

GENERAL ASSEMBLY OF NORTH CAROLINA
1991 SESSION

CHAPTER 727
SENATE BILL 485

AN ACT TO REFORM THE ELECTION LAWS.

The General Assembly of North Carolina enacts:

PART I. VOTER INTIMIDATION PROHIBITED.

Section 1. G.S. 163-275 reads as rewritten:

"§ 163-275. Certain acts declared felonies.

Any person who shall, in connection with any primary, general or special election held in this State, do any of the acts or things declared in this section to be unlawful, shall be guilty of a Class I felony. It shall be unlawful:

- (1) For any person fraudulently to cause his name to be placed upon the registration books of more than one election precinct or fraudulently to cause or procure his name or that of any other person to be placed upon the registration books in any precinct when such registration in that precinct does not qualify such person to vote legally therein, or to impersonate falsely another registered voter for the purpose of voting in the stead of such other voter;
- (2) For any person to give or promise or request or accept at any time, before or after any such primary or election, any money, property or other thing of value whatsoever in return for the vote of any elector;
- (3) For any person who is an election officer, a member of an election board or other officer charged with any duty with respect to any primary or election, knowingly to make any false or fraudulent entry on any election book or any false or fraudulent returns, or knowingly to make or cause to be made any false statement on any ballot, or to do any fraudulent act or knowingly and fraudulently omit to do any act or make any report legally required of such person;
- (4) For any person knowingly to swear falsely with respect to any matter pertaining to any primary or election;
- (5) For any person convicted of a crime which excludes him from the right of suffrage, to vote at any primary or election without having been restored to the right of citizenship in due course and by the method provided by law;
- (6) For any person to take corruptly the oath prescribed for voters;
- (7) For any person with intent to commit a fraud to register or vote at more than one precinct or more than one time, or to induce another to

- do so, in the same primary or election, or to vote illegally at any primary or election;
- (8) For any registrar or any clerk or copyist to make any entry or copy with intent to commit a fraud;
 - (9) For any election official or other officer or person to make, certify, deliver or transmit any false returns of any primary or election, or to make any erasure, alteration, or conceal or destroy any election ballot, book, record, return or process with intent to commit a fraud;
 - (10) For any person to assault any registrar, judge of election or other election officer while in the discharge of his duty in the registration of voters or in conducting any primary or election;
 - (11) For any person, by threats, menaces or in any other manner, to intimidate or attempt to intimidate any registrar, judge of election or other election officer in the discharge of his duties in the registration of voters or in conducting any primary or election;
 - (12) For any registrar, judge of election, member of a board of elections, assistant, marker, or other election official, directly or indirectly, to seek, receive or accept money or the promise of money, the promise of office, or other reward or compensation from a candidate in any primary or election or from any source other than such compensation as may be provided by law for his services;
 - (13) For any person falsely to make or present any certificate or other paper to qualify any person fraudulently as a voter, or to attempt thereby to secure to any person the privilege of voting;
 - (14) For any officer authorized by G.S. 163-80 to register voters and any other individual to knowingly and willfully receive, complete, or sign an application to register from any voter contrary to the provisions of G.S. 163-72; or
 - (15) Reserved for future codification purposes.
 - (16) For any person falsely to make the certificate provided by G.S. 163-229(b)(2) or G.S. 163-250(a).
 - (17) For any person, directly or indirectly, to misrepresent the law to the public through mass mailing or any other means of communication where the intent and the effect is to intimidate or discourages potential voters from exercising their lawful right to vote."

PART II. EXTENSION OF POLL HOURS ON ELECTION DAY.

Sec. 2. G.S. 163-2 reads as rewritten:

"§ 163-2. Hours of primaries and elections.

In all primaries, general elections, special elections, and referenda held in this State, including those held in and for municipalities and special districts, the polls shall be open at 6:30 A.M., and shall be closed at 7:30 P.M.: Provided, however, ~~that at all voting places at which voting machines are used that whenever:~~

- (1) There are insufficient numbers of ballots;
- (2) There are insufficient numbers of polling books;

- (3) There are multiple breakdowns in voting equipment;
- (4) The openings of the polls are delayed; or
- (5) There are other irregularities

which cause undue delays in the voting process, the responsible county board of elections may permit the polls to remain open until ~~8:30~~9:30 P.M."

