

HB95 INTRODUCED



1 3NTOZZ-1

2 By Representatives Jackson, Plump, McClammy, Hall, Bracy,

3 Morris, Hollis, Warren, Boyd

4 RFD: Constitution, Campaigns and Elections

5 First Read: 07-Mar-23

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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; to authorize absentee 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, are amended to read as follows:

"§17-11-3

(a) Any qualified elector of this state may apply for and vote an absentee ballot by mail, ~~by hand delivery~~in person, or by commercial carrier, as determined by rule by the Secretary of State, as provided in Sections 17-11-5 and 17-11-9, in any primary, general, special, or municipal election, if he or she makes application in writing ~~and meets~~



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29 ~~one or more of the following requirements:~~

30 ~~(1) The person expects to be out of the county or the~~
31 ~~state, or the municipality for municipal elections, on~~
32 ~~election day.~~

33 ~~(2) The person has any physical illness or infirmity~~
34 ~~which prevents his or her attendance at the polls, whether he~~
35 ~~or she is within or without the county on the day of the~~
36 ~~election.~~

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

40 ~~(4) The person is enrolled as a student at an~~
41 ~~educational institution located outside the county of his or~~
42 ~~her personal residence, attendance at which prevents his or~~
43 ~~her attendance at the polls.~~

44 ~~(5) The person is a member of, or spouse or dependent~~
45 ~~of a member of, the Armed Forces of the United States or is~~
46 ~~similarly qualified to vote absentee pursuant to the federal~~
47 ~~Uniformed and Overseas Citizens Absentee Voting Act, 52 U.S.C.~~
48 ~~§§ 20301-20311.~~

49 ~~(6) The person has been appointed as an election~~
50 ~~officer or named as a poll watcher at a polling place other~~
51 ~~than his or her regular polling place.~~

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

55 ~~(8) The person is incarcerated in prison or jail and~~
56 ~~has not been convicted of a felony involving moral turpitude,~~



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57 ~~as provided in Section 17-3-30.1.~~

58 (b) Applications returned by mail must be received not
59 less than seven days prior to the election. Applications
60 returned by hand must be received not less than five days
61 prior to the election.

62 (c) An applicant for an absentee ballot who is a member
63 of the Armed Forces of the United States, including the
64 Alabama National Guard, the United States Naval Reserves, the
65 United States Air Force Reserves, and the United States Army
66 Reserve on active duty or active duty for training or an
67 applicant who is the spouse of any member of the armed forces
68 or any other applicant qualified to vote absentee pursuant to
69 the federal Uniformed and Overseas Citizens Absentee Voting
70 Act, 52 U.S.C. §§ 20301-20311, may make application for an
71 absentee ballot by filling out the federal postcard
72 application form, authorized and provided for under the
73 provisions of The Federal Voting Assistance Act of 1955,
74 Public Law 296, Chapter 656, H.R. 4048, approved August 9,
75 1955, 84th Congress 1st Session.

76 (d) Any registered elector who requires emergency
77 treatment of a licensed physician within five days of an
78 election may apply for an emergency absentee ballot for the
79 election and may vote by returning the absentee ballot no
80 later than noon on the day the election is held. The attendant
81 physician shall describe and certify the circumstances as
82 constituting an emergency on a special form designed by the
83 Secretary of State and provided by his or her office to local
84 absentee election managers. The special form shall be attached



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85 to the application.

86 (e) (1) Any registered elector whose name appears on the
87 poll list of qualified voters may vote by an emergency
88 absentee ballot if any of the following situations arise:

89 a. The elector is required by his or her employer under
90 unforeseen circumstances within five days before an election
91 to be unavailable to vote at the polls on election day.

92 b. The elector is a caregiver of a person who requires
93 emergency treatment by a licensed physician within five days
94 before an election.

95 c. A family member to the second degree of kinship by
96 affinity or consanguinity of an elector dies within five days
97 before an election.

98 (2) Under such circumstances, the elector shall apply
99 for an emergency absentee ballot at the office of the absentee
100 election manager no later than the close of the business day
101 one day prior to the election. The applicant shall complete
102 and file an application form designed by the Secretary of
103 State for emergency absentee voters. The form shall contain an
104 affidavit which the applicant shall sign or swear
105 acknowledging that he or she was not aware of the situation
106 constituting the emergency prior to five days before the
107 election. An applicant who meets the requirements of this
108 subsection may vote by an emergency absentee ballot. After
109 voting the ballot, the voter shall hand the ballot to the
110 absentee election manager.

