

CODE CHANGE TO MAKE BALLOTS, BALLOT IMAGES PUBLICLY AVAILABLE

The public must be allowed to view cast ballots and ballot images under reasonable conditions set by a ballot custodian according to state law.

Requirements: Today, ballots are sealed after election certification and the public is prohibited from viewing them. A court has already refused to grant a candidate access to view ballots cast in their own race. The following requirements are needed for ballot inspection transparency allowing the public to inspect ballots cast in an election under designated conditions once the election has been certified:

- Ballot custodians must allow candidates to publicly inspect ballots in control of the custodian once reasonable notice is given;
- Ballot custodians must allow voters to publicly inspect ballots in control of the custodian once reasonable notice is given;
- Ballot custodians must allow members of the public to publicly inspect ballots in control of the custodian once reasonable notice is given.

Legislative Recommendations:

Chapter 2 of Title 21 of the Official Code of Georgia Annotated, relating to absentee voting, is amended by adding a new Code section to read as follows:

"21-2-391. Any member of the public shall be given the opportunity, upon request, to inspect ballots and ballot images cast in an election or primary for a period of two years after the date of such election or primary. Such members of the public shall be entitled to create reproductions of such ballots at his or her expense. Such inspection shall be made at a reasonable time and place determined by the custodian of such election or primary ballots. This Code section shall be applicable to elections or primaries held prior to July 1, 2019, and to any election or primary held after that date."

CODE CHANGE TO MAKE ELECTION SYSTEM IMAGES PUBLICLY AVAILABLE

O.C.G.A. 21-2-379.24

(a) Any person or organization owning, manufacturing, or selling, or being interested in the manufacture or sale of, any electronic ballot marker may request that the Secretary of State examine the device. Any ten or more electors of this state may, at any time, request that the Secretary of State reexamine any such device previously examined and approved by him or her. Before any such examination or reexamination, the person, persons, or organization requesting such examination or reexamination shall pay to the Secretary of State the reasonable expenses of such examination or reexamination. The Secretary of State shall publish and maintain on his or her website the cost of such examination or reexamination. The Secretary of State may, at any time, in his or her discretion, reexamine any such device.

(b) The Secretary of State shall thereupon examine or reexamine such device and shall make and file in his or her office a report, attested by his or her signature and the seal of his or her office, stating whether, in his or her opinion, the kind of device so examined can be safely and accurately used by electors at primaries and elections as provided in this chapter. If this report states that the device can be so used, the device shall be deemed approved, and devices of its kind may be adopted for use at primaries and elections as provided in this chapter.

(c) Any device that is not so approved shall not be used at any primary or election and if, upon reexamination, a previously approved device appears to be no longer safe or accurate for use by electors at primaries or elections as provided in this chapter because of an inability to accurately record votes, the approval of the same shall immediately be revoked by the Secretary of State, and no such device shall thereafter be used or purchased for use in this state.

(d) Any vendor who completes a sale of an electronic ballot marker that has not been certified by the Secretary of State to a governmental body in this state shall be subject to a penalty of \$100,000.00, payable to the State of Georgia, plus reimbursement of all costs and expenses incurred by the governmental body in connection with the sale. The State Election Board shall have the authority to impose such penalty upon a finding that such a sale has occurred.

(e) When a device has been so approved, no improvement or change that does not impair its accuracy, efficiency, or capacity shall render necessary a reexamination or reapproval of such device, or of its kind.

(f) Neither the Secretary of State, nor any custodian, nor the governing authority of any county or municipality or a member of such governing authority nor any other person involved in the examination process shall have any pecuniary interest in any device or in the manufacture or sale thereof.

(g) Documents or information that, if made public, would endanger the security of any voting system used or being considered for use in this state, or any component thereof, including, but not limited to, electronic ballot markers, DREs, ballot scanners, pollbooks, and software or data bases used for voter registration, shall not be open for public inspection except upon order of a court of competent jurisdiction.

(h) Any ten or more electors of this state may, at any time after an election is certified by a county, request that the Elections Superintendent of any county provide an image of the election management system from that county for an independent forensic examination. Before any such examination or reexamination, the person, persons, or organization requesting such examination or reexamination shall provide to the Elections Superintendent an appropriate sealed media device to store the image. Once the media device is received the Elections Superintendent shall provide the requested an image of the server within three calendar days and otherwise be made available in accordance with all other provisions of Georgia Open Records Act. O.C.G.A. 50-18-70

(i) Any elections management server that was not imaged upon a valid request by ten electors for an independent forensic examination in accordance with the provisions cited in the previous paragraph shall not be used at any primary or election. The approval of the same system shall immediately be revoked by the Secretary of State, and the system shall thereafter not be used or purchased for use in this state.

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