

SENATE BILL 598

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2001 Regular Session
1r2387

By: **Senator Lawlah**

Introduced and read first time: February 2, 2001

Assigned to: Economic and Environmental Affairs

A BILL ENTITLED

1 AN ACT concerning

2 **Election Law - Voter Registration - Provisional Ballots**

3 FOR the purpose of altering the procedures for completing a temporary certification
4 of registration; providing for the required content of a provisional ballot;
5 establishing procedures for voting by means of a provisional ballot; providing for
6 a penalty for violating provisions addressing voting by provisional ballots;
7 establishing procedures for canvassing provisional ballots; establishing appeal
8 procedures for contested provisional ballots; authorizing the State Board of
9 Elections to establish guidelines and regulations; defining certain terms; and
10 generally relating to voter registrations and provisional ballots.

11 BY renumbering

12 Article 33 - Election Code
13 Section 1-101(ff) through 1-101(qq), respectively
14 to be Section 1-101(gg) through 1-101(rr), respectively
15 Annotated Code of Maryland
16 (1997 Replacement Volume and 2000 Supplement)

17 BY adding to

18 Article 33 - Election Code
19 Section 1-101(ff); 9-401 through 9-409, inclusive, to be under the new subtitle
20 "Subtitle 4. Provisional Ballots"; 11-302.1 and 11-303.1
21 Annotated Code of Maryland
22 (1997 Replacement Volume and 2000 Supplement)

23 BY repealing and reenacting, with amendments,

24 Article 33 - Election Code
25 Section 3-601 and 9-213
26 Annotated Code of Maryland
27 (1997 Replacement Volume and 2000 Supplement)

28 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
29 MARYLAND, That Section(s) 1-101(ff) through 1-101(qq), respectively, of Article 33 -

1 Election Code of the Annotated Code of Maryland be renumbered to be Section(s)
2 1-101(gg) through 1-101(rr), respectively.

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

5 **Article 33 - Election Code**

6 1-101.

7 (FF) "PROVISIONAL BALLOT" MEANS A BALLOT DISTRIBUTED TO AN
8 INDIVIDUAL ON ELECTION DAY BY THE LOCAL BOARD AT THE PRECINCT WHERE THE
9 INDIVIDUAL HAS COMPLETED A TEMPORARY CERTIFICATION OF REGISTRATION.

10 3-601.

11 (a) [A registered voter] AN INDIVIDUAL whose voter registration information
12 is not included in the precinct register shall be allowed to vote upon receiving a
13 temporary certificate of registration.

14 (b) A temporary certificate of registration shall be issued [if] BY THE
15 ELECTION JUDGE AT THE PRECINCT IF THE INDIVIDUAL:

16 (1) PROVIDES PROOF OF IDENTITY;

17 (2) COMPLETES AN APPLICATION FOR A TEMPORARY CERTIFICATE OF
18 REGISTRATION; AND

19 (3) SIGNS UNDER OATH THAT HE OR SHE:

20 (I) HAS NOT VOTED AND IS NOT ELIGIBLE TO VOTE IN ANY OTHER
21 PRECINCT IN THE STATE; AND

22 (II) MEETS ONE OF THE CRITERIA ESTABLISHED BY THE STATE
23 BOARD FOR A TEMPORARY CERTIFICATE OF REGISTRATION.

24 [(1) The local board is able to establish that the voter is registered; or

25 (2) The local board is satisfied that the registration information is not
26 missing due to fraud or malfeasance by the voter.]

27 (c) The State Board shall adopt the procedures that must be followed [by the
28 local board] prior to authorizing a temporary certificate of registration, including:

29 (1) The proof of identity that must be shown by the [voter] INDIVIDUAL;
30 and

31 (2) [Guidelines for the determination by the local board that the absence
32 of voter registration information is not due to fraud or malfeasance on the part of the
33 voter] THE FORM OF, AND CRITERIA FOR RECEIVING A TEMPORARY CERTIFICATE OF
34 REGISTRATION.

1 9-213.

2 The content of [the] BOTH AN absentee ballot AND A PROVISIONAL BALLOT
3 issued to a voter shall be identical to the ballot used in the polling place of the voter's
4 residence.

5

SUBTITLE 4. PROVISIONAL BALLOTS.

6 9-401.

7 (A) THIS SUBTITLE APPLIES TO EVERY ELECTION GOVERNED BY THIS
8 ARTICLE.

9 (B) THE STATE BOARD SHALL PRESCRIBE ALL FORMS REQUIRED TO COMPLY
10 WITH:

11 (1) THIS SUBTITLE; AND

12 (2) ANY REQUIREMENTS OF RELEVANT FEDERAL LAW.

13 9-402.

14 EACH LOCAL BOARD SHALL MAINTAIN A FULL RECORD OF PROVISIONAL
15 BALLOT VOTING IN THE COUNTY, INCLUDING, FOR EACH VOTER WHO VOTES USING A
16 PROVISIONAL BALLOT:

17 (1) THE TIME OF THE BOARD'S RECEIPT OF A TEMPORARY CERTIFICATE
18 OF REGISTRATION FOR A PROVISIONAL BALLOT;

19 (2) THE ACTION TAKEN WITH REGARD TO THE REGISTRATION;

20 (3) THE APPROPRIATE BALLOT STYLE;

21 (4) THE DATE AND TIME OF THE RECEIPT OF A VOTED PROVISIONAL
22 BALLOT; AND

23 (5) ANY OTHER INFORMATION SPECIFIED BY THE STATE BOARD.

