

House Bill 537

By: Representatives Scoggins of the 14<sup>th</sup>, Powell of the 32<sup>nd</sup>, Gambill of the 15<sup>th</sup>, Lumsden of the 12<sup>th</sup>, Tarvin of the 2<sup>nd</sup>, and others

A BILL TO BE ENTITLED  
AN ACT

1 To amend Chapter 2 of Title 21 of the Official Code of Georgia Annotated, relating to  
2 elections and primaries generally, so as to provide for certain notices; to provide for removal  
3 from office for boards of registrars and county boards of elections and registration under  
4 certain circumstances; to provide that absentee ballots shall be printed on safety paper; to  
5 provide for the submission of certain forms of identification by electors with absentee ballot  
6 applications and absentee ballots; to provide for audio and video recordings of ballot  
7 processing and counting; to provide for related matters; to repeal conflicting laws; and for  
8 other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 **SECTION 1.**

11 Chapter 2 of Title 21 of the Official Code of Georgia Annotated, relating to elections and  
12 primaries generally, is amended in Code Section 21-2-231, relating to lists of persons  
13 convicted of felonies, noncitizens, mentally incompetent, and deceased persons provided to  
14 Secretary of State and Council of Superior Court Clerks, removal of names from list of  
15 electors, obtain information about deceased, timing, and list of inactive voters provided to  
16 Council of Superior Court Clerks, by adding a new subsection to read as follows:

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17 "(h) On a quarterly basis, the Secretary of State shall notify county registrars of their duties  
18 under this Code section to maintain the voters list and shall obtain certifications from each  
19 county that the list maintenance activities required by this Code section have been  
20 performed in accordance with this Code section for the preceding calendar quarter. The  
21 failure of the board of registrars or county board of elections and registration, where one  
22 has been created and the duties of the registrars transferred to such board, to perform such  
23 list maintenance activities required by this chapter shall subject the board of registrars to  
24 removal from office in accordance with the provisions of Code Section 21-2-212 or, if the  
25 duties of the board of registrars has been transferred to a county board of elections and  
26 registration, by the State Election Board upon notice and opportunity for hearing before the  
27 State Election Board."

28 **SECTION 2.**

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

31 "21-2-287.

32 (a) The form for the absentee ballot shall be in substantially the same form as the official  
33 ballots used in the precincts, except it shall be printed with only the name stub and without  
34 a number strip and may have the precinct designation printed or stamped thereon.

35 (b) Absentee ballots shall be printed on safety paper that incorporates security features that  
36 are designed to prevent copying or duplicating such ballots."

37 **SECTION 3.**

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

42 "(a)(1)(A) Except as otherwise provided in Code Section 21-2-219, not more than 180  
43 days prior to the date of the primary or election, or runoff of either, in which the elector  
44 desires to vote, any absentee elector may make, either by mail, by facsimile  
45 transmission, by electronic transmission, or in person in the registrar's or absentee ballot  
46 clerk's office, an application for an official ballot of the elector's precinct to be voted  
47 at such primary, election, or runoff.

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

54 (C) The application shall be in writing and shall contain sufficient information for  
55 proper identification of the elector; the permanent or temporary address of the elector  
56 to which the absentee ballot shall be mailed; the identity of the primary, election, or  
57 runoff in which the elector wishes to vote; and the name and relationship of the person  
58 requesting the ballot if other than the elector. Except for an elector who is entitled to  
59 vote by absentee ballot under the federal Uniformed and Overseas Citizens Absentee  
60 Voting Act, 42 U.S.C. Section 1973ff, et seq., as amended, the application shall also  
61 include a photocopy of one of the forms of identification specified in subsection (a) of  
62 Code Section 21-2-417. If the elector registered to vote by mail but did not comply  
63 with subsection (c) of Code Section 21-2-220 and is voting for the first time in this  
64 state, the application shall contain a photocopy of one of the forms of identification  
65 specified in subsection (c) of Code Section 21-2-417. If the elector fails to include a  
66 photocopy of one of the forms of identification required in this subparagraph or if the  
67 photocopy is not legible, the registrar or absentee ballot clerk shall so advise the elector  
68 promptly, and the elector shall be allowed to correct the problem. Electors who vote

69 at an advance voting location during the period of advance voting specified in Code  
70 Section 21-2-385 shall comply with the identification requirements of this subparagraph  
71 by exhibiting the appropriate form of identification to poll officials at the advance  
72 voting location.

73 (D) Except in the case of physically disabled electors residing in the county or  
74 municipality or electors in custody in a jail or other detention facility in the county or  
75 municipality, no absentee ballot shall be mailed to an address other than the permanent  
76 mailing address of the elector as recorded on the elector's voter registration record or  
77 a temporary out-of-county or out-of-municipality address.

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

80 (F) If the elector is unable to fill out or sign ~~such elector's~~ his or her own application  
81 because of illiteracy or physical disability, the elector shall make such elector's mark,  
82 and the person filling in the rest of the application shall sign such person's name below  
83 it as a witness.

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

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

100 (3) Reserved.

