

Chapter 514

(House Bill 1048)

AN ACT concerning

Election Law – Voting – Permanent Absentee Ballot List, Ballot Drop Boxes, and Reports

FOR the purpose of requiring a local board of elections to designate the locations of ballot drop boxes in accordance with certain factors; requiring each local board to submit certain proposed locations to the State Administrator of Elections for approval; requiring the State Administrator to approve certain proposed ballot drop box locations; requiring the State Administrator to require a local board to reconsider a certain proposed location and to provide to the local board a certain explanation under certain circumstances; authorizing the State Administrator to add ballot drop box locations in a county under certain circumstances; requiring a local board to ensure the security of ballot drop boxes; requiring that a local board have certain access to certain security cameras; requiring a local board to remove the ballots from each ballot drop box at least once each day that the ballot drop box is open in accordance with certain procedures, except as otherwise provided by law; requiring the State Board to establish chain of custody procedures governing removal of election-related materials from ballot drop boxes and the return of the materials to the local board; requiring that a certain absentee ballot application include a certain statement; requiring that certain envelopes include a certain statement in a certain manner; requiring that certain guidelines for absentee voting established by the State Board of Elections provide for a permanent absentee ballot list; providing that all voters are eligible for permanent absentee ballot status; requiring a voter to complete and submit certain information to ~~apply for~~ request permanent absentee ballot status; prohibiting a voter who ~~has applied for~~ requests permanent absentee ballot status from receiving an absentee ballot for the next election if the ~~application~~ request is made after a certain deadline; requiring a voter to specify in ~~the permanent~~ a certain absentee ballot application one of certain methods by which the voter chooses to receive an absentee ballot and one of certain methods by which the voter chooses to be notified by the State Board under a certain provision of this Act before each election; requiring a voter who uses the online ~~permanent~~ absentee ballot application to request permanent absentee ballot status or uses any method to request to receive a blank absentee ballot through the Internet to provide certain information; requiring that a voter who submits a proper ~~application~~ request for permanent absentee ballot status be placed on the permanent absentee ballot list; requiring the State Board to send a certain written communication to each voter who is on the permanent absentee ballot list as of a certain date in a certain manner at a certain time; requiring that a certain written communication include certain information; requiring the State Board to send a certain written communication using a different method from the method chosen by the voter under certain circumstances; requiring a local board of elections to send an absentee ballot to each voter on the permanent absentee ballot list each time there is an election; requiring

that a voter who has permanent absentee ballot status be removed from the permanent absentee ballot list under certain circumstances; requiring a voter to notify the ~~State Board~~ local board if certain changes occur while the voter has permanent absentee ballot status; requiring a local board to enclose a certain notification with a certain confirmation notice sent to a voter who has permanent absentee ballot status and gives notice of a change of address; prohibiting a person from canvassing, electioneering, or posting campaign material in a certain manner or placing certain material on a ballot drop box; requiring each local board to send a certain absentee ballot application to each eligible voter within a certain period of time in certain years except under certain circumstances; requiring the State Board to contract with a usability consultant on or before a certain date to review all the public informational materials and forms related to mail-in voting produced by the State Board; requiring the consultant to make certain recommendations to the State Board on or before a certain date; requiring the consultant to make specific recommendations concerning certain matters; requiring the State Board to submit certain reports to certain committees of the General Assembly on or before certain dates; defining a certain term; and generally relating to a permanent absentee ballot list.

BY repealing and reenacting, without amendments,

Article – Election Law

Section 1–101(a)

Annotated Code of Maryland

(2017 Replacement Volume and 2020 Supplement)

BY adding to

Article – Election Law

Section 1–101(d–1), 2–304, 2–305, 9–305(c), and 9–311.1

Annotated Code of Maryland

(2017 Replacement Volume and 2020 Supplement)

BY repealing and reenacting, with amendments,

Article – Election Law

Section 9–303, 9–305(c), 9–310(a), and 16–206

Annotated Code of Maryland

(2017 Replacement Volume and 2020 Supplement)

~~BY adding to~~

~~Article – Election Law~~

~~Section 9–311.1~~

~~Annotated Code of Maryland~~

~~(2017 Replacement Volume and 2020 Supplement)~~

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

Article – Election Law

1-101.