PART III. POLL OBSERVERS GET VOTING LISTS.

Sec. 3. G.S. 163-45 reads as rewritten:

"§ 163-45. Observers; appointment.

The chairman of each political party in the county shall have the right to designate two observers to attend each voting place at each primary and election and such observers may, at the option of the designating party chairman, be relieved during the day of the primary or election after serving no less than four hours and provided the list required by this section to be filed by each chairman contains the names of all persons authorized to represent such chairman's political party. Not more than two observers from the same political party shall be permitted in the voting enclosure at any time. This right shall not extend to the chairman of a political party during a primary unless that party is participating in the primary. In any election in which an unaffiliated candidate is named on the ballot, he or his campaign manager shall have the right to appoint two observers for each voting place consistent with the provisions specified herein. Persons appointed as observers must be registered voters of the precinct for which appointed and must have good moral character. Observers shall take no oath of office.

Individuals authorized to appoint observers must submit in writing to the registrar of each precinct a signed list of the observers appointed for that precinct. Individuals authorized to appoint observers must, prior to 10:00 A.M. on the fifth day prior to any primary or general election, submit in writing to the chairman of the county board of elections two signed copies of a list of observers appointed by them, designating the precinct for which each observer is appointed. Before the opening of the voting place on the day of a primary or general election, the chairman shall deliver one copy of the list to the registrar for each affected precinct. He shall retain the other copy. The chairman, or the registrar and judges for each affected precinct, may for good cause reject any appointee and require that another be appointed. The names of any persons appointed in place of those persons rejected shall be furnished in writing to the registrar of each affected precinct no later than the time for opening the voting place on the day of any primary or general election, either by the chairman of the county board of elections or the person making the substitute appointment.

An observer shall do no electioneering at the voting place, and he shall in no manner impede the voting process or interfere or communicate with or observe any voter in casting his ballot, but, subject to these restrictions, the registrar and judges of elections shall permit him to make such observation and take such notes as he may desire.

Whether or not the observer attends to the polls for the requisite time provided by this section, each observer shall be entitled to obtain at times specified by the State Board of Elections, but not less than three times during election day with the spacing not less than one hour apart, a list of the persons who have voted in the precinct so far in

that election day. Counties that use an 'authorization to vote document' instead of poll books may comply with the requirement in the previous sentence by permitting each observer to inspect election records so that the observer may create a list of persons who have voted in the precinct so far that election day; each observer shall be entitled to make the inspection at times specified by the State Board of Elections, but not less than three times during election day with the spacing not less than one hour apart."

PART IV. SEALING OF BALLOTS.

Sec. 4. G.S. 163-171 reads as rewritten:

"§ 163-171. Preservation of ballots; locking and sealing ballot boxes; signing certificates.

When the precinct count is completed after a primary or election, all ballots shall be put back in the ballot boxes from which they were taken, and the registrar and judges shall promptly lock and place a seal around the top of each ballot box, so that no ballot may be taken from or put in it. The registrar and judges shall then sign the seal on each ballot box. In the alternative, the county board of elections may permit the precinct officials to put the counted ballots back in one ballot box or more to facilitate safekeeping provided the board prescribes an appropriate procedure to keep the different kinds of ballots separated in bundles or bags within the box.

Ballot boxes in which ballots have been placed and which have been locked and sealed as required by the preceding paragraph shall remain in the safe custody of the registrar, subject to the orders of the chairman of the county board of elections as to their disposition; provided that ballot boxes with paper ballots shall be delivered in person to the office of the county board of elections; provided further that in the case of paper ballots which have been counted either mechanically or electronically either the counting machines with the paper ballots sealed inside shall be delivered in person to the office of the county board of elections, or the paper ballots shall be placed in ballot boxes, sealed, and those boxes shall be delivered in person to the office of the county board of elections. The ballots and ballot boxes shall be delivered at a time specified by the county board of elections. No ballot box shall be opened except upon the written order of the county board of elections or upon a proper order of court.

Ballots cast in a primary or general election shall be preserved for at least two months after the primary or general election in which voted.

On each precinct return form there shall be printed a statement to be signed by the registrar and judges certifying that, after the precinct count was completed, each ballot box was properly locked, sealed, and the seals signed, as prescribed in this section, before the precinct officials left the voting place on the night of the primary or election.

