

1 HB538
2 211430-3
3 By Representative Baker
4 RFD: Constitution, Campaigns and Elections
5 First Read: 11-MAR-21

1 "(2) The person has any physical illness or
2 infirmity which prevents his or her attendance at the polls,
3 whether he or she is within or without the county on the day
4 of the election.

5 "(3) The person expects to work a shift which has at
6 least 10 hours which coincide with the hours the polls are
7 open at his or her regular polling place.

8 "(4) The person is enrolled as a student at an
9 educational institution located outside the county of his or
10 her personal residence, attendance at which prevents his or
11 her attendance at the polls.

12 "(5) The person is a member of, or spouse or
13 dependent of a member of, the Armed Forces of the United
14 States or is similarly qualified to vote absentee pursuant to
15 the federal Uniformed and Overseas Citizens Absentee Voting
16 Act, 42 U.S.C. 1973ff.

17 "(6) The person has been appointed as an election
18 officer or named as a poll watcher at a polling place other
19 than his or her regular polling place.

20 "(7) The person is a caregiver for a family member
21 to the second degree of kinship by affinity or consanguinity
22 and the family member is confined to his or her home.

23 "(8) The person is incarcerated in prison or jail
24 and has not been convicted of a felony involving moral
25 turpitude, as provided in Section 17-3-30.1.

26 (b) Applications returned by mail must be received
27 not less than 10 days prior to the election. Applications

1 returned by hand must be received not less than five days
2 prior to the election.

3 ~~"(b)~~ (c) An applicant for an absentee ballot who is
4 a member of the Armed Forces of the United States, including
5 the Alabama National Guard, the United States Naval Reserves,
6 the United States Air Force Reserves, and the United States
7 Army Reserve on active duty or active duty for training or an
8 applicant who is the spouse of any member of the armed forces
9 or any other applicant qualified to vote absentee pursuant to
10 the federal Uniformed and Overseas Citizens Absentee Voting
11 Act, 42 U.S.C. §1973ff, may make application for an absentee
12 ballot by filling out the federal postcard application form,
13 authorized and provided for under the provisions of The
14 Federal Voting Assistance Act of 1955, Public Law 296, Chapter
15 656, H.R. 4048, approved August 9, 1955, 84th Congress 1st
16 ~~Session. Applications returned by mail must be received not~~
17 ~~less than 10 days prior to the election. Applications returned~~
18 ~~by hand must be received not less than five days prior to the~~
19 ~~election.~~ Session.

20 ~~"(c)~~ (d) Any registered elector who requires
21 emergency treatment of a licensed physician within five days
22 of an election may apply for an emergency absentee ballot for
23 the election and may vote by returning the absentee ballot no
24 later than noon on the day the election is held. The attendant
25 physician shall describe and certify the circumstances as
26 constituting an emergency on a special form designed by the
27 Secretary of State and provided by his or her office to local

1 absentee election managers. The special form shall be attached
2 to the application.

3 "(d) (1) Any registered elector whose name appears on
4 the poll list of qualified voters may vote by an emergency
5 absentee ballot if any of the following situations arise:

6 "a. The elector is required by his or her employer
7 under unforeseen circumstances within five days before an
8 election to be unavailable to vote at the polls on election
9 day.

10 "b. The elector is a caregiver of a person who
11 requires emergency treatment by a licensed physician within
12 five days before an election.

13 "c. A family member to the second degree of kinship
14 by affinity or consanguinity of an elector dies within five
15 days before an election.

16 "(2) Under such circumstances, the elector shall
17 apply for an emergency absentee ballot at the office of the
18 absentee election manager no later than the close of the
19 business day one day prior to the election. The applicant
20 shall complete and file an application form designed by the
21 Secretary of State for emergency absentee voters. The form
22 shall contain an affidavit which the applicant shall sign or
23 swear acknowledging that he or she was not aware of the
24 situation constituting the emergency prior to five days before
25 the election. An applicant who meets the requirements of this
26 subsection may vote by an emergency absentee ballot. After

1 voting the ballot, the voter shall hand the ballot to the
2 absentee election manager.

