

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION**

SIXTH DISTRICT OF THE AFRICAN  
METHODIST EPISCOPAL CHURCH,  
*et al.*,

*Plaintiffs,*

v.

BRIAN KEMP, Governor of the State  
of Georgia, in his official capacity, *et*  
*al.*,

*Defendants.*

CIVIL ACTION

FILE NO. 1:21-CV-01284-JPB

**STATE DEFENDANTS' MOTION TO DISMISS  
PLAINTIFFS' FIRST AMENDED COMPLAINT**

Defendants Brian Kemp, in his official capacity as Governor of the State of Georgia; Brad Raffensperger, in his official capacity as Secretary of State of Georgia; and the State Election Board and its members Rebecca Sullivan, Sara Tindall Ghazal, Matthew Mashburn, and Anh Le (collectively, "State Defendants") move to dismiss Plaintiffs' claims in their entirety pursuant to Fed. R. Civ. P. 12(b)(1) and (6). In support of this motion, State Defendants rely on their Brief in Support of Motion to Dismiss Plaintiffs' First Amended Complaint, which is filed with this motion.

Respectfully submitted this 7th day of June, 2021.

Christopher M. Carr  
Attorney General  
Georgia Bar No. 112505  
Bryan K. Webb  
Deputy Attorney General  
Georgia Bar No. 743580  
Russell D. Willard  
Senior Assistant Attorney General  
Georgia Bar No. 760280  
Charlene McGowan  
Assistant Attorney General  
Georgia Bar No. 697316  
State Law Department  
40 Capitol Square, S.W.  
Atlanta, Georgia 30334

/s/ Bryan P. Tyson

Bryan P. Tyson  
Special Assistant Attorney General  
Georgia Bar No. 515411  
btyson@taylorenghish.com  
Bryan F. Jacoutot  
Georgia Bar No. 668272  
bjacoutot@taylorenghish.com  
Loree Anne Paradise  
Georgia Bar No. 382202  
lparadise@taylorenghish.com  
**Taylor English Duma LLP**  
1600 Parkwood Circle  
Suite 200  
Atlanta, GA 30339  
Telephone: 678-336-7249

Gene C. Schaerr\*  
Erik Jaffe\*  
H. Christopher Bartolomucci\*  
SCHAERR | JAFFE LLP

1717 K Street NW, Suite 900  
Washington, DC 20006  
Telephone: (202) 787-1060  
Fax: (202) 776-0136  
gschaerr@schaerr-jaffe.com  
\*Admitted *Pro hac vice*

*Counsel for State Defendants*

**CERTIFICATE OF COMPLIANCE**

Pursuant to L.R. 7.1(D), the undersigned hereby certifies that the foregoing State Defendants' Motion to Dismiss Plaintiffs' First Amended Complaint has been prepared in Century Schoolbook 13, a font and type selection approved by the Court in L.R. 5.1(B).

*/s/ Bryan P. Tyson*  
Bryan P. Tyson

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**STATE DEFENDANTS' BRIEF IN SUPPORT OF MOTION TO  
DISMISS PLAINTIFFS' FIRST AMENDED COMPLAINT**

## INTRODUCTION

While Plaintiffs amended their Complaint in response to State Defendants’ Motion to Dismiss—adding nearly 50 additional pages—they did not amend their extreme rhetoric about reasonable changes to Georgia’s election laws. Even after reflection, they continue to make the breathtaking charge that SB 202 is “an attack on democracy itself.” [Doc. 83, ¶ 31].

But the reality of SB 202 is nowhere near this turbocharged rhetoric.<sup>1</sup> SB 202 added opportunities to vote and made meaningful reforms to help ensure the very interests Plaintiffs praise—a “safe and secure” election with “integrity” and continued high turnout. The changes it makes are well within the mainstream of other states’ laws related to elections and are more voting-friendly than laws in many states. But Plaintiffs still ask this Court to advance their agenda by invalidating several provisions of SB 202. But that is not the purview of the courts because the judicial “sphere does not extend to second-guessing and interfering with a State’s reasonable, nondiscriminatory election rules.” *New Ga. Project v. Raffensperger*, 976 F.3d 1278, 1284 (11th Cir. 2020); *see also Munro v. Socialist Workers Party*, 479 U.S. 189, 195-96 (1986).

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<sup>1</sup> Plaintiff AME Church has now abandoned its claims of voting machines switching votes that it criticized in another case. Compare [Doc. 1, ¶ 153] with *Fair Fight Action v. Raffensperger*, Case No. 1:18-cv-05391-SCJ (N.D. Ga.) Amended Complaint, Doc. 41, ¶¶ 23, 102-104.

First, Plaintiffs' Amended Complaint is bloated beyond what the Federal Rules allow as Plaintiffs make claims hoping that something—anything—will stick. But shotgun pleadings are routinely dismissed by the federal courts and this one should be dismissed as well.

Second, Plaintiffs do not have Article III standing to invoke this Court's limited jurisdiction over state election laws because the injury they allege is not certainly impending nor substantially likely to occur, and ultimately rests on a speculative chain of events that neither Plaintiffs nor this Court can say are likely—much less substantially likely—to occur.

But even if this Court reaches the merits, there is no case here. SB 202<sup>2</sup> was the legislature's reasonable update of Georgia election laws. Far from being an "attack on democracy," SB 202 updated Georgia election law "applying the lessons learned from conducting an election in the 2020 pandemic." Ex. A at 6:146-7:148.

This Court should "follow the law as written and leave the policy decisions for others," *Ga. Ass'n of Latino Elected Officials, Inc. v. Gwinnett Cty. Bd. of Reg. & Elections*, No. 1:20-CV-01587, 2020 U.S. Dist. LEXIS 211736, at \*4 (N.D. Ga. Oct. 5, 2020) ("*GALEO*"), and dismiss this case.

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<sup>2</sup> A copy of SB 202 is attached as Exhibit A, with references to page and line numbers.

## ARGUMENT AND CITATION OF AUTHORITY

Plaintiffs ask this Court to nullify eight components of Georgia’s new election law on a variety of grounds. *See generally* [Doc. 83]. Because Plaintiffs challenge a variety of practices, this brief first considers jurisdiction, explains the legal standards, and then considers the challenged practices individually.

The pertinent legal standards are clear: Where a motion to dismiss is brought pursuant to FRCP 12(b)(1), the Court is not limited to the four corners of the Complaint to adequately satisfy itself of jurisdiction over the matter. *Eaton v. Dorchester Dev., Inc.*, 692 F.2d 727, 732 n.9 (11th Cir. 1982). In evaluating a 12(b)(1) motion, “no presumptive truthfulness attaches to plaintiff’s allegations.” *Id.* And, to survive a motion to dismiss under FRCP 12(b)(6), a complaint must “state a claim to relief that is plausible on its face.” *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007). The complaint must demonstrate “more than a sheer possibility that a defendant has acted unlawfully.” *Ashcroft v. Iqbal*, 556 U.S. 662, 677 (2009). While this Court must assume the veracity of well-pleaded factual allegations, it is not required to accept legal conclusions “couched as [] factual allegation[s].” *Id.* at 678-79. This Court may consider any matters appropriate for judicial notice. *Tellabs, Inc. v. Makor Issues & Rights, Ltd.*, 551 U.S. 308, 322 (2007). Application of these settled standards requires dismissal.



**I. Plaintiffs’ Amended Complaint is an improper shotgun pleading.**

Fed. R. Civ. P. 8(a)(2) requires that a complaint provide a “short and plain statement of the claim showing that the pleader is entitled to relief.” This requirement is necessary so that the defendants can “frame a responsive pleading.” *Barmapov v. Amuial*, 986 F.3d 1321, 1324 (11th Cir. 2021) (quoting *Weiland v. Palm Beach Cty. Sheriff’s Off.*, 792 F.3d 1313, 1320 (11th Cir. 2015)). Plaintiffs’ first complaint was 91 pages and 268 paragraphs and State Defendants responded to it. [Docs. 1, 74]. Their new complaint adds 48 pages and 108 paragraphs. [Doc. 83].

The Amended Complaint (1) contains seven counts, each of which adopts the allegations of all preceding counts; (2) includes hundreds of paragraphs of “conclusory, vague, and immaterial facts”<sup>3</sup>; and (3) asserts seven counts against dozens of defendants without specifying which of the defendants are responsible for each count. [Doc. 83]. As a result, it is an improper shotgun pleading and should be dismissed. *See Barmapov*, 986 F.3d at 1324-25.

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<sup>3</sup> Examples include discussions of “white primaries” and history dating back more than 140 years, [Doc. 83, ¶¶ 143-146]—despite the Eleventh Circuit’s instruction that history cannot ban a “legislature from ever enacting otherwise constitutional laws about voting.” *Greater Birmingham Ministries v. Sec’y of Ala.*, 992 F.3d 1299, 1325 (11th Cir. 2021) (“*GBM*”). Plaintiffs further include paragraphs on list maintenance, deadlines, and redistricting that they do not challenge; bills in other states; and long lines in the first pandemic election. [Doc. 83, ¶¶ 157, 160-163, 167, 181, 225, 307-308].

## II. Plaintiffs do not have standing.

Another ground for dismissal is lack of standing. “Federal courts are not ‘constituted as free-wheeling enforcers of the Constitution and laws.’” *Wood v. Raffensperger*, 981 F.3d 1307, 1313 (11th Cir. 2020) (quoting *Initiative & Referendum Inst. v. Walker*, 450 F.3d 1082, 1087 (10th Cir. 2006)). “To have a case or controversy, a litigant must establish that he has standing.” *Jacobson v. Fla. Sec. of State*, 974 F.3d 1236, 1245 (11th Cir. 2020).

To demonstrate standing at the pleading stage of the litigation, Plaintiffs must allege “(1) an injury in fact that (2) is fairly traceable to the challenged action of the defendant and (3) is likely to be redressed by a favorable decision.” *Jacobson*, 974 F.3d at 1245. The party invoking federal jurisdiction bears the burden of establishing standing at the beginning and at each phase. *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 561, 570 n.5 (1992); see also *Johnson v. Bd. of Regents*, 263 F.3d 1234, 1267 (11th Cir. 2001). Plaintiffs, moreover, must show a concrete and particularized injury. *Wood*, 981 F.3d at 1314 (citing *Trichell v. Midland Credit Mgmt., Inc.*, 964 F.3d 990, 996 (11th Cir. 2020)). And there must be a substantial risk of injury, or the alleged injury must be “certainly impending.” *Clapper v. Amnesty Int’l USA*, 568 U.S. 398, 401 (2013).

Even assuming at least one of the Plaintiff organizations can establish an injury either by (1) showing they diverted resources in response to the

purportedly illegal acts of State Defendants, or (2) “stepping in the shoes” of its members, they cannot show the alleged injury prompting that diversion or affecting members is “certainly impending” or substantially likely to occur.

**A. Plaintiffs have not alleged their purported injuries are certainly impending.**

“When a plaintiff seeks prospective relief to prevent a future injury, it must establish that the threatened injury is certainly impending.” *Indep. Party of Fla. v. Sec’y, State of Fla.*, 967 F.3d 1277, 1280 (11th Cir. 2020). “[A]llegations of *possible* future injury are not sufficient.” *Clapper*, 568 U.S. at 409. “Nor is a ‘realistic threat,’ *Summers v. Earth Island Inst.*, 555 U.S. 488, 499– 500 (2009), [or] an ‘objectively reasonable likelihood’ of harm,” *Anderson v. Raffensperger*, No. 1:20-cv-03263, 2020 U.S. Dist. LEXIS 188677, at \*15 (N.D. Ga. Oct. 13, 2020) (quoting *Clapper*, 568 U.S. at 410). And while “the Supreme Court has said that literal certainty is not uniformly required,” “[t]he required showing is ultimately a matter of degree.” *Id.* (cleaned up). In the end, “[h]ow likely is enough is necessarily a qualitative judgment.” *Fla. State Conference of N.A.A.C.P. v. Browning*, 522 F. 3d 1153, 1161 (11th Cir. 2008).

In this instance, Plaintiff’s Amended Complaint fails to establish standing because any potential injury faced by the organizations or their members is based solely on a “highly attenuated chain of possibilities,”

*Clapper*, 568 U.S. at 410. Indeed, even when Plaintiffs amended their Complaint and added new parties, they failed to adequately allege any *certainly impending* injury. Each Plaintiff only claims it is necessary they take measures *at some point in the future* to ameliorate a possible future injury. But these claims rest on assumptions that have not yet, and may never, occur.

Plaintiff AME Church, for example, claims it “will have to divert more time, money and other resources,” as a result of SB 202. [Doc. 83 ¶ 34]. Elsewhere, AME Church routinely claims only that *future* diversions or limitations will occur. *Id.* at ¶¶ 35-39. Not only are these purported diversions set to take place at some unknown time, they are also based upon purported effects of SB 202 that may never actually take place, for example: “AME Church *anticipates* that there will be more inquiries from pastors and members relating to SB 202, which *will mean* that AME Church *will be able* to devote less time to its other work.” *Id.* at ¶ 38 (emphasis added).

Allegations that AME Church will at some point expend some resources it otherwise would not have are not sufficient to afford Article III standing. But even if AME Church had already incurred the purported future expenses they claim they will incur, it cannot use its subjective fears of future injury as a means to manufacture standing. “[I]f the hypothetical harm is not ‘certainly impending,’ or there is not a substantial risk of the harm, a plaintiff cannot

conjure standing by inflicting some direct harm on itself to mitigate a perceived risk.” *Tsao v. Captiva MVP Rest. Partners, LLC*, 986 F. 3d 1332, 1339 (11th Cir. 2021) (quoting *Clapper*, 568 U.S. at 416).

The above analysis, which precludes AME Church from continuing its claims beyond the pleading stage of litigation, applies equally to the remaining Plaintiffs. GAMVP is susceptible to the very same jurisdictional shortcomings [Doc. 83, ¶¶ 40–46]. As are Plaintiffs WWA, *id.* at ¶¶ 47–52; LCF Georgia, *id.* at ¶¶ 53–58; Delta Sigma Theta Sorority, *id.* at ¶¶ 59–66; Georgia ADAPT, *id.* at ¶¶ 67–69; Georgia Advocacy Office, *id.* at ¶¶ 70–78; The Arc, *id.* at ¶¶ 79–84; and Southern Christian Leadership Conference, *id.* at ¶¶ 85–92. For these reasons, dismissal is required as to all Plaintiffs.

**B. Plaintiffs challenge processes that are neither traceable to nor redressable by State Defendants.**

Even if this Court found that Plaintiffs have diverted resources sufficient to establish an injury, many of Plaintiffs’ claims should be dismissed anyway because they cannot establish that the alleged injuries are traceable to State Defendants. To satisfy the causation requirement of standing, a plaintiff’s injury must be “fairly traceable to the challenged action of the defendant, and not the result of the independent action of some third party not before the court.” *Lujan*, 504 U.S. at 560. Many of Plaintiffs’ claims relate to “long lines”

at polling places, [Doc. 83, ¶¶ 296-298, 302-312], but these are outside the scope of State Defendants’ authority and, thus, this Court’s capacity to redress. *See Anderson*, 2020 U.S. Dist. LEXIS 188677, at \*61.

### **III. Plaintiffs fail to state a claim on which relief can be granted.**

#### **A. Relevant legal standards.**

##### *1. Section 2 of the Voting Rights Act (Count I)*

Section 2 of the Voting Rights Act prohibits jurisdictions from “impos[ing] or appl[y]ing” any “voting qualification or prerequisite to voting or standard, practice, or procedure . . . which results in a denial or abridgement of the right of any citizen of the United States to vote on account of race or color[.]” 52 U.S.C. § 10301(a). “This analysis turns on whether, based on the totality of the circumstances, the challenged law violates Section 2(a) because it deprives minority voters of an equal opportunity to participate in the electoral process *and* to elect representatives of their choice.” *GBM*, 992 F.3d at 1329 (emphasis in original). To make out a valid vote-denial<sup>4</sup> claim, the Eleventh Circuit requires (1) proof of disparate impact (a law results in a denial or abridgement) and (2) that the disparate impact is *caused* by racial bias. *Id.*;

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<sup>4</sup> Vote-denial claims challenge specific election practices. *League of Women Voters of N.C. v. North Carolina*, 769 F.3d 224, 239 (4th Cir. 2014); *Veasey v. Abbott*, 830 F.3d 216, 244 (5th Cir. 2016).

see also *Northeast Ohio Coal. for the Homeless v. Husted*, 837 F.3d 612, 626-27 (6th Cir. 2016); *Dem. Nat’l Comm. v. Hobbs*, 948 F.3d 989, 1012 (9th Cir. 2020); *Veasey*, 830 F.3d at 243-245; *League of Women Voters*, 769 F.3d at 240.

2. *Intentional racial discrimination (Counts I and II).*

Plaintiffs bring two intentional-discrimination counts: one under the Voting Rights Act and one under both the Equal Protection Clause of the Fourteenth Amendment and the Fifteenth Amendment. [Doc. 83, ¶¶ 329-337]. Plaintiffs must allege first that “the State’s decision or act had a discriminatory purpose and effect. . . . If Plaintiffs are unable to establish both intent *and* effect, their constitutional claims fail.” *GBM*, 992 F.3d at 1321 (cleaned up and emphasis in original). Only if Plaintiffs establish that the State’s act had a discriminatory intent or effect does “the burden shift[] to the law’s defenders to demonstrate that the law would have been enacted without this [racial-discrimination] factor.” *Id.* quoting *Hunter v. Underwood*, 471 U.S. 222, 228 (1985); see also *Johnson v. Governor of Fla.*, 405 F.3d 1214, 1222 (11th Cir. 2005). Courts use the multi-factor approach of *Village of Arlington Heights v. Metro. Hous. Dev. Corp.*, 429 U.S. 252, 266 (1977), to assess intent and effect. *GBM*, 992 F.3d at 1322.

3. *Fundamental right to vote (Count III).*

Plaintiffs challenge eight regulations as facially unconstitutional. But

facial challenges to election practices are disfavored because “the proper [judicial] remedy—even assuming [the law imposes] an unjustified burden on some voters—[is not] to invalidate the entire statute.” *Crawford v. Marion Cty. Election Bd.*, 553 U.S. 181, 203 (2008) (controlling opinion) (cleaned up). Such challenges “must fail where the statute has a plainly legitimate sweep.” *Washington State Grange v. Washington State Republican Party*, 552 U.S. 442, 449 (2008). “Regulations imposing severe burdens on the plaintiffs’ rights must be narrowly tailored and advance a compelling state interest. Lesser burdens, however, trigger less exacting review, and a state’s ‘important regulatory interests’ will usually be enough to justify ‘reasonable nondiscriminatory restrictions.’” *Timmons v. Twin Cities Area New Party*, 520 U.S. 351, 358 (1997) (quoting *Burdick v. Takushi*, 504 U.S. 428, 434 (1992); see also *Anderson v. Celebrezze*, 460 U.S. 780, 789 (1983). Courts distinguish severe burdens from non-severe ones, and ordinary burdens (such as photo identification laws) that “aris[e] from life’s vagaries,” fall into the latter category. *Crawford*, 553 U.S. at 191, 197-98 (controlling opinion). Significantly, lesser burdens impose no burden of proof or evidentiary showing on states. *Common Cause/Ga. v. Billups*, 554 F.3d 1340, 1353 (11th Cir. 2009), see also *Munro*, 479 U.S. at 195.

#### 4. *Freedom of speech/expression (Count IV).*

Plaintiffs bring their challenge to the prohibition against providing



things of value to voters in line as a violation of the First Amendment's protections for "core political speech." [Doc. 83, ¶ 345]. But the prohibition they challenge only applies in a specific location, meaning the First Amendment claim must be evaluated based on the forum. *Minn. Voters All. v. Mansky*, 138 S. Ct. 1876, 1885 (2018); *Int'l Soc. for Krishna Consciousness, Inc. v. Lee*, 505 U. S. 672, 678 (1992). On Election Day, a precinct is "a government-controlled property set aside for the sole purpose of voting." *Mansky*, 138 S. Ct. at 1886. As a result, the sole question is whether the provisions of SB 202 related to food and drink in line are "reasonable in light of the purpose served by the forum': voting." *Id.* (quoting *Cornelius v. NAACP Legal Def. & Educ. Fund*, 473 U. S. 788, 806 (1985)). Further, there is "no requirement of narrow tailoring in a nonpublic forum." *Id.* at 1888.

5. *Disability claims (Counts V and VI).*

Plaintiffs bring two counts under the Rehabilitation Act and the ADA, which "are governed by the same standards." *Goldberg v. Florida International University*, 838 F. App'x 487, 492 (11th Cir. 2020). To prevail, Plaintiffs must prove: "(1) that he is a qualified individual with a disability; (2) that he was excluded from participation in or denied the benefits of a public entity's services, programs, or activities, or was otherwise discriminated against by the public entity; and (3) that the exclusion, denial of benefit, or discrimination

was by reason of the plaintiff's disability." *Am. Ass'n of People with Disabilities v. Harris*, 647 F.3d 1093, 1101 (11th Cir. 2011) (quoting *Bircoll v. Miami-Dade Cty.*, 480 F.3d 1072, 1081 (11th Cir. 2007)). Plaintiffs' disability claims are that the SB 202 changes are discriminatory, that they apply unlawful eligibility criteria to programs, and that they deny equal opportunity to participate in services on account of their disability. [Doc. 83, ¶¶ 353-354, 370-371].

6. *Civil Rights Act claim (Count VII).*

Finally, Plaintiffs claim that requiring identifying information with an absentee ballot, particularly a date of birth, violates the Civil Rights Act. While denying the right to vote based on nonmaterial<sup>5</sup> issues is prohibited, *see* 52 U.S.C. § 10101(a)(2)(B), SB 202 requires notice and an opportunity to cure the defect if the election official is unable to identify the individual. Ex. A at 63:1599-1612. Further, the processing of absentee ballots is not carried out by State Defendants. *Ga. Republican Party, Inc. v. Sec'y of State of Ga.*, No. 20-14741-RR, 2020 U.S. App. LEXIS 39969, at \*6 (11th Cir. Dec. 20, 2020).

**B. Application to particular challenged practices.**

1. *Prohibition on mobile voting.*

Plaintiffs begin with an attack on the limitations placed on mobile-voting

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<sup>5</sup> There are times when a date of birth *is* material—for example, when two voters share the same name and address.

locations, which were utilized by one county for the first time in the 2020 elections to mitigate the effects of the COVID-19 pandemic. [Doc. 83, ¶¶ 246-248]. SB 202 specifically allows mobile voting units when needed in emergency situations, Ex. A at 31:774-778, but the limitations are consistent with other provisions that require specific advance notice of the location of a precinct, not an ever-shifting bus traveling around a county. Ex. A at 30:741-757 (posted notice of change), 60:1525-1535 (notice of early-voting location). Other than a conclusory allegation that limiting mobile units will “unduly and especially burden[] voters of color,” apparently relying on the demographic makeup of Fulton County, [Doc. 83, ¶ 277], Plaintiffs do not identify any disparate impact or burden imposed by limiting an optional system used in an unusual election by one county. Plaintiffs fail to connect this claimed disparate impact of this particular provision of SB 202 with a “denial or abridgement of the right to vote on account of race.” *GBM*, 992 F.3d at 1329. Without meeting this causal requirement, Plaintiffs have failed to state a claim under Section 2.

Further, the State’s regulatory interests in orderly election administration, uniformity, precinct predictability, and voter confidence justify any slight burden on the right to vote by limitations placed on an option one county used on one election, eliminating Plaintiffs’ constitutional claim. *Common Cause*, 554 F.3d at 1354; *Gwinnett Cty. NAACP v. Gwinnett Cty. Bd.*

*of Registration & Elections*, 446 F. Supp. 3d 1111, 1124 (N.D. Ga. 2020).

Finally, even assuming everything in the Complaint is true, Plaintiffs have not sufficiently alleged the factors in *Arlington Heights*, 429 U.S. at 266, as to these changes. The alleged impacts are minimal at best, the history relied on is far distant, the legislation went through normal channels, and the legislature explained exactly what it was doing in the first pages of the bill—and none of the statements by the legislature itself (or any legislator) were racially discriminatory. *Compare* [Doc. 83] and Ex. A, 4:69-7:148 *with GBM*, 992 F.3d at 1321-1328. Georgia’s history does not forbid “its legislature from ever enacting otherwise constitutional laws about voting.” *Id.* at 1325.

Plaintiffs apparently do not challenge this provision as a violation of the First Amendment, the ADA, Rehabilitation Act, or the Civil Rights Act.

## 2. *Identification requirements for requesting absentee ballots.*

Plaintiffs take issue with the use of an identification number for absentee ballot applications.<sup>6</sup> [Doc. 83, ¶¶ 249-254].<sup>7</sup> The General Assembly explained that the prior signature-matching process was subjective and

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<sup>6</sup> Also, at least six other states utilize identification with absentee-ballot applications or ballots. *See* Code of Ala. § 17-9-30(b); A.C.A. § 7-5-412(a)(2)(B) (Arkansas); K.S.A. § 25-1122(c) (Kansas); Minn. Stat. Ann. § 203B.07(3); Ohio Rev. Code Ann. § 3509.03(B), .04(B); Wis. Stat. § 6.87(1).

<sup>7</sup> While mentioning other changes to absentee ballots, Plaintiffs apparently do not challenge those provisions. [Doc. 83, ¶¶ 331, 335, 358, 370].

challenged by both Democratic and Republican groups. Ex. A at 4:73-75. The SB 202 process is objective and includes safeguards for voters who lack identification. Ex. A at 38:949-39:956; 51:1297-52:1305. Plaintiffs allege that there is a disproportionate impact on minority and disabled voters based on rates of usage of absentee voting in one election cycle, [Doc. 83, ¶¶ 278-285], apparently wrongly assuming that a photo ID is required to vote absentee, but the Eleventh Circuit and Supreme Court have already determined there is no unconstitutional burden on the right to vote by requiring photo identification. *Crawford*, 553 U.S. at 181; *GBM*, 992 F.3d at 1320. Thus, even if there is a slight burden, it is more than justified by the state's regulatory interests. SB 202's verification requirement closely matches the voter-identification requirements of federal law when registering to vote by mail, which Plaintiffs do not challenge. *See* 52 U.S.C.S. § 21083(b)(2).

