

SENATE BILL 386

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CF HB 309

By: **Senators Gladden, Conway, Dyson, and Exum**

Introduced and read first time: February 2, 2007

Assigned to: Education, Health, and Environmental Affairs

A BILL ENTITLED

1 AN ACT concerning

2 **Voter's Rights Protection Act of 2007**

3 FOR the purpose of requiring the State Board of Elections to include certain standards
4 in certain guidelines for the administration of provisional ballot voting by local
5 boards of elections; altering the circumstances under which an individual may
6 be offered the opportunity to cast a provisional ballot; requiring certain election
7 officials to provide certain written information to an individual who casts a
8 provisional ballot; requiring the State Board to ensure that the program of
9 instruction for election judges incorporates a thorough and detailed treatment of
10 certain information; requiring a local board to file a petition with the circuit
11 court of the county to extend the hours that a polling place shall be open under
12 certain circumstances; requiring the State Board to produce certain information
13 for posting at the polling place regarding the circumstances under which a voter
14 may be requested or required to present photo identification to an election judge
15 before being allowed to vote; prohibiting an election judge from requiring a voter
16 to present photo identification before voting, except as authorized by State or
17 federal law; requiring a local board to document for further investigation any
18 malfunction of the voting system during the course of an election; specifying
19 that an item of campaign material may not contain certain fraudulent
20 representations or implications; authorizing the Attorney General or a
21 registered voter to institute a court action for certain relief under certain
22 circumstances; and generally relating to voting procedures and requirements
23 under the State election law.

24 BY repealing and reenacting, without amendments,
25 Article – Election Law

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Section 9-402
2 Annotated Code of Maryland
3 (2003 Volume and 2006 Supplement)

4 BY repealing and reenacting, with amendments,
5 Article – Election Law
6 Section 9-403 through 9-405, 10-206, 10-301, 10-306, 10-310, 10-314, and
7 16-201
8 Annotated Code of Maryland
9 (2003 Volume and 2006 Supplement)

10 BY adding to
11 Article – Election Law
12 Section 13-401.1
13 Annotated Code of Maryland
14 (2003 Volume and 2006 Supplement)

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

17 **Article – Election Law**

18 9-402.

19 Each local board shall maintain a full record of provisional ballot voting in the
20 county, including, for each voter who votes using a provisional ballot:

- 21 (1) the action taken with regard to the registration;
22 (2) the appropriate ballot style; and
23 (3) any other information specified by the State Board.

24 9-403.

25 (a) The State Board shall establish guidelines for the administration of
26 provisional ballot voting by the local boards.

27 (b) The guidelines shall provide for:

- 28 (1) the provisional ballot application process;
29 (2) ballot security, including storage of returned ballots;

1 (3) the canvass process;

2 (4) notice of the canvass to candidates, political parties, campaign
3 organizations, news media, and the general public;

4 (5) observers of the process;

5 (6) review of ballots and envelopes submitted for compliance with the
6 law and for machine tabulation acceptability;

7 (7) standards for disallowance of ballots during the canvass **AND FOR**
8 **NOTICE TO ANY VOTER AS TO THE DISPOSITION OF THAT VOTER'S BALLOT;**

9 (8) storage and retention of ballots following canvass and certification;
10 and

11 (9) the free access system required under § 11-303(f) of this article.

12 (c) The State Board shall:

13 (1) in consultation with the local boards, assess the guidelines before
14 each primary election; and

15 (2) revise the guidelines if indicated.

16 9-404.

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

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

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

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

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

- 1 (2) (i) the individual's name does not appear on the precinct
2 register;
- 3 (ii) an election official asserts that the individual is not eligible
4 to vote; or
- 5 (iii) the individual does not have the necessary identification.

6 (c) **(1)** In addition to the individuals who cast provisional ballots under
7 subsections (a) and (b) of this section, **A PROVISIONAL BALLOT:**

8 **(I)** **SHALL BE CAST BY** any individual who appears to vote
9 during a period covered by a court order or other order extending the time for closing
10 the polls [shall cast a provisional ballot]; **AND**

11 **(II)** **SHALL BE OFFERED TO ANY INDIVIDUAL WHO, WHILE**
12 **ATTEMPTING TO CAST A REGULAR BALLOT, EXPERIENCES A PROBLEM WITH THE**
13 **ELECTRONIC VOTING SYSTEM THAT CAUSES AN ATYPICAL DELAY IN RECORDING**
14 **THE INDIVIDUAL'S BALLOT OR THAT RESULTS IN THE LOSS OF THE**
15 **INDIVIDUAL'S BALLOT, PROVIDED THAT ANY REGULAR BALLOT DISTRIBUTED**
16 **TO THE INDIVIDUAL IS VOIDED.**

17 **(2)** A provisional ballot cast under **PARAGRAPH (1)(I) OF** this
18 subsection shall be separated and held apart from other provisional ballots cast by
19 those not affected by the order.

