

SENATE BILL 432

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2003 Regular Session  
(31r1326)

**ENROLLED BILL**

-- Education, Health, and Environmental Affairs/Ways and Means --

Introduced by **Senator Stone (Chairman, Ethics and Election Law  
Subcommittee)**

Read and Examined by Proofreaders:

\_\_\_\_\_  
Proofreader.

\_\_\_\_\_  
Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this  
\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_ o'clock, \_\_\_\_ M.

\_\_\_\_\_  
President.

CHAPTER 379

1 AN ACT concerning

2 **Election Law - Compliance With Federal "~~Help America Vote Act~~" Law**

3 FOR the purpose of altering provisions of the Election Law to comply with the  
4 requirements of the federal "Help America Vote Act of 2002"; designating the  
5 State Board of Elections as the official office required to provide certain  
6 information in accordance with the Uniform Overseas Citizens Absentee Voting  
7 Act; establishing a procedure for the casting and canvassing of provisional  
8 ballots; altering certain procedures when an individual's right to vote is  
9 challenged; requiring that certain information be made available; altering  
10 certain polling place procedures; repealing provisions relating to a temporary  
11 certificate of registration; altering a certain definition; defining a certain term;  
12 and generally relating to provisional ballots and compliance with mandatory  
13 provisions of federal law.

14 BY renumbering

15 Article - Election Law

1 Section 1-101(vv) through (zz), respectively  
2 to be Section 1-101(ww) through (aaa), respectively  
3 Annotated Code of Maryland  
4 (2003 Volume)

5 BY repealing and reenacting, with amendments,  
6 Article - Election Law  
7 Section 1-101(ll), 2-102(b), 9-403, 9-404, 9-405, 10-306, 10-310(a), 10-311(b),  
8 10-312, 10-315, 11-101(c) and (f), 11-303, and 16-304  
9 Annotated Code of Maryland  
10 (2003 Volume)

11 BY adding to  
12 Article - Election Law  
13 Section 1-101(vv) and 11-305  
14 Annotated Code of Maryland  
15 (2003 Volume)

16 BY repealing  
17 Article - Election Law  
18 Section 3-601 and 11-305  
19 Annotated Code of Maryland  
20 (2003 Volume)

21 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
22 MARYLAND, That Section(s) 1-101(vv) through (zz), respectively, of Article -  
23 Election Law of the Annotated Code of Maryland be renumbered to be Section(s)  
24 1-101(ww) through (aaa), respectively.

25 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland  
26 read as follows:

27 **Article - Election Law**

28 1-101.

29 (ll) "Provisional ballot" means a ballot [distributed to an individual after the  
30 individual has completed a temporary certificate of registration] THAT IS CAST BY AN  
31 INDIVIDUAL BUT NOT COUNTED UNTIL THE INDIVIDUAL'S QUALIFICATIONS TO VOTE  
32 HAVE BEEN CONFIRMED BY THE LOCAL BOARD.

33 (VV) "VOTE" MEANS TO CAST A BALLOT THAT IS COUNTED.

1 2-102.

2 (b) In exercising its authority under this article and in order to ensure  
3 compliance with this article and with any requirements of federal law, the State  
4 Board shall:

5 (1) supervise the conduct of elections in the State;

6 (2) direct, support, monitor, and evaluate the activities of each local  
7 board;

8 (3) have a staff sufficient to perform its functions;

9 (4) adopt regulations to implement its powers and duties;

10 (5) receive, and in its discretion audit, campaign finance reports;

11 (6) appoint a State Administrator in accordance with § 2-103 of this  
12 subtitle;

13 (7) maximize the use of technology in election administration, including  
14 the development of a plan for a comprehensive computerized elections management  
15 system;

16 (8) canvass and certify the results of elections as prescribed by law;

17 (9) make available to the general public, in a timely and efficient  
18 manner, information on the electoral process, including a publication that includes  
19 the text of this article, relevant portions of the Maryland Constitution, and  
20 information gathered and maintained regarding elections;

