

1 SB246
2 205459-1
3 By Senators Singleton and Sanders-Fortier
4 RFD: Governmental Affairs
5 First Read: 27-FEB-20

SYNOPSIS: Under existing law, there is no requirement that an absentee election manager notify an elector if the elector submits a deficient absentee ballot application or fails to include a valid photo identification.

This bill would require an absentee election manager to notify an applicant if an absentee ballot application is deficient and send the applicant a provisional ballot along with instructions on how to remedy the deficiency.

This bill would authorize the Secretary of State to adopt rules.

A BILL
TO BE ENTITLED
AN ACT

Relating to absentee voting; to amend Sections 17-11-5, as last amended by Act 2019-507, 2019 Regular Session, and 17-11-9, Code of Alabama 1975; to require an

1 absentee election manager to notify an applicant if an
2 absentee ballot application is deficient and send the
3 applicant a provisional ballot along with instructions on how
4 to remedy the deficiency; and to authorize rulemaking.

5 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

6 Section 1. Sections 17-11-5, as last amended by Act
7 2019-507, 2019 Regular Session, and 17-11-9, Code of Alabama
8 1975, are amended to read as follows:

9 "§17-11-5.

10 "(a) (1) Upon receipt of an application for an
11 absentee ballot as provided in Section 17-11-3, if the
12 applicant's name appears on the list of qualified voters
13 produced from the state voter registration list in the
14 election to be held, or if the applicant qualifies for a
15 provisional absentee ballot, the absentee election manager
16 shall furnish the absentee ballot to the applicant by: (1)
17 Forwarding it by United States mail to the applicant's or
18 voter's residence address or, upon written request of the
19 voter, to the address where the voter regularly receives mail;
20 or (2) by handing the absentee ballot to the applicant in
21 person or, in the case of emergency voting when the applicant
22 requires medical treatment, his or her designee in person. If
23 the absentee election manager has reasonable cause to believe
24 that the applicant has given a fraudulent address on the
25 application for the absentee ballot, the absentee election
26 manager shall turn over the ballot application to the district
27 attorney for any action which may be necessary under this

1 chapter. The absentee election manager may require additional
2 proof of an applicant's eligibility to vote absentee when
3 there is evidence of continuous absentee voting. The absentee
4 election manager shall mail any absentee ballot requested to
5 be mailed as provided in Section 17-11-3 no later than the
6 next business day after an application has been received
7 unless the absentee ballots have not been delivered to the
8 absentee election manager. If the absentee ballots have not
9 been so delivered, the absentee election manager shall hold
10 all requests until the ballots are delivered and shall then
11 respond by placing ballots in the mail no later than the next
12 business day.

13 "(2)a. In the event an application received by U.S.
14 mail or by common carrier is incomplete or the applicant did
15 not submit a copy of a valid photo identification along with
16 the application, the absentee election manager shall notify
17 the applicant, not later than the next business day after
18 receiving the deficient application by U.S. mail to the
19 applicant's address indicated on the application, that the
20 application is incomplete and include a clear explanation of
21 how the application is deficient along with a new application
22 and a provisional ballot in accordance with subsection (c) of
23 Section 17-11-9.

24 "b. If, upon receiving the completed provisional
25 ballot, the absentee election manager determines that the
26 applicant has corrected the deficiency in the original
27 application by either submitting a completed application or

1 submitting a copy of a valid photo identification, as
2 applicable, the absentee ballot manager shall verify the
3 provisional ballot and count the ballot at the same time as
4 other verified provisional ballots.

5 "c. The Secretary of State may adopt rules to
6 implement this subdivision.

7 "(b) The official list of qualified voters shall be
8 furnished to the absentee election manager by the judge of
9 probate using a printout from the state voter registration
10 list of registered voters for that county containing voter
11 registration information useful in the identification of
12 absentee voters. The information provided in this report shall
13 be established by rules adopted by the Secretary of State with
14 the advice of the Alabama Circuit Court Clerks Association or
15 its members and shall indicate whether the individual is
16 obligated to produce identification in accordance with
17 Sections 17-9-30 and 17-10-1. The Secretary of State may
18 further provide by administrative rule for electronic access
19 to this list for optional use by the absentee election
20 manager. This list shall be made available beginning at least
21 55 days before the election. In municipal elections, the
22 official list of qualified voters shall be furnished to the
23 absentee election manager at least 35 days before the
24 election. Any supplemental list of qualified electors shall
25 also be provided to the absentee election manager as soon as
26 the list becomes available. The absentee election manager
27 shall underscore on the list the name of each voter who has

1 applied for an absentee ballot and shall write immediately
2 beside his or her name the word "absentee." The Secretary of
3 State by rule may provide for electronic access to the
4 absentee election manager's county list of registered voters
5 in lieu of the printed list and for the method of identifying
6 applicants for absentee ballots in conjunction with the state
7 voter registration list.

