disabled electors residing in the county or municipality or electors in custody in a jail or other detention facility

in the county or municipality, no absentee ballot shall be mailed to an address other than the permanent mailing address of the elector as recorded on the elector's voter registration record or a temporary out-of-county or out-of-municipality address. Upon request, electors held in jails or other detention facilities who are eligible to vote shall be granted access to the necessary personal effects for the purpose of applying for an absentee ballot pursuant to this Code section."

### SECTION 8.

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

"(b)(1) Upon receipt of a timely application for an absentee ballot, a registrar or absentee ballot clerk shall enter thereon the date received. The registrar or absentee ballot clerk shall verify the identity of the applicant and determine, in accordance with the provisions of this chapter, if the applicant is eligible to vote in the primary or election involved. In order to ~~be found eligible to vote an absentee ballot by mail~~ verify the identity of the applicant, the registrar or absentee ballot clerk shall compare the ~~identifying information~~ applicant's name, date of birth, and Georgia driver's license number or identification card number issued pursuant to Article 5 of Chapter 5 of Title 40 on the application with the information on file in the registrar's office ~~and, if the application is signed by the elector, compare the signature or mark of the elector on the application with the signature or mark of the elector on the elector's voter registration card.~~ If the application does not contain a Georgia driver's license number or identification card number issued pursuant to Article 5 of Chapter 5 of Title 40, the registrar or absentee ballot clerk shall verify that the identification provided with the application identifies the applicant. In order to be found eligible to vote an absentee ballot in person at the registrar's office or absentee ballot clerk's office, such person shall show one of the forms of identification listed in Code Section 21-2-417 and the registrar or absentee ballot clerk shall compare the identifying information on the application with the information on file in the registrar's office. (2) If found eligible, the registrar or absentee ballot clerk shall certify by signing in the proper place on the application and then: (A) Shall mail the ballot as provided in this Code section; (B) If the application is made in person, shall issue the ballot to the elector within the confines of the registrar's or absentee ballot clerk's

office as required by Code Section 21-2-383 if the ballot is issued during the advance voting period established pursuant to subsection (d) of Code Section 21-2-385; or (C) May deliver the ballot in person to the elector if such elector is confined to a hospital. (3) If found ineligible or if the application is not timely received, the clerk or the board of registrars shall deny the application by writing the reason for rejection in the proper space on the application and shall promptly notify the applicant in writing of the ground of ineligibility, a copy of which notification should be retained on file in the office of the board of registrars or absentee ballot clerk for at least one year. However, an absentee ballot application shall not be rejected solely due to ~~an~~ apparent a mismatch between the signature identifying information of the elector on the application and the signature identifying information of the elector on file with the board of registrars. In such cases, the board of registrars or absentee ballot clerk shall send the elector a provisional absentee ballot with the designation 'Provisional Ballot' on the outer oath envelope and information prepared by the Secretary of State as to the process to be followed to cure the signature discrepancy. If such ballot is returned to the board of registrars or absentee ballot clerk prior to the closing of the polls on the day of the primary or election, the elector may cure the signature discrepancy by submitting an affidavit to the board of registrars or absentee ballot clerk along with a copy of one of the forms of identification enumerated in subsection (c) of Code Section 21-2-417 before the close of the period for verifying provisional ballots contained in subsection (c) of Code Section 21-2-419. If the board of registrars or absentee ballot clerk finds the affidavit and identification to be sufficient, the absentee ballot shall be counted as other absentee ballots. If the board of registrars or absentee ballot clerk finds the affidavit and identification to be insufficient, then the procedure contained in Code Section 21-2-386 shall be followed for rejected absentee ballots. (4) If the registrar or clerk is unable to determine the identity of the elector from information given on the application or if the application is not complete or if the oath on the application is not signed, the registrar or clerk should promptly ~~write~~ contact the elector in writing to request the necessary additional information and a signed copy of the oath. (5) In the case of an unregistered applicant who is eligible to register to vote, the clerk or the board shall immediately mail a blank registration card as provided by Code Section 21-2-223, and such applicant, if otherwise qualified, shall be deemed eligible to vote by absentee ballot in such primary or election, if the registration card, properly completed, is returned to the clerk or the board on or

before the last day for registering to vote in such primary or election. If the closing date for registration in the primary or election concerned has not passed, the clerk or registrar shall also mail a ballot to the applicant, as soon as it is prepared and available; and the ballot shall be cast in such primary or election if returned to the clerk or board not later than the close of the polls on the day of the primary or election concerned."

#### SECTION 9.

Said chapter is further amended in Code Section 21-2-381, relating to making of application for absentee ballot, determination of eligibility by ballot clerk, furnishing of applications to colleges and universities, and persons entitled to make application, by adding a new subsection to read as follows:

"(f) Other than the Secretary of State or a county election or registration official, any person, organization, or other entity which distributes or publishes any document or material to electors that purports to be an application for an absentee ballot shall prominently display a disclaimer thereon in at least 20 point type which occupies at least 25 percent of the area on the front and back of such document or material and which shall state: 'This is NOT an official government publication and was NOT provided to you by any governmental entity. It is being distributed by [insert name and address of person, organization, or other entity distributing such document or material].'"

#### SECTION 10.

Said chapter is further amended by revising Code Section 21-2-382, relating to additional sites as additional registrar's office or place of registration for absentee ballots, as follows:

"21-2-382. (a) Any other provisions of this chapter to the contrary notwithstanding, the board of registrars may establish additional sites as additional registrar's offices or places of registration for the purpose of receiving absentee ballots under Code Section 21-2-381 and for the purpose of voting absentee ballots under Code Section 21-2-385, including advance voting, provided that any such site is a building that is a branch of the county courthouse, a courthouse annex, a government service center providing general government services, another government building generally accessible to the public, or a ~~location~~ building that is used as an election day polling place, notwithstanding that such ~~location~~ building is not a government building. (b) Any other provisions of this chapter to the contrary

notwithstanding, in all counties of this state having a population of 550,000 or more according to the United States decennial census of 1990 or any future such census, any building that is a branch of the county courthouse or courthouse annex established within any such county shall be an additional registrar's or absentee ballot clerk's office or place of registration for the purpose of receiving absentee ballots under Code Section 21-2-381 and for the purpose of voting absentee ballots under Code Section 21-2-385, including advance voting."

