HOUSE BILL 1658

G1   EMERGENCY BILL   8lr3337

By: **Delegates A. Washington, Afzali, Buckel, Ebersole, Frick, Hixson, Hornberger, Kelly, Korman, Moon, Patterson, Platt, Tarlau, M. Washington, and Wilkins**
Introduced and read first time: February 9, 2018
Assigned to: Ways and Means

A BILL ENTITLED

1   AN ACT concerning

2   **Election Law – Absentee Ballot Requests, Delivery, and Marking**

3   FOR the purpose of requiring the State Board of Elections approved absentee ballot
4   application to require the applicant to provide certain information; repealing a
5   provision of law requiring a local board of elections to provide an absentee ballot by
6   facsimile transmission if requested by a voter; altering a certain provision of law to
7   require a local board to provide an absentee ballot by the Internet only if requested
8   by certain uniformed services voters or overseas voters or certain voters with a
9   disability, rather than to any voter on request; authorizing the State Board to
10   provide an accessible optional online ballot marking tool for use by certain uniformed
11   services voters or overseas voters or certain voters with a disability, rather than to
12   any voter, who requested to have an absentee ballot sent by the Internet; making
13   this Act an emergency measure; and generally relating to absentee ballot requests,
14   delivery, and marking.

15   BY repealing and reenacting, with amendments,
16   Article – Election Law
17   Section 9–305, 9–306, and 9–308.1
18   Annotated Code of Maryland
19   (2017 Replacement Volume and 2017 Supplement)

20   SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
21   That the Laws of Maryland read as follows:

22   **Article – Election Law**

23   9–305.

24   (a)   A voter may request an absentee ballot by completing and submitting:

EXPLANATION: **CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.**
          [Brackets] indicate matter deleted from existing law.

1   (1)   the State Board approved absentee ballot application;

2   (2)   a form provided under federal law;

3   (3)   a written request that includes:

4   (i)   the voter's name, residence address, and signature; and

5   (ii)   the address to which the ballot is to be mailed, if different from
6   the residence address; or

7   (4)   as specified in subsection (c) of this section, the accessible online
8   absentee ballot application provided by the State Board.

9   (b)   An application for an absentee ballot must be received by a local board:

10   (1)   if the voter requests the absentee ballot be sent by mail or facsimile
11   transmission, not later than the Tuesday preceding the election, at the time specified in the
12   guidelines;

13   (2)   if the voter requests the absentee ballot be sent by the Internet, not
14   later than the Friday preceding the election, at the time specified in the guidelines; or

15   (3)   if the voter or the voter's duly authorized agent applies for an absentee
16   ballot in person at the local board office, not later than the closing of the polls on election
17   day.

18   (c)   The **STATE BOARD APPROVED ABSENTEE BALLOT APPLICATION AND**
19   **THE ACCESSIBLE** online absentee ballot application provided by the State Board shall
20   require the applicant to provide:

21   (1)   a Maryland driver's license number or Maryland identification card
22   number, the last four digits of the applicant's Social Security number, and other
23   information identified by the State Board that is not generally available to the public but
24   is readily available to the applicant; or

25   (2)   if the applicant is an absent uniformed services voter or overseas voter
26   as defined in the federal Uniformed and Overseas Citizens Absentee Voting Act and does
27   not have a Maryland driver's license or Maryland identification card, a Social Security
28   number.

29   9–306.

30   (a)   Promptly after receipt of an application, the election director shall review the
31   application and determine whether the applicant qualifies to vote by absentee ballot.

32   (b)   **(1)**   [If] **EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS**

1   **SUBSECTION, IF** the applicant qualifies to vote by absentee ballot, the local board shall
2   provide the ballot by one of the following methods requested by the voter:

3   **[**(1)**]**   **(I)**   mail; **OR**

4   **[**(2)   facsimile transmission;

5   (3)   the Internet; or

6   (4)**]**   **(II)**   by hand during an in–person transaction.