Willful failure to securely lock, seal, and sign the seal on each ballot box on the night of any primary or election, and willful failure to sign the certificate on the duplicate return forms certifying that this was done, shall constitute a misdemeanor.

In the event that a recount is requested as provided by law or there is other filing of an appeal of the election results, the county board of elections shall seal and secure the ballots, ballot boxes, and voting machines within a uniform period of time set by the State Board of Elections, to the extent that such actions have not already been taken as required by law. The aforementioned items shall then be stored in locations that are

securely locked by members of the county board of elections. In counties that utilize voting machines or voting systems the county board of elections shall be required to store in one location that record on which the official vote cast is recorded."

PART V. VOTER REGISTRATION AMENDMENTS.

Sec. 5.1. G.S. 163-57 reads as rewritten:

"§ 163-57. Residence defined for registration and voting.

All registrars and judges, in determining the residence of a person offering to register or vote, shall be governed by the following rules, so far as they may apply:

- (1) That place shall be considered the residence of a person in which his habitation is fixed, and to which, whenever he is absent, he has the intention of returning.
- (2) A person shall not be considered to have lost his residence who leaves his home and goes into another state or county of this State, for temporary purposes only, with the intention of returning.
- (3) A person shall not be considered to have gained a residence in any county of this State, into which he comes for temporary purposes only, without the intention of making such county his permanent place of abode.
- (4) If a person removes to another state or county within this State, with the intention of making such state or county his permanent residence, he shall be considered to have lost his residence in the state or county from which he has removed.
- (5) If a person removes to another state or county within this State, with the intention of remaining there an indefinite time and making such state or county his place of residence, he shall be considered to have lost his place of residence in this State or the county from which he has removed, notwithstanding he may entertain an intention to return at some future time.
- (6) If a person goes into another state or county, or into the District of Columbia, and while there exercises the right of a citizen by voting in an election, he shall be considered to have lost his residence in this State or county.
- (7) School teachers who remove to a county for the purpose of teaching in the schools of that county temporarily and with the intention or expectation of returning during vacation periods to live in the county in which their parents or other relatives reside, and who do not have the intention of becoming residents of the county to which they have moved to teach, for purposes of registration and voting shall be considered residents of the county in which their parents or other relatives reside.
- (8) If a person removes to the District of Columbia or other federal territory to engage in the government service, he shall not be considered to have lost his residence in this State during the period of such service unless he votes there, and the place at which he resided at

the time of his removal shall be considered and held to be his place of residence.

- (9) If a person removes to a county to engage in the service of the State government, he shall not be considered to have lost his residence in the county from which he removed, unless he demonstrates a contrary intention.
- (10) For the purpose of voting a spouse shall be eligible to establish a separate domicile.
- (11) So long as a student intends to make his home in the community where he is physically present for the purpose of attending school while he is attending school and has no intent to return to his former home after graduation, he may claim the college community as his domicile. He need not also intend to stay in the college community beyond graduation in order to establish his domicile there. This subdivision is intended to codify the case law."

Sec. 5.2. G.S. 163-22 is amended by adding a new subsection to read:

"(n) The State Board of Elections shall provide specific training to county boards of elections regarding rules for registering students."

PART VI. ABSENTEE VOTING MADE EASIER.

Sec. 6.1. G.S. 163-227 reads as rewritten:

"§ 163-227. State Board to prescribe form of application for absentee ballots; county to secure.

(a) Applications for Absentee Ballots Generally. – A voter falling in any one of the categories defined in G.S. 163-226, 163-226.1 or 163-226.2 may apply for absentee ballots not earlier than 50 days prior to the statewide, county or municipal election in which he seeks to vote and not later than 5:00 P.M. on the Tuesday before that election. Subject to all other provisions contained in this Article, a voter applying for an absentee ballot shall complete the standard application form to be secured by the county board of elections, as designed and prescribed by the State Board of Elections. The form shall contain lines to be checked off by each of the kinds of voters specified below:

- (1) A voter expecting to be absent from the county of his residence all day on the day of the specified election. (G.S. 163-226(a)(1)).
- (2) A voter who is unable to be present at the voting place to vote in person on the day of the specified election because of his sickness or other physical disability occurring before 5:00 P.M. on the Tuesday day prior to the date of the specified election. (G.S. 163-226(a)(2)).
- (3) ~~A voter who is unable to be present at the voting place to vote in person on the day of the specified election because of his sickness or other physical disability occurring since 5:00 P.M. on the Tuesday prior to the date of the specified election. (G.S. 163-226(a)(2)).~~
- (4) A voter expecting to be absent from the county, or due to emergency disability will be unable to vote in person, or a person who qualifies under G.S. 163-226(a)(4), and who, in lieu of making application by

mail, wishes to apply in person and receive a ballot which he may immediately vote in the office of the county board of elections.

(b) Types of Applications; Instructions. –

- (1) Expected Absence from County on Election Day. – A voter expected to be absent from the county in which registered during the entire period that the polls will be open on primary or general election day, or a near relative, shall make written application for absentee ballots to the chairman of the board of elections of the county in which the voter is registered not earlier than 50 days nor later than 5:00 P.M. on the Tuesday before the election. The application shall be submitted in the form set out in this subdivision upon a copy which shall be furnished the voter or a near relative by the chairman of the county board of elections.

The applicant shall sign his application personally, or it shall be signed by a near relative. The application shall be signed in the presence of a witness, who shall sign his name in the place provided on the form. The application form when properly filled out shall be transmitted by mail or delivered in person by the applicant or a near relative to the chairman or the supervisor of elections of the county board of elections.

- (2) Absence for Sickness or Physical Disability Occurring before 5:00 P.M. on the ~~Tuesday~~ day prior to the Primary or General Election. – A voter expecting to be unable to go to the voting place to vote in person on primary or general election day because of his sickness or other physical disability, or his near relative, shall make written application for absentee ballots to the chairman of the board of elections of the county in which the voter is registered not earlier than 50 days nor later than 5:00 P.M. on the ~~Tuesday~~ day before the election. The application shall be submitted in the form set out in this subdivision upon a copy which shall be furnished the voter or a near relative by the chairman of the county board of elections.

The application shall be signed by the voter personally, or it shall be signed by a near relative. The application shall be signed in the presence of a witness, who shall sign his name in the place provided on the form.

The application form, when properly filled out, shall be transmitted by mail or delivered in person by the applicant or a near relative to the chairman or supervisor of elections of the county board of elections of the county in which the applicant is registered.

- (3) ~~Absence for Sickness or Physical Disability Occurring after 5:00 P.M. on the Tuesday prior to Primary or General Election. – A voter expecting to be unable to go to the voting place to vote in person on primary or general election day because of sickness or other disability occurring after 5:00 P.M. on the Tuesday before the election, or a near~~

~~relative, shall make written application for absentee ballots to the chairman of the board of elections of the county in which he is registered not later than 12:00 noon on the day preceding the election. The application shall be submitted in the form set out in this subdivision upon a copy which shall be furnished the voter or a near relative by the chairman of the county board of elections.~~

~~The chairman of the county board of elections shall not issue or accept an application under the provisions of this subdivision later than 12:00 noon on the day preceding the election in which the voter seeks to vote.~~

~~The application shall be signed by the voter personally, or it shall be signed by a near relative. The application shall be signed in the presence of a witness who shall sign his name in the place provided on the form.~~

~~The certificate printed on the application form below the signatures of the applicant and his subscribing witness shall be filled in and signed in the presence of a witness by a licensed physician who is attending the applicant. The witness to the physician's certificate shall sign his name in the place provided on the form.~~

~~The application form, when properly filled out, signed by or for the applicant in the presence of a subscribing witness as provided in this subdivision, and certified and signed by the attending physician in the presence of a subscribing witness, may be transmitted by mail to the chairman or supervisor of elections of the board of elections of the county in which the applicant is registered, or it may be delivered to the chairman or supervisor of elections in person by the applicant or by his near relative.~~

- (4) 'One-Stop' Voting Procedure, in Office of the County Board of Elections. – A voter falling in the category specified in G.S. 163-227.2 may execute an application form and proceed to vote his absentee ballot in the office of the county board of elections only.

