

Senate Bill 40

By: Senators Staton of the 18th, Williams of the 19th, Rogers of the 21st, Johnson of the 1st, Shafer of the 48th and others

AS PASSED

AN ACT

To amend Chapter 2 of Title 21 of the Official Code of Georgia Annotated, relating to elections and primaries generally, so as to increase the penalties for certain election related offenses involving fraudulent acts; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Chapter 2 of Title 21 of the Official Code of Georgia Annotated, relating to elections and primaries generally, is amended by revising paragraph (1) of subsection (c) of Code Section 21-2-384, relating to mailing of absentee ballots, as follows:

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

I, the undersigned, do swear (or affirm) that I am a citizen of the United States and of the State of Georgia; that my residence address is _____ County, Georgia; that I possess the qualifications of an elector required by the laws of the State of Georgia; that I am entitled to vote in the precinct containing my residence in the primary or election in which this ballot is to be cast; that I am eligible to vote by absentee ballot; that I have not marked or mailed any other absentee ballot, nor will I mark or mail another absentee ballot for voting in such primary or election; nor shall I vote therein in person; and that I have read and understand the instructions accompanying this ballot; and that I have carefully complied with such instructions in completing this ballot. I understand that the offer or acceptance of money or any other object of value to vote for any particular candidate, list of candidates, issue, or list of issues included in this election constitutes an act of voter fraud and is a felony under Georgia law.

Elector's Residence
Address

Month and Day of
Elector's Birth

Signature or Mark of Elector

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 _____.

Signature of Person Assisting
Elector -- Relationship

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, in subsection (b) of Code Section 21-2-409, that no person shall assist more than ten electors in any primary, election, or runoff in which there is no federal candidate on the ballot.

Georgia law further 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."

SECTION 2.

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

"(b) A physically disabled or illiterate elector may receive assistance in preparing his or her ballot from one of the following: any elector who is qualified to vote in the same county or municipality as the disabled or illiterate elector; an attendant care provider or a person providing attendant care; or the mother, father, grandparent, aunt, uncle, brother, sister, spouse, son, daughter, niece, nephew, grandchild, son-in-law, daughter-in-law, mother-in-law, father-in-law, brother-in-law, or sister-in-law of the disabled or illiterate elector. The person rendering assistance to the elector in preparing the ballot shall sign the oath printed on the same envelope as the oath to be signed by the elector. If the disabled or illiterate elector is sojourning outside his or her own county or municipality, a notary public of the jurisdiction may give such assistance and shall sign the oath printed on the same envelope as the oath to be signed by the elector. No person shall assist more than ten such electors in any primary, election, or runoff in which there is no federal candidate on the ballot. Any person who willfully violates this subsection shall be guilty of a felony and, upon conviction thereof, shall be sentenced to imprisonment for not less than one nor more than ten years or to pay a fine not to exceed \$100,000.00, or both, for each such violation."

SECTION 3.

Said chapter is further amended by revising Code Section 21-2-561, relating to false registration, as follows:

"21-2-561.

Any person who:

- (1) Registers as an elector knowing that such elector does not possess the qualifications required by law;
- (2) Registers as an elector under any other name than the elector's own name; or
- (3) Knowingly gives false information when registering as an elector

shall be guilty of a felony and, upon conviction thereof, shall be sentenced to imprisonment for not less than one nor more than ten years or to pay a fine not to exceed \$100,000.00, or both."

SECTION 4.

Said chapter is further amended by revising subsection (a) of Code Section 21-2-562, relating to fraudulent entries, as follows:

"(a) Any person who willfully:

(1) Inserts or permits to be inserted any fictitious name, false figure, false statement, or other fraudulent entry on or in any registration card, electors list, voter's certificate, affidavit, tally paper, general or duplicate return sheet, statement, certificate, oath, voucher, account, ballot or ballot card, or other record or document authorized or required to be made, used, signed, returned, or preserved for any public purpose in connection with any primary or election;

(2) Alters materially or intentionally destroys any entry which has been lawfully made therein; or

(3) Takes or removes any book, affidavit, return, account, ballot or ballot card, or other document or record from the custody of any person having lawful charge thereof, in order to prevent the same from being used or inspected or copied as required or permitted by this chapter

shall be guilty of a felony and, upon conviction thereof, shall be sentenced to imprisonment for not less than one nor more than ten years or to pay a fine not to exceed \$100,000.00, or both."

SECTION 5.

Said chapter is further amended by revising Code Section 21-2-566, relating to interference with primaries and elections generally, as follows:

"21-2-566.

Any person who:

(1) Willfully prevents or attempts to prevent any poll officer from holding any primary or election under this chapter;

(2) Uses or threatens violence to any poll officer or interrupts or improperly interferes with the execution of his or her duty;

(3) Willfully blocks or attempts to block the avenue to the door of any polling place;

(4) Uses or threatens violence to any elector to prevent him or her from voting;

(5) Willfully prepares or presents to any poll officer a fraudulent voter's certificate not signed by the elector whose certificate it purports to be;

(6) Knowingly deposits fraudulent ballots in the ballot box;

(7) Knowingly registers fraudulent votes upon any voting machine; or

(8) Willfully tampers with any electors list, voter's certificate, numbered list of voters, ballot box, voting machine, direct recording electronic (DRE) equipment, or tabulating machine

shall be guilty of a felony and, upon conviction thereof, shall be sentenced to imprisonment for not less than one nor more than ten years or to pay a fine not to exceed \$100,000.00, or both."

SECTION 6.

Said chapter is further amended by revising Code Section 21-2-567, relating to intimidation of electors, as follows:

"21-2-567.