24 9-403.

25 (A) THE STATE BOARD SHALL ESTABLISH GUIDELINES FOR THE
26 ADMINISTRATION OF PROVISIONAL BALLOT VOTING BY THE LOCAL BOARDS.

27 (B) THE GUIDELINES SHALL PROVIDE FOR:

28 (1) THE REGISTRATION PROCESS;

29 (2) BALLOT SECURITY, INCLUDING STORAGE OF RETURNED BALLOTS;

30 (3) THE CANVASS PROCESS;

1 (4) NOTICE OF THE CANVASS TO CANDIDATES, POLITICAL PARTIES,
2 CAMPAIGN ORGANIZATIONS, NEWS MEDIA, AND THE GENERAL PUBLIC;

3 (5) OBSERVERS OF THE PROCESS;

4 (6) REVIEW OF VOTED BALLOTS AND ENVELOPES FOR COMPLIANCE
5 WITH THE LAW AND FOR MACHINE TABULATION ACCEPTABILITY;

6 (7) STANDARDS FOR DISALLOWANCE OF BALLOTS DURING THE
7 CANVASS; AND

8 (8) STORAGE AND RETENTION OF BALLOTS FOLLOWING CANVASS AND
9 CERTIFICATION.

10 (C) THE STATE BOARD SHALL:

11 (1) IN CONSULTATION WITH THE LOCAL BOARDS, ASSESS THE
12 GUIDELINES BEFORE EACH PRIMARY ELECTION; AND

13 (2) REVISE THE GUIDELINES IF INDICATED.

14 9-404.

15 AN INDIVIDUAL MAY VOTE USING A PROVISIONAL BALLOT ON ELECTION DAY IF
16 THE INDIVIDUAL CAN SHOW TO THE ELECTION JUDGE AT THAT PRECINCT THAT THE
17 INDIVIDUAL MADE A GOOD FAITH EFFORT TO REGISTER TO VOTE AT A STATE BOARD,
18 A LOCAL BOARD, OR THROUGH THE MOTOR VEHICLE ADMINISTRATION AS PROVIDED
19 UNDER § 3-203 OF THIS ARTICLE.

20 9-405.

21 AN INDIVIDUAL REQUESTING A PROVISIONAL BALLOT SHALL COMPLETE AND
22 SIGN A TEMPORARY CERTIFICATE OF REGISTRATION AS PROVIDED UNDER § 3-601 OF
23 THIS ARTICLE.

24 9-406.

25 NOT MORE THAN ONE PROVISIONAL BALLOT MAY BE ISSUED TO AN
26 INDIVIDUAL UNLESS THE ELECTION DIRECTOR OF THE LOCAL BOARD HAS
27 REASONABLE GROUNDS TO BELIEVE THAT A PROVISIONAL BALLOT PREVIOUSLY
28 ISSUED TO THE INDIVIDUAL HAS BEEN LOST, DESTROYED, OR SPOILED.

29 9-407.

30 (A) A VOTER WHO REQUIRES ASSISTANCE IN CASTING A PROVISIONAL
31 BALLOT BY REASON OF DISABILITY, INABILITY TO WRITE, OR INABILITY TO READ THE
32 BALLOT MAY BE ASSISTED BY ANY INDIVIDUAL OTHER THAN:

33 (1) A CANDIDATE WHO IS ON THAT BALLOT;

34 (2) THE INDIVIDUAL'S EMPLOYER OR AN AGENT OF THE EMPLOYER; OR

1 (3) AN OFFICER OR AGENT OF THE INDIVIDUAL'S UNION.

2 (B) AN INDIVIDUAL RENDERING ASSISTANCE UNDER THIS SECTION SHALL
3 EXECUTE A CERTIFICATION AS PRESCRIBED BY THE STATE BOARD AND INCLUDED
4 IN THE INSTRUCTIONS UNDER § 9-408 OF THIS SUBTITLE.

5 9-408.

6 (A) A PROVISIONAL BALLOT SHALL BE ACCOMPANIED BY INSTRUCTIONS,
7 PRESCRIBED BY THE STATE BOARD, FOR MARKING AND RETURNING THE BALLOT.

8 (B) A PROVISIONAL BALLOT SHALL BE ACCOMPANIED BY A SPECIALLY
9 PRINTED ENVELOPE, THE FORM AND CONTENT OF WHICH SHALL BE PRESCRIBED BY
10 THE STATE BOARD.

11 (C) WHEN VOTED, A PROVISIONAL BALLOT SHALL BE ENCLOSED IN AN
12 ENVELOPE DESIGNATED "PROVISIONAL BALLOT/RETURN ENVELOPE", ON WHICH
13 HAS BEEN PRINTED AN OATH PRESCRIBED BY THE STATE BOARD.

14 9-409.