21 (10) subject to §§ 2-106 and 13-341 of this article, receive, maintain, and  
22 serve as a depository for elections documents, materials, records, statistics, reports,  
23 certificates, proclamations, and other information prescribed by law or regulation;  
24 [and]

25 (11) prescribe all forms required under this article; AND

26 (12) SERVE AS THE OFFICIAL DESIGNATED OFFICE IN ACCORDANCE  
27 WITH THE UNIFORM OVERSEAS CITIZENS ABSENTEE VOTING ACT FOR PROVIDING  
28 INFORMATION REGARDING VOTER REGISTRATION AND ABSENTEE BALLOT  
29 PROCEDURES FOR ABSENT UNIFORMED SERVICES VOTERS AND OVERSEAS VOTERS  
30 WITH RESPECT TO ELECTIONS FOR FEDERAL OFFICE.

31 [3-601.

32 (a) An individual whose voter registration information is not included in the  
33 precinct register shall be allowed to vote by a provisional ballot upon receiving and  
34 completing a temporary certificate of registration.

1 (b) (1) A temporary certificate of registration shall be issued in accordance  
2 with the provisions of paragraph (2) of this subsection only by:

3 (i) an election judge at the precinct on election day; or

4 (ii) the election director at the local board office on election day or  
5 during the period before election day when voter registration is closed.

6 (2) A temporary certificate of registration shall be issued if the  
7 individual:

8 (i) provides proof of identity, as prescribed by the State Board by  
9 regulation; and

10 (ii) completes an application for a temporary certificate of  
11 registration in accordance with the provisions of subsection (c) of this section.

12 (c) An application for a temporary certificate of registration shall be in writing  
13 and signed under penalty of perjury, contain the information required by subsection  
14 (d) of this section, and require the applicant to affirm:

15 (1) the applicant's current address and telephone number;

16 (2) that the applicant:

17 (i) has not voted in the current election in any other precinct in the  
18 State or in any other state;

19 (ii) is a current resident of the precinct and county in which the  
20 applicant seeks to vote; and

21 (iii) meets the qualifications to register to vote; and

22 (3) that the applicant meets one of the following conditions:

23 (i) the applicant is currently registered in another county in the  
24 State but has moved to a new county where the applicant seeks to vote; or

25 (ii) the applicant has, within the last 2 years made a timely effort to  
26 register to vote or update a voter registration record and, following the transaction,  
27 believed in good faith that, without further action on the part of the applicant, the  
28 requirements for registration or for updating the registration record had been  
29 satisfactorily completed.

30 (d) In support of the assertion required by subsection (c)(3) of this section, the  
31 applicant shall:

32 (1) if the applicant is currently registered to vote in the State, identify  
33 the county where the applicant is registered; or

1 (2) if the applicant has attempted to register or update a voter  
2 registration record, provide:

3 (i) except as provided under subsection (e) of this section, the name  
4 and location of the voter registration agency where the transaction occurred;

5 (ii) the approximate date of the transaction; and

6 (iii) any additional information required by the State Board.

7 (e) An applicant for a temporary certificate of registration is not required to  
8 provide the name and location of a voter registration agency that is designated under  
9 § 3-204(a)(2)(i) or (ii) of this title.]

10 9-403.

11 (a) The State Board shall establish guidelines for the administration of  
12 provisional ballot voting by the local boards.

13 (b) The guidelines shall provide for:

14 (1) the [temporary certificate registration] PROVISIONAL BALLOT  
15 APPLICATION process;

16 (2) ballot security, including storage of returned ballots;

17 (3) the canvass process;

18 (4) notice of the canvass to candidates, political parties, campaign  
19 organizations, news media, and the general public;

20 (5) observers of the process;

21 (6) review of [voted] ballots and envelopes SUBMITTED for compliance  
22 with the law and for machine tabulation acceptability;

23 (7) standards for disallowance of ballots during the canvass; [and]

24 (8) storage and retention of ballots following canvass and certification;

25 AND

26 (9) THE FREE ACCESS SYSTEM REQUIRED UNDER § 11-303(E) OF THIS  
27 ARTICLE.

28 (c) The State Board shall:

29 (1) in consultation with the local boards, assess the guidelines before  
30 each primary election; and

31 (2) revise the guidelines if indicated.