(a) In this article the following words have the meanings indicated unless a different meaning is clearly intended from the context.

(D-1) “BALLOT DROP BOX” MEANS A SECURE, DURABLE, AND WEATHERPROOF CONTAINER THAT IS OFFICIALLY DESIGNATED BY A LOCAL BOARD OR THE STATE BOARD EXCLUSIVELY FOR VOTERS TO DEPOSIT ELECTION-RELATED MATERIALS IN PERSON, INCLUDING:

- (1) ABSENTEE BALLOTS;
- (2) ABSENTEE BALLOT APPLICATIONS; AND
- (3) VOTER REGISTRATION APPLICATIONS.

2-304.

(A) A LOCAL BOARD SHALL CONSIDER THE FOLLOWING FACTORS WHEN DETERMINING THE LOCATION OF A BALLOT DROP BOX:

(1) THE ACCESSIBILITY OF THE BALLOT DROP BOX TO HISTORICALLY DISENFRANCHISED COMMUNITIES, INCLUDING VOTERS WITH DISABILITIES, CULTURAL GROUPS, ETHNIC GROUPS, AND MINORITY GROUPS;

(2) PROXIMITY OF THE BALLOT DROP BOX TO DENSE CONCENTRATIONS OF VOTERS;

(3) ACCESSIBILITY OF THE BALLOT DROP BOX BY PUBLIC TRANSPORTATION;

(4) EQUITABLE DISTRIBUTION OF BALLOT DROP BOXES THROUGHOUT THE COUNTY; AND

(5) MAXIMIZING VOTER PARTICIPATION, INCLUDING THROUGH PLACEMENT OF BALLOT DROP BOXES AT COMMUNITY CENTERS AND PUBLIC GATHERING PLACES.

(B) SUBJECT TO SUBSECTION (C) OF THIS SECTION, A LOCAL BOARD SHALL DESIGNATE LOCATIONS IN THE COUNTY AT WHICH A BALLOT DROP BOX WILL BE PLACED IN ACCORDANCE WITH THE FACTORS SET FORTH IN SUBSECTION (A) OF THIS SECTION.

(C) (1) EACH LOCAL BOARD SHALL SUBMIT THE PROPOSED LOCATIONS IN THE COUNTY FOR EACH BALLOT DROP BOX TO THE STATE ADMINISTRATOR FOR APPROVAL.

(2) THE STATE ADMINISTRATOR SHALL APPROVE A BALLOT DROP BOX LOCATION THAT MEETS THE FACTORS ESTABLISHED UNDER SUBSECTION (A) OF THIS SECTION.

(3) IF A PROPOSED BALLOT DROP BOX LOCATION DOES NOT MEET THE FACTORS, THE STATE ADMINISTRATOR SHALL:

(I) REQUIRE THAT THE LOCAL BOARD RECONSIDER THE PROPOSED LOCATION FOR ONE OR MORE BALLOT DROP BOXES; AND

(II) PROVIDE TO THE LOCAL BOARD A DETAILED EXPLANATION OF WHY THE PROPOSED LOCATION DOES NOT MEET THE FACTORS.

(4) IF THE STATE ADMINISTRATOR FINDS THAT THE PROPOSED BALLOT DROP BOX LOCATIONS SUBMITTED TO THE STATE ADMINISTRATOR AFTER RECONSIDERATION BY THE LOCAL BOARD UNDER PARAGRAPH (3) OF THIS SUBSECTION DO NOT MEET THE FACTORS, THE STATE ADMINISTRATOR MAY ADD BALLOT DROP BOX LOCATIONS IN THE COUNTY.

2-305.

(A) (1) A LOCAL BOARD SHALL ENSURE THE SECURITY OF BALLOT DROP BOXES, INCLUDING THROUGH THE USE OF THE FOLLOWING:

(I) MONITORING BY SECURITY CAMERAS AT ALL TIMES; AND

(II) PERIODIC IN-PERSON VISITS BY APPROPRIATE PERSONNEL.