Plaintiffs also do not connect this purported disparate impact, [Doc. 83, ¶¶ 278-285], with “the denial or abridgement of the right to vote on account of race.” *GBM*, 992 F.3d at 1329. Without meeting this causal requirement, Plaintiffs have failed to state a claim under Section 2.

For the reasons stated above in Section B.1., Plaintiffs have not sufficiently alleged intentional discrimination. Further, there is no right to vote in any particular manner, *Burdick*, 504 U.S. at 433, and disabled voters

have multiple options to vote. Making changes to existing absentee processes, while maintaining other accessible options to vote eliminates any claim that disabled voters are being discriminated against by any provision of SB 202. Plaintiffs do not challenge this provision as a violation of the First Amendment.

3. *Identification requirements for casting absentee ballots.*

Plaintiffs make the same complaints about the requirement of using identification for the return of absentee ballots. [Doc. 83, ¶¶ 255-259]. Like the allegations for absentee-ballot applications, Plaintiffs' allegations do not support an "unjustified leap from *the disparate inconveniences* that voters face when voting to *the denial or abridgement of the right to vote*" for purposes of a Section 2 claim. *GBM*, 992 F.3d at 1330 (cleaned up). Plaintiffs have also not alleged any burden on the right to vote that is not justified by the State's regulatory interests, *Crawford*, 553 U.S. at 181, have not sufficiently alleged intentional discrimination based on Section B. 1., and are not challenging these provisions as a violation of the First Amendment.

Further, Plaintiffs have not sufficiently alleged a claim for discrimination under the ADA or Rehabilitation Act because disabled voters still have multiple accessible options to participate. Further, the Civil Rights Act claim fails because rejections are carried out at the county level and there are times when a date of birth is material, dooming their facial challenge.

4. *Parameters on the use of drop boxes.*

Plaintiffs also challenge “restrictions” on outdoor drop boxes, [Doc. 83, ¶¶ 260-267]—a voting method that did not exist in Georgia law prior to SB 202 and was only *optional* in 2020 under an emergency rule designed as a temporary public-health measure due to COVID-19. Ex. A at 5:113-118; Ga. Comp. R. & Regs. r. 183-1-14-0.8-.14; 183-1-14-0.10-.16; 183-1-14-.08-.14; *see also* O.C.G.A. § 50-13-4(b). SB 202 *requires*<sup>8</sup> every county to have at least one drop box and allows them to be moved outside during emergencies. Ex. A at 47:1172-1174, 1188-1191. The sole race-related claim (apart from a conclusory introductory statement) is that Black voters will be deterred because of the in-person surveillance requirements for boxes.<sup>9</sup> [Doc. 83, ¶¶ 288-290]. But there is no right to vote in any particular manner, *see Burdick*, 504 U.S. at 433, and changes<sup>10</sup> to some pieces of voting access, while retaining others, is a minimal burden at best, *see Ohio Democratic Party v. Husted*, 834 F.3d 620, 630 (6th Cir. 2016). And where there are multiple options from which a voter can select, the right to vote is not implicated at all. *See, e.g., New Ga. Project*, 976 F.3d at

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<sup>8</sup> The emergency rules adopted by the State Election Board merely *permitted* a county to establish drop boxes but did not *require* that they have one.

<sup>9</sup> The emergency rules required continuous video surveillance of drop boxes.

<sup>10</sup> Given the large number of locations to drop off mail, which is the primary option for returning absentee ballots, O.C.G.A. § 21-2-385(a) (“personally mail or personally deliver”), there is no elimination of any access in SB 202.

1281. In SB 202, Georgia expanded the number of mandatory early-voting days, maintained no-excuse absentee balloting, and required drop boxes in every county. Plaintiffs still fail to show that the State’s first-ever statutory authorization of drop boxes places any burden whatsoever on the right to vote—the fact that SB 202 arguably may not be as expansive as a temporary emergency rule (which expired before the 2022 election cycle will commence) is more than justified by the State’s regulatory interests. *See Common Cause*, 554 F.3d at 1354; *Gwinnett Cty. NAACP*, 446 F. Supp. 3d at 1124.

The claim of intimidation may be the closest Plaintiffs get to alleging that this claimed disparate impact from this provision of SB 202 “cause[s] the denial or abridgement of the right to vote on account of race.” *GBM*, 992 F.3d at 1329. But they still have not adequately pleaded this requirement and thus have failed to state a claim under Section 2. For the reasons outlined in Section B.1, Plaintiffs have not sufficiently alleged intentional discrimination. And Plaintiffs’ sole disability-discrimination allegation is apparently that drop boxes are required by the ADA and Rehabilitation Act—which is not the law, especially when other accessible options exist. Plaintiffs do not challenge this provision as a violation of the First Amendment or the Civil Rights Act.

5. *Shortening runoff elections.*

Plaintiffs next challenge the shortening of the timeline for runoff



elections. [Doc. 83, ¶¶ 268, 294]. Again, there is nothing unusual about a four-week runoff—this was already the timeline for all runoffs in Georgia before a 2014 change to federal elections after a court decision,<sup>11</sup> and state offices still utilized a four-week runoff after that. O.C.G.A. § 21-2-501(a)(3) and (4) (2020). SB 202 adopted a system similar to that used in Alabama, which uses ranked-choice voting for overseas voters to hold runoffs on the same four-week timeline. *See* Code of Ala. §§ 17-13-8.1 (instant runoff voting ballots); 17-13-18 (runoff on fourth Tuesday after election). Plaintiffs’ only complaint about this change is that it shortens the early-voting period, [Doc. 83, ¶ 268, 294], but SB 202 leaves the current early-voting period for four-week runoffs in place—it just provides for *all* runoffs to be held then. Further, there is no right to early voting and any changes are only minimally burdensome. *Ohio Democratic Party*, 834 F.3d at 631. As a result, the State’s interests in “easing the burden on election officials and on electors,” Ex. A at 5:119-6:122, more than justify the changes. *See Green v. Mortham*, 155 F.3d 1332, 1335 (11th Cir. 1998).

Further, Plaintiffs make only a passing reference to this change having any disparate impact on minority voters, [Doc. 83, ¶ 294], dooming their

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<sup>11</sup> Extended runoffs were required for federal elections due to federal-law requirements for overseas and military voters. *See U.S. v. Georgia*, 892 F. Supp. 2d 1367, 1375 (N.D. Ga. 2012).

Section 2 and intentional-discrimination claims. *See GBM*, 992 F.3d at 1329. Plaintiffs do not challenge this provision as a violation of the First Amendment, the ADA, the Rehabilitation Act, or the Civil Rights Act.

6. *Ban on giving anything of value inside the 150-foot zone.*

Plaintiffs spend a large portion of their Complaint focused on the prohibition on third parties giving anything of value to voters in line. [Doc. 83, ¶¶ 269-270, 296-298, 307-319]. The General Assembly explained that “many groups” approached voters in line during the 2020 elections and clarified the rules around electioneering within 150 feet of a polling place because of the importance of “[p]rotecting electors from improper interference, political pressure, or intimidation while waiting in line to vote.” Ex. A at 6:126-129. Otherwise, offering or approaching voters with things of value almost certainly would be or could be seen as a pretext (or worse) for buying votes or conducting unlawful electioneering.<sup>12</sup> This is not unusual among states—New York has a similar prohibition on providing food or drink to voters, *see* NY CLS Elec § 17-140, and the Supreme Court has recognized that campaign speech can be restricted near polling locations and precincts. *See Mansky*, 138 S. Ct. at 1886;

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<sup>12</sup> Notably, Plaintiffs do not challenge the constitutionality of Georgia’s long-standing bans on electioneering within 150 feet of the polling place or on candidates not being present within 150 feet of a polling place except to vote.

*Burson v. Freeman*, 504 U.S. 191, 193-94 (1992). The important regulatory interests of the state more than justify the minimal burden of a voter not being approached in line with an offer of food from a third party.<sup>13</sup> *Common Cause*, 554 F.3d at 1354; *Gwinnett Cty. NAACP*, 446 F. Supp. 3d at 1124.

The sole allegation of a disparate racial impact related to this provision is that voters of color tend to wait in longer lines. [Doc. 83, ¶¶ 297, 305-319]. But, as noted above, long lines are not an injury traceable to State Defendants. *Anderson*, 2020 U.S. Dist. LEXIS 188677, at \*64. Without this causal connection, the Section 2 claim and intentional-discrimination claims related to the restrictions on providing something of value to voters in line evaporates. *GBM*, 992 F.3d at 1329.

Finally, the First Amendment claims also fail. The sole question about the nonpublic forum of a voting location is whether the goal of “[p]rotecting electors from improper interference, political pressure, or intimidation while waiting in line to vote,” Ex. A at 6:126-129, is “reasonable in light of the purpose served by the forum’: voting.” *Mansky*, 138 S. Ct. at 1886 (quoting *Cornelius*, 473 U.S. at 806). Given the broad protections and context of the

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<sup>13</sup> Voters can still receive water from a cooler stationed within the 150-foot buffer and SB 202 specifically requires election officials to make changes to avoid long lines during in-person voting. Ex. A at 74:1887-1889; 29:721-734.

restriction, it is eminently reasonable—Plaintiffs can approach voters and offer food and water outside 150 feet—and Georgia is not required to find the most narrowly tailored solution. *Id.* at 1888. Plaintiffs have failed to state a claim for relief under the First Amendment. Plaintiffs do not challenge these provisions as violations of the ADA, Rehabilitation Act, or Civil Rights Act.

7. *Parameters for casting out-of-precinct provisional ballots.*

Plaintiffs challenge the limitations placed on out-of-precinct ballots. [Doc. 83, ¶¶ 271-273, 291-293]. But almost half of the States do not count a provisional ballot cast out of precinct at all.<sup>14</sup> Georgia legislators explained that voters who vote out of precinct “add to the burden on election officials and lines for other electors because of the length of time it takes to process a provisional ballot in a precinct” and are prevented from voting “in all elections for which they are eligible,” Ex. A at 6:135-138. The statutory provision also explicitly permits the counting of out-of-precinct ballots for voters who arrive after 5:00 P.M. and cannot get to their home precinct before 7:00 P.M. *Id.* at 75:1914-1919. The sole racial allegation from Plaintiffs is that Black voters are more likely to vote an out-of-precinct ballot because they tend to move within the

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<sup>14</sup> *Provisional Ballots*, National Conference of State Legislatures (September 17, 2020) available at <https://www.ncsl.org/research/elections-and-campaigns/provisional-ballots.aspx#partial>

county more often, [Doc. 83, ¶ 292]—but SB 202 expressly requires the voter to be *directed* to his or her correct precinct if it is before 5:00 P.M. Ex. A at 74:1902-75:1907. Given opportunities to vote ahead of Election Day and after 5:00 P.M. out of precinct on Election Day, any burden is minimal at best and justified by the State’s interests. *Ohio Democratic Party*, 834 F.3d at 630.

Plaintiffs also do not connect this claimed disparate impact from this provision to “the denial or abridgement of the right to vote on account of race.” *GBM*, 992 F.3d at 1329. Without meeting this causal requirement, Plaintiffs have failed to state a claim under Section 2 and for all the reasons outlined in Section B.1., they have not stated an intentional-discrimination claim. For their disability-discrimination claims, Plaintiffs have only alleged that *if* a disabled voter goes to the wrong polling place, it may be difficult to get to the correct polling place. [Doc. 83, ¶ 293]. This is insufficient when multiple other accessible options exist for disabled voters. Plaintiffs do not challenge this provision as a violation of the First Amendment or the Civil Rights Act.

8. *Limitations on absentee ballot assistance.*

Plaintiffs also claim that providing criminal penalties for already-illegal activities is a violation of the ADA and Rehabilitation Act. [Doc. 83, ¶¶ 274, 358, 370]. Plaintiffs’ theory is apparently that, because disabled voters are already violating existing law by having non-family members assist them,

adding a penalty for that conduct is discriminatory. *Id.* at ¶ 301. To the extent this is could even be a valid claim, Plaintiffs have not stated a claim that unlimited assistance for disabled voters is *required* by the ADA or Rehabilitation Act and State Defendants have found no authority supporting that claim. Multiple other accessible options to vote exist for disabled voters in Georgia and Plaintiffs have not stated a claim under these provisions. Plaintiffs do not challenge this provision as a violation of Section 2, the First Amendment, the Civil Rights Act, or as intentionally discriminatory.<sup>15</sup>

9. *Cumulative intentional racial discrimination.*

Finally, Plaintiffs throw in the claim that everything in SB 202 put together is discriminatory. [Doc. 83, ¶¶ 324, 328, 336]. But for all the reasons outlined in Section B.1, Plaintiffs have not sufficiently alleged and pleaded the factors in *Arlington Heights*, 429 U.S. at 266.

## CONCLUSION

SB 202 is a reasonable regulation of election processes—protecting the foundation of democracy by ensuring safe and secure elections. The Court should dismiss this case.

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<sup>15</sup> Plaintiffs also mention in passing that changing timelines for absentee ballots is a violation of these same provisions. [Doc. 83, ¶¶ 358, 370]. But those claims fail for the same reasons.

Respectfully submitted this 7th day of June, 2021.

Christopher M. Carr  
Attorney General  
Georgia Bar No. 112505  
Bryan K. Webb  
Deputy Attorney General  
Georgia Bar No. 743580  
Russell D. Willard  
Senior Assistant Attorney General  
Georgia Bar No. 760280  
Charlene McGowan  
Assistant Attorney General  
Georgia Bar No. 697316  
State Law Department  
40 Capitol Square, S.W.  
Atlanta, Georgia 30334

/s/ Bryan P. Tyson

Bryan P. Tyson  
Special Assistant Attorney General  
Georgia Bar No. 515411  
btyson@taylorenghish.com  
Bryan F. Jacoutot  
Georgia Bar No. 668272  
bjacoutot@taylorenghish.com  
Loree Anne Paradise  
Georgia Bar No. 382202  
lparadise@taylorenghish.com  
**Taylor English Duma LLP**  
1600 Parkwood Circle  
Suite 200  
Atlanta, GA 30339  
Telephone: 678-336-7249

Gene C. Schaerr\*  
Erik Jaffe\*  
H. Christopher Bartolomucci\*  
SCHAERR | JAFFE LLP

1717 K Street NW, Suite 900  
Washington, DC 20006  
Telephone: (202) 787-1060  
Fax: (202) 776-0136  
gschaerr@schaerr-jaffe.com  
\* Admitted *pro hac vice*

*Counsel for State Defendants*



**CERTIFICATE OF COMPLIANCE**

Pursuant to L.R. 7.1(D), the undersigned hereby certifies that the foregoing Brief in Support of State Defendants' Motion to Dismiss Plaintiffs' First Amended Complaint has been prepared in Century Schoolbook 13, a font and type selection approved by the Court in L.R. 5.1(B).

*/s/ Bryan P. Tyson*  
Bryan P. Tyson

# EXHIBIT A

Senate Bill 202

By: Senators Burns of the 23rd, Miller of the 49th, Dugan of the 30th, Ginn of the 47th, Anderson of the 24th and others

**AS PASSED**

A BILL TO BE ENTITLED

AN ACT

1 To comprehensively revise elections and voting; to amend Chapter 2 of Title 21 of the  
2 Official Code of Georgia Annotated, relating to elections and primaries generally, so as to  
3 revise a definition; to provide for the establishment of a voter intimidation and illegal  
4 election activities hotline; to limit the ability of the State Election Board and the Secretary  
5 of State to enter into certain consent agreements, settlements, and consent orders; to provide  
6 that the Secretary of State shall be a nonvoting ex officio member of the State Election  
7 Board; to provide for the appointment, confirmation, term, and removal of the chairperson  
8 of the State Election Board; to revise provisions relating to a quorum of such board; to  
9 require the Secretary of State to support and assist the State Election Board; to provide for  
10 the appointment of temporary and permanent replacement superintendents; to provide for  
11 procedures; to provide for performance reviews of local election officials requested by the  
12 State Election Board or local governing authorities; to provide for a definition; to provide for  
13 appointment and duties of performance review boards; to provide for reports of performance  
14 review boards; to provide for promulgation of rules and regulations; to provide additional  
15 requirements on the State Election Board's power to adopt emergency rules and regulations;  
16 to provide that no election superintendents or boards of registrars shall accept private  
17 funding; to provide that the State Election Board shall develop methods for distribution of  
18 donations; to provide that certain persons may serve as poll workers in other than the county

19 of their residence; to provide for the appointment of acting election superintendents in the  
20 event of a vacancy or incapacitation in the office of judge of the probate court of counties  
21 without a board of elections; to provide for resumption of the duties of election  
22 superintendent upon the filling of such vacancy; to provide for the compensation of such  
23 acting election superintendents; to provide for the reduction in size of certain precincts under  
24 certain circumstances; to provide for notice when polling places are relocated; to provide for  
25 certain reports; to provide limitations on the use of buses and other moveable facilities; to  
26 provide that the name and designation of the precinct appears on every ballot; to provide for  
27 allocation of voting equipment by counties and municipalities; to provide for the manner of  
28 handling the death of a candidate prior to a nonpartisan election; to provide that no candidate  
29 shall take or be sworn into any elected public office unless such candidate has received a  
30 majority of the votes cast for such office except as otherwise provided by law; to provide for  
31 participation in a multistate voter registration system; to revise procedures and standards for  
32 challenging electors; to provide for the printing of ballots on safety paper; to provide for the  
33 time and manner for applying for absentee ballots; to provide for certain limitations and  
34 sanctions on the distribution of absentee ballot applications; to provide for the manner of  
35 processing of absentee ballot applications; to provide for absentee ballot drop boxes and the  
36 requirements therefor; to provide for the time and manner of issuing absentee ballots; to  
37 provide for the manner of voting and returning absentee ballots; to revise the times for  
38 advance voting; to limit changes to advance voting locations in the period prior to an  
39 election; to provide notice requirements for changes of advance voting locations; to provide  
40 for the processing and tabulation of absentee ballots; to provide sanctions for improperly  
41 opening an absentee ballot; to provide for certain elector identification for absentee balloting;  
42 to provide for monitors and observers; to provide for poll watcher training; to provide for  
43 restrictions on the distribution of certain items within close proximity to the polls on election  
44 days; to provide for the voting and processing of provisional ballots; to provide for  
45 duplication panels for defective ballots that cannot be processed by tabulating machines; to

46 provide for ranked choice voting for military and overseas voters; to revise the time for  
47 runoffs; to revise eligibility to vote in runoffs; to provide for the deadline for election  
48 certification; to provide for a pilot program for the scanning and publishing of ballots; to  
49 provide for the inspection and copying of original ballots by certain persons following the  
50 completion of a recount; to provide for special primaries and special elections to fill  
51 vacancies in certain offices; to provide for public notice and observation of preparation of  
52 voting equipment; to provide for observation of elections and ballot processing and counting;  
53 to provide for the filling of vacancies in certain offices; to prohibit observing or attempting  
54 to observe how a voter marks or has marked his or her ballot or inducing a voter to do so; to  
55 prohibit the acceptance of a ballot for return without authorization; to prohibit the  
56 photographing or other recording of ballots and ballot markers; to amend Chapter 35 of Title  
57 36 of the Official Code of Georgia Annotated, relating to home rule powers, so as to provide  
58 for the delay of reapportionment of municipal corporation election districts when census  
59 numbers are delayed; to amend Title 50 of the Official Code of Georgia Annotated, relating  
60 to general provisions regarding state government, so as to provide for the submission and  
61 suspension of emergency rules by the State Election Board; to provide that scanned ballot  
62 images are public records; to provide for legislative findings; to provide a short title; to  
63 provide for related matters; to provide for effective dates; to repeal conflicting laws; and for  
64 other purposes.

65 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

66 **SECTION 1.**

67 This Act shall be known and may be cited as the "Election Integrity Act of 2021."

68

**SECTION 2.**

69 The General Assembly finds and declares that:

70 (1) Following the 2018 and 2020 elections, there was a significant lack of confidence in  
71 Georgia election systems, with many electors concerned about allegations of rampant voter  
72 suppression and many electors concerned about allegations of rampant voter fraud;

73 (2) Many Georgia election processes were challenged in court, including the subjective  
74 signature-matching requirements, by Georgians on all sides of the political spectrum before  
75 and after the 2020 general election;

76 (3) The stress of the 2020 elections, with a dramatic increase in absentee-by-mail ballots  
77 and pandemic restrictions, demonstrated where there were opportunities to update existing  
78 processes to reduce the burden on election officials and boost voter confidence;

79 (4) The changes made in this legislation in 2021 are designed to address the lack of elector  
80 confidence in the election system on all sides of the political spectrum, to reduce the  
81 burden on election officials, and to streamline the process of conducting elections in  
82 Georgia by promoting uniformity in voting. Several examples will help explain how these  
83 goals are achieved;

84 (5) The broad discretion allowed to local officials for advance voting dates and hours led  
85 to significant variations across the state in total number of hours of advance voting,  
86 depending on the county. More than 100 counties have never offered voting on Sunday  
87 and many counties offered only a single day of weekend voting. Requiring two Saturday  
88 voting days and two optional Sunday voting days will dramatically increase the total voting  
89 hours for voters across the State of Georgia, and all electors in Georgia will have access  
90 to multiple opportunities to vote in person on the weekend for the first time;

91 (6) Some counties in 2020 received significant infusions of grant funding for election  
92 operations, while other counties received no such funds. Promoting uniformity in the  
93 distribution of funds to election operations will boost voter confidence and ensure that there

94 is no political advantage conferred by preferring certain counties over others in the  
95 distribution of funds;

96 (7) Elections in Georgia are administered by counties, but that can lead to problems for  
97 voters in counties with dysfunctional election systems. Counties with long-term problems  
98 of lines, problems with processing of absentee ballots, and other challenges in  
99 administration need accountability, but state officials are limited in what they are able to  
100 do to address those problems. Ensuring there is a mechanism to address local election  
101 problems will promote voter confidence and meet the goal of uniformity;

102 (8) Elections are a public process and public participation is encouraged by all involved,  
103 but the enthusiasm of some outside groups in sending multiple absentee ballot applications  
104 in 2020, often with incorrectly filled-in voter information, led to significant confusion by  
105 electors. Clarifying the rules regarding absentee ballot applications will build elector  
106 confidence while not sacrificing the opportunities for electors to participate in the process;

107 (9) The lengthy absentee ballot process also led to elector confusion, including electors  
108 who were told they had already voted when they arrived to vote in person. Creating a  
109 definite period of absentee voting will assist electors in understanding the election process  
110 while also ensuring that opportunities to vote are not diminished, especially when many  
111 absentee ballots issued in the last few days before the election were not successfully voted  
112 or were returned late;

113 (10) Opportunities for delivering absentee ballots to a drop box were first created by the  
114 State Election Board as a pandemic response. The drop boxes created by rule no longer  
115 existed in Georgia law when the emergency rules that created them expired. The General  
116 Assembly considered a variety of options and constructed a system that allows the use of  
117 drop boxes, while also ensuring the security of the system and providing options in  
118 emergency situations;

119 (11) The lengthy nine-week runoffs in 2020 were exhausting for candidates, donors, and  
120 electors. By adding ranked choice voting for military and overseas voters, the run-off

121 period can be shortened to a more manageable period for all involved, easing the burden  
122 on election officials and on electors;

123 (12) Counting absentee ballots in 2020 took an incredibly long time in some counties.  
124 Creating processes for early processing and scanning of absentee ballots will promote  
125 elector confidence by ensuring that results are reported quickly;

126 (13) The sanctity of the precinct was also brought into sharp focus in 2020, with many  
127 groups approaching electors while they waited in line. Protecting electors from improper  
128 interference, political pressure, or intimidation while waiting in line to vote is of paramount  
129 importance to protecting the election system and ensuring elector confidence;

130 (14) Ballot duplication for provisional ballots and other purposes places a heavy burden  
131 on election officials. The number of duplicated ballots has continued to rise dramatically  
132 from 2016 through 2020. Reducing the number of duplicated ballots will significantly  
133 reduce the burden on election officials and creating bipartisan panels to conduct duplication  
134 will promote elector confidence;

135 (15) Electors voting out of precinct add to the burden on election officials and lines for  
136 other electors because of the length of time it takes to process a provisional ballot in a  
137 precinct. Electors should be directed to the correct precinct on election day to ensure that  
138 they are able to vote in all elections for which they are eligible;

139 (16) In considering the changes in 2021, the General Assembly heard hours of testimony  
140 from electors, election officials, and attorneys involved in voting. The General Assembly  
141 made significant modifications through the legislative process as it weighed the various  
142 interests involved, including adding further weekend voting, changing parameters for  
143 out-of-precinct voting, and adding transparency for ballot images; and

144 (17) While each of the changes in this legislation in 2021 stands alone and is severable  
145 under Code Section 1-1-3, the changes in total reflect the General Assembly's considered  
146 judgment on the changes required to Georgia's election system to make it "easy to vote and



147 hard to cheat," applying the lessons learned from conducting an election in the 2020  
148 pandemic.

149 **SECTION 3.**

150 Chapter 2 of Title 21 of the Official Code of Georgia Annotated, relating to elections and  
151 primaries generally, is amended by revising paragraph (35) of Code Section 21-2-2, relating  
152 to definitions, as follows:

153 "(35) 'Superintendent' means:

154 (A) Either the judge of the probate court of a county or the county board of elections,  
155 the county board of elections and registration, the joint city-county board of elections,  
156 or the joint city-county board of elections and registration, if a county has such;

157 (B) In the case of a municipal primary, the municipal executive committee of the  
158 political party holding the primary within a municipality or its agent or, if none, the  
159 county executive committee of the political party or its agent;

160 (C) In the case of a nonpartisan municipal primary, the person appointed by the proper  
161 municipal executive committee; ~~and~~

162 (D) In the case of a municipal election, the person appointed by the governing  
163 authority pursuant to the authority granted in Code Section 21-2-70; and

164 (E) In the case of the State Election Board exercising its powers under subsection (f)  
165 of Code Section 21-2-33.1, the individual appointed by the State Election Board to  
166 exercise the power of election superintendent."

167 **SECTION 4.**

168 Said chapter is further amended by revising Code Section 21-2-3, which was previously  
169 reserved, as follows:

170 "21-2-3.

