

**SB1078/215862/2**

BY: Committee on Ways and Means

AMENDMENTS TO SENATE BILL 1078

(Third Reading File Bill)

AMENDMENT NO. 1

On page 1, strike line 2 in its entirety and substitute “Election Law – Voting Rights and Procedures”; in line 3, after the first “of” insert “requiring a court to report certain information to the State Board of Elections when the court makes a certain finding that an individual under guardianship for mental disability cannot communicate a desire to participate in the voting process; requiring the State Board of Elections to establish guidelines for a subsequent election absentee ballot list; requiring certain forms for making an application for an absentee ballot to include certain information and require the voter to make a certain acknowledgement; requiring that a voter who receives an absentee ballot be provided the opportunity to request an absentee ballot for the next subsequent election in certain materials accompanying the absentee ballot; requiring that a voter who requests an absentee ballot for the next subsequent election be placed on the subsequent election absentee ballot list; requiring that an absentee ballot be sent to a voter on the subsequent election absentee ballot list for certain elections; requiring that a voter be removed from the subsequent election absentee ballot list under certain circumstances; requiring a voter who requests an absentee ballot for the next subsequent election to notify the local board with certain information under certain circumstances;”; strike beginning with “requiring” in line 5 down through “condition;” in line 7 and substitute “authorizing the State Board to provide an optional online ballot marking tool for the use of certain voters who choose to have an absentee ballot sent by the Internet; requiring an online ballot marking tool to satisfy certain certification requirements; requiring a local board to follow certain procedures during the canvass of votes cast using an online ballot marking tool;”; in line 9, after “ballot;” insert “authorizing the Attorney General to institute an action in a circuit court for injunctive relief to prohibit a person from engaging in or continuing to engage in certain violations of election law; providing that injunctive relief may be granted only to prevent certain”

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violations of election law from affecting a pending election; requiring a circuit court to hear and determine an action for injunctive relief as soon as practicable; providing that the grant of injunctive relief does not preclude any other remedy available under State or federal law; providing that a circuit court shall have jurisdiction over any proceeding for injunctive relief; requiring a circuit court to exercise its jurisdiction without regard to whether a person asserting certain rights has exhausted any other remedy available under law;”; in line 11, after “of” insert “certain provisions of”; in the same line, after “Act;” insert “defining a certain term;”; in the same line, strike “absentee ballots” and substitute “voting rights and procedures”; in line 14, after “1-101(q)” insert “and 16-201”; in line 19, after “Section” insert “3-504(a), 9-303, 9-305,”; in the same line, strike “9-308,”; and after line 21, insert:

“BY adding to

Article – Election Law

Section 9-305.1, 9-308.1, and 16-1003

Annotated Code of Maryland

(2010 Replacement Volume and 2011 Supplement)”.

AMENDMENT NO. 2

On page 2, after line 5, insert:

“3-504.

(a) (1) (i) Information from the agencies specified in this paragraph shall be reported to the State Administrator in a format and at times prescribed by the State Board.

(ii) The Department of Health and Mental Hygiene shall report the names and residence addresses (if known) of all individuals at least 16 years of age reported deceased within the State since the date of the last report.

(iii) The clerk of the circuit court for each county and the administrative clerk for each District Court shall report the names and addresses of all individuals convicted, in the respective court, of a felony since the date of the last report.

(iv) The clerk of the circuit court for each county shall report the former and present names and residence addresses (if known) of all individuals whose names have been changed by decree or order of the court since the date of the last report.

**(V) A COURT SHALL REPORT THE NAME AND RESIDENCE ADDRESS OF AN INDIVIDUAL UNDER GUARDIANSHIP FOR MENTAL DISABILITY IF THE COURT FINDS THAT THE INDIVIDUAL CANNOT COMMUNICATE A DESIRE TO PARTICIPATE IN THE VOTING PROCESS IN ACCORDANCE WITH § 3-102(B) OF THIS TITLE.**

(2) The State Administrator shall make arrangements with the clerk of the United States District Court for the District of Maryland to receive reports of names and addresses, if available, of individuals convicted of a felony in that court.

9-303.

(a) The State Board shall establish guidelines for the administration of absentee voting by the local boards.

(b) The guidelines shall provide for:

(1) the application process;

(2) late application for absentee ballots;

(3) ballot security, including storage of returned ballots;

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(4) determining timeliness of receipt of applications and ballots, including applications and ballots for overseas voters;

(5) the canvass process;

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

(7) observers of the process;

(8) review of voted ballots and envelopes for compliance with the law and for machine tabulation acceptability;

(9) standards for disallowance of ballots during the canvass; [and]

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

AND

(11) THE SUBSEQUENT ELECTION ABSENTEE BALLOT LIST ESTABLISHED UNDER § 9-305.1 OF THIS SUBTITLE.