#### SECTION 11.

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

"(b) Except for ballots voted within the confines of the registrar's or absentee ballot clerk's office, in addition to the mailing envelope addressed to the elector, the superintendent, board of registrars, or absentee ballot clerk shall provide two 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 within the other and both within the mailing envelope. On the smaller of the two envelopes to be enclosed in the mailing envelope shall be printed the words 'Official Absentee Ballot' and nothing else. ~~On the back of the~~ The larger of the two envelopes to be enclosed within the mailing envelope shall ~~be printed~~ contain 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; a place for the elector to print his or her name; a signature line; a space for the elector to print his or her Georgia driver's license or state identification card number issued pursuant to Article 5 of Chapter 5 of Title 40; a space for the elector to mark to affirm that he or she does not have a Georgia driver's license or identification card issued pursuant to Article 5 of Chapter 5 of Title 40; a space for the elector to print his or her date of birth; and a space for the elector to print the last four digits of his or her social security number, if the elector does not have a Georgia driver's license or state identification card issued pursuant to Article 5 of Chapter 5 of Title 40. The envelope shall be designed so that the elector's Georgia driver's license or identification card number issued pursuant to Article 5 of Chapter 5 of Title 40, last

four digits of social security number, and date of birth shall be hidden from view when the envelope is correctly sealed. Any person other than the elector who requested the ballot, an authorized person who is assisting an elector entitled to assistance under Code Section 21-2-381, absentee ballot clerk, registrar, or law enforcement officer in the course of an investigation who knowingly unseals a sealed absentee ballot envelope shall be guilty of a felony. ~~and on~~ 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 shall also display the elector's name and voter registration number. The mailing envelope addressed to the elector shall contain the two 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 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."

## SECTION 12.

Said chapter is further amended by revising subsections (a) and (d) of Code Section 21-2-385, relating to procedure for voting by absentee ballot and advance voting, and adding a new subsection to read as follows:

"(a) At any time after receiving an official absentee ballot, but before the day of the primary or election, except electors who are confined to a hospital on the day of the primary or election, the elector shall vote his or her absentee ballot, then fold the ballot and enclose and securely seal the same in the envelope on which is printed 'Official Absentee Ballot.' This envelope shall then be placed in the second one, on which is printed the form of the oath of the elector; the name and oath of the person assisting, if any; and other required identifying information. The elector shall then fill out, subscribe, and swear to the oath printed on such envelope. In order to verify that the absentee ballot was voted by the elector who requested the ballot, the elector

shall print his or her Georgia driver's license or identification card number issued pursuant to Article 5 of Chapter 5 of Title 40 in the space provided on the envelope. The elector shall also print his or her date of birth in the space provided in the envelope. If the elector does not have a Georgia driver's license or state identification card number issued pursuant to Article 5 of Chapter 5 of Title 40, the elector shall so swear or affirm in the space provided on the envelope and print the last four digits of his or her social security number in the space provided on the envelope. If the elector does not have a Georgia driver's license or identification card or a social security number, the elector shall so affirm in the space provided on the envelope and place a copy of identification set forth in subsection (c) of Code Section 21-2-417. Such envelope shall then be securely sealed and the elector shall then personally mail or personally deliver same to the board of registrars or absentee ballot clerk, provided that mailing or delivery may be made by the elector's mother, father, grandparent, aunt, uncle, brother, sister, spouse, son, daughter, niece, nephew, grandchild, son-in-law, daughter-in-law, mother-in-law, father-in-law, brother-in-law, sister-in-law, or an individual residing in the household of such elector. The absentee ballot of a disabled elector may be mailed or delivered by the caregiver of such disabled elector, regardless of whether such caregiver resides in such disabled elector's household. The absentee ballot of an elector who is in custody in a jail or other detention facility may be mailed or delivered by any employee of such jail or facility having custody of such elector. An elector who is confined to a hospital on a primary or election day to whom an absentee ballot is delivered by the registrar or absentee ballot clerk shall then and there vote the ballot, seal it properly, and return it to the registrar or absentee ballot clerk. If the elector registered to vote for the first time in this state by mail and has not previously provided the identification required by Code Section 21-2-220 and votes for the first time by absentee ballot and fails to provide the identification required by Code Section 21-2-220 with such absentee ballot, such absentee ballot shall be treated as a provisional ballot and shall be counted only if the registrars are able to verify the identification and registration of the elector during the time provided pursuant to Code Section 21-2-419." "(d)(1) There shall be a period of advance voting during which persons may vote in person without specifying any of the reasons stated in subsection (a) of Code Section 21-2-380 that shall commence: (A) On the fourth Monday immediately prior to each primary or election; (B) On the fourth Monday immediately prior to a runoff from a general primary; (C) On the fourth Monday

immediately prior to a runoff from a general election in which there are candidates for a federal office on the ballot in the runoff; and (D) As soon as possible prior to a runoff from any other general election in which there are only state or county candidates on the ballot in the runoff but no later than the second Monday immediately prior to such runoff and shall end on the Friday immediately prior to each primary, election, or runoff. Voting shall be conducted during normal business hours on weekdays during such period and shall be conducted on the second Saturday prior to a primary or election during the hours of 9:00 A.M. through 4:00 P.M.; provided, however, that in primaries and elections in which there are no federal or state candidates on the ballot, no Saturday voting hours shall be required; and provided, further, that, if such second Saturday is a public and legal holiday pursuant to Code Section 1-4-1, if such second Saturday follows a public and legal holiday occurring on the Thursday or Friday immediately preceding such second Saturday, or if such second Saturday immediately precedes a public and legal holiday occurring on the following Sunday or Monday, such advance voting shall not be held on such second Saturday but shall be held on the third Saturday prior to such primary or election. Except as otherwise provided in this paragraph, counties and municipalities may extend the hours for voting beyond regular business hours and may provide for additional voting locations in buildings authorized pursuant to Code Section 21-2-382 to suit the needs of the electors of the jurisdiction at their option. Advance voting shall be allowed only in the main office of the board of elections and registration, the main office of the board of registrars, or a building authorized pursuant to Code Section 21-2-382. (e) On each day of an absentee voting period, each county board of registrars or municipal absentee ballot clerk shall report for the county or municipality to the Secretary of State and post on the county or municipal website not later than 10:00 A.M. on each business day the number of persons to whom absentee ballots have been issued, the number of persons who have returned absentee ballots, the number of absentee ballots that have been rejected, and the number of ballots that have been rejected. Additionally, on each day of an advance voting period, each county board of registrars or municipal absentee ballot clerk shall report to the Secretary of State and post on the county or municipal website not later than 10:00 A.M. on each business day the number of persons who have voted at the advance voting sites in the county or municipality. During the absentee voting period and for a period of three days following a primary, election, or runoff, each county board of registrars or

municipal absentee ballot clerk shall report to the Secretary of State and post on the county or municipal website not later than 10:00 A.M. on each business day the number of persons who have voted provisional ballots, the number of provisional ballots that have verified or cured and accepted for counting, and the number of provisional ballots that have been rejected."