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

112 (b)(1) Upon receipt of a timely application for an absentee ballot, a registrar or absentee  
113 ballot clerk shall enter thereon the date received. The registrar or absentee ballot clerk  
114 shall determine, in accordance with the provisions of this chapter, if the applicant is  
115 eligible to vote in the primary or election involved. In order to be found eligible to vote  
116 an absentee ballot by mail, the registrar or absentee ballot clerk shall compare the  
117 identifying information on the application with the information on file in the registrar's  
118 or absentee ballot clerk's office and, if the application is signed by the elector, compare  
119 the signature or mark of the elector on the application with the signature or mark of the  
120 elector on the elector's voter registration card, as well as verifying the elector's identity  
121 based upon the identification provided by the elector in accordance with this Code

122 section. In order to be found eligible to vote an absentee ballot in person at the registrar's  
123 office or absentee ballot clerk's office, such person shall show one of the forms of  
124 identification listed in Code Section 21-2-417 and the registrar or absentee ballot clerk  
125 shall compare the identifying information on the application with the information on file  
126 in the registrar's office.

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

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

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

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

136 (3) If found ineligible, the registrar or absentee ballot clerk ~~or the board of registrars~~  
137 shall deny the application by writing the reason for rejection in the proper space on the  
138 application and shall promptly notify the applicant in writing of the ground of  
139 ineligibility, a copy of which notification should be retained on file in the registrar's  
140 ~~office of the board of registrars~~ or absentee ballot clerk clerk's office for at least one year.  
141 However, an absentee ballot application shall not be rejected due to an apparent mismatch  
142 between the signature of the elector on the application and the signature of the elector on  
143 file ~~with the board of registrars~~ in the registrar's or absentee ballot clerk's office. In such  
144 cases, the ~~board of registrars~~ registrar or absentee ballot clerk shall send the elector a  
145 provisional absentee ballot with the designation 'Provisional Ballot' on the outer oath  
146 envelope and information prepared by the Secretary of State as to the process to be  
147 followed to cure the signature discrepancy. If such ballot is returned to the ~~board of~~  
148 ~~registrars~~ registrar or absentee ballot clerk prior to the closing of the polls on the day of

149 the primary or election, the elector may cure the signature discrepancy by submitting an  
150 affidavit to the ~~board of registrars~~ registrar or absentee ballot clerk along with a copy of  
151 one of the forms of identification enumerated in subsection (c) of Code Section 21-2-417  
152 before the close of the period for verifying provisional ballots contained in subsection (c)  
153 of Code Section 21-2-419. If the ~~board of registrars~~ registrar or absentee ballot clerk  
154 finds the affidavit and identification to be sufficient, the absentee ballot shall be counted  
155 as other absentee ballots. If the ~~board of registrars~~ registrar or absentee ballot clerk finds  
156 the affidavit and identification to be insufficient, then the procedure contained in Code  
157 Section 21-2-386 shall be followed for rejected absentee ballots.

158 (4) If the registrar or absentee ballot clerk is unable to determine the identity of the  
159 elector from information given on the application, the registrar or absentee ballot clerk  
160 should promptly write to request additional information.

161 (5) In the case of an unregistered applicant who is eligible to register to vote, the registrar  
162 or absentee ballot clerk ~~or the board~~ shall immediately mail a blank registration card as  
163 provided by Code Section 21-2-223, and such applicant, if otherwise qualified, shall be  
164 deemed eligible to vote by absentee ballot in such primary or election, if the registration  
165 card, properly completed, is returned to the registrar or absentee ballot clerk ~~or the board~~  
166 on or before the last day for registering to vote in such primary or election. If the closing  
167 date for registration in the primary or election concerned has not passed, the registrar or  
168 absentee ballot clerk ~~or registrar~~ shall also mail a ballot to the applicant, as soon as it is  
169 prepared and available; and the ballot shall be cast in such primary or election if returned  
170 to the registrar or absentee ballot clerk ~~or board~~ not later than the close of the polls on the  
171 day of the primary or election concerned."

172 "(f) Other than the Secretary of State or a county election or registration official, no person,  
173 organization, or other entity shall distribute or publish any document or material to electors  
174 that purports to be an application for an absentee ballot."

