SENATE BILL 411

By: **Senators Harris, Frosh, Green, Jacobs, McCabe, and Mooney**
Introduced and read first time: February 2, 2001
Assigned to: Economic and Environmental Affairs

A BILL ENTITLED

1 AN ACT concerning

2 **Election Law - Election Day - Voter's Name Missing from Registration**
3 **Records - Voting Allowed Pending Verification of Voter's Eligibility**

4 FOR the purpose of establishing a process to allow a voter who is present at a polling
5   place on election day, but whose name is missing from the voter registry, to vote
6   in the election pending a determination whether the voter is qualified to vote;
7   requiring an election judge at a polling place on election day to take certain
8   actions to determine whether a voter whose registration status is in dispute is
9   qualified to vote; allowing a voter whose registration status is in dispute the
10   opportunity to vote by absentee ballot and have the ballot included in the
11   canvass of certain votes, subject to certain conditions; and generally relating to
12   voting on election day by a voter whose voter registration status is in dispute.

13 BY repealing and reenacting, with amendments,
14   Article 33 - Election Code
15   Section 9-304 and 10-310
16   Annotated Code of Maryland
17   (1997 Replacement Volume and 2000 Supplement)

18 BY repealing and reenacting, without amendments,
19   Article 33 - Election Code
20   Section 9-305
21   Annotated Code of Maryland
22   (1997 Replacement Volume and 2000 Supplement)

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

25   **Article 33 - Election Code**

26 9-304.

27   (a)   A registered voter may vote by absentee ballot at an election if the voter:

1   (1)   Will be absent on election day from the county in which the voter is
2 registered;

3   (2)   Because of accident, illness, or physical disability, will be unable to go
4 to the polling place on election day;

5   (3)   Because of confinement in or restriction to an institution, will be
6 prevented from going to the polling place on election day;

7   (4)   Because of a death or serious illness in the voter's immediate family,
8 will be unable to go to the polling place on election day;

9   (5)   Is a full-time student at an institution of higher education located
10 outside the voter's precinct but within the county of registration, and academic
11 requirements prevent the voter from going to the polling place on election day; [or]

12   (6)   Because of employment by or service as an official of the State Board
13 or a local board, is required to be absent from the precinct in which the voter is
14 registered to vote on election day; OR

15   (7)   IS ISSUED AN ABSENTEE BALLOT AT A POLLING PLACE ON ELECTION
16 DAY UNDER § 10-310(A)(2)(III) OF THIS ARTICLE.

17   (b)   An individual may vote by absentee ballot if authorized under an
18 applicable federal law.

19 9-305.

20   (a)   An application for an absentee ballot, signed by the voter, may be made:

21   (1)   On a form produced by the local board and supplied to the voter on
22 request;

23   (2)   On a form provided under federal law; or

24   (3)   In a written request that includes:

25   (i)   The voter's name and residence address;

26   (ii)   The address to which the ballot is to be mailed, if different from
27 the residence address; and

28   (iii)   The reason, as authorized in § 9-304 of this subtitle, for
29 absentee voting.

30   (b)   Except for a late application under subsection (c) of this section, an
31 application for an absentee ballot must be received by a local board not later than the
32 Tuesday preceding the election, at the time specified in the guidelines.

33   (c)   (1)   Beginning on the Wednesday preceding the election, through the
34 closing of the polls on election day, a registered voter or the voter's duly authorized

1 agent may apply in person for an absentee ballot at the office of the local board if the
2 voter is qualified for absentee voting under § 9-304 of this subtitle or § 10-102 of this
3 article.

4   (2)   A special application for an absentee ballot issued under this
5 subsection shall be supplied by the staff of the local board to the voter or the voter's
6 duly authorized agent.

7   (3)   The application shall be made under penalty of perjury, but without a
8 formal oath, specifying the reason for absentee voting.

9   (4)   After review of the application, if the staff of the local board finds
10 that the voter qualifies for absentee voting, the staff shall issue an absentee ballot to
11 the voter or the voter's duly authorized agent.

12 10-310.