171 The Attorney General shall have the authority to establish and maintain a telephone hotline  
 172 for the use of electors of this state to file complaints and allegations of voter intimidation  
 173 and illegal election activities. Such hotline shall, in addition to complaints and reports  
 174 from identified persons, also accept anonymous tips regarding voter intimidation and  
 175 election fraud. The Attorney General shall have the authority to review each complaint or  
 176 allegation of voter intimidation or illegal election activities within three business days or  
 177 as expeditiously as possible and determine if such complaint or report should be  
 178 investigated or prosecuted. Reserved."

179 **SECTION 5.**

180 Said chapter is further amended by revising Code Section 21-2-30 relating to creation,  
 181 composition, terms of service, vacancies, quorum, seal, bylaws, and meetings of the State  
 182 Board of Elections as follows:

183 "21-2-30.

184 (a) There is created a state board to be known as the State Election Board, to be composed  
 185 of ~~the Secretary of State~~ a chairperson elected by the General Assembly, an elector to be  
 186 elected by a majority vote of the Senate of the General Assembly at its regular session held  
 187 in each odd-numbered year, an elector to be elected by a majority vote of the House of  
 188 Representatives of the General Assembly at its regular session held in each odd-numbered  
 189 year, and a member of each political party to be nominated and appointed in the manner  
 190 provided in this Code section. No person while a member of the General Assembly shall  
 191 serve as a member of the board.

192 (a.1)(1) The chairperson shall be elected by the General Assembly in the following  
 193 manner: A joint resolution which shall fix a definite time for the nomination and election  
 194 of the chairperson may be introduced in either branch of the General Assembly. Upon  
 195 passage of the resolution by a majority vote of the membership of the Senate and House  
 196 of Representatives, it shall be the duty of the Speaker of the House of Representatives to

197 call for the nomination and election of the chairperson at the time specified in the  
198 resolution, at which time the name of the qualified person receiving a majority vote of the  
199 membership of the House of Representatives shall be transmitted to the Senate for  
200 confirmation. Upon the qualified person's receiving a majority vote of the membership  
201 of the Senate, he or she shall be declared the duly elected chairperson; and the Governor  
202 shall be notified of his or her election by the Secretary of the Senate. The Governor is  
203 directed to administer the oath of office to the chairperson and to furnish the chairperson  
204 with a properly executed commission of office certifying his or her election.

205 (2) The chairperson of the board shall be nonpartisan. At no time during his or her  
206 service as chairperson shall the chairperson actively participate in a political party  
207 organization or in the campaign of a candidate for public office, nor shall he or she make  
208 any campaign contributions to a candidate for public office. Furthermore, to qualify for  
209 appointment as chairperson, in the two years immediately preceding his or her  
210 appointment, a person shall not have qualified as a partisan candidate for public office,  
211 participated in a political party organization or the campaign of a partisan candidate for  
212 public office, or made any campaign contributions to a partisan candidate for public  
213 office.

214 (3) The term of office of the chairperson shall continue until a successor is elected as  
215 provided in paragraph (1) of this subsection. In the event of a vacancy in the position of  
216 chairperson at a time when the General Assembly is not in session, it shall be the duty of  
217 the Governor and the Governor is empowered and directed to appoint a chairperson  
218 possessing the qualifications as provided in this subsection who shall serve as chairperson  
219 until the next regular session of the General Assembly, at which time the nomination and  
220 election of a chairperson shall be held by the General Assembly as provided in  
221 paragraph (1) of this subsection.

222 (b) A member elected by a house of the General Assembly shall take office on the day  
223 following the adjournment of the regular session in which elected and shall serve for a term

224 of two years and until his or her successor is elected and qualified, unless sooner removed.  
225 An elected member of the board may be removed at any time by a majority vote of the  
226 house which elected him or her. In the event a vacancy should occur in the office of such  
227 a member of the board at a time when the General Assembly is not in session, then the  
228 President of the Senate shall thereupon appoint an elector to fill the vacancy if the prior  
229 incumbent of such office was elected by the Senate or appointed by the President of the  
230 Senate; and the Speaker of the House of Representatives shall thereupon appoint an elector  
231 to fill the vacancy if the prior incumbent of such office was elected by the House of  
232 Representatives or appointed by the Speaker of the House of Representatives. A member  
233 appointed to fill a vacancy may be removed at any time by a majority vote of the house  
234 whose presiding officer appointed him or her.

235 (c) Within 30 days after April 3, 1968, the state executive committee of each political  
236 party shall nominate a member of its party to serve as a member of the State Election Board  
237 and, thereupon, the Governor shall appoint such nominee as a member of the board to serve  
238 for a term of two years from the date of the appointment and until his or her successor is  
239 elected and qualified, unless sooner removed. Thereafter, such state executive committee  
240 shall select a nominee for such office on the board within 30 days after a vacancy occurs  
241 in such office and shall also select a nominee at least 30 days prior to the expiration of the  
242 term of each incumbent nominated by it; and each such nominee shall be immediately  
243 appointed by the Governor as a member of the board to serve for the unexpired term in the  
244 case of a vacancy, and for a term of two years in the case of an expired term. Each  
245 successor, other than one appointed to serve an unexpired term, shall serve for a term of  
246 two years; and the terms shall run consecutively from the date of the initial gubernatorial  
247 appointment. No person shall be eligible for nomination by such state executive committee  
248 unless he or she is an elector and a member in good standing of the political party of the  
249 committee. Such a member shall cease to serve on the board and his or her office shall be

250 abolished if and when his or her political organization shall cease to be a 'political party'  
251 as defined in Code Section 21-2-2.

252 (d) The Secretary of State shall be ~~the chairperson of the board~~ an ex officio nonvoting  
253 member of the board. Three voting members of the board shall constitute a quorum, and  
254 no vacancy on the board shall impair the right of the quorum to exercise all the powers and  
255 perform all the duties of the board. The board shall adopt a seal for its use and bylaws for  
256 its own government and procedure.

257 (e) Meetings shall be held whenever necessary for the performance of the duties of the  
258 board on call of the chairperson or whenever any two of its members so request. Minutes  
259 shall be kept of all meetings of the board and a record kept of the vote of each member on  
260 all questions coming before the board. The chairperson shall give to each member of the  
261 board prior notice of the time and place of each meeting of the board.

262 (f) If any member of the board, other than the Secretary of State, shall qualify as a  
263 candidate for any public office which is to be voted upon in any primary or election  
264 regulated by the board, that member's position on the board shall be immediately vacated  
265 and such vacancy shall be filled in the manner provided for filling other vacancies on the  
266 board."

267 **SECTION 6.**

268 Said chapter is further amended in Code Section 21-2-33.1, relating to enforcement of  
269 chapter, by adding new subsections to read as follows:

270 "(f) After following the procedures set forth in Code Section 21-2-33.2, the State Election  
271 Board may suspend county or municipal superintendents and appoint an individual to serve  
272 as the temporary superintendent in a jurisdiction. Such individual shall exercise all the  
273 powers and duties of a superintendent as provided by law, including the authority to make  
274 all personnel decisions related to any employees of the jurisdiction who assist with carrying

275 out the duties of the superintendent, including, but not limited to, the director of elections,  
276 the election supervisor, and all poll officers.

277 (g) At no time shall the State Election Board suspend more than four county or municipal  
278 superintendents pursuant to subsection (f) of this Code section.

279 (h) The Secretary of State shall, upon the request of the State Election Board, provide any  
280 and all necessary support and assistance that the State Election Board, in its sole discretion,  
281 determines is necessary to enforce this chapter or to carry out or conduct any of its duties."

282 **SECTION 7.**

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

285 "21-2-33.2.

286 (a) The governing authority of a county or municipality, as applicable, following a  
287 recommendation based on an investigation by a performance review board pursuant to  
288 Code Section 21-2-106 may petition the State Election Board, through the Secretary of  
289 State, for extraordinary relief pursuant to this Code section. In addition, the State Election  
290 Board, on its own motion or following a recommendation based on an investigation by a  
291 performance review board pursuant to Part 5 of this article, may pursue the extraordinary  
292 relief provided in this Code section.

293 (b) Upon receiving a petition or taking appropriate action pursuant to subsection (a) of this  
294 Code section, the State Election Board shall conduct a preliminary investigation to  
295 determine if sufficient cause exists to proceed to a full hearing on the petition. Such  
296 preliminary investigation shall be followed by a preliminary hearing which shall take place  
297 not less than 30 days nor more than 90 days after the Secretary of State receives the  
298 petition. Service of the petition shall be made by hand delivery or by statutory overnight  
299 delivery to the Secretary of State's office. At such preliminary hearing, the State Election  
300 Board shall determine if sufficient cause exists to proceed to a full hearing on the petition

301 or if the petition should be dismissed. The State Election Board shall promulgate rules and  
302 regulations for conducting such preliminary investigation and preliminary hearing.

303 (c) Following the preliminary hearing described in subsection (b) of this Code section, the  
304 State Election Board may suspend a county or municipal superintendent pursuant to this  
305 Code section if at least three members of the board find, after notice and hearing, that:

306 (1) By a preponderance of the evidence, a county or municipal superintendent has  
307 committed at least three violations of this title or of State Election Board rules and  
308 regulations, in the last two general election cycles; and the county or municipal  
309 superintendent has not sufficiently remedied the violations; or

310 (2) By clear and convincing evidence, the county or municipal superintendent has, for  
311 at least two elections within a two-year period, demonstrated nonfeasance, malfeasance,  
312 or gross negligence in the administration of the elections.

313 (d) A majority of the members of a board of elections, board of elections and registration,  
314 or county commission; a probate judge who serves as election superintendent, or, for a sole  
315 commissioner form of government, a sole commissioner may petition the Secretary of State  
316 to continue any hearing scheduled pursuant to this Code section. Upon a showing of good  
317 cause, the State Election Board may in its sound discretion continue any such hearing.  
318 Notwithstanding any other provision of law, deliberations held on such petition by the State  
319 Election Board shall not be open to the public; provided, however, that testimony shall be  
320 taken in an open meeting and a vote on the recommendation shall be taken in an open  
321 meeting following the hearing or at the next regularly scheduled meeting.

322 (e)(1) If the State Election Board makes a finding in accordance with subsection (c) of  
323 this Code section, it may suspend the superintendent or board of registrars with pay and  
324 appoint an individual to serve as the temporary superintendent. The temporary  
325 superintendent who is appointed shall be otherwise qualified to serve or meet the  
326 necessary qualifications within three months of appointment.

327 (2) Any superintendent suspended under this Code section may petition the State  
328 Election Board for reinstatement no earlier than 30 days following suspension and no  
329 later than 60 days following suspension. In the event that a suspended superintendent or  
330 registrar does not petition for reinstatement within the allotted time period, his or her  
331 suspension shall be converted into permanent removal, and the temporary superintendent  
332 shall become a permanent superintendent subject to removal by the jurisdiction not less  
333 than nine months after his or her appointment.

334 (3) If, after the expiration of the nine-month period following the appointment, the  
335 jurisdiction removes the permanent superintendent, any provisions of local or general law  
336 governing appointment of the superintendent shall govern the appointment of the  
337 superintendent.

338 (4) If, at any time after the expiration of the nine-month period following the  
339 appointment, at least three members of the State Election Board find, after notice and  
340 hearing, that the jurisdiction no longer requires a superintendent appointed under this  
341 Code section, any provisions of local or general law governing appointment of the  
342 superintendent shall govern the appointment of the superintendent.

343 (f) Upon petition for reinstatement by a superintendent suspended pursuant to a finding  
344 under paragraph (1) of subsection (c) of this Code section, the State Election Board shall  
345 conduct a hearing for the purpose of receiving evidence relative to whether the  
346 superintendent's continued service as superintendent is more likely than not to improve the  
347 ability of the jurisdiction to conduct elections in a manner that complies with this chapter.  
348 The suspended superintendent shall be given at least 30 days' notice prior to such hearing  
349 and such hearing shall be held no later than 90 days after the petition is filed in accordance  
350 with Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act,' except that the  
351 State Election Board shall have the power to call witnesses and request documents on its  
352 own initiative. If the State Election Board denies the petition, it shall be deemed a final  
353 agency decision under Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.'



354 and it may be appealed in a manner consistent with Code Section 50-13-19. The Attorney  
355 General or his or her designee shall represent the interests of the State Election Board in  
356 any such judicial review.

357 (g) A local government shall not expend any public funds for attorneys' fees or expenses  
358 of litigation relating to the proceedings initiated pursuant to this Code section except to the  
359 extent such fees and expenses are incurred prior to and through the recommendation of the  
360 State Election Board as provided in subsection (c) of this Code section; provided, however,  
361 that nothing in this subsection shall be construed to prohibit an insurance provider from  
362 covering attorneys' fees or expenses of litigation under an insurance policy. Any  
363 suspended superintendent who is reinstated by the State Election Board pursuant to this  
364 Code section may be reimbursed by the local government for his or her reasonable  
365 attorneys' fees and related expenses incurred in pursuing such reinstatement.

366 (h) For purposes of this Code section, where a judge of probate court serves as the  
367 superintendent, the suspension authorized by this Code section shall apply only to the judge  
368 of probate court's duties as a superintendent and not as a judge of probate court.

369 (i) When the State Election Board exercises its authority under subsection (f) of Code  
370 Section 21-2-33.1, the jurisdiction involved shall not diminish or reduce the funds already  
371 budgeted or appropriated by the jurisdiction pursuant to Code Section 21-2-71 and shall  
372 pay any necessary and reasonable funds over that amount, as determined by the temporary  
373 superintendent, to faithfully carry out their obligations under Code Section 21-2-70."0

374 **SECTION 8.**

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

377 "21-2-35.

378 (a) Notwithstanding any other provision of this chapter, Chapter 3 of Title 38, relating to  
379 emergency management, or Chapter 13 of Title 50, the "Georgia Administrative Procedure

380 Act," to the contrary, the State Election Board may only adopt emergency rules or  
381 regulations in circumstances of imminent peril to public health, safety, or welfare. To  
382 adopt any such emergency rule or regulation, in addition to any other rule-making  
383 requirement of this chapter or Chapter 13 of Title 50, the State Election Board shall:

384 (1) Give notice to the public of its intended action;

385 (2) Immediately upon the setting of the date and time of the meeting at which such  
386 emergency rule or regulation is to be considered give notice by email of its intended  
387 action to:

388 (A) The Governor;

389 (B) The Lieutenant Governor;

390 (C) The Speaker of the House of Representatives;

391 (D) The chairpersons of the standing committees of each house of the General  
392 Assembly tasked with election matters;

393 (E) Legislative counsel; and

394 (F) The chief executive officer of each political party registered pursuant to subsection  
395 (a) of Code Section 21-2-110; and

396 (3) State in the notices required by paragraphs (1) and (2) of this subsection the nature  
397 of the emergency and the manner in which such emergency represents an imminent peril  
398 to public health, safety, or welfare.

399 (b) Upon adoption or promulgation of any emergency rule or regulation pursuant to this  
400 Code section, a majority of the State Election Board shall certify in writing that such  
401 emergency rule or regulation was made in strict and exact compliance with the provisions  
402 of this chapter and subsection (e) of Code Section 50-13-4.

403 (c) In the event of any conflict between this Code section and any provision of Chapter 13  
404 of Title 50, this Code section shall govern and supersede any such conflicting provision.

405 21-2-36.  
406 The State Election Board, the members thereof, the Secretary of State, and any of their  
407 attorneys or staff, at least five business days prior to entering into any consent agreement,  
408 settlement, or consent order that limits, alters, or interprets any provision of this chapter,  
409 shall notify the House of Representatives and Senate Committees on the Judiciary of such  
410 proposed consent agreement, settlement, or consent order."

411 **SECTION 9.**

412 Said chapter is further amended by revising Code Section 21-2-71, relating to payment by  
413 county or municipality of superintendent's expenses, as follows:

414 "21-2-71.

415 (a) The governing authority of each county or municipality shall appropriate annually and  
416 from time to time, to the superintendent of such county or municipality, the funds that it  
417 shall deem necessary for the conduct of primaries and elections in such county or  
418 municipality and for the performance of his or her other duties under this chapter,  
419 including:

420 (1) Compensation of the poll officers, custodians, and other assistants and employees  
421 provided for in this chapter;

422 (2) Expenditures and contracts for expenditures by the superintendent for polling places;

423 (3) Purchase or printing, under contracts made by the superintendent, of all ballots and  
424 other election supplies required by this chapter, or which the superintendent shall  
425 consider necessary to carry out the provisions of this chapter;

426 (4) Maintenance of all voting equipment required by this chapter, or which the  
427 superintendent shall consider necessary to carry out this chapter; and

428 (5) All other expenses arising out of the performance of his or her duties under this  
429 chapter.

430 (b) No superintendent shall take or accept any funding, grants, or gifts from any source  
431 other than from the governing authority of the county or municipality, the State of Georgia,  
432 or the federal government.

433 (c) The State Election Board shall study and report to the General Assembly a proposed  
434 method for accepting donations intended to facilitate the administration of elections and  
435 a method for an equitable distribution of such donations state wide by October 1, 2021."

436 **SECTION 10.**

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

439 "21-2-74.1.

440 (a) If a county does not have a board of elections and:

441 (1) There is a vacancy in the office of judge of the probate court that has not been filled  
442 pursuant to Code Section 15-9-10 or 15-9-11; or

443 (2) The judge of the probate court is incapacitated and unable to perform the duties of  
444 the election superintendent for a period of more than five days;

445 The chief judge of the superior court in the circuit to which the county is assigned shall  
446 appoint a qualified individual to serve as the acting election superintendent during such  
447 vacancy or incapacitation.

448 (b) Upon the filling of a vacancy in the office of judge of the probate court pursuant to  
449 Code Section 15-9-10 or 15-9-11, the judge of the probate court shall resume the duties of  
450 the election superintendent.

451 (c) The sole county commissioner or the board of county commissioners shall fix the  
452 compensation of the individual who serves as acting election superintendent until the  
453 vacancy is filled or the incapacitation ends. The compensation shall be paid from the  
454 general funds of the county."

455 **SECTION 11.**

456 Said chapter is further amended by revising subsection (a) of Code Section 21-2-92, relating  
457 to qualifications of poll officers, service during municipal election or primary, and Student  
458 Teen Election Participant (STEP) program, as follows:

459 "(a)(1) Poll officers appointed pursuant to Code Sections 21-2-90 and 21-2-91 shall be  
460 judicious, intelligent, and upright citizens of the United States, residents of or otherwise  
461 employed by the county in which they are appointed except as otherwise provided in  
462 paragraph (2) of this subsection or, in the case of municipal elections, residents of or  
463 otherwise employed by the municipality in which the election is to be held or of the  
464 county in which that municipality is located, 16 years of age or over, and shall be able to  
465 read, write, and speak the English language. No poll officer shall be eligible for any  
466 nomination for public office or to be voted for at a primary or election at which the poll  
467 officer shall serve. No person who is otherwise holding public office, other than a  
468 political party office, shall be eligible to be appointed as or to serve as a poll officer. A  
469 parent, spouse, child, brother, sister, father-in-law, mother-in-law, son-in-law,  
470 daughter-in-law, brother-in-law, or sister-in-law of a candidate shall not be eligible to  
471 serve as a poll officer in any precinct in which such candidate's name appears on the  
472 ballot in any primary or election.

473 (2) A poll officer may be allowed to serve in a county that adjoins the county in which  
474 such poll officer resides if, in the discretion of the election superintendent of the county  
475 in which such person resides, the waiver of such county residency or county employment  
476 requirements of paragraph (1) of this subsection do not impair the ability of the county  
477 to provide adequate staff for the performance of election duties under this chapter and if,  
478 in the discretion of the county election superintendent in which such person wishes to  
479 serve, sufficient need for more poll officers exists."

480 **SECTION 12.**

481 Said chapter is further amended in Article 2, relating to supervisory boards and officers, by  
482 adding a new part to read as follows:

483 "Part 5

484 21-2-105.

485 As used in this part, the term 'local election official' means:

- 486 (1) A county board of elections or a county board of elections and registration  
487 established pursuant to Code Section 21-2-40;  
488 (2) A judge of the probate court fulfilling the role of election superintendent; or  
489 (3) A municipal election superintendent.

490 21-2-106.

491 (a) The following officials may request that a performance review of a local election  
492 official be conducted:

- 493 (1) The governing authority of the same jurisdiction as the local election official;  
494 (2) For counties represented by more than three members of the Georgia House of  
495 Representatives and Georgia Senate, at least two members of the Georgia House of  
496 Representatives and two members of the Georgia Senate who represent the county; and  
497 (3) For counties represented by fewer than four members of the Georgia House of  
498 Representatives and Georgia Senate, at least one member of the Georgia House of  
499 Representatives and one member of the Georgia Senate who represent the county.

500 Such request shall be transmitted to the State Election Board which shall appoint an  
501 independent performance review board within 30 days after receiving such resolution. The  
502 State Election Board shall appoint three competent persons to serve as members of the  
503 performance review board, one of whom shall be an employee of the elections division of

504 the Secretary of State and two of whom shall be local election officials, provided that no  
505 such appointee shall be a local election official for the county or municipality, as  
506 applicable, under review.

507 (b) It shall be the duty of a performance review board to make a thorough and complete  
508 investigation of the local election official with respect to all actions of the local election  
509 official regarding the technical competency in the maintenance and operation of election  
510 equipment, proper administration and oversight of registration and elections, and  
511 compliance with state law and regulations. The performance review board shall issue a  
512 written report of its findings to the Secretary of State, the State Election Board, and the  
513 local governing authority which shall include such evaluations, judgments, and  
514 recommendations as it deems appropriate. The local governing authority shall reimburse  
515 the members of the performance review board for reasonable expenses incurred in the  
516 performance of their duties, including mileage, meals, lodging, and costs of materials.

517 (c) The findings of the report of the review board under subsection (b) of this Code section  
518 or of any audit or investigation performed by the State Election Board may be grounds for  
519 removal of one or more local election officials pursuant to Code Section 21-2-33.2.

520 21-2-107.

521 (a) The State Election Board shall appoint an independent performance review board on  
522 its own motion if it determines that there is evidence which calls into question the  
523 competence of a local election official regarding the oversight and administration of  
524 elections, voter registration, or both, with state law and regulations.

525 (b) The State Election Board shall appoint three competent persons to serve as members  
526 of the performance review board, one of whom shall be an employee of the elections  
527 division of the office of Secretary of State and two of whom shall be local election  
528 officials, provided that none of the three appointees shall be a local election official for the  
529 county or municipality under review.

530 (c) The performance review board shall issue a written report of its findings to the State  
531 Election Board and the Secretary of State and the applicable local governing authority,  
532 which shall include such evaluations, judgments, and recommendations as it deems  
533 appropriate. The local governing authority shall reimburse the members of the  
534 performance review board for reasonable expenses incurred in the performance of their  
535 duties, including mileage, meals, lodging, and costs of materials.

536 (d) The findings of the report of the performance review board under subsection (c) of this  
537 Code section or of any audit or investigation performed by the State Election Board may  
538 be grounds for removal of a local election official pursuant to Code Section 21-2-33.2.

539 21-2-108.

540 The State Election Board shall promulgate such rules and regulations as may be necessary  
541 for the administration of this part."

542 **SECTION 13.**

543 Said chapter is further amended in Code Section 21-2-134, relating to withdrawal, death, or  
544 disqualification of candidate for office, return of qualifying fee, and nomination certificate,  
545 by adding a new subsection to read as follows:

546 "(g) In the event of the death of a candidate on the ballot in a nonpartisan election prior to  
547 such nonpartisan election, such candidate's name shall remain on the ballot and all votes  
548 cast for such candidate shall be counted. If the deceased candidate receives the requisite  
549 number of votes to be elected, such contest shall be handled as a failure to fill the office  
550 under Code Section 21-2-504. If the deceased candidate receives enough votes to be in a  
551 run-off election, such run-off election shall be conducted as provided in Code  
552 Section 21-2-501 and the candidates in such runoff shall be determined in accordance with  
553 paragraph (2) of subsection (a) of Code Section 21-2-501."



554 **SECTION 14.**

555 Said chapter is further amended by revising subsection (f) of Code Section 21-2-212, relating  
556 to county registrars, appointment, certification, term of service, vacancies, compensation and  
557 expenses of chief registrar, registrars, and other officers and employees, and budget  
558 estimates, as follows:

559 "(f) The board of registrars of each county shall prepare annually a budget estimate in  
560 which it shall set forth an itemized list of its expenditures for the preceding two years and  
561 an itemized estimate of the amount of money necessary to be appropriated for the ensuing  
562 year and shall submit the same at the time and in the manner and form other county budget  
563 estimates are required to be filed. No board of registrars shall take or accept any funding,  
564 grants, or gifts from any source other than from the governing authority of the county, the  
565 State of Georgia, or the federal government."

566 **SECTION 15.**

567 Said chapter is further amended by revising Code Section 21-2-229, relating to challenge of  
568 applicant for registration by other electors, notice and hearing, and right of appeal, as  
569 follows:

570 "21-2-229.

571 (a) Any elector of a county or municipality may challenge the qualifications of any person  
572 applying to register to vote in the county or municipality and may challenge the  
573 qualifications of any elector of the county or municipality whose name appears on the list  
574 of electors. Such challenges shall be in writing and shall specify distinctly the grounds of  
575 the challenge. There shall not be a limit on the number of persons whose qualifications  
576 such elector may challenge.

577 (b) Upon such challenge being filed with the board of registrars, the registrars shall set a  
578 hearing on such challenge within ten business days after serving notice of the challenge.

579 Notice of the date, time, and place of the hearing shall be served upon the person whose

580 qualifications are being challenged along with a copy of such challenge and upon the  
581 elector making the challenge within ten business days following the filing of the challenge.

582 The person being challenged shall receive at least three days' notice of the date, time, and  
583 place of the hearing. Such notice shall be served either by first-class mail addressed to the  
584 mailing address shown on the person's voter registration records or in the manner provided  
585 in subsection (c) of Code Section 21-2-228.

586 (c) The burden shall be on the elector making the challenge to prove that the person being  
587 challenged is not qualified to remain on the list of electors. The board of registrars shall  
588 have the authority to issue subpoenas for the attendance of witnesses and the production  
589 of books, papers, and other material upon application by the person whose qualifications  
590 are being challenged or the elector making the challenge. The party requesting such  
591 subpoenas shall be responsible to serve such subpoenas and, if necessary, to enforce the  
592 subpoenas by application to the superior court. Any witness so subpoenaed, and after  
593 attending, shall be allowed and paid the same mileage and fee as allowed and paid  
594 witnesses in civil actions in the superior court.