20 9-405.

21 Before an individual casts a provisional ballot:

22 (1) the individual shall complete and sign the provisional ballot
23 application prescribed by the State Board; and

24 (2) the election official issuing the ballot shall give the individual
25 written information:

26 **(I)** advising the individual that, and describing how, the
27 individual will be able to ascertain whether the vote was counted and, if it was not
28 counted, the reason it was not; **AND**

1 **(II) INFORMING THE INDIVIDUAL THAT, FOR THE NEXT**
2 **ELECTION, THE LOCAL BOARD WILL PROVIDE NOTICE TO THE INDIVIDUAL AT**
3 **LEAST 3 WEEKS BEFORE THE CLOSE OF VOTER REGISTRATION BEFORE THAT**
4 **ELECTION TO ADVISE THE INDIVIDUAL WHETHER SPECIFIC ACTION MUST BE**
5 **TAKEN IN ORDER FOR THE INDIVIDUAL TO BE ELIGIBLE TO CAST A REGULAR**
6 **BALLOT AT THAT ELECTION, AND IF SO, DESCRIBE THE ACTION THAT MUST BE**
7 **TAKEN.**

8 10-206.

9 (a) In consultation with the local boards, the State Board shall:

10 (1) develop a program of instruction of election judges; [and]

11 **(2) ENSURE THAT THE PROGRAM OF INSTRUCTION**
12 **INCORPORATES A THOROUGH AND DETAILED TREATMENT OF THE DUTIES AND**
13 **LIMITATIONS OF ELECTION JUDGES UNDER STATE AND FEDERAL ELECTION**
14 **LAW; AND**

15 [(2)] **(3)** oversee the implementation of the program of instruction.

16 (b) The training materials utilized by the program may include:

17 (1) an instruction manual and other written directives;

18 (2) curriculum for training sessions; and

19 (3) audiovisuals.

20 (c) The State Board shall develop a process for the evaluation of the training
21 program and the performance of the polling place staff in each county.

22 (d) To the extent appropriate, the training program shall be specific to each
23 of the voting systems used in polling places in the State.

24 (e) Each local board shall conduct election judge training based on the
25 program developed by the State Board.

26 (f) (1) Except as provided in paragraph (2) of this subsection, each
27 election judge shall participate in the training program provided for in subsection (a)
28 of this section.

1 (2) An election judge who is appointed under emergency circumstances
2 is not required to attend the course of instruction.

3 10-301.

4 (a) [On] **SUBJECT TO SUBSECTION (B) OF THIS SECTION, ON** an election
5 day, a polling place shall be open from 7 a.m. until 8 p.m.

6 **(B) IF FOR ANY REASON THE OPENING OF A POLLING PLACE IS**
7 **DELAYED BEYOND 8 A.M., THE LOCAL BOARD PROMPTLY SHALL FILE A PETITION**
8 **WITH THE CIRCUIT COURT OF THE COUNTY TO EXTEND, FOR AN APPROPRIATE**
9 **PERIOD AS DETERMINED BY THE COURT, THE HOURS THAT THE AFFECTED**
10 **POLLING PLACE SHALL BE OPEN FOR THAT ELECTION.**

11 [(b)] (C) A voter who has appeared at a polling place by the closing hour to
12 cast a ballot shall be allowed to vote.

13 10-306.

