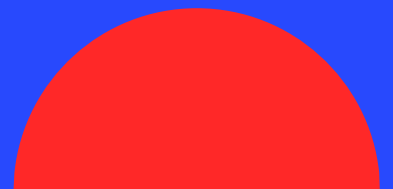
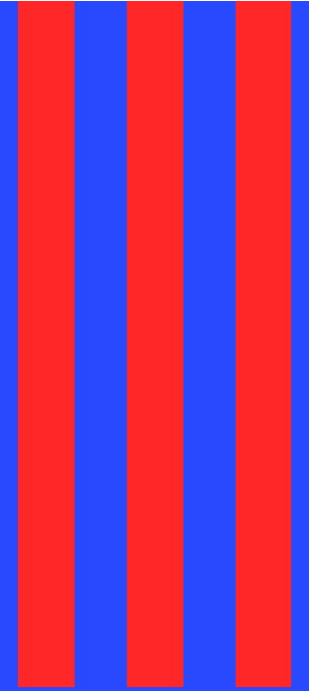


Important Updates in Georgia Election Law for 2024

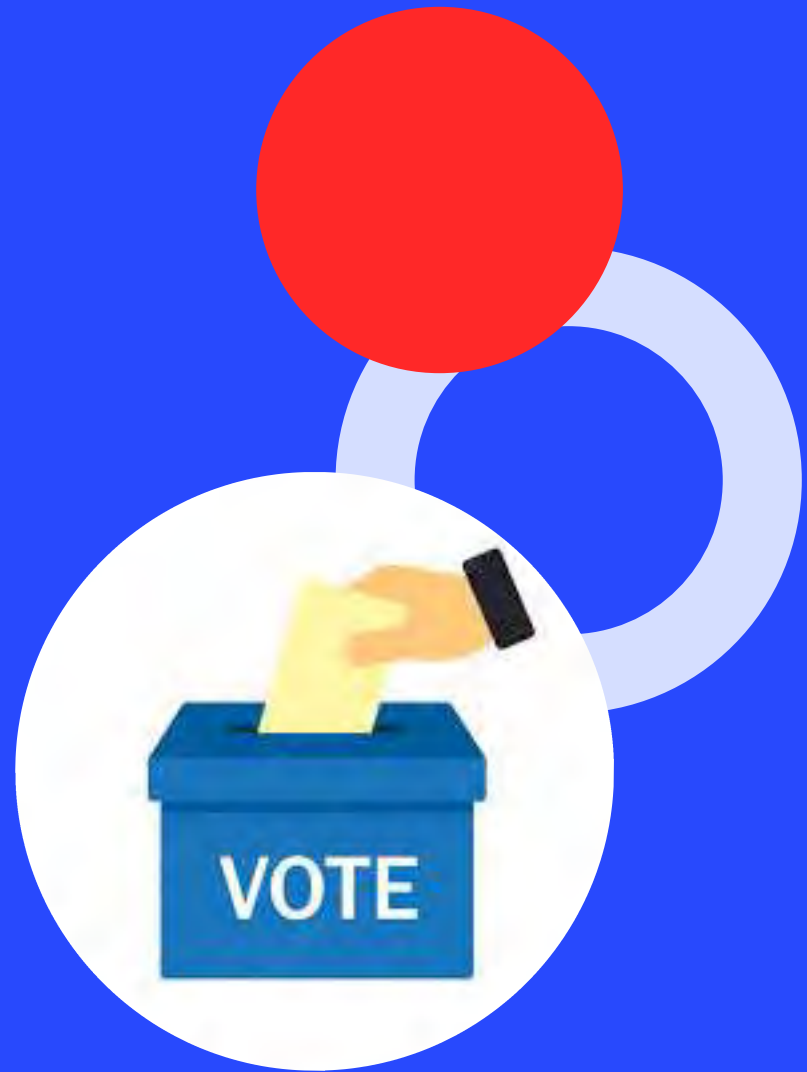


Agenda

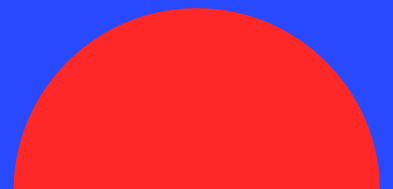
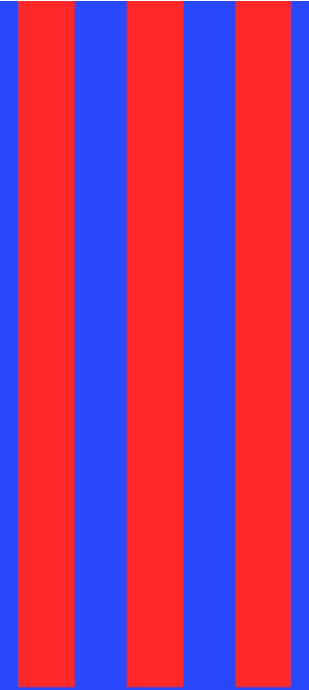
- Introduction
- What's New for 2024
 - Changes to Georgia Statutes: SB 189
 - SEB Rule Changes: 183-1-12-.02 & 183-1-12-.12.1
- Changes for 2025 and 2026
- Final takeaways

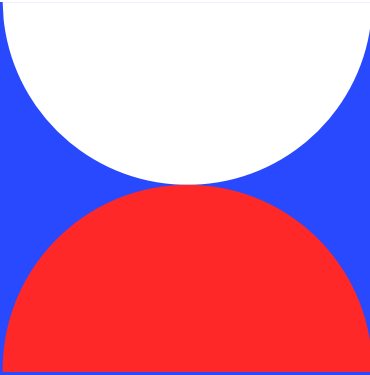


Changes to Georgia Law: SB 189



**First, what's new
for Election Day
2024....**





Key Changes in SB 189 for 2024

- **New Rules For Determining Whether Probable Cause Exists To Sustain A Voter Challenge and When a Challenge Can Be Adjudicated (O.C.G.A. 21-2-230).**
- **New Rules For Counting Absentee Ballots (O.C.G.A. 21-2-386).**
- **New Rules For Counting Early Votes (O.C.G.A. 21-2-493).**
- **New Rules For What Constitutes Conflicts of Interest (O.C.G.A. 21-2-19).**

Determining Whether Probable Cause Exists and When a Challenge Can Be Adjudicated:

**CHANGES TO O.C.G.A.
21-2-230**



O.C.G.A. 21-2-230

Brief Review:

There are two different mechanisms in Title 21 to challenge Voter Registration.

