

SENATE BILL 54

G1
SB 386/07 – EHE

8lr0597
CF 8lr0594

By: **Senators Gladden, Conway, Dyson, and Exum**
Introduced and read first time: January 11, 2008
Assigned to: Education, Health, and Environmental Affairs

A BILL ENTITLED

1 AN ACT concerning

Voter's Rights Protection Act of 2008

2 FOR the purpose of altering the circumstances under which an individual may be
3 offered the opportunity to cast a provisional ballot; requiring the State Board of
4 Elections to ensure that the program of instruction for election judges
5 incorporates a thorough and detailed treatment of certain information;
6 requiring a local board to extend the hours that a polling place shall be open
7 under certain circumstances; prohibiting a vacancy in polling place staff from
8 delaying the opening of the polling place; prohibiting an election judge from
9 requiring a voter to present photo identification before voting, except as
10 authorized by State or federal law; requiring certain election judges to
11 document for further investigation any malfunction of the voting system and
12 other issues that arise during the course of an election; regulating the activities
13 of challengers or watchers at the polling place; prohibiting certain persons from
14 distributing, disseminating, or publishing, or being responsible for such
15 activities, with respect to any item of campaign material that contains certain
16 fraudulent representations or implications; authorizing the Attorney General or
17 a registered voter to institute a court action for certain relief under certain
18 circumstances; making technical changes; and generally relating to voting
19 procedures and requirements under the State election law.
20

21 BY repealing and reenacting, with amendments,
22 Article – Election Law
23 Section 9–404, 10–206, 10–301, 10–305, 10–310, 10–311, and 16–201
24 Annotated Code of Maryland
25 (2003 Volume and 2007 Supplement)

26 BY adding to
27 Article – Election Law
28 Section 13–401.1
29 Annotated Code of Maryland

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter deleted from existing law.



1 (2003 Volume and 2007 Supplement)

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

4 **Article – Election Law**

5 9–404.

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

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

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

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

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

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

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

19 (iii) the individual does not have the necessary identification; **OR**

20 **(IV) A CHIEF ELECTION JUDGE DETERMINES THAT THERE IS
21 A PROBLEM OUTSIDE OF THE VOTER'S CONTROL THAT CAUSES THE VOTER TO
22 BE UNABLE TO VOTE A REGULAR BALLOT.**

23 (c) (1) In addition to the individuals who cast provisional ballots under
24 subsections (a) and (b) of this section, any individual who appears to vote during a
25 period covered by a court order or other order extending the time for closing the polls
26 shall cast a provisional ballot.

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

30 10–206.

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

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

(2) ENSURE THAT THE PROGRAM OF INSTRUCTION
ATES A THOROUGH AND DETAILED TREATMENT OF THE DUTIES AND
NS OF ELECTION JUDGES UNDER STATE AND FEDERAL ELECTION

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

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

(1) an instruction manual and other written directives;

(2) curriculum for training sessions; and

(3) audiovisuals.

13 (d) (1) To the extent appropriate, the training program shall be specific to
14 each of the voting systems used in polling places in the State.

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

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

26 10-301.

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

29 (B) IF FOR ANY REASON THE OPENING OF A POLLING PLACE IS
30 DELAYED FOR MORE THAN 1 HOUR, THE LOCAL BOARD SHALL:

1 **(1) REQUIRE THE ELECTION JUDGES IN THAT POLLING PLACE TO**
2 **KEEP THE POLLING PLACE OPEN FOR AN ADDITIONAL PERIOD OF TIME EQUAL**
3 **TO THE PERIOD OF THE DELAY, BUT NOT TO EXCEED 2 HOURS;**

4 **(2) PROMPTLY NOTIFY THE STATE ADMINISTRATOR; AND**

5 **(3) CONSISTENT WITH THE INSTRUCTIONS FROM THE STATE**
6 **ADMINISTRATOR, NOTIFY THE PUBLIC OF THE EXTENDED VOTING HOURS.**

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

9 10–305.

10 **(A) A VACANCY IN THE POLLING PLACE STAFF MAY NOT DELAY THE**
11 **OPENING OF THE POLLING PLACE.**

12 [(a)] (B) If there is a vacancy in the polling place staff during voting hours:

13 (1) the local board may fill the vacancy with a substitute election judge
14 who has been recruited and trained; or

15 (2) an election judge who is present at the polling place may fill the
16 position of the absent election judge by appointing a person registered with the same
17 party affiliation as the absent election judge.

18 [(b)] (C) If a substitute election judge is appointed under subsection [(a)]
19 (B) of this section:

20 (1) either the election director, the election director's designee, or the
21 election judge making the substitute appointment shall administer the oath required
22 under § 10–204 of this title; and

23 (2) a chief election judge shall document any change in the polling
24 place staff in the records of the polling place.

25 10–310.

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

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

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

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

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

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

22 [b] (c) On the completion of the procedures set forth in subsection (a) of
23 this section, a voter may vote in accordance with the procedures appropriate to the
24 voting system used in the polling place.

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

27 (i) instruct the voter about the operation of the voting system;
28 and

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

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

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

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

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

26 (E) CONSISTENT WITH INSTRUCTIONS PROVIDED IN THE MANUAL FOR
27 ELECTION JUDGES, DURING THE COURSE OF THE ELECTION THE CHIEF
28 ELECTION JUDGES SHALL KEEP A LOG OF ISSUES THAT ARISE IN THE POLLING
29 PLACE, INCLUDING:

(1) ANY ALLEGED MALFUNCTION OF THE VOTING EQUIPMENT;

31 (2) ISSUES THAT MAY REQUIRE FURTHER INVESTIGATION; AND

32 (3) ISSUES REGARDING THE CONDUCT OF CHALLENGERS AND
33 WATCHERS.