8 "(c) (1) The list of electors voting by absentee
9 ballot shall remain confidential until the day following the
10 election. The absentee election manager in all elections shall
11 deliver to the board of registrars the day following the
12 election, a copy of the list of all absentee voters, at which
13 point the list is deemed a public record. The list shall be
14 maintained in the office of the circuit clerk for 60 days
15 after the election, at which time it shall be delivered to the
16 judge of probate. Before the polls open at any election on
17 election day, the absentee election manager shall effectuate
18 the delivery to the election officers of each voting place a
19 list showing the name and address of every person whose name
20 appears on the official list of qualified electors for the
21 voting place who applied for an absentee ballot in the
22 election. The name of the person who applied for an absentee
23 ballot shall be identified as an absentee voter on the list of
24 qualified electors kept at the voting place, and the person
25 shall not vote again, except that in county, state, and
26 federal elections the person may vote a provisional ballot.
27 Applications for absentee ballots are required for elections

1 that are more than 42 days apart, except as to individuals
2 voting pursuant to the federal Uniformed and Overseas Absentee
3 Voting Act, 42 U.S.C. 1973ff.

4 "(2) The absentee election manager shall redact any
5 information required to be redacted pursuant to Section
6 17-4-33 from any copy of an absentee voter list. This
7 subdivision shall not affect poll lists used at local
8 precincts.

9 "(d) For individuals voting pursuant to the federal
10 Uniformed and Overseas Absentee Voting Act, 42 U.S.C. 1973ff,
11 the Secretary of State, by rule, shall prescribe use of
12 standardized military and overseas voter registration
13 applications and applications for absentee ballots adopted by
14 the United States government. The Secretary of State shall
15 also prescribe by rule provisions within the standard state
16 application form for absentee voting which permit the voter to
17 identify himself or herself as a military or overseas voter.
18 Unless otherwise indicated by the military or overseas voter,
19 an application for an absentee ballot by such a voter shall
20 remain valid for any election for a federal, state, or county
21 office or for any proposed constitutional amendment or a state
22 or county referendum held through the end of the calendar year
23 in which the application is filed, provided that if an
24 election cycle begins one year and continues into the
25 subsequent year, the application shall be valid for the whole
26 election cycle. The absentee election manager shall provide an
27 absentee ballot to the military and overseas voters for each

1 such subsequent election. The absentee election manager,
2 within seven days after each regularly scheduled general
3 election for federal office, shall report the number of
4 military and overseas ballots mailed out and the number of
5 ballots received to the Secretary of State, who shall report
6 this information to the Federal Election Assistance Commission
7 within 90 days of each regularly scheduled general election
8 for federal office.

9 "§17-11-9.

10 "(a) (1) Each prospective absentee voter who meets
11 the requirements of this chapter shall be furnished with the
12 absentee ballot herein provided for, together with two
13 envelopes for returning his or her marked ballot and
14 instructions for completing and returning the absentee ballot
15 as well as instructions for correcting mistakes in completing
16 ballots or obtaining a replacement ballot. One envelope shall
17 be a plain envelope in which the ballot shall be sealed by the
18 voter after he or she has marked it.

19 "(2) The second envelope shall have the voter's
20 affidavit printed on the back and shall be large enough to
21 seal the plain ballot envelope inside. The second envelope
22 shall also be a return mail envelope.

23 "(3) ~~Such~~ The return mail envelope shall be
24 addressed on the front to the absentee election manager and
25 shall be endorsed on the left-hand upper corner thereof as
26 follows:

1 ""Absent Voter's Ballot. State, County, Municipal,
2 General, Primary, or Special Election (as the case may be) to
3 be held on the ____ day of ____, 2__ From ____ (name of
4 voter), precinct or districts ____, County of ____,
5 Alabama."

6 "(b) After marking the ballot and subscribing the
7 oath herein required, the voter shall seal his or her ballot
8 in the plain envelope, place that plain envelope inside the
9 affidavit envelope, complete the affidavit, have a notary
10 public (or other officer authorized to acknowledge oaths) or
11 two witnesses witness his or her signature to the affidavit,
12 and forward it by United States mail to the absentee election
13 manager or hand it to him or her in person.

14 "(c) Notwithstanding the other provisions of this
15 section, the absentee election manager shall determine whether
16 an applicant for an absentee ballot is obligated to produce
17 identification in accordance with Sections 17-9-30 and 17-10-1
18 or subsection (b) of Section 17-11-5, or to reidentify in
19 accordance with Chapter 4, or to provide a new ballot
20 application in accordance with subsection (b) of Section
21 17-11-5. For absentee applicants required to produce
22 identification or a new ballot application, a third envelope
23 of different color and sufficient size to enclose the first
24 and second envelopes shall be provided to the applicant along
25 with instructions for including a proper form of
26 identification or ballot application, as applicable, in

1 accordance with Sections 17-9-30 and 17-10-1 or Section
2 17-11-5.

3 "(d) For absentee applicants required to reidentify
4 because they do not appear in the voting place for which they
5 seek to vote but do appear in another voting place within the
6 state voter registration list, the absentee election manager
7 shall provide to the voter a third envelope of different color
8 and sufficient size to enclose the first and second envelopes
9 along with a voter reidentification form, a provisional voter
10 affirmation, and instructions in accordance with Section
11 17-10-2. Such ballot shall be treated as a provisional ballot
12 and the term "Provisional" shall be marked on the second or
13 affidavit envelope prior to transmitting the ballot to the
14 voter. Applicants for an absentee ballot who do not appear on
15 the state voter registration list shall not be entitled to an
16 absentee ballot."

17 Section 2. This act shall become effective January
18 1, 2021, following its passage and approval by the Governor,
19 or its otherwise becoming law.