### SECTION 13.

Said chapter is further amended by revising Code Section 21-2-386, relating to safekeeping, certification, and validation of absentee ballots, rejection of ballot, delivery of ballots to manager, duties of managers, precinct returns, and notification of challenged elector, as follows:

"21-2-386. (a)(1)(A) The board of registrars or absentee ballot clerk shall keep safely, unopened, and stored in a manner that will prevent tampering and unauthorized access all official absentee ballots received from absentee electors prior to the closing of the polls on the day of the primary or election except as otherwise provided in this subsection. (B) Upon receipt of each ballot, a registrar or clerk shall write the day and hour of the receipt of the ballot on its envelope. The registrar or clerk shall then ~~compare the identifying information on the oath with the information on file in his or her office, shall compare the signature or mark on the oath with the signature or mark on the absentee elector's voter registration card or the most recent update to such absentee elector's voter registration card and application for absentee ballot or a facsimile of said signature or mark taken from said card or application, and shall, if the information and signature appear to be valid and other identifying information appears to be correct,~~ elector's Georgia driver's license number or state identification card issued pursuant to Article 5 of Chapter 5 of Title 40 entered on the absentee ballot envelope with the same information contained in the elector's voter registration records. If the elector has sworn or affirmed on the envelope that he or she does not have a Georgia driver's license or state identification card issued pursuant to Article 5 of Chapter 5 of Title 40, the registrar or absentee ballot clerk shall compare the last four digits of the elector's social security number and date of birth entered on the envelope with the same information contained in the elector's voter registration records. The registrar or absentee ballot clerk shall also confirm that the elector signed the oath and the person assisting the elector, if any, signed the oath of assistance. If the elector has signed the oath, the person assisting such elector, if any, has signed the oath of assistance, and

the identifying information entered on the absentee ballot envelope matches the same information contained in the elector's voter registration record, the registrar or absentee ballot clerk shall so certify by signing or initialing his or her name below the voter's oath. Each elector's name so certified shall be listed by the registrar or clerk on the numbered list of absentee voters prepared for his or her precinct. (C) If the elector has failed to sign the oath, or if the ~~signature~~ identifying information entered on the absentee ballot envelope does not appear to be valid match the same information appearing in the elector's voter registration record, or if the elector has failed to furnish required information or information so furnished does not conform with that on file in the registrar's or absentee ballot clerk's office, or if the elector is otherwise found disqualified to vote, the registrar or absentee ballot clerk shall write across the face of the envelope 'Rejected,' giving the reason therefor. The board of registrars or absentee ballot clerk shall promptly notify the elector of such rejection, a copy of which notification shall be retained in the files of the board of registrars or absentee ballot clerk for at least two years. Such elector shall have until the end of the period for verifying provisional ballots contained in subsection (c) of Code Section 21-2-419 to cure the problem resulting in the rejection of the ballot. The elector may cure a failure to sign the oath, ~~an invalid signature~~ nonmatching identifying information, or missing information by submitting an affidavit to the board of registrars or absentee ballot clerk along with a copy of one of the forms of identification enumerated in subsection (c) of Code Section 21-2-417 before the close of such period. The affidavit shall affirm that the ballot was submitted by the elector, is the elector's ballot, and that the elector is registered and qualified to vote in the primary, election, or runoff in question. If the board of registrars or absentee ballot clerk finds the affidavit and identification to be sufficient, the absentee ballot shall be counted. (D) An elector who registered to vote by mail, but did not comply with subsection (c) of Code Section 21-2-220, and who votes for the first time in this state by absentee ballot shall include with his or her application for an absentee ballot or in the outer oath envelope of his or her absentee ballot either one of the forms of identification listed in 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)(A) Beginning at 8:00 A.M. on the second Monday prior to After the opening of the polls on the day of the primary, election, or runoff, the registrars or absentee ballot clerk superintendent shall be authorized to open the outer envelope on which is printed the oath of the elector of absentee ballots that have been verified and accepted pursuant to subparagraph (a)(1)(B) of this Code section 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 and scan the absentee ballot using one or more ballot scanners. 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 absentee ballot envelopes are being opened and the absentee ballots are being scanned. After opening the outer envelopes, the ballots shall be safely and securely stored until the time for tabulating such ballots. However, no person shall tally, tabulate, estimate, or attempt to tally, tabulate, or estimate or cause the ballot scanner or any other equipment to produce any tally or tabulation, partial or otherwise, of the absentee ballots cast until the time for the closing of the polls on the day of the primary, election, or runoff except as provided in this Code section. Prior to beginning the process set forth in this subsection, the superintendent shall provide written notice to the Secretary of State in writing at least seven days prior to processing absentee ballots. Such notice shall contain the dates, start and end times, and location or locations where absentee ballots will be processed. The superintendent shall also post such notice publicly in a prominent and public location in the superintendent's office and on the home page of the county or municipal website regarding elections. The Secretary of State shall publish on his or her website the information he or she receives from counties and municipalities stating the dates, times, and locations where absentee ballots will be processed. (B) The proceedings set forth in this subsection shall be open to the view of the public, but no person except a person employed and designated by the superintendent shall touch any ballot or ballot container. Any person involved in processing absentee ballots shall swear or affirm an oath, in the same form as the oath for poll officers set forth in Code Section 21-2-95, prior to beginning the processing and scanning of the absentee ballots. The state or county

