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By: **Senator Van Hollen**

Introduced and read first time: February 2, 2001

Assigned to: Economic and Environmental Affairs

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A BILL ENTITLED

1 AN ACT concerning

2 **Election Procedure Reform Act**

3 FOR the purpose of altering the required provisions to be included on voter  
4 registration applications; providing that certain information be made available  
5 to an applicant completing voter registration applications; altering the  
6 procedures for registering to vote at the Motor Vehicle Administration; altering  
7 the procedures for completing a temporary certification of registration;  
8 providing for the required content of a provisional ballot; establishing  
9 procedures for voting by means of a provisional ballot; providing for a penalty for  
10 violating provisions addressing voting by provisional ballots; establishing  
11 procedures for canvassing provisional ballots; establishing appeal procedures for  
12 contested provisional ballots; authorizing the State Board of Elections to  
13 establish guidelines and regulations; defining certain terms; and generally  
14 relating to voter registrations and provisional ballots.

15 BY renumbering

16 Article 33 - Election Code  
17 Section 1-101(ff) through 1-101(qq), respectively  
18 to be Section 1-101(gg) through 1-101(rr), respectively  
19 Annotated Code of Maryland  
20 (1997 Replacement Volume and 2000 Supplement)

21 BY repealing and reenacting, with amendments,

22 Article 33 - Election Code  
23 Section 3-202, 3-203, 3-601, and 9-213  
24 Annotated Code of Maryland  
25 (1997 Replacement Volume and 2000 Supplement)

26 BY adding to

27 Article 33 - Election Code  
28 Section 1-101(ff); 9-401 through 9-408, inclusive, to be under the new subtitle  
29 "Subtitle 4. Provisional Ballots"; 11-302.1 and 11-303.1  
30 Annotated Code of Maryland

1 (1997 Replacement Volume and 2000 Supplement)

2 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
3 MARYLAND, That Section(s) 1-101(ff) through 1-101(qq), respectively, of Article 33 -  
4 Election Code of the Annotated Code of Maryland be renumbered to be Section(s)  
5 1-101(gg) through 1-101(rr), respectively.

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

8 **Article 33 - Election Code**

9 1-101.

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

13 3-202.

14 (a) (1) The statewide voter registration application shall:

15 (i) [State the qualifications to become a registered voter;

16 (ii)] Require the signature of the applicant, subject to the penalties  
17 of perjury, by which the applicant swears or affirms that the information contained in  
18 the registration application is true and that the applicant meets all of the  
19 qualifications to become a registered voter;

20 [(iii) (II) State the penalties for the submission of a false  
21 application;

22 [(iv) State that if an individual declines to register, this fact will  
23 remain confidential and be used only for voter registration purposes;

24 (v) State that if an individual registers to vote, the office at which  
25 the application is submitted will remain confidential and will be used only for voter  
26 registration purposes;

27 (vi) Notify the applicant that submission of the form to an  
28 individual other than an official, employee, or agent of a local board does not assure  
29 that the form will be filed or filed in a timely manner;

30 (vii) ] (III) Provide the applicant with the opportunity to cancel  
31 a current registration[; and

32 (viii) Use identically sized print for the information that is required  
33 to be stated by this paragraph].

1           (2)     THE FOLLOWING INFORMATION SHALL BE MADE AVAILABLE TO  
2 EACH APPLICANT WHO IS COMPLETING A STATEWIDE VOTER REGISTRATION  
3 APPLICATION:

4           (I)     THE QUALIFICATIONS TO BECOME A REGISTERED VOTER;

5           (II)    IF AN INDIVIDUAL DECLINES TO REGISTER, THIS FACT WILL  
6 REMAIN CONFIDENTIAL AND BE USED ONLY FOR VOTER REGISTRATION PURPOSES;

7           (III)   IF AN INDIVIDUAL REGISTERS TO VOTE, THE OFFICE AT WHICH  
8 THE APPLICATION IS SUBMITTED WILL REMAIN CONFIDENTIAL AND WILL BE USED  
9 ONLY FOR VOTER REGISTRATION PURPOSES; AND

10          (IV)    NOTIFICATION TO THE APPLICANT THAT SUBMISSION OF THE  
11 FORM TO AN INDIVIDUAL OTHER THAN AN OFFICIAL, EMPLOYEE, OR AGENT OF A  
12 LOCAL BOARD DOES NOT ASSURE THAT THE FORM WILL BE FILED OR FILED IN A  
13 TIMELY MANNER.