- **First is O.C.G.A. 21-2-229**, which challenges if a voter is able to register or remain registered.
- **Second, is O.C.G.A. 21-2-230** which are challenges to whether or not a registered voter is eligible to vote in a particular election.
- ***What we are discussing here ONLY applies to O.C.G.A. 21-2-230.***
- ***21-2-229 remains UNCHANGED.***

When a § 21-2-230 Challenge Can Be Adjudicated

- OCGA 21-3-230(b)

“Upon filing of such a challenge, the board of registrars shall immediately consider such challenge....”

- OCGA 21-3-230(b)(1)

“Any challenge of an elector within 45 days of a primary, run-off primary, election, or run-off election shall be postponed until the certification of such primary, election, or runoff is completed...”

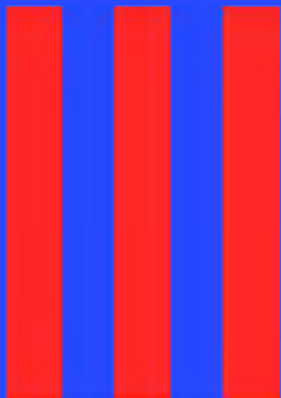
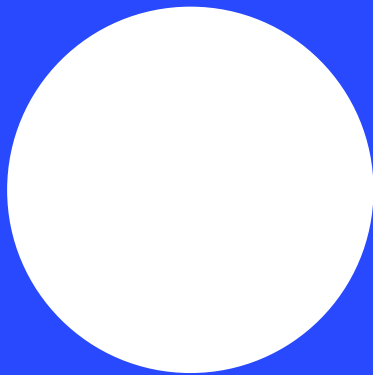
- So, if a challenge is made to a Voter's eligibility to vote in a particular election, and that challenge is made with less than 45 days before the election, the challenge CANNOT be decided by the Board of Elections until after the actual election takes place, and the Voter MUST BE allowed to Vote.

