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2003 Regular Session
3lr1326

By: Senator Stone (Chairman, Ethics and Election Law Subcommittee) Introduced and read first time: January 31, 2003 Assigned to: Education, Health, and Environmental Affairs Committee Report: Favorable with amendments Senate action: Adopted Read second time: March 5, 2003 CHAPTER 1 AN ACT concerning 2 Election Law - Compliance With Federal "Help America Vote Act" Law 3 FOR the purpose of altering provisions of the Election Law to comply with the requirements of the federal "Help America Vote Act of 2002"; designating the 4 5 State Board of Elections as the official office required to provide certain information in accordance with the Uniform Overseas Citizens Absentee Voting 6 Act; establishing a procedure for the casting and canvassing of provisional 7 ballots; altering certain procedures when an individual's right to vote is 8 9 challenged; requiring that certain information be made available; altering certain polling place procedures; repealing provisions relating to a temporary 10 certificate of registration; altering a certain definition; defining a certain term; 11 and generally relating to provisional ballots and compliance with mandatory 12 13 provisions of federal law. 14 BY renumbering Article - Election Law 15 Section 1-101(vv) through (zz), respectively 16 17 to be Section 1-101(ww) through (aaa), respectively Annotated Code of Maryland 18 (2003 Volume) 19 20 BY repealing and reenacting, with amendments, 21 Article - Election Law 22 Section 1-101(II), 2-102(b), 9-403, 9-404, 9-405, 10-306, 10-310(a), 10-311(b),

10-312, 10-315, 11-101(c) and (f), 11-303, and 16-304

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Annotated Code of Maryland

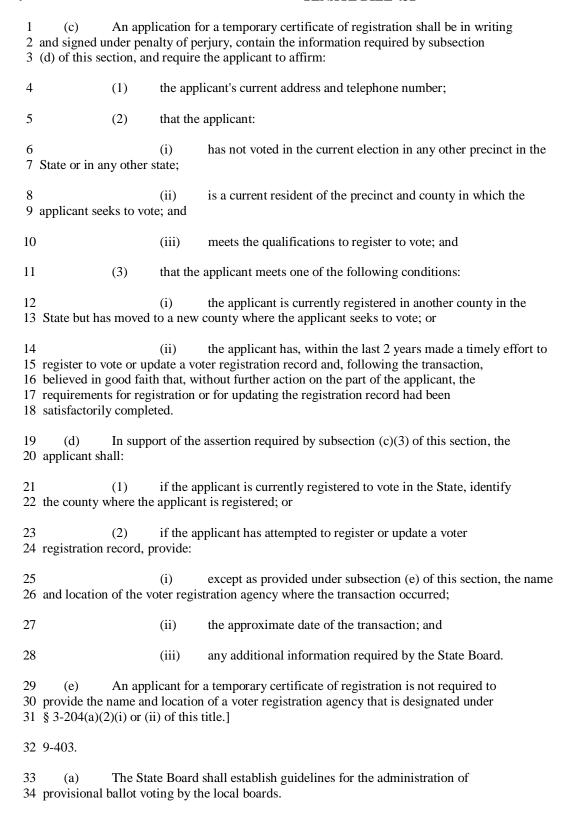
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<u>(5)</u>

