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January 25, 2024

TO: The Honorable Vanessa Atterbary
Chair, Ways and Means Committee

FROM: Tiffany Johnson Clark
Chief Counsel, Legislative Affairs, Office of the Attorney General

RE: House Bill 202 - Election Law - Absentee Ballots - Signature Requirements
and Verification - **Oppose**

The Office of Attorney General urges an unfavorable report on House Bill 202. By creating a signature verification requirement for mail-in ballots, House Bill 202 unnecessarily disenfranchises eligible voters.

Under House Bill 202, local boards may not remove a mail-in ballot from an envelope without first verifying the signature on the oath of the ballot's envelope. "Verify" here means "comparing the signature with the voter's registration record." There already exists a robust and intricate framework of case law and rules for verifying voter signatures—the petitioning process. Local boards of election are already tasked with verifying each individual signature on a petition by comparing it (and the demographic information supplied with it) to the voter's registration file. This verification process (conducted pursuant to Election Law §§ 6-203 and 6-207) correctly results in petition signatures being struck because of minute or technical errors. Petition organizers routinely litigate these verification determinations, requiring intensive in-court factfinding in most cases.

Under House Bill 202, it is likely that local boards would import the standards and rules governing petition signature verification into the ballot signature verification context. Likewise, courts would likely use the petition signature verification case law to determine ballot signature challenge cases. Petitions may contain upwards of 10,000-15,000 signatures. Larger jurisdictions in Maryland received 75,000-140,000 mail-in ballots during the past gubernatorial election. Large quantities of mail-in ballots would likely be rejected (and require large-scale curing efforts) because of technical mismatches between envelope signatures and registration signatures. In turn, local boards and the State Board of Elections would see a dramatic increase in litigation as campaigns in close races would move to litigate the acceptance or rejection of mail-in ballot signatures. This litigation would be fact-intensive and, thus, time-consuming.

We should endeavor to increase suffrage and expand the electorate—not disenfranchise eligible voters. For the foregoing reasons, the Office of the Attorney General urges an unfavorable report on House Bill 202.

cc: The Honorable Robert B. Long