executive committee of each political party and political body having candidates whose names appear on the ballot for such election in such county or municipality 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 or municipality 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 or municipality to monitor such process. While viewing or monitoring the process set forth in this subsection, monitors and observers are prohibited from: (i) In any way interfering with the processing of absentee ballots or the conduct of the primary, election, or runoff; (ii) Using or bringing into the room any photographic or other electronic monitoring or recording devices, cellular telephones, or computers; (iii) Engaging in any form of campaigning or campaign activity; (iv) Taking any action that endangers the secrecy and security of the absentee ballots; (v) Touching any ballot or ballot container; (vi) Tallying, tabulating, estimating, or attempting to tally, tabulate, or estimate, whether partial or otherwise, any of the votes on the absentee ballots cast; and (vii) Communicating any information that they see, whether intentionally or inadvertently, about any ballot, vote, or selection to anyone other than an election official who needs such information to lawfully carry out his or her official duties. (C) The State Election Board shall promulgate rules and regulations requiring reconciliation procedures and other protections to protect the integrity of the process set forth in this subsection. (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 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 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 state or 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 of~~ absentee ballot envelopes, scanning absentee ballots, 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, 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 except as otherwise provided in this Code section. (b) ~~As soon as practicable after 7:00 A.M. on the day of the primary, election, or runoff, in precincts other than those in which optical scanning tabulators are used~~ When requested by the superintendent, but not earlier than the second Monday prior to a primary, election, or runoff, a registrar or absentee ballot clerk shall deliver the official absentee ballot of each certified absentee elector, each rejected absentee ballot, applications for such ballots, and copies of the numbered lists of certified and rejected absentee electors to the manager in charge of the absentee ballot precinct of the county or municipality, which shall be located in the precincts containing the county courthouse or polling place designated by the municipal superintendent. In those precincts in which optical scanning tabulators are used, such absentee ballots shall be taken to the tabulation center or other place designated by the superintendent, and the official receiving such absentee ballots shall issue his or her receipt therefor. Except as otherwise provided in this Code section, in no event shall the counting of the ballots begin before the polls close. (c) The superintendent shall cause the certified absentee ballots to be opened and tabulated as provided in this Code section. ~~A~~ ~~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 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 envelope is found to contain an absentee ballot that is not in an inner envelope, the ballot shall be sealed in an inner envelope, initialed and dated by the person sealing the inner 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.~~ (d) All absentee ballots shall be counted and tabulated in such a manner that returns may be reported by precinct; and separate returns shall be made for each precinct in which absentee ballots were cast showing the results by each precinct in which the electors reside. The superintendent shall utilize the procedures set forth in this Code

section to ensure that the returns of verified absentee ballots cast are reported to the public as soon as possible following the closing of the polls on the day of the primary, election, or runoff. (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 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. (f) It shall be unlawful at any time prior to the close of the polls for any person to disclose or for any person to receive any information regarding the results of the tabulation of absentee ballots except as expressly provided by law."

#### SECTION 14.

Said chapter is further amended in 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, by designating the existing text as subsection (a) and by adding a new subsection to read as follows:

"(b) The Secretary of State shall be authorized to inspect and audit the information contained in the absentee ballot applications or envelopes at his or her discretion at any time during the 24 month retention period. Such audit may be conducted state wide or in selected counties or cities and may include the auditing of a statistically significant sample of the envelopes or a full audit of all of such envelopes. For this purpose, the Secretary of State or his or her authorized agents shall have access to such envelopes in the custody of the clerk of superior court or city clerk."

#### SECTION 15.

Said chapter is further amended in Code Section 21-2-403, relating to time for opening and closing of polls, by redesignating the existing text as subsection (a) and adding a new subsection to read as follows:

"(b) Poll hours at a precinct may be extended only by order of a judge of the superior court of the county in which the precinct is located upon good cause being shown."

#### **SECTION 16.**

Said chapter is further amended in Part 1 of Article 11, relating to general provisions regarding preparation for and conduct of primaries and elections, by adding a new Code section to read as follows:

"21-2-420. (a) After the time for the closing of the polls and the last elector voting, the poll officials in each precinct shall complete the required accounting and related documentation for the precinct and shall advise the election superintendent of the total number of ballots cast at such precinct and the total number of provisional ballots cast. In precincts using precinct-based counting or tabulation, the poll officials shall proceed to count and tabulate the ballots cast. Such poll officials shall not cease such count until all ballots have been counted or tabulated and vote totals obtained, with the exception of provisional ballots. The chief manager and at least one assistant manager shall post a copy of the tabulated results for the precinct on the door of the precinct and then immediately deliver all required documentation and election materials to the election superintendent. In precincts using central counting or tabulation, the chief manager and at least one assistant manager shall, after completing the required accounting and related documentation for such precinct, immediately deliver all ballots and required documentation and election materials to the election superintendent or the counting and tabulating center designated by the election superintendent for processing, counting, and tabulation. The election superintendent shall then ensure that such ballots are processed, counted, and tabulated as soon as possible and shall not cease such count and tabulation until all such ballots are counted and tabulated. (b) The election superintendent shall ensure that each precinct notifies the election superintendent of the number of ballots cast and number of provisional ballots cast as soon as possible after the time for the closing of the polls and the last elector votes. The election superintendent shall post such information publicly."

#### **SECTION 17.**

Said chapter is further amended by revising subsection (a) of Code Section 21-2-437, relating to procedure as to count and return of votes generally and void ballots, as follows:

"(a) After the polls close and as soon as all the ballots have been properly accounted for and those outside the ballot box as well as the voter's certificates, numbered list of voters, and electors list have been sealed, the poll officers shall open the ballot box and take therefrom all ballots contained therein. In primaries in which more than one ballot box is used, any ballots or stubs belonging to another party holding its primary in the same polling place shall be returned to the ballot box for the party for which they were issued. In primaries, separate tally and return sheets shall be prepared for each party, and separate poll officers shall be designated by the chief manager to count and tally each party's ballot. Where the same ballot box is being used by one or more parties, the ballots and stubs shall first be divided by party before being tallied and counted. The ballots shall then be counted one by one and a record made of the total number. Then the chief manager, together with such assistant managers and other poll officers as the chief manager may designate, under the scrutiny of one of the assistant managers and in the presence of the other poll officers, shall read aloud the names of the candidates marked or written upon each ballot, together with the office for which the person named is a candidate, and the answers contained on the ballots to the questions submitted, if any; and the other assistant manager and clerks shall carefully enter each vote as read and keep account of the same in ink on a sufficient number of tally papers, all of which shall be made at the same time. All ballots, after being removed from the box, shall be kept within the unobstructed view of all persons in the voting room until replaced in the box. No person, while handling the ballots, shall have in his or her hand any pencil, pen, stamp, or other means of marking or spoiling any ballot. The poll officers shall immediately proceed to canvass and compute the votes cast and shall not adjourn or postpone the canvass or computation until it shall have been fully completed, ~~except that, in the discretion of the superintendent, the poll officers may stop the counting after all contested races and questions are counted, provided that the results of these contested races and questions are posted for the information of the public outside the polling place and the ballots are returned to the ballot box and deposited with the superintendent until counting is resumed on the following day.~~"

#### **SECTION 18.**

Said chapter is further amended by revising Code Section 21-2-492, relating to computation and canvassing of returns, notice of when and where returns

will be computed and canvassed, blank forms for making statements of returns, and swearing of assistants, as follows:

"21-2-492. The superintendent shall arrange for the computation and canvassing of the returns of votes cast at each primary and election at his or her office or at some other convenient public place at the county seat or municipality following the close of the polls on the day of such primary or election with accommodations for those present insofar as space permits. An interested candidate or his or her representative shall be permitted to keep or check his or her own computation of the votes cast in the several precincts as the returns from the same are read, as directed in this article. The superintendent shall give at least one week's notice prior to the primary or election by publishing same in a conspicuous place in the superintendent's office, of the ~~time and~~ place ~~when and~~ where he or she will commence and hold his or her sessions for the computation and canvassing of the returns; and he or she shall keep copies of such notice posted in his or her office during such period. The superintendent shall procure a sufficient number of blank forms of returns made out in the proper manner and headed as the nature of the primary or election may require, for making out full and fair statements of all votes which shall have been cast within the county or any precinct therein, according to the returns from the several precincts thereof, for any person voted for therein, or upon any question voted upon therein. The assistants of the superintendent in the computation and canvassing of the votes shall be first sworn by the superintendent to perform their duties impartially and not to read, write, count, or certify any return or vote in a false or fraudulent manner."

#### SECTION 19.

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

"(a) The superintendent shall, ~~at or before 12:00 Noon~~ after the close of the polls on the day following the of a primary or election, at his or her office or at some other convenient public place at the county seat or in the municipality, of which due notice shall have been given as provided by Code Section 21-2-492, publicly commence the computation and canvassing of the returns and continue ~~the same until~~ all absentee ballots received by the close of the polls, including those cast by advance voting, and all ballots cast on the day of the primary

or election have been counted and tabulated and the results of such tabulation released to the public and, then, continuing with provisional ballots as provided in Code Sections 21-2-418 and 21-2-419 and those absentee ballots as provided in subparagraph (a)(1)(G) of Code Section 21-2-386 from day to day until completed. For this purpose, the superintendent may organize his or her assistants into sections, each of ~~which~~ whom may simultaneously proceed with the computation and canvassing of the returns from various precincts of the county or municipality in the manner provided by this Code section. Upon the completion of such computation and canvassing, the superintendent shall tabulate the figures for the entire county or municipality and sign, announce, and attest the same, as required by this Code section."

#### **SECTION 20.**

Said chapter is further amended in Article 15, relating to miscellaneous offenses, by adding a new Code section to read as follows:

"21-2-568.1. (a) Except while providing authorized assistance in voting under Code Section 21-2-409, no person shall intentionally observe an elector while casting a ballot in a manner that would allow such person to see for whom or what the elector is voting. (b) Any person who violates the provisions of subsection (a) of this Code section shall be guilty of a felony."

#### **SECTION 21.**

Article 1 of Chapter 13 of Title 50 of the Official Code of Georgia Annotated, relating to general provisions regarding administrative procedure, is amended by revising subsection (b) of Code Section 50-13-4, relating to procedural requirements for adoption, amendment, or repeal of rules, emergency rules, limitation on action to contest rule, and legislative override, as follows:

"(b) If any agency finds that an imminent peril to the public health, safety, or welfare, including but not limited to, summary processes such as quarantines, contrabands, seizures, and the like authorized by law without notice, requires adoption of a rule upon fewer than 30 days' notice and states in writing its reasons for that finding, it may proceed without prior notice or hearing or upon any abbreviated notice and hearing that it finds practicable to adopt an emergency rule. Any such rule adopted relative to a public health emergency shall be submitted as promptly as reasonably practicable to the House of Representatives and Senate Committees on Judiciary, provided that

any such rule adopted relative to a public health emergency by the State Election Board shall be submitted as soon as practicable but not later than 20 days prior to the rule taking effect. Any emergency rule adopted by the State Election Board pursuant to the provisions of this subsection may be suspended upon the majority vote of the House of Representatives or Senate Committees on Judiciary within ten days of the receipt of such rule by the committees. The rule may be effective for a period of not longer than 120 days but the adoption of an identical rule under paragraphs (1) and (2) of subsection (a) of this Code section is not precluded; provided, however, that such a rule adopted pursuant to discharge of responsibility under an executive order declaring a state of emergency or disaster exists as a result of a public health emergency, as defined in Code Section 38-3-3, shall be effective for the duration of the emergency or disaster and for a period of not more than 120 days thereafter."

#### SECTION 22.

This Act shall be severable in accordance with Code Section 1-1-3.

#### SECTION 23.

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

#### SPONSOR'S RATIONALE

Currently, Georgians are able to vote absentee by mail without providing any reason or excuse for doing so.<sup>5</sup> S.B. 241 would change the current no-excuse absentee voting system by requiring a specified excuse such as being above the age of 65, being physical disabled or taking care of someone who is physically disabled, being in observance of a religious holiday, or being a military or overseas voter.<sup>6</sup> According to Sponsors of the Bill, such as the Georgia Republican Senate Caucus, the changes were prompted because, "[r]ecently, many ... citizens have expressed a lack of faith and integrity in [Georgia's] current election systems."<sup>7</sup> Moreover, in announcing this bill as a way to secure elections, the Caucus stated that it "heard these concerns voiced by many, and addressing these concerns has

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<sup>5</sup> Jewel Wicker, *Here's What's Going On With Voting Legislation in Georgia And Why Opponents Say It's Clear "Voter Suppression"*, ATLANTA MAG. (Mar. 11, 2021), <https://www.atlantamagazine.com/news-culture-articles/heres-whats-going-on-with-voting-legislation-in-georgia-and-why-opponents-say-its-clear-voter-suppression/>.

<sup>6</sup> *Id.*

<sup>7</sup> Maggie Lee, *New Round Starting In Battle Over Georgia Election Bills*, SAPORTA REP. (Feb. 24, 2021, 12:19 PM), <https://saportareport.com/new-round-starting-in-battle-over-georgia-election-bills/sections/reports/maggie/>.

been at the forefront of [its] legislative efforts this year to promote the good of this state.”<sup>8</sup> Sponsors of this Bill, such as Senator Mike Dugan, would thus seek to stop no-excuse absentee voting and to require voters to provide a reason for voting by absentee or mail-in ballot.<sup>9</sup>

An unusual election, in which Georgia voting unprecedentedly shifted along party lines, largely inspired these concerns.<sup>10</sup> That, in combination with the uprise in absentee votes during the COVID-19 pandemic, led to cause for concern about the potential for fraudulent absentee votes and a need for stronger security in elections.<sup>11</sup> Senator Larry Walker stated that Republicans “don’t want to put obstacles in the way of legitimate people voting, but I think it’s so important that we have security in the vote.”<sup>12</sup> By “doing away with no-excuse absentee voting, requiring absentee voter ID, restricting the locations of ballot drop boxes, and limiting the hours for early voting,” the Bill’s sponsors believe that the “integrity of elections will be protected” and faith will be restored “in the voting process amongst constituents.”<sup>13</sup>