Changes to § 21-2-230(b)

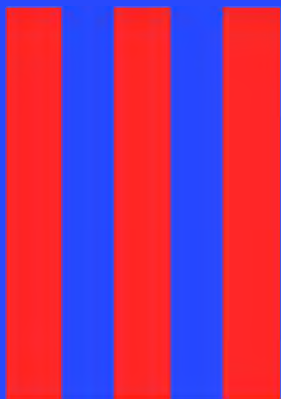
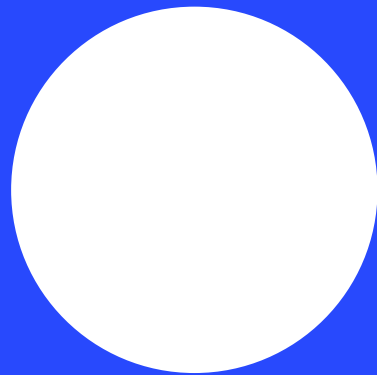
O.C.G.A. § 21-2-230(b)

“.....the board of registrars shall.....determine whether *PROBABLE CAUSE* exists to sustain such challenge...”

- What is “Probable Cause”?
- It is a legal standard of proof (used mostly in Criminal Law).
- SB 189 amended § 21-2-230(b), so that what constitutes “probable cause” is now more clearly defined:
 - Deceased Voter
 - Voter who is voting or registering to vote in another jurisdiction
 - Voter who obtains a homestead exemption in another jurisdiction
 - Voter who registered at a nonresidential address
 - Has to be confirmed by a government
 - 1) Website
 - 2) Database
 - 3) Or other publicly available source (derived from a gov’t source)



Random Real World Example:

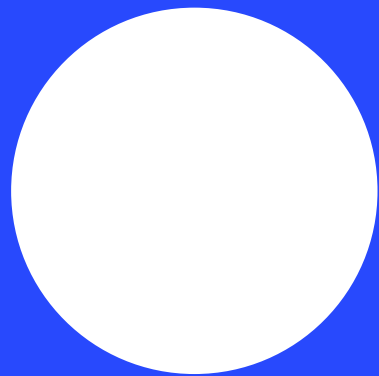


Voting under § 21-2-230 is like applying for the Masters Ticket Lottery:

- Anyone can register, **BUT** if
 - You're dead
 - You're already registered at a different address
 - The address of your registration isn't your address
 - The address of your registration isn't your primary, e.g. "homestead" address
 - The address of your registration isn't a residence.....

You cannot win/vote.

Changes to § 21-2-230 Continued



What DOES NOT constitute probable cause:

USPS National Change of Address database

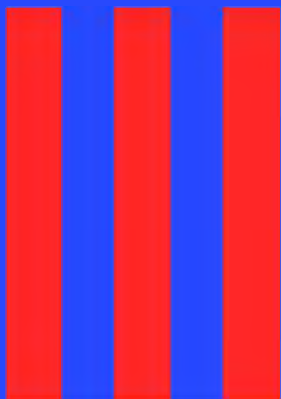
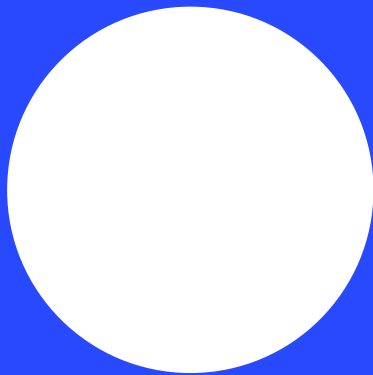
- There MUST BE some other corroborating evidence.

What DOES NOT constitute probable cause continued

<https://youtu.be/iHSPf6x1Fdo>

§ 21-2-230(b)(2)

- If a Voter is determined eligible pursuant to O.C.G.A. § 21-2-217(a)(8), (10), or (11), then any challenge of the Voter's ability to cast a ballot based on residency "shall be deemed insufficient".
- In other words, if the Voter is determined to be a resident under § 21-2-217(a)(8), (10), or (11), then residency isn't a valid basis to challenge that Voter.



