

David A. Cross
4805 Spring Park Circle
Suwanee, GA 30024

July 15, 2024

Georgia State Election Board
2 MLK Dr.
Suite 802 Floyd West Tower
Atlanta Ga. 30334

PETITION FOR AMENDMENT TO ELECTION RULES
(Printing Color for Emergency Ballots)

Mr. John Fervier, Chairman
Mrs. Sara Tindall Ghazal,
Mr. Rick Jeffares,
Dr. Janice W. Johnston,
Ms. Janelle King,

This petition for an amendment to an election rule incorporates a minor change to the way ballots are printed to improve chain of custody for emergency/provisional/mail in ballots.

I am filing this notarized petition for the proposed rule amendment in a good faith attempt to prevent the theft or misappropriation of emergency ballots. The intent of this rule is to improve security and chain of custody of Georgia elections on behalf of all Georgia voters and to make scanned copies of Absentee ballots visually distinct from less commonly used Provisional & Emergency ballots. The solution proposed here is to provide 2 *visually distinct types of ballots: Emergency/Provisional and Absentee.*

I urge your prompt attention to this matter submitted in accordance with the provisions of Rule 183-1-1-.01(3):

1. The name and post office address of the Petitioner is:

David Cross
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Suwanee, GA 30024
Dcross108@protonmail.com

The full text of the rule requested to be amended and desired to promulgate:

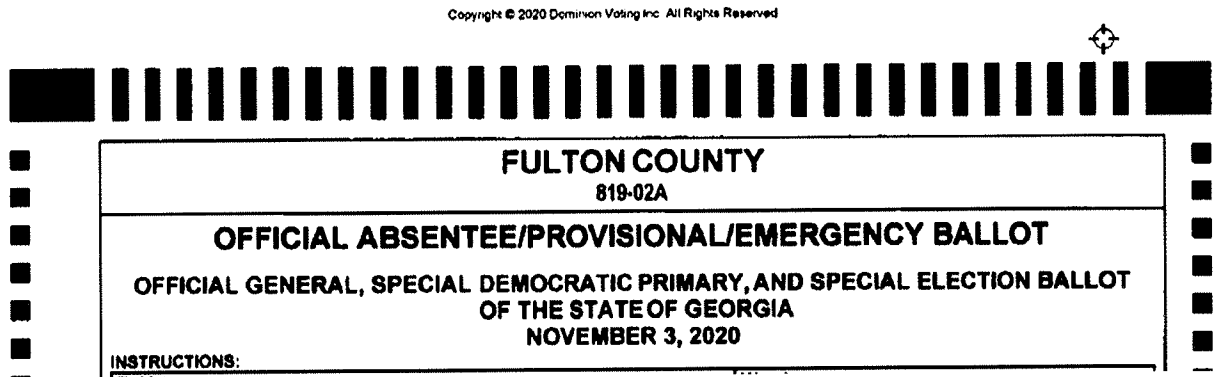
Rule 183-1-12-.01 Conduct of Elections

Beginning with the 2020 Presidential Preference Primary, all federal, state, and county general primaries and elections, special primaries and elections, and referendums in the State of Georgia shall be conducted via an Optical Scanning Voting System as defined by O.C.G.A. 21-2-1(19.1). Voting at the polls, including both Election Day and absentee-in-person voting shall be conducted via ballots marked by electronic ballot markers and tabulated by ballot scanners. The electronic ballot markers and ballot scanners shall be supplied by the Secretary of State or purchased by the counties with the authorization of the Secretary of State. Absentee-by-mail voting shall also be conducted through the use of an optical scanning voting system.

The Superintendent shall cause every polling place and advance voting location to have a sufficient number of Emergency / Provisional blank paper ballots that can be marked by pen available for use in the event of emergency. Emergency / Provisional Ballots shall be marked in the top margin separately and distinctly from Absentee by Mail ballots. The election superintendent shall also be prepared to resupply polling places with emergency paper ballots in needed ballot styles in a timely manner while voting is occurring so that polling places do not run out of emergency paper ballots.

2. The reason such rule should be amended, repealed or promulgated

Rule 183-1-12-.01. Conduct of Elections, does not specify that emergency ballots be visibly distinct from non-emergency ballots. Currently, ballots are marked as “Official Absentee/Provisional/Emergency Ballot”. See example below:



