

1 HB528
2 211128-1
3 By Representative Farley
4 RFD: Constitution, Campaigns and Elections
5 First Read: 11-MAR-21

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8 SYNOPSIS: Under existing law, no judge of probate,
9 sheriff, or clerk of the circuit court may serve on
10 the appointing board when he or she is a candidate
11 for election to any office during an election cycle
12 and has opposition named on the ballot.

13 Also under existing law, no circuit clerk
14 may serve as absentee election manager when he or
15 she is a candidate for election to any office
16 during an election cycle and has opposition.

17 This bill would expand this prohibition to
18 certain family members of the judge of probate,
19 sheriff, and clerk of the circuit court when the
20 family member is a candidate for election to any
21 office, the name of the candidate appears on the
22 ballot in the county where the judge of probate,
23 sheriff, or clerk of the circuit court holds
24 office, and the candidate has opposition named on
25 the ballot.

26 This bill would also prohibit the circuit
27 clerk or other individual from serving as absentee

1 election manager when he or she or certain family
2 members of the circuit clerk or other individual is
3 a candidate for election to any office, the name of
4 the candidate appears on the ballot in the county
5 or municipality where the circuit clerk or other
6 individual would serve as absentee election
7 manager, and the candidate has opposition named on
8 the ballot.

9 This bill would also make nonsubstantive,
10 technical revisions to update the existing code
11 language to current style.

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13 A BILL
14 TO BE ENTITLED
15 AN ACT
16

17 Relating to elections; to amend Sections 17-8-3 and
18 17-11-2, Code of Alabama 1975, Section 17-11-12, Code of
19 Alabama 1975, as last amended by Act 2019-318 of the 2019
20 Regular Session, and Sections 17-11-13 and 17-11-15, Code of
21 Alabama 1975; to prohibit the judge of probate, sheriff, and
22 clerk of the circuit court from serving on the appointing
23 board in certain circumstances; to prohibit the circuit clerk
24 or other individual from serving as absentee election manager
25 in certain circumstances; and to make nonsubstantive,
26 technical revisions to update the existing code language to
27 current style.

1 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

2 Section 1. Sections 17-8-3 and 17-11-2, Code of
3 Alabama 1975, Section 17-11-12, Code of Alabama 1975, as last
4 amended by Act 2019-318 of the 2019 Regular Session, and
5 Sections 17-11-13 and 17-11-15, Code of Alabama 1975, are
6 amended to read as follows:

7 "§17-8-3.

8 "(a) When the judge of probate, sheriff, or clerk of
9 the circuit court is a candidate for election to any office ~~at~~
10 ~~that election~~ and has opposition named on the ballot, he or
11 she shall not serve on the appointing board. The judge of
12 probate, as the chief election official for the county, shall
13 certify to the qualified members of the appointing board the
14 fact of the candidacy of any member of the appointing board
15 immediately after the certificate of nomination, or petition,
16 as provided in Section 17-9-3, is filed.

17 (b) No judge of probate, sheriff, or clerk of the
18 circuit court may serve on the appointing board if the parent,
19 child, spouse, or sibling of the judge of probate, sheriff, or
20 clerk of the circuit court is a candidate for election to any
21 office, the name of the candidate appears on the ballot in the
22 county in which the judge of probate, sheriff, or clerk of the
23 circuit court holds office, and the candidate has opposition
24 named on the ballot.

25 "§17-11-2.

26 "(a) In each county there shall be an "absentee
27 election manager," who shall fulfill the duties assigned by

1 this chapter. The circuit clerk of the county shall, at his or
2 her option, be the absentee election manager. If the circuit
3 clerk of the county declines the duties of absentee election
4 manager, the appointing board shall thereupon appoint an
5 absentee election manager, who shall be ~~a person~~ an individual
6 qualified by training and experience, ~~who is~~ and a qualified
7 elector of the county ~~and who is not a candidate in the~~
8 ~~election~~ to perform the duties assigned by this chapter. The
9 county commission shall designate the place or office where
10 such duties shall be performed. ~~Such~~ The place or office shall
11 be open on the days and during the hours as that of the
12 circuit clerk prior to each election. Any person so appointed
13 shall have all the powers, duties, and responsibilities of the
14 circuit clerk for the purposes of this chapter, including the
15 power to administer oaths. ~~Such~~ The powers, duties, and
16 responsibilities shall terminate when the election results are
17 certified. The absentee election manager or circuit clerk
18 shall be entitled to the same compensation for the performance
19 of his or her duties as is provided in Section 17-11-14.