111 (f) If the occurrence of a state of emergency as
112 declared in this or any other state, or by the federal



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113 government, renders substantial compliance with this article
114 impossible or unreasonable for a group of qualified voters who
115 respond to the emergency, the Secretary of State, pursuant to
116 Section 41-22-5, may adopt an emergency rule to allow those
117 qualified voters to vote by absentee ballot. Notwithstanding
118 any other laws to the contrary, all expenses and costs
119 incurred by the state or any county in carrying out the
120 responsibilities and duties included in an emergency rule
121 adopted pursuant to this subsection shall be paid by the State
122 of Alabama from any funds made available for election expenses
123 under state and federal law.

124 (g) Notwithstanding any other provision of otherwise
125 applicable law, in the event more than one absentee ballot is
126 cast in the name of the single voter, whether any multiple
127 ballot is cast by mail or otherwise, none of the affidavit
128 envelopes containing the multiple ballots shall be opened, and
129 none of the multiple ballots shall be counted, except in the
130 event of an election contest, upon the order of the election
131 contest tribunal. Upon the conclusion of an election contest
132 or, in the event no contest is filed, upon the expiration of
133 time for filing a contest, the multiple ballots shall be
134 provided to the district attorney, with photocopies provided
135 to the state Attorney General, for the investigation,
136 prosecution, or other action as may be appropriate under
137 applicable law."

138 "§17-11-7

139 (a) Each absentee ballot shall be accompanied by an
140 envelope upon which shall be printed an affidavit.



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

143 "State of Alabama

144 County of _____

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

146 My place of residence in Alabama is: _____

147 (street) _____, Alabama _____ (city or
148 town) (zip code)

149 My date of birth is: _____ month day year

150 ~~I am entitled to vote an absentee ballot because:~~

151 ~~Check at least one:~~

152 ~~___ I expect to be out of the county or the state on~~
153 ~~election day.~~

154 ~~___ I am physically incapacitated and will not be able~~
155 ~~to vote in person on election day.~~

156 ~~___ I expect to work a required workplace shift which~~
157 ~~has at least 10 hours which coincide with the polling hours at~~
158 ~~my regular polling place.~~

159 ~~___ I am a student at an educational institution~~
160 ~~located outside the county of my permanent residence and am~~
161 ~~therefore unable to vote at my usual polling place on election~~
162 ~~day.~~

163 ~~___ I am a member of or a spouse or dependent of a~~
164 ~~member of the Armed Forces of the United States or am~~
165 ~~otherwise entitled to vote pursuant to the federal Uniformed~~
166 ~~and Overseas Citizens Absentee Voting Act, 42 U.S.C. 1973ff.~~

167 ~~___ I have been appointed as an election officer at a~~
168 ~~polling place which is not my regular polling place.~~



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169 ~~_____ I will be out of the county on election day~~
170 ~~responding to a state of emergency as declared by this state~~
171 ~~or any other state, or by the federal government.~~

172 ~~_____ I am a caregiver for a family member to the second~~
173 ~~degree of kinship by affinity or consanguinity and the family~~
174 ~~member is confined to his or her home.~~

175 ~~_____ I am currently incarcerated in prison or jail and I~~
176 ~~have not been convicted of a felony involving moral turpitude.~~

177 I further swear (or affirm) that I have not voted nor
178 will I vote in person in the election to which this ballot
179 pertains.

180 I have marked the enclosed absentee ballot voluntarily
181 and I have read or had read to me and understand the
182 instructions accompanying this ballot and I have carefully
183 complied with such instructions.

184 Moreover, I further swear (or affirm) that all of the
185 information given above is true and correct to the best of my
186 knowledge and that I understand that by knowingly giving false
187 information so as to vote illegally by absentee ballot that I
188 shall be guilty of a misdemeanor which is punishable by a fine
189 not to exceed one thousand dollars (\$1,000) or confinement in
190 the county jail for not more than six months, or both.

191 _____ (Signature or mark of
192 voter.) _____ (Printed name of voter.)

193 IF YOUR AFFIDAVIT IS NOT SIGNED (OR MARKED), AND IF
194 YOUR AFFIDAVIT IS NOT WITNESSED BY TWO WITNESSES 18 YEARS OF
195 AGE OR OLDER OR A NOTARY PUBLIC OR OTHER OFFICER AUTHORIZED TO
196 ACKNOWLEDGE OATHS, PRIOR TO BEING DELIVERED OR MAILED TO THE



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197 ABSENTEE ELECTION MANAGER, YOUR BALLOT WILL NOT BE COUNTED.

198 Sworn to and subscribed before me this _____ day of

199 _____, 2__.

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

202 _____ (Signature of official) (Title of
203 official) _____ (Address of official) OR 1st

204 Witness _____ Signature _____ Print name

205 _____ Address _____ City Zip Code

206 2nd Witness _____ Signature _____ Print
207 name _____ Address _____ City Zip Code"

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

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