3 "(e) If the occurrence of a state of emergency as
4 declared in this or any other state, or by the federal
5 government, renders substantial compliance with this article
6 impossible or unreasonable for a group of qualified voters who
7 respond to the emergency, the Secretary of State, pursuant to
8 Section 41-22-5, may adopt an emergency rule to allow those
9 qualified voters to vote by absentee ballot. Notwithstanding
10 any other laws to the contrary, all expenses and costs
11 incurred by the state or any county in carrying out the
12 responsibilities and duties included in an emergency rule
13 adopted pursuant to this subsection shall be paid by the State
14 of Alabama from any funds made available for election expenses
15 under state and federal law.

16 "(f) Notwithstanding any other provision of
17 otherwise applicable law, in the event more than one absentee
18 ballot is cast in the name of the single voter, whether any
19 such multiple ballot is cast by mail or otherwise, none of the
20 affidavit envelopes containing the multiple ballots shall be
21 opened, and none of the multiple ballots shall be counted,
22 except in the event of an election contest, upon the order of
23 the election contest tribunal. Upon the conclusion of an
24 election contest or, in the event no such contest is filed,
25 upon the expiration of time for filing such a contest, the
26 multiple ballots shall be provided to the district attorney,
27 with photocopies provided to the state Attorney General, for

1 the investigation, prosecution, or other action as may be
2 appropriate under applicable law.

3 "§17-11-10.

4 "(a) Upon receipt of the absentee ballot, the
5 absentee election manager shall record its receipt ~~thereof~~ on
6 the absentee list as provided in Section 17-11-5 and shall
7 safely keep the ballot without breaking the seal of the
8 affidavit envelope.

9 "(b) (1) ~~For absentee ballots received by noon on the~~
10 ~~day of the election, the~~ The absentee election manager shall,
11 beginning at ~~noon~~ 7:00 a.m. on the day of the election, shall
12 deliver the sealed affidavit envelopes containing absentee
13 ballots to the election officials provided for in Section
14 17-11-11. The election officials shall then call the name of
15 each voter casting an absentee ballot with poll watchers
16 present as may be provided under the laws of Alabama and shall
17 examine each affidavit envelope to determine if the signature
18 of the voter has been appropriately witnessed. If the
19 witnessing of the signature and the information in the
20 affidavit establish that the voter is entitled to vote by
21 absentee ballot, then the election officials shall certify the
22 findings, open each affidavit envelope, and deposit the plain
23 envelope containing the absentee ballot into a sealed ballot
24 box.

25 "(2) No poll worker or other election official shall
26 open an affidavit envelope if the envelope indicates the
27 ballot is an unverified provisional ballot or the affidavit

1 ~~printed thereon~~ is unsigned by the voter or unmarked, and no
2 ballot envelope or ballot ~~therein~~ may be removed or counted.
3 No poll worker or other election official shall open an
4 affidavit envelope if the voter's affidavit signature or mark
5 is not witnessed by the signatures of two witnesses or a
6 notary public, or other officer, including a military
7 commissioned officer, authorized to acknowledge oaths, and no
8 ballot envelope or ballot ~~therein~~ may be removed or counted.
9 The provision for witnessing of the voter's affidavit
10 signature or mark in Section 17-11-7 goes to the integrity and
11 sanctity of the ballot and election. No court or other
12 election tribunal shall allow the counting of an absentee
13 ballot with respect to which the voter's affidavit signature
14 or mark is not witnessed by the signatures of two witnesses 18
15 years of age or older or a notary public, or other officer,
16 including a military commissioned officer, authorized to
17 acknowledge oaths, prior to being delivered or mailed to the
18 absentee election manager.

19 "3) Upon closing of the polls, the absentee ballots
20 shall be counted and otherwise handled in all respects as if
21 the absentee voter were present and voting in person. Precinct
22 ballot counters may be used to count absentee ballots.
23 Absentee election officials are to be appointed and trained in
24 the same manner as prescribed for regular election officials.
25 The number of absentee election officials shall be determined
26 by the number of precinct counters provided. The county
27 commission may provide more than one precinct ballot counter

1 based upon the recommendation of the absentee election
2 manager. Beginning not earlier than ~~noon~~ 7:00 a.m. on election
3 day, the absentee election officials shall perform the duties
4 prescribed in Section 17-11-11.

5 "(4) As regards municipalities with populations of
6 less than 10,000, in the case of municipal elections held at a
7 time different from a primary or general election, the return
8 mail envelopes containing the ballots shall be delivered to
9 the election official of the precinct of the respective
10 voters, unless the city or town having a population of less
11 than 10,000 inhabitants has established, by permanent
12 ordinance adopted six months prior to the municipal election,
13 ~~established~~ a procedure for the appointment of absentee
14 election officials pursuant to subsection (c) of Section
15 11-46-27.