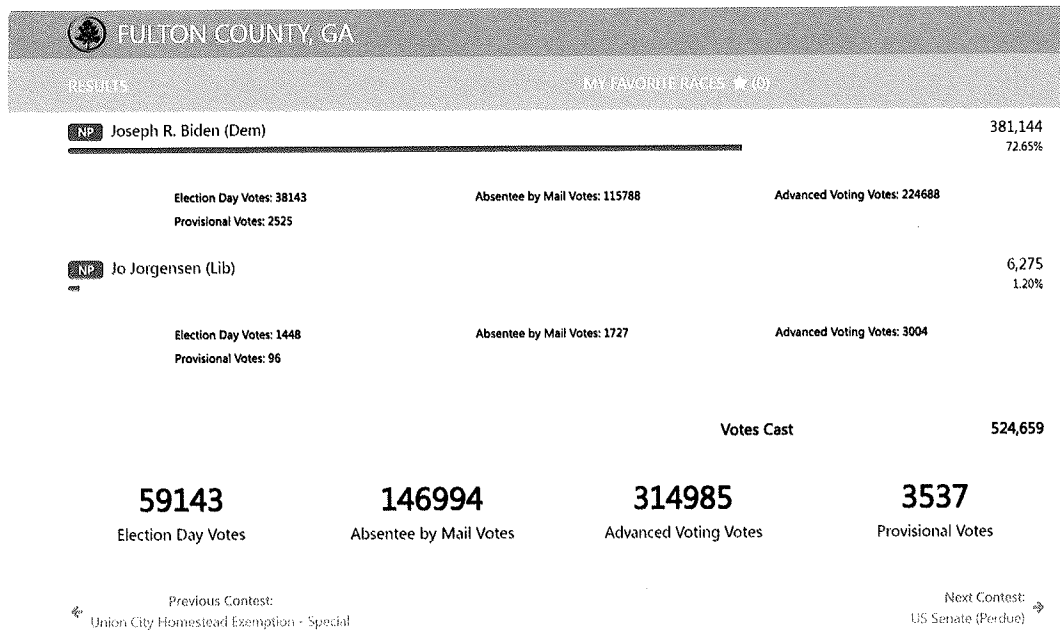
The lack of visual distinction could lead to ballots being mishandled without detection. Maintaining proper chain of custody during elections is a daunting task even for the most prepared elections staff and keeping Absentee Ballots separated from Provisional and Emergency ballots can help maintain chain of custody.

My earlier proposal was for ballots to be printed on salmon colored paper. If a distinction is made with Emergency/Provisional Ballots being printed separately from Absentee ballots, there is no need for colored paper.

3. Any and all pertinent facts as to the Petitioner’s interest in the matter

In a past election, Fulton County ordered approximately 1,000,000 emergency ballots sorted into blocks of 100 ballots by precinct. Secretary of State election records show 59,143 voters cast ballots on Election Day indicating Fulton County ordered approximately 17 times the number of emergency ballots needed assuming every single Election Day voter would need to use an emergency ballot. Normal procedure is for 10% of estimated Election Day ballots to be printed as emergency

ballots. Furthermore, the entire county had 524,659 total voters of all types indicating the county ordered nearly 100% more emergency ballots than total ballots cast.



In April 2024, Fulton County BRE member Mark Wingate testified in the Jeffrey Clark disbarment hearing that his requests for multiple chain of custody documents were not fulfilled prior to certification or after certification. You can view his comments below or watch him on video here:

(<https://share.descript.com/view/MNXlgOGHGlq>)

Transcript:

Attorney McDougald: Thank you very much. I interrupted you to get that. So, uh, pick back up where you were talking about, uh, asking for and not receiving chain and custody documents.

Wingate: Okay. Well, that, you know, since we, we asked and did not receive any of it, you know, that to me is just one reason. Well, how can I trust?

You know, as a board member to certify this election when I cannot receive even a sampling anything at all with regards to chain of custody, uh, chain of custody documents. So that was just another one of the things in my mind leading up to certification that was something that, you know, certainly was not fulfilled.

Because emergency ballots are visually indistinguishable from non-emergency ballots they can be easily confused or mixed in with mail in ballots. A simple solution for citizens who are attempting to verify ballots would be to print 2 separate and distinct batches of ballots:

1. Emergency/Provisional ballots
2. Absentee ballots

4. Any and all facts known to the Petitioner that might influence the decision of the Board to initiate or not initiate rulemaking, including identification of any parties who it is known will or may be affected by the amended rule.

Maintaining chain of custody is critical for election security and for confidence in elections. Absentee ballots marked distinctly from Provisional / Emergency ballots can serve as an obvious visual cue to assist elections directors and workers should ballots be mistakenly misplaced. The ballots are also visually distinct for the benefit of image audits.

5. Citations of legal authorities that require the action requested by Petitioner.

O.C.G.A 21-2-283 Printing and Safekeeping of Ballots and Labels by Superintendent specifies that the election superintendent “shall keep a record of the number of official ballots printed and furnished to each precinct at each primary and election and the number of stubs, unused ballots, and canceled ballots subsequently returned therefrom.” This proposed rule will assist Elections Directors with proper accounting and chain of custody related to absentee and emergency / provisional ballots.

I, David Cross personally appeared before the undersigned officer duly authorized to administer oaths, and on oath deposes that the facts stated in the Petition therein are true and accurate.

Respectfully submitted this the 15 day July, 2024.

David B. Cross

David Cross

SUBSCRIBED AND SWORN BEFORE ME

this the 15th day of October, 2023
to certify and witness my hand
and official seal.

Notary Public in and for

Gwinnett County, Georgia.

Karen M. Karl
[AFFIX NOTARIAL SEAL]