To further expound, Georgians have been voting via no-excuse absentee ballots for over fifteen years.<sup>14</sup> The sponsors of the bill, however, have sought to change this after “Georgia voters recently elected a Democratic president for the first time in nearly thirty years, along with not one but two Democratic U.S. Senators” which thereby gave rise to concerns about the electoral process and the security thereof.<sup>15</sup> Following these concerns over the “public’s confidence in elections” that were posed by the “record turnout [that] led to Democratic wins in Georgia’s presidential election and two U.S. Senate runoffs,” primarily Republic lawmakers have thereby sought to impose new voting restrictions in Georgia.<sup>16</sup> These

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<sup>8</sup> *Id.*

<sup>9</sup> Stephen Fowler & David Armstrong, *Georgia Senate Republicans Pass Bill to End No-Excuse Absentee Voting*, NPR (Mar. 8, 2021, 6:07 PM), <https://www.npr.org/2021/03/08/974985725/georgia-senate-republicans-pass-bill-to-end-no-excuse-absentee-voting>.

<sup>10</sup> Wicker, *supra* note 5.

<sup>11</sup> *Id.*

<sup>12</sup> *Id.*

<sup>13</sup> *Id.*

<sup>14</sup> Stephen Fowler & David Armstrong, *16 Years Later, Georgia Lawmakers Flip Views on Absentee Voting*, GPB (Mar. 7, 2021, 8:00 AM), <https://www.gpb.org/news/2021/03/07/16-years-later-georgia-lawmakers-flip-views-on-absentee-voting>.

<sup>15</sup> Wicker, *supra* note 5.

<sup>16</sup> Ben Nadler & Anila Yoganathan, *Georgia House Passes GOP Bill Rolling Back Voting Access*, AP NEWS (Mar. 1, 2021), <https://apnews.com/article/senate-elections-bills-legislation-elections-georgia-842d9ad16a78901322f4b952f6c0d8dd>.

proponents have already successfully done so with the passage of House Bill 531, on March 1, 2021, which imposed “photo ID requirements for absentee voting, limit[ed] the amount of time voters have to request an absentee ballot, and restrict[ed] where ballot drop boxes could be located.”<sup>17</sup>

Proponents of this Bill intend to extend these voting-restrictions in order to restore “public confidence” with S.B. 241.<sup>18</sup> Furthermore, the trend towards requiring an excuse for an absentee or mail-in ballot is not entirely unprecedented because twenty states already require a valid reason in order to vote by absentee or mail-in ballot.<sup>19</sup> Each of these states, however, make exceptions for absentee voting “by electors who are unable to vote in person due to a physical disability.”<sup>20</sup> Additionally, the majority of these states also “allow electors to vote absentee if they will be away from their town or precinct during all hours of voting or their religious beliefs prevent secular activity on election day.”<sup>21</sup> Specifically, and in line with these states and the prior legislation, the proponents of S.B. 241 seek to limit the acceptable reasons for submitting an absentee ballot in the following manner:

Instead of allowing anyone to request and vote an absentee ballot, the [B]ill would limit it to those over 65, are physically disabled, required to be outside their voting precinct during the three-week in person early voting period and election day, have a religious holiday fall on election day, works in elections, or is a military or overseas absentee voter.<sup>22</sup>

By requiring voters to provide an excuse to submit an absentee or mail-in vote, sponsors of the Bill provide that it will reduce the overall

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<sup>17</sup> *Id.*

<sup>18</sup> Riley Bunch, *Georgia Senate Votes to Eliminate No-Excuse Absentee Voting*, VALDOSTA DAILY TIMES (Mar. 8, 2021), [https://www.valdostadailytimes.com/news/ga\\_fl\\_news/georgia-senate-votes-to-eliminate-no-excuse-absentee-voting/article\\_554a5c68-8056-11eb-9dde-ef46cbd767a4.html](https://www.valdostadailytimes.com/news/ga_fl_news/georgia-senate-votes-to-eliminate-no-excuse-absentee-voting/article_554a5c68-8056-11eb-9dde-ef46cbd767a4.html).

<sup>19</sup> Duke Chen, *States That Require a Valid Reason for Absentee Voting*, OLR RES. REP., <https://www.cga.ct.gov/2014/rpt/2014-R-0256.htm> (last visited Nov. 5, 2021).

<sup>20</sup> *Id.*

<sup>21</sup> *Id.*

<sup>22</sup> Stephen Fowler, *Georgia Senate Republicans Pass Bill to End No-Excuse Absentee Voting*, GPB (Mar. 8, 2021, 2:59 PM), <https://www.gpb.org/news/2021/03/08/georgia-senate-republicans-pass-bill-end-no-excuse-absentee-voting>.

“workload on elections officials burdened by so many absentee ballots while also accommodating in-person voters.”<sup>23</sup>

In addition to requiring an excuse for submitting absentee or mail-in ballots, the sponsors of the Bill also seek to require more voter ID verification by having Georgians “provide a driver’s license number, state ID number or other identification.”<sup>24</sup> Sponsors state that these additional requirements will act as safeguards necessary “to restore voter confidence and prevent the possibility of voter fraud...”<sup>25</sup>

#### OPPOSITION’S RATIONALE

Senator Jen Jordan, in opposition to the Bill, argued that “there’s no evidence that our elections aren’t secure, that any of these things are fixes that are actually needed.”<sup>26</sup> Moreover, Senator Jordan argued that “SB 241 creates unnecessary barriers and burdens on voters.”<sup>27</sup> Senator Jordan further argued that “[i]t disproportionately impacts racial minorities, the elderly, those that live in rural Georgia, disabled, and students.”<sup>28</sup> She then asserted that “the motivations are really suspect because it’s introduced immediately after voters of color dramatically increase their use of absentee voting this past year.”<sup>29</sup> Additionally, Senator Elena Parent views the Bill as a response to Former President Donald Trump’s claims about the presidential elections, because it stems “from the ‘Big Lie’ denying the results of the 2020 presidential election.”<sup>30</sup> Likewise, Senator Nikki Merritt stated that “efforts to reduce absentee voting access in SB 241 are based on perceptions, ignoring the reality that the presidential election was accurate.”<sup>31</sup> In addition, Senator Merritt provided that S.B. 241 “is to prevent massive voter turnout from

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<sup>23</sup> Mark Niese & David Wickert, *Georgia Senate Votes to Eliminate No-Excuse Absentee Voting*, THE ATLANTA J. CONST. (Mar. 8, 2021), <https://www.ajc.com/politics/georgia-senate-votes-to-eliminate-no-excuse-absentee-voting/NGQOBV6XB5GGDCCNLTAJFQIDJI/>.