1	(2003 Vol	lume)						
2 3 4 5 6	BY adding to Article - Election Law Section 1-101(vv) and 11-305 Annotated Code of Maryland (2003 Volume)							
7 8 9 10 11	·							
14	SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section(s) 1-101(vv) through (zz), respectively, of Article - Election Law of the Annotated Code of Maryland be renumbered to be Section(s) 1-101(ww) through (aaa), respectively.							
16 17	SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:							
18	Article - Election Law							
19	1-101.							
22	(ll) "Provisional ballot" means a ballot [distributed to an individual after the individual has completed a temporary certificate of registration] THAT IS CAST BY AN INDIVIDUAL BUT NOT COUNTED UNTIL THE INDIVIDUAL'S QUALIFICATIONS TO VOTE HAVE BEEN CONFIRMED BY THE LOCAL BOARD.							
24	(VV) "	VOTE"	MEANS TO CAST A BALLOT THAT IS COUNTED.					
25	<u>2-102.</u>							
			ising its authority under this article and in order to ensure article and with any requirements of federal law, the State					
29	<u>(</u>	<u>1)</u>	supervise the conduct of elections in the State;					
30 31	board;	<u>2)</u>	direct, support, monitor, and evaluate the activities of each local					
32	<u>(</u>	<u>3)</u>	have a staff sufficient to perform its functions;					
33	(4	4)	adopt regulations to implement its powers and duties:					

receive, and in its discretion audit, campaign finance reports;

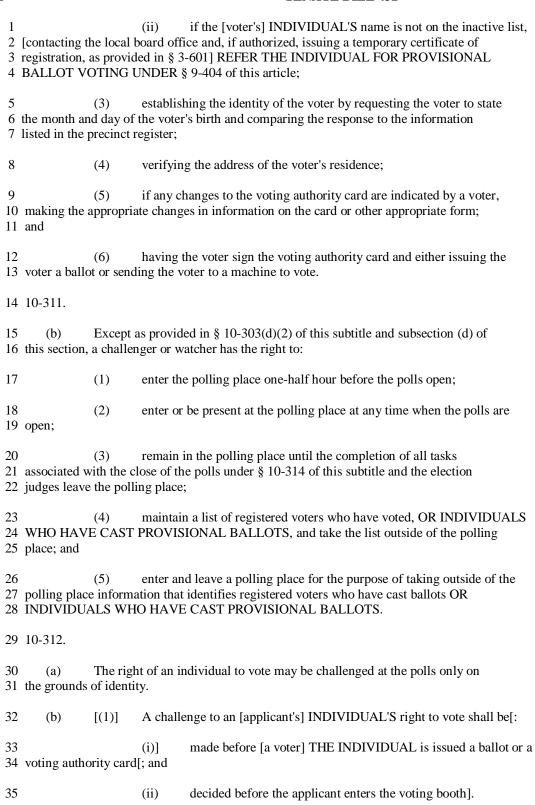
1 2	(6) subtitle;	appoint	a State Administrator in accordance with § 2-103 of this
	(7) the development of a system;		ze the use of technology in election administration, including a comprehensive computerized elections management
6	<u>(8)</u>	canvass	and certify the results of elections as prescribed by law;
9	the text of this article	on the ele	vailable to the general public, in a timely and efficient ectoral process, including a publication that includes portions of the Maryland Constitution, and national regarding elections;
13		y for elect	to §§ 2-106 and 13-341 of this article, receive, maintain, and ions documents, materials, records, statistics, reports, d other information prescribed by law or regulation;
15	(11)	prescrib	e all forms required under this article; AND
18 19	INFORMATION R PROCEDURES FO	RM OVE EGARDII R ABSEN	AS THE OFFICIAL DESIGNATED OFFICE IN ACCORDANCE RSEAS CITIZENS ABSENTEE VOTING ACT FOR PROVIDING NO VOTER REGISTRATION AND ABSENTEE BALLOT IT UNIFORMED SERVICES VOTERS AND OVERSEAS VOTERS TONS FOR FEDERAL OFFICE.
21	[3-601.		
		ll be allov	nose voter registration information is not included in the wed to vote by a provisional ballot upon receiving and icate of registration.
25 26	(b) (1) with the provisions		orary certificate of registration shall be issued in accordance ph (2) of this subsection only by:
27		(i)	an election judge at the precinct on election day; or
28 29	during the period be	(ii) fore electi	the election director at the local board office on election day or ion day when voter registration is closed.
30 31	(2) individual:	A tempo	orary certificate of registration shall be issued if the
32 33	regulation; and	(i)	provides proof of identity, as prescribed by the State Board by
34 35	registration in accor	(ii) dance with	completes an application for a temporary certificate of h the provisions of subsection (c) of this section.