(c) The State Board shall:

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

(2) revise the guidelines if indicated.

9-305.

(a) An application for an absentee ballot, signed by the voter, may be made:

(1) on a form produced by the local board and supplied to the voter;

(2) on a form provided under federal law; or

(3) in a written request that includes:

(i) the voter's name and residence address; and

(ii) the address to which the ballot is to be mailed, if different from the residence address.

(b) Except for a late application under subsection (c) of this section, an application for an absentee ballot must be received by a local board not later than the Tuesday preceding the election, at the time specified in the guidelines.

(c) (1) Beginning on the Wednesday preceding the election, through the closing of the polls on election day, a registered voter or the voter's duly authorized agent may apply in person for an absentee ballot at the office of the local board.

(2) A special application for an absentee ballot issued under this subsection shall be supplied by the staff of the local board to the voter or the voter's duly authorized agent.

(3) The application shall be made under penalty of perjury but without a formal oath.

(4) After review of the application, the staff shall issue an absentee ballot to the voter or the voter's duly authorized agent.

(D) EACH WRITTEN FORM PRODUCED BY THE LOCAL BOARD AND SUPPLIED TO A VOTER FOR MAKING AN APPLICATION FOR AN ABSENTEE BALLOT SHALL:

(1) INCLUDE INFORMATION CONCERNING:

(I) THE CRITERIA FOR DETERMINING A VOTER'S QUALIFICATIONS TO VOTE AND A VOTER'S ELIGIBILITY TO VOTE IN AN ELECTION; AND

(II) THE PENALTIES REQUIRED UNDER STATE AND FEDERAL LAW FOR REGISTERING TO VOTE OR VOTING IN VIOLATION OF APPLICABLE LAW; AND

(2) REQUIRE THAT THE VOTER REQUESTING THE ABSENTEE BALLOT ACKNOWLEDGE RECEIPT OF THE INFORMATION REQUIRED UNDER ITEM (1) OF THIS SUBSECTION.

9-305.1.

(A) A VOTER WHO RECEIVES AN ABSENTEE BALLOT SHALL BE PROVIDED THE OPPORTUNITY TO REQUEST AN ABSENTEE BALLOT FOR THE NEXT SUBSEQUENT ELECTION IN THE WRITTEN MATERIALS ACCOMPANYING THE ABSENTEE BALLOT.

(B) A VOTER WHO REQUESTS AN ABSENTEE BALLOT FOR THE NEXT SUBSEQUENT ELECTION SHALL BE PLACED ON THE SUBSEQUENT ELECTION ABSENTEE BALLOT LIST.

(C) AN ABSENTEE BALLOT SHALL BE SENT TO EACH VOTER ON THE SUBSEQUENT ELECTION ABSENTEE BALLOT LIST FOR:

(1) THE REGULARLY SCHEDULED PRIMARY AND GENERAL ELECTION IMMEDIATELY FOLLOWING THE REQUEST; AND

(2) ANY INTERVENING SPECIAL ELECTIONS.

(D) A VOTER SHALL BE REMOVED FROM THE SUBSEQUENT ELECTION ABSENTEE BALLOT LIST IF THE VOTER IS REMOVED FROM THE STATEWIDE VOTER REGISTRY IN ACCORDANCE WITH TITLE 3, SUBTITLE 5 OF THIS ARTICLE.

(E) A VOTER WHO REQUESTS AN ABSENTEE BALLOT FOR THE NEXT SUBSEQUENT ELECTION SHALL NOTIFY THE LOCAL BOARD IF THE ABSENTEE BALLOT IS TO BE SENT TO AN ADDRESS THAT IS DIFFERENT THAN THE ADDRESS TO WHICH THE VOTER'S PREVIOUS ABSENTEE BALLOT WAS SENT."

AMENDMENT NO. 3

On page 2, strike beginning with "IF" in line 18 down through "SUBTITLE" in line 23 and substitute "IF REQUESTED BY A VOTER WITH DISABILITIES WHO ACKNOWLEDGES THAT THE ACCESSIBLE BALLOT MARKING TOOL SPECIFIED UNDER § 9-308.1 OF THIS SUBTITLE WILL ASSIST THE VOTER TO VOTE INDEPENDENTLY, THE LOCAL BOARD SHALL SEND THE BALLOT BY THE INTERNET".

On page 3, strike in their entirety lines 9 through 26, inclusive, and substitute:

"9-308.1.

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(A) (1) IN THIS SECTION, "ONLINE BALLOT MARKING TOOL" INCLUDES A SYSTEM THAT ALLOWS A VOTER TO:

(I) ACCESS A BLANK BALLOT THROUGH THE INTERNET;

(II) ELECTRONICALLY MARK THE BALLOT WITH THE VOTER'S SELECTIONS; AND

(III) PRINT A PAPER COPY OF THE MARKED BALLOT FOR MAILING TO A LOCAL BOARD.

