



## Georgia Election Integrity Act of 2021

On March 25, 2021, Georgia Governor Brian Kemp signed into law the "Election Integrity Act of 2021" (formerly SB 202), an election bill that aims to restore trust and integrity in the state's election process. The Foundation for Government Accountability (FGA) supports the reforms implemented in this bill and highlights the need for such reforms to close loopholes that threaten the democratic process.

The Election Integrity Act of 2021 is a commonsense approach that makes it **easy to vote and hard to cheat**. It provides fair and consistent rules for Georgia elections statewide, a duty of the Georgia legislature. These new rules include reasonable reforms such as replacing signature match with a government-issued photo identification requirement (Georgia issues free voter identification cards), better security of ballot drop boxes, and broader access to voting for all Georgians. Georgia's new law contains rational and sound policy provisions to ensure fair and free elections, and **its measures actually increase access to voting**.<sup>1</sup>

Below are some of the key provisions of the Election Integrity Act of 2021. As a result of this law, Georgians can expect the efficiency of their elections to continue to improve and voter participation to continue to rise.

### Prohibiting Gifts and Restricting Private Money

- Prohibits local officials from taking or accepting non-government funds, grants, or gifts. (GA SB 202, § 9, p. 18, ln. 430-432 (election superintendents); GA SB 202, § 14, p. 23, ln. 563-565 (board of registrars).)
- Requires the State Election Board to propose a process to distribute private donations for election administration equitably throughout the state. (GA SB 202, § 9, p. 18, ln. 433-435)
- Prohibits giving cash or gifts (including food or drinks) to voters. (GA SB 202, § 33, p. 73, ln. 1872-1875.) Note that poll officers may provide self-service water available from an unattended container. (GA SB 202, § 33, p. 74, ln. 1888-1889)

### Reforming Use of Absentee Ballot Drop Boxes

- Requires constant surveillance of drop boxes by election officer, law enforcement, or security guard. (GA SB 202, § 26, p. 47, ln. 1186-1888)
- Requires team of at least 2 people to escort ballots from drop box to transfer to clerk or board and sign a ballot transfer form with date, time, location, number of ballots, and names of ballot escort. (GA SB 202, § 26, p. 48, ln. 1201-1202)
- Limits the locations of drop boxes to board of register office, absentee ballot clerk office, or advance voting location. (GA SB 202, § 26, p. 47, ln. 1180-1181)



- Limits the number of drop boxes to one drop box per 100,000 active registered voters in county or number of advance voting locations. (GA SB 202, § 26, p. 47, ln. 1176-1778)
- Requires drop box locations to be evenly distributed across the county by population. (GA SB 202, § 26, p. 47, ln.1178-1779)

## **Prohibiting Third Party Interference with Absentee Ballots**

- Requires use of official Secretary of State issued absentee ballot application form. (GA SB 202, § 25, p. 38, ln. 944-945)
- Requires Secretary of State to make absentee ballot application form available for submission online securely. (GA SB 202, § 25, p. 39, ln. 954-955)
- Prohibits election officials from sending voters absentee ballot applications unless requested by the voter or voter's authorized relative. (GA SB 202, § 25, p. 39, ln. 966-970)
- Prohibits third parties from delivering absentee ballot applications to those who have already requested, received, or cast an absentee ballot. (GA SB 202, § 25, p. 41, ln. 1025-1029)
- Requires third parties to update their distribution list by removing voters who requested, received, or cast an absentee ballot. (GA SB 202, § 25, p. 41, ln. 1029-1033)
- Sets a fine of \$100 per duplicate for submitting duplicate absentee ballots to election board. (GA SB 202, § 25, p. 42, ln. 1037-1043)
- Makes it a felony to knowingly accept, without authorization, an absentee ballot for delivery or return it to board of registrars. (GA SB 202, § 47, p. 95, ln. 2442-2444)
- Makes it a felony to knowingly unseal, without authorization, an absentee ballot. (GA SB 202, § 17, p. 52, ln. 1305-1309)
- Restrict third parties requesting ballots on behalf of a voter to authorized: (1) relative of the voter; (2) assistant for voters who cannot read; and (3) assistant for voters who have a disability. (GA SB 202, § 25, p. 39, ln. 967-972)
- Makes it misdemeanor for anyone to handle an absentee ballot application who is not the voter, voter's authorized relative or disability/reading assister, mail delivery, law enforcement, or election official. (GA SB 202, § 25, p. 39, ln. 967 - p. 40, ln. 981)
- Inserts oath on absentee ballot with penalty of false swearing for voter to sign attesting no one has observed who they voted for and that voter will not permit any unauthorized person to return the ballot for them. (GA SB 202, § 27, p. 52, ln. 1322-1336)



## Ensuring Accurate Identification and Verification of Absentee Voters

- Requires voter to include Georgia drivers' license or state ID number and date of birth on absentee ballot application form. If the voter does not have a license or ID, the voter shall provide a copy of military, tribal, or government employee ID card and sign an oath. (GA SB202, § 25, p. 38, In. 945-953. See also GA SB 202, § 25, p. 43, In. 1061-1068 (process of verification of identification by election officials).)
- Requires voter to include Georgia drivers' license or state ID number on absentee ballot envelope. If voter does not have a GA ID, the voter shall use the last four digits of social security number. If voter does not have GA ID or Social security number, the voter shall provide a copy of military, tribal, or government employee ID card and sign an oath. If none is included, the ballot shall be a provisional ballot. (GA SB 202, § 27, p. 62, In. 1569-1573. See also GA SB 202, § 27, p. 57, In. 1569-1573 (process of verification of identification by election officials).)

## Ensuring Ballots Are Counted Accurately, Quickly, and Transparently

- Allows superintendent to start processing but (not counting ballots) on 8:00 am on third Monday prior to the election. (GA SB 202, § 29, p. 65, In. 1657-1669)
- Processing ballots shall be open to view of the public. (GA SB 202, § 29, p. 66, 1685-1687)
- Requires superintendents to report results as soon as possible and if not by 5pm on day after election polls close, state board can conduct a performance review. (GA SB 202, § 29, p. 70, In. 1797-1802)
- Allows inspection and challenges of list of absentee voters up to 5:00 pm on the day before starting to process and count absentee ballots. (GA SB 202, § 29, p. 55, In. 1385-1387)

## Ensuring Legislative Oversight of Lawsuits

- Requires the State Election Board and Secretary of State to notify the House and Senate judiciary committees at least five days before settling a lawsuit or entering into a consent decree changing election laws. (GA SB 202, § 8, p. 17, In. 406-410)

## Limiting Overreach through Emergency (ex: COVID-19) Waivers

- Restricts the State Election Board's power to issue emergency rules only in the event of "imminent peril" to public health, safety, or welfare. (GA SB 202, § 8, p. 16, In. 380-382)
- Requires State Election Board, before a meeting to decide to issue emergency rules, to notify the public, executive branch (governor and lieutenant governor), legislature (Speaker, House and Senate election committees, legislative counsel), and political parties. (GA SB 202, § 8, p. 16, In. 384-395)



- Requires State Election Board to certify in writing that regulations were in “strict and exact” compliance with the election law. (GA SB 202, § 8, p. 16, ln. 399-402)
- Requires current election law to supersede election rules if emergency rules conflict with current election law. (GA SB 202, § 8, p. 16, ln. 403-404)

## Penalties for Abuse of Power By Local Officials

Grant the State Election Board power to:

- Conduct investigations of superintendents on its own initiative or if requested by performance review board. (GA SB 202, § 7, p. 12, ln. 286-296)
- Suspend superintendents who have three violations of election laws in last two general elections. (GA SB 202, § 7, p. 13, ln. 306-309)
- Suspend superintendents who have, in at least two elections within a two-year period, demonstrated nonfeasance, malfeasance, or gross negligence in the administration of elections. (GA SB 202, § 7, p. 13, ln. 310-312)
- Replace suspended local election officials by appointing temporary officials. (GA SB 202, § 6, p. 11, ln. 270-272)
- Sanction board of registrars for failure to comply with election rules on voter eligibility challenges. (GA SB 202, § 16, p. 28, ln. 693-694)
- Sanction superintendent for not following procedures to report verified absentee ballots promptly. (GA SB 202, § 29, p. 70, ln. 1800-1802)

## Cleaning Voter Rolls

- Require the Secretary of State to regularly obtain and update voter roll information (with updates on voters who die or move) from other election officials through interstate crosscheck entities such as the Electronic Registration Information Center (ERIC). (GA SB 202, § 17; p. 28, ln. 698-702)

## Verifying Results with Post-Election Audits

- Authorize the Secretary of State to audit or inspect absentee ballots at any time in 24 months after election, either state-wide or for certain counties or cities, by sampling some or reviewing all ballots. (GA SB 202, § 30, p. 71, ln. 1822-1828)

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<sup>1</sup> Georgia Department of Driver Services, "Voter ID," State of Georgia (2021), <https://dds.georgia.gov/voter-id>