14          [(2)]   (3)     The statewide voter registration application may not require:

15               (i)     Notarization or other formal authentication; or

16               (ii)    Any additional information, other than the information  
17 necessary to enable election officials to determine the eligibility of the applicant and  
18 to administer voter registration and other parts of the election process.

19          [(3)]   (4)    (i)     A statewide voter registration application shall be  
20 produced exclusively by the State Board.

21               (ii)    No other registration form may be used for registration  
22 purposes except:

23                   1.     A voter registration application produced by a local board  
24 with the approval of the State Board;

25                   2.     As provided in subsection (b) of this section;

26                   3.     As provided in § 3-203(b) of this subtitle; or

27                   4.     Any other form prescribed by federal law for voter  
28 registration.

29   (b)     The voter registration application form prescribed by the Federal Election  
30 Commission pursuant to the National Voter Registration Act of 1993 shall be accepted  
31 by the appropriate election official for purposes of voter registration.

32   (c)     The applications described in this section may be used by registered voters  
33 to change their name, address, or party affiliation.

1 3-203.

2 (A) THE MOTOR VEHICLE ADMINISTRATION SHALL PROVIDE THE  
3 OPPORTUNITY TO REGISTER TO VOTE OR TO UPDATE A VOTER REGISTRATION  
4 RECORD TO EACH INDIVIDUAL WHO COMES TO AN OFFICE OF THAT AGENCY TO:

5 (1) APPLY FOR OR RENEW A DRIVER'S LICENSE OR IDENTIFICATION  
6 CARD; OR

7 (2) CHANGE A NAME OR ADDRESS ON AN EXISTING DRIVER'S LICENSE  
8 OR IDENTIFICATION CARD.

9 (B) (1) THE MOTOR VEHICLE ADMINISTRATION SHALL REQUIRE EACH  
10 CUSTOMER SERVICE REPRESENTATIVE TO INQUIRE ORALLY, OR IN WRITING IF THE  
11 APPLICANT IS HEARING IMPAIRED, WHETHER THE APPLICANT WISHES TO REGISTER  
12 TO VOTE OR UPDATE A VOTER REGISTRATION RECORD DURING THE COMPLETION OF  
13 THE FORMS SPECIFIED UNDER SUBSECTION (A) OF THIS SECTION.

14 (2) IF THE APPLICANT CHOOSES TO REGISTER TO VOTE OR TO UPDATE A  
15 VOTER REGISTRATION RECORD:

16 (I) ALL APPLICABLE INFORMATION RECEIVED BY THE MOTOR  
17 VEHICLE ADMINISTRATION IN THE COURSE OF FILLING OUT THE FORMS UNDER  
18 SUBSECTION (A) OF THIS SECTION SHALL BE TRANSFERRED TO A VOTER  
19 REGISTRATION APPLICATION;

20 (II) ANY ADDITIONAL NECESSARY INFORMATION SHALL BE  
21 OBTAINED BY THE MOTOR VEHICLE ADMINISTRATION AND MAY NOT DUPLICATE ANY  
22 INFORMATION ALREADY OBTAINED WHILE COMPLETING THE FORMS UNDER  
23 SUBSECTION (A) OF THIS SECTION; AND

24 (III) A VOTER REGISTRATION APPLICATION WITH ALL OF THE  
25 APPLICANT'S VOTER REGISTRATION INFORMATION SHALL BE PRESENTED TO THE  
26 APPLICANT TO SIGN.

27 (3) (I) AN APPLICANT MAY DECLINE TO REGISTER TO VOTE, UPDATE  
28 THE APPLICANT'S VOTER REGISTRATION RECORD, OR CHANGE THE APPLICANT'S  
29 NAME OR ADDRESS BY:

30 1. AFFIRMATIVELY INDICATING AS SUCH ON THE  
31 APPLICATION; OR

32 2. FAILING TO SIGN THE VOTER REGISTRATION  
33 APPLICATION.

34 (II) THE MOTOR VEHICLE ADMINISTRATION SHALL MAINTAIN  
35 DECLINATION INFORMATION IN A MANNER SPECIFIED BY THE STATE BOARD.