(2) A LOCAL BOARD SHALL HAVE IMMEDIATE ACCESS OR ACCESS WITHIN A REASONABLE AMOUNT OF TIME TO A SECURITY CAMERA USED FOR MONITORING A BALLOT DROP BOX UNDER PARAGRAPH (1)(I) OF THIS SUBSECTION.

(B) (1) EXCEPT AS OTHERWISE PROVIDED IN LAW, A LOCAL BOARD SHALL REMOVE THE ELECTION-RELATED MATERIALS FROM EACH BALLOT DROP BOX AT LEAST ONCE EACH DAY THAT THE BALLOT DROP BOX IS OPEN IN ACCORDANCE WITH THE CHAIN OF CUSTODY PROCEDURES ESTABLISHED IN ACCORDANCE WITH PARAGRAPH (2) OF THIS SUBSECTION.

(2) THE STATE BOARD SHALL ESTABLISH CHAIN OF CUSTODY PROCEDURES GOVERNING REMOVAL OF ELECTION-RELATED MATERIALS FROM BALLOT DROP BOXES AND THE RETURN OF THE MATERIALS TO THE LOCAL BOARD.

9-303.

(a) The State Board shall establish guidelines for the administration of absentee voting by the local boards.

(b) The guidelines shall provide for:

- (1) the application process;
- (2) late application for absentee ballots;
- (3) ballot security, including storage of returned ballots;
- (4) determining timeliness of receipt of applications and ballots, including applications and ballots for overseas voters;
- (5) the canvass process;
- (6) notice of the canvass to candidates, political parties, campaign organizations, news media, and the general public;
- (7) observers of the process;
- (8) review of voted ballots and envelopes for compliance with the law and for machine tabulation acceptability;
- (9) standards for disallowance of ballots during the canvass; [and]
- (10) storage and retention of ballots following canvass and certification;

AND

(11) THE PERMANENT ABSENTEE BALLOT LIST.

(c) The State Board shall:

- (1) in consultation with the local boards, assess the guidelines before each primary election; and
- (2) revise the guidelines if indicated.

9-305.

(C) THE STATE-APPROVED ABSENTEE BALLOT APPLICATION SHALL INCLUDE A STATEMENT EXPLAINING THE PROCESS FOR RETURNING A COMPLETED ABSENTEE BALLOT IF THE VOTER CHOOSES TO RECEIVE AN ABSENTEE BALLOT BY FACSIMILE TRANSMISSION OR THE INTERNET.

[(c)] (D) An application for an absentee ballot must be received by a local board:

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

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

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

9-310.

(a) (1) This subsection applies only to an absentee ballot that is sent by mail.

(2) (I) An absentee ballot shall be enclosed in specially printed envelopes, the form and content of which shall be prescribed by the State Board.

(II) THE OUTGOING ENVELOPE SHALL INCLUDE A STATEMENT, PROMINENTLY PLACED, REQUESTING THAT THE RECIPIENT RETURN THE ABSENTEE BALLOT TO THE LOCAL BOARD IF THE INTENDED RECIPIENT NO LONGER LIVES AT THAT ADDRESS.

(3) (i) A local board may use either two envelopes or three envelopes.

(ii) If two envelopes are used, the inner envelope shall be designated the "ballot/return envelope", and, when issued, it shall fit inside the envelope designated the "outgoing envelope".

(iii) If three envelopes are used, the innermost envelope shall be designated the "ballot envelope", which shall fit inside the envelope designated the "return envelope", both of which, when issued, shall fit inside the envelope designated the "outgoing envelope".

(iv) The ballot/return envelope described under subparagraph (ii) of this paragraph and the return envelope described under subparagraph (iii) of this paragraph provided to a voter voting by absentee ballot shall include prepaid postage.

(4) (i) An absentee ballot shall be accompanied by instructions for postage of the ballot/return envelope or the return envelope.

(ii) The instructions for postage shall include:

1. a statement that the ballot/return envelope or return envelope includes prepaid postage and may be mailed as is; and

2. directions for how a voter may attach postage for the purpose of reducing the costs of the local board.

