

House Bill 1159

By: Representatives Jackson of the 68th, Bruce of the 61st, Holly of the 116th, Clark of the 108th, and Reese of the 140th

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 that certain persons disqualified from
3 holding office pursuant to operation of the United States Constitution shall not be nominated
4 or elected to office; to provide that certain persons who engage in actions related to the
5 selection, certification, or voting of presidential elections in violation of state or federal law
6 shall not be nominated or elected to office; to prohibit election superintendents, political
7 parties, and political bodies from qualifying or listing on any ballot such persons; to amend
8 Chapter 5 of Title 45 of the Official Code of Georgia Annotated, relating to vacation of
9 office, so as to provide for vacation of office by operation of certain provisions of the United
10 States Constitution or by engaging in activities that could result in a person being defined as
11 a subversive person; to provide for related matters; to provide a short title; to provide for
12 legislative findings and intent; to repeal conflicting laws; and for other purposes.

13 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

14 **SECTION 1.**

15 This Act shall be known and may be cited as the "Oath Act."

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SECTION 2.

16

17 The General Assembly finds that:

18 (1) Section 3 of the Fourteenth Amendment to the Constitution of the United States,
19 known as the Insurrection Clause, provides "[n]o person shall be a Senator or
20 Representative in Congress, or elector of President and Vice-President, or hold any office,
21 civil or military, under the United States, or under any State, who, having previously taken
22 an oath, as a member of Congress, or as an officer of the United States, or as a member of
23 any State legislature, or as an executive or judicial officer of any State, to support the
24 Constitution of the United States, shall have engaged in insurrection or rebellion against
25 the same, or given aid or comfort to the enemies thereof. But Congress may by a vote of
26 two-thirds of each House, remove such disability";

27 (2) The State of Georgia ratified the Fourteenth Amendment on July 27, 1868; and

28 (3) It is necessary and proper to enact provisions of state law to allow for the enforcement
29 of the Insurrection Clause.

SECTION 3.

30

31 Chapter 2 of Title 21 of the Official Code of Georgia Annotated, relating to elections and
32 primaries generally, is amended by revising Code Section 21-2-7, relating to eligibility of
33 subversive persons for nomination or election to public office, as follows:

34 "21-2-7.

35 (a) No person who has been adjudged a 'subversive person,' as defined in Part 2 of
36 Article 1 of Chapter 11 of Title 16, the 'Sedition and Subversive Activities Act of 1953,'
37 shall be nominated or elected in accordance with this chapter.

38 (b) No person shall be a United States senator or representative in Congress, or elector of
39 President and Vice President of the United States, or hold any office, civil or military, of
40 this state, who, having previously taken an oath, as a member of Congress, or as an officer
41 of the United States, or as a member of any state legislature, or as an executive or judicial

42 officer of any state, to support the Constitution of the United States, shall have engaged in
43 insurrection or rebellion against the same, or given aid or comfort to the enemies thereof,
44 unless such disability has been removed by Congress pursuant to Section 3 of the
45 Fourteenth Amendment to the Constitution of the United States.

46 (c) No person subject to the disability provided for in subsection (b) of this Code section
47 shall be nominated or elected in accordance with this chapter, nor shall any election
48 superintendent, political party, or political body qualify as a candidate, or list on any ballot,
49 for elective office a person so disqualified.

50 (d) After the effective date of this subsection, no person who has participated in or
51 certified documentation relating to the selection of or casting of votes by presidential
52 electors in a manner in violation of the provisions of this chapter or Chapter 1 of Title 3 of
53 the United States Code shall be nominated or elected in accordance with this chapter, nor
54 shall any election superintendent, political party, or political body qualify as a candidate,
55 or list on any ballot, for elective office any such person."

56 **SECTION 4.**

57 Chapter 5 of Title 45 of the Official Code of Georgia Annotated, relating to vacation of
58 office, is amended by revising Code Section 45-5-1, relating to when offices deemed vacated,
59 filling vacancy, notice, and appeal, as follows:

60 "45-5-1.

61 (a) All offices in the state shall be vacated:

62 (1) By the death of the incumbent;

63 (2) By resignation, when accepted;

64 (3) By decision of a competent tribunal declaring the office vacant;

65 (4) By voluntary act or misfortune of the incumbent whereby he or she is placed in any
66 of the specified conditions of ineligibility to office;

67 (5) By the incumbent ceasing to be a resident of the state or of the county, circuit, or
68 district for which he or she was elected;

69 (6) By failing to apply for and obtain commissions or certificates or by failing to qualify
70 or give bond, or both, within the time prescribed by the laws and Constitution of Georgia;

71 or

72 (7) By abandoning the office or ceasing to perform its duties, or both;

73 (8) By operation of Section 3 of the Fourteenth Amendment to the Constitution of the
74 United States; or

75 (9) By engaging in activities that could result in a person being defined as a 'subversive
76 person' under Code Section 16-11-6.

77 (b) Upon the occurrence of a vacancy in any office in the state, the officer or body
78 authorized to fill the vacancy or call for an election to fill the vacancy shall do so without
79 the necessity of a judicial determination of the occurrence of the vacancy. Before doing
80 so, however, the officer or body shall give at least ten days' notice to the person whose
81 office has become vacant, except that such notice shall not be required in the case of a
82 vacancy caused by death, final conviction of a felony, or written resignation. The decision
83 of the officer or body to fill the vacancy or call an election to fill the vacancy shall be
84 subject to an appeal to the superior court; and nothing in this subsection shall affect any
85 right of any person to seek a judicial determination of the eligibility of any person holding
86 office in the state. The provisions of this subsection shall apply both to vacancies
87 occurring under this Code section and to vacancies occurring under other laws of this state.

88 (c) Any Governor appointed seat of an executive branch board, commission, or council
89 shall be filled by appointment of the Governor as provided by law when the seat becomes
90 vacant upon term expiration or when declared vacant by the Governor pursuant to this
91 Code section."

92

SECTION 5.

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