(2) "ONLINE BALLOT MARKING TOOL" DOES NOT INCLUDE A SYSTEM THAT ALLOWS A VOTER TO ELECTRONICALLY TRANSMIT A VOTED BALLOT TO A LOCAL BOARD FOR TABULATION.

(B) THE STATE BOARD MAY PROVIDE AN OPTIONAL ONLINE BALLOT MARKING TOOL FOR THE USE OF A VOTER WITH DISABILITIES OR AN ABSENT UNIFORMED SERVICES VOTER OR AN OVERSEAS VOTER, AS THOSE TERMS ARE DEFINED IN THE FEDERAL UNIFORMED AND OVERSEAS CITIZENS ABSENTEE VOTING ACT, WHO CHOOSES TO HAVE AN ABSENTEE BALLOT SENT BY THE INTERNET.

(C) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, AN ONLINE BALLOT MARKING TOOL SHALL SATISFY ALL APPLICABLE CERTIFICATION REQUIREMENTS UNDER § 9-102 OF THIS TITLE.

(2) THE ONLINE BALLOT MARKING TOOL IS NOT REQUIRED TO SATISFY THE REQUIREMENTS OF:



(I) § 9-102(D)(2) OF THIS TITLE UNLESS THE UNITED STATES ELECTION ASSISTANCE COMMISSION DETERMINES THAT ONLINE BALLOT MARKING TOOLS ARE SUBJECT TO CERTIFICATION UNDER FEDERAL LAW; OR

(II) § 9-102(F)(3) AND (H)(1) OF THIS TITLE.

(D) (1) THIS SUBSECTION APPLIES IF AN ONLINE BALLOT MARKING TOOL UTILIZES A BARCODE THAT IS USED TO GENERATE A BALLOT THAT IS ACCEPTABLE FOR MACHINE TABULATION.

(2) A LOCAL BOARD SHALL COMPARE THE VOTE IN EACH CONTEST ON THE BALLOT MARKED BY THE VOTER TO THE VOTE IN EACH CONTEST ON THE BALLOT GENERATED FROM THE BARCODE DURING THE CANVASS.

(3) IF THERE IS A DISCREPANCY IN ANY CONTEST BETWEEN THE VOTE ON THE BALLOT MARKED BY THE VOTER AND THE VOTE ON THE BALLOT GENERATED FROM THE BARCODE, THE VOTE ON THE BALLOT MARKED BY THE VOTER SHALL BE CONSIDERED VALID AND SHALL BE COUNTED.”.

AMENDMENT NO. 4

On page 4, after line 16, insert:

“SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – Election Law

16–201.

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- (a) A person may not willfully and knowingly:
- (1) (i) impersonate another person in order to vote or attempt to vote; or
  - (ii) vote or attempt to vote under a false name;
  - (2) vote more than once for a candidate for the same office or for the same ballot question;
  - (3) vote or attempt to vote more than once in the same election, or vote in more than one election district or precinct;
  - (4) vote in an election district or precinct without the legal authority 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.
- (b) 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.

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

16–1003.

(A) SUBJECT TO SUBSECTION (B) OF THIS SECTION, THE ATTORNEY GENERAL MAY INSTITUTE AN ACTION IN A CIRCUIT COURT OF THE STATE FOR INJUNCTIVE RELIEF IN ACCORDANCE WITH THE MARYLAND RULES TO PROHIBIT A PERSON FROM COMMITTING AN IMMINENT VIOLATION OR CONTINUING TO COMMIT A VIOLATION OF § 16–201 OF THIS TITLE.

(B) INJUNCTIVE RELIEF MAY BE GRANTED UNDER THIS SECTION ONLY TO PREVENT A VIOLATION OF § 16–201 OF THIS TITLE FROM AFFECTING A PENDING ELECTION.

(C) THE CIRCUIT COURT SHALL HEAR AND DETERMINE THE MATTER AS SOON AS PRACTICABLE AFTER FILING OF THE APPLICATION.

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

(E) THE CIRCUIT COURT SHALL:

(1) HAVE JURISDICTION OVER ANY PROCEEDING INSTITUTED IN ACCORDANCE WITH THIS SECTION; AND

(2) EXERCISE ITS JURISDICTION WITHOUT REGARD TO WHETHER A PERSON ASSERTING A RIGHT UNDER THIS SECTION HAS EXHAUSTED ANY

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**ADMINISTRATIVE OR OTHER REMEDY AVAILABLE TO THAT PERSON UNDER  
LAW.**”;

in lines 17 and 22, strike “2.” and “3.”, respectively, and substitute “3.” and “4.”, respectively; and in line 20, after the second “of” insert “Section 1 of”.