



Georgia

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February 20, 2018

Brian B. Kemp (c/o Cristina Correia, Esq.)
Office of Secretary of State
2 Martin Luther King Jr., Drive, SE
802 West Tower
Atlanta, GA 30334

Via Certified Mail and E-mail

Re: Current Voter Registration Forms Violate State and Federal Law

Dear Secretary of State Brian B. Kemp,

The smooth functioning of our democracy requires that elections officials follow the law. The ACLU of Georgia warns you that there is an egregious error on the Georgia voter registration form provided by your office, an error that illegally misrepresents state and federal law and erects unlawful barriers to voter registration. This was brought to our attention by Marc Merlin, an engaged citizen who helps others register to vote.

The current Georgia voter registration form found on your website¹ contains the following instructions:

REQUIREMENT: If you are submitting this form by mail and you are registering for the first time in Georgia, enclose a copy of one of the following with your application: A copy of a current and valid photo ID, a copy of a current utility bill, bank statement, government check, paycheck, or other government document that shows your name and address.

This is followed by further instructions that state, “Place copy of ID in pocket” and “Trim copy of ID to size.”

This requirement is blatantly wrong. As you must be aware, nothing in state or federal law requires first-time registrants by mail to provide documentary proof of name and address *along with* their voter registration application. To the contrary, both state and federal law explicitly provide that while first-time mail registrants *may* provide a copy of proof of name and address with their voter registration form, they *do not* have to provide that documentary proof of name and residence until the time that they actually vote for the first time in Georgia. *See* Ga. Code Ann. § 21-2-220(c) “electors who register to vote for the first time in this state by mail

¹ *See* Exhibit A. The form is found at http://sos.ga.gov/admin/files/Voter_Registration_Application_8-10.pdf, and is linked from the voter registration application webpage, http://sos.ga.gov/index.php/Elections/register_to_vote.

must present current and valid identification either when registering to vote by mail *or when voting for the first time after registering to vote by mail.*”) (emphasis added); 52 U.S.C. § 21083(b) (requiring individuals who “registered to vote in a jurisdiction by mail” for the first time to “present[] to the appropriate State or local election official” documentary proof of name and address, without specifying when that documentation must be provided).

Indeed, state regulations *require* private citizens like Mr. Merlin to “[i]nform all applicants that, if they are registering to vote for the first time in the jurisdiction by mail or through a private entity, they must present current and valid identification either when registering to vote by mail *or through a private entity or when voting for the first time after registering to vote by mail or through a private entity.*” Ga. Comp. R. & Regs. § 183-1-6-.02(6) (emphasis added). Thus, the instructions that third-party registrants are required to give to voters directly conflict with the instructions printed on the form.²

There is furthermore an important exception to this rule under state and federal law: eligible voters who provide a Georgia driver’s license or ID number, or the last four digits of their Social Security number, *do not* have to submit documentary proof of name and address at all if state databases verify their residence. *See* Ga. Code Ann. § 21-2-220(c) (“The requirement to submit identification shall not apply to: (1) Persons who submit identifying information with their applications that the registrars are able to match to information contained on a state data base available to such registrars containing the same number, name, and date of birth as contained in the application”); 52 U.S.C. § 21083(b) (requirement “shall not apply in the case of a person . . . with respect to whom a State or local election official matches the information submitted under clause (i) [driver’s license number or at least the last 4 digits of the individual’s social security number] with an existing State identification record bearing the same number, name and date of birth as provided in such registration”). But even if some voters may wish to provide documentary proof of name and address in case the state database fails to make an ID match, they do not have to submit that proof until they vote at the polling place.

Engaged citizens like Mr. Merlin cannot effectively register voters if the form illegally tells them that they must provide a copy of identification along with their voter registration application.³ No one walks around the street carrying photocopies of their identification or hand-held Xerox machines ready to make such copies. And other eligible voters, especially lower-income voters who do not have easy access to Xerox machines or the Internet (to allow them to register online), may be illegally deterred from registering altogether.

The next elections are right around the corner, and the 30-day voter registration deadline is fast approaching. Please inform us in the next 5 business days whether you intend to rectify

² According to Mr. Merlin, when he called your office to ask about this requirement, he was told that the form was inaccurate and that voters do not have to provide a copy of their identification with their voter registration form as long as they do so when they vote.