16 "(c) (1) Absentee ballots cast in a second primary
17 election for federal, state, or county office by individuals
18 voting pursuant to the federal Uniformed and Overseas Citizens
19 Absentee Voting Act, ~~42 U.S.C. 1973ff et seq.~~ 52 U.S.C. §§
20 20301-20311, and received after noon on the day of the second
21 primary election, shall be opened and counted at the same time
22 as the verified provisional ballots. At noon seven days after
23 the second primary election, the absentee election manager
24 shall deliver the sealed affidavit envelopes containing
25 absentee ballots to the officials provided for in subsection
26 (f) of Section 17-10-2. The officials shall call the name of
27 each voter casting an absentee ballot in the presence of

1 watchers designated by any interested candidates and shall
2 examine each affidavit envelope to determine if the signature
3 of the voter has been appropriately witnessed. If the
4 witnessing of the signature and the information in the
5 affidavit establish that the voter is entitled to vote by
6 absentee ballot, then the election officials shall certify the
7 findings, open each affidavit envelope, and deposit the plain
8 envelope containing the absentee ballot into a sealed ballot
9 box.

10 "2) No election official shall open an affidavit
11 envelope if the affidavit printed thereon is unsigned by the
12 voter or unmarked, and no ballot envelope or ballot therein
13 may be removed or counted. No election official shall open an
14 affidavit envelope if the voter's affidavit signature or mark
15 is not witnessed by the signatures of two witnesses or a
16 notary public, or other officer, including a military
17 commissioned officer, authorized to acknowledge oaths, and no
18 ballot envelope or ballot therein may be removed or counted.
19 The provision for witnessing of the voter's affidavit
20 signature or mark in Section 17-11-7 goes to the integrity and
21 sanctity of the ballot and election. No court or other
22 election tribunal shall allow the counting of an absentee
23 ballot with respect to which the voter's affidavit signature
24 or mark is not witnessed by the signatures of two witnesses 18
25 years of age or older or a notary public, or other officer,
26 including a military commissioned officer, authorized to

1 acknowledge oaths, prior to being delivered or mailed to the
2 absentee election manager.

3 "(3) The absentee ballots described in this
4 subsection shall be opened, counted, and tabulated. The
5 results of the absentee ballots counted and tabulated on
6 election day shall be amended to include the results of the
7 absentee ballots described in this subsection.

8 "(4) In all other respects, unless otherwise
9 specifically provided by law, the absentee ballots described
10 in this subsection shall be treated as other absentee ballots.

11 "§17-11-18.

12 "(a) No absentee ballot shall be opened or counted
13 if received by the absentee election manager by mail, unless
14 ~~postmarked as of the date prior to the day of the election and~~
15 received by mail no later than noon on the day of election,
16 or, if received by the absentee election manager by hand
17 delivery, unless so delivered by the voter or medical
18 emergency designee to the absentee election manager not later
19 than the close of the last business day next preceding the
20 election or, if delivered by the medical emergency designee,
21 by noon on the day of the election.

22 "(b) The above provision does not apply in the case
23 of individuals voting absentee pursuant to the federal
24 Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA),
25 ~~42 U.S.C. 1973ff~~ 52 U.S.C. §§ 20301-20311, when those
26 individuals are voting in a primary, second primary, general,
27 or special election for a federal, state, or county office or

1 proposed constitutional amendment or other referenda. In the
2 case of UOCAVA voters voting absentee in a primary, second
3 primary, general, or special election for a federal, state, or
4 county office or proposed constitutional amendment or other
5 referenda, no absentee ballot shall be opened or counted, if
6 received by the absentee election manager by mail, unless
7 postmarked as of the day of the primary, second primary,
8 general, or special election and received by mail no later
9 than noon seven days after the primary, second primary,
10 general, or special election."

11 Section 2. This act shall become effective
12 immediately following its passage and approval by the
13 Governor, or its otherwise becoming law.

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House of Representatives

Read for the first time and re-
ferred to the House of Representa-
tives committee on Constitution,
Campaigns and Elections..... 11-MAR-21

Read for the second time and placed
on the calendar 1 amendment 18-MAR-21

Read for the third time and passed
as amended..... 30-MAR-21

Yeas 79, Nays 16, Abstains 3

Jeff Woodard
Clerk