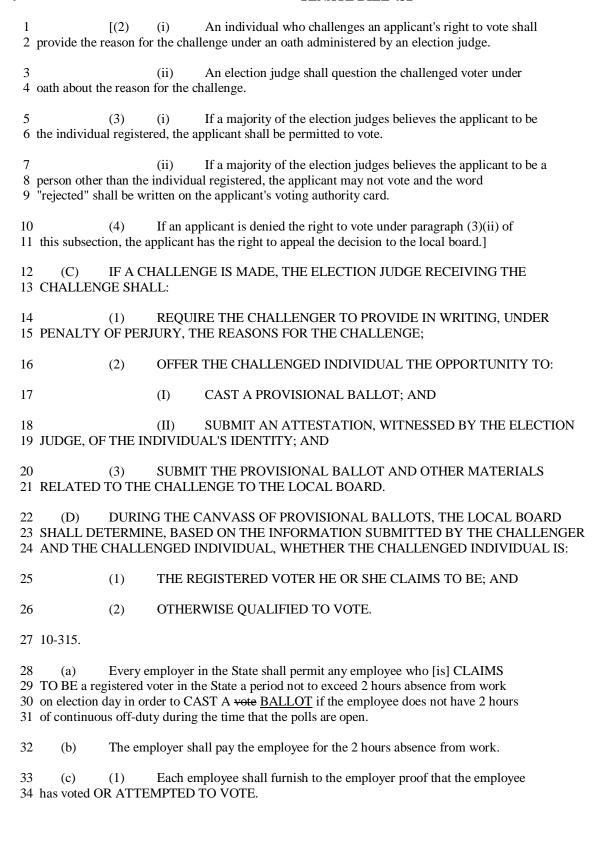


1	(b)	The gui	delines shall provide for:
2 3	APPLICAT	(1) ION proc	the [temporary certificate registration] PROVISIONAL BALLOT ess;
4		(2)	ballot security, including storage of returned ballots;
5		(3)	the canvass process;
6 7	organization	(4) s, news n	notice of the canvass to candidates, political parties, campaign nedia, and the general public;
8		(5)	observers of the process;
9 10	with the law	(6) and for	review of [voted] ballots and envelopes SUBMITTED for compliance machine tabulation acceptability;
11		(7)	standards for disallowance of ballots during the canvass; [and]
12 13	AND	(8)	storage and retention of ballots following canvass and certification;
14 15	ARTICLE.	(9)	THE FREE ACCESS SYSTEM REQUIRED UNDER § 11-303(E) OF THIS
16	(c)	The Star	te Board shall:
17 18	each primar	(1) y election	in consultation with the local boards, assess the guidelines before a; and
19		(2)	revise the guidelines if indicated.
20	9-404.		
23 24	individual n	THE indineets the	AN INDIVIDUAL IS ELIGIBLE UNDER SUBSECTION (B) OF THIS ividual [may vote using a provisional ballot on election day if the requirements for a temporary certificate of registration set forth article] SHALL BE ISSUED AND MAY CAST A PROVISIONAL
26		(1)	AT A POLLING PLACE ON ELECTION DAY; OR
_			AT THE LOCAL BOARD OFFICE IN THE COUNTY WHERE THE DES AFTER THE CLOSE OF REGISTRATION AND BEFORE THE POLLS ON ELECTION DAY.
30	(B)	AN IND	DIVIDUAL IS ELIGIBLE TO CAST A PROVISIONAL BALLOT IF:
31	CLIDMITTI	(1)	THE INDIVIDUAL DECLARES IN A WRITTEN AFFIRMATION I THE PROVISIONAL BALLOT THAT THE INDIVIDUAL IS A