³ Under state regulations, voter registration forms turned in by third parties are considered to be registrations submitted by mail, even if they are delivered by the third party in person. *See* Ga Comp. R. & Regs. § 183-1-6-.02(3)(b).

these voter registration forms immediately, or provide some other legal explanation for this requirement, so we can assess our legal options.

Sincerely,

A handwritten signature in black ink, appearing to read "Sean J. Young". The signature is fluid and cursive, with a large initial "S" and "Y".

Sean J. Young
Legal Director
ACLU of Georgia

EXHIBIT A

STATE OF GEORGIA APPLICATION FOR VOTER REGISTRATION

Fill out the bottom half of this application by following these directions. Print clearly and use blue or black ink.

1. **LEGAL NAME.** Your full legal name including any suffix such as Sr., Jr., III, is required on this form.
2. **ADDRESS.** Provide mailing address. This information is required.
3. **MAILING ADDRESS.** If mailing address is different from residential address, complete the mailing address section.
4. **PERSONAL INFORMATION.** A telephone number is helpful to registration officials if they have a question about your application. Gender and race are requested and are needed to comply with the Voting Rights Act of 1965, but are not mandated by law.
5. **VOTER IDENTIFICATION NUMBER.** Federal law requires you to provide your full GA Drivers License number or GA State issued ID number. If you do not have a GA Drivers License or GA ID you must provide the last 4 digits of your Social Security number. Providing your full Social Security number is optional. Your Social Security number will be kept confidential and may be used for comparison with other state agency databases for voter registration purposes. If you do not possess a GA Drivers License or Social Security number please check the appropriate box and a unique identifier will be provided for you.
6. **OATH.** Federal law requires that you answer the citizenship and age questions. Read the oath and sign your name. If you cannot complete this application unassisted because of physical disability or illiteracy, you must either sign or make your mark on the signature line, and the person assisting you **MUST** sign the signature space for person assisting voter.
7. **POLL OFFICER QUESTION.** Your willingness to be a poll worker will have no bearing on your application for registration.
8. **NAME/ADDRESS CHANGE.** Complete these sections to change the name or address of your current voter registration.
9. **MAP/DIAGRAM:** If you live in an area without house numbers and street names, please include a drawing of your location to assist us in locating your appropriate and a unique identifier will be provided for you.
10. **DELIVERY INSTRUCTIONS:** Verify that you have completed and signed the application. Enclose a copy of your ID if you are submitting this form by mail and registering for the first time in Georgia. Fold the application in half, remove the tape at the top, and press the edges together. The application is ready for you to mail (postage is prepaid) or deliver to your county voter registration office.
11. **You are NOT officially registered to vote until this application is approved.** You should receive a voter precinct card in the mail. If you do not receive this acknowledgement within two to four weeks after mailing this form, please contact your county voter registration office. You can find your poll location and other election information on the Secretary of State's website at www.sos.state.ga.us/elections.



REQUIREMENT: If you are submitting this form by mail and you are registering for the first time in Georgia, enclose a copy of one of the following with your application: A copy of a current and valid photo ID, a copy of a current utility bill, bank statement, government check, paycheck, or other government document that shows your name and address. Those who are entitled to vote by absentee ballot under the Uniform and Overseas Citizens Absentee Voting Act are exempt from this requirement.

Place copy of ID in pocket

Trim copy of ID to size

COUNTY PRECINCT	MUNICIPAL PRECINCT	DISTRICT COMBO	DDS APPLICATION NO.	REGISTRATION NO.	CHANGE OF ADDRESS <input type="checkbox"/> CHANGE OF NAME <input type="checkbox"/> OTHER <input type="checkbox"/>
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1	LAST NAME	FIRST NAME	MIDDLE OR MAIDEN NAME	SUFFIX <input type="checkbox"/> Jr. <input type="checkbox"/> Sr. <input type="checkbox"/> II <input type="checkbox"/> III <input type="checkbox"/> IV <input type="checkbox"/> V														
2	RESIDENCE ADDRESS: House No. and street name	APT. NO.	CITY	COUNTY	STATE GA.	ZIP CODE												
3	MAILING ADDRESS (If different from residence address): Post-office box or route			CITY	STATE	ZIP CODE												
4	TELEPHONE NUMBER ()	DATE OF BIRTH: MM/DD/YYYY	GENDER Male <input type="checkbox"/> Female <input type="checkbox"/>	RACE/ETHNICITY: <input type="checkbox"/> Black <input type="checkbox"/> White <input type="checkbox"/> Hispanic/Latino <input type="checkbox"/> Asian/Pacific Islander <input type="checkbox"/> American Indian <input type="checkbox"/> Other														
5	VALID GA. DRIVER'S LICENSE OR GA. I.D. NO. <table border="1" style="width: 100%; height: 20px;"><tr><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td></tr></table>									If no GA Driver's License or GA. I.D. No., must provide last 4 digits of your Social Security Number	FULL SOCIAL SECURITY NUMBER (OPTIONAL) Last 4 Digits (Required) <table border="1" style="width: 100%; height: 20px;"><tr><td> </td><td> </td><td> </td><td> </td></tr></table>						<input type="checkbox"/> Check if you do not have a GA Driver's License, GA. I.D. No. or Social Security No.	