<sup>24</sup> *Id.*

<sup>25</sup> *Id.*

<sup>26</sup> Kayla Goggin, *Georgia Senate Passes New Voting Restrictions*, COURTHOUSE NEWS SERV. (Mar. 8, 2021), <https://www.courthousenews.com/georgia-senate-takes-up-new-voting-restrictions/>.

<sup>27</sup> Quinn Scanlan, *Overcoming Democratic Opposition, Georgia Senate Republicans Advance Bill to End No-Excuse Absentee Voting*, ABC NEWS (Mar. 8, 2021, 5:55 PM), <https://abcnews.go.com/Politics/overcoming-democratic-opposition-georgia-senate-republicans-advance-bill/story?id=76326176>.

<sup>28</sup> *Id.*

<sup>29</sup> *Id.*

<sup>30</sup> Goggin, *supra* note 26.

<sup>31</sup> Niese & Wickert, *supra* note 23.

happening again, especially in minority communities.”<sup>32</sup> Senator Gail Davenport likewise argued that the Bill is about voter suppression, stating it was “not about the process”; instead, she argues that it is “about suppressing the vote of the same group of people, especially me and people who look like me.”<sup>33</sup>

Notably, Governor Brian Kemp, House Speaker David Ralston, and Lieutenant Governor Geoff Duncan also “do not support curbing mail-in voting.”<sup>34</sup> According to Macy McFall, Duncan’s Deputy Chief of Staff and Communications Director, “Lieutenant Governor Duncan has been crystal clear that he does not support the rollback of no-excuse absentee voting in Georgia, which currently is included in S.B. 241.”<sup>35</sup> Duncan’s deputy chief of staff further stated that Lieutenant Governor Duncan “staunchly opposes that provision.”<sup>36</sup> Lieutenant Governor Duncan therefore decided not to preside over the debate over S.B. 241 due to his staunch opposition to the Bill.<sup>37</sup> Similarly, House Speaker David Ralston has indicated that he “may not support any legislative moves to require Georgians to give specific reasons for requesting mail-in ballots.”<sup>38</sup> Likewise, the American Civil Liberties Union of Georgia openly states the “ACLU of Georgia’s Position [on S.B. 241]: OPPOSE.”<sup>39</sup>

Essentially, much of the opposition to S.B. 241 wants to retain no-excuse absentee or mail-in voting and provides that not requiring a reason to submit an absentee ballot or mail-in ballot “makes voting more accessible to particular demographics, that it reduces the cost of elections, and that best practices exist for preventing fraud and improving reliability.”<sup>40</sup> Opponents of the Bill further argue that S.B. 241 is a voter suppression tactic and that “the legislation is nothing more than a backlash to high Democratic and Black turnout in the 2020 election and January runoffs, which saw Georgia elect a

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<sup>32</sup> *Id.*

<sup>33</sup> Scanlan, *supra* note 27.

<sup>34</sup> Fowler & Armstrong, *supra* note 9.

<sup>35</sup> Scanlan, *supra* note 27.

<sup>36</sup> *Id.*

<sup>37</sup> *Id.*

<sup>38</sup> Beau Evans, *Georgia House Speaker Ralston Not Keen to End No-Excuse Absentee Voting in Georgia*, THE AUGUSTA CHRON. (Jan. 7, 2021), <https://www.augustachronicle.com/story/news/politics/elections/2021/01/07/georgia-house-speaker-david-ralston-wary-no-excuse-absentee-voting-georgia/6585723002/>.

<sup>39</sup> *SB 241 - Senate Omnibus Anti-Voter Rights Bill*, ACLU GA., <https://acluga.org/sb241/> (last visited Nov. 5, 2021).

<sup>40</sup> *Arguments for and Against No-Excuse Absentee/Mail-In Voting*, BALLOTPEDIA, [https://ballotpedia.org/Arguments\\_for\\_and\\_against\\_no-excuse\\_absentee/mail-in\\_voting](https://ballotpedia.org/Arguments_for_and_against_no-excuse_absentee/mail-in_voting) (last visited Dec. 5, 2021).

Democratic president for the first time in nearly three decades and send two Democrats to the senate.”<sup>41</sup>

#### IMPLICATIONS IN GEORGIA

S.B. 241 has four primary implications in Georgia: (1) the Bill would end no-excuse absentee voting; (2) the Bill would limit the ability to request and submit absentee or mail-in ballots; (3) the Bill would implement more voter ID requirements; and (4) the Bill would decrease the number of overall absentee or mail-in ballots as well as the number of those eligible to request and submit absentee or mail-in ballots.<sup>42</sup> Moreover, S.B. 241 also would change the process for verifying absentee ballots; rather than a “subjective signature match process” to apply for or return an absentee ballot, voters would need to include their driver’s license or state ID card number when pursuing and returning their absentee ballot.<sup>43</sup> In addition, “[v]oters without these forms of identification would have to submit a photocopy of another form of accepted ID, as well as provide the last four digits of their Social Security number and their date of birth.”<sup>44</sup> Furthermore, to qualify:

[V]oters qualifying for an absentee ballot would have to be 65 years old or older, absent from their precinct, observing a religious holiday, required to provide constant care for someone with a physical disability, required to work “for the protection of the health, life, or safety of the public during the entire time the polls are open,” or be an overseas or military voter.<sup>45</sup>

Thereby, in essence, the implications of S.B. 241 are an increase in Voter ID requirements, a new prerequisite to provide an acceptable excuse from the above list to submit an absentee or mail-in vote, and a resulting reduction in the number and eligibility of absentee voters.<sup>46</sup>

Furthermore, S.B. 241 would make Georgia a minority state in that Georgia would no longer be following the majority no-excuse absentee voting system and would be implementing restrictions that are not used by a

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<sup>41</sup> Kayla Goggin, *Georgia Senate Passes New Voting Restrictions*, COURTHOUSE NEWS SERV. (Mar. 8, 2021), <https://www.courthousenews.com/georgia-senate-takes-up-new-voting-restrictions/>.

<sup>42</sup> Scanlan, *supra* note 27.

<sup>43</sup> *Id.*

<sup>44</sup> *Id.*

<sup>45</sup> Goggin, *supra* note 41.