(c) Application Forms Issued by Chairman of County Board of Elections. – The chairman of the county board of elections shall be sole custodian of all absentee ballot application forms, but he, the secretary of the board and the supervisor of elections of the board, in accordance with one of the following two procedures, shall issue and deliver a single application form, upon request, to a person authorized to sign such an application under the provisions of this section:

- (1) The chairman, secretary or supervisor of elections may deliver the form to a voter personally or to his near relative at the office of the county board of elections for the voter's own use; or
- (2) The chairman, secretary or supervisor of elections may mail the form to a voter for his own use upon receipt of a written request from the voter or his near relative.

At the time he issues an application form, the chairman, secretary or supervisor of elections of the county board of elections shall number it and write the name of the voter in the space provided therefor at the top of the form. At the same time the chairman, secretary or supervisor of elections shall insert the name of the voter and the number assigned his application in the register of absentee ballot applications and ballots issued provided for in G.S. 163-228. If the application is requested by the voter's near relative, the chairman, secretary or supervisor of elections also shall insert that person's name in the register after the name of the voter.

The chairman, secretary or supervisor of elections shall issue only one application form to a voter or his near relative unless a form previously issued is returned to the chairman, secretary or supervisor of elections and marked 'Void' by him. In such a situation, the chairman, secretary or supervisor of elections may issue another application form to the voter or a near relative, but he shall retain the voided application form in the board's records. If the application is requested by the voter's near relative, the chairman, secretary or supervisor of elections shall write the name of the near relative on the index of near relatives, applying for applications for absentee ballots; the index shall be in such form as may be prescribed or approved by the State Board of Elections; a separate index shall be maintained for each primary, general or special election in which absentee voting is allowed.

- (3) Applications or Absentee Ballots Transmitted by Mail or in Person. – An application for absentee ballots shall be made and signed only by the voter desiring to use them or the voter's near relative or legal guardian and shall be valid only when transmitted to the chairman or supervisor of elections of the county board of elections by mail or delivered in person by the voter or his near relative or legal guardian.
- (4) Who Is Authorized to Request Applications for Absentee Ballots. – A voter may personally request an application for absentee ballots or may cause such request to be made through a near relative or legal guardian. For the purpose of this Article, 'near relative or legal guardian' means spouse, brother, sister, parent, grandparent, child, or grandchild.
- (5) The form of application for persons applying to vote in a primary under the provisions of this section shall be as designed and prescribed by the State Board of Elections. No voter shall be furnished ballots for voting in a primary except the ballots for candidates for nomination in the primary of the political party with which he is affiliated at the time he makes application for absentee ballots. The official registration records of the county in which the voter is registered shall be proof of the party, if any, with which the voter is affiliated.

- (6) The county board of elections shall cause to be stamped or printed on the face of each application for absentee ballots the following legend, and the blank space in the legend to be completed:
- 'This application is issued for absentee ballots to be voted in the _____ (primary or general or special election) to be held in _____ County on the _____ day of _____, 19 ____.' The county board of elections shall not issue any absentee ballots on the basis of any application that does not bear the completed legend.
- (7) No applications shall be issued earlier than 60 days prior to the election in which the voter wishes to vote. Nothing herein shall prohibit the county board of elections from receiving written requests for applications earlier than 60 days prior to the election but such applications shall not be mailed or issued to the voter in person earlier than 60 days prior to the election.
- (8) Applications for absentee ballots shall be issued only by mail or in the office of the county board of elections to the voter or a near relative or legal guardian authorized to make application. No election official shall issue applications for absentee ballots except in compliance with the provisions stated herein."

Sec. 6.2. G.S. 163-230(3) reads as rewritten:

- "(3) Delivery of Absentee Ballots and Container-Return Envelope to Applicant. – When the county board of elections approves an application for absentee ballots, the chairman shall promptly issue and transmit them to the voter only, and not to his near relative, in accordance with the following instructions:
- a. On the top margin of each ballot the applicant is entitled to vote, the chairman shall write or type the words 'Absentee Ballot No.' and insert in the blank space the number assigned the applicant's application in the register of applications for absentee ballots and ballots issued. He shall not write, type, or print any other matter upon the ballots transmitted to the absentee voter.
 - b. The chairman shall fold and place the ballots (identified in accordance with the preceding instruction) in a container-return envelope and write or type in the appropriate blanks thereon, in accordance with the terms of G.S. 163-229(b), the absentee voter's name, his application number and the designation of the precinct in which the voter is registered. The chairman shall leave the container-return envelope holding the ballots unsealed.
 - c. The chairman shall then place the unsealed container-return envelope holding the ballots together with printed instructions for voting and returning the ballots, in an envelope addressed to

