

# OFFICE OF THE ATTORNEY GENERAL

95-00287

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Honorable Fob James, Jr.  
Governor  
State of Alabama  
Montgomery, AL 36130

Honorable Pat Duncan  
Auditor  
State of Alabama  
Montgomery, AL 36130

Honorable Jack Thompson  
Commissioner of Agriculture and Industries  
State of Alabama  
Montgomery, AL 36130

ANSWER TO QUESTION 1  
MODIFIED BY SECTION  
17-4-203 (ACT 95-769,  
SECTION 4).

Voters - Registrars, Board of  
- Probate Judges - Voter  
Registration

The board of registrars is responsible for updating, deleting, adding or correcting the names on the voter's list. In order for the board of registrars to fulfill the duties set forth in the Code, the board must have official custody of the voter's list. No Code provision specifically requires the probate judge to have access to the voter's list that is to be maintained and updated by the board of registrars.

The board should have official custody of the voter registration materials, and the materials should be maintained in the office of the board of registrars.

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Dear Governor, Auditor, and Commissioner:

This opinion is issued in response to your request for an opinion from the Attorney General.

### QUESTIONS 1, 2, AND 3

Under Alabama law what agency of government is responsible for updating, deleting, adding or correcting names on the voter's lists in the 67 counties?

Under Alabama law what agency or entity of government has official custody of the voter's list?

Under Alabama law please set out the various rights and responsibilities of boards of registrars and probate judges as to accessing the voter's list.

### FACTS AND ANALYSIS

Several different Code provisions require the board of registrars to purge or update the voter's list. For example, Code of Alabama 1975, § 17-4-180, et seq., requires the board of registrars to purge the voter's list in August of each year. The board is also given responsibilities pursuant to the creation and maintenance of the statewide voter registration file. Code of Alabama 1975, § 17-4-210, et seq. Section 17-4-213 specifically requires the board to place voters who fail to vote for four years on the inactive list. Section 17-4-214 states that it is the "duty" of the board to provide voter registration information, including reidentification information, to the director of voter registration. This section also provides that the boards of registrars and the county commissions who fail to comply with the provisions of this article shall be guilty of a misdemeanor.

This office has previously held that the board of registrars, pursuant to Code of Alabama 1975, § 17-4-129, must certify to the probate judge a correct list of the voters of the county, and the probate judge must publish a list of the voters by precinct, district or subdivision, which must be accompanied by a certificate from the probate judge that states that the list contains the names of all qualified electors as

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certified to the probate judge by the board. Opinion to Honorable Perry A. Hand, Secretary of State, dated October 2, 1989, A.G. No. 90-00001. That opinion also stated that § 17-4-130 requires the boards of registrars to certify to the probate judge any additions, deletions, corrections or changes from the list previously submitted to the probate judge. These updated lists are then delivered to each polling place.

Pursuant to Code of Alabama 1975, § 17-4-231, after an election the list of registered voters and the voter reidentification forms must be delivered to the board of registrars in order for the board to update the voter's list. This list of registered voters, which reflects the persons that voted in the election, is returned to the probate judge. See Opinion to Honorable Al Tidwell, District Attorney, dated July 15, 1991, A.G. No. 91-00313.

#### CONCLUSION

Based upon the foregoing, the board of registrars is responsible for updating, deleting, adding or correcting the names on the voter's list. In order for the board of registrars to fulfill the duties set forth above, the board must have official custody of the voter's list. No Code provision specifically requires the probate judge to have access to the voter's list that is to be maintained and updated by the board of registrars.

#### QUESTION 4

Under Alabama law what agency or entity of government would have official custody of the various voter registration materials, and in what office should such be kept?

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#### FACTS AND ANALYSIS

A review of various provisions of the Code provides that the voter registration materials should be under the official custody of the board of registrars and should be maintained in the office of the board of registrars.

Code of Alabama 1975, § 17-4-126 and § 17-4-137, require the state to furnish to the board of registrars the forms and notices necessary to carry out their duties with respect to voter registration. The county governing body, pursuant to § 17-4-138, is required to furnish the board with not less than 450 square feet of office space. Section 17-4-190 requires the county commission to furnish the board with the supplies, equipment, forms, stationery, and newspaper advertisements necessary for the performance of their duties with respect to purging electors. Section 17-4-159 requires the county commission to furnish supplies, equipment, telephones, office space and necessary clerical help to the boards of registrars. Given these provisions and the duties of the board of registrars as set forth above in questions one, two, and three, the board of registrars should have official custody of the voter registration materials and, the materials should be maintained in the office of the board of registrars.

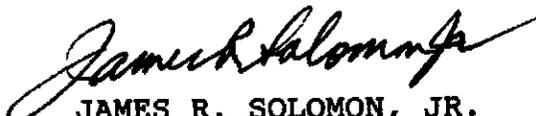
#### CONCLUSION

The board of registrars should have official custody of the voter registration materials, and the materials should be maintained in the office of the board of registrars.

I hope this sufficiently answers your questions. If our office can be of further assistance, please contact Brenda F. Smith of my staff.

Sincerely,

JEFF SESSIONS  
Attorney General  
By:

  
JAMES R. SOLOMON, JR.  
Chief, Opinions Division

JS/BFS  
J/5.95/f