4 (ii) a local board for any polling place located in the county of
5 the local board;

6 (iii) a candidate;

7 (iv) a political party; and

(v) any other group of voters supporting or opposing a candidate, principle, or proposition on the ballot.

10 (2) A person who appoints a challenger or watcher may remove the
11 challenger or watcher at any time.

12 (b) Except as provided in § 10–303(d)(2) of this subtitle and subsection (d) of
13 this section, a challenger or watcher has the right to:

14 (1) enter the polling place one-half hour before the polls open;

15 (2) enter or be present at the polling place at any time when the polls
16 are open;

17 (3) remain in the polling place until the completion of all tasks
18 associated with the close of the polls under § 10–314 of this subtitle and the election
19 judges leave the polling place;

20 (4) maintain a list of registered voters who have voted, or individuals
21 who have cast provisional ballots, and take the list outside of the polling place; and

22 (5) enter and leave a polling place for the purpose of taking outside of
23 the polling place information that identifies registered voters who have cast ballots or
24 individuals who have cast provisional ballots.

25 (c) (1) (i) A certificate signed by any party or candidate shall be
26 sufficient evidence of the right of a challenger or watcher to be present in the voting
27 room.

4 (d) (1) A challenger or watcher may not attempt to:

5 (i) ascertain how a voter voted or intends to vote;

6 (ii) converse in the polling place with any voter;

7 (iii) assist any voter in voting; [or]

8 (iv) physically handle an original election document **OR ANY**
9 **VOTING EQUIPMENT;**

10 (v) MAKE A CHALLENGE INDISCRIMINATELY OR WITHOUT
11 GOOD CAUSE;

12 (VI) INTERFERE WITH OR UNDULY DELAY THE WORK OF AN
13 ELECTION JUDGE; OR

16 (2) An election judge may eject a challenger or watcher who violates
17 the prohibitions under paragraph (1) of this subsection.

22 (2) A majority of the election judges may limit the number of
23 nonaccredited challengers and watchers allowed in the polling place at any one time
24 for the purpose of challenging the right of an individual to vote.

25 (3) A nonaccredited challenger or watcher shall leave the polling place
26 as soon as a majority of the election judges decides the right to vote of the individual
27 challenged by the challenger or watcher.

28 (4) In addition to restrictions provided under this subsection, all
29 restrictions on the actions of an accredited challenger or watcher provided under this
30 subtitle apply to a nonaccredited challenger or watcher.

31 13-401.1.

1 **(A) THIS SECTION APPLIES TO CAMPAIGN MATERIAL THAT RELATES TO**
2 **OR DESCRIBES:**

3 **(1) THE TIME, PLACE, OR MANNER OF ANY ELECTION;**

4 **(2) THE QUALIFICATIONS FOR OR RESTRICTIONS ON VOTER**
5 **ELIGIBILITY FOR AN ELECTION;**

6 **(3) THE EXPLICIT ENDORSEMENT BY ANY PERSON OR**
7 **ORGANIZATION OF A CANDIDATE;**

8 **(4) THE POLITICAL PARTY AFFILIATION OF A CANDIDATE OR**
9 **THAT A CANDIDATE HAS BEEN NOMINATED BY A POLITICAL PARTY WHEN IN**
10 **FACT THAT CANDIDATE HAS NOT BEEN NOMINATED BY THAT POLITICAL PARTY;**
11 **OR**

12 **(5) THE HOLDING OF AN OFFICE BY A CANDIDATE.**

13 **(B) A PERSON, POLITICAL COMMITTEE, CAMPAIGN FINANCE ENTITY, OR**
14 **OTHER ORGANIZATION OR ENTITY MAY NOT DISTRIBUTE, DISSEMINATE, OR**
15 **PUBLISH OR CAUSE TO BE DISTRIBUTED, DISSEMINATED, OR PUBLISHED ANY**
16 **ITEM OF CAMPAIGN MATERIAL SUBJECT TO THIS SECTION KNOWING THE**
17 **CAMPAIGN MATERIAL IS FALSE AND WITH THE INTENT TO INFLUENCE A VOTER**
18 **OR TO PREVENT THE VOTER FROM EXERCISING THE RIGHT TO VOTE IN AN**
19 **ELECTION.**

20 16–201.

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

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

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

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

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

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

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

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

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

(8) ENGAGE IN CONDUCT THAT RESULTS OR HAS THE INTENT TO RESULT IN THE DISRUPTION OF POLLING PLACE ACTIVITIES.

(B) (1) WHENEVER A PERSON, POLITICAL COMMITTEE, CAMPAIGN FINANCE ENTITY, OR OTHER ORGANIZATION OR ENTITY HAS ENGAGED OR THERE IS REASONABLE GROUNDS TO BELIEVE THAT A PERSON, POLITICAL COMMITTEE, CAMPAIGN FINANCE ENTITY, OR OTHER ORGANIZATION OR ENTITY IS ABOUT TO ENGAGE IN AN ACT OR PRACTICE PROHIBITED BY SUBSECTION (A) OF THIS SECTION, THE ATTORNEY GENERAL OR ANY REGISTERED VOTER MAY INSTITUTE AN ACTION IN A CIRCUIT COURT OF THE STATE FOR PREVENTIVE RELIEF, INCLUDING AN APPLICATION FOR A TEMPORARY OR PERMANENT INJUNCTION, RESTRAINING ORDER, OR OTHER ORDER.

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

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

(4) THE CIRCUIT COURT SHALL:

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

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

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

1 [(c)] (D) A person who violates this section is subject to § 5-106(b) of the
2 Courts Article.

3 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
4 July 1, 2008.