

Senate Bill 101

By: Senators Halpern of the 39th, Jackson of the 41st, Anderson of the 43rd, Jones II of the 22nd, Butler of the 55th 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 that an application for an absentee ballot  
3 in a primary or election shall also be an automatic application for an absentee ballot in a  
4 runoff resulting from such primary or election; to provide for related matters; to repeal  
5 conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Chapter 2 of Title 21 of the Official Code of Georgia Annotated, relating to elections and  
9 primaries generally, is amended by revising paragraph (1) of subsection (a) of Code  
10 Section 21-2-381, relating to making of application for absentee ballot, determination of  
11 eligibility by ballot clerk, furnishing of applications to colleges and universities, and persons  
12 entitled to make application, as follows:

13 "(1)(A) Except as otherwise provided in Code Section 21-2-219 or for advance voting  
14 described in subsection (d) of Code Section 21-2-385, not earlier than 78 days or less  
15 than 11 days prior to the date of the primary or election, or runoff of either, in which  
16 the elector desires to vote, any absentee elector may make, either by mail, by facsimile  
17 transmission, by electronic transmission, or in person in the registrar's or absentee ballot

18 clerk's office, an application for an official ballot of the elector's precinct to be voted  
19 at such primary, election, or runoff. To be timely received, an application for an  
20 absentee-by-mail ballot shall be received by the board of registrars or absentee ballot  
21 clerk no later than 11 days prior to the primary, election, or runoff. For advance voting  
22 in person, the application shall be made within the time period set forth in  
23 subsection (d) of Code Section 21-2-385.

24 (A.1) An absentee elector's application for an absentee ballot for a primary or an  
25 election shall also qualify as an automatic application for an absentee ballot for any  
26 runoff resulting from such primary or election.

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

33 (C)(i) Any person applying for an absentee-by-mail ballot shall make application in  
34 writing on the form made available by the Secretary of State. In order to confirm the  
35 identity of the voter, such form shall require the elector to provide his or her name,  
36 date of birth, address as registered, address where the elector wishes the ballot to be  
37 mailed, and the number of his or her Georgia driver's license or identification card  
38 issued pursuant to Article 5 of Chapter 5 of Title 40. If such elector does not have a  
39 Georgia driver's license or identification card issued pursuant to Article 5 of Chapter 5  
40 of Title 40, the elector shall affirm this fact in the manner prescribed in the application  
41 and the elector shall provide a copy of a form of identification listed in subsection (c)  
42 of Code Section 21-2-417. The form made available by the Secretary of State shall  
43 include a space to affix a photocopy or electronic image of such identification. The  
44 Secretary of State shall develop a method to allow secure electronic transmission of

45 such form. The application shall also include the identity of the primary, election, or  
46 runoff in which the elector wishes to vote; the name and relationship of the person  
47 requesting the ballot if other than the elector; and an oath for the elector or relative to  
48 write his or her usual signature with a pen and ink affirming that the elector is a  
49 qualified Georgia elector and the facts presented on the application are true.  
50 Submitting false information on an application for an absentee ballot shall be a  
51 violation of Code Sections 21-2-560 and 21-2-571.

52 (ii) A blank application for an absentee ballot shall be made available online by the  
53 Secretary of State and each election superintendent and registrar, but neither the  
54 Secretary of State, election superintendent, board of registrars, other governmental  
55 entity, nor employee or agent thereof shall send absentee ballot applications directly  
56 to any elector except upon request of such elector or a relative authorized to request  
57 an absentee ballot for such elector. No person or entity other than a relative  
58 authorized to request an absentee ballot for such elector or a person signing as  
59 assisting an illiterate or physically disabled elector shall send any elector an absentee  
60 ballot application that is prefilled with the elector's required information set forth in  
61 this subparagraph. No person or entity other than the elector, a relative authorized to  
62 request an absentee ballot for such elector, a person signing as assisting an illiterate  
63 or physically disabled elector with his or her application, a common carrier charged  
64 with returning the ballot application, an absentee ballot clerk, a registrar, or a law  
65 enforcement officer in the course of an investigation shall handle or return an elector's  
66 completed absentee ballot application. Handling a completed absentee ballot  
67 application by any person or entity other than as allowed in this subsection shall be  
68 a misdemeanor. Any application for an absentee ballot sent to any elector by any  
69 person or entity shall utilize the form of the application made available by the  
70 Secretary of State and shall clearly and prominently disclose on the face of the form:

71 'This is NOT an official government publication and was NOT provided to you  
72 by any governmental entity and this is NOT a ballot. It is being distributed by  
73 [insert name and address of person, organization, or other entity distributing such  
74 document or material].'

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

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

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

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

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

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

92 (F) If the elector is unable to fill out or sign such elector's own application because of  
93 illiteracy or physical disability, the elector shall make such elector's mark, and the  
94 person filling in the rest of the application shall sign such person's name below it as a  
95 witness.

96 (G) Any elector meeting criteria of advance age or disability specified by rule or  
97 regulation of the State Election Board or any elector who is entitled to vote by absentee

98 ballot under the federal Uniformed and Overseas Citizens Absentee Voting Act, ~~42~~  
99 ~~U.S.C. Section 1973ff~~ 52 U.S.C. Section 20301, et seq., as amended, may request in  
100 writing on one application a ballot for a presidential preference primary held pursuant  
101 to Article 5 of this chapter and for a primary as well as for any runoffs resulting  
102 therefrom and for the election for which such primary shall nominate candidates as well  
103 as any runoffs resulting therefrom. If not so requested by such person, a separate and  
104 distinct application shall be required for each primary, ~~run-off primary,~~ and election;  
105 ~~and run-off election~~. Except as otherwise provided in this subparagraph, a separate and  
106 distinct application for an absentee ballot shall always be required for any special  
107 election or special primary."

108

**SECTION 2.**

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