

1 HB39  
2 204373-1  
3 By Representative Hall  
4 RFD: Constitution, Campaigns and Elections  
5 First Read: 02-FEB-21  
6 PFD: 11/30/2020

SYNOPSIS: Under existing law, a registered voter may only vote by absentee ballot if he or she meets one of the criteria prescribed by law for voting absentee.

This bill would allow a registered voter to vote by absentee ballot without an excuse.

A BILL  
TO BE ENTITLED  
AN ACT

Relating to voting; to amend Sections 17-11-3 and 17-11-7, Code of Alabama 1975, as last amended by Act 2019-507, 2019 Regular Session; to authorize absentee ballot voting without an excuse.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Sections 17-11-3 and 17-11-7, Code of Alabama 1975, , as last amended by Act 2019-507, 2019 Regular Session, are amended to read as follows:

"§17-11-3.

1           "(a) Any qualified elector of this state may apply  
2 for and vote an absentee ballot by mail, by hand delivery, or  
3 by commercial carrier, as determined by rule by the Secretary  
4 of State, as provided in Sections 17-11-5 and 17-11-9, in any  
5 primary, general, special, or municipal election, if he or she  
6 makes application in writing therefor not less than five days  
7 prior to the election in which he or she desires to vote. and  
8 ~~meets one or more of the following requirements:~~

9           ~~"(1) The person expects to be out of the county or  
10 the state, or the municipality for municipal elections, on  
11 election day.~~

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

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

19           ~~"(4) The person is enrolled as a student at an  
20 educational institution located outside the county of his or  
21 her personal residence, attendance at which prevents his or  
22 her attendance at the polls.~~

23           ~~"(5) The person is a member of, or spouse or  
24 dependent of a member of, the Armed Forces of the United  
25 States or is similarly qualified to vote absentee pursuant to  
26 the federal Uniformed and Overseas Citizens Absentee Voting  
27 Act, 42 U.S.C. 1973ff.~~

1           ~~"(6) The person has been appointed as an election~~  
2 ~~officer or named as a poll watcher at a polling place other~~  
3 ~~than his or her regular polling place.~~

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

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

10           "(b) An applicant for an absentee ballot who is a  
11 member of the Armed Forces of the United States, including the  
12 Alabama National Guard, the United States Naval Reserves, the  
13 United States Air Force Reserves, and the United States Army  
14 Reserve on active duty or active duty for training or an  
15 applicant who is the spouse of any member of the armed forces  
16 or any other applicant qualified to vote absentee pursuant to  
17 the federal Uniformed and Overseas Citizens Absentee Voting  
18 Act, 42 U.S.C. §1973ff, may make application for an absentee  
19 ballot by filling out the federal postcard application form,  
20 authorized and provided for under the provisions of The  
21 Federal Voting Assistance Act of 1955, Public Law 296, Chapter  
22 656, H.R. 4048, approved August 9, 1955, 84th Congress 1st  
23 Session.

24           "(c) Any registered elector who requires emergency  
25 treatment of a licensed physician within five days of an  
26 election may apply for an emergency absentee ballot for the  
27 election and may vote by returning the absentee ballot no

1 later than noon on the day the election is held. The attendant  
2 physician shall describe and certify the circumstances as  
3 constituting an emergency on a special form designed by the  
4 Secretary of State and provided by his or her office to local  
5 absentee election managers. The special form shall be attached  
6 to the application.

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

10 "a. The elector is required by his or her employer  
11 under unforeseen circumstances within five days before an  
12 election to be unavailable to vote at the polls on election  
13 day.

14 "b. The elector is a caregiver of a person who  
15 requires emergency treatment by a licensed physician within  
16 five days before an election.

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

20 "(2) Under such circumstances, the elector shall  
21 apply for an emergency absentee ballot at the office of the  
22 absentee election manager no later than the close of the  
23 business day one day prior to the election. The applicant  
24 shall complete and file an application form designed by the  
25 Secretary of State for emergency absentee voters. The form  
26 shall contain an affidavit which the applicant shall sign or  
27 swear acknowledging that he or she was not aware of the

1 situation constituting the emergency prior to five days before  
2 the election. An applicant who meets the requirements of this  
3 subsection may vote by an emergency absentee ballot. After  
4 voting the ballot, the voter shall hand the ballot to the  
5 absentee election manager.

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

19 "(f) Notwithstanding any other provision of  
20 otherwise applicable law, in the event more than one absentee  
21 ballot is cast in the name of the single voter, whether any  
22 such multiple ballot is cast by mail or otherwise, none of the  
23 affidavit envelopes containing the multiple ballots shall be  
24 opened, and none of the multiple ballots shall be counted,  
25 except in the event of an election contest, upon the order of  
26 the election contest tribunal. Upon the conclusion of an  
27 election contest or, in the event no such contest is filed,

1 upon the expiration of time for filing such a contest, the  
2 multiple ballots shall be provided to the district attorney,  
3 with photocopies provided to the state Attorney General, for  
4 the investigation, prosecution, or other action as may be  
5 appropriate under applicable law.