1 9-404.

2 (A) [An] IF AN INDIVIDUAL IS ELIGIBLE UNDER SUBSECTION (B) OF THIS  
3 SECTION, THE individual [may vote using a provisional ballot on election day if the  
4 individual meets the requirements for a temporary certificate of registration set forth  
5 under § 3-601 of this article] SHALL BE ISSUED AND MAY CAST A PROVISIONAL  
6 BALLOT:

7 (1) AT A POLLING PLACE ON ELECTION DAY; OR

8 (2) AT THE LOCAL BOARD OFFICE IN THE COUNTY WHERE THE  
9 INDIVIDUAL RESIDES AFTER THE CLOSE OF REGISTRATION AND BEFORE THE  
10 CLOSING OF THE POLLS ON ELECTION DAY.

11 (B) AN INDIVIDUAL IS ELIGIBLE TO CAST A PROVISIONAL BALLOT IF:

12 (1) THE INDIVIDUAL DECLARES IN A WRITTEN AFFIRMATION  
13 SUBMITTED WITH THE PROVISIONAL BALLOT THAT THE INDIVIDUAL IS A  
14 REGISTERED VOTER IN THE STATE AND IS ELIGIBLE TO VOTE IN THAT ELECTION;  
15 AND

16 (2) (I) THE INDIVIDUAL'S NAME DOES NOT APPEAR ON THE PRECINCT  
17 REGISTER; ~~OR~~

18 (II) AN ELECTION OFFICIAL ASSERTS THAT THE INDIVIDUAL IS  
19 NOT ELIGIBLE TO VOTE; OR

20 ~~(3)~~ (III) THE INDIVIDUAL DOES NOT HAVE THE NECESSARY  
21 IDENTIFICATION.

22 (C) IN ADDITION TO THE INDIVIDUALS WHO CAST PROVISIONAL BALLOTS  
23 UNDER SUBSECTIONS (A) AND (B) OF THIS SECTION, ANY INDIVIDUAL WHO APPEARS  
24 TO VOTE DURING A PERIOD COVERED BY A COURT ORDER OR OTHER ORDER  
25 EXTENDING THE TIME FOR CLOSING THE POLLS SHALL CAST A PROVISIONAL  
26 BALLOT. A PROVISIONAL BALLOT CAST UNDER ~~OF~~ THIS SUBSECTION SHALL BE  
27 SEPARATED AND HELD APART FROM OTHER PROVISIONAL BALLOTS CAST BY THOSE  
28 NOT AFFECTED BY THE ORDER.

29 9-405.

30 [An individual requesting a provisional ballot] BEFORE AN INDIVIDUAL CASTS  
31 A PROVISIONAL BALLOT:

32 (1) THE INDIVIDUAL shall complete and sign [a temporary certificate of  
33 registration as provided under § 3-601 of this article] THE PROVISIONAL BALLOT  
34 APPLICATION PRESCRIBED BY THE STATE BOARD; AND

35 (2) THE ELECTION OFFICIAL ISSUING THE BALLOT SHALL GIVE THE  
36 INDIVIDUAL WRITTEN INFORMATION ADVISING THE INDIVIDUAL THAT, AND

1 DESCRIBING HOW, THE INDIVIDUAL WILL BE ABLE TO ASCERTAIN WHETHER THE  
2 VOTE WAS COUNTED AND, IF IT WAS NOT COUNTED, THE REASON IT WAS NOT.

3 10-306.