595 (d) After the hearing provided for in this Code section, the registrars shall determine said  
596 challenge and shall notify the parties of their decision. If the registrars uphold the  
597 challenge, the person's application for registration shall be rejected or the person's name  
598 removed from the list of electors, as appropriate. The elector shall be notified of such  
599 decision in writing either by first-class mail addressed to the mailing address shown on the  
600 person's voter registration records or in the manner provided in subsection (c) of Code  
601 Section 21-2-228 for other notices.

602 (e) Either party shall have a right of appeal from the decision of the registrars to the  
603 superior court by filing a petition with the clerk of the superior court within ten days after  
604 the date of the decision of the registrars. A copy of such petition shall be served upon the  
605 other parties and the registrars. Unless and until the decision of the registrars is reversed  
606 by the court, the decision of the registrars shall stand.

607 (f) Failure to comply with the provisions of this Code section by the board of registrars  
608 shall subject such board to sanctions by the State Election Board."

609 **SECTION 16.**

610 Said chapter is further amended by revising Code Section 21-2-230, relating to challenge of  
611 persons on list of electors by other electors, procedure;, hearing, and right of appeal, as  
612 follows:

613 "21-2-230.

614 (a) Any elector of the county or municipality may challenge the right of any other elector  
615 of the county or municipality, whose name appears on the list of electors, to vote in an  
616 election. Such challenge shall be in writing and specify distinctly the grounds of such  
617 challenge. Such challenge may be made at any time prior to the elector whose right to vote  
618 is being challenged voting at the elector's polling place or, if such elector cast an absentee  
619 ballot, prior to 5:00 P.M. on the day before the election absentee ballots are to begin to be  
620 scanned and tabulated; provided, however, that challenges to persons voting by absentee  
621 ballot in person at the office of the registrars or the absentee ballot clerk shall be made prior  
622 to such person's voting. There shall not be a limit on the number of persons whose  
623 qualifications such elector may challenge.

624 (b) Upon the filing of such challenge, the board of registrars shall immediately consider  
625 such challenge and determine whether probable cause exists to sustain such challenge. If  
626 the registrars do not find probable cause, the challenge shall be denied. If the registrars  
627 find probable cause, the registrars shall notify the poll officers of the challenged elector's  
628 precinct or, if the challenged elector voted by absentee ballot, notify the poll officers at the  
629 absentee ballot precinct and, if practical, notify the challenged elector and afford such  
630 elector an opportunity to answer.

631 (c) If the challenged elector appears at the polling place to vote, such elector shall be given  
632 the opportunity to appear before the registrars and answer the grounds of the challenge.

633 (d) If the challenged elector does not cast an absentee ballot and does not appear at the  
634 polling place to vote and if the challenge is based on grounds other than the qualifications  
635 of the elector to remain on the list of electors, no further action by the registrars shall be  
636 required.

637 (e) If the challenged elector cast an absentee ballot and it is not practical to conduct a  
638 hearing prior to the close of the polls and the challenge is based upon grounds other than  
639 the qualifications of the elector to remain on the list of electors, the absentee ballot shall  
640 be treated as a challenged ballot pursuant to subsection (e) of Code Section 21-2-386. No  
641 further action by the registrars shall be required.

642 (f) If the challenged elector does not cast an absentee ballot and does not appear at the  
643 polling place to vote and the challenge is based on the grounds that the elector is not  
644 qualified to remain on the list of electors, the board of registrars shall proceed to hear the  
645 challenge pursuant to Code Section 21-2-229.

646 (g) If the challenged elector cast an absentee ballot and the challenge is based upon  
647 grounds that the challenged elector is not qualified to remain on the list of electors, the  
648 board of registrars shall proceed to conduct a hearing on the challenge on an expedited  
649 basis prior to the certification of the consolidated returns of the election by the election  
650 superintendent. The election superintendent shall not certify such consolidated returns  
651 until such hearing is complete and the registrars have rendered their decision on the  
652 challenge. If the registrars deny the challenge, the superintendent shall proceed to certify  
653 the consolidated returns. If the registrars uphold the challenge, the name of the challenged  
654 elector shall be removed from the list of electors and the ballot of the challenged elector  
655 shall be rejected and not counted and, if necessary, the returns shall be adjusted to remove  
656 any votes cast by such elector. The elector making the challenge and the challenged elector  
657 may appeal the decision of the registrars in the same manner as provided in subsection (e)  
658 of Code Section 21-2-229.

659 (h) If the challenged elector appears at the polls to vote and it is practical to conduct a  
660 hearing on the challenge prior to the close of the polls, the registrars shall conduct such  
661 hearing and determine the merits of the challenge. If the registrars deny the challenge, the  
662 elector shall be permitted to vote in the election notwithstanding the fact that the polls may  
663 have closed prior to the time the registrars render their decision and the elector can actually  
664 vote, provided that the elector proceeds to vote immediately after the decision of the  
665 registrars. If the registrars uphold the challenge, the challenged elector shall not be  
666 permitted to vote and, if the challenge is based upon the grounds that the elector is not  
667 qualified to remain on the list of electors, the challenged elector's name shall be removed  
668 from the list of electors.

669 (i) If the challenged elector appears at the polls to vote and it is not practical to conduct  
670 a hearing prior to the close of the polls or if the registrars begin a hearing and subsequently  
671 find that a decision on the challenge cannot be rendered within a reasonable time, the  
672 challenged elector shall be permitted to vote by casting a challenged ballot on the same  
673 type of ballot that is used by the county or municipality for provisional ballots. Such  
674 challenged ballot shall be sealed in double envelopes as provided in subsection (a) of Code  
675 Section 21-2-419 and, after having the word 'Challenged,' the elector's name, and the  
676 alleged cause of the challenge written across the back of the outer envelope, the ballot shall  
677 be deposited by the person casting such ballot in a secure, sealed ballot box  
678 notwithstanding the fact that the polls may have closed prior to the time the registrars make  
679 such a determination, provided that the elector proceeds to vote immediately after such  
680 determination of the registrars. In such cases, if the challenge is based upon the grounds  
681 that the challenged elector is not qualified to remain on the list of electors, the registrars  
682 shall proceed to finish the hearing prior to the certification of the consolidated returns of  
683 the election by the election superintendent. If the challenge is based on other grounds, no  
684 further action shall be required by the registrars. The election superintendent shall not  
685 certify such consolidated returns until such hearing is complete and the registrars have

686 rendered their decision on the challenge. If the registrars deny the challenge, the  
687 superintendent shall proceed to certify the consolidated returns. If the registrars uphold the  
688 challenge, the name of the challenged elector shall be removed from the list of electors and  
689 the ballot of the challenged elector shall be rejected and not counted and, if necessary, the  
690 returns shall be adjusted to remove any votes cast by such elector. The elector making the  
691 challenge and the challenged elector may appeal the decision of the registrars in the same  
692 manner as provided in subsection (e) of Code Section 21-2-229.

693 (j) Failure to comply with the provisions of this Code section by the board of registrars  
694 shall subject such board to sanctions by the State Election Board."

695 **SECTION 17.**

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

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

703 **SECTION 18.**

704 Said chapter is further amended by revising Code Section 21-2-263, relating to reduction in  
705 size of, or provision of additional voting equipment or poll workers to, precincts containing  
706 more than 2,000 electors when voting in such precincts at previous general election not  
707 completed one hour after closing of polls, as follows:

708 "21-2-263.

709 (a) If, at the previous general election, a precinct contained more than 2,000 electors and  
710 if all those electors desiring to vote had not completed voting one hour following the  
711 closing of the polls, the superintendent shall either reduce the size of said precinct so that  
712 it shall contain not more than 2,000 electors in accordance with the procedures prescribed  
713 by this chapter for the division, alteration, and consolidation of precincts no later than 60  
714 days before the next general election or provide additional voting equipment or poll  
715 workers, or both, before the next general election. For administering this Code section, the  
716 chief manager of a precinct which contained more than 2,000 electors at the previous  
717 general election shall submit a report thereof, under oath, to the superintendent as to the  
718 time required for completion of voting by all persons in line at the time the polls were  
719 closed. Any such change in the boundaries of a precinct shall conform with the  
720 requirements of subsection (a) of Code Section 21-2-261.1.

721 (b) If, at the previous general election, a precinct contained more than 2,000 electors and  
722 if electors desiring to vote on the day of the election had to wait in line for more than one  
723 hour before checking in to vote, the superintendent shall either reduce the size of such  
724 precinct so that it shall contain not more than 2,000 electors in accordance with the  
725 procedures prescribed by this chapter for the division, alteration, and consolidation of  
726 precincts no later than 60 days before the next general election or provide additional voting  
727 equipment or poll workers, or both, before the next general election. For administering this  
728 Code section, the chief manager of a precinct which contained more than 2,000 electors at  
729 the previous general election shall submit a report thereof to the superintendent of the  
730 reported time from entering the line to checking in to vote. Such wait time shall be  
731 measured no fewer than three different times throughout the day (in the morning, at  
732 midday, and prior to the close of polls) and such results shall be recorded on a form  
733 provided by the Secretary of State. Any such change in the boundaries of a precinct shall  
734 conform with the requirements of subsection (a) of Code Section 21-2-261.1."

735

**SECTION 19.**

736 Said chapter is further amended by revising subsection (a) of Code Section 21-2-265, relating  
737 to duty of superintendent to select polling places, change, petition objecting to proposed  
738 change, space for political parties holding primaries, facilities for disabled voters, selection  
739 of polling place outside precinct to better serve voters, and restriction on changing polling  
740 place on or near date of election, as follows:

741 "(a) The superintendent of a county or the governing authority of a municipality shall  
742 select and fix the polling place within each precinct and may, either on his, her, or its own  
743 motion or on petition of ten electors of a precinct, change the polling place within any  
744 precinct. Except in case of an emergency or unavoidable event occurring within ten days  
745 of a primary or election, which emergency or event renders any polling place unavailable  
746 for use at such primary or election, the superintendent of a county or the governing  
747 authority of a municipality shall not change any polling place until notice of the proposed  
748 change shall have been published for once a week for two consecutive weeks in the legal  
749 organ for the county or municipality in which the polling place is located. Additionally,  
750 ~~on the first election~~ during the seven days before and on the day of the first election  
751 following such change, a notice of such change shall be posted on the previous polling  
752 place and at three other places in the immediate vicinity thereof. Each notice posted shall  
753 state the location to which the polling place has been moved and shall direct electors to the  
754 new location. At least one notice at the previous polling place shall be a minimum of four  
755 feet by four feet in size. The occupant or owner of the previous polling place, or his or her  
756 agent, shall be notified in writing of such change at the time notice is published in the legal  
757 organ."



758 **SECTION 20.**

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

762 "(a) In selecting polling places and advance voting locations, the superintendent of a  
763 county or the governing authority of a municipality shall select, wherever practicable and  
764 consistent with subsection (d) of Code Section 21-2-265, schoolhouses, municipal  
765 buildings or rooms, or other public buildings for that purpose. In selecting polling places  
766 and advance voting locations, the superintendent of a county or the governing authority of  
767 a municipality shall give consideration to the comfort and convenience those places to be  
768 selected will provide to both electors and poll officers. School, county, municipal, or other  
769 governmental authorities, upon request of the superintendent of a county or the governing  
770 authority of a municipality, shall make arrangements for the use of their property for  
771 polling places or advance voting locations; provided, however, that such use shall not  
772 substantially interfere with the use of such property for the purposes for which it is  
773 primarily intended.

774 (b) The superintendent of a county or the governing authority of a municipality shall have  
775 discretion to procure and provide portable or movable polling facilities of adequate size for  
776 any precinct; provided, however, that buses and other readily movable facilities shall only  
777 be used in emergencies declared by the Governor pursuant to Code Section 38-3-51 to  
778 supplement the capacity of the polling place where the emergency circumstance occurred."

779 **SECTION 20A.**

780 Said chapter is further amended by revising subsection (a) of Code Section 21-2-284, relating  
781 to form of official primary ballot and attestation regarding receiving value in exchange for  
782 vote, as follows:

783 "(a) In each primary separate official ballots shall be prepared for the political party  
 784 holding the primary. At the top of each ballot shall be printed in prominent type the words  
 785 'OFFICIAL PRIMARY BALLOT OF \_\_\_\_\_ PARTY FOR,' followed by the  
 786 name and designation of the precinct for which it is prepared and the name and date of the  
 787 primary."

788 **SECTION 20B.**

789 Said chapter is further amended by revising Code Section 21-2-284.1, relating to form of  
 790 ballot in nonpartisan municipal primaries, as follows:

791 "21-2-284.1.

792 In the case of nonpartisan municipal primaries, the form of the official nonpartisan primary  
 793 ballot shall conform insofar as practicable to the form of the official primary ballot as  
 794 detailed in Code Section 21-2-284, including the printing of the name and designation of  
 795 the precinct on the top of the ballot, except that:

796 (1) The following shall be printed at the top of each ballot in prominent type:

797 'OFFICIAL NONPARTISAN PRIMARY BALLOT OF

798 \_\_\_\_\_  
 799 (Name of Municipality)';

800 (2) There shall be no name or designation of any political organization nor any words,  
 801 designation, or emblems descriptive of a candidate's political affiliation printed under or  
 802 after any candidate's name which is printed on the ballot; and

803 (3) The incumbency of a candidate seeking election for the public office he or she then  
 804 holds shall be indicated on the ballot."

805 **SECTION 20C.**

806 Said chapter is further amended by revising subsection (a) of Code Section 21-2-285, relating  
807 to form of official election ballot, attestation on receipt of benefit in exchange for vote, and  
808 when an election is not required, as follows:

809 "(a) At the top of each ballot for an election shall be printed in prominent type the words  
810 'OFFICIAL BALLOT,' followed by the name and designation of the precinct for which it  
811 is prepared and the name and date of the election."

812 **SECTION 21.**

813 Said chapter is further amended by revising Code Section 21-2-285.1, relating to form of  
814 ballot, run-off election, and declaration of prevailing candidate in nonpartisan elections, as  
815 follows:

816 "21-2-285.1.

817 The names of all candidates for offices which the General Assembly has by general law or  
818 local Act provided for election in a nonpartisan election shall be printed on each official  
819 primary ballot; and insofar as practicable such offices to be filled in the nonpartisan  
820 election shall be separated from the names of candidates for party nomination to other  
821 offices by being listed last on each ballot, with the top of that portion of each official  
822 primary ballot relating to the nonpartisan election to have printed in prominent type the  
823 words 'OFFICIAL NONPARTISAN ELECTION BALLOT.' In addition, there shall be a  
824 ballot that contains just the official nonpartisan election ballot available for electors who  
825 choose not to vote in a party primary. Such ballot shall have printed at the top the name and  
826 designation of the precinct. Directions that explain how to cast a vote, how to write in a  
827 candidate, and how to obtain a new ballot after the elector spoils his or her ballot shall  
828 appear immediately under the caption, as specified by rule or regulation of the State  
829 Election Board. Immediately under the directions, the name of each such nonpartisan  
830 candidate shall be arranged alphabetically by last name under the title of the office for

831 which they are candidates and be printed thereunder. The incumbency of a candidate  
832 seeking election for the public office he or she then holds shall be indicated on the ballot.  
833 No party designation or affiliation shall appear beside the name of any candidate for  
834 nonpartisan office. An appropriate space shall also be placed on the ballot for the casting  
835 of write-in votes for such offices. In the event that no candidate in such nonpartisan  
836 election receives a majority of the total votes cast for such office, there shall be a  
837 nonpartisan election runoff between the candidates receiving the two highest numbers of  
838 votes; and the names of such candidates shall be placed on the official ballot at the general  
839 primary runoff in the same manner as prescribed in this Code section for the nonpartisan  
840 election and there shall be a separate official nonpartisan election ~~runoff~~ run-off ballot for  
841 those electors who do not choose or are not eligible to vote in the general primary runoff.  
842 In the event that only nonpartisan candidates are to be placed on a run-off ballot, the form  
843 of the ballot shall be as prescribed by the Secretary of State or election superintendent in  
844 essentially the same format as prescribed for the nonpartisan election. Except as provided  
845 in subsection (g) of Code Section 21-2-134, the ~~The~~ candidate having a majority of the  
846 votes cast in the nonpartisan election or the candidate receiving the highest number of votes  
847 cast in the nonpartisan election runoff shall be declared duly elected to such office."

848

**SECTION 21A.**

849 Said chapter is further amended by revising paragraph (3) of subsection (b) of Code  
850 Section 21-2-286, relating to printing specifications, numbering, and binding of ballots, as  
851 follows:

852 "(3) Ballots printed by an electronic ballot marker shall be designed as prescribed by the  
853 Secretary of State to ensure ease of reading by electors, provided that each ballot shall  
854 have the name and designation of the precinct printed at the top."

855 **SECTION 21B.**

856 Said chapter is further amended by revising Code Section 21-2-287, relating to form of  
857 absentee ballot, as follows:

858 "21-2-287.

859 The form for the absentee ballot shall be in substantially the same form as the official  
860 ballots used in the precincts, except it shall be printed with only the name stub and without  
861 a number strip and ~~may~~ shall have the precinct name and designation printed or stamped  
862 thereon."

863 **SECTION 22.**

864 Said chapter is further amended by revising subsection (b) of Code Section 21-2-367, relating  
865 to installation of systems, number of systems, and good working order, as follows:

866 "(b)(1) In each precinct in which optical scanning voting systems are used in a state-wide  
867 general election, the county ~~or municipal governing authority, as appropriate,~~ election  
868 superintendent shall provide at least one voting booth or enclosure for each 250 electors  
869 therein, or fraction thereof.

870 (2) For any other primary, election, or runoff, the county or municipal election  
871 superintendent may provide a greater or lesser number of voting booths or enclosures if,  
872 after a thorough consideration of the type of election, expected turnout, the number of  
873 electors who have already voted by advance voting or absentee ballot, and other relevant  
874 factors that inform the appropriate amount of equipment needed, such superintendent  
875 determines that a different amount of equipment is needed or sufficient. Such  
876 determination shall be subject to the provisions of Code Section 21-2-263."

877 **SECTION 23.**

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

880 "21-2-372.

881 Ballots shall be of suitable design, size, and stock to permit processing by a ballot scanner  
882 and shall be printed in black ink on clear, white, or colored material. Other than ballots  
883 delivered electronically to qualified electors who are entitled to vote by absentee ballot  
884 under the federal Uniformed and Overseas Citizens Absentee Voting Act, 52 U.S.C.  
885 Section 20301, et seq., the ballots shall be printed on security paper that incorporates  
886 features which can be used to authenticate the ballot as an official ballot but which do not  
887 make the ballot identifiable to a particular elector."

888 **SECTION 23A.**

889 Said chapter is further amended in Code Section 21-2-379.23, relating to requirements for  
890 ballot display for electronic ballot markers, role of Secretary of State, and printed paper  
891 ballot controls during recount, by adding a new subsection to read as follows:

892 "(e) Each ballot printed by an electronic ballot marker shall include the name and  
893 designation of the precinct at the top."

894 **SECTION 24.**

895 Said chapter is further amended by revising subsection (c) of Code Section 21-2-379.25,  
896 relating to programming for ballot design and style, verification, appointment of custodians,  
897 and role of custodians, as follows:

898 "(c) On or before the third day preceding a primary or election, including special primaries,  
899 special elections, and referendum elections, the superintendent shall have each electronic  
900 ballot marker tested to ascertain that it will correctly record the votes cast for all offices and  
901 on all questions and produce a ballot reflecting such choices of the elector in a manner that

902 the State Election Board shall prescribe by rule or regulation. Public notice of the time and  
903 place of the test shall be made at least five days prior thereto; ~~provided, however, that, in~~  
904 ~~the case of a runoff, the public notice shall be made at least three days prior thereto.~~ The  
905 superintendent of each county or municipality shall publish such notice on the homepage  
906 of the county's or municipality's publicly accessible website associated with elections, if  
907 the county or municipality maintains a publicly accessible website, and in a newspaper of  
908 general circulation in the county or municipality and by posting in a prominent location in  
909 the county or municipality. Such notice shall state the date, time, and place or places where  
910 preparation and testing of the voting system components for use in the primary or election  
911 will commence, that such preparation and testing shall continue from day to day until  
912 complete, and that representatives ~~Representatives~~ of political parties and bodies, news  
913 media, and the public shall be permitted to observe such tests. The superintendent of the  
914 county or municipality shall also provide such notice to the Secretary of State who shall  
915 publish on his or her website the information received from superintendents stating the  
916 dates, times, and locations for preparation and testing of voting system components.  
917 However, such representatives of political parties and bodies, news media, and the public  
918 shall not in any manner interfere with the preparation and testing of voting system  
919 components. The advertisement in the newspaper of general circulation shall be  
920 prominently displayed, shall not be less than 30 square inches, and shall not be placed in  
921 the section of the newspaper where legal notices appear."

922

**SECTION 25.**

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

926 "21-2-381.

927 (a)(1)(A) Except as otherwise provided in Code Section 21-2-219 or for advance  
928 voting described in subsection (d) of Code Section 21-2-385, not more earlier than 180  
929 78 days or less than 11 days prior to the date of the primary or election, or runoff of  
930 either, in which the elector desires to vote, any absentee elector may make, either by  
931 mail, by facsimile transmission, by electronic transmission, or in person in the  
932 registrar's or absentee ballot clerk's office, an application for an official ballot of the  
933 elector's precinct to be voted at such primary, election, or runoff. To be timely  
934 received, an application for an absentee-by-mail ballot shall be received by the board  
935 of registrars or absentee ballot clerk no later than 11 days prior to the primary, election,  
936 or runoff. For advance voting in person, the application shall be made within the time  
937 period set forth in subsection (d) of Code Section 21-2-385.

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

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



954 include a space to affix a photocopy or electronic image of such identification. The  
955 Secretary of State shall develop a method to allow secure electronic transmission of  
956 such form. The application shall be in writing and shall contain sufficient information  
957 for proper identification of the elector; the permanent or temporary address of the  
958 elector to which the absentee ballot shall be mailed; also include the identity of the  
959 primary, election, or runoff in which the elector wishes to vote; and the name and  
960 relationship of the person requesting the ballot if other than the elector; and an oath  
961 for the elector or relative to write his or her usual signature with a pen and ink  
962 affirming that the elector is a qualified Georgia elector and the facts presented on the  
963 application are true. Submitting false information on an application for an absentee  
964 ballot shall be a violation of Code Sections 21-2-560 and 21-2-571.

965 (ii) A blank application for an absentee ballot shall be made available online by the  
966 Secretary of State and each election superintendent and registrar, but neither the  
967 Secretary of State, election superintendent, board of registrars, other governmental  
968 entity, nor employee or agent thereof shall send absentee ballot applications directly  
969 to any elector except upon request of such elector or a relative authorized to request  
970 an absentee ballot for such elector. No person or entity other than a relative  
971 authorized to request an absentee ballot for such elector or a person signing as  
972 assisting an illiterate or physically disabled elector shall send any elector an absentee  
973 ballot application that is prefilled with the elector's required information set forth in  
974 this subparagraph. No person or entity other than the elector, a relative authorized to  
975 request an absentee ballot for such elector, a person signing as assisting an illiterate  
976 or physically disabled elector with his or her application, a common carrier charged  
977 with returning the ballot application, an absentee ballot clerk, a registrar, or a law  
978 enforcement officer in the course of an investigation shall handle or return an elector's  
979 completed absentee ballot application. Handling a completed absentee ballot  
980 application by any person or entity other than as allowed in this subsection shall be

981 a misdemeanor. Any application for an absentee ballot sent to any elector by any  
982 person or entity shall utilize the form of the application made available by the  
983 Secretary of State and shall clearly and prominently disclose on the face of the form:  
984 'This is NOT an official government publication and was NOT provided to you  
985 by any governmental entity and this is NOT a ballot. It is being distributed by  
986 [insert name and address of person, organization, or other entity distributing such  
987 document or material].'

988 (iii) The disclaimer required by division (ii) of this subparagraph shall be:

989 (I) Of sufficient font size to be clearly readable by the recipient of the  
990 communication;

991 (II) Be contained in a printed box set apart from the other contents of the  
992 communication; and

993 (III) Be printed with a reasonable degree of color contrast between the background  
994 and the printed disclaimer.

995 (D) Except in the case of physically disabled electors residing in the county or  
996 municipality or electors in custody in a jail or other detention facility in the county or  
997 municipality, no absentee ballot shall be mailed to an address other than the permanent  
998 mailing address of the elector as recorded on the elector's voter registration record or  
999 a temporary out-of-county or out-of-municipality address. Upon request, electors held  
1000 in jails or other detention facilities who are eligible to vote shall be granted access to  
1001 the necessary personal effects for the purpose of applying for and voting an absentee  
1002 ballot pursuant to this chapter.

1003 (E) Relatives applying for absentee ballots for electors must also sign an oath stating  
1004 that facts in the application are true.

1005 (F) If the elector is unable to fill out or sign such elector's own application because of  
1006 illiteracy or physical disability, the elector shall make such elector's mark, and the

1007 person filling in the rest of the application shall sign such person's name below it as a  
1008 witness.

1009 (G) Any elector meeting criteria of advance age or disability specified by rule or  
1010 regulation of the State Election Board or any elector who is entitled to vote by absentee  
1011 ballot under the federal Uniformed and Overseas Citizens Absentee Voting Act, 42  
1012 U.S.C. Section 1973ff, et seq., as amended, may request in writing on one application  
1013 a ballot for a presidential preference primary held pursuant to Article 5 of this chapter  
1014 and for a primary as well as for any runoffs resulting therefrom and for the election for  
1015 which such primary shall nominate candidates as well as any runoffs resulting  
1016 therefrom. If not so requested by such person, a separate and distinct application shall  
1017 be required for each primary, run-off primary, election, and run-off election. Except  
1018 as otherwise provided in this subparagraph, a separate and distinct application for an  
1019 absentee ballot shall always be required for any special election or special primary.

1020 (2) A properly executed registration card submitted under the provisions of  
1021 subsection (b) of Code Section 21-2-219, if submitted within 180 days of a primary or  
1022 election in which the registrant is entitled to vote, shall be considered to be an application  
1023 for an absentee ballot under this Code section, or for a special absentee ballot under Code  
1024 Section 21-2-381.1, as appropriate.