14 (a) (1) The State Board, in consultation with the election directors of the
15 local boards, shall specify and produce the following informational materials to be
16 posted in each polling place:

17 (i) a specimen ballot for that precinct;

18 (ii) instructions relating to the availability of assistance to
19 elderly and disabled voters;

20 (iii) information regarding the date of the election and the hours
21 during which the polling places will be open;

22 (iv) instructions on how to vote, including how to cast a vote;

23 (v) instructions for mail-in registrants and first-time voters;

24 (vi) general information on voting rights under applicable
25 federal and State laws, **INCLUDING INFORMATION ON THE CIRCUMSTANCES**
26 **UNDER WHICH A VOTER MAY BE REQUESTED OR REQUIRED TO PRESENT PHOTO**
27 **IDENTIFICATION TO AN ELECTION JUDGE BEFORE BEING ALLOWED TO VOTE,**
28 and instructions on how to contact the appropriate local board if these rights are
29 alleged to have been violated;

- 1 (vii) information regarding provisional voting, including:
- 2 1. information on the right of an individual to cast a
3 provisional ballot;
- 4 2. how to fill out the provisional ballot application and
5 cast the provisional ballot; and
- 6 3. the standards that will be applied in determining
7 whether a provisional ballot will be counted; and

8 (viii) general information on federal and State laws regarding
9 prohibitions on acts of fraud and misrepresentation.

10 (2) A local board may produce other materials appropriate for the
11 polling places in the county.

12 (b) Before the polls open, the election judges for each precinct shall post all
13 information specified under subsection (a) of this section.

14 10–310.

15 (a) For each individual who seeks to vote, an election judge, in accordance
16 with instructions provided by the local board, shall:

17 (1) locate the individual's name in the precinct register and locate the
18 preprinted voting authority card and then authorize the individual to vote a regular
19 ballot;

20 (2) (i) if the individual's name is not found on the precinct register,
21 search the inactive list and if the name is found, authorize the individual to vote a
22 regular ballot; or

23 (ii) if the individual's name is not on the inactive list, refer the
24 individual for provisional ballot voting under § 9–404 of this article;

25 (3) **SUBJECT TO SUBSECTION (B) OF THIS SECTION**, establish the
26 identity of the voter by requesting the voter to state the month and day of the voter's
27 birth and comparing the response to the information listed in the precinct register;

1 (4) (i) except if a voter's personal information has been deemed
2 confidential by the local board, verify the address of the voter's residence; or

3 (ii) conduct an alternative verification as established by the
4 State Board, if the voter's personal information has been deemed confidential by the
5 local board;

6 (5) if any changes to the voting authority card are indicated by a voter,
7 make the appropriate changes in information on the card or other appropriate form;
8 and

9 (6) have the voter sign the voting authority card and either issue the
10 voter a ballot or send the voter to a machine to vote.

11 **(B) AN ELECTION JUDGE MAY REQUIRE A VOTER TO PRESENT**
12 **IDENTIFICATION BEFORE ALLOWING THE VOTER TO CAST A BALLOT ONLY TO**
13 **THE EXTENT AUTHORIZED OR REQUIRED BY STATE OR FEDERAL LAW.**

14 **[(b)] (C)** On the completion of the procedures set forth in subsection (a) of
15 this section, a voter may vote in accordance with the procedures appropriate to the
16 voting system used in the polling place.

17 **[(c)] (D) (1)** Before a voter enters a voting booth, at the request of the
18 voter, an election judge shall:

19 (i) instruct the voter about the operation of the voting system;
20 and

21 (ii) allow the voter an opportunity to operate a model voting
22 device, if appropriate to the voting system in use.

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

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

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

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

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

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

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

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

16 (6) If a voter requires assistance under paragraph (4) or (5) of this
17 subsection, the election judge shall record, on a form prescribed by the State Board,
18 the name of the voter who required assistance and the name of the individual
19 providing assistance to the voter.

20 (7) Except as provided in paragraph (3) or (4) of this subsection, an
21 individual over the age of 12 years may not accompany a voter into a voting booth.

22 10-314.

23 (a) (1) The local board shall provide election judges with detailed
24 procedures for the closing of the polls, specific to the voting system used.

25 (2) The procedures shall include directions on:

26 (i) the tabulation, recording, and reporting of votes if these
27 activities are undertaken in the polling place;

28 **(II) THE DOCUMENTATION FOR FURTHER INVESTIGATION**
29 **BY THE LOCAL BOARD OR THE STATE BOARD OF ANY MALFUNCTION OF THE**
30 **VOTING SYSTEM DURING THE COURSE OF THE ELECTION;**

1 [(ii)] (III) the preparation, signing, and sealing of documents
2 and other election materials;

3 [(iii)] (IV) the security of all equipment and materials in the
4 polling place; and

5 [(iv)] (V) the return of equipment and materials to the local
6 board.

7 (b) If election results are produced in the polling place, the election judge
8 shall admit watchers to hear the announced results.