36 (4) WITHIN 5 DAYS OF THE RECEIPT OF AN APPLICATION UNDER  
37 SUBSECTION (A) OF THIS SECTION, THE MOTOR VEHICLE ADMINISTRATION SHALL

1 FORWARD TO THE STATE BOARD THE VOTER REGISTRATION INFORMATION IN A  
2 MANNER AND FORMAT SPECIFIED BY THE STATE BOARD.

3 [(a) If an applicant for issuance or renewal of a driver's license or an  
4 identification card signs the voter registration portion of the application, the  
5 application shall serve as an application to register to vote or as an update of a  
6 previous voter registration.

7 (b)] (C) (1) (i) In consultation with the Motor Vehicle Administration, the  
8 State Board shall prepare [an] A VOTER REGISTRATION application [for the issuance  
9 or renewal of a driver's license or an identification card that shall also serve as a voter  
10 registration application] TO BE USED FOR VOTER REGISTRATION AT THE MOTOR  
11 VEHICLE ADMINISTRATION.

12 (ii) Except as provided in this section, the voter registration portion  
13 of the application may not require information that duplicates information required  
14 in the driver's license or identification card portion of the application.

15 (2) The voter registration portion of the application shall:

16 (i) Contain the same information as the statewide voter  
17 registration application prescribed in § 3-202(b) of this subtitle; and

18 (ii) Require only the minimum amount of information necessary,  
19 INCLUDING THE APPLICANT'S TELEPHONE NUMBER:

20 1. To prevent duplicate voter registration; and

21 2. To enable the appropriate election official to assess the  
22 eligibility of an applicant and to administer voter registration and other aspects of the  
23 election process.

24 (3) The application shall contain a box for the applicant to check, with  
25 the statement, "I do not wish to register to vote at this time".

26 (D) (1) IF A DRIVER'S LICENSE RENEWAL OR A CHANGE OF NAME OR  
27 ADDRESS IS NOT COMPLETED IN PERSON WITH A CUSTOMER SERVICE  
28 REPRESENTATIVE AT A MOTOR VEHICLE ADMINISTRATION OFFICE, THE MOTOR  
29 VEHICLE ADMINISTRATION SHALL STATE CLEARLY THAT:

30 [(c) (1) Unless a registrant declares otherwise, a change of address or name  
31 form submitted to the Motor Vehicle Administration for driver's license or  
32 identification card purposes shall also serve as notice of a change of address or name  
33 for voter registration purposes.

34 (2) The change of address or name form shall state clearly that:]

35 (i) The [form] INFORMATION may be used for voter registration  
36 purposes; and

1 (ii) The registrant has the right to declare that the [change of  
2 address or name] INFORMATION is not for purposes of voter registration.

3 (2) IF THE APPLICANT INDICATES THAT THE INFORMATION SHOULD BE  
4 USED FOR VOTER REGISTRATION PURPOSES, THE MOTOR VEHICLE ADMINISTRATION  
5 SHALL FOLLOW THE PROCEDURES ESTABLISHED BY THE STATE BOARD.

6 [(d) Within 5 days of the receipt of the application, renewal, or change of  
7 address or name form, the Motor Vehicle Administration shall forward the  
8 application, renewal, or change of address or name form as well as a copy of the  
9 relevant part of the license application to the appropriate election official.]

10 (e) Information relating to the failure of an applicant for a driver's license or  
11 identification card to register to vote may not be used for any purpose other than the  
12 maintenance of registration statistics.

13 3-601.

14 (a) [A registered voter] AN INDIVIDUAL whose voter registration information  
15 is not included in the precinct register shall be allowed to vote BY A PROVISIONAL  
16 BALLOT upon receiving AND COMPLETING a temporary certificate of registration.

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

19 (1) PROVIDES PROOF OF IDENTITY, AS PRESCRIBED BY THE BOARD.

20 (2) COMPLETES AN APPLICATION FOR A TEMPORARY CERTIFICATE OF  
21 REGISTRATION IN WHICH THE APPLICANT AFFIRMS UNDER PENALTY OF PERJURY  
22 THAT THE APPLICANT:

23 (I) HAS NOT VOTED IN THE CURRENT ELECTION IN ANY OTHER  
24 PRECINCT IN THE STATE;

25 (II) HAS, WITHIN THE LAST 2 YEARS, MADE A GOOD FAITH EFFORT  
26 TO REGISTER TO VOTE OR TO UPDATE A VOTER REGISTRATION RECORD AT A STATE  
27 BOARD OF ELECTION, A LOCAL BOARD, OR THROUGH THE MOTOR VEHICLE  
28 ADMINISTRATION OR OTHER VOTER REGISTRATION AGENCIES SET FORTH UNDER §§  
29 3-203 AND 3-204 OF THIS TITLE;