(5) When voted and returned to the local board, an absentee ballot shall be enclosed in a ballot envelope or ballot/return envelope, on which has been printed an oath prescribed by the State Board.

9-311.1.

(A) ALL VOTERS ARE ELIGIBLE FOR PERMANENT ABSENTEE BALLOT STATUS.

(B) TO ~~APPLY FOR~~ REQUEST PERMANENT ABSENTEE BALLOT STATUS, A VOTER SHALL COMPLETE AND SUBMIT:

(1) THE STATE BOARD APPROVED ~~PERMANENT~~ ABSENTEE BALLOT APPLICATION AND INDICATE ON THE FORM THAT THE VOTER WISHES TO HAVE PERMANENT ABSENTEE BALLOT STATUS;

(2) A WRITTEN REQUEST THAT INCLUDES THE VOTER'S NAME, RESIDENCE ADDRESS, AND SIGNATURE; OR

(3) THE ONLINE ~~PERMANENT~~ ABSENTEE BALLOT APPLICATION PROVIDED BY THE STATE BOARD AND INDICATE ON THE FORM THAT THE VOTER WISHES TO HAVE PERMANENT ABSENTEE BALLOT STATUS.

(C) (1) A VOTER MAY APPLY FOR PERMANENT ABSENTEE BALLOT STATUS AT ANY TIME.

~~(C)~~ (2) A VOTER WHO ~~HAS APPLIED FOR~~ REQUESTS PERMANENT ABSENTEE BALLOT STATUS MAY NOT RECEIVE AN ABSENTEE BALLOT FOR THE NEXT ELECTION IF THE ~~APPLICATION~~ REQUEST IS MADE AFTER THE APPLICABLE DEADLINE SPECIFIED IN § 9-305(C) OF THIS SUBTITLE.

(D) A VOTER SHALL SPECIFY IN ~~THE PERMANENT~~ AN ABSENTEE BALLOT APPLICATION SUBMITTED IN ACCORDANCE WITH SUBSECTION ~~(B)(2)~~ (B) OF THIS SECTION:

(1) ONE OF THE FOLLOWING METHODS BY WHICH THE VOTER CHOOSES TO RECEIVE AN ABSENTEE BALLOT:

- (I) MAIL;**
- (II) FACSIMILE TRANSMISSION; OR**
- (III) THE INTERNET; AND**

(2) ONE OF THE FOLLOWING METHODS BY WHICH THE VOTER CHOOSES TO BE CONTACTED BY THE STATE BOARD UNDER SUBSECTION (G) OF THIS SECTION BEFORE EACH ELECTION:

- (I) NONFORWARDABLE MAIL;**
- (II) E-MAIL; OR**
- (III) TEXT MESSAGE.**

(E) A VOTER WHO USES THE ONLINE ~~PERMANENT~~ ABSENTEE BALLOT APPLICATION TO REQUEST ~~THAT AN ABSENTEE BALLOT BE SENT BY ANY METHOD~~ PERMANENT ABSENTEE BALLOT STATUS OR WHO USES ANY METHOD TO REQUEST TO RECEIVE A BLANK ABSENTEE BALLOT THROUGH THE INTERNET SHALL PROVIDE THE INFORMATION REQUIRED UNDER § 9-305(B) OF THIS SUBTITLE.

(F) A VOTER WHO SUBMITS A PROPER ~~APPLICATION~~ REQUEST FOR PERMANENT ABSENTEE BALLOT STATUS SHALL BE PLACED ON THE PERMANENT ABSENTEE BALLOT LIST.

(G) (1) NOT LESS THAN ~~45~~ 75 DAYS BEFORE THE DAY ON WHICH A LOCAL BOARD BEGINS TO SEND ABSENTEE BALLOTS TO VOTERS, THE STATE BOARD SHALL SEND A WRITTEN COMMUNICATION TO EACH VOTER WHO IS ON THE PERMANENT ABSENTEE BALLOT LIST AS OF A DATE THAT IS AT LEAST 90 DAYS BEFORE THE UPCOMING ELECTION USING THE METHOD CHOSEN BY THE VOTER UNDER SUBSECTION (D)(2) OF THIS SECTION.