4 (a) (1) The State Board, in consultation with the election directors of the  
5 local boards, shall specify and produce THE FOLLOWING informational materials to be  
6 posted in each polling place:

7 (I) A SPECIMEN BALLOT FOR THAT PRECINCT;

8 (II) INSTRUCTIONS RELATING TO THE AVAILABILITY OF  
9 ASSISTANCE TO ELDERLY AND DISABLED VOTERS;

10 (III) INFORMATION REGARDING THE DATE OF THE ELECTION AND  
11 THE HOURS DURING WHICH THE POLLING PLACES WILL BE OPEN;

12 (IV) INSTRUCTIONS ON HOW TO VOTE, INCLUDING HOW TO CAST A  
13 VOTE;

14 (V) INSTRUCTIONS FOR MAIL-IN REGISTRANTS AND FIRST-TIME  
15 VOTERS;

16 (VI) GENERAL INFORMATION ON VOTING RIGHTS UNDER  
17 APPLICABLE FEDERAL AND STATE LAWS AND INSTRUCTIONS ON HOW TO CONTACT  
18 THE APPROPRIATE LOCAL BOARD IF THESE RIGHTS ARE ALLEGED TO HAVE BEEN  
19 VIOLATED;

20 (VII) INFORMATION REGARDING PROVISIONAL VOTING, INCLUDING:

21 1. INFORMATION ON THE RIGHT OF AN INDIVIDUAL TO CAST  
22 A PROVISIONAL BALLOT;

23 2. HOW TO FILL OUT THE PROVISIONAL BALLOT  
24 APPLICATION AND CAST THE PROVISIONAL BALLOT; AND

25 3. THE STANDARDS THAT WILL BE APPLIED IN  
26 DETERMINING WHETHER A PROVISIONAL BALLOT WILL BE COUNTED; AND

27 (VIII) GENERAL INFORMATION ON FEDERAL AND STATE LAWS  
28 REGARDING PROHIBITIONS ON ACTS OF FRAUD AND MISREPRESENTATION.

29 (2) A local board may produce other materials appropriate for the polling  
30 places in the county.

31 (b) Before the polls open, the election judges for each precinct shall post ALL  
32 INFORMATION SPECIFIED UNDER SUBSECTION (A) OF THIS SECTION [in the voting  
33 room:

34 (1) the specimen ballot for the precinct;

1 (2) instructions relating to the availability of assistance to elderly and  
2 disabled voters; and

3 (3) any other informational material to assist voters on election day, as  
4 directed by the election director].

5 10-310.

6 (a) [In] FOR EACH INDIVIDUAL WHO SEEKS TO VOTE, AN ELECTION JUDGE,  
7 IN accordance with instructions provided by the local board, [an election judge shall  
8 qualify a voter by] SHALL:

9 (1) [locating] LOCATE the [voter's] INDIVIDUAL'S name in the precinct  
10 register and [locating] LOCATE the preprinted voting authority card AND THEN  
11 AUTHORIZE THE INDIVIDUAL TO VOTE A REGULAR BALLOT;

12 (2) (i) if the [voter's] INDIVIDUAL'S name is not found on the precinct  
13 register, [searching] SEARCH the inactive list and if the name is found, [qualifying  
14 the voter for voting] AUTHORIZE THE INDIVIDUAL TO VOTE A REGULAR BALLOT [as  
15 instructed]; or

16 (ii) if the [voter's] INDIVIDUAL'S name is not on the inactive list,  
17 [contacting the local board office and, if authorized, issuing a temporary certificate of  
18 registration, as provided in § 3-601] REFER THE INDIVIDUAL FOR PROVISIONAL  
19 BALLOT VOTING UNDER § 9-404 of this article;

20 (3) establishing the identity of the voter by requesting the voter to state  
21 the month and day of the voter's birth and comparing the response to the information  
22 listed in the precinct register;

23 (4) verifying the address of the voter's residence;

24 (5) if any changes to the voting authority card are indicated by a voter,  
25 making the appropriate changes in information on the card or other appropriate form;  
26 and

27 (6) having the voter sign the voting authority card and either issuing the  
28 voter a ballot or sending the voter to a machine to vote.

29 10-311.

30 (b) Except as provided in § 10-303(d)(2) of this subtitle and subsection (d) of  
31 this section, a challenger or watcher has the right to:

32 (1) enter the polling place one-half hour before the polls open;

33 (2) enter or be present at the polling place at any time when the polls are  
34 open;

1 (3) remain in the polling place until the completion of all tasks  
2 associated with the close of the polls under § 10-314 of this subtitle and the election  
3 judges leave the polling place;

4 (4) maintain a list of registered voters who have voted, OR INDIVIDUALS  
5 WHO HAVE CAST PROVISIONAL BALLOTS, and take the list outside of the polling  
6 place; and

7 (5) enter and leave a polling place for the purpose of taking outside of the  
8 polling place information that identifies registered voters who have cast ballots OR  
9 INDIVIDUALS WHO HAVE CAST PROVISIONAL BALLOTS.