30 (III) IDENTIFIES ANY COUNTIES IN MARYLAND WHERE THE  
31 APPLICANT HAS VOTED IN PAST ELECTIONS;

32 (IV) IS A CURRENT RESIDENT OF THE COUNTY IN WHICH THE  
33 APPLICANT SEEKS TO VOTE;

34 (V) PROVIDES THE APPLICANT'S CURRENT ADDRESS AND  
35 TELEPHONE NUMBER; AND

1 (VI) MEETS ANY OTHER CRITERIA DEVELOPED BY THE STATE  
2 BOARD FOR A TEMPORARY CERTIFICATE OF REGISTRATION.

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

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

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

8 (1) The proof of identity that must be shown by the voter; and

9 (2) Guidelines for the determination by the local board that the absence  
10 of voter registration information is not due to fraud or malfeasance on the part of the  
11 voter.]

12 9-213.

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

16 SUBTITLE 4. PROVISIONAL BALLOTS.

17 9-401.

18 (A) THIS SUBTITLE APPLIES TO EVERY ELECTION GOVERNED BY THIS  
19 ARTICLE.

20 (B) THE STATE BOARD SHALL PRESCRIBE ALL FORMS REQUIRED TO COMPLY  
21 WITH:

22 (1) THIS SUBTITLE; AND

23 (2) ANY REQUIREMENTS OF RELEVANT FEDERAL LAW.

24 9-402.

25 EACH LOCAL BOARD SHALL MAINTAIN A FULL RECORD OF PROVISIONAL  
26 BALLOT VOTING IN THE COUNTY, INCLUDING, FOR EACH VOTER WHO VOTES USING A  
27 PROVISIONAL BALLOT:

28 (1) THE TIME OF RECEIPT OF A TEMPORARY CERTIFICATE OF  
29 REGISTRATION FOR A PROVISIONAL BALLOT;

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

31 (3) THE APPROPRIATE BALLOT STYLE;

1 (4) THE DATE AND TIME OF THE RECEIPT OF A VOTED PROVISIONAL  
2 BALLOT; AND

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

4 9-403.

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

7 (B) THE GUIDELINES SHALL PROVIDE FOR:

8 (1) THE TEMPORARY CERTIFICATE REGISTRATION PROCESS;

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

10 (3) THE CANVASS PROCESS;

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

13 (5) OBSERVERS OF THE PROCESS;

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

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

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

20 (C) THE STATE BOARD SHALL:

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

23 (2) REVISE THE GUIDELINES IF INDICATED.

24 9-404.

25 AN INDIVIDUAL MAY VOTE USING A PROVISIONAL BALLOT ON ELECTION DAY IF  
26 THE INDIVIDUAL MEETS THE REQUIREMENTS FOR A TEMPORARY CERTIFICATE OF  
27 REGISTRATION SET FORTH UNDER § 3-601 OF THIS ARTICLE.

28 9-405.

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



1 9-406.

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

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

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

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

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

11 9-407.

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

14 (B) WHEN VOTED, A PROVISIONAL BALLOT SHALL BE ENCLOSED IN AN  
15 ENVELOPE DESIGNATED "PROVISIONAL BALLOT/RETURN ENVELOPE".

16 9-408.

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

20 11-302.1.

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

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

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

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

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

1 (I) THE LOCAL BOARD DETERMINES THAT THE TEMPORARY  
2 CERTIFICATION OF REGISTRATION THAT CORRESPONDS TO THE PROVISIONAL  
3 BALLOT IS NOT VALID;

4 (II) THE INDIVIDUAL FAILED TO SIGN THE OATH ON THE  
5 TEMPORARY CERTIFICATE OF REGISTRATION;

6 (III) THE INDIVIDUAL RECEIVED MORE THAN ONE BALLOT FOR THE  
7 SAME ELECTION; OR

8 (IV) THE LOCAL BOARD DETERMINES THAT A PROVISIONAL BALLOT  
9 IS INTENTIONALLY MARKED WITH AN IDENTIFYING MARK THAT IS CLEARLY  
10 EVIDENT AND PLACED ON THE BALLOT FOR THE PURPOSE OF IDENTIFYING THE  
11 BALLOT.

12 11-303.1.

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

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

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

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

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

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

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

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