

# HOUSE BILL 1331

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CF 8lr2994

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By: **Delegates A. Washington and Kaiser**

Introduced and read first time: February 9, 2018

Assigned to: Ways and Means

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## A BILL ENTITLED

1 AN ACT concerning

2 **Election Law – Cybersecurity**

3 FOR the purpose of requiring the State Administrator of Elections to notify certain persons  
4 within a certain period of time after becoming aware of a security incident involving  
5 an election system; requiring that the notification include certain information;  
6 authorizing the Secretary of Information Technology to require that information  
7 contained in a notification be withheld from the general public if the Secretary makes  
8 a certain determination; requiring an election service provider to take certain actions  
9 within a certain period of time after becoming aware of a security incident involving  
10 an election system; requiring a voter who uses the online absentee ballot application  
11 to request an absentee ballot be sent by any method or who uses any method to  
12 request to receive a blank absentee ballot through the Internet to provide certain  
13 information; requiring the State Board approved absentee ballot application and  
14 online absentee ballot application to require the applicant to check a box  
15 acknowledging a certain statement; requiring a voter who chooses to receive a blank  
16 absentee ballot through the Internet to check a box acknowledging a certain  
17 statement before choosing whether to mark the ballot by hand or use the online ballot  
18 marking tool; requiring each polling place and early voting center to have a paper  
19 copy of the election register available for the use of the election judges if certain  
20 computer devices do not function properly during an election; defining certain terms;  
21 and generally relating to election cybersecurity.

22 BY adding to

23 Article – Election Law

24 Section 2–108

25 Annotated Code of Maryland

26 (2017 Replacement Volume and 2017 Supplement)

27 BY repealing and reenacting, with amendments,

28 Article – Election Law

29 Section 9–305, 9–308.1, and 10–302

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Annotated Code of Maryland  
2 (2017 Replacement Volume and 2017 Supplement)

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

5 **Article – Election Law**

6 **2–108.**

7 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS  
8 INDICATED.

9 (2) “ELECTION SERVICE PROVIDER” MEANS ANY PERSON  
10 PROVIDING, SUPPORTING, OR MAINTAINING AN ELECTION SYSTEM ON BEHALF OF  
11 THE STATE BOARD OR A LOCAL BOARD, INCLUDING A CONTRACTOR OR VENDOR.

12 (3) “ELECTION SYSTEM” MEANS ANY INFORMATION SYSTEM USED  
13 FOR THE MANAGEMENT, SUPPORT, OR ADMINISTRATION OF AN ELECTION,  
14 INCLUDING:

15 (I) THE VOTING SYSTEM;

16 (II) THE ONLINE VOTER REGISTRATION SYSTEM;

17 (III) THE VOTER REGISTRATION DATABASE;

18 (IV) THE ONLINE BALLOT REQUEST, DELIVERY, OR MARKING  
19 SYSTEMS;

20 (V) THE ELECTRONIC POLLBOOKS;

21 (VI) THE SYSTEM FOR TABULATING OR REPORTING ELECTION  
22 RESULTS; AND

23 (VII) THE STATE BOARD OR LOCAL BOARD E–MAIL SYSTEM.

24 (4) “SECURITY