10 10-312.

11 (a) The right of an individual to vote may be challenged at the polls only on  
12 the grounds of identity.

13 (b) [(1)] A challenge to an [applicant's] INDIVIDUAL'S right to vote shall be[:

14 (i)] made before [a voter] THE INDIVIDUAL is issued a ballot or a  
15 voting authority card[; and

16 (ii) decided before the applicant enters the voting booth].

17 [(2) (i) An individual who challenges an applicant's right to vote shall  
18 provide the reason for the challenge under an oath administered by an election judge.

19 (ii) An election judge shall question the challenged voter under  
20 oath about the reason for the challenge.

21 (3) (i) If a majority of the election judges believes the applicant to be  
22 the individual registered, the applicant shall be permitted to vote.

23 (ii) If a majority of the election judges believes the applicant to be a  
24 person other than the individual registered, the applicant may not vote and the word  
25 "rejected" shall be written on the applicant's voting authority card.

26 (4) If an applicant is denied the right to vote under paragraph (3)(ii) of  
27 this subsection, the applicant has the right to appeal the decision to the local board.]

28 (C) IF A CHALLENGE IS MADE, THE ELECTION JUDGE RECEIVING THE  
29 CHALLENGE SHALL:

30 (1) REQUIRE THE CHALLENGER TO PROVIDE IN WRITING, UNDER  
31 PENALTY OF PERJURY, THE REASONS FOR THE CHALLENGE;

32 (2) OFFER THE CHALLENGED INDIVIDUAL THE OPPORTUNITY TO:

33 (I) CAST A PROVISIONAL BALLOT; AND

1 (II) SUBMIT AN ATTESTATION, WITNESSED BY THE ELECTION  
2 JUDGE, OF THE INDIVIDUAL'S IDENTITY; AND

3 (3) SUBMIT THE PROVISIONAL BALLOT AND OTHER MATERIALS  
4 RELATED TO THE CHALLENGE TO THE LOCAL BOARD.

5 (D) DURING THE CANVASS OF PROVISIONAL BALLOTS, THE LOCAL BOARD  
6 SHALL DETERMINE, BASED ON THE INFORMATION SUBMITTED BY THE CHALLENGER  
7 AND THE CHALLENGED INDIVIDUAL, WHETHER THE CHALLENGED INDIVIDUAL IS:

8 (1) THE REGISTERED VOTER HE OR SHE CLAIMS TO BE; AND

9 (2) OTHERWISE QUALIFIED TO VOTE.

10 10-315.

11 (a) Every employer in the State shall permit any employee who [is] CLAIMS  
12 TO BE a registered voter in the State a period not to exceed 2 hours absence from work  
13 on election day in order to CAST A ~~vote~~ BALLOT if the employee does not have 2 hours  
14 of continuous off-duty during the time that the polls are open.

15 (b) The employer shall pay the employee for the 2 hours absence from work.

16 (c) (1) Each employee shall furnish to the employer proof that the employee  
17 has voted OR ATTEMPTED TO VOTE.

18 (2) The proof that an employee has voted OR ATTEMPTED TO VOTE shall  
19 be on a form prescribed by the State Board.

20 11-101.

21 (c) (1) "Canvass" means the entire process of vote tallying, vote tabulation,  
22 and vote verification or audit, culminating in the production and certification of the  
23 official election results.

24 (2) For absentee ballots, the "canvass" includes the opening of any  
25 envelope accompanying an absentee ballot and the assembly and review of absentee  
26 ballots in preparation for vote tallying.

27 (3) FOR PROVISIONAL BALLOTS, THE "CANVASS" INCLUDES THE REVIEW  
28 OF THE PROVISIONAL BALLOT APPLICATIONS DESCRIBED IN § 11-303 OF THIS TITLE  
29 AND THE ASSEMBLY AND REVIEW OF PROVISIONAL BALLOTS IN PREPARATION FOR  
30 VOTE TALLYING.