Any person who uses or threatens to use force and violence, or in any other manner intimidates any other person, to:

- (1) Vote or refrain from voting at any primary or election, or to vote or refrain from voting for or against any particular candidate or question submitted to electors at such primary or election; or
- (2) Place or refrain from placing his or her name upon a register of electors

shall be guilty of a felony and, upon conviction thereof, shall be sentenced to imprisonment for not less than one nor more than ten years or to pay a fine not to exceed \$100,000.00, or both."

SECTION 7.

Said chapter is further amended by revising Code Section 21-2-568, relating to influencing elector while assisting, as follows:

"21-2-568.

(a) Any person who:

- (1) Goes into the voting compartment or voting machine booth while another is voting or marks the ballot or ballot card or registers the vote for another, except in strict accordance with this chapter;
- (2) Interferes with any elector marking his or her ballot or ballot card or registering his or her vote;
- (3) Attempts to induce any elector before depositing his or her ballot or ballot card to show how he or she marks or has marked his or her ballot or ballot card; or
- (4) Discloses to anyone how another elector voted, except when required to do so in any legal proceeding

shall be guilty of a felony.

(b) Any person who, while giving lawful assistance to another, attempts to influence the vote of the elector he or she is assisting or marks a ballot or ballot card or registers a vote

in any other way than that requested by the voter he or she is assisting shall be guilty of a felony and, upon conviction thereof, shall be sentenced to imprisonment for not less than one nor more than ten years or to pay a fine not to exceed \$100,000.00, or both."

SECTION 8.

Said chapter is further amended by revising Code Section 21-2-571, relating to voting by unqualified elector or giving false information, as follows:

"21-2-571.

Any person who votes or attempts to vote at any primary or election, knowing that such person does not possess all the qualifications of an elector at such primary or election, as required by law, or who votes or attempts to vote at any primary in violation of Code Section 21-2-223 or who knowingly gives false information to poll officers in an attempt to vote in any primary or election shall be guilty of a felony and, upon conviction thereof, shall be sentenced to imprisonment for not less than one nor more than ten years or to pay a fine not to exceed \$100,000.00, or both."

SECTION 9.

Said chapter is further amended by revising Code Section 21-2-572, relating to repeat voting in same primary or election, as follows:

"21-2-572.

Any person who votes in more than one precinct in the same primary or election or otherwise fraudulently votes more than once at the same primary or election shall be guilty of a felony and, upon conviction thereof, shall be sentenced to imprisonment for not less than one nor more than ten years or to pay a fine not to exceed \$100,000.00, or both."

SECTION 10.

Said chapter is further amended by revising Code Section 21-2-573, relating to absentee voting by unqualified elector, as follows:

"21-2-573.

Any person who votes or attempts to vote by absentee ballot at any primary or election under Article 10 of this chapter and who is not qualified to vote shall be guilty of a felony and, upon conviction thereof, shall be sentenced to imprisonment for not less than one nor more than ten years or to pay a fine not to exceed \$100,000.00, or both."

SECTION 11.

Said chapter is further amended by revising Code Section 21-2-587, relating to frauds by poll workers, as follows:

"21-2-587.

Any poll officer who willfully:

- (1) Makes a false return of the votes cast at any primary or election;
- (2) Deposits fraudulent ballots or ballot cards in the ballot box or certifies as correct a false return of ballots or ballot cards;
- (3) Registers fraudulent votes upon any voting machine or certifies as correct a return of fraudulent votes cast upon any voting machine;
- (4) Makes any false entries in the electors list;
- (5) Destroys or alters any ballot, ballot card, voter's certificate, or electors list;
- (6) Tampers with any voting machine, direct recording electronic (DRE) equipment, or tabulating computer or device;
- (7) Prepares or files any false voter's certificate not prepared by or for an elector actually voting at such primary or election; or
- (8) Fails to return to the officials prescribed by this chapter, following any primary or election, any keys of a voting machine, ballot box, general or duplicate return sheet, tally paper, oaths of poll officers, affidavits of electors and others, record of assisted voters, numbered list of voters, electors list, voter's certificate, spoiled and canceled ballots or ballot cards, ballots or ballot cards deposited, written, or affixed in or upon a voting machine, DRE memory cards, or any certificate or any other paper or record required to be returned under this chapter

shall be guilty of a felony and, upon conviction thereof, shall be sentenced to imprisonment for not less than one nor more than ten years or to pay a fine not to exceed \$100,000.00, or both."

SECTION 12.

Said chapter is further amended by revising Code Section 21-2-590, relating to poll officers permitting unregistered or unqualified persons to vote, as follows:

"21-2-590.

Any poll officer who:

- (1) Permits any unregistered person to vote at any primary or election, knowing such person is unregistered;

- (2) Permits any person registered as an elector to vote, knowing that such person is not qualified to vote, whether or not such person has been challenged;
- (3) Refuses to permit any duly registered and qualified person to vote at any primary or election, with the knowledge that such person is entitled to vote; or
- (4) Renders assistance to an elector in voting in violation of Code Section 21-2-409, or knowingly permits another person to render such assistance in violation of Code Section 21-2-409

shall be guilty of a felony."

SECTION 13.

Said chapter is further amended by revising Code Section 21-2-600, relating to punishment for felonies under chapter, as follows:

"21-2-600.

Except as otherwise provided, any person convicted of a felony under this chapter shall be punished by a fine not to exceed \$10,000.00 or imprisonment of not less than one year nor more than ten years, or both, in the discretion of the trial court, or may be punished as for a misdemeanor in the discretion of the trial court."

SECTION 14.

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