20 "(b) Notwithstanding subsection (a), no individual
21 shall serve as an absentee election manager if he or she, or
22 his or her parent, child, spouse, or sibling, is a candidate
23 for election to any office, the name of the candidate appears
24 on the ballot in the county in which the absentee election
25 manager would serve, and the candidate has opposition named on
26 the ballot.

27 "§17-11-12.

1 "Not less than 55 days prior to the holding of any
2 election, except a municipal election, to which this chapter
3 pertains, or in the case of a runoff primary election, not
4 more than 14 days after the first primary election, the
5 officer charged with the printing and distribution of the
6 official ballots and election supplies shall deliver to the
7 absentee election manager of each county in which the election
8 is held or to the person designated to serve in his or her
9 place a sufficient number of absentee ballots, envelopes, and
10 other necessary supplies. Not more than seven days after the
11 last day to qualify as a candidate in a municipal election, or
12 in the case of a runoff municipal election, not more than 14
13 days after the first election, or in the case of a municipal
14 election held for a purpose other than the election of
15 municipal officers, not more than seven days after the giving
16 of notice of the election, the officer charged with the
17 printing and distribution of the official ballots and election
18 supplies shall deliver to the absentee election manager of the
19 municipality in which the election is held, or to the person
20 designated to serve in his or her place, a sufficient number
21 of absentee ballots, envelopes, and other necessary supplies.
22 ~~If the absentee election manager is a candidate with~~
23 ~~opposition in the election, he or she shall immediately, upon~~
24 ~~receipt of the ballots, envelopes, and supplies, deliver them~~
25 ~~to the person authorized to act in his or her place, as~~
26 ~~provided in Section 17-11-13.~~

27 "§17-11-13.

1 "(a) When the circuit clerk is a candidate for any
2 office and has opposition, he or she shall be disqualified
3 from performing any of the duties imposed by this chapter with
4 reference to the handling of absentee ballots. At least 55
5 days prior to the election, the circuit clerk shall certify to
6 the appointing board of the county his or her candidacy with
7 opposition and that he or she is disqualified to serve or
8 otherwise prevented from serving. The appointing board shall
9 thereupon appoint a person to serve as absentee election
10 manager in the manner provided for in Section 17-11-2.

11 (b) No circuit clerk may perform any of the duties
12 imposed by this chapter with reference to the handling of
13 absentee ballots if the parent, child, spouse, or sibling of
14 the circuit clerk is a candidate for election to any office,
15 the name of the candidate appears on the ballot in the county
16 in which the circuit clerk holds office, and the candidate has
17 opposition named on the ballot.

18 "§17-11-15.

19 "(a) In any municipal election that is held at a
20 time different from a primary or general election, the duties
21 with reference to the handling of absentee ballots which are
22 required of the circuit clerk shall be performed by the town
23 clerk, city clerk, or other officer performing the duties of
24 the clerk. If ~~such~~ the clerk or other officer is ~~also~~ a
25 candidate in ~~such~~ the election, the governing body of the city
26 or town shall appoint a qualified elector of the city or town
27 to perform the duties. ~~Such person~~ The individual so appointed

1 shall have all the powers, duties, and responsibilities of the
2 circuit clerk under this chapter."

3 (b) No town clerk, city clerk, or other officer may
4 perform the duties imposed by subsection (a) if the parent,
5 child, spouse, or sibling of the town clerk, city clerk, or
6 other officer is a candidate for election to a municipal
7 office, the name of the candidate appears on the ballot in the
8 municipality in which the town clerk, city clerk, or other
9 officer serves, and the candidate has opposition named on the
10 ballot.

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