7   **(2)   IF A VOTER IS AN ABSENT UNIFORMED SERVICES VOTER OR**
8   **OVERSEAS VOTER AS DEFINED IN THE UNIFORMED AND OVERSEAS CITIZENS**
9   **ABSENTEE VOTING ACT OR A VOTER WITH A DISABILITY AS DEFINED IN THE**
10   **AMERICANS WITH DISABILITIES ACT WHO IS UNABLE TO INDEPENDENTLY MARK A**
11   **BALLOT BY HAND, THE LOCAL BOARD SHALL PROVIDE AN ABSENTEE BALLOT BY ONE**
12   **OF THE FOLLOWING METHODS REQUESTED BY THE VOTER:**

13   **(I)   MAIL;**

14   **(II)   BY HAND DURING AN IN–PERSON TRANSACTION; OR**

15   **(III)   THE INTERNET.**

16   (c)   Once ballots are available, the local board shall provide the ballot to a
17   qualified applicant:

18   (1)   as soon as practicable after receipt of the request; or

19   (2)   immediately for an in–person transaction with a voter or the voter's
20   duly authorized agent.

21   (d)   (1)   If the members of the local board determine that the applicant is not
22   entitled to vote by absentee ballot, the local board shall notify the applicant as soon as
23   practicable after receipt of the application of the reasons for the rejection.

24   (2)   (i)   The local board may delegate the determination under
25   paragraph (1) of this subsection to the staff of the local board.

26   (ii)   If the determination has been delegated, the applicant may
27   appeal the rejection to the members of the local board, who shall decide the appeal as
28   expeditiously as practicable.

29   (e)   Not more than one absentee ballot may be issued to a voter unless the election
30   director of the local board has reasonable grounds to believe that an absentee ballot
31   previously issued to the voter has been lost, destroyed, or spoiled.

1   9–308.1.

2   (a)   In this section:

3   (1)   "online ballot marking tool" includes a system that allows a voter to:

4   (i)   access a blank ballot through the Internet;

5   (ii)   electronically mark the ballot with the voter's selections; and

6   (iii)   print a paper copy of the marked ballot for mailing to a local
7   board; and

8   (2)   "online ballot marking tool" does not include a system that is capable of
9   storing, tabulating, or transmitting votes or voted ballots by electronic or electromagnetic
10   means through the Internet.

11   (b)   The State Board may provide an accessible optional online ballot marking tool
12   for use by [a voter] AN ABSENT UNIFORMED SERVICES VOTER OR OVERSEAS VOTER
13   AS DEFINED IN THE UNIFORMED AND OVERSEAS CITIZENS ABSENTEE VOTING ACT
14   OR A VOTER WITH A DISABILITY AS DEFINED IN THE AMERICANS WITH DISABILITIES
15   ACT WHO IS UNABLE TO INDEPENDENTLY MARK A BALLOT BY HAND AND who
16   requested to have the absentee ballot sent by the Internet UNDER § 9–306(B)(2) OF THIS
17   SUBTITLE.

18   (c)   (1)   Except as provided in paragraph (2) of this subsection, the State Board
19   shall certify that an online ballot marking tool satisfies all of the certification requirements
20   under § 9–102(d) of this title before approving an online ballot marking tool for use by
21   voters.

22   (2)   An online ballot marking tool is not required to satisfy the requirements
23   of:

24   (i)   § 9–102(d)(2) of this title if the U.S. Election Assistance
25   Commission has not approved specific performance and test standards for online ballot
26   marking tools; or

27   (ii)   § 9–102(d)(1)(iii) of this title.

28   (d)   (1)   This subsection applies if an online ballot marking tool utilizes a bar
29   code that is used to generate a ballot that is acceptable for machine tabulation.

30   (2)   A local board shall compare the vote in each contest on the ballot
31   marked by the voter to the vote in each contest on the ballot generated from the bar code
32   during the canvass.

1   (3)   If there is a discrepancy in any contest between the vote on the ballot
2 marked by the voter and the vote on the ballot generated from the bar code, the vote on the
3 ballot marked by the voter shall be considered valid and shall be counted.

4   SECTION 2. AND BE IT FURTHER ENACTED, That this Act is an emergency
5 measure, is necessary for the immediate preservation of the public health or safety, has
6 been passed by a yea and nay vote supported by three–fifths of all the members elected to
7 each of the two Houses of the General Assembly, and shall take effect from the date it is
8 enacted.