31 (f) (1) "Unofficial returns" means a vote tabulation reported on election  
32 night after the polls close.

33 (2) "Unofficial returns" does not include the absentee ballot count OR  
34 THE PROVISIONAL BALLOT COUNT.

1 11-303.

2 (a) Following an election, each local board shall meet at its designated  
3 counting center to canvass the provisional ballots [submitted] CAST in that election  
4 in accordance with the regulations and guidelines established by the State Board.

5 (b) A local board may not open an envelope of a provisional ballot until the  
6 local board has approved the [temporary certificate] PROVISIONAL BALLOT  
7 APPLICATION.

8 (c) The State Board shall adopt regulations to implement this section.

9 (d) (1) A local board may not reject a provisional ballot except by unanimous  
10 vote and in accordance with regulations of the State Board.

11 (2) The local board shall reject a provisional ballot if:

12 (i) pursuant to paragraph (4) of this subsection, the local board  
13 determines that the individual who [submitted] CAST the provisional ballot is not [a  
14 registered voter] QUALIFIED TO VOTE THAT PROVISIONAL BALLOT;

15 (ii) the individual failed to sign the oath on the [temporary  
16 certificate of registration] PROVISIONAL BALLOT APPLICATION;

17 (iii) the individual [received] CAST more than one ballot for the  
18 same election; or

19 (iv) the local board determines that a provisional ballot is  
20 intentionally marked with an identifying mark that is clearly evident and placed on  
21 the ballot for the purpose of identifying the ballot.

22 (3) If the intent of the voter WITH RESPECT TO A PARTICULAR CONTEST  
23 is not clearly demonstrated, the local board shall reject only the vote for that [office or  
24 question] CONTEST.

25 (4) For the purposes of this section, an individual is [a registered voter]  
26 QUALIFIED TO VOTE THE PROVISIONAL BALLOT CAST ~~if~~ ~~if~~:

27 ~~(i)~~ the local board determines THAT:

28 ~~{i}~~ ~~1-~~ [that the voter's name is on its list of registered voters; or]  
29 THE INDIVIDUAL IS REGISTERED IN THE STATE; ~~AND~~

30 ~~{ii}~~ ~~2-~~ [pursuant to paragraph (5) of this subsection, that the  
31 voter submitted a temporary certificate of registration that contains the affirmations  
32 required by, and otherwise complies fully with, the requirements of § 3-601 of this  
33 article.] BASED ON THE ADDRESS GIVEN ON THE PROVISIONAL BALLOT  
34 APPLICATION, THE INDIVIDUAL RESIDES IN THE PRECINCT IN WHICH THE  
35 INDIVIDUAL SEEKS TO VOTE; ~~OR~~

36 ~~(ii)~~ IN CASES WHERE

1                   (III)    IF THE PROVISIONAL BALLOT WAS CAST BECAUSE THE VOTER  
 2 FAILED TO PROVIDE REQUIRED IDENTIFICATION, ~~THE LOCAL BOARD DETERMINES~~  
 3 ~~THAT~~ THE INDIVIDUAL WHO CAST THE PROVISIONAL BALLOT HAS MET THE  
 4 IDENTIFICATION REQUIREMENTS ESTABLISHED BY THE STATE BOARD; ~~OR AND~~

5                   (IV)    IF THE PROVISIONAL BALLOT WAS CAST DURING A PERIOD  
 6 COVERED BY A COURT ORDER OR OTHER ORDER EXTENDING THE TIME FOR CLOSING  
 7 THE POLLS, THE ORDER HAS NOT BEEN INVALIDATED BY A SUBSEQUENT COURT  
 8 ORDER.

9                   [(5)    In determining under paragraph (4) of this subsection, whether an  
 10 application for a temporary certificate of registration complies with § 3-601 of this  
 11 article, a local board shall examine the contents and execution of the application but  
 12 may not challenge the accuracy of an assertion in the application unless that  
 13 assertion relates to one or more actions of the local board.

