

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2017

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SENATE BILL 755

Short Title: Voter Freedom Act. (Public)

Sponsors: Senators Clark, Woodard, and Van Duyn (Primary Sponsors).

Referred to: Rules and Operations of the Senate

May 29, 2018

1 A BILL TO BE ENTITLED  
2 AN ACT REGARDING THE REQUIRED PROOF SUFFICIENT TO CHALLENGE A  
3 PERSON'S ELIGIBILITY TO VOTE.

4 Whereas, registered voters in the State of North Carolina should be able to vote free  
5 of intimidation; and

6 Whereas, registered voters in the State of North Carolina should be able to vote free  
7 of specious challenges to their right to vote; and

8 Whereas, during the 2016 general election, numerous registered voters were subjected  
9 to specious claims made by challengers whose claims were then accepted by county boards of  
10 elections challenging the registered voters' right to vote; and

11 Whereas, there are two ways voters may be removed from the voter rolls (i) through  
12 a voter challenge or (ii) by a county board of election's list maintenance efforts; and

13 Whereas, the predominant burden of proof in challenging a voter's right to vote should  
14 be placed upon the challenger regarding whether the State Board of Elections accepts a claim  
15 and ultimately then sustains that claim; and

16 Whereas, a voter cannot be removed from a voter registration roll by list maintenance  
17 efforts, except through a notification process compliant with the National Voter Registration Act;  
18 Now, therefore,

19 The General Assembly of North Carolina enacts:

20 **SECTION 1.** G.S. 163A-911 reads as rewritten:

21 **"§ 163A-911. Challenge procedure other than on day of primary or election.**

22 (a) Right to Challenge; When Challenge May Be Made. – Any registered voter of the  
23 ~~county-precinct~~ may challenge the right of any person to register, remain registered or vote in  
24 such ~~county-precinct~~. No such challenge may be made after the twenty-fifth day before each  
25 primary, general, or special election.

26 ...

27 (e) ~~Prima Facie~~-Evidence That Voter No Longer Resides in Precinct. – The presentation  
28 of a letter mailed by returnable first-class mail to the voter at the address listed on the voter  
29 registration card and returned because the person does not live at the address shall constitute  
30 ~~prima facie~~ evidence that the person no longer resides in the precinct. However, in the absence  
31 of affirmative proof, evidence of a returned mailing, on its own, shall not be sufficient to sustain  
32 the burden of proof required by G.S. 163A-918 in either a preliminary hearing under subsection  
33 (d) of this section or a challenge hearing under G.S. 163A-912.

34 (f) No challenge shall be sustained on the basis of a change of residency, except by (i)  
35 written confirmation of the registrant of a change that renders the registrant ineligible to vote in  
36 the county, (ii) notification from another county or state that the registrant has registered to vote



1 in that county or state, or (iii) exhaustion of the notice provisions required by the National Voter  
2 Registration Act."

3 **SECTION 2.** G.S. 163A-912 reads as rewritten:

4 "**§ 163A-912. Hearing on challenge.**

5 ...

6 (b) At least ~~40~~20 days prior to the hearing scheduled under ~~G.S. 163A-912(e), subsection~~  
7 (c) of this section, the board of elections shall mail by first-class mail, a written notice of the  
8 challenge to the challenged voter, to the address of the voter listed in the registration records of  
9 the county. The notice shall state succinctly the grounds asserted, and shall state the time and  
10 place of the hearing. If the hearing is to be held at the polls, the notice shall state that fact and  
11 shall list the date of the next scheduled election, the location of the voter's polling place, and the  
12 time the polls will be open. A copy of the notice shall be sent to the person making the challenge  
13 and to the chairman of each political party in the county.

14 (c) At the time and place set for the hearing on a challenge entered prior to the date of a  
15 primary or election, the county board of elections shall explain to the challenged registrant the  
16 qualifications for registration and voting in this State. The board chairman, or in his absence the  
17 board secretary, shall then administer the following oath to the challenged registrant:

18 "You swear (or affirm) that the statements and information you shall give in this hearing with  
19 respect to your identity and qualifications to be registered and to vote shall be the truth, the whole  
20 truth, and nothing but the truth, so help you, God."

21 After swearing the challenged registrant, the board shall examine him as to his qualifications to  
22 be registered and to vote. If the challenged registrant insists that he is qualified, the board shall  
23 tender to him the following oath or affirmation:

24 "You do solemnly swear (or affirm) that you are a citizen of the United States; that you are  
25 at least 18 years of age or will become 18 by the date of the next general election; that you have  
26 or will have resided in this State and in the precinct for which registered for 30 days by the date  
27 of the next primary or election; that you are not disqualified from voting by the Constitution or  
28 the laws of this State; that your name is \_\_\_\_\_, and that in such name you were duly registered as  
29 a voter of \_\_\_\_\_ precinct; and that you are the person you represent yourself to be, so help you,  
30 God."

31 If the challenged registrant refuses to take the tendered oath, or submit to the board the affidavit  
32 required by subsection (d), below, the challenge shall be ~~sustained~~sustained only if the board  
33 determines from evidence at the hearing that the challenged registrant received actual notice of  
34 the challenge and the hearing. In the absence of such a determination, the board shall review the  
35 registration of the voter for inclusion in the list maintenance processes under G.S. 163A-877. If  
36 the challenged registrant takes the tendered oath, the board may, nevertheless, sustain the  
37 challenge if it finds the challenged registrant is not a legal voter.

38 The board, in conducting hearings on challenges, shall have authority to subpoena any  
39 witnesses it may deem appropriate, and administer the necessary oaths or affirmations to all  
40 witnesses brought before it to testify to the qualifications of the persons challenged.

41 ...."

42 **SECTION 3.** G.S. 163A-918 reads as rewritten:

43 "**§ 163A-918. Burden of proof.**

44 (a) Challenges shall not be made indiscriminately and may only be made if the challenger  
45 ~~knows, suspects~~knows or reasonably believes such a person not to be qualified and entitled to  
46 vote. The challenger shall demonstrate to the board of elections the basis upon which the  
47 challenger knows or reasonably believes the person is not qualified and not entitled to vote. The  
48 evidence allowed under G.S. 163A-911(e), on its own, shall not be sufficient to constitute the  
49 demonstrated knowledge and belief of a person's qualifications to vote as required by this  
50 subsection.

1 (b) No challenge shall be sustained unless the challenge is substantiated by affirmative  
2 proof. In the absence of such proof, the presumption shall be that the voter is properly registered  
3 or affiliated. The evidence allowed under G.S. 163A-911(e), on its own, shall not be sufficient  
4 to constitute the affirmative proof required by this subsection.

5 (c) The name of an individual whose right to vote is being challenged shall not be  
6 released and is not a public record as defined in G.S. 132-1 until the challenger demonstrates to  
7 the board of elections the burden of proof required under this section to establish the likelihood  
8 the challenge will be substantiated."

9 **SECTION 4.** This act is effective when it becomes law and applies to elections held  
10 on or after that date.