175 **SECTION 4.**

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

178 "(a) At any time after receiving an official absentee ballot, but before the day of the  
179 primary or election, except electors who are confined to a hospital on the day of the  
180 primary or election, the elector shall vote his or her absentee ballot, then fold the ballot and  
181 enclose and securely seal the same in the envelope on which is printed 'Official Absentee  
182 Ballot.' This envelope shall then be placed in the second one, on which is printed the form  
183 of the oath of the elector; the name and oath of the person assisting, if any; and other  
184 required identifying information. The elector shall then fill out, subscribe, and swear to the  
185 oath printed on such envelope and enclose in the outer envelope, in addition to, but not in,  
186 the ballot envelope, a photocopy of one of the forms of identification specified in  
187 subsection (a) of Code Section 21-2-417. Such envelope shall then be securely sealed and  
188 the elector shall then personally mail or personally deliver same to the board of registrars  
189 or absentee ballot clerk, provided that mailing or delivery may be made by the elector's  
190 mother, father, grandparent, aunt, uncle, brother, sister, spouse, son, daughter, niece,  
191 nephew, grandchild, son-in-law, daughter-in-law, mother-in-law, father-in-law,  
192 brother-in-law, sister-in-law, or an individual residing in the household of such elector.  
193 The absentee ballot of a disabled elector may be mailed or delivered by the caregiver of  
194 such disabled elector, regardless of whether such caregiver resides in such disabled  
195 elector's household. The absentee ballot of an elector who is in custody in a jail or other  
196 detention facility may be mailed or delivered by any employee of such jail or facility  
197 having custody of such elector. An elector who is confined to a hospital on a primary or  
198 election day to whom an absentee ballot is delivered by the registrar or absentee ballot  
199 clerk shall then and there vote the ballot, seal it properly, and return it to the registrar or  
200 absentee ballot clerk. If the elector registered to vote for the first time in this state by mail  
201 and has not previously provided the identification required by Code Section 21-2-220 and



202 votes for the first time by absentee ballot and fails to provide the identification required by  
203 Code Section 21-2-220 with such absentee ballot, such absentee ballot shall be treated as  
204 a provisional ballot and shall be counted only if the registrars are able to verify the  
205 identification and registration of the elector during the time provided pursuant to Code  
206 Section 21-2-419."

207 **SECTION 5.**

208 Said chapter is further amended by revising subparagraphs (a)(1)(B) and (a)(1)(C) of Code  
209 Section 21-2-386, relating to safekeeping, certification, and validation of absentee ballots,  
210 rejection of ballot, delivery of ballots to manager, duties of managers, precinct returns, and  
211 notification of challenged elector, as follows:

212 "(B) Upon receipt of each ballot, a registrar or clerk shall write the day and hour of the  
213 receipt of the ballot on its envelope. The registrar or clerk shall then compare the  
214 identifying information on the oath with the information on file in his or her office,  
215 shall compare the signature or mark on the oath with the signature or mark on the  
216 absentee elector's voter registration card or the most recent update to such absentee  
217 elector's voter registration card and application for absentee ballot or a facsimile of said  
218 signature or mark taken from said card or application, shall open the outer oath  
219 envelope and verify the identity of the elector with the enclosed photocopy of one of  
220 the forms of identification specified in subsection (a) of Code Section 21-2-417, and  
221 shall, if the information and signature appear to be valid and other identifying  
222 information appears to be correct, so certify by signing or initialing his or her name  
223 below the voter's oath. Each elector's name so certified shall be listed by the registrar  
224 or clerk on the numbered list of absentee voters prepared for his or her precinct.

225 (C) If the elector has failed to sign the oath, or if the signature does not appear to be  
226 valid, or if the elector has failed to furnish required information or information so  
227 furnished does not conform with that on file in the registrar's or clerk's office, or if the

228 elector is otherwise found disqualified to vote, the registrar or clerk shall write across  
229 the face of the envelope 'Rejected,' giving the reason therefor. If the elector fails to  
230 provide the photocopy of the identification specified in subsection (a) of Code  
231 Section 21-2-417 with such absentee ballot, such absentee ballot shall be treated as a  
232 provisional ballot and shall be counted only if the registrars are able to verify the  
233 identification and registration of the elector during the time provided pursuant to Code  
234 Section 21-2-419. The board of registrars or absentee ballot clerk shall promptly notify  
235 the elector that such ballot is deemed a provisional ballot and shall provide information  
236 on the types of identification needed and how and when such identification is to be  
237 submitted to the board of registrars or absentee ballot clerk to verify the ballot. The  
238 board of registrars or absentee ballot clerk shall promptly notify the elector of such  
239 rejection, a copy of which notification shall be retained in the files of the board of  
240 registrars or absentee ballot clerk for at least two years. Such elector shall have until  
241 the end of the period for verifying provisional ballots contained in subsection (c) of  
242 Code Section 21-2-419 to cure the problem resulting in the rejection of the ballot. The  
243 elector may cure a failure to sign the oath, an invalid signature, or missing information  
244 by submitting an affidavit to the board of registrars or absentee ballot clerk along with  
245 a copy of one of the forms of identification enumerated in subsection (c) of Code  
246 Section 21-2-417 before the close of such period. The affidavit shall affirm that the  
247 ballot was submitted by the elector, is the elector's ballot, and that the elector is  
248 registered and qualified to vote in the primary, election, or runoff in question. If the  
249 board of registrars or absentee ballot clerk finds the affidavit and identification to be  
250 sufficient, the absentee ballot shall be counted."

251 **SECTION 6.**

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

255 "(b) All proceedings at the tabulating center and precincts shall be open to the view of the  
256 public, but no person except one employed and designated for the purpose by the  
257 superintendent or the superintendent's authorized deputy shall touch any ballot or ballot  
258 container. The superintendent shall record or cause to be recorded audio and video  
259 recordings of all ballot processing and counting proceedings in a primary, election, or  
260 runoff and any recount of such primary, election, or runoff. Such recordings shall be  
261 maintained for a period of two years following such primary, election, or runoff."

262 **SECTION 7.**

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