I SWEAR OR AFFIRM: (Your answer is required under federal law)

Are you a citizen of the United States of America? Check One: Yes No

Will you be 18 years of age on or before election day? Check One: Yes No

If you checked "No" in response to either of these questions, do not complete this form.

I SWEAR OR AFFIRM THAT:

I reside at the address listed above.

I am eligible to vote in Georgia.

I am not serving a sentence for having been convicted of a felony involving moral turpitude.

I have not been judicially declared to be mentally incompetent.

_____ X _____
Date Signature

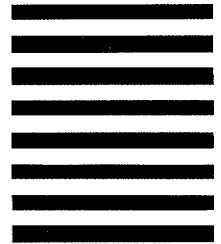
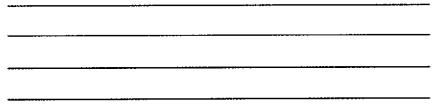
WARNING: Any person who registers to vote knowing that such person does not possess the qualifications required by law, who registers under any name other than such person's own name, or who knowingly gives false information in registering shall be guilty of a felony.
O.C.G.A. § 21-2-561

<p>7</p> <p>May we contact you about working as an Election Day poll officer? Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>If you would like to receive additional information by email, please provide your e-mail address:</p>	<p>8</p> <p>CHANGE OF NAME: If you are changing your name, list the name under which you were previously registered: Last Name Suffix First Middle or Maiden Name</p> <p>CHANGE OF ADDRESS: If you are changing your address or if you were previously registered to vote, list your previous address:</p> <p>CITY COUNTY STATE</p>	<p>Military Active Duty?</p> <p>Yes <input type="checkbox"/></p> <p>No <input type="checkbox"/></p>
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DO NOT FOLD OVER, STAPLE OR TAPE



NO POSTAGE
NECESSARY
IF MAILED
IN THE
UNITED STATES



BUSINESS REPLY MAIL
FIRST-CLASS MAIL PERMIT NO. 19242 ATLANTA GEORGIA
POSTAGE WILL BE PAID BY ADDRESSEE

**HON. BRIAN P. KEMP
SECRETARY OF STATE
STATE OF GEORGIA
PO BOX 105325
ATLANTA GA 30348-9562**



STATE OF GEORGIA APPLICATION FOR VOTER REGISTRATION

If you meet the following qualifications, complete this form and **personally mail** to the Secretary of State or **personally** deliver to your county voter registration office. Prepaid postage is provided for your convenience.

QUALIFICATIONS: To register to vote you must:

- Be a **citizen** of the **United States**
- Be a legal **resident** of the **county**
- Be at least **17½** years of age to register and **18 to vote**
- **Not** be serving a sentence for conviction of a **felony** involving moral turpitude
- Have **not** been found **mentally incompetent** by a judge

See other side for complete instructions.

Once you complete and personally mail or deliver your application, you should receive an acknowledgement from the local voter registration office. Generally this process takes two to four weeks. To follow up on your voter registration application or to obtain more information on voter registration and elections, just call your local voter registration office.

GENERAL INFORMATION:

For more information on election dates, registration deadlines, and local county voter registration telephone numbers, see the Secretary of State's website at WWW.SOS.STATE.GA.US/ELECTIONS.

**HON. BRIAN P. KEMP
SECRETARY OF STATE
1104 West Tower
2 Martin Luther King, Jr. Dr.
SE Atlanta, GA 30334-1505
Telephone: (404) 656-2871**