

(PRE-FILED)

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By: **The Speaker and Delegates Hixson, Rosenberg, Barkley, Bobo, Boschert, Bozman, Burns, Cane, G. Clagett, V. Clagett, Conroy, Conway, DeBoy, Donoghue, Feldman, Frush, Gilleland, Gutierrez, Haynes, Healey, Heller, Holmes, Howard, Hubbard, Jones, Kach, Kaiser, King, Krysiak, Leopold, Levy, Love, Madaleno, Malone, Mandel, Menes, Montgomery, Niemann, Patterson, Pendergrass, Petzold, Rosenberg, Ross, Stern, Vallario, Vaughn, and Zirkin**

Requested: November 8, 2004

Introduced and read first time: January 12, 2005

Assigned to: Ways and Means

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A BILL ENTITLED

1 AN ACT concerning

2 **Voters Rights Protection Act of 2005**

3 FOR the purpose of providing that an individual whose identity is challenged at the  
4 polling place may establish the individual's identity by presenting a certain form  
5 of identification; prohibiting a person from willingly or knowingly influencing or  
6 attempting to influence a voter from going to the polls to cast a vote through the  
7 use of certain means or activities; prohibiting a person from willingly or  
8 knowingly engaging in certain conduct which results in or has the intent to  
9 result in the denial or abridgement of the right of certain citizens to vote on  
10 account of race or color; requiring a local board to count the provisional ballots of  
11 certain voters under certain circumstances; providing that an individual whose  
12 right to vote is challenged may establish the individual's identity by presenting  
13 certain forms of identification; establishing a civil penalty for certain violations;  
14 requiring the State Board of Elections to review its policies and procedures  
15 governing the administration of elections for certain purposes and to submit a  
16 report of its findings and recommendations to the Governor and to the General  
17 Assembly by a certain date; and generally relating to the Voter Protection Act of  
18 2005.

19 BY repealing and reenacting, with amendments,  
20 Article - Election Law  
21 Section 9-404, 10-312, and 16-201  
22 Annotated Code of Maryland  
23 (2003 Volume and 2004 Supplement)

24 BY adding to  
25 Article - Election Law

1 Section 16-903 and 16-1002  
2 Annotated Code of Maryland  
3 (2003 Volume and 2004 Supplement)

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

6 **Article - Election Law**

7 9-404.

8 (a) If an individual is eligible under subsection (b) of this section, the  
9 individual shall be issued and may cast a provisional ballot:

10 (1) at a polling place on election day; or

11 (2) at the local board office in the county where the individual resides  
12 after the close of registration and before the closing of the polls on election day.

13 (b) An individual is eligible to cast a provisional ballot if:

14 (1) the individual declares in a written affirmation submitted with the  
15 provisional ballot that the individual is a registered voter in the State and is eligible  
16 to vote in that election; and

17 (2) (i) the individual's name does not appear on the precinct register;

18 (ii) an election official asserts that the individual is not eligible to  
19 vote; or

20 (iii) the individual does not have the necessary identification.

21 (C) A LOCAL BOARD SHALL COUNT THE VOTE CAST BY A VOTER FOR EACH  
22 CANDIDATE OR QUESTION APPLICABLE TO THE PRECINCT IN WHICH THE VOTER IS  
23 DETERMINED TO BE REGISTERED, IF:

24 (1) THE LOCAL BOARD DETERMINES THAT THE VOTER IS ELIGIBLE TO  
25 CAST A PROVISIONAL BALLOT; AND

26 (2) THE PROVISIONAL BALLOT IS CAST AT A LOCATION SPECIFIED IN  
27 SUBSECTION (A) OF THIS SECTION.

28 [(c)] (D) In addition to the individuals who cast provisional ballots under  
29 subsections (a) and (b) of this section, any individual who appears to vote during a  
30 period covered by a court order or other order extending the time for closing the polls  
31 shall cast a provisional ballot. A provisional ballot cast under this subsection shall be  
32 separated and held apart from other provisional ballots cast by those not affected by  
33 the order.

1 10-312.

2 (a) (1) The right of an individual to vote may be challenged at the polls only  
3 on the grounds of identity.

4 (2) AN INDIVIDUAL WHOSE RIGHT TO VOTE IS CHALLENGED AT THE  
5 POLLS MAY ESTABLISH THE INDIVIDUAL'S IDENTITY BY PRESENTING ANY OF THE  
6 FOLLOWING FORMS OF IDENTIFICATION:

7 (I) THE INDIVIDUAL'S VOTER REGISTRATION CARD;

8 (II) THE INDIVIDUAL'S SOCIAL SECURITY CARD;

9 (III) THE INDIVIDUAL'S VALID MARYLAND DRIVER'S LICENSE;

10 (IV) ANY IDENTIFICATION CARD ISSUED TO THE INDIVIDUAL BY A  
11 POLITICAL SUBDIVISION OF THE STATE, THE STATE, THE FEDERAL GOVERNMENT,  
12 OR ANY UNIT OF A POLITICAL SUBDIVISION OF THE STATE, THE STATE, OR THE  
13 FEDERAL GOVERNMENT;

14 (V) ANY EMPLOYEE IDENTIFICATION CARD OF THE INDIVIDUAL  
15 THAT CONTAINS A PHOTOGRAPH OF THE INDIVIDUAL AND IS ISSUED BY THE  
16 EMPLOYER OF THE INDIVIDUAL IN THE ORDINARY COURSE OF THE EMPLOYER'S  
17 BUSINESS; OR

18 (VI) A COPY OF A CURRENT BILL, BANK STATEMENT, GOVERNMENT  
19 CHECK, PAYCHECK, OR OTHER GOVERNMENT DOCUMENT THAT SHOWS THE NAME  
20 AND CURRENT ADDRESS OF THE INDIVIDUAL.

21 (b) A challenge to an individual's right to vote shall be made before the  
22 individual is issued a ballot or a voting authority card.

23 (c) If a challenge is made, the election judge receiving the challenge shall:

24 (1) require the challenger to provide in writing, under penalty of perjury,  
25 the reasons for the challenge;

26 (2) offer the challenged individual the opportunity to:

27 (i) cast a provisional ballot; and

28 (ii) submit an attestation, witnessed by the election judge, of the  
29 individual's identity; and

30 (3) submit the provisional ballot and other materials related to the  
31 challenge to the local board.

32 (d) During the canvass of provisional ballots, the local board shall determine,  
33 based on the information submitted by the challenger and the challenged individual,  
34 whether the challenged individual is:

1 (1) the registered voter he or she claims to be; and

2 (2) otherwise qualified to vote.

3 16-201.

4 (a) A person may not willfully and knowingly:

5 (1) (i) impersonate another person in order to vote or attempt to vote;

6 or

7 (ii) vote or attempt to vote under a false name;

8 (2) vote more than once for a candidate for the same office or for the  
9 same ballot question;

10 (3) vote or attempt to vote more than once in the same election, or vote in  
11 more than one election district or precinct;

12 (4) vote in an election district or precinct without the legal authority to  
13 vote in that election district or precinct; [or]

14 (5) influence or attempt to influence a voter's voting decision through the  
15 use of force, threat, menace, intimidation, bribery, reward, or offer of reward;

16 (6) INFLUENCE OR ATTEMPT TO INFLUENCE A VOTER'S DECISION  
17 WHETHER TO GO TO THE POLLS TO CAST A VOTE THROUGH THE USE OF FORCE,  
18 THREAT, MENACE, INTIMIDATION, BRIBERY, REWARD, OR OFFER OF REWARD; OR

19 (7) ENGAGE IN CONDUCT THAT RESULTS OR HAS THE INTENT TO  
20 RESULT IN THE DENIAL OR ABRIDGEMENT OF THE RIGHT OF ANY CITIZEN OF THE  
21 UNITED STATES TO VOTE ON ACCOUNT OF RACE OR COLOR.

22 (b) A person who violates this section is guilty of a misdemeanor and on  
23 conviction is subject to a fine of not more than \$2,500 or imprisonment for not more  
24 than 5 years or both.

25 (c) A person who violates this section is subject to § 5-106(b) of the Courts  
26 Article.

27 16-903.

28 (A) A PERSON MAY NOT ATTIRE OR EQUIP AN INDIVIDUAL, OR PERMIT AN  
29 INDIVIDUAL TO BE ATTIRED OR EQUIPPED, IN A MANNER WHICH CREATES THE  
30 APPEARANCE THAT THE INDIVIDUAL IS PERFORMING AN OFFICIAL OR  
31 GOVERNMENTAL FUNCTION IN CONNECTION WITH AN ELECTION, INCLUDING:

32 (1) WEARING A PUBLIC OR PRIVATE LAW ENFORCEMENT OR SECURITY  
33 GUARD UNIFORM;

34 (2) USING AN ARMBAND; OR

1 (3) EXCEPT AS REQUIRED BY LAW OR BY REGULATION ADOPTED BY THE  
2 STATE BOARD IN CONNECTION WITH BALLOT SECURITY ACTIVITIES, CARRYING OR  
3 DISPLAYING A GUN OR BADGE WITHIN 100 FEET OF A POLLING SITE ON ELECTION  
4 DAY.

5 (B) A PERSON WHO VIOLATES THIS SECTION IS SUBJECT TO THE CIVIL  
6 PENALTY SPECIFIED UNDER § 16-1002 OF THIS TITLE.

7 16-1002.

8 A PERSON WHO VIOLATES § 16-201(A)(6) OR (7) OR § 16-903 OF THIS TITLE  
9 WITHOUT KNOWING THAT THE ACT IS ILLEGAL SHALL PAY A CIVIL PENALTY AND  
10 HAVE THE MATTER ADJUDICATED IN ACCORDANCE WITH § 13-604 OF THIS ARTICLE.

11 SECTION 2. AND BE IT FURTHER ENACTED, That:

12 (1) the State Board of Election shall review for effectiveness, clarity, and  
13 completeness its policies and procedures governing the administration of elections,  
14 and verify that its policies and procedures:

15 (i) require the posting of a "Voter Bill of Rights" in each polling site and  
16 in State and local government office locations specified under law where individuals  
17 may register to vote;

18 (ii) impose a clear definition and consistent standard of the purpose, role,  
19 and responsibility of law enforcement officers stationed at polling places;

20 (iii) are effective in the recruitment and training of election judges and  
21 poll workers, particularly with regard to the requirements of the Help America Vote  
22 Act 2002, identification requirements, and provisional ballots;

23 (iv) provide for the deployment of police officers and attorneys to monitor,  
24 investigate, and record incidents of voter intimidation;

25 (v) include a "hotline" for the public to report incidents of voter  
26 intimidation;

27 (vi) require that local boards of elections ensure that each polling place is  
28 open on time and specify what action will be taken if a polling site does not open on  
29 time;

30 (vii) guarantee that any voter removed from the voter registration rolls  
31 due to a change of address or conviction will be provided timely notice in writing;

32 (viii) require that, prior to each election, a list is compiled of previously  
33 registered voters who have been purged from the rolls and that the list is made  
34 available to the public at each polling site;

35 (ix) ensure that an "inactive voter" is afforded the opportunity to cast a  
36 provisional ballot in order to restore the voter's status to that of an eligible voter;

1           (x)       clarify the responsibility of the Motor Vehicle Administration to  
2 process and forward in a timely manner an individual's voter registration application  
3 to the State Board of Elections and delineate what actions will be taken if the  
4 Administration fails to do so; and

5           (xi)       provide that individuals who register at the Motor Vehicle  
6 Administration and who are not on the voter registration list at their polling site may  
7 cast a provisional ballot that will be counted; and

8       (2)       on or before December 1, 2005, submit a report of its findings and  
9 recommendations to the Governor, and, in accordance with § 2-1246 of the State  
10 Government Article, to the General Assembly.

11       SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
12 July 1, 2005.