the applicant at the post office address stated in his application, seal the envelope, and mail it at the expense of the county board of elections, or deliver it to the applicant in person: Provided, that in case of approval of an application received after 5:00 P.M. on the Tuesday before the election under the provisions of ~~G.S. 163-227(b)(3)~~, G.S. 163-227(b)(2), in lieu of transmitting the ballots to the applicant in person or by mail, the chairman may deliver the sealed envelope containing the instruction sheet and the container-return envelope holding the ballots to a near relative of the voter."

Sec. 6.3. G.S. 163-230.1 reads as rewritten:

"§ 163-230.1. Simultaneous issuance of absentee ballots with application.

(a) When a qualified voter personally requests by mail an application for absentee ballots, the county board of elections shall cause to be mailed to that voter in a single package:

- (1) The official ballots the voter is entitled to vote if his application is approved;
- (2) A container-return envelope for the ballots, upon the outside of which shall be printed the appropriate application form as provided in G.S. 163-227;
- (3) A large envelope (similar to a No. 14 or larger manila envelope) in which the container-return with the ballots may be returned and on which the affidavit provided by G.S. 163-229(b) shall be printed; and
- (4) An instruction sheet.

The ballots, envelopes and instructions shall be mailed to the voter by the county board's chairman, secretary or supervisor as determined by the board and entered in its official minutes.

On the back of the large transmittal envelope shall be clearly printed or stamped the following statement:

DO NOT PLACE THE ENVELOPE CONTAINING YOUR BALLOTS INTO THIS ENVELOPE UNTIL YOU HAVE COMPLETED THE APPLICATION ON THE ENVELOPE CONTAINING YOUR BALLOTS AND SECURED THE SIGNATURE OF A WITNESS.

(b) The application shall be completed, the ballots marked, the ballots sealed in the container-return envelope, and the large envelope affidavit completed as provided in G.S. 163-227 and G.S. 163-231. The container-return envelope shall be placed in the large transmittal envelope for return to the chairman of the county board of elections.

(c) At its next official meeting after return of the completed container-return envelope and large envelope with the voter's ballots, the county board of elections shall determine whether the container-return envelope and large envelope have been properly executed. If the board determines that both the container-return envelope and large envelope have been properly executed, it shall approve the application and deposit the container-return envelope with other container-return envelopes for the envelope to be

opened and the ballots counted at the same time as all other container-return envelopes and absentee ballots.

(d) The provisions of this section shall apply only to requests received by mail from and signed by the voter individually and personally. No near relative, guardian, or other person other than the voter himself shall be permitted to apply for absentee ballots under this section.

(e) The State Board of Elections, by regulation or by instruction to the county board of elections, shall establish procedures to provide appropriate safeguards in the implementation of this section."

PART VII. MINIMUM STANDARDS FOR COUNTIES.

Sec. 7. G.S. 163-22 is amended by adding a new subsection to read:

"(o) The State Board of Elections shall promulgate minimum requirements for the number of pollbooks, voting machines and curbside ballots to be available at each precinct, such that more of such will be available at general elections and a sufficient number will be available to allow voting without excessive delay. The State Board of Elections shall provide for a training and screening program for registrars and judges. The State Board of Elections shall provide additional testing of voting machines to ensure that they operate properly even with complicated ballots.

The State Board of Elections shall require counties with voting systems to have sufficient personnel available on election day with technical expertise to make repairs in such equipment, to investigate election day problems, and assist in curbside voting."

PART VIII. CANDIDATE REPLACEMENT EXTENDED.

Sec. 8. G.S. 163-114 is amended by deleting "90 days", and substituting "75 days".

Sec. 9. This act becomes effective with respect to elections occurring on or after January 1, 1992. Section 2 of this act expires with respect to all primaries and elections occurring on or after January 1, 1995.

In the General Assembly read three times and ratified this the 16th day of July, 1991.

James C. Gardner
President of the Senate

Daniel Blue, Jr.
Speaker of the House of Representatives