

1 HB217  
2 216396-1  
3 By Representatives Jackson, Gray, Jones (S), Forte, Warren,  
4 Drummond, Daniels, Bracy, McCampbell and Moore (M)  
5 RFD: Constitution, Campaigns and Elections  
6 First Read: 02-FEB-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 in~~  
3 ~~person,~~ or by commercial carrier, as determined by rule by the  
4 Secretary of State, as provided in Sections 17-11-5 and  
5 17-11-9, in any primary, general, special, or municipal  
6 election, if he or she makes application in writing. ~~and meets~~  
7 ~~one or more of the 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 "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

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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.