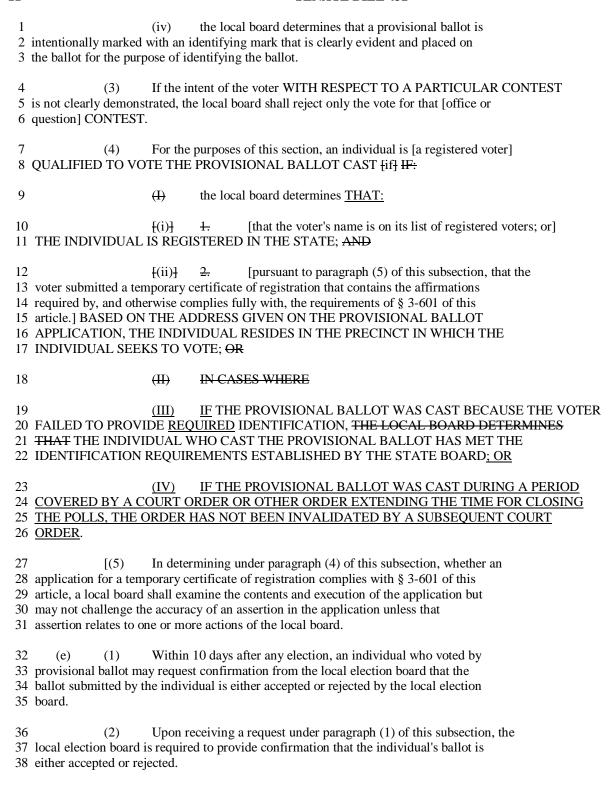
	REGISTERE AND	D VOTI	ER IN TH	IE STATE AND IS ELIGIBLE TO VOTE IN THAT ELECTION;
3	REGISTER;	(2) OR	(I)	THE INDIVIDUAL'S NAME DOES NOT APPEAR ON THE PRECINCT
5 6	NOT ELIGIB	SLE TO	(II) VOTE; C	AN ELECTION OFFICIAL ASSERTS THAT THE INDIVIDUAL IS OR
7 8	IDENTIFICA	(3) ATION.	<u>(III)</u>	THE INDIVIDUAL DOES NOT HAVE THE NECESSARY
11 12 13 14	UNDER SUI TO VOTE D EXTENDING BALLOT. A	BSECTI URING G THE T PROVI D AND	ONS (A) A PERIO IIME FO SIONAL HELD A	TO THE INDIVIDUALS WHO CAST PROVISIONAL BALLOTS AND (B) OF THIS SECTION, ANY INDIVIDUAL WHO APPEARS OD COVERED BY A COURT ORDER OR OTHER ORDER OR CLOSING THE POLLS SHALL CAST A PROVISIONAL BALLOT CAST UNDER OF THIS SUBSECTION SHALL BE PART FROM OTHER PROVISIONAL BALLOTS CAST BY THOSE ORDER.
16	9-405.			
17 18	[An indiv A PROVISIO			a provisional ballot] BEFORE AN INDIVIDUAL CASTS
	registration a		ed under	DIVIDUAL shall complete and sign [a temporary certificate of § 3-601 of this article] THE PROVISIONAL BALLOT D BY THE STATE BOARD; AND
24	INDIVIDUA DESCRIBIN	G HOW	TEN INI , THE IN	ECTION OFFICIAL ISSUING THE BALLOT SHALL GIVE THE FORMATION ADVISING THE INDIVIDUAL THAT, AND IDIVIDUAL WILL BE ABLE TO ASCERTAIN WHETHER THE D, IF IT WAS NOT COUNTED, THE REASON IT WAS NOT.
26	10-306.			
			ecify and	e Board, in consultation with the election directors of the produce THE FOLLOWING informational materials to be
30			(I)	A SPECIMEN BALLOT FOR THAT PRECINCT;
31 32	ASSISTANC	СЕ ТО Е		INSTRUCTIONS RELATING TO THE AVAILABILITY OF AND DISABLED VOTERS;
33 34		S DURII		INFORMATION REGARDING THE DATE OF THE ELECTION AND CH THE POLLING PLACES WILL BE OPEN;
35 36	VOTE;		(IV)	INSTRUCTIONS ON HOW TO VOTE, INCLUDING HOW TO CAST A