14               (e)    (1)    Within 10 days after any election, an individual who voted by  
 15 provisional ballot may request confirmation from the local election board that the  
 16 ballot submitted by the individual is either accepted or rejected by the local election  
 17 board.

18               (2)    Upon receiving a request under paragraph (1) of this subsection, the  
 19 local election board is required to provide confirmation that the individual's ballot is  
 20 either accepted or rejected.

21               (3)    If the ballot is rejected, at the request of the individual the local  
 22 election board shall state in writing the basis for rejecting the ballot.]

23               (E)    (1)    ~~EACH LOCAL~~ THE STATE BOARD SHALL ENSURE THE  
 24 ESTABLISHMENT OF A SYSTEM THAT ANY INDIVIDUAL WHO CASTS A PROVISIONAL  
 25 BALLOT MAY ACCESS WITHOUT COST TO DISCOVER WHETHER THE BALLOT WAS  
 26 COUNTED AND, IF NOT COUNTED, THE REASON IT WAS NOT.

27               (2)    THE SYSTEM ESTABLISHED UNDER PARAGRAPH (1) OF THIS  
 28 SUBSECTION SHALL ENSURE THE CONFIDENTIALITY OF THE INDIVIDUAL WHO  
 29 ACCESSES THE SYSTEM AND THE SECRECY OF EACH BALLOT.

30 [11-305.

31               (a)    A candidate or individual who voted using a provisional ballot aggrieved by  
 32 the decision of a local board to reject, or not to reject, a provisional ballot shall have  
 33 the right of appeal to the circuit court for the county.

34               (b)    The appeal must be filed within 5 days from the date of the completion of  
 35 the official canvass by the board of all the votes cast at the election.

36               (c)    The appeal shall be heard de novo, without a jury, as soon as possible.

1 (d) (1) The decision of the circuit court may be appealed to the Court of  
2 Special Appeals, provided the appeal is taken within 48 hours from the entry of the  
3 decision of the circuit court.

4 (2) The appeal shall be heard and decided on the original papers,  
5 including a written transcript of the testimony taken in the case.

6 (3) The original papers and the transcript shall be transmitted to the  
7 Court of Special Appeals within 5 days from the taking of the appeal, and the appeal  
8 shall be heard as soon as possible.]

9 11-305.

10 ANY PERSON WHO ASSERTS THAT AN ELECTION OFFICIAL HAS VIOLATED THE  
11 PROVISIONS OF THIS ARTICLE RELATING TO PROVISIONAL BALLOTS MAY FILE AN  
12 ADMINISTRATIVE COMPLAINT UNDER PROCEDURES ESTABLISHED BY THE STATE  
13 BOARD.

14 16-304.

15 (a) In a polling place on election day, an election judge may not willfully and  
16 knowingly:

17 (1) permit a ballot or ballots to be placed into a ballot box prior to the  
18 time for voting; or

19 (2) place a ballot in a ballot box unless the ballot is offered by a properly  
20 registered voter OR IS A PROVISIONAL BALLOT PLACED WITH OTHER PROVISIONAL  
21 BALLOTS OF THE SAME CHARACTER.

22 (b) A person may not:

23 (1) cause or permit a [vote] BALLOT, INCLUDING A PROVISIONAL  
24 BALLOT, to be cast or [a ballot to be] deposited in a ballot [box or a] BOX, voting  
25 device, OR OTHER RECEPTACLE DESIGNED FOR THE COLLECTION OF BALLOTS other  
26 than by a person [properly qualified] ENTITLED UNDER THIS ARTICLE to cast a  
27 ballot; or

28 (2) substitute, alter, add, or remove a [voted] SUBMITTED ballot from a  
29 ballot [box or a] BOX, voting device, OR OTHER RECEPTACLE DESIGNED FOR THE  
30 COLLECTION OF BALLOTS, except when instructed to do so by the election director.

31 (c) A person who violates this section is guilty of a felony and is subject to  
32 imprisonment for not less than 1 year nor more than 5 years.

33 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
34 October 1, 2003.