1025 (3)(A) All persons or entities, other than the Secretary of State, election  
1026 superintendents, boards of registrars, and absentee ballot clerks, that send applications  
1027 for absentee ballots to electors in a primary, election, or runoff shall mail such  
1028 applications only to individuals who have not already requested, received, or voted an  
1029 absentee ballot in the primary, election, or runoff. Any such person or entity shall  
1030 compare its mail distribution list with the most recent information available about  
1031 which electors have requested, been issued, or voted an absentee ballot in the primary,  
1032 election, or runoff and shall remove the names of such electors from its mail  
1033 distribution list. A person or entity shall not be liable for any violation of this

1034 subparagraph if such person or entity relied upon information made available by the  
1035 Secretary of State within five business days prior to the date such applications are  
1036 mailed.

1037 (B) A person or entity in violation of subparagraph (A) of this paragraph shall be  
1038 subject to sanctions by the State Election Board which, in addition to all other possible  
1039 sanctions, may include requiring such person or entity to pay restitution to each affected  
1040 county or municipality in an amount up to \$100.00 per duplicate absentee ballot  
1041 application that is processed by the county or municipality due to such violation or the  
1042 actual cost incurred by each affected county or municipality for the processing of such  
1043 duplicate absentee ballot applications. Reserved.

1044 (4) In extraordinary circumstances as described in Code Section 21-2-543.1, the registrar  
1045 or absentee ballot clerk shall determine if the applicants are eligible to vote under this  
1046 Code section and shall either mail or issue the absentee ballots for the election for  
1047 representative in the United States Congress to an individual entitled to make application  
1048 for absentee ballot under subsection (d) of this Code section the same day any such  
1049 application is received, so long as the application is received by 3:00 P.M., otherwise no  
1050 later than the next business day following receipt of the application. Any valid absentee  
1051 ballot shall be accepted and processed so long as the ballot is received by the registrar or  
1052 absentee ballot clerk not later than 45 days after the ballot is transmitted to the absent  
1053 uniformed services voter or overseas voter, but in no event later than 11 days following  
1054 the date of the election.

1055 (b)(1) Upon receipt of a timely application for an absentee ballot, a registrar or absentee  
1056 ballot clerk shall enter thereon the date received. The registrar or absentee ballot clerk  
1057 shall verify the identity of the applicant and determine, in accordance with the provisions  
1058 of this chapter, if the applicant is eligible to vote in the primary or election involved. In  
1059 order to ~~be found eligible to vote an absentee ballot by mail~~ verify the identity of the  
1060 applicant, the registrar or absentee ballot clerk shall compare the ~~identifying information~~

1061 applicant's name, date of birth, and number of his or her Georgia driver's license or  
1062 identification card issued pursuant to Article 5 of Chapter 5 of Title 40 on the application  
1063 with the information on file in the registrar's office and, ~~if the application is signed by the~~  
1064 ~~elector, compare the signature or mark of the elector on the application with the signature~~  
1065 ~~or mark of the elector on the elector's voter registration card.~~ If the application does not  
1066 contain the number of the applicant's Georgia driver's license or identification card issued  
1067 pursuant to Article 5 of Chapter 5 of Title 40, the registrar or absentee ballot clerk shall  
1068 verify that the identification provided with the application identifies the applicant. In  
1069 order to be found eligible to vote an absentee ballot in person at the registrar's office or  
1070 absentee ballot clerk's office, such person shall show one of the forms of identification  
1071 listed in Code Section 21-2-417 and the registrar or absentee ballot clerk shall compare  
1072 the identifying information on the application with the information on file in the  
1073 registrar's office.

1074 (2) If found eligible, the registrar or absentee ballot clerk shall certify by signing in the  
1075 proper place on the application and then:

1076 (A) Shall mail the ballot as provided in this Code section;

1077 (B) If the application is made in person, shall issue the ballot to the elector within the  
1078 confines of the registrar's or absentee ballot clerk's office as required by Code  
1079 Section 21-2-383 if the ballot is issued during the advance voting period established  
1080 pursuant to subsection (d) of Code Section 21-2-385; or

1081 (C) May deliver the ballot in person to the elector if such elector is confined to a  
1082 hospital.

1083 (3) If found ineligible or if the application is not timely received, the clerk or the board  
1084 of registrars shall deny the application by writing the reason for rejection in the proper  
1085 space on the application and shall promptly notify the applicant in writing of the ground  
1086 of ineligibility, a copy of which notification should be retained on file in the office of the  
1087 board of registrars or absentee ballot clerk for at least one year. However, an absentee

1088 ballot application shall not be rejected solely due to ~~an apparent~~ a mismatch between the  
1089 ~~signature~~ identifying information of the elector on the application and the ~~signature~~  
1090 identifying information of the elector on file with the board of registrars. In such cases,  
1091 the board of registrars or absentee ballot clerk shall send the elector a provisional  
1092 absentee ballot with the designation 'Provisional Ballot' on the outer oath envelope and  
1093 information prepared by the Secretary of State as to the process to be followed to cure the  
1094 ~~signature~~ discrepancy. If such ballot is returned to the board of registrars or absentee  
1095 ballot clerk prior to the closing of the polls on the day of the primary or election, the  
1096 elector may cure the ~~signature~~ discrepancy by submitting an affidavit to the board of  
1097 registrars or absentee ballot clerk along with a copy of one of the forms of identification  
1098 enumerated in subsection (c) of Code Section 21-2-417 before the close of the period for  
1099 verifying provisional ballots contained in subsection (c) of Code Section 21-2-419. If the  
1100 board of registrars or absentee ballot clerk finds the affidavit and identification to be  
1101 sufficient, the absentee ballot shall be counted as other absentee ballots. If the board of  
1102 registrars or absentee ballot clerk finds the affidavit and identification to be insufficient,  
1103 then the procedure contained in Code Section 21-2-386 shall be followed for rejected  
1104 absentee ballots.

1105 (4) If the registrar or clerk is unable to determine the identity of the elector from  
1106 information given on the application or if the application is not complete or if the oath on  
1107 the application is not signed, the registrar or clerk should promptly ~~write~~ contact the  
1108 elector in writing to request the necessary additional information and a signed copy of the  
1109 oath.

1110 (5) In the case of an unregistered applicant who is eligible to register to vote, the clerk  
1111 or the board shall immediately mail a blank registration card as provided by Code  
1112 Section 21-2-223, and such applicant, if otherwise qualified, shall be deemed eligible to  
1113 vote by absentee ballot in such primary or election, if the registration card, properly  
1114 completed, is returned to the clerk or the board on or before the last day for registering

1115 to vote in such primary or election. ~~If the closing date for registration in the primary or~~  
1116 ~~election concerned has not passed, the clerk or registrar shall also mail a ballot to the~~  
1117 ~~applicant, as soon as it is prepared and available, and the ballot shall be cast in such~~  
1118 ~~primary or election if returned to the clerk or board not later than the close of the polls~~  
1119 ~~on the day of the primary or election concerned.~~

1120 (c) In those counties or municipalities in which the absentee ballot clerk or board of  
1121 registrars provides application forms for absentee ballots, the clerk or board shall provide  
1122 such quantity of the application form to the dean of each college or university located in  
1123 that county as said dean determines necessary for the students of such college or university.

1124 (d)(1) A citizen of the United States permanently residing outside the United States is  
1125 entitled to make application for an absentee ballot from Georgia and to vote by absentee  
1126 ballot in any election for presidential electors and United States senator or representative  
1127 in Congress:

1128 (A) If such citizen was last domiciled in Georgia immediately before his or her  
1129 departure from the United States; and

1130 (B) If such citizen could have met all qualifications, except any qualification relating  
1131 to minimum voting age, to vote in federal elections even though, while residing outside  
1132 the United States, he or she does not have a place of abode or other address in Georgia.

1133 (2) An individual is entitled to make application for an absentee ballot under paragraph  
1134 (1) of this subsection even if such individual's intent to return to Georgia may be  
1135 uncertain, as long as:

1136 (A) He or she has complied with all applicable Georgia qualifications and requirements  
1137 which are consistent with 42 U.S.C. Section 1973ff concerning absentee registration for  
1138 and voting by absentee ballots;

1139 (B) He or she does not maintain a domicile, is not registered to vote, and is not voting  
1140 in any other state or election district of a state or territory or in any territory or  
1141 possession of the United States; and

1142 (C) He or she has a valid passport or card of identity and registration issued under the  
 1143 authority of the Secretary of State of the United States or, in lieu thereof, an alternative  
 1144 form of identification consistent with 42 U.S.C. Section 1973ff and applicable state  
 1145 requirements, if a citizen does not possess a valid passport or card of identity and  
 1146 registration.

1147 (e) The State Election Board is authorized to promulgate reasonable rules and regulations  
 1148 for the implementation of paragraph (1) of subsection (a) of this Code section. Said rules  
 1149 and regulations may include provisions for the limitation of opportunities for fraudulent  
 1150 application, including, but not limited to, comparison of voter registration records with  
 1151 death certificates."

1152 **SECTION 26.**

1153 Said chapter is further amended by revising Code Section 21-2-382, relating to additional  
 1154 sites as additional registrar's office or place of registration for absentee ballots, as follows:  
 1155 "21-2-382.

1156 (a) Any other provisions of this chapter to the contrary notwithstanding, the board of  
 1157 registrars may establish ~~additional sites~~ as additional registrar's offices or places of  
 1158 registration for the purpose of receiving absentee ballots under Code Section 21-2-381 and  
 1159 for the purpose of ~~voting absentee ballots~~ advance voting under Code Section 21-2-385,  
 1160 provided that any such site is a building that is a branch of the county courthouse, a  
 1161 courthouse annex, a government service center providing general government services,  
 1162 another government building generally accessible to the public, or a ~~location~~ building that  
 1163 is used as an election day polling place, notwithstanding that such ~~location~~ building is not  
 1164 a government building.

1165 (b) Any other provisions of this chapter to the contrary notwithstanding, in all counties of  
 1166 this state having a population of 550,000 or more according to the United States decennial  
 1167 census of 1990 or any future such census, any building that is a branch of the county



1168 courthouse or courthouse annex established within any such county shall be an additional  
1169 registrar's or absentee ballot clerk's office or place of registration for the purpose of  
1170 receiving absentee ballots under Code Section 21-2-381 and for the purpose of ~~voting~~  
1171 ~~absentee ballots~~ advance voting under Code Section 21-2-385.

1172 (c)(1) A board of registrars or absentee ballot clerk shall establish at least one drop box  
1173 as a means for absentee by mail electors to deliver their ballots to the board of registrars  
1174 or absentee ballot clerk. A board of registrars or absentee ballot clerk may establish  
1175 additional drop boxes, subject to the limitations of this Code section, but may only  
1176 establish additional drop boxes totaling the lesser of either one drop box for every  
1177 100,000 active registered voters in the county or the number of advance voting locations  
1178 in the county. Any additional drop boxes shall be evenly geographically distributed by  
1179 population in the county. Drop boxes established pursuant to this Code section shall be  
1180 established at the office of the board of registrars or absentee ballot clerk or inside  
1181 locations at which advance voting, as set forth in subsection (d) of Code  
1182 Section 21-2-385, is conducted in the applicable primary, election, or runoff and may be  
1183 open during the hours of advance voting at that location. Such drop boxes shall be closed  
1184 when advance voting is not being conducted at that location. All drop boxes shall be  
1185 closed when the advance voting period ends, as set forth in subsection (d) of Code  
1186 Section 21-2-385. The drop box location shall have adequate lighting and be under  
1187 constant surveillance by an election official or his or her designee, law enforcement  
1188 official, or licensed security guard. During an emergency declared by the Governor  
1189 pursuant to Code Section 38-3-51, drop boxes may be located outside the office of the  
1190 board of registrars or absentee ballot clerk or outside of locations at which advance voting  
1191 is taking place, subject to the other limitations of this Code section.

1192 (2) The opening slot of a drop box shall not allow ballots to be tampered with or  
1193 removed and shall be designed to minimize the ability for liquid or other substances that  
1194 may damage ballots to be poured into the drop box. A drop box shall be labeled

1195 "OFFICIAL ABSENTEE BALLOT DROP BOX" and shall clearly display the signage  
1196 developed by the Secretary of State pertaining to Georgia law with regard to who is  
1197 allowed to return absentee ballots and destroying, defacing, or delaying delivery of  
1198 ballots.

1199 (3) The board of registrars or absentee ballot clerk shall arrange for the collecting and  
1200 return of ballots deposited at each drop box at the conclusion of each day where advance  
1201 voting takes place. Collection of ballots from a drop box shall be made by a team of at  
1202 least two people. Any person collecting ballots from a drop box shall have sworn an oath  
1203 in the same form as the oath for poll officers set forth in Code Section 21-2-95. The  
1204 collection team shall complete and sign a ballot transfer form upon removing the ballots  
1205 from the drop box which shall include the date, time, location, number of ballots,  
1206 confirmation that the drop box was locked after the removal of the ballots, and the  
1207 identity of each person collecting the ballots. The collection team shall then immediately  
1208 transfer the ballots to the board of registrars or absentee ballot clerk, who shall process  
1209 and store the ballots in the same manner as absentee ballots returned by mail are  
1210 processed and stored. The board of registrars, absentee ballot clerk, or a designee of the  
1211 board of registrars or absentee ballot clerk shall sign the ballot transfer form upon receipt  
1212 of the ballots from the collection team. Such form shall be considered a public record  
1213 pursuant to Code Section 50-18-70.

1214 (4) At the beginning of voting at each advance location where a drop box is present, the  
1215 manager of the advance voting location shall open the drop box and confirm on the  
1216 reconciliation form for that advance voting location that the drop box is empty. If the  
1217 drop box is not empty, the manager shall secure the contents of the drop box and  
1218 immediately inform the election superintendent, board of registrars, or absentee ballot  
1219 clerk, who shall inform the Secretary of State."

1220 **SECTION 27.**

1221 Said chapter is further amended by revising Code Section 21-2-384, relating to preparation  
 1222 and delivery of supplies, mailing of ballots, oath of absentee electors and persons assisting  
 1223 absentee electors, master list of ballots sent, challenges, and electronic transmission of  
 1224 ballots, as follows:

1225 "21-2-384.

1226 (a)(1) The superintendent shall, in consultation with the board of registrars or absentee  
 1227 ballot clerk, prepare, obtain, and deliver before the date specified in paragraph (2) of this  
 1228 subsection an adequate supply of official absentee ballots to the board of registrars or  
 1229 absentee ballot clerk for use in the primary or election or as soon as possible prior to a  
 1230 runoff. Envelopes and other supplies as required by this article may be ordered by the  
 1231 superintendent, the board of registrars, or the absentee ballot clerk for use in the primary  
 1232 or election.

1233 (2) The board of registrars or absentee ballot clerk shall mail or issue official absentee  
 1234 ballots to all eligible applicants not more than ~~49~~ 29 days but not less than ~~45~~ 25 days  
 1235 prior to any presidential preference primary, general primary other than a municipal  
 1236 general primary, general election other than a municipal general election, or special  
 1237 primary or special election in which there is a candidate for a federal office on the ballot;  
 1238 22 days prior to any municipal general primary or municipal general election; and as soon  
 1239 as possible prior to any runoff. In the case of all other special primaries or special  
 1240 elections, the board of registrars or absentee ballot clerk shall mail or issue official  
 1241 absentee ballots to all eligible applicants within three days after the receipt of such ballots  
 1242 and supplies, but no earlier than 22 days prior to the election; provided, however, that  
 1243 ~~should~~ official absentee ballots shall be issued to any elector of the jurisdiction ~~be~~  
 1244 ~~permitted to vote by absentee ballot~~ who is entitled to vote by absentee ballot under the  
 1245 federal Uniformed and Overseas Citizen Absentee Voting Act, 52 U.S.C. Section 20301,  
 1246 et seq., as amended, beginning 49 days prior to a federal primary or election, ~~all eligible~~

1247 ~~applicants of such jurisdiction shall be entitled to vote by absentee ballot beginning 49~~  
1248 ~~days prior to such primary or election and not later than 45 days prior to a federal primary~~  
1249 ~~or election. As additional applicants who submitted timely applications for an absentee~~  
1250 ~~ballot are determined to be eligible, the board or clerk shall mail or issue official absentee~~  
1251 ~~ballots to such additional applicants immediately upon determining their eligibility;~~  
1252 ~~provided, however, that no absentee ballot shall be mailed by the registrars or absentee~~  
1253 ~~ballot clerk on the day prior to a primary or election and provided, further, that no~~  
1254 ~~absentee ballot shall be issued on the day prior to a primary or election. For all timely~~  
1255 ~~received applications for absentee ballots, the board of registrars or absentee ballot clerk~~  
1256 ~~shall mail or issue absentee ballots, provisional absentee ballots, and notices of rejection~~  
1257 ~~as soon as possible upon determining their eligibility within the time periods set forth in~~  
1258 ~~this subsection. During the period for advance voting set forth in Code Section 21-2-385,~~  
1259 ~~the board of registrars or absentee ballot clerk shall make such determinations and mail~~  
1260 ~~or issue absentee ballots, provisional absentee ballots, and notices of rejection of~~  
1261 ~~application within three days after receiving a timely application for an absentee ballot.~~  
1262 The board of registrars or absentee ballot clerk shall, within the same time periods  
1263 specified in this subsection, electronically transmit official absentee ballots to all electors  
1264 who have requested to receive their official absentee ballot electronically and are entitled  
1265 to vote such absentee ballot under the federal Uniformed and Overseas Citizens Absentee  
1266 Voting Act, ~~42 U.S.C. Section 1973ff~~ 52 U.S.C. Section 20301, et seq., as amended.

1267 (3) The date a ballot is voted in the registrar's or absentee ballot clerk's office or the date  
1268 a ballot is mailed or issued to an elector and the date it is returned shall be entered on the  
1269 application record therefor.

1270 (4) Notwithstanding any other provision of this chapter, an elector confined in a hospital  
1271 may make application for an absentee ballot ~~The delivery of an absentee ballot to a~~  
1272 ~~person confined in a hospital may be made by the registrar or clerk on the day of a~~  
1273 ~~primary or election or during a five-day~~ ten-day period immediately preceding the day

1274 of such primary or election. Such application shall immediately be processed and, if such  
1275 applicant is determined to be eligible, the board of registrars or absentee ballot clerk may  
1276 deliver the absentee ballot to such elector.

1277 (5) In the event an absentee ballot which has been mailed by the board of registrars or  
1278 absentee ballot clerk is not received by the applicant, the applicant may notify the board  
1279 of registrars or absentee ballot clerk and sign an affidavit stating that the absentee ballot  
1280 has not been received. The board of registrars or absentee ballot clerk shall then issue a  
1281 second absentee ballot to the applicant and cancel the original ballot issued. The affidavit  
1282 shall be attached to the original application. A second application for an absentee ballot  
1283 shall not be required.

1284 (b) Except for ballots voted within the confines of the registrar's or absentee ballot clerk's  
1285 office, in addition to the mailing envelope addressed to the elector, the superintendent,  
1286 board of registrars, or absentee ballot clerk shall provide two envelopes for each official  
1287 absentee ballot, of such size and shape as shall be determined by the Secretary of State, in  
1288 order to permit the placing of one within the other and both within the mailing envelope.  
1289 On the smaller of the two envelopes to be enclosed in the mailing envelope shall be printed  
1290 the words 'Official Absentee Ballot' and nothing else. ~~On the back of the~~ The larger of the  
1291 two envelopes to be enclosed within the mailing envelope shall ~~be printed~~ contain the form  
1292 of oath of the elector and the oath for persons assisting electors, as provided for in Code  
1293 Section 21-2-409, and the penalties provided for in Code Sections 21-2-568, 21-2-573,  
1294 21-2-579, and 21-2-599 for violations of oaths; ~~and on a~~ place for the elector to print his  
1295 or her name; a signature line; a space for the elector to print the number of his or her  
1296 Georgia driver's license or identification card issued pursuant to Article 5 of Chapter 5 of  
1297 Title 40; a space for the elector to mark to affirm that he or she does not have a Georgia  
1298 driver's license or identification card issued pursuant to Article 5 of Chapter 5 of Title 40;  
1299 a space for the elector to print his or her date of birth; and a space for the elector to print  
1300 the last four digits of his or her social security number, if the elector does not have a

1301 Georgia driver's license or state identification card issued pursuant to Article 5 of Chapter 5  
1302 of Title 40. The envelope shall be designed so that the number of the elector's Georgia  
1303 driver's license or identification card issued pursuant to Article 5 of Chapter 5 of Title 40,  
1304 the last four digits of the elector's social security number, and the elector's date of birth  
1305 shall be hidden from view when the envelope is correctly sealed. Any person other than  
1306 the elector who requested the ballot, an authorized person who is assisting the elector  
1307 entitled to assistance in voting pursuant to Code Section 21-2-409, an absentee ballot clerk,  
1308 registrar, or law enforcement officer in the course of an investigation who knowingly  
1309 unseals a sealed absentee ballot envelope shall be guilty of a felony. On the face of such  
1310 envelope shall be printed the name and address of the board of registrars or absentee ballot  
1311 clerk. The larger of the two envelopes shall also display the elector's name and voter  
1312 registration number. The mailing envelope addressed to the elector shall contain the two  
1313 envelopes, the official absentee ballot, the uniform instructions for the manner of preparing  
1314 and returning the ballot, in form and substance as provided by the Secretary of State,  
1315 provisional absentee ballot information, if necessary, and a notice in the form provided by  
1316 the Secretary of State of all withdrawn, deceased, and disqualified candidates and any  
1317 substitute candidates pursuant to Code Sections 21-2-134 and 21-2-155 and nothing else.  
1318 The uniform instructions shall include information specific to the voting system used for  
1319 absentee voting concerning the effect of overvoting or voting for more candidates than one  
1320 is authorized to vote for a particular office and information concerning how the elector may  
1321 correct errors in voting the ballot before it is cast including information on how to obtain  
1322 a replacement ballot if the elector is unable to change the ballot or correct the error. The  
1323 uniform instructions shall prominently include specific instructions stating that the elector  
1324 shall mark his or her ballot in private and sign the oath by writing his or her usual signature  
1325 with a pen and ink under penalty of false swearing that the elector has not allowed any  
1326 person to observe the marking of his or her ballot other than an authorized person lawfully  
1327 assisting the elector if the elector is entitled to assistance, the elector's child under 18 years

1328 of age, or any child under 12 years of age and that the elector will not permit any  
1329 unauthorized person to deliver or return the voted ballot to the board of registrars. The  
1330 uniform instructions shall include a list of authorized persons who may deliver or return  
1331 the voted ballot to the board of registrars on behalf of the elector as provided in subsection  
1332 (a) of Code Section 21-2-385. The uniform instructions shall include the contact  
1333 information of the Secretary of State which may be used by the elector to report any  
1334 unauthorized person requesting to observe the elector voting his or her ballot or the  
1335 elector's voted ballot or any unauthorized person offering to deliver or return the voted  
1336 ballot to the board of registrars.

1337 (c)(1) The oaths referred to in subsection (b) of this Code section shall be in substantially  
1338 the following form:

1339 I, the undersigned, do swear (or affirm) under penalty of false swearing that I am a  
1340 citizen of the United States and of the State of Georgia; that I possess the qualifications  
1341 of an elector required by the laws of the State of Georgia; that I am entitled to vote in  
1342 the precinct containing my residence in the primary or election in which this ballot is  
1343 to be cast; that I am eligible to vote by absentee ballot; that I have not marked or mailed  
1344 any other absentee ballot, nor will I mark or mail another absentee ballot for voting in  
1345 such primary or election; nor shall I vote therein in person; and that I have read and  
1346 understand the instructions accompanying this ballot; ~~and~~ that I have carefully complied  
1347 with such instructions in completing this ballot; that I have marked and sealed this  
1348 ballot in private and have not allowed any unauthorized person to observe the voting  
1349 of this ballot or how this ballot was voted except those authorized under state and  
1350 federal law; and that I will not give or transfer this ballot to any person not authorized  
1351 by law to deliver or return absentee ballots. I understand that the offer or acceptance  
1352 of money or any other object of value to vote for any particular candidate, list of  
1353 candidates, issue, or list of issues included in this election constitutes an act of voter  
1354 fraud and is a felony under Georgia law.

1355  
1356  
1357  
1358

\_\_\_\_\_  
Signature or Mark of Elector  
\_\_\_\_\_  
Printed Name of Elector

1359  
1360  
1361  
1362  
1363  
1364

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 \_\_\_\_\_, \_\_\_\_\_.

1365  
1366  
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1370

\_\_\_\_\_  
Signature of Person Assisting  
Elector  
\_\_\_\_\_  
Printed Name of Person  
Assisting Elector

1371  
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Reason for assistance (Check appropriate square):  
 Elector is unable to read the English language.  
 Elector requires assistance due to physical disability.  
The forms upon which such oaths are printed shall contain the following information:  
Georgia law provides that any person who knowingly falsifies information so as to vote illegally by absentee ballot or who illegally gives or receives assistance in voting, as specified in Code Section 21-2-568 or 21-2-573, shall be guilty of a felony.



1378 (2) In the case of absent uniformed services or overseas voters, if the presidential  
1379 designee under Section 705(b) of the federal Help America Vote Act promulgates a  
1380 standard oath for use by such voters, the Secretary of State shall be required to use such  
1381 oath on absentee ballot materials for such voters and such oath shall be accepted in lieu  
1382 of the oath set forth in paragraph (1) of this subsection.

1383 (d) Each board of registrars or absentee ballot clerk shall maintain for public inspection  
1384 a master list, arranged by precincts, setting forth the name and residence of every elector  
1385 to whom an official absentee ballot has been sent. Absentee electors whose names appear  
1386 on the master list may be challenged by any elector prior to 5:00 P.M. on the day before  
1387 ~~the primary or election~~ absentee ballots are to begin being scanned and tabulated.

1388 (e)(1) The election superintendent shall prepare special absentee run-off ballots for  
1389 general primaries and general elections for use by qualified electors who are entitled to  
1390 vote by absentee ballot under the federal Uniformed and Overseas Citizens Absentee  
1391 Voting Act, 52 U.S.C. Section 20301, et seq.