2	VOTERS;	(V)	INSTRU	CTIONS FO	OR MAIL-	IN REGI	STRANT	S AND F	ARST-TH	ME
5	APPLICABLE FEDER THE APPROPRIATE VIOLATED;		D STAT		ND INSTR	UCTION	IS ON HO	W TO C	ONTACT	
7		(VII)	INFORM	MATION RE	EGARDIN	G PROV	ISIONAL	VOTING	G, INCLU	DING:
8 9	A PROVISIONAL BA	LLOT;	1.	INFORMA'	TION ON	THE RIC	GHT OF A	AN INDIV	VIDUAL	TO CAST
10 11	APPLICATION AND) CAST		HOW TO F OVISIONAL			OVISION	AL BAL	LOT	
12 13	DETERMINING WH	ETHER	3. A PROV	THE STAN ISIONAL B						
14 15	REGARDING PROH	` '		AL INFORN CTS OF FR.						
16 17	(2) places in the county.	A local b	board ma	y produce of	her materi	als appro	priate for	the pollin	g	
	(b) Before the INFORMATION SPE			election judg SUBSECTI					oting	
21	(1)	the speci	imen ball	ot for the pro	ecinct;					
22 23	(2) disabled voters; and	instructi	ons relati	ng to the ava	ailability of	f assistan	ce to elder	rly and		
24 25	(3) directed by the election			ational mater	ial to assis	t voters o	on election	day, as		
26	5 10-310.									
	(a) [In] FOR IN accordance with in qualify a voter by] SH	struction		OUAL WHO ed by the loc					IUDGE,	
	(1) register and [locating] AUTHORIZE THE IN	LOCAT	E the pre		ng authorit	ty card A	ND THEN		nct	
35	(2) register, [searching] S the voter for voting] A instructed]; or	EARCH	the inact		f the name	is found	, [qualifyi	ng		





1 2	(2) The proof that an employee has voted OR ATTEMPTED TO VOTE shall be on a form prescribed by the State Board.
3	11-101.
	(c) (1) "Canvass" means the entire process of vote tallying, vote tabulation, and vote verification or audit, culminating in the production and certification of the official election results.
	(2) For absentee ballots, the "canvass" includes the opening of any envelope accompanying an absentee ballot and the assembly and review of absentee ballots in preparation for vote tallying.
12	(3) FOR PROVISIONAL BALLOTS, THE "CANVASS" INCLUDES THE REVIEW OF THE PROVISIONAL BALLOT APPLICATIONS DESCRIBED IN § 11-303 OF THIS TITLE AND THE ASSEMBLY AND REVIEW OF PROVISIONAL BALLOTS IN PREPARATION FOR VOTE TALLYING.
14 15	(f) (1) "Unofficial returns" means a vote tabulation reported on election night after the polls close.
16 17	(2) "Unofficial returns" does not include the absentee ballot count OR THE PROVISIONAL BALLOT COUNT.
18	11-303.
	(a) Following an election, each local board shall meet at its designated counting center to canvass the provisional ballots [submitted] CAST in that election in accordance with the regulations and guidelines established by the State Board.
	(b) A local board may not open an envelope of a provisional ballot until the local board has approved the [temporary certificate] PROVISIONAL BALLOT APPLICATION.
25	(c) The State Board shall adopt regulations to implement this section.
26 27	(d) (1) A local board may not reject a provisional ballot except by unanimous vote and in accordance with regulations of the State Board.
28	(2) The local board shall reject a provisional ballot if:
	(i) pursuant to paragraph (4) of this subsection, the local board determines that the individual who [submitted] CAST the provisional ballot is not [a registered voter] QUALIFIED TO VOTE THAT PROVISIONAL BALLOT;
32 33	(ii) the individual failed to sign the oath on the [temporary certificate of registration] PROVISIONAL BALLOT APPLICATION;
34 35	(iii) the individual [received] CAST more than one ballot for the same election; or



1 If the ballot is rejected, at the request of the individual the local (3) 2 election board shall state in writing the basis for rejecting the ballot.] 3 EACH LOCAL THE STATE BOARD SHALL ENSURE THE 4 ESTABLISHMENT OF A SYSTEM THAT ANY INDIVIDUAL WHO CASTS A PROVISIONAL 5 BALLOT MAY ACCESS WITHOUT COST TO DISCOVER WHETHER THE BALLOT WAS 6 COUNTED AND, IF NOT COUNTED, THE REASON IT WAS NOT. 7 THE SYSTEM ESTABLISHED UNDER PARAGRAPH (1) OF THIS 8 SUBSECTION SHALL ENSURE THE CONFIDENTIALITY OF THE INDIVIDUAL WHO 9 ACCESSES THE SYSTEM AND THE SECRECY OF EACH BALLOT. 10 [11-305. 11 (a) A candidate or individual who voted using a provisional ballot aggrieved by 12 the decision of a local board to reject, or not to reject, a provisional ballot shall have 13 the right of appeal to the circuit court for the county. 14 The appeal must be filed within 5 days from the date of the completion of (b) 15 the official canvass by the board of all the votes cast at the election. 16 The appeal shall be heard de novo, without a jury, as soon as possible. (c) 17 The decision of the circuit court may be appealed to the Court of 18 Special Appeals, provided the appeal is taken within 48 hours from the entry of the 19 decision of the circuit court. 20 The appeal shall be heard and decided on the original papers, 21 including a written transcript of the testimony taken in the case. 22 The original papers and the transcript shall be transmitted to the 23 Court of Special Appeals within 5 days from the taking of the appeal, and the appeal 24 shall be heard as soon as possible.] 25 11-305. 26 ANY PERSON WHO ASSERTS THAT AN ELECTION OFFICIAL HAS VIOLATED THE 27 PROVISIONS OF THIS ARTICLE RELATING TO PROVISIONAL BALLOTS MAY FILE AN 28 ADMINISTRATIVE COMPLAINT UNDER PROCEDURES ESTABLISHED BY THE STATE 29 BOARD. 30 16-304. (a) In a polling place on election day, an election judge may not willfully and 31 32 knowingly: permit a ballot or ballots to be placed into a ballot box prior to the 33 (1) 34 time for voting; or

- 1 (2) place a ballot in a ballot box unless the ballot is offered by a properly 2 registered voter OR IS A PROVISIONAL BALLOT PLACED WITH OTHER PROVISIONAL 3 BALLOTS OF THE SAME CHARACTER.
- 4 (b) A person may not:
- 5 (1) cause or permit a [vote] BALLOT, INCLUDING A PROVISIONAL
- 6 BALLOT, to be cast or [a ballot to be] deposited in a ballot [box or a] BOX, voting
- 7 device, OR OTHER RECEPTACLE DESIGNED FOR THE COLLECTION OF BALLOTS other
- 8 than by a person [properly qualified] ENTITLED UNDER THIS ARTICLE to cast a
- 9 ballot; or
- 10 (2) substitute, alter, add, or remove a [voted] SUBMITTED ballot from a
- 11 ballot [box or a] BOX, voting device, OR OTHER RECEPTACLE DESIGNED FOR THE
- 12 COLLECTION OF BALLOTS, except when instructed to do so by the election director.
- 13 (c) A person who violates this section is guilty of a felony and is subject to
- 14 imprisonment for not less than 1 year nor more than 5 years.
- 15 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
- 16 October 1, 2003.