

**SB 984**

**Department of Legislative Services**  
Maryland General Assembly  
2009 Session

## FISCAL AND POLICY NOTE

Senate Bill 984 (Senator Lenett)  
Education, Health, and Environmental Affairs

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

This bill establishes a Task Force to Study Barriers to Voting Rights for Individuals Under Guardianship. The task force must (1) study whether the Maryland Constitution or the Election Law Article of the Annotated Code should be changed to allow persons under guardianship for mental disability to be qualified to register to vote and, if not, (2) express how determinations should be made and under what standards, and (3) make other relevant findings and recommendations as deemed appropriate. The State Board of Elections, the Department of Human Resources, and the Department of Disabilities must provide staff for the task force. The task force must report its findings and recommendations to the Governor and the General Assembly by December 31, 2009.

The bill takes effect July 1, 2009 and terminates June 30, 2010.

## Fiscal Summary

**State Effect:** None. The staffing requirement can be handled with existing resources of the State Board of Elections, the Department of Human Resources, and the Department of Disabilities. Any expense reimbursements for task force members are assumed to be minimal and absorbable within existing budgeted resources.

**Local Effect:** None.

### **Small Business Effect: None.**

## Analysis

**Current Law:** The Maryland Constitution authorizes the General Assembly to regulate or prohibit the right to vote of a person under care or guardianship for mental disability. Under the Election Law Article, it is specified that an individual is not qualified to be a registered voter if the individual is under guardianship for mental disability.

The circuit courts in Maryland have exclusive jurisdiction over guardianship and protective proceedings for disabled persons. A disabled person includes a person other than a minor who has been judged by a court to be unable to manage his or her property or unable to provide for the person's daily needs sufficiently to protect his or her health or safety for specified reasons, and as a result requires a guardian.

A guardian is appointed for a disabled person if the court determines: (1) the person is unable to manage the person's property and affairs effectively, for any number of specified reasons, including mental disability, and has or may be entitled to property or benefits that require proper management; or (2) based on clear and convincing evidence, the person lacks sufficient understanding or capacity to make or communicate responsible decisions concerning his or her person because of any mental disability, disease, habitual drunkenness, or drug addiction, and no less restrictive form of intervention is available that is consistent with the person's welfare or safety.

**Background:** The Governor's Transition Election Work Group Report recommended that Maryland modify existing election law that "broadly denies a specific group of individuals with disabilities the right to vote without a specific finding that they are not competent to vote." The report references a 2001 federal court case in which Maine's prohibition on voting by anyone under guardianship by reason of mental illness was struck down and notes that several states, since the decision, made changes to laws barring individuals with disabilities from voting.

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## Additional Information

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Department of Human Resources, Maryland State Board of Elections, Department of Disabilities, Department of Legislative Services

**Fiscal Note History:** First Reader - March 25, 2009  
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