OCGA § 21-2-217(a)(8), (10), & (11)

(8) No person shall be deemed to have gained or lost a residence by reason of such person's presence or absence while enrolled as a student at any college, university, or other institution of learning in this state;



(9) The mere intention to acquire a new residence, without the fact of removal, shall avail nothing; neither shall the fact of removal without the intention;



(10) No member of the armed forces of the United States shall be deemed to have acquired a residence in this state by reason of being stationed on duty in this state;



(11) If a person removes to the District of Columbia or other federal territory, another state, or foreign country to engage in government service, such person shall not be considered to have lost such person's residence in this state during the period of such service; and the place where the person resided at the time of such person's removal shall be considered and held to be such person's place of residence

New Rules for Absentee Ballot Counting

O.C.G.A § 21-2-386(a)(3)

- Absentee Ballots can still be counted beginning Election Day at 7 AM.
- BUT all Absentee Ballots received on or before the Monday immediately before Election Day, SHALL:
 - Be counted and results reported by 8 PM on Election Day,
 - OR within 1 hour of polls closing,
 - Whichever is LATER



New Rule for Early Voting Ballot Counting

O.C.G.A. § 21-2-493(a)

- All early voting ballots SHALL be counted, i.e. “tabulated” by no later than 8 PM or within 1 hour of the polls closing.
- Same requirements as § 21-2-386(a) for absentee ballots.



New Conflict of Interest Rules

O.C.G.A. § 21-2-19(a) and (b) –

- Applies to Elections Superintendents and all full time AND part time employees.
- No official or employee, or their immediate family, can have a business, be a part of a business, or have any financial interest in a business that:
 - Transacts with any other business that provides voting machine equipment or services
 - Transacts with any business that provides any other equipment related to vote “tabulation, auditing, processing, or scanning of ballots”.



In other words...

**NO BUSINESS WITH
DOMINION!**

NO DOMINION STOCK!



Changes to SEB Rules – “Reasonable Inquiry”

The New “Reasonable Inquiry” Rule

- Rule 183-1-12-02(c.2) was created and states
 - “Certify the results of a primary, election, or runoff”, or words to that effect, means to attest after reasonable inquiry that the tabulation and canvassing of the election are complete and accurate and that the results are a true and accurate accounting of all votes cast in that election.”
- Reasonable Inquiry is NOT defined.
- Rule was approved on August 6th, so takes effect August 26, 2024.
 - barring a legal challenge.



SEB Proposed Rule – Examination of Documents

- Proposed Rule 183-1-12-.12.1 adds further requirements for Certification
 - Specifically, regarding reconciling the number of total ballots at each precinct cast with the total number of IDs present
- To achieve this, Subsection (6) states
 - *Board members shall be permitted to examine all election related documentation created during the conduct of elections prior to certification of results*
- This proposed Rule came up during the July 9, 2024 SEB Meeting
- The Rule was approved on August 19, 2024
- The Rule will take effect September 8, 2024



Potential Legal Challenges with the new SEB Rules

Current Georgia Law requires that local Boards of Elections certify no later 5 PM the Monday after the election, i.e. 6 days.

Under the new SEB Rules, if a local Board of Elections wants to conduct a “reasonable inquiry” and/or “examine” election documents prior to certification, those cannot take more than 6 days, or the local Board is in violation of state law.



