

1 HB168
2 216355-1
3 By Representative Hall
4 RFD: Constitution, Campaigns and Elections
5 First Read: 18-JAN-22

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 Section 17-11-3, as last amended by Act 2021-364, 2021 Regular Session, and Section 17-11-7, Code of Alabama 1975; to authorize absentee ballot voting without an excuse.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Section 17-11-3, as last amended by Act 2021-364, 2021 Regular Session, and Section 17-11-7, Code of Alabama 1975, 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. ~~and meets one or more of the~~
7 ~~following requirements:~~

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

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

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

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

22 ~~"(5) The person is a member of, or spouse or~~
23 ~~dependent of a member of, the Armed Forces of the United~~
24 ~~States or is similarly qualified to vote absentee pursuant to~~
25 ~~the federal Uniformed and Overseas Citizens Absentee Voting~~
26 ~~Act, 52 U.S.C. §§ 20301-20311.~~

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) Applications returned by mail must be received
11 not less than seven days prior to the election. Applications
12 returned by hand must be received not less than five days
13 prior to the election.

14 "(c) An applicant for an absentee ballot who is a
15 member of the Armed Forces of the United States, including the
16 Alabama National Guard, the United States Naval Reserves, the
17 United States Air Force Reserves, and the United States Army
18 Reserve on active duty or active duty for training or an
19 applicant who is the spouse of any member of the armed forces
20 or any other applicant qualified to vote absentee pursuant to
21 the federal Uniformed and Overseas Citizens Absentee Voting
22 Act, 52 U.S.C. §§ 20301-20311, may make application for an
23 absentee ballot by filling out the federal postcard
24 application form, authorized and provided for under the
25 provisions of The Federal Voting Assistance Act of 1955,
26 Public Law 296, Chapter 656, H.R. 4048, approved August 9,
27 1955, 84th Congress 1st Session.

1 "(d) Any registered elector who requires emergency
2 treatment of a licensed physician within five days of an
3 election may apply for an emergency absentee ballot for the
4 election and may vote by returning the absentee ballot no
5 later than noon on the day the election is held. The attendant
6 physician shall describe and certify the circumstances as
7 constituting an emergency on a special form designed by the
8 Secretary of State and provided by his or her office to local
9 absentee election managers. The special form shall be attached
10 to the application.

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

14 "a. The elector is required by his or her employer
15 under unforeseen circumstances within five days before an
16 election to be unavailable to vote at the polls on election
17 day.

18 "b. The elector is a caregiver of a person who
19 requires emergency treatment by a licensed physician within
20 five days before an election.

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

24 "(2) Under such circumstances, the elector shall
25 apply for an emergency absentee ballot at the office of the
26 absentee election manager no later than the close of the
27 business day one day prior to the election. The applicant

1 shall complete and file an application form designed by the
2 Secretary of State for emergency absentee voters. The form
3 shall contain an affidavit which the applicant shall sign or
4 swear acknowledging that he or she was not aware of the
5 situation constituting the emergency prior to five days before
6 the election. An applicant who meets the requirements of this
7 subsection may vote by an emergency absentee ballot. After
8 voting the ballot, the voter shall hand the ballot to the
9 absentee election manager.

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

23 "(g) Notwithstanding any other provision of
24 otherwise applicable law, in the event more than one absentee
25 ballot is cast in the name of the single voter, whether any
26 multiple ballot is cast by mail or otherwise, none of the
27 affidavit envelopes containing the multiple ballots shall be

1 opened, and none of the multiple ballots shall be counted,
2 except in the event of an election contest, upon the order of
3 the election contest tribunal. Upon the conclusion of an
4 election contest or, in the event no contest is filed, upon
5 the expiration of time for filing a contest, the multiple
6 ballots shall be provided to the district attorney, with
7 photocopies provided to the state Attorney General, for the
8 investigation, prosecution, or other action as may be
9 appropriate under applicable law.

10 "§17-11-7.

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

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

16 ""State of Alabama

17 County of _____

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

19 My place of residence in Alabama is: _____

20 (street)

21 _____, Alabama _____

22 (city or town)

(zip code)

23 My date of birth is: _____

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~~I am entitled to vote an absentee ballot because:
Check at least one:~~

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

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

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

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

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

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

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

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

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

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

10 "I have marked the enclosed absentee ballot
11 voluntarily and I have read or had read to me and understand
12 the instructions accompanying this ballot and I have carefully
13 complied with such instructions.

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

21 _____
22 (Signature or mark of voter.)

23 _____
24 (Printed name of voter.)

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

6 "Sworn to and subscribed before me this _____ day of
7 _____, 2__.

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

10 _____ (Signature of official)

11 (Title of official)

12 _____

13 (Address of official)

14 OR

15 1st Witness _____

16 Signature

17 _____

18 Print name

19 _____

20 Address

21 _____

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City Zip Code

2nd Witness_____

Signature

Print name

Address

City Zip Code"

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

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