1392 (2) Such special absentee run-off ballots for the general primary shall list the titles of all  
1393 offices being contested at the general primary and the candidates qualifying for such  
1394 general primary for each office and shall permit the elector to vote in the general primary  
1395 runoff by indicating his or her order of preference for each candidate for each office. A  
1396 separate ballot shall be prepared for each political party, but a qualified elector under this  
1397 subsection shall be mailed only the ballot of the political party in whose primary such  
1398 elector requests to vote. The Secretary of State shall prepare instructions for use with  
1399 such special absentee run-off ballots, including instructions for voting by mail using an  
1400 electronically transmitted ballot. Such ballot shall be returned by the elector in the same  
1401 manner as other absentee ballots by such electors who are entitled to vote by absentee  
1402 ballot under the federal Uniformed and Overseas Citizens Absentee Voting Act, 52  
1403 U.S.C. Section 20301, et seq.

1404 (3) Such special absentee run-off ballots for the general election shall list the titles of all  
1405 offices being contested at the general election and the candidates qualifying for such  
1406 general election for each office and shall permit the elector to vote in the general election  
1407 runoff by indicating his or her order of preference for each candidate for each office.

1408 (4) To indicate order of preference for each candidate for each office to be voted on, an  
1409 elector shall put the numeral '1' next to the name of the candidate who is the elector's first  
1410 choice for such office, the numeral '2' for the elector's second choice, and so forth, in  
1411 consecutive numerical order, such that a numeral indicating the elector's preference is  
1412 written by the elector next to each candidate's name on the ballot. An elector shall not  
1413 be required to indicate preference for more than one candidate for an office if the elector  
1414 so chooses.

1415 (5) A special absentee run-off ballot shall be enclosed with each general primary  
1416 absentee ballot sent to an elector who is entitled to vote by absentee ballot under the  
1417 federal Uniformed and Overseas Citizens Absentee Voting Act, 52 U.S.C. Section 20301,  
1418 et seq., along with instructions on how to cast the special absentee run-off ballot and the  
1419 two envelopes to be used in returning such ballot as provided in subsection (b) of this  
1420 Code section, provided that the envelopes bear the notation of 'Official Overseas/Military  
1421 General Primary Run-off Ballot.' An elector shall be sent only the ballot containing the  
1422 candidates of the political party in whose primary such elector desires to vote.

1423 (6) A special absentee run-off ballot shall be enclosed with each general election  
1424 absentee ballot sent to an elector entitled to vote by absentee ballot under the federal  
1425 Uniformed and Overseas Citizens Absentee Voting Act, 52 U.S.C. Section 20301, et seq.,  
1426 along with instructions on how to cast the special absentee run-off ballot and the two  
1427 envelopes to be used in returning such ballot as provided in subsection (b) of this Code  
1428 section, provided that the envelopes bear the notation of 'Official Overseas/Military  
1429 General Election Run-off Ballot.' The State Election Board shall by rule or regulation  
1430 establish procedures for the transmission of blank absentee ballots by mail and by

1431 electronic transmission for all electors who are entitled to vote by absentee ballot under  
1432 the federal Uniformed and Overseas Citizens Absentee Voting Act, 52 U.S.C.  
1433 Section ~~20302~~ 20301, et seq., as amended, and by which such electors may designate  
1434 whether the elector prefers the transmission of such ballots by mail or electronically, for  
1435 use in county, state, and federal primaries, elections, and runoffs in this state and, if the  
1436 Secretary of State finds it to be feasible, for use in municipal primaries, elections, and  
1437 runoffs. If no preference is stated, the ballot shall be transmitted by mail. The State  
1438 Election Board shall by rule or regulation establish procedures to ensure to the extent  
1439 practicable that the procedures for transmitting such ballots shall protect the security and  
1440 integrity of such ballots and shall ensure that the privacy of the identity and other  
1441 personal data of such electors who are entitled to vote by absentee ballot under the federal  
1442 Uniformed and Overseas Citizens Absentee Voting Act, 52 U.S.C. Section ~~20302~~ 20301,  
1443 et seq., as amended, to whom a blank absentee ballot is transmitted under this Code  
1444 section is protected throughout the process of such transmission."

1445 **SECTION 28.**

1446 Said chapter is further amended by revising subsections (a) and (d) of and adding a new  
1447 subsection to Code Section 21-2-385, relating to procedure for voting by absentee ballot and  
1448 advance voting, to read as follows:

1449 "(a) At any time after receiving an official absentee ballot, but before the day of the  
1450 primary or election, except electors who are confined to a hospital on the day of the  
1451 primary or election, the elector shall vote his or her absentee ballot, then fold the ballot and  
1452 enclose and securely seal the same in the envelope on which is printed 'Official Absentee  
1453 Ballot.' This envelope shall then be placed in the second one, on which is printed the form  
1454 of the oath of the elector; the name and oath of the person assisting, if any; and other  
1455 required identifying information. The elector shall then fill out, subscribe, and swear to the  
1456 oath printed on such envelope. In order to verify that the absentee ballot was voted by the

1457 elector who requested the ballot, the elector shall print the number of his or her Georgia  
1458 driver's license number or identification card issued pursuant to Article 5 of Chapter 5 of  
1459 Title 40 in the space provided on the outer oath envelope. The elector shall also print his  
1460 or her date of birth in the space provided in the outer oath envelope. If the elector does not  
1461 have a Georgia driver's license or state identification card issued pursuant to Article 5 of  
1462 Chapter 5 of Title 40, the elector shall so affirm in the space provided on the outer oath  
1463 envelope and print the last four digits of his or her social security number in the space  
1464 provided on the outer oath envelope. If the elector does not have a Georgia driver's license,  
1465 identification card issued pursuant to Article 5 of Chapter 5 of Title 40, or a social security  
1466 number, the elector shall so affirm in the space provided on the outer oath envelope and  
1467 place a copy of one of the forms of identification set forth in subsection (c) of Code  
1468 Section 21-2-417 in the outer envelope. Such envelope shall then be securely sealed and  
1469 the elector shall then personally mail or personally deliver same to the board of registrars  
1470 or absentee ballot clerk, provided that mailing or delivery may be made by the elector's  
1471 mother, father, grandparent, aunt, uncle, brother, sister, spouse, son, daughter, niece,  
1472 nephew, grandchild, son-in-law, daughter-in-law, mother-in-law, father-in-law,  
1473 brother-in-law, sister-in-law, or an individual residing in the household of such elector.  
1474 The absentee ballot of a disabled elector may be mailed or delivered by the caregiver of  
1475 such disabled elector, regardless of whether such caregiver resides in such disabled  
1476 elector's household. The absentee ballot of an elector who is in custody in a jail or other  
1477 detention facility may be mailed or delivered by any employee of such jail or facility  
1478 having custody of such elector. An elector who is confined to a hospital on a primary or  
1479 election day to whom an absentee ballot is delivered by the registrar or absentee ballot  
1480 clerk shall then and there vote the ballot, seal it properly, and return it to the registrar or  
1481 absentee ballot clerk. If the elector registered to vote for the first time in this state by mail  
1482 and has not previously provided the identification required by Code Section 21-2-220 and  
1483 votes for the first time by absentee ballot and fails to provide the identification required by

1484 Code Section 21-2-220 with such absentee ballot, such absentee ballot shall be treated as  
 1485 a provisional ballot and shall be counted only if the registrars are able to verify the  
 1486 identification and registration of the elector during the time provided pursuant to Code  
 1487 Section 21-2-419."

1488 "(d)(1) There shall be a period of advance voting that shall commence:

1489 (A) On the fourth Monday immediately prior to each primary or election; and

1490 ~~(B) On the fourth Monday immediately prior to a runoff from a general primary;~~

1491 ~~(C) On the fourth Monday immediately prior to a runoff from a general election in~~  
 1492 ~~which there are candidates for a federal office on the ballot in the runoff; and~~

1493 ~~(D)~~(B) As soon as possible prior to a runoff from any other general primary or election  
 1494 ~~in which there are only state or county candidates on the ballot in the runoff~~ but no later  
 1495 than the second Monday immediately prior to such runoff

1496 and shall end on the Friday immediately prior to each primary, election, or runoff.

1497 Voting shall be conducted ~~during normal business hours~~ beginning at 9:00 A.M. and  
 1498 ending at 5:00 P.M. on weekdays, other than observed state holidays, during such period

1499 and shall be conducted on the second ~~Saturday~~ and third Saturdays during the hours of  
 1500 9:00 A.M. through 5:00 P.M. and, if the registrar or absentee ballot clerk so chooses, the

1501 second Sunday, the third Sunday, or both the second and third Sundays prior to a primary  
 1502 or election during ~~the hours of 9:00 A.M. through 4:00 P.M.~~ determined by the registrar

1503 or absentee ballot clerk, but no longer than 7:00 A.M. through 7:00 P.M.; provided,

1504 however, ~~that in primaries and elections in which there are no federal or state candidates~~  
 1505 ~~on the ballot, no Saturday voting hours shall be required; and provided, further, that, if~~

1506 such second Saturday is a public and legal holiday pursuant to Code Section 1-4-1, if

1507 such second Saturday follows a public and legal holiday occurring on the Thursday or

1508 Friday immediately preceding such second Saturday, or if such second Saturday

1509 immediately precedes a public and legal holiday occurring on the following Sunday or

1510 Monday, such advance voting shall not be held on such second Saturday but shall be held

1511 on the third Saturday prior to such primary or election beginning at 9:00 A.M. and ending  
1512 at 5:00 P.M. Except as otherwise provided in this paragraph, ~~counties and municipalities~~  
1513 the registrars may extend the hours for voting ~~beyond regular business hours to permit~~  
1514 advance voting from 7:00 A.M. until 7:00 P.M. and may provide for additional voting  
1515 locations pursuant to Code Section 21-2-382 to suit the needs of the electors of the  
1516 jurisdiction at their option; provided, however, that voting shall occur only on the days  
1517 specified in this paragraph and counties and municipalities shall not be authorized to  
1518 conduct advance voting on any other days.

1519 (2) The registrars or absentee ballot clerk, as appropriate, shall provide reasonable notice  
1520 to the electors of their jurisdiction of the availability of advance voting as well as the  
1521 times, dates, and locations at which advance voting will be conducted. In addition, the  
1522 registrars or absentee ballot clerk shall notify the Secretary of State in the manner  
1523 prescribed by the Secretary of State of the times, dates, and locations at which advance  
1524 voting will be conducted.

1525 (3) The board of registrars shall publish the dates, times, and locations of the availability  
1526 of advance voting in its jurisdiction on the homepage of the county's publicly accessible  
1527 website associated with elections or registrations, or if the county does not have such a  
1528 website, in a newspaper of general circulation, and by posting in a prominent location in  
1529 the county, no later than 14 days prior to the beginning of the advance voting period for  
1530 a general primary, special primary, general election, or special election and no later than  
1531 seven days prior to the beginning of the advance voting period for any run-off election.  
1532 Any new advance voting locations added after that deadline shall be published in the  
1533 same manner as soon as possible. The board of registrars shall not remove any advance  
1534 voting location after the notice of such location is published, except in the case of an  
1535 emergency or unavoidable event that renders a location unavailable for use. Any changes  
1536 that are made due to an emergency or unavoidable event after a notice of a location has

1537 been published shall be published as soon as possible in the same manner set forth in this  
1538 paragraph.

1539 (e) On each day of an absentee voting period, each county board of registrars or  
1540 municipal absentee ballot clerk shall report for the county or municipality to the Secretary  
1541 of State and post on the county or municipal website, or if the county or municipality  
1542 does not maintain such a website, a place of public prominence in the county or  
1543 municipality, not later than 10:00 A.M. on each business day the number of persons to  
1544 whom absentee ballots have been issued, the number of persons who have returned  
1545 absentee ballots, and the number of absentee ballots that have been rejected.  
1546 Additionally, on each day of an advance voting period, each county board of registrars  
1547 or municipal absentee ballot clerk shall report to the Secretary of State and post on the  
1548 county or municipal website, or if the county or municipality does not maintain such a  
1549 website, a place of public prominence in the county or municipality, not later than 10:00  
1550 A.M. on each business day the number of persons who have voted at the advance voting  
1551 sites in the county or municipality. During the absentee voting period and for a period  
1552 of three days following a primary, election, or runoff, each county board of registrars or  
1553 municipal absentee ballot clerk shall report to the Secretary of State and post on the  
1554 county or municipal website, or if the county or municipality does not maintain such a  
1555 website, a place of public prominence in the county or municipality, not later than 10:00  
1556 A.M. on each business day the number of persons who have voted provisional ballots, the  
1557 number of provisional ballots that have verified or cured and accepted for counting, and  
1558 the number of provisional ballots that have been rejected."

1559 **SECTION 29.**

1560 Said chapter is further amended by revising Code Section 21-2-386, relating to safekeeping,  
1561 certification, and validation of absentee ballots, rejection of ballot, delivery of ballots to



1562 manager, duties of managers, precinct returns, and notification of challenged elector, as  
1563 follows:

1564 "21-2-386.

1565 (a)(1)(A) The board of registrars or absentee ballot clerk shall keep safely, unopened,  
1566 and stored in a manner that will prevent tampering and unauthorized access all official  
1567 absentee ballots received from absentee electors prior to the closing of the polls on the  
1568 day of the primary or election except as otherwise provided in this subsection.

1569 (B) Upon receipt of each ballot, a registrar or clerk shall write the day and hour of the  
1570 receipt of the ballot on its envelope. The registrar or clerk shall then compare the  
1571 number of the elector's Georgia driver's license number or state identification card  
1572 issued pursuant to Article 5 of Chapter 5 of Title 40 and date of birth entered on the  
1573 absentee ballot envelope identifying information on the oath with the same information  
1574 ~~on file in his or her office, shall compare the signature or mark on the oath with the~~  
1575 ~~signature or mark on the absentee elector's voter registration card or the most recent~~  
1576 ~~update to such absentee elector's voter registration card and application for absentee~~  
1577 ~~ballot or a facsimile of said signature or mark taken from said card or application, and~~  
1578 ~~shall, if the information and signature appear to be valid and other identifying~~  
1579 ~~information appears to be correct, contained in the elector's voter registration records.~~  
1580 If the elector has affirmed on the envelope that he or she does not have a Georgia  
1581 driver's license or state identification card issued pursuant to Article 5 of Chapter 5 of  
1582 Title 40, the registrar or clerk shall compare the last four digits of the elector's social  
1583 security number and date of birth entered on the envelope with the same information  
1584 contained in the elector's voter registration records. The registrar or clerk shall also  
1585 confirm that the elector signed the oath and the person assisting the elector, if any,  
1586 signed the required oath. If the elector has signed the elector's oath, the person assisting  
1587 has signed the required oath, if applicable, and the identifying information entered on  
1588 the absentee ballot envelope matches the same information contained in the elector's



1589 voter registration record, the registrar or clerk shall so certify by signing or initialing  
1590 his or her name below the voter's oath. Each elector's name so certified shall be listed  
1591 by the registrar or clerk on the numbered list of absentee voters prepared for his or her  
1592 precinct.

1593 (C) If the elector has failed to sign the oath, or if the ~~signature~~ identifying information  
1594 entered on the absentee ballot envelope does not ~~appear to be valid~~ match the same  
1595 information appearing in the elector's voter registration record, or if the elector has  
1596 failed to furnish required information or information so furnished does not conform  
1597 with that on file in the registrar's or clerk's office, or if the elector is otherwise found  
1598 disqualified to vote, the registrar or clerk shall write across the face of the envelope  
1599 'Rejected,' giving the reason therefor. The board of registrars or absentee ballot clerk  
1600 shall promptly notify the elector of such rejection, a copy of which notification shall be  
1601 retained in the files of the board of registrars or absentee ballot clerk for at least two  
1602 years. Such elector shall have until the end of the period for verifying provisional  
1603 ballots contained in subsection (c) of Code Section 21-2-419 to cure the problem  
1604 resulting in the rejection of the ballot. The elector may cure a failure to sign the oath,  
1605 ~~an invalid signature~~ nonmatching identifying information, or missing information by  
1606 submitting an affidavit to the board of registrars or absentee ballot clerk along with a  
1607 copy of one of the forms of identification enumerated in subsection (c) of Code  
1608 Section 21-2-417 before the close of such period. The affidavit shall affirm that the  
1609 ballot was submitted by the elector, is the elector's ballot, and that the elector is  
1610 registered and qualified to vote in the primary, election, or runoff in question. If the  
1611 board of registrars or absentee ballot clerk finds the affidavit and identification to be  
1612 sufficient, the absentee ballot shall be counted.

1613 (D) An elector who registered to vote by mail, but did not comply with subsection (c)  
1614 of Code Section 21-2-220, and who votes for the first time in this state by absentee  
1615 ballot shall include with his or her application for an absentee ballot or in the outer oath

1616 envelope of his or her absentee ballot either one of the forms of identification listed in  
1617 subsection (a) of Code Section 21-2-417 or a copy of a current utility bill, bank  
1618 statement, government check, paycheck, or other government document that shows the  
1619 name and address of such elector. If such elector does not provide any of the forms of  
1620 identification listed in this subparagraph with his or her application for an absentee  
1621 ballot or with the absentee ballot, such absentee ballot shall be deemed to be a  
1622 provisional ballot and such ballot shall only be counted if the registrars are able to  
1623 verify current and valid identification of the elector as provided in this subparagraph  
1624 within the time period for verifying provisional ballots pursuant to Code  
1625 Section 21-2-419. The board of registrars or absentee ballot clerk shall promptly notify  
1626 the elector that such ballot is deemed a provisional ballot and shall provide information  
1627 on the types of identification needed and how and when such identification is to be  
1628 submitted to the board of registrars or absentee ballot clerk to verify the ballot.

1629 (E) Three copies of the numbered list of voters shall also be prepared for such rejected  
1630 absentee electors, giving the name of the elector and the reason for the rejection in each  
1631 case. Three copies of the numbered list of certified absentee voters and three copies of  
1632 the numbered list of rejected absentee voters for each precinct shall be turned over to  
1633 the poll manager in charge of counting the absentee ballots and shall be distributed as  
1634 required by law for numbered lists of voters.

1635 (F) All absentee ballots returned to the board or absentee ballot clerk after the closing  
1636 of the polls on the day of the primary or election shall be safely kept unopened by the  
1637 board or absentee ballot clerk and then transferred to the appropriate clerk for storage  
1638 for the period of time required for the preservation of ballots used at the primary or  
1639 election and shall then, without being opened, be destroyed in like manner as the used  
1640 ballots of the primary or election. The board of registrars or absentee ballot clerk shall  
1641 promptly notify the elector by first-class mail that the elector's ballot was returned too  
1642 late to be counted and that the elector will not receive credit for voting in the primary

1643 or election. All such late absentee ballots shall be delivered to the appropriate clerk and  
1644 stored as provided in Code Section 21-2-390.

1645 (G) Notwithstanding any provision of this chapter to the contrary, until the United  
1646 States Department of Defense notifies the Secretary of State that the Department of  
1647 Defense has implemented a system of expedited absentee voting for those electors  
1648 covered by this subparagraph, absentee ballots cast in a primary, election, or runoff by  
1649 eligible absentee electors who reside outside the county or municipality in which the  
1650 primary, election, or runoff is held and are members of the armed forces of the United  
1651 States, members of the merchant marine of the United States, spouses or dependents of  
1652 members of the armed forces or merchant marine residing with or accompanying such  
1653 members, or overseas citizens that are postmarked by the date of such primary, election,  
1654 or runoff and are received within the three-day period following such primary, election,  
1655 or runoff, if proper in all other respects, shall be valid ballots and shall be counted and  
1656 included in the certified election results.

1657 ~~(2)(A) Beginning at 8:00 A.M. on the third Monday prior to~~ After the opening of the  
1658 ~~polls on the day of the primary, election, or runoff, the registrars or absentee ballot~~  
1659 ~~clerk~~ election superintendent shall be authorized to open the outer oath envelope ~~on~~  
1660 ~~which is printed the oath of the elector~~ of absentee ballots that have been verified and  
1661 accepted pursuant to subparagraph (a)(1)(B) of this Code section, in such a manner as  
1662 ~~not to destroy the oath printed thereon; provided, however, that the registrars or~~  
1663 ~~absentee ballot clerk shall not be authorized to~~ remove the contents of such outer  
1664 envelope, ~~or to~~ open the inner envelope marked 'Official Absentee Ballot,' ~~except as~~  
1665 ~~otherwise provided in this Code section~~ and scan the absentee ballot using one or more  
1666 ballot scanners. At least three persons who are registrars, deputy registrars, poll  
1667 workers, or absentee ballot clerks must be present before commencing; and three  
1668 persons who are registrars, deputy registrars, or absentee ballot clerks shall be present  
1669 at all times while the ~~outer~~ absentee ballot envelopes are being opened and the absentee

1670 ballots are being scanned. After opening the outer envelopes, the ballots shall be safely  
1671 and securely stored until the time for tabulating such ballots. However, no person shall  
1672 tally, tabulate, estimate, or attempt to tally, tabulate, or estimate or cause the ballot  
1673 scanner or any other equipment to produce any tally or tabulate, partial or otherwise,  
1674 of the absentee ballots cast until the time for the closing of the polls on the day of the  
1675 primary, election, or runoff except as provided in this Code section. Prior to beginning  
1676 the process set forth in this paragraph, the superintendent shall provide written notice  
1677 to the Secretary of State in writing at least seven days prior to processing and scanning  
1678 absentee ballots. Such notice shall contain the dates, start and end times, and location  
1679 or locations where absentee ballots will be processed and scanned. The superintendent  
1680 shall also post such notice publicly in a prominent location in the superintendent's office  
1681 and on the home page of the county election superintendent's website, if the county  
1682 election superintendent maintains such a website. The Secretary of State shall publish  
1683 on his or her website the information he or she receives from superintendents stating  
1684 the dates, times, and locations where absentee ballots will be processed.  
1685 (B) The proceedings set forth in this paragraph shall be open to the view of the public,  
1686 but no person except one employed and designated by the superintendent shall touch  
1687 any ballot or ballot container. Any person involved in processing and scanning  
1688 absentee ballots shall swear an oath, in the same form as the oath for poll officers  
1689 provided in Code Section 21-2-95, prior to beginning the processing and scanning of  
1690 absentee ballots. The county executive committee or, if there is no organized county  
1691 executive committee, the state executive committee of each political party and political  
1692 body having candidates whose names appear on the ballot for such election shall have  
1693 the right to designate two persons and each independent and nonpartisan candidate  
1694 whose name appears on the ballot for such election shall have the right to designate one  
1695 person to act as monitors for such process. In the event that the only issue to be voted  
1696 upon in an election is a referendum question, the superintendent shall also notify in

1697 writing the chief judge of the superior court of the county who shall appoint two  
1698 electors of the county to monitor such process. While viewing or monitoring the  
1699 process set forth in this paragraph, monitors and observers shall be prohibited from:

1700 (i) In any way interfering with the processing or scanning of absentee ballots or the  
1701 conduct of the election;

1702 (ii) Using or bringing into the room any photographic or other electronic monitoring  
1703 or recording devices, cellular telephones, or computers;

1704 (iii) Engaging in any form of campaigning or campaign activity;

1705 (iv) Taking any action that endangers the secrecy and security of the ballots;

1706 (v) Touching any ballot or ballot container;

1707 (vi) Tallying, tabulating, estimating, or attempting to tally, tabulate, or estimate,  
1708 whether partial or otherwise, any of the votes on the absentee ballots cast; and

1709 (vii) Communicating any information that they see while monitoring the processing  
1710 and scanning of the absentee ballots, whether intentionally or inadvertently, about any  
1711 ballot, vote, or selection to anyone other than an election official who needs such  
1712 information to lawfully carry out his or her official duties.

1713 (C) The State Election Board shall promulgate rules requiring reconciliation  
1714 procedures; prompt and undelayed scanning of ballots after absentee ballot envelopes  
1715 are opened; secrecy of election results prior to the closing of the polls on the day of a  
1716 primary, election, or runoff; and other protections to protect the integrity of the process  
1717 set forth in this paragraph.

1718 (3) A county election superintendent may, in his or her discretion, after 7:00 A.M. on the  
1719 day of the primary, election, or runoff ~~open the inner envelopes in accordance with the~~  
1720 ~~procedures prescribed in this subsection~~ and begin tabulating the absentee ballots. If the  
1721 county election superintendent chooses to open the inner envelopes and begin tabulating  
1722 such ballots prior to the close of the polls on the day of the primary, election, or runoff,  
1723 the superintendent shall notify in writing, at least seven days prior to the primary,

1724 election, or runoff, the Secretary of State of the superintendent's intent to begin the  
1725 absentee ballot tabulation prior to the close of the polls. The county executive committee  
1726 or, if there is no organized county executive committee, the state executive committee of  
1727 each political party and political body having candidates whose names appear on the  
1728 ballot for such election in such county shall have the right to designate two persons and  
1729 each independent and nonpartisan candidate whose name appears on the ballot for such  
1730 election in such county shall have the right to designate one person to act as monitors for  
1731 such process. In the event that the only issue to be voted upon in an election is a  
1732 referendum question, the superintendent shall also notify in writing the chief judge of the  
1733 superior court of the county who shall appoint two electors of the county to monitor such  
1734 process.

1735 (4) The county election superintendent shall publish a written notice in the  
1736 superintendent's office of the superintendent's intent to begin the absentee ballot  
1737 tabulation prior to the close of the polls and publish such notice at least one week prior  
1738 to the primary, election, or runoff in the legal organ of the county.

1739 (5) The process for opening ~~the inner~~ absentee ballot envelopes, scanning absentee  
1740 ballots, ~~of~~ and tabulating absentee ballots on the day of a primary, election, or runoff as  
1741 provided in this subsection shall be ~~a confidential process~~ conducted in a manner to  
1742 maintain the secrecy of all ballots and to protect the disclosure of any balloting  
1743 information before 7:00 P.M. on election day. No absentee ballots shall be tabulated  
1744 before 7:00 A.M. on the day of a primary, election, or runoff.