13   (a)   In accordance with instructions provided by the local board, an election
14 judge shall qualify a voter by:

15   (1)   Locating the voter's name in the precinct register and locating the
16 preprinted voting authority card;

17   (2)   (i)   If the voter's name is not found on the precinct register,
18 searching the inactive list and if the name is found, qualifying the voter for voting as
19 instructed; [or]

20   (ii)   If the voter's name is not on the inactive list, contacting the
21 local board office and, if authorized, issuing a temporary certificate of registration, as
22 provided in § 3-601 of this article; OR

23   (III)   IF THE VOTER'S NAME IS NOT ON THE INACTIVE LIST AND THE
24 LOCAL BOARD CANNOT PROMPTLY AND CONCLUSIVELY DETERMINE THE VOTER'S
25 REGISTRATION STATUS BY:

26   1.   ISSUING THE VOTER A TEMPORARY CERTIFICATE OF
27 REGISTRATION, AS PROVIDED UNDER § 3-601 OF THIS ARTICLE;

28   2.   PROVISIONALLY QUALIFYING THE VOTER FOR ABSENTEE
29 VOTING IN ACCORDANCE WITH § 9-305(C) OF THIS ARTICLE; AND

30   3.   REQUESTING THE LOCAL BOARD TO MAKE A FINAL
31 DETERMINATION WITHIN 10 DAYS AFTER ELECTION DAY WHETHER THE VOTER WAS
32 QUALIFIED TO VOTE IN THE ELECTION, AND IF FOUND TO BE A QUALIFIED VOTER,
33 INCLUDING THE VOTER'S ABSENTEE BALLOT IN THE CANVASS CONDUCTED UNDER
34 TITLE 11, SUBTITLE 3 OF THIS ARTICLE;

35   (3)   Establishing the identity of the voter by requesting the voter to state
36 the month and day of the voter's birth and comparing the response to the information
37 listed in the precinct register;

1   (4)   Verifying the address of the voter's residence;

2   (5)   If any changes to the voting authority card are indicated by a voter,
3 making the appropriate changes in information on the card or other appropriate form;
4 and

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

7   (b)   On the completion of the procedures set forth in subsection (a) of this
8 section, a voter may vote in accordance with the procedures appropriate to the voting
9 system used in the polling place.

10   (c)   (1)   Before a voter enters a voting booth, at the request of the voter, an
11 election judge shall:

12   (i)   Instruct the voter about the operation of the voting system; and

13   (ii)   Allow the voter an opportunity to operate a model voting device,
14 if appropriate to the voting system in use.

15   (2)   (i)   1.   After a voter enters the voting booth, at the request of the
16 voter, two election judges representing different political parties shall instruct the
17 voter on the operation of the voting device.

18   2.   An election judge may not suggest in any way how the
19 voter should vote for a particular ticket, candidate, or position on a question.

20   3.   After instructing the voter, the election judges shall exit
21 the voting booth and allow the voter to vote privately.

22   (ii)   A voter may take into the polling place any written or printed
23 material to assist the voter in marking or preparing the ballot.

24   (3)   (i)   Except as provided in subparagraph (ii) of this paragraph, a
25 voter who requires assistance in marking or preparing the ballot because of a physical
26 disability or an inability to read the English language may choose any individual to
27 assist the voter.

28   (ii)   A voter may not choose the voter's employer or agent of that
29 employer or an officer or agent of the voter's union to assist the voter in marking the
30 ballot.

31   (4)   If the voter requires the assistance of another in voting, but declines
32 to select an individual to assist, an election judge, in the presence of another election
33 judge that represents another political party, shall assist the voter in the manner
34 prescribed by the voter.

35   (5)   An individual assisting a voter may not suggest in any way how the
36 voter should vote for a particular ticket, candidate, or position on a question.

1   (6)   If a voter requires assistance under paragraphs (4) or (5) of this
2 subsection, the election judge shall record, on a form prescribed by the State Board,
3 the name of the voter who required assistance and the name of the individual
4 providing assistance to the voter.

5   (7)   Except as provided in paragraphs (3) or (4) of this subsection, a
6 person over the age of 10 years may not accompany a voter into a voting booth.

7   SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
8 October 1, 2001.