(2) THE COMMUNICATION REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL INCLUDE:

- (I) CONFIRMATION THAT THE VOTER IS INCLUDED ON THE PERMANENT ABSENTEE BALLOT LIST;**
- (II) THE ADDRESS OF THE VOTER;**

(III) THE METHOD BY WHICH THE VOTER HAS CHOSEN TO RECEIVE AN ABSENTEE BALLOT; AND

(IV) A STATEMENT THAT THE VOTER MUST NOTIFY THE ~~STATE BOARD~~ LOCAL BOARD IF ANY OF THE CHANGES LISTED IN SUBSECTION (J) OF THIS SECTION HAVE OCCURRED.

(3) IF THE STATE BOARD IS UNABLE TO CONTACT A VOTER USING THE METHOD OF COMMUNICATION CHOSEN BY THE VOTER UNDER SUBSECTION (D)(2) OF THIS SECTION, THE STATE BOARD SHALL SEND THE WRITTEN COMMUNICATION USING ANOTHER METHOD IF THE STATE BOARD HAS OTHER CONTACT INFORMATION FOR THE VOTER.

(4) IF THE COMMUNICATION REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION IS SENT BY MAIL, THE ENVELOPE SHALL INCLUDE A STATEMENT, PROMINENTLY PLACED, REQUESTING THAT THE RECIPIENT RETURN THE COMMUNICATION TO THE STATE BOARD IF THE INTENDED RECIPIENT NO LONGER LIVES AT THAT ADDRESS.

(H) A LOCAL BOARD SHALL SEND AN ABSENTEE BALLOT TO EACH VOTER ON THE PERMANENT ABSENTEE BALLOT LIST EACH TIME THERE IS AN ELECTION.

(I) A VOTER WHO HAS PERMANENT ABSENTEE BALLOT STATUS SHALL BE REMOVED FROM THE PERMANENT ABSENTEE BALLOT LIST IF:

(1) THE VOTER REQUESTS TO BE REMOVED FROM THE LIST;

(2) THE VOTER IS REMOVED FROM THE STATEWIDE VOTER REGISTRATION LIST UNDER TITLE 3, SUBTITLE 5 OF THIS ARTICLE;

(3) THE VOTER FAILS TO RETURN AN ABSENTEE BALLOT FOR TWO CONSECUTIVE STATEWIDE GENERAL ELECTIONS; OR

(4) ANY MAIL SENT TO THE VOTER BY THE STATE BOARD OR A LOCAL BOARD ~~OF ELECTIONS~~ IS RETURNED UNDELIVERABLE.

(J) A VOTER SHALL NOTIFY THE ~~STATE BOARD~~ LOCAL BOARD IF ANY OF THE FOLLOWING CHANGES OCCUR WHILE THE VOTER HAS PERMANENT ABSENTEE BALLOT STATUS:

(1) THE VOTER NO LONGER WISHES TO HAVE PERMANENT ABSENTEE BALLOT STATUS;

(2) THE ADDRESS TO WHICH THE VOTER'S ABSENTEE BALLOT SHOULD BE SENT HAS CHANGED; OR

(3) THE VOTER WISHES TO RECEIVE AN ABSENTEE BALLOT BY A DIFFERENT METHOD THAN THE METHOD PREVIOUSLY INDICATED BY THE VOTER.

(K) IF A VOTER WHO HAS PERMANENT ABSENTEE BALLOT STATUS GIVES NOTICE OF A CHANGE OF ADDRESS UNDER § 3-304 OF THIS ARTICLE, THE LOCAL BOARD SHALL ENCLOSE WITH THE CONFIRMATION NOTICE SENT TO THE VOTER UNDER § 3-502(B) OF THIS ARTICLE A NOTIFICATION THAT:

(1) THE VOTER REMAINS INCLUDED ON THE PERMANENT ABSENTEE BALLOT LIST; AND

(2) THE VOTER'S ABSENTEE BALLOT WILL BE SENT TO THE VOTER'S NEW ADDRESS.

16-206.