6 "§17-11-7.

7 "(a) Each absentee ballot shall be accompanied by an  
8 envelope upon which shall be printed an affidavit.

9 "(b) With respect to an absentee ballot cast  
10 pursuant to Section 17-11-3, the affidavit shall read as  
11 follows:

12 ""State of Alabama

13 "County of \_\_\_\_\_

14 "I, the undersigned, do swear (or affirm) that:

15 My place of residence in Alabama is: \_\_\_\_\_

16 (street)

17 \_\_\_\_\_, Alabama \_\_\_\_\_

18 (city or town)

(zip code)

19 My date of birth is: \_\_\_\_\_

20 month day year

21  
22 ~~"I am entitled to vote an absentee ballot because:~~

1                   ~~"Check at least one:~~

2                   ~~"\_\_\_\_\_ I expect to be out of the county or the state~~  
3 ~~on election day.~~

4                   ~~"\_\_\_\_\_ I am physically incapacitated and will not be~~  
5 ~~able to vote in person on election day.~~

6                   ~~"\_\_\_\_\_ I expect to work a required workplace shift~~  
7 ~~which has at least 10 hours which coincide with the polling~~  
8 ~~hours at my regular polling place.~~

9                   ~~"\_\_\_\_\_ I am a student at an educational institution~~  
10 ~~located outside the county of my permanent residence and am~~  
11 ~~therefore unable to vote at my usual polling place on election~~  
12 ~~day.~~

13                   ~~"\_\_\_\_\_ I am a member of or a spouse or dependent of a~~  
14 ~~member of the Armed Forces of the United States or am~~  
15 ~~otherwise entitled to vote pursuant to the federal Uniformed~~  
16 ~~and Overseas Citizens Absentee Voting Act, 42 U.S.C. 1973ff.~~

17                   ~~"\_\_\_\_\_ I have been appointed as an election officer at~~  
18 ~~a polling place which is not my regular polling place.~~

19                   ~~"\_\_\_\_\_ I will be out of the county on election day~~  
20 ~~responding to a state of emergency as declared by this state~~  
21 ~~or any other state, or by the federal government.~~

22                   ~~"\_\_\_\_\_ I am a caregiver for a family member to the~~  
23 ~~second degree of kinship by affinity or consanguinity and the~~  
24 ~~family member is confined to his or her home.~~

25                   ~~"\_\_\_\_\_ I am currently incarcerated in prison or jail~~  
26 ~~and I have not been convicted of a felony involving moral~~  
27 ~~turpitude.~~



1 "I further swear (or affirm) that I have not voted  
2 nor will I vote in person in the election to which this ballot  
3 pertains.

4 "I have marked the enclosed absentee ballot  
5 voluntarily and I have read or had read to me and understand  
6 the instructions accompanying this ballot and I have carefully  
7 complied with such instructions.

8 "Moreover, I further swear (or affirm) that all of  
9 the information given above is true and correct to the best of  
10 my knowledge and that I understand that by knowingly giving  
11 false information so as to vote illegally by absentee ballot  
12 that I shall be guilty of a misdemeanor which is punishable by  
13 a fine not to exceed one thousand dollars (\$1,000) or confine-  
14 ment in the county jail for not more than six months, or both.

15 \_\_\_\_\_  
16 (Signature or mark of voter.)

17 \_\_\_\_\_  
18 (Printed name of voter.)

19 "IF YOUR AFFIDAVIT IS NOT SIGNED (OR MARKED), AND IF  
20 YOUR AFFIDAVIT IS NOT WITNESSED BY TWO WITNESSES 18 YEARS OF  
21 AGE OR OLDER OR A NOTARY PUBLIC OR OTHER OFFICER AUTHORIZED TO  
22 ACKNOWLEDGE OATHS, PRIOR TO BEING DELIVERED OR MAILED TO THE  
23 ABSENTEE ELECTION MANAGER, YOUR BALLOT WILL NOT BE COUNTED.

1 "Sworn to and subscribed before me this \_\_\_\_\_ day of  
2 \_\_\_\_\_, 2\_\_.

3 "I certify that the affiant is known (or made known)  
4 to me to be the identical party he or she claims to be.

5 \_\_\_\_\_ (Signature of official)

6 (Title of official)

7 \_\_\_\_\_

8 (Address of official)

9 OR

10 1st Witness \_\_\_\_\_

11 Signature

12 \_\_\_\_\_

13 Print name

14 \_\_\_\_\_

15 Address

16 \_\_\_\_\_

17 City Zip Code

18 2nd Witness \_\_\_\_\_

19 Signature

20 \_\_\_\_\_

1  
2  
3  
4  
5

Print name  
\_\_\_\_\_  
Address  
\_\_\_\_\_  
City Zip Code"

6                   "(c) Unless running unopposed, a candidate may not  
7 witness or notarize any absentee ballot."

8                   Section 2. This act shall become effective on the  
9 first day of the third month following its passage and  
10 approval by the Governor, or its otherwise becoming law.