1745 (6) All persons conducting the tabulation of absentee ballots during the day of a primary,  
1746 election, or runoff, including the vote review panel required by Code Section 21-2-483,  
1747 and all monitors and observers shall be sequestered until the time for the closing of the  
1748 polls. All such persons shall have no contact with the news media; shall have no contact  
1749 with other persons not involved in monitoring, observing, or conducting the tabulation;  
1750 shall not use any type of communication device including radios, telephones, and cellular

1751 telephones; shall not utilize computers for the purpose of ~~e-mail~~ email, instant messaging,  
1752 or other forms of communication; and shall not communicate any information concerning  
1753 the tabulation until the time for the closing of the polls; provided, however, that  
1754 supervisory and technical assistance personnel shall be permitted to enter and leave the  
1755 area in which the tabulation is being conducted but shall not communicate any  
1756 information concerning the tabulation to anyone other than the county election  
1757 superintendent; the staff of the superintendent; those persons conducting, observing, or  
1758 monitoring the tabulation; and those persons whose technical assistance is needed for the  
1759 tabulation process to operate.

1760 (7) The absentee ballots shall be tabulated in accordance with the procedures of this  
1761 chapter for the tabulation of absentee ballots. As such ballots are tabulated, they shall be  
1762 placed into locked ballot boxes and may be transferred to locked ballot bags, if needed,  
1763 for security. The persons conducting the tabulation of the absentee ballots shall not cause  
1764 the tabulating equipment to produce any count, partial or otherwise, of the absentee votes  
1765 cast until the time for the closing of the polls except as otherwise provided in this Code  
1766 section.

1767 (b) When requested by the superintendent, but not earlier than the third Monday prior to  
1768 a primary, election, or runoff ~~As soon as practicable after 7:00 A.M. on the day of the~~  
1769 ~~primary, election, or runoff, in precincts other than those in which optical scanning~~  
1770 ~~tabulators are used,~~ a registrar or absentee ballot clerk shall deliver the official absentee  
1771 ballot of each certified absentee elector, each rejected absentee ballot, applications for such  
1772 ballots, and copies of the numbered lists of certified and rejected absentee electors to the  
1773 ~~manager in charge of the absentee ballot precinct of the county or municipality, which shall~~  
1774 ~~be located in the precincts containing the county courthouse or polling place designated by~~  
1775 ~~the municipal superintendent. In those precincts in which optical scanning tabulators are~~  
1776 ~~used, such absentee ballots shall be taken to the tabulation center or other place~~ location  
1777 designated by the superintendent, and the superintendent or official receiving such absentee



1778 ballots shall issue his or her receipt therefor. ~~Except as otherwise provided in this Code~~  
1779 ~~section, in no event shall the counting of the ballots begin before the polls close.~~

1780 (c) The superintendent shall cause the verified and accepted absentee ballots to be opened  
1781 and tabulated as provided in this Code section. A ~~Except as otherwise provided in this~~  
1782 ~~Code section, after the close of the polls on the day of the primary, election, or runoff, a~~  
1783 manager shall then open the outer envelope in such manner as not to destroy the oath  
1784 printed thereon and shall deposit the inner envelope marked 'Official Absentee Ballot' in  
1785 a ballot box reserved for absentee ballots. In the event that an outer envelope is found to  
1786 contain an absentee ballot that is not in an inner envelope, the ballot shall be sealed in an  
1787 inner envelope, initialed and dated by the person sealing the inner envelope, and deposited  
1788 in the ballot box and counted in the same manner as other absentee ballots, provided that  
1789 such ballot is otherwise proper. Such manager with two assistant managers, appointed by  
1790 the superintendent, with such clerks as the manager deems necessary shall count the  
1791 absentee ballots following the procedures prescribed by this chapter for other ballots,  
1792 insofar as practicable, ~~and prepare an election return for the county or municipality~~  
1793 ~~showing the results of the absentee ballots cast in such county or municipality.~~

1794 (d) All absentee ballots shall be counted and tabulated in such a manner that returns may  
1795 be reported by precinct; and separate returns shall be made for each precinct in which  
1796 absentee ballots were cast showing the results by each precinct in which the electors reside.  
1797 The superintendent shall utilize the procedures set forth in this Code section to ensure that  
1798 the returns of verified and accepted absentee ballots cast are reported to the public as soon  
1799 as possible following the closing of the polls on the day of the primary, election, or runoff.  
1800 Failure to utilize these procedures to ensure that the returns of verified and accepted  
1801 absentee ballots are reported as soon as possible following the close of polls shall subject  
1802 the superintendent to sanctions by the State Election Board. If a superintendent fails to  
1803 report the returns of verified and accepted absentee ballots by the day following the



1804 election at 5:00 P.M., the State Election Board may convene an independent performance  
1805 review board pursuant to Code Section 21-2-107.

1806 (e) If an absentee elector's right to vote has been challenged for cause, a poll officer shall  
1807 write 'Challenged,' the elector's name, and the alleged cause of challenge on the outer  
1808 envelope and shall deposit the ballot in a secure, sealed ballot box; and it shall be counted  
1809 as other challenged ballots are counted. Where direct recording electronic voting systems  
1810 are used for absentee balloting and a challenge to an elector's right to vote is made prior to  
1811 the time that the elector votes, the elector shall vote on a paper or optical scanning ballot  
1812 and such ballot shall be handled as provided in this subsection. The board of registrars or  
1813 absentee ballot clerk shall promptly notify the elector of such challenge.

1814 (f) It shall be unlawful at any time prior to the close of the polls for any person to disclose  
1815 or for any person to receive any information regarding the results of the tabulation of  
1816 absentee ballots except as expressly provided by law."

1817 **SECTION 30.**

1818 Said chapter is further amended in Code Section 21-2-390, relating to delivery of election  
1819 materials to clerk of superior court or city clerk after primary or election and accounting for  
1820 ballots by registrars or municipal absentee ballot clerks, by designating the existing text as  
1821 subsection (a) and adding a new subsection to read as follows:

1822 "(b) The Secretary of State shall be authorized to inspect and audit the information  
1823 contained in the absentee ballot applications or envelopes at his or her discretion at any  
1824 time during the 24 month retention period. Such audit may be conducted state wide or in  
1825 selected counties or cities and may include the auditing of a statistically significant sample  
1826 of the envelopes or a full audit of all of such envelopes. For this purpose, the Secretary of  
1827 State or his or her authorized agents shall have access to such envelopes in the custody of  
1828 the clerk of superior court or city clerk."

1829 **SECTION 31.**

1830 Said chapter is further amended in Code Section 21-2-403, relating to time for opening and  
1831 closing of polls, by redesignating the existing text as subsection (a) and adding a new  
1832 subsection to read as follows:

1833 "(b) Poll hours at a precinct may be extended only by order of a judge of the superior court  
1834 of the county in which the precinct is located upon good cause shown by clear and  
1835 convincing evidence that persons were unable to vote at that precinct during a specific  
1836 period or periods of time. Poll hours shall not be extended longer than the total amount of  
1837 time during which persons were unable to vote at such precinct. Any order extending poll  
1838 hours at a precinct beyond 9:00 P.M. shall be by written order with specific findings of fact  
1839 supporting such extension."

1840 **SECTION 32.**

1841 Said chapter is further amended by revising subsections (c) and (e) of Code  
1842 Section 21-2-408, relating to poll watchers, designation, duties, removal for interference with  
1843 election, reports by poll watchers of infractions or irregularities, and ineligibility of  
1844 candidates to serve as poll watchers, as follows:

1845 "(c) In counties or municipalities using direct recording electronic (DRE) voting systems  
1846 or optical scanning voting systems, each political party may appoint two poll watchers in  
1847 each primary or election, each political body may appoint two poll watchers in each  
1848 election, each nonpartisan candidate may appoint one poll watcher in each nonpartisan  
1849 election, and each independent candidate may appoint one poll watcher in each election to  
1850 serve in the locations designated by the superintendent within the tabulating center. Such  
1851 designated locations shall include the check-in area, the computer room, the duplication  
1852 area, and such other areas as the superintendent may deem necessary to the assurance of  
1853 fair and honest procedures in the tabulating center. The locations designated by the  
1854 superintendent shall ensure that each poll watcher can fairly observe the procedures set

1855 forth in this Code section. The poll watchers provided for in this subsection shall be  
1856 appointed and serve in the same manner as other poll watchers."  
1857 "(e) No person shall be appointed or be eligible to serve as a poll watcher in any primary  
1858 or election in which such person is a candidate. No person shall be eligible to serve as a  
1859 poll watcher unless he or she has completed training provided by the political party,  
1860 political body, or candidate designating the poll watcher. Upon request, the Secretary of  
1861 State shall make available material to each political party, political body, or candidate that  
1862 can be utilized in such training but it shall be the responsibility of the political party,  
1863 political body, or candidate designating the poll watcher to instruct poll watchers in their  
1864 duties and in applicable laws and rules and regulations. Each political party, political body,  
1865 or candidate shall, in their written designation of poll watchers, certify under oath that the  
1866 named poll watchers have completed the training required by this Code section."

1867 **SECTION 33.**

1868 Said chapter is further amended by revising subsections (a) and (e) of Code  
1869 Section 21-2-414, relating to restrictions on campaign activities and public opinion polling  
1870 within the vicinity of a polling place, cellular phone use prohibited, prohibition of candidates  
1871 from entering certain polling places, and penalty, as follows:

1872 "(a) No person shall solicit votes in any manner or by any means or method, nor shall any  
1873 person distribute or display any campaign material, nor shall any person give, offer to give,  
1874 or participate in the giving of any money or gifts, including, but not limited to, food and  
1875 drink, to an elector, nor shall any person solicit signatures for any petition, nor shall any  
1876 person, other than election officials discharging their duties, establish or set up any tables  
1877 or booths on any day in which ballots are being cast:

1878 (1) Within 150 feet of the outer edge of any building within which a polling place is  
1879 established;

1880 (2) Within any polling place; or

1881 (3) Within 25 feet of any voter standing in line to vote at any polling place.  
1882 These restrictions shall not apply to conduct occurring in private offices or areas which  
1883 cannot be seen or heard by such electors."  
1884 "(e) This Code section shall not be construed to prohibit a poll officer from distributing  
1885 materials, as required by law, which are necessary for the purpose of instructing electors  
1886 or from distributing materials prepared by the Secretary of State which are designed solely  
1887 for the purpose of encouraging voter participation in the election being conducted or from  
1888 making available self-service water from an unattended receptacle to an elector waiting in  
1889 line to vote."

1890 **SECTION 34.**

1891 Said chapter is further amended by revising subsections (a) and (b) of Code  
1892 Section 21-2-418, relating to provisional ballots, as follows:

1893 "(a) If a person presents himself or herself at a polling place, absentee polling place, or  
1894 registration office in his or her county of residence in this state for the purpose of casting  
1895 a ballot in a primary or election stating a good faith belief that he or she has timely  
1896 registered to vote in such county of residence in such primary or election and the person's  
1897 name does not appear on the list of registered electors, the person shall be entitled to cast  
1898 a provisional ballot in his or her county of residence in this state as provided in this Code  
1899 section. If the person presents himself or herself at a polling place in the county in which  
1900 he or she is registered to vote, but not at the precinct at which he or she is registered to  
1901 vote, the poll officials shall inform the person of the polling location for the precinct where  
1902 such person is registered to vote. The poll officials shall also inform such person that any  
1903 votes cast by a provisional ballot in the wrong precinct will not be counted unless it is cast  
1904 after 5:00 P.M. and before the regular time for the closing of the polls on the day of the  
1905 primary, election, or runoff and unless the person executes a sworn statement, witnessed

1906 by the poll official, stating that he or she is unable to vote at his or her correct polling place  
1907 prior to the closing of the polls and giving the reason therefor.  
1908 (b) Such person voting a provisional ballot shall complete an official voter registration  
1909 form and a provisional ballot voting certificate which shall include information about the  
1910 place, manner, and approximate date on which the person registered to vote. The person  
1911 shall swear or affirm in writing that he or she previously registered to vote in such primary  
1912 or election, is eligible to vote in such primary or election, has not voted previously in such  
1913 primary or election, and meets the criteria for registering to vote in such primary or  
1914 election. If the person is voting a provisional ballot in the county in which he or she is  
1915 registered to vote but not at the precinct in which he or she is registered to vote during the  
1916 period from 5:00 P.M. to the regular time for the closing of the polls on the day of the  
1917 primary, election, or runoff, the person shall execute a sworn statement, witnessed by the  
1918 poll official, stating that he or she is unable to vote at his or her correct polling place prior  
1919 to the closing of the polls and giving the reason therefor. The form of the provisional ballot  
1920 voting certificate shall be prescribed by the Secretary of State. The person shall also  
1921 present the identification required by Code Section 21-2-417."

1922 **SECTION 35.**

1923 Said chapter is further amended by revising Code Section 21-2-419, relating to validation of  
1924 provisional ballots and reporting to Secretary of State, as follows:

1925 "21-2-419.

1926 (a) A person shall cast a provisional ballot on the same type of ballot that is utilized by the  
1927 county or municipality. Such provisional ballot shall be sealed in double envelopes as  
1928 provided in Code Section 21-2-384 and shall be deposited by the person casting such ballot  
1929 in a secure, sealed ballot box.

1930 (b) At the earliest time possible after the casting of a provisional ballot, but no later than  
1931 the day after the primary or election in which such provisional ballot was cast, the board

1932 of registrars of the county or municipality, as the case may be, shall be notified by the  
1933 election superintendent that provisional ballots were cast in the primary or election and the  
1934 registrars shall be provided with the documents completed by the person casting the  
1935 provisional ballot as provided in Code Section 21-2-418. Provisional ballots shall be  
1936 securely maintained by the election superintendent until a determination has been made  
1937 concerning their status. The board of registrars shall immediately examine the information  
1938 contained on such documents and make a good faith effort to determine whether the person  
1939 casting the provisional ballot was entitled to vote in the primary or election. Such good  
1940 faith effort shall include a review of all available voter registration documentation,  
1941 including registration information made available by the electors themselves and  
1942 documentation of modifications or alterations of registration data showing changes to an  
1943 elector's registration status. Additional sources of information may include, but are not  
1944 limited to, information from the Department of Driver Services, Department of Family and  
1945 Children Services, Department of Natural Resources, public libraries, or any other agency  
1946 of government including, but not limited to, other county election and registration offices.

1947 (c)(1) If the registrars determine after the polls close, but not later than three days  
1948 following the primary or election, that the person casting the provisional ballot timely  
1949 registered to vote and was eligible and entitled to vote in the precinct in which he or she  
1950 voted in such primary or election, the registrars shall notify the election superintendent  
1951 and the provisional ballot shall be counted and included in the county's or municipality's  
1952 certified election results.

1953 (2) If the registrars determine after the polls close, but not later than three days following  
1954 the primary or election, that the person voting the provisional ballot timely registered and  
1955 was eligible and entitled to vote in the primary or election but voted in the wrong  
1956 precinct, then the board of registrars shall notify the election superintendent only if such  
1957 person voted between the hours of 5:00 P.M. and the regular time for the closing of the  
1958 polls on the day of the primary, election, or runoff and provided the sworn statement

1959 required by subsection (b) of Code Section 21-2-418. The superintendent shall count  
1960 such person's votes which were cast for candidates in those races for which the person  
1961 was entitled to vote but shall not count the votes cast for candidates in those races in  
1962 which such person was not entitled to vote. The superintendent shall order the proper  
1963 election official at the tabulating center or precinct to prepare an accurate duplicate ballot  
1964 containing only those votes cast by such person in those races in which such person was  
1965 entitled to vote for processing at the tabulating center or precinct, which shall be verified  
1966 in the presence of a witness. Such duplicate ballot shall be clearly labeled with the word  
1967 'Duplicate,' shall bear the designation of the polling place, and shall be given the same  
1968 serial number as the original ballot. The original ballot shall be retained and the sworn  
1969 statement required by subsection (b) of Code Section 21-2-418 shall be transmitted to the  
1970 Secretary of State with the certification documents required by paragraph (4) of  
1971 subsection (a) of Code Section 21-2-497 and such statement shall be reviewed by the  
1972 State Election Board.

1973 (3) If the registrars determine that the person casting the provisional ballot did not timely  
1974 register to vote or was not eligible or entitled to vote in the precinct in which he or she  
1975 voted in such primary or election or shall be unable to determine within three days  
1976 following such primary or election whether such person timely registered to vote and was  
1977 eligible and entitled to vote in such primary or election, the registrars shall so notify the  
1978 election superintendent and such ballot shall not be counted. The election superintendent  
1979 shall mark or otherwise document that such ballot was not counted and shall deliver and  
1980 store such ballots with all other ballots and election materials as provided in Code  
1981 Section 21-2-500.

1982 (d)(1) At the earliest time possible after a determination is made regarding a provisional  
1983 ballot, the board of registrars shall notify in writing those persons whose provisional  
1984 ballots were not counted that their ballots were not counted because of the inability of the  
1985 registrars to verify that the persons timely registered to vote or other proper reason. The

1986 registrars shall process the official voter registration form completed by such persons  
1987 pursuant to Code Section 21-2-418 and shall add such persons to the electors list if found  
1988 qualified.

1989 (2) At the earliest time possible after a determination is made regarding a provisional  
1990 ballot, the board of registrars shall notify in writing those electors who voted in the wrong  
1991 precinct and whose votes were partially counted of their correct precinct.

1992 (e) The board of registrars shall complete a report in a form designated by the Secretary  
1993 of State indicating the number of provisional ballots cast and counted in the primary or  
1994 election."

1995 **SECTION 36.**

1996 Said chapter is further amended in Part 1 of Article 11, relating to general provisions  
1997 regarding preparation for and conduct of primaries and elections, by adding new Code  
1998 sections to read as follows:

1999 "21-2-420.

2000 (a) After the time for the closing of the polls and the last elector voting, the poll officials  
2001 in each precinct shall complete the required accounting and related documentation for the  
2002 precinct and shall advise the election superintendent of the total number of ballots cast at  
2003 such precinct and the total number of provisional ballots cast. The chief manager and at  
2004 least one assistant manager shall post a copy of the tabulated results for the precinct on the  
2005 door of the precinct and then immediately deliver all required documentation and election  
2006 materials to the election superintendent. The election superintendent shall then ensure that  
2007 such ballots are processed, counted, and tabulated as soon as possible and shall not cease  
2008 such count and tabulation until all such ballots are counted and tabulated.

2009 (b) The election superintendent shall ensure that each precinct notifies the election  
2010 superintendent of the number of ballots cast and number of provisional ballots cast as soon  
2011 as possible after the time for the closing of the polls and the last elector votes. The election



2012 superintendent shall post such information publicly. The State Election Board shall  
2013 promulgate rules and regulations regarding how such information shall be publicly posted  
2014 to ensure transparency, accuracy, and security.

2015 21-2-421.

2016 (a) As soon as possible but not later than 10:00 P.M. following the close of the polls on  
2017 the day of a primary, election, or runoff, the election superintendent shall report to the  
2018 Secretary of State and post in a prominent public place the following information:

2019 (1) The number of ballots cast at the polls on the day of the primary, election, or runoff,  
2020 including provisional ballots cast;

2021 (2) The number of ballots cast at advance voting locations during the advance voting  
2022 period for the primary, election, or runoff; and

2023 (3) The total number of absentee ballots returned to the board of registrars by the  
2024 deadline to receive such absentee ballots on the day of the primary, election, or runoff.

2025 (b) Upon the completion of the report provided for in subsection (a) of this Code section,  
2026 the election superintendent shall compare the total number of ballots received as reported  
2027 in subsection (a) of this Code section and the counting of the ballots in the primary,  
2028 election, or runoff minus any rejected and uncured absentee ballots, uncounted provisional  
2029 ballots, and any other uncounted ballots, with the total number of ballots cast in the  
2030 primary, election, or runoff. The results of such comparison and all explanatory materials  
2031 shall be reported to the Secretary of State. The reason for any discrepancy shall be fully  
2032 investigated and reported to the Secretary of State."

2033 **SECTION 37.**

2034 Said chapter is further amended by revising subsections (a) and (d) of Code  
2035 Section 21-2-437, relating to procedure as to count and return of votes generally and void  
2036 ballots, as follows:

2037 "(a) After the polls close and as soon as all the ballots have been properly accounted for  
2038 and those outside the ballot box as well as the voter's certificates, numbered list of voters,  
2039 and electors list have been sealed, the poll officers shall open the ballot box and take  
2040 therefrom all ballots contained therein. In primaries in which more than one ballot box is  
2041 used, any ballots or stubs belonging to another party holding its primary in the same polling  
2042 place shall be returned to the ballot box for the party for which they were issued. In  
2043 primaries, separate tally and return sheets shall be prepared for each party, and separate  
2044 poll officers shall be designated by the chief manager to count and tally each party's ballot.  
2045 Where the same ballot box is being used by one or more parties, the ballots and stubs shall  
2046 first be divided by party before being tallied and counted. The ballots shall then be counted  
2047 one by one and a record made of the total number. Then the chief manager, together with  
2048 such assistant managers and other poll officers as the chief manager may designate, under  
2049 the scrutiny of one of the assistant managers and in the presence of the other poll officers,  
2050 shall read aloud the names of the candidates marked or written upon each ballot, together  
2051 with the office for which the person named is a candidate, and the answers contained on  
2052 the ballots to the questions submitted, if any; and the other assistant manager and clerks  
2053 shall carefully enter each vote as read and keep account of the same in ink on a sufficient  
2054 number of tally papers, all of which shall be made at the same time. All ballots, after being  
2055 removed from the box, shall be kept within the unobstructed view of all persons in the  
2056 voting room until replaced in the box. No person, while handling the ballots, shall have  
2057 in his or her hand any pencil, pen, stamp, or other means of marking or spoiling any ballot.  
2058 The poll officers shall immediately proceed to canvass and compute the votes cast and shall  
2059 not adjourn or postpone the canvass or computation until it shall have been fully  
2060 completed, ~~except that, in the discretion of the superintendent, the poll officers may stop~~  
2061 ~~the counting after all contested races and questions are counted, provided that the results~~  
2062 ~~of these contested races and questions are posted for the information of the public outside~~

2063 ~~the polling place and the ballots are returned to the ballot box and deposited with the~~  
2064 ~~superintendent until counting is resumed on the following day."~~

2065 "(d) Any ballot marked so as to identify the voter shall be void and not counted, except a  
2066 ballot cast by a challenged elector whose name appears on the electors list; such challenged  
2067 vote shall be counted as prima facie valid but may be voided in the event of an election  
2068 contest. Any ballot marked by anything but pen or pencil shall be void and not counted.  
2069 Any erasure, mutilation, or defect in the vote for any candidate shall render void the vote  
2070 for such candidate but shall not invalidate the votes cast on the remainder of the ballot, if  
2071 otherwise properly marked. If an elector shall mark his or her ballot for more persons for  
2072 any nomination or office than there are candidates to be voted for such nomination or  
2073 office, or if, for any reason, it may be impossible to determine his or her choice for any  
2074 nomination or office, his or her ballot shall not be counted for such nomination or office;  
2075 but the ballot shall be counted for all nominations or offices for which it is properly  
2076 marked. Unmarked ballots or ballots improperly or defectively marked so that the whole  
2077 ballot is void shall be set aside and shall be preserved with other ballots. In primaries,  
2078 votes cast for candidates who have died, withdrawn, or been disqualified shall be void and  
2079 shall not be counted. Except as provided in subsection (g) of Code Section 21-2-134  
2080 regarding nonpartisan elections, in ~~in~~ elections, votes for candidates who have died or been  
2081 disqualified shall be void and shall not be counted."

2082 **SECTION 38.**

2083 Said chapter is further amended by revising subsection (a) of Code Section 21-2-438, relating  
2084 to ballots identifying voter, not marked, or improperly marked declared void, as follows:

2085 "(a) Any ballot marked so as to identify the voter shall be void and not counted, except a  
2086 ballot cast by a challenged elector whose name appears on the electors list; such challenged  
2087 vote shall be counted as prima facie valid but may be voided in the event of an election  
2088 contest. Any ballot marked by anything but pen or pencil shall be void and not counted.

2089 Any erasure, mutilation, or defect in the vote for any candidate shall render void the vote  
2090 for such candidate but shall not invalidate the votes cast on the remainder of the ballot, if  
2091 otherwise properly marked. If an elector shall mark his or her ballot for more persons for  
2092 any nomination or office than there are candidates to be voted for such nomination or  
2093 office, or if, for any reason, it may be impossible to determine his or her choice for any  
2094 nomination or office, his or her ballot shall not be counted for such nomination or office;  
2095 but the ballot shall be counted for all nominations or offices for which it is properly  
2096 marked. Ballots not marked or improperly or defectively marked so that the whole ballot  
2097 is void; shall be set aside and shall be preserved with the other ballots. In primaries, votes  
2098 cast for candidates who have died, withdrawn, or been disqualified shall be void and shall  
2099 not be counted. Except as provided in subsection (g) of Code Section 21-2-134 regarding  
2100 nonpartisan elections, in ~~in~~ elections, votes for candidates who have died or been  
2101 disqualified shall be void and shall not be counted."

2102 **SECTION 38A.**

2103 Said chapter is further amended by revising subsection (a) of Code Section 21-2-480, relating  
2104 to caption for ballots, party designations, and form and arrangement, as follows:

2105 "(a) At the top of each ballot for an election in a precinct using optical scanning voting  
2106 equipment shall be printed in prominent type the words 'OFFICIAL BALLOT,' followed  
2107 by the name and designation of the precinct for which it is prepared and the name and date  
2108 of the election."

2109 **SECTION 38B.**

2110 Said chapter is further amended by revising Code Section 21-2-482, relating to absentee  
2111 ballots for precincts using optical scanning voting equipment, as follows:

2112 "21-2-482.

2113 Ballots in a precinct using optical scanning voting equipment for voting by absentee  
 2114 electors shall be prepared sufficiently in advance by the superintendent and shall be  
 2115 delivered to the board of registrars as provided in Code Section 21-2-384. Such ballots  
 2116 shall be marked 'Official Absentee Ballot' and shall be in substantially the form for ballots  
 2117 required by Article 8 of this chapter, except that in counties or municipalities using voting  
 2118 machines, direct recording electronic (DRE) units, or ballot scanners, the ballots may be  
 2119 in substantially the form for the ballot labels required by Article 9 of this chapter or in such  
 2120 form as will allow the ballot to be machine tabulated. Every such ballot shall have printed  
 2121 on the face thereof the following:

2122 'I understand that the offer or acceptance of money or any other object of value to vote  
 2123 for any particular candidate, list of candidates, issue, or list of issues included in this  
 2124 election constitutes an act of voter fraud and is a felony under Georgia law.'