Other 2024 Effect Provisions In SB 189

The following are other changes implemented for 2024 by SB 189

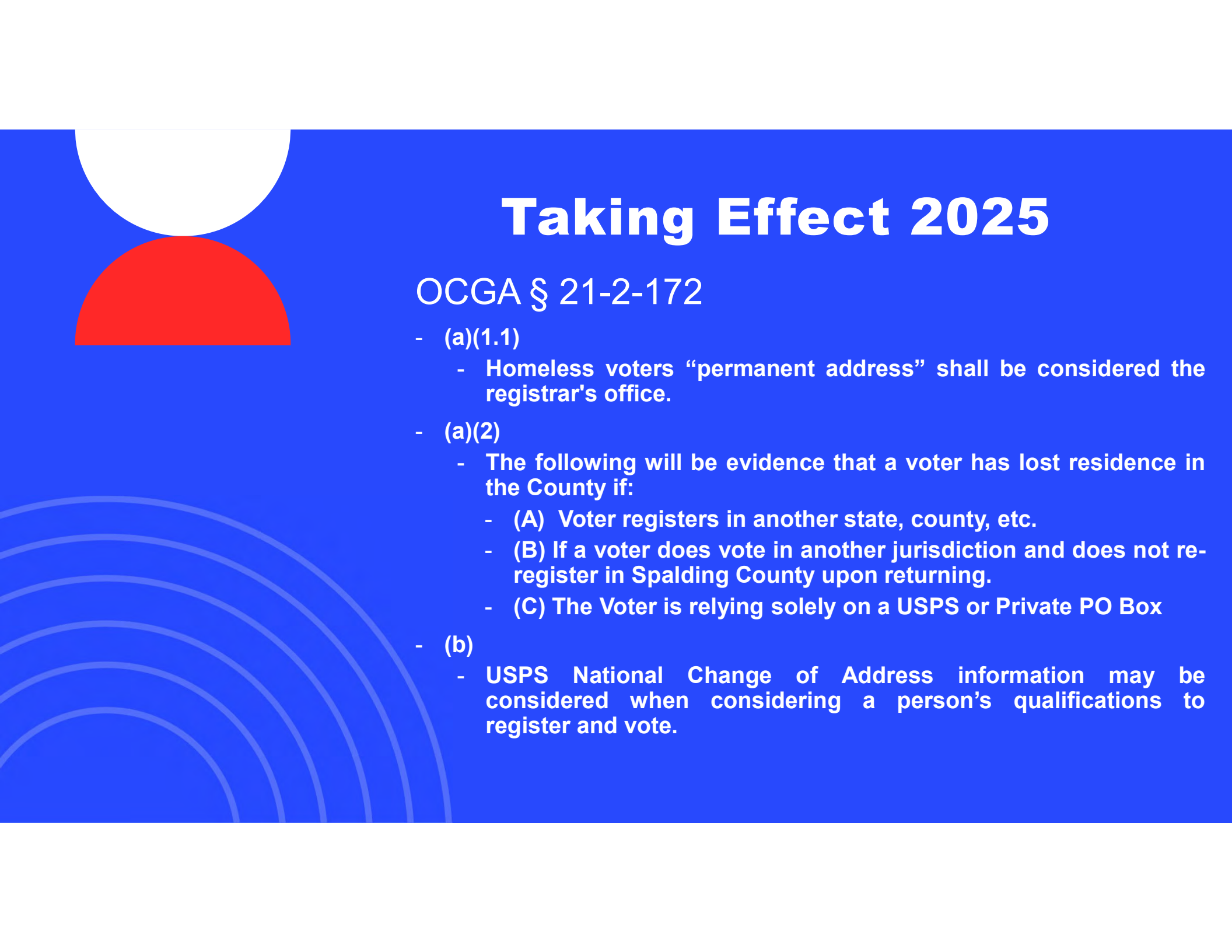
Do not necessarily effect County functions, directly, so this is more as an “FYI”:

- O.C.G.A. § 21-2-30 – The elected SOS now completely removed from the SEB.
- O.C.G.A. § 21-2-30 – Requires notification to the SOS of emergency SEB meetings.
- O.C.G.A. § 21-2-172 – Any Third Party candidate that receives ballot access in 20 U.S. states or territories now automatically qualifies for the Georgia Ballot.
- O.C.G.A. § 21-2-498.1 – Mandates the SOS create a pilot program for auditing paper ballots (cannot use QR or Barcodes).
- O.C.G.A. § 21-2-540 – Any special election(s) called to present a question to voters must be called within 90 days if held in conjunction with a state-wide election (future impact?).

Changes for 2024 and 2025

- Several provisions of SB 189 will not take effect until 2025 or 2026.
- Taking Effect in 2025
 - O.C.G.A. 21-2-172
 - O.C.G.A. 21-2-300
 - O.C.G.A. 21-2-386
- Taking Effect in 2026
 - O.C.G.A. 21-2-379.23





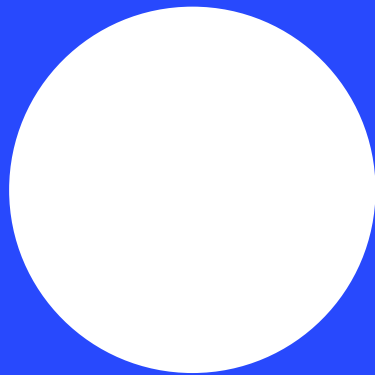
Taking Effect 2025

OCGA § 21-2-172

- (a)(1.1)
 - Homeless voters “permanent address” shall be considered the registrar's office.
- (a)(2)
 - The following will be evidence that a voter has lost residence in the County if:
 - (A) Voter registers in another state, county, etc.
 - (B) If a voter does vote in another jurisdiction and does not re-register in Spalding County upon returning.
 - (C) The Voter is relying solely on a USPS or Private PO Box
- (b)
 - USPS National Change of Address information may be considered when considering a person's qualifications to register and vote.