<sup>46</sup> *Id.*

majority of the states.<sup>47</sup> Adopting the aforementioned system thereby would discontinue its current status as “one of 34 states that does not require an excuse to vote by mail and one of 19 states that conducts signature verification of absentee applications.”<sup>48</sup> Additionally, the photo ID requirements imposed would place Georgia in an even more acute minority position since “only two [other] states, Alabama and Arkansas, require photo ID to be submitted with the actual ballot.”<sup>49</sup> Moreover, as noted by other states and public interest groups such as the American Civil Liberties Union of Virginia, there can be unintended implications of the Bill; for example, if no-excuse absentee voting is limited “to in-person only, qualified voters may be excluded from participating based upon a lack of readily accessible transportation, geography, income status, physical disabilities, and the constraints of modern-day individuals and families.”<sup>50</sup> Lastly, these new restrictions would be some of the most robust restrictions on voting in Georgia since the Reconstruction Era and may have unintended effects or consequences yet unknown.<sup>51</sup>

As seen with Senate Bill 202, a similar bill, the new requirements set out by S.B. 241 may also spark an onset of litigation if it passes.<sup>52</sup> S.B. 202 created a new set of requirements and limitations for absentee voting.<sup>53</sup> Directly “[f]ollowing the passage of S.B. 202 in March 2021, a flurry of lawsuits were filed by various voting and civil rights groups, individual voters, and the U.S. Department of Justice challenging the Bill.”<sup>54</sup> All of

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<sup>47</sup> Stephen Fowler, *New Omnibus Georgia Senate Proposal Would Severely Restrict Absentee Voting*, GPB NEWS (Feb. 24, 2021, 8:03 AM), <https://www.gpb.org/news/2021/02/24/new-omnibus-georgia-senate-proposal-would-severely-restrict-absentee-voting>.

<sup>48</sup> *Id.*

<sup>49</sup> *Id.*

<sup>50</sup> *ACLU-VA Urges Lawmakers to Support No-Excuse Absentee Voting*, ACLU VA. (Jan. 16, 2019, 12:00 PM), <https://acluva.org/en/news/aclu-va-urges-lawmakers-support-no-excuse-absentee-voting>.

<sup>51</sup> Press Release, Chatham Cty. Democratic Comm., Chatham Cty. Democratic Press Conference on H.B. 531 & S.B. 241, [https://www.facebook.com/watch/live/?ref=watch\\_permalink&v=428690364875127](https://www.facebook.com/watch/live/?ref=watch_permalink&v=428690364875127) (last visited Apr. 13, 2022).

<sup>52</sup> *Cf. Court Allows Lawsuits Challenging Georgia Voter Suppression Law to Proceed*, DEMOCRACY DOCKET (Dec. 9, 2021), <https://www.democracydocket.com/alerts/court-allows-lawsuits-challenging-georgia-voter-suppression-law-to-proceed/>.

<sup>53</sup> *Id.*

<sup>54</sup> *Id.* See also *New Ga. Project v. Raffensperger*, 976 F.3d 1278 (11th Cir. 2020) (plaintiffs claiming that new Voter ID verification requirements and limits on absentee ballots violate Section 2 of the Voting Rights Act and the Fourteenth Amendment); see also *Ga. State Conference of the NAACP v. Raffensperger*, 2021 WL 6495894 (N.D. Ga. 2021) (challenging provisions of S.B. 202, such as voter ID verification requirements and

these cases focus on the provisions of S.B. 202 that affect absentee voting such as “new identification requirements for absentee voting, limits on the use of absentee drop boxes, and restrictions on the collection of absentee ballots...”<sup>55</sup> In particular, the ACLU, Southern Poverty Law Center, and NAACP Legal Defense and Educational Fund, Inc. argue in *Sixth District of the African Methodist Episcopal Church v. Kemp* that narrowed requirements for requesting and casting an absentee ballot, as well as other provisions of S.B. 202, “violate Section 2 of the Voting Rights Act and infringe on Georgian’s Constitutional rights under the Fourteenth and Fifteenth Amendments.”<sup>56</sup> Due to the similar limitations and requirements that S.B. 241 involves, it seems a likely implication is that S.B. 241 may see a similar “flurry of lawsuits.”<sup>57</sup>

#### LEGISLATIVE GENEALOGY

The Bill was first filed for introduction with the Secretary of the Senate as Senate Hopper on February 23, 2021.<sup>58</sup> Senate read and referred S.B. 241 to the Senate Committee on February 24, 2021.<sup>59</sup> The Senate Committee favorably reported the Bill by substitute on March 3, 2021.<sup>60</sup> Senate read S.B. 241 for the second time on March 5, 2021.<sup>61</sup> The Senate engrossed the Bill on March 8, 2021.<sup>62</sup> On that same day, the Senate tabled S.B. 241 and the Bill was taken from table.<sup>63</sup> Additionally on March 8, 2021, the Senate had their third read and subsequently passed / adopted by substitute the Bill on the same day.<sup>64</sup> On March 9, 2021, the House had their

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new requirements on absentee voting, as in violation of Fourteenth Amendment, Fifteenth Amendment, and Section 2 of the Voting Rights Act); *cf.* Coal. For Good Governance v. Raffensperger, 2020 WL 6106630 (N.D. Ga. 2020) (claiming that the absentee voting provisions of S.B. 202 violate the right to vote).

<sup>55</sup> *Id.*

<sup>56</sup> *Civil Rights Groups Sue Georgia Over New Sweeping Voter Suppression Law*, ACLU (Mar. 30, 2021), <https://www.aclu.org/press-releases/civil-rights-groups-sue-georgia-over-new-sweeping-voter-suppression-law>; *see also* Sixth Dist. of The African Methodist Episcopal Church v. Kemp, 2021 WL 6495360 (N.D. Ga. 2021) (lawsuit challenging new identification provisions for absentee voting and restrictions on the use of absentee drop boxes as in violation of the Fourteenth Amendment and Section 2 of the Voting Rights Act).

<sup>57</sup> DEMOCRACY DOCKET, *supra* note 48.

<sup>58</sup> S.B. 241 Status Sheet, *supra* note 3.

<sup>59</sup> *Id.*

<sup>60</sup> *Id.*

<sup>61</sup> *Id.*

<sup>62</sup> *Id.*

<sup>63</sup> *Id.*

<sup>64</sup> *Id.*

first read of S.B. 241.<sup>65</sup> The House had their second read of the Bill the following day.<sup>66</sup>

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<sup>65</sup> *Id.*

<sup>66</sup> *Id.*