2125 The form for either ballot shall be determined and prescribed by the Secretary of State and  
 2126 shall have printed at the top the name and designation of the precinct."

2127 **SECTION 39.**

2128 Said chapter is further amended by revising subsection (f) of Code Section 21-2-483, relating  
 2129 to counting of ballots, public accessibility to tabulating center and precincts, execution of  
 2130 ballot recap forms, and preparation of duplicate ballots, as follows:

2131 "(f) If it appears that a ballot is so torn, bent, or otherwise defective that it cannot be  
 2132 processed by the tabulating machine, the superintendent, in his or her discretion, may order  
 2133 ~~the proper election official at the tabulating center or precinct~~ a duplication panel to prepare  
 2134 a true duplicate copy for processing ~~with the ballots of the same polling place, which shall~~  
 2135 ~~be verified in the presence of a witness.~~ In a partisan election, the duplication panel shall  
 2136 be composed of the election superintendent or a designee thereof and one person appointed  
 2137 by the county executive committee of each political party having candidates whose names  
 2138 appear on the ballot for such election, provided that, if there is no organized county

2139 executive committee for a political party, the person shall be appointed by the state  
2140 executive committee of the political party. In a nonpartisan election or an election  
2141 involving only the presentation of a question to the electors, the duplication panel shall be  
2142 composed of the election superintendent or a designee thereof and two electors of the  
2143 county or municipality. In the case of a nonpartisan county or municipal election or an  
2144 election involving only the presentation of a question to the electors, the two elector  
2145 members of the panel shall be appointed by the chief judge of the superior court of the  
2146 county or municipality in which the election is held. In the case of a municipality which  
2147 is located in more than one county, the two elector members of the panel shall be appointed  
2148 by the chief judge of the superior court of the county in which the city hall of the  
2149 municipality is located. The election superintendent may create multiple duplication panels  
2150 to handle the processing of such ballots more efficiently. All duplicate ballots shall be  
2151 clearly labeled by the word 'duplicate,' shall bear the designation of the polling place, and  
2152 shall be given the same serial number as the defective ballot contain a unique number that  
2153 will allow such duplicate ballot to be linked back to the original ballot. The defective  
2154 ballot shall be retained."

2155 **SECTION 40.**

2156 Said chapter is further amended by revising Code Section 21-2-492, relating to computation  
2157 and canvassing of returns, notice of when and where returns will be computed and canvassed,  
2158 blank forms for making statements of returns, and swearing of assistants, as follows:

2159 "21-2-492.

2160 The superintendent shall arrange for the computation and canvassing of the returns of votes  
2161 cast at each primary and election at his or her office or at some other convenient public  
2162 place at the county seat or municipality following the close of the polls on the day of such  
2163 primary or election with accommodations for those present insofar as space permits. An  
2164 interested candidate or his or her representative shall be permitted to keep or check his or

2165 her own computation of the votes cast in the several precincts as the returns from the same  
 2166 are read, as directed in this article. The superintendent shall give at least one week's notice  
 2167 prior to the primary or election by publishing same in a conspicuous place in the  
 2168 superintendent's office, of the ~~time and place when and~~ where he or she will commence and  
 2169 hold his or her sessions for the computation and canvassing of the returns; and he or she  
 2170 shall keep copies of such notice posted in his or her office during such period. The  
 2171 superintendent shall procure a sufficient number of blank forms of returns made out in the  
 2172 proper manner and headed as the nature of the primary or election may require, for making  
 2173 out full and fair statements of all votes which shall have been cast within the county or any  
 2174 precinct therein, according to the returns from the several precincts thereof, for any person  
 2175 voted for therein, or upon any question voted upon therein. The assistants of the  
 2176 superintendent in the computation and canvassing of the votes shall be first sworn by the  
 2177 superintendent to perform their duties impartially and not to read, write, count, or certify  
 2178 any return or vote in a false or fraudulent manner."

2179 **SECTION 41.**

2180 Said chapter is further amended by revising subsections (a) and (k) of Code  
 2181 Section 21-2-493, relating to computation, canvassing, and tabulation of returns,  
 2182 investigation of discrepancies in vote counts, recount procedure, certification of returns, and  
 2183 change in returns, and adding a new subsection to read as follows:

2184 "(a) The superintendent shall, ~~at or before 12:00 Noon~~ after the close of the polls on the  
 2185 day ~~following the~~ of a primary or election, at his or her office or at some other convenient  
 2186 public place at the county seat or in the municipality, of which due notice shall have been  
 2187 given as provided by Code Section 21-2-492, publicly commence the computation and  
 2188 canvassing of the returns and continue ~~the same~~ until all absentee ballots received by the  
 2189 close of the polls, including those cast by advance voting, and all ballots cast on the day  
 2190 of the primary or election have been counted and tabulated and the results of such

2191 tabulation released to the public and, then, continuing with provisional ballots as provided  
 2192 in Code Sections 21-2-418 and 21-2-419 and those absentee ballots as provided in  
 2193 subparagraph (a)(1)(G) of Code Section 21-2-386 from day to day until completed. For  
 2194 this purpose, the superintendent may organize his or her assistants into sections, each of  
 2195 which ~~whom~~ may simultaneously proceed with the computation and canvassing of the  
 2196 returns from various precincts of the county or municipality in the manner provided by this  
 2197 Code section. Upon the completion of such computation and canvassing, the  
 2198 superintendent shall tabulate the figures for the entire county or municipality and sign,  
 2199 announce, and attest the same, as required by this Code section."

2200 "(j.1) The Secretary of State shall create a pilot program for the posting of digital images  
 2201 of the scanned paper ballots created by the voting system.

2202 (k) As the returns from each precinct are read, computed, and found to be correct or  
 2203 corrected as aforesaid, they shall be recorded on the blanks prepared for the purpose until  
 2204 all the returns from the various precincts which are entitled to be counted shall have been  
 2205 duly recorded; then they shall be added together, announced, and attested by the assistants  
 2206 who made and computed the entries respectively and shall be signed by the superintendent.  
 2207 The consolidated returns shall then be certified by the superintendent in the manner  
 2208 required by this chapter. Such returns shall be certified by the superintendent not later than  
 2209 5:00 P.M. on the ~~second Friday~~ Monday following the date on which such election was  
 2210 held and such returns shall be immediately transmitted to the Secretary of State; ~~provided,~~  
 2211 ~~however, that such certification date may be extended by the Secretary of State in his or~~  
 2212 ~~her discretion if necessary to complete a precertification audit as provided in Code Section~~  
 2213 ~~21-2-498."~~

2214 **SECTION 42.**

2215 Said chapter is further amended by revising Code Section 21-2-501, relating to number of  
 2216 votes required for election, as follows:



2217 "21-2-501.

2218 (a)(1) Except as otherwise provided in this Code section, no candidate shall be  
2219 nominated for public office in any primary or special primary or elected to public office  
2220 in any election or special election or shall take or be sworn into such elected public office  
2221 unless such candidate shall have received a majority of the votes cast to fill such  
2222 nomination or public office. In instances where no candidate receives a majority of the  
2223 votes cast, a run-off primary, special primary runoff, run-off election, or special election  
2224 runoff between the candidates receiving the two highest numbers of votes shall be held.  
2225 Unless such date is postponed by a court order, such ~~run-off primary, special primary~~  
2226 ~~runoff, run-off election, or special election runoff~~ shall be held as provided in this  
2227 subsection.

2228 ~~(2) In the case of a runoff from a general primary or a special primary or special election~~  
2229 ~~held in conjunction with a general primary, the runoff shall be held on the Tuesday of the~~  
2230 ~~ninth week following such general primary.~~

2231 ~~(3) In the case of a runoff from a general election for a federal office or a runoff from a~~  
2232 ~~special primary or special election for a federal office held in conjunction with a general~~  
2233 ~~election, the runoff shall be held on the Tuesday of the ninth week following such general~~  
2234 ~~election.~~

2235 ~~(4) In the case of a runoff from a general election for an office other than a federal office~~  
2236 ~~or a runoff from a special primary or special election for an office other than a federal~~  
2237 ~~office held in conjunction with a general election, the runoff shall be held on the~~  
2238 ~~twenty-eighth day after the day of holding the preceding general or special primary or~~  
2239 ~~general or special election.~~

2240 ~~(5) In the case of a runoff from a special primary or special election for a federal office~~  
2241 ~~not held in conjunction with a general primary or general election, the runoff shall be held~~  
2242 ~~on the Tuesday of the ninth week following such special primary or special election.~~

2243 ~~(6) In the case of a runoff from a special primary or special election for an office other~~  
2244 ~~than a federal office not held in conjunction with a general primary or general election,~~  
2245 ~~the runoff shall be held on the twenty-eighth day after the day of holding the preceding~~  
2246 ~~special primary or special election; provided, however, that, if such runoff is from a~~  
2247 ~~special primary or special election held in conjunction with a special primary or special~~  
2248 ~~election for a federal office and there is a runoff being conducted for such federal office,~~  
2249 ~~the runoff from the special primary or special election conducted for such other office~~  
2250 ~~may be held in conjunction with the runoff for the federal office.~~

2251 ~~(7)~~(2) If any candidate eligible to be in a runoff withdraws, dies, or is found to be  
2252 ineligible, the remaining candidates receiving the two highest numbers of votes shall be  
2253 the candidates in the runoff.

2254 ~~(8)~~(3) The candidate receiving the highest number of the votes cast in such run-off  
2255 primary, special primary runoff, run-off election, or special election runoff to fill the  
2256 nomination or public office sought shall be declared the winner.

2257 ~~(9)~~(4) The name of a write-in candidate eligible for election in a runoff shall be printed  
2258 on the election or special election run-off ballot in the independent column.

2259 ~~(10)~~(5) The run-off primary, special primary runoff, run-off election, or special election  
2260 runoff shall be a continuation of the primary, special primary, election, or special election  
2261 for the particular office concerned. Only the electors who ~~were~~ are duly registered to  
2262 vote and not subsequently deemed disqualified to vote in the ~~primary, special primary,~~  
2263 ~~election, or special election~~ runoff for candidates for that particular office shall be entitled  
2264 to vote therein, and only those votes cast for the persons designated as candidates in such  
2265 run-off primary, special primary runoff, run-off election, or special election runoff shall  
2266 be counted in the tabulation and canvass of the votes cast. No elector shall vote in a  
2267 run-off primary or special primary runoff in violation of Code Section 21-2-224.

2268 (b) For the purposes of this subsection, the word 'plurality' shall mean the receiving by one  
2269 candidate alone of the highest number of votes cast. If the municipal charter or ordinances

2270 of a municipality as now existing or as amended subsequent to September 1, 1968, provide  
2271 that a candidate may be nominated or elected by a plurality of the votes cast to fill such  
2272 nomination or public office, such provision shall prevail. Otherwise, no municipal  
2273 candidate shall be nominated for public office in any primary or elected to public office in  
2274 any election unless such candidate shall have received a majority of the votes cast to fill  
2275 such nomination or public office.

2276 (c) In instances in which no municipal candidate receives a majority of the votes cast and  
2277 the municipal charter or ordinances do not provide for nomination or election by a plurality  
2278 vote, a run-off primary or election shall be held between the candidates receiving the two  
2279 highest numbers of votes. Such runoff shall be held on the twenty-eighth day after the day  
2280 of holding the first primary or election, unless such run-off date is postponed by court  
2281 order, ~~provided, however, that, in the case of a runoff from a municipal special election~~  
2282 ~~that is held in conjunction with a special election for a federal office and not in conjunction~~  
2283 ~~with a general primary or general election, the municipality may conduct such runoff from~~  
2284 ~~such municipal special election on the date of the special election runoff for the federal~~  
2285 ~~office. Only the electors entitled to vote in the first primary or election shall be entitled to~~  
2286 ~~vote in any run-off primary or election resulting therefrom; provided, however, that no~~ No  
2287 elector shall vote in a run-off primary in violation of Code Section 21-2-216. The run-off  
2288 primary or election shall be a continuation of the first primary or election, and only those  
2289 votes cast for the candidates receiving the two highest numbers of votes in the first primary  
2290 or election shall be counted. No write-in votes may be cast in such a primary, run-off  
2291 primary, or run-off election. If any candidate eligible to be in a runoff withdraws, dies, or  
2292 is found to be ineligible, the remaining candidates receiving the two highest numbers of  
2293 votes shall be the candidates in such runoff. The municipal candidate receiving the highest  
2294 number of the votes cast in such run-off primary or run-off election to fill the nomination  
2295 or public office sought shall be declared the winner. The municipality shall give written

2296 notice to the Secretary of State of such runoff as soon as such municipality certifies the  
2297 preceding primary, special primary, election, or special election.

2298 (d) The name of a municipal write-in candidate eligible for election in a municipal runoff  
2299 shall be printed on the municipal run-off election ballot in the independent column.

2300 (e) In all cities having a population in excess of 100,000 according to the United States  
2301 decennial census of 1980 or any future such census, in order for a municipal candidate to  
2302 be nominated for public office in any primary or elected to public office in any municipal  
2303 election, he or she must receive a majority of the votes cast.

2304 (f) Except for presidential electors, to be elected to public office in a general election, a  
2305 candidate must receive a majority of the votes cast in an election to fill such public office.  
2306 To be elected to the office of presidential electors, no slate of candidates shall be required  
2307 to receive a majority of the votes cast, but that slate of candidates shall be elected to such  
2308 office which receives the highest number of votes cast."

2309

#### **SECTION 43.**

2310 Said chapter is further amended by revising Code Section 21-2-540, relating to conduct of  
2311 special elections generally, as follows:

2312 "21-2-540.

2313 (a)(1) Every special primary and special election shall be held and conducted in all  
2314 respects in accordance with the provisions of this chapter relating to general primaries  
2315 and general elections; and the provisions of this chapter relating to general primaries and  
2316 general elections shall apply thereto insofar as practicable and as not inconsistent with  
2317 any other provisions of this chapter. All special primaries and special elections held at  
2318 the time of a general primary, as provided by Code Section 21-2-541, shall be conducted  
2319 by the poll officers by the use of the same equipment and facilities, insofar as practicable,  
2320 as are used for such general primary. All special primaries and special elections held at  
2321 the time of a general election, as provided by Code Section 21-2-541, shall be conducted

2322 by the poll officers by the use of the same equipment and facilities, ~~so far~~ insofar as  
2323 practicable, as are used for such general election.

2324 (2) If a vacancy occurs in a partisan office to which the Governor is authorized to  
2325 appoint an individual to serve until the next general election, a special primary shall  
2326 precede the special election.

2327 (b) At least 29 days shall intervene between the call of a special primary and the holding  
2328 of same, and at least 29 days shall intervene between the call of a special election and the  
2329 holding of same. The period during which candidates may qualify to run in a special  
2330 primary or a special election shall remain open for a minimum of two and one-half days.  
2331 Special primaries and special elections which are to be held in conjunction with the  
2332 presidential preference primary, a state-wide general primary, or state-wide general  
2333 election shall be called at least 90 days prior to the date of such presidential preference  
2334 primary, state-wide general primary, or state-wide general election; provided, however, that  
2335 this requirement shall not apply to special primaries and special elections held on the same  
2336 date as such presidential preference primary, state-wide general primary, or state-wide  
2337 general election but conducted completely separate and apart from such state-wide general  
2338 primary or state-wide general election using different ballots or voting equipment,  
2339 facilities, poll workers, and paperwork. ~~Notwithstanding any provision of this subsection~~  
2340 ~~to the contrary, special elections which are to be held in conjunction with the state-wide~~  
2341 ~~general primary or state-wide general election in 2014 shall be called at least 60 days prior~~  
2342 ~~to the date of such state-wide general primary or state-wide general election.~~

2343 (c)(1) Notwithstanding any other provision of law to the contrary, a special primary or  
2344 special election to fill a vacancy in a county or municipal office shall be held only on one  
2345 of the following dates which is at least 29 days after the date of the call for the special  
2346 election:

2347 (A) In odd-numbered years, any such special primary or special election shall only be  
2348 held on:

- 2349 (i) The third Tuesday in March;
- 2350 (ii) The third Tuesday in June;
- 2351 (iii) The third Tuesday in September; or
- 2352 (iv) The Tuesday after the first Monday in November; and
- 2353 (B) In even-numbered years, any such special primary or special election shall only be
- 2354 held on:
- 2355 (i) The third Tuesday in March; provided, however, that in the event that a special
- 2356 primary or special election is to be held under this provision in a year in which a
- 2357 presidential preference primary is to be held, then any such special primary or special
- 2358 election shall be held on the date of and in conjunction with the presidential
- 2359 preference primary;
- 2360 (ii) The date of the general primary; or
- 2361 (iii) The Tuesday after the first Monday in November;
- 2362 provided, however, that, in the event that a special primary or special election to fill a
- 2363 federal or state office on a date other than the dates provided in this paragraph has been
- 2364 scheduled and it is possible to hold a special primary or special election to fill a vacancy
- 2365 in a county, municipal, or school board office in conjunction with such special primary
- 2366 or special election to fill a federal or state office, the special primary or special election
- 2367 to fill such county, municipal, or school board office may be held on the date of and in
- 2368 conjunction with such special primary or special election to fill such federal or state
- 2369 office, provided all other provisions of law regarding such primaries and elections are
- 2370 met.
- 2371 (2) Notwithstanding any other provision of law to the contrary, a special election to
- 2372 present a question to the voters shall be held only on one of the following dates which is
- 2373 at least 29 days after the date of the call for the special election:
- 2374 (A) In odd-numbered years, any such special election shall only be held on the third
- 2375 Tuesday in March or on the Tuesday after the first Monday in November; and

- 2376 (B) In even-numbered years, any such special election shall only be held on:
- 2377 (i) The date of and in conjunction with the presidential preference primary if one is
- 2378 held that year;
- 2379 (ii) The date of the general primary; or
- 2380 (iii) The Tuesday after the first Monday in November.
- 2381 (3) The provisions of this subsection shall not apply to:
- 2382 (A) Special elections held pursuant to Chapter 4 of this title, the 'Recall Act of 1989,'
- 2383 to recall a public officer or to fill a vacancy in a public office caused by a recall
- 2384 election; and
- 2385 (B) Special primaries or special elections to fill vacancies in federal or state public
- 2386 offices.
- 2387 (d) Except as otherwise provided by this chapter, the superintendent of each county or
- 2388 municipality shall publish the call of the special primary or special election.
- 2389 (e)(1) Candidates in special elections for partisan offices that are not preceded by special
- 2390 primaries shall be listed alphabetically on the ballot and may choose to designate on the
- 2391 ballot their party affiliation. The party affiliation selected by a candidate shall not be
- 2392 changed following the close of qualifying.
- 2393 (2) Candidates in special primaries shall be listed alphabetically on the ballot."

2394

**SECTION 44.**

2395 Said chapter is further amended by revising subsection (b) of Code Section 21-2-541, relating

2396 to holding of special primary or election at time of general primary or election and inclusion

2397 of candidates and questions in special primary or election on ballot, as follows:

2398 "(b) If the times specified for the closing of the registration list for a special primary or

2399 special election are the same as those for a general primary or general election, the

2400 candidates and questions in such special primary or special election shall be included on

2401 the ballot for such general primary or general election. In such an instance, the name of

2402 the office and the candidates in such special primary or special election shall appear on the  
2403 ballot in the position where such names would ordinarily appear if such contest was a  
2404 general primary or general election."

2405 **SECTION 45.**

2406 Said chapter is further amended by revising Code Section 21-2-542, relating to special  
2407 election for United States senator vacancy and temporary appointment by Governor, as  
2408 follows:

2409 "21-2-542.

2410 Whenever a vacancy shall occur in the representation of this state in the Senate of the  
2411 United States, such vacancy shall be filled for the unexpired term by the vote of the electors  
2412 of the state at a special primary to be held at the time of the next general primary followed  
2413 by a special election to be held at the time of the next November state-wide general  
2414 election, occurring at least 40 days after the occurrence of such vacancy; and it shall be the  
2415 duty of the Governor to issue his or her proclamation for such special primary and special  
2416 election. Until such time as the vacancy shall be filled by an election as provided in this  
2417 Code section, the Governor may make a temporary appointment to fill such vacancy."

2418 **SECTION 46.**

2419 Said chapter is further amended in Article 14, relating to special elections and primaries  
2420 generally and municipal terms of office, by adding a new Code section to read as follows:

2421 "21-2-546.

2422 Notwithstanding any other law to the contrary, in each county in this state in which there  
2423 is a civil and magistrate court established by local Act of the General Assembly, vacancies  
2424 in the office of chief judge of such court caused by death, retirement, resignation, or  
2425 otherwise shall be filled by the appointment of a qualified person by the Governor to serve



2426 until a successor is duly elected and qualified and until January 1 of the year following the  
 2427 next general election which is more than six months following such person's appointment."

2428 **SECTION 47.**

2429 Said chapter is further amended by revising subsection (a) of Code Section 21-2-568, relating  
 2430 to entry into voting compartment or booth while another voting, interfering with elector,  
 2431 inducing elector to reveal or revealing elector's vote, and influencing voter while assisting,  
 2432 as follows:

2433 "(a) Any person who knowingly:

2434 (1) Goes into the voting compartment or voting machine booth while another is voting  
 2435 or marks the ballot or registers the vote for another, except in strict accordance with this  
 2436 chapter;

2437 (2) Interferes with any elector marking his or her ballot or registering his or her vote;

2438 (3) Attempts to induce any elector ~~before depositing his or her ballot~~ to show how he or  
 2439 she marks or has marked his or her ballot; ~~or~~

2440 (4) Discloses to anyone how another elector voted, without said elector's consent, except  
 2441 when required to do so in any legal proceeding; or

2442 (5) Accepts an absentee ballot from an elector for delivery or return to the board of  
 2443 registrars except as authorized by subsection (a) of Code Section 21-2-385

2444 shall be guilty of a felony."

2445 **SECTION 48.**

2446 Said chapter is further amended in Article 15, relating to miscellaneous offenses, by adding  
 2447 new Code sections to read as follows:

2448 "21-2-568.1.

2449 (a) Except while providing authorized assistance in voting under Code Section 21-2-409  
 2450 and except for children authorized to be in the enclosed space under subsection (f) of Code

2451 Section 21-2-413, no person shall intentionally observe an elector while casting a ballot in  
 2452 a manner that would allow such person to see for whom or what the elector is voting.

2453 (b) Any person who violates the provisions of subsection (a) of this Code section shall be  
 2454 guilty of a felony.

2455 21-2-568.2.

2456 (a) It shall be illegal for any person to use photographic or other electronic monitoring or  
 2457 recording devices, cameras, or cellular telephones, except as authorized by law, to:

2458 (1) Photograph or record the face of an electronic ballot marker while a ballot is being  
 2459 voted or while an elector's votes are displayed on such electronic ballot marker; or

2460 (2) Photograph or record a voted ballot.

2461 (b) Any person who violates subsection (a) of this Code section shall be guilty of a  
 2462 misdemeanor."

2463

#### **SECTION 49.**

2464 Chapter 35 of Title 36 of the Official Code of Georgia Annotated, relating to home rule  
 2465 powers, is amended by revising subsection (a) of Code Section 36-35-4.1, relating to  
 2466 reapportionment of election districts for municipal elections, as follows:

2467 "(a) Subject to the limitations provided by this Code section, the governing authority of  
 2468 any municipal corporation is authorized to reapportion the election districts from which  
 2469 members of the municipal governing authority are elected following publication of the  
 2470 United States decennial census of 1980 or any future such census. Such reapportionment  
 2471 of districts shall be effective for the election of members to the municipal governing  
 2472 authority at the next regular general municipal election following the publication of the  
 2473 decennial census; provided, however, that, if the publication of the decennial census occurs  
 2474 within 120 days of the next general or special municipal election, such reapportionment of

2475 districts shall be effective for any subsequent special election and the subsequent general  
2476 municipal election."

2477 **SECTION 50.**

2478 Title 50 of the Official Code of Georgia Annotated, relating to state government, is amended  
2479 by revising subsection (b) of Code Section 50-13-4, relating to procedural requirements for  
2480 adoption, amendment, or repeal of rules, emergency rules, limitation on action to contest  
2481 rule, and legislative override, as follows:

2482 "(b) If any agency finds that an imminent peril to the public health, safety, or welfare,  
2483 including but not limited to, summary processes such as quarantines, contrabands, seizures,  
2484 and the like authorized by law without notice, requires adoption of a rule upon fewer than  
2485 30 days' notice and states in writing its reasons for that finding, it may proceed without  
2486 prior notice or hearing or upon any abbreviated notice and hearing that it finds practicable  
2487 to adopt an emergency rule. Any such rule adopted relative to a public health emergency  
2488 shall be submitted as promptly as reasonably practicable to the House of Representatives  
2489 and Senate Committees on Judiciary, provided that any such rule adopted relative to a state  
2490 of emergency by the State Election Board shall be submitted as soon as practicable but not  
2491 later than 20 days prior to the rule taking effect. Any emergency rule adopted by the State  
2492 Election Board pursuant to the provisions of this subsection may be suspended upon the  
2493 majority vote of the House of Representatives or Senate Committees on Judiciary within  
2494 ten days of the receipt of such rule by the committees. The rule may be effective for a  
2495 period of not longer than 120 days but the adoption of an identical rule under paragraphs  
2496 (1) and (2) of subsection (a) of this Code section is not precluded; provided, however, that  
2497 such a rule adopted pursuant to discharge of responsibility under an executive order  
2498 declaring a state of emergency or disaster exists as a result of a public health emergency,  
2499 as defined in Code Section 38-3-3, shall be effective for the duration of the emergency or  
2500 disaster and for a period of not more than 120 days thereafter."

2501 **SECTION 51.**

2502 Said title is further amended in Code Section 50-18-71, relating to right of access to public  
2503 records, timing, fees, denial of requests, and impact of electronic records, by adding a new  
2504 subsection to read as follows:

2505 "(k) Scanned ballot images created by a voting system authorized by Chapter 2 of Title 21  
2506 shall be public records subject to disclosure under this article."

2507 **SECTION 52.**

2508 (a) Sections 21, 23, 25, 27, 28, and 29 of this Act shall become effective on July 1, 2021.  
2509 (b) All other sections of this Act shall become effective upon its approval by the Governor  
2510 or upon its becoming law without such approval.

2511 **SECTION 53.**

2512 All laws and parts of laws in conflict with this Act are repealed.