

# SENATE BILL 984

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By: **Senator Lenett**

Introduced and read first time: February 25, 2009

Assigned to: Rules

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## A BILL ENTITLED

1 AN ACT concerning

2 **Task Force to Study Barriers to Voting Rights for Individuals Under**  
3 **Guardianship**

4 FOR the purpose of establishing a Task Force to Study Barriers to Voting Rights for  
5 Individuals Under Guardianship; establishing the composition of the Task Force;  
6 requiring the members to select the chair of the Task Force; providing for the  
7 staffing of the Task Force; prohibiting a member of the Task Force from  
8 receiving certain compensation; authorizing a member of the Task Force to  
9 receive certain reimbursements; requiring the Task Force to conduct a certain  
10 study and make certain recommendations; requiring the Task Force to report its  
11 findings and recommendations by a certain date; providing for the termination of  
12 this Act; and generally relating to a Task Force to Study Barriers to Voting  
13 Rights for Individuals Under Guardianship.

14 Preamble

15 WHEREAS, Under Article I, Section 4 of the Maryland Constitution, “[t]he  
16 General Assembly by law may regulate or prohibit the right to vote of a person ...  
17 under care or guardianship for mental disability”; and

18 WHEREAS, Section 3–102(b)(2) of the Election Law Article states that a person  
19 is not qualified to be a registered voter if the individual “is under guardianship for a  
20 mental disability”; and

21 WHEREAS, Maryland law further provides that a person may be placed under  
22 guardianship in order to protect those who, because of illness or other disability, are  
23 unable to care for themselves; and

24 WHEREAS, Section 13–101(e) of the Estates and Trusts Article defines a  
25 “disabled person” as an adult who has been judged by a court “to be unable to provide

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 for his daily needs sufficiently to protect his health or safety”, and therefore needs a  
2 guardian of the person; and

3 WHEREAS, A person who is under guardianship in Maryland automatically is  
4 prohibited from voting without a court specifically finding that the person does not  
5 have the capacity to vote; and

6 WHEREAS, In 2001 in *Doe v. Rowe*, 156 F. Supp. 2d 35 (D. Me.), a federal court  
7 struck down Maine’s prohibition on voting by anyone under guardianship by reason of  
8 mental illness and found that the Maine prohibition violated the Equal Protection  
9 Clause of the Constitution of the United States and Title II of the Americans with  
10 Disabilities Act; and

11 WHEREAS, The court also held that failing to give people notice before a  
12 guardianship hearing that they might lose their right to vote violated their due  
13 process rights; and

14 WHEREAS, In 2006, the Governor’s Transition Election Work Group  
15 recommended that “Maryland should modify its existing election law that broadly  
16 denies a specific group of individuals with disabilities the right to vote without a  
17 specific finding that they are not competent to vote”; now, therefore,

18 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
19 MARYLAND, That:

20 (a) There is a Task Force to Study Barriers to Voting Rights for Individuals  
21 Under Guardianship.

22 (b) The Task Force consists of the following members:

23 (1) one member of the Senate of Maryland, appointed by the President  
24 of the Senate;

25 (2) one member of the House of Delegates, appointed by the Speaker of  
26 the House;

27 (3) the State Administrator of Elections, or the Administrator’s  
28 designee;

29 (4) a circuit court judge who presides over guardianship cases,  
30 appointed by the Chief Judge of the Court of Appeals;

31 (5) the Secretary of the Department of Human Resources, or the  
32 Secretary’s designee;

33 (6) the Secretary of the Department of Disabilities, or the Secretary’s  
34 designee;

1 (7) the following members appointed by the Governor:

2 (i) a representative from a local department of social services  
3 that acts as guardian in public guardianship cases;

4 (ii) a representative from the Maryland Disability Law Center;

5 (iii) a representative of a legal services provider who represents  
6 individuals in guardianship proceedings;

7 (iv) a representative who advocates for individuals with  
8 disabilities, which may include a self-advocate or an advocacy organization; and

9 (v) if feasible, one individual who currently is under  
10 guardianship.

11 (c) The Task Force shall select the chair from among the members.

12 (d) The State Board of Elections, the Department of Human Resources, and  
13 the Department of Disabilities shall provide staff for the Task Force.

14 (e) A member of the Task Force:

15 (1) may not receive compensation as a member of the Task Force; but

16 (2) is entitled to reimbursement for expenses under the Standard  
17 State Travel Regulations, as provided in the State budget.

18 (f) The Task Force shall:

19 (1) study whether the Maryland Constitution or the Election Law  
20 Article should be changed to allow persons under guardianship for mental disability to  
21 be qualified to register to vote;

22 (2) if it determines that persons under guardianship for mental  
23 disability should continue to be disqualified to register to vote, express how  
24 determinations should be made and under what standards; and

25 (3) make other findings and recommendations regarding voter  
26 registration and voting by individuals under guardianship for mental disability as the  
27 Task Force deems appropriate.

28 (g) On or before December 31, 2009, the Task Force shall report its findings  
29 and recommendations to the Governor and, in accordance with § 2-1246 of the State  
30 Government Article, the General Assembly.

31 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
32 July 1, 2009. It shall remain effective for a period of 1 year and, at the end of June 30,

1 2010, with no further action required by the General Assembly, this Act shall be  
2 abrogated and of no further force and effect.