(a) A person may not:

(1) place any distinguishing mark on the person's own or another person's ballot for the purpose of identifying the ballot;

(2) misrepresent the person's ability to mark a ballot or operate voting equipment;

(3) interfere or attempt to interfere with a voter while the voter is inside the polling room, marking a ballot, or operating voting equipment;

(4) induce or attempt to induce a voter to mark the voter's ballot in a certain way;

(5) except for servicing by an authorized person, unlock any locked compartment of a voting device unless instructed to do so by the election director;

(6) destroy or deface a ballot;

(7) remove a ballot from a building in which voting occurs, except as otherwise provided in this article;

(8) delay the delivery of a ballot;

(9) possess on or before the day of election an official ballot printed for the election, unless the possession of the ballot is necessary and appropriate for carrying out the election process; [or]

(10) canvass, electioneer, or post any campaign material in the polling place or beyond a line established by signs posted in accordance with subsection (b) of this section;

(11) CANVASS, ELECTIONEER, OR POST ANY CAMPAIGN MATERIAL IN A MANNER THAT OBSTRUCTS ACCESS TO A BALLOT DROP BOX; OR

(12) PLACE ANY CAMPAIGN MATERIAL OR ANY OTHER UNAUTHORIZED MATERIAL ON A BALLOT DROP BOX.

(b) (1) At each polling place, one election judge from each principal political party shall be designated by the local board and, acting jointly, shall post signs delineating a line around the entrance and exit of the building that are closest to that part of the building in which voting occurs.

(2) (i) Except as provided in subparagraph (ii) of this paragraph, the line shall be located as near as practicable to 100 feet from the entrance and exit and shall be established after consideration of the configuration of the entrance and the effect of placement on public safety and the flow of pedestrian and vehicular traffic.

(ii) In Montgomery County, on approval of the local board, the line may be located at any point between 25 feet and 100 feet from the entrance and exit.

(3) The signs shall contain the words “No Electioneering Beyond this Point”.

(c) A person who violates this section is guilty of a misdemeanor and is subject to a fine of not less than \$50 nor more than \$500 or imprisonment for not more than 60 days or both.

SECTION 2. AND BE IT FURTHER ENACTED, That:

(a) Except as provided in subsection (b) of this section, at least 60 days before the statewide primary election in 2022 and 2024, each local board of elections shall send the State Board–approved absentee ballot application to each eligible voter.

(b) A local board is not required to send the State Board–approved absentee ballot application to a voter who has permanent absentee ballot status.

SECTION 3. AND BE IT FURTHER ENACTED, That:

(a) On or before August 1, 2021, the State Board of Elections shall contract with a usability consultant to review all the public informational materials and forms related to mail-in voting produced by the State Board.

(b) (1) On or before December 1, 2021, the consultant shall make recommendations to the State Board regarding ways the State Board's public informational materials and forms related to mail-in voting could be made more usable, especially by socioeconomically diverse communities.

(2) The consultant shall make specific usability recommendations concerning:

(i) the information related to mail-in voting that appears on the State Board's website;

(ii) all materials mailed to voters who choose to vote by mail, including envelopes, forms, and instructions; and

(iii) the system allowing a voter to access information concerning the voter's mail-in ballot.

(c) On or before February 1, 2022, the State Board shall submit a report to the Senate Education, Health, and Environmental Affairs Committee and the House Committee on Ways and Means, in accordance with § 2-1257 of the State Government Article, that includes:

(1) the recommendations submitted by the consultant under subsection (b) of this section; and

(2) the actions the State Board has taken or plans to take to implement the recommendations.

SECTION 4. AND BE IT FURTHER ENACTED, That, on or before January 15, 2023, the State Board of Elections shall submit to the Senate Education, Health, and Environmental Affairs Committee and the House Committee on Ways and Means, in accordance with § 2-1257 of the State Government Article, a report on the number of voters who voted in each precinct polling place in the State in the primary election and the general election in the years 2018, 2020, and 2022.

SECTION ~~2~~ 5. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October~~ June 1, 2021.

Enacted under Article II, § 17(c) of the Maryland Constitution, May 30, 2021.