15 ANY PERSON WHO IS CONVICTED OF A VIOLATION OF ANY OF THE PROVISIONS
16 OF THIS SUBTITLE IS SUBJECT TO A FINE OF NOT MORE THAN \$1,000 OR
17 IMPRISONMENT FOR NOT MORE THAN 2 YEARS OR BOTH.

18 11-302.1.

19 (A) FOLLOWING AN ELECTION, EACH LOCAL BOARD SHALL MEET AT ITS
20 DESIGNATED COUNTING CENTER TO CANVASS THE PROVISIONAL BALLOTS CAST IN
21 THAT ELECTION IN ACCORDANCE WITH THE REGULATIONS AND GUIDELINES
22 ESTABLISHED BY THE STATE BOARD.

23 (B) A LOCAL BOARD MAY NOT OPEN ANY ENVELOPE OF A PROVISIONAL
24 BALLOT PRIOR TO 8 A.M. ON THE WEDNESDAY FOLLOWING ELECTION DAY.

25 (C) (1) THE STATE BOARD SHALL ADOPT REGULATIONS THAT REFLECT THE
26 POLICY THAT THE CLARITY OF THE INTENT OF THE VOTER IS THE OVERRIDING
27 CONSIDERATION IN DETERMINING THE VALIDITY OF A PROVISIONAL BALLOT OR
28 THE VOTE CAST IN A PARTICULAR CONTEST.

29 (2) A LOCAL BOARD MAY NOT REJECT A PROVISIONAL BALLOT EXCEPT
30 BY UNANIMOUS VOTE AND IN ACCORDANCE WITH REGULATIONS OF THE STATE
31 BOARD.

32 (3) THE LOCAL BOARD SHALL REJECT A PROVISIONAL BALLOT IF:

33 (I) THE LOCAL BOARD DETERMINES THAT THE TEMPORARY
34 CERTIFICATION OF REGISTRATION THAT CORRESPONDS TO THE PROVISIONAL
35 BALLOT IS NOT VALID;

1 (II) THE INDIVIDUAL FAILED TO SIGN THE OATH ON THE BALLOT
2 ENVELOPE;

3 (III) THE LOCAL BOARD RECEIVED MORE THAN ONE BALLOT FROM
4 THE SAME INDIVIDUAL FOR THE SAME ELECTION IN THE SAME BALLOT ENVELOPE;
5 OR

6 (IV) THE LOCAL BOARD DETERMINES THAT AN ABSENTEE BALLOT
7 IS INTENTIONALLY MARKED WITH AN IDENTIFYING MARK THAT IS CLEARLY
8 EVIDENT AND PLACED ON THE BALLOT FOR THE PURPOSE OF IDENTIFYING THE
9 BALLOT.

10 11-303.1.

11 (A) A CANDIDATE OR INDIVIDUAL WHO VOTED USING A PROVISIONAL BALLOT
12 AGGRIEVED BY THE DECISION OF A LOCAL BOARD TO REJECT, OR NOT TO REJECT, A
13 PROVISIONAL BALLOT SHALL HAVE THE RIGHT OF APPEAL TO THE CIRCUIT COURT
14 FOR THE COUNTY.

15 (B) THE APPEAL MUST BE FILED WITHIN 5 DAYS FROM THE DATE OF THE
16 COMPLETION OF THE OFFICIAL CANVASS BY THE BOARD OF ALL THE VOTES CAST AT
17 THE ELECTION.

18 (C) THE APPEAL SHALL BE HEARD DE NOVO, WITHOUT A JURY, AS SOON AS
19 POSSIBLE.

20 (D) (1) THE DECISION OF THE CIRCUIT COURT MAY BE APPEALED TO THE
21 COURT OF SPECIAL APPEALS, PROVIDED THE APPEAL IS TAKEN WITHIN 48 HOURS
22 FROM THE ENTRY OF THE DECISION OF THE CIRCUIT COURT.

23 (2) THE APPEAL SHALL BE HEARD AND DECIDED ON THE ORIGINAL
24 PAPERS, INCLUDING A WRITTEN TRANSCRIPT OF THE TESTIMONY TAKEN IN THE
25 CASE.

26 (3) THE ORIGINAL PAPERS AND THE TRANSCRIPT SHALL BE
27 TRANSMITTED TO THE COURT OF SPECIAL APPEALS WITHIN 5 DAYS FROM THE
28 TAKING OF THE APPEAL, AND THE APPEAL SHALL BE HEARD AS SOON AS POSSIBLE.

29 (4) IF THE INTENT OF THE VOTER IS NOT CLEARLY DEMONSTRATED,
30 THE LOCAL BOARD SHALL REJECT ONLY THE VOTE FOR THAT OFFICE OR QUESTION.

31 (5) IF AN ABSENTEE VOTER CASTS A VOTE FOR AN INDIVIDUAL WHO
32 HAS CEASED TO BE A CANDIDATE, THE VOTE FOR THAT CANDIDATE MAY NOT BE
33 COUNTED, BUT THAT VOTE DOES NOT INVALIDATE THE REMAINDER OF THE BALLOT.

34 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
35 October 1, 2001.