Taking Effect 2025 Continued

O.C.G.A. § 21-2-300(f)(1)

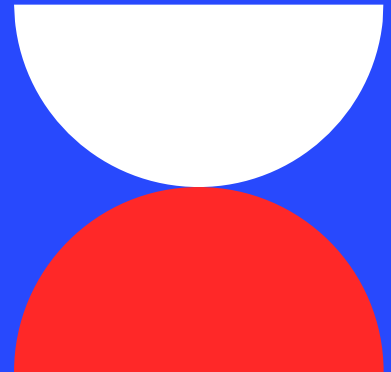


- In certain elections with less than 5,000 registered voters, Election's Superintendent can petition the SEB to allow votes be cast by paper ballot.
- Can only be used for County officials/offices:
 - Special Primaries
 - Special Elections
 - Runoffs

Taking Effect 2025 Continued

O.C.G.A. § 21-2-386 – Absentee Ballots

- (a)(1)(A) – all access, by any person, to absentee ballots MUST be documented
- (a)(1)(F) – and all documentation of access must be stored with the absentee ballots “in a manner that will prevent tampering
- (a)(1)(B) – to prevent tampering, all accepted, i.e. not rejected, absentee ballots must be stored in either
 - A sealed container, or
 - An access-controlled room
- (a)(2)(A) – requires that three persons be present when the sealed containers of absentee ballots are opened AND the containers must be verified for integrity.
- (a)(2)(B)(vi)(D) – after scanning of absentee ballots, the ballots must be
 - stored in “tamper resistant” containers, and
 - sealed with numbered seals, and
 - the number seals recorded on the SOS Chain of Custody documents, and
 - the chain of custody forms signed by the person storing the ballots, with the date and time recorded



New for 2025 Absentee Ballots Continued

- **O.C.G.A. § 21-2-386(a)(3)** – all absentee ballots accepted by the Monday prior to the election **MUST** be counted by
 - no later than 8 P.M. on Election Day, or
 - one hour after the polls close, whichever is later.
- **O.C.G.A. § 21-2-386(a)(7)** – all sealed boxes or bags with counted absentee ballots must be
 - Sealed
 - Witnessed
 - Verified by signature of the person accepting the ballots, with date and time
- **O.C.G.A. § 21-2-386(b)** – when absentee ballots are delivered to the Superintendent for counting
 - must be delivered in secure, sealed containers, and
 - with the SOS chain of custody docs, and
 - signed for with date and time of transfer

New for 2025 Absentee Ballots Continued

- **O.C.G.A. § 21-2-386(c)** - Inner envelopes of absentee ballots must be
 - placed in a ballot box
 - Secured and sealed
 - with SOS chain of custody documents
- **O.C.G.A. § 21-2-386(e)** – any challenged absentee ballots must be deposited with the SOS chain of custody documentation.



Effective in 2026



O.C.G.A. § 21-2-379.23(d)

- Mandates that the text portion of a paper ballot shall be the official ballot for purposes of counting
- The official count of all ballot scanners shall be based only on the text portion of the ballot.
- The official count **CANNOT** be based on scanning information in QR code, bar code, or any other such “machine” coding printed on the ballot itself.

Final takeaways

- Be Aware of Critical New O.C.G.A. changes for 2024
 - New Rules For Determining Whether Probable Cause and the 45 day cutoff for deciding the challenges.
 - New Rules For Counting Absentee Ballots and Early votes especially the security measures for chain of custody.
 - New Rules For What Constitutes Conflicts of Interest of any staff: ***NO Dominion ties!!***
- **New SEB Rules – Proceed with Caution**
 - The Board can make a reasonable inquiry and look at documents related to the election if the Board feels there are irregularities or discrepancies in the count
 - BUT – the O.C.G.A. still mandates that the Election be certified by no later than the following Monday at 5 P.M.
 - The O.C.G.A. controls.

Thank you

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