9 (c) A chief judge shall release an election judge from duty after the
10 completion of the election judge's assigned tasks.

11 **13-401.1.**

12 **NO ITEM OF CAMPAIGN MATERIAL SHALL:**

13 (1) **FRAUDULENTLY MISREPRESENT THE POLITICAL PARTY**
14 **AFFILIATION OF ANY CANDIDATE OR FRAUDULENTLY IMPLY THAT ANY**
15 **CANDIDATE HAS BEEN NOMINATED BY ANY POLITICAL PARTY WHEN IN FACT**
16 **THAT CANDIDATE HAS NOT BEEN SO NOMINATED; OR**

17 (2) **FRAUDULENTLY REPRESENT THAT A CANDIDATE IS THE**
18 **INCUMBENT OF THE OFFICE SOUGHT WHEN IN FACT THE CANDIDATE IS NOT**
19 **THE INCUMBENT.**

20 **16-201.**

21
22 (a) A person may not willfully and knowingly:
23 (1) (i) impersonate another person in order to vote or attempt to
24 vote; or
25 (ii) vote or attempt to vote under a false name;
26 (2) vote more than once for a candidate for the same office or for the
27 same ballot question;

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

3 (4) vote in an election district or precinct without the legal authority
4 to vote in that election district or precinct;

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

8 (6) influence or attempt to influence a voter's decision whether to go to
9 the polls to cast a vote through the use of force, fraud, threat, menace, intimidation,
10 bribery, reward, or offer of reward; [or]

11 (7) engage in conduct that results or has the intent to result in the
12 denial or abridgement of the right of any citizen of the United States to vote on
13 account of race, color, or disability; **OR**

14 **(8) WHILE ACTING AS A CHALLENGER OR WATCHER AT THE**
15 **POLLING PLACE:**

16 **(I) MAKE A CHALLENGE INDISCRIMINATELY AND WITHOUT**
17 **GOOD CAUSE;**

18 **(II) INTERFERE WITH OR UNDULY DELAY THE WORK OF AN**
19 **ELECTION JUDGE; OR**

20 **(III) MAKE A CHALLENGE OF A QUALIFIED VOTER FOR THE**
21 **PURPOSE OF ANNOYANCE OR DELAY.**

22 **(B) (1) WHENEVER A PERSON HAS ENGAGED OR THERE IS**
23 **REASONABLE GROUNDS TO BELIEVE THAT A PERSON IS ABOUT TO ENGAGE IN**
24 **AN ACT OR PRACTICE PROHIBITED BY SUBSECTION (A) OF THIS SECTION, THE**
25 **ATTORNEY GENERAL OR ANY REGISTERED VOTER MAY INSTITUTE AN ACTION**
26 **IN A CIRCUIT COURT OF THE STATE FOR PREVENTIVE RELIEF, INCLUDING AN**
27 **APPLICATION FOR A TEMPORARY OR PERMANENT INJUNCTION, RESTRAINING**
28 **ORDER, OR OTHER ORDER.**

29 **(2) THE CIRCUIT COURT SHALL HEAR AND DETERMINE THE**
30 **MATTER IMMEDIATELY ON FILING OF THE APPLICATION.**

1 **(3) THE GRANT OF A REMEDY BY THE CIRCUIT COURT UNDER**
2 **THIS SUBSECTION DOES NOT PRECLUDE ANY OTHER REMEDY AVAILABLE TO A**
3 **PERSON UNDER STATE OR FEDERAL LAW.**

4 **(4) THE CIRCUIT COURT SHALL:**

5 **(I) HAVE JURISDICTION OF ANY PROCEEDING INSTITUTED**
6 **IN ACCORDANCE WITH THIS SUBSECTION; AND**

7 **(II) EXERCISE ITS JURISDICTION WITHOUT REGARD TO**
8 **WHETHER A PERSON ASSERTING A RIGHT UNDER THIS SUBSECTION HAS**
9 **EXHAUSTED ANY ADMINISTRATIVE OR OTHER REMEDY AVAILABLE TO THAT**
10 **PERSON UNDER LAW.**

11 **[(b)] (C)** Except as provided in § 16–1002 of this title, a person who violates
12 this section is guilty of a misdemeanor and on conviction is subject to a fine of not
13 more than \$2,500 or imprisonment for not more than 5 years or both.

14 **[(c)] (D)** A person who violates this section is subject to § 5–106(b) of the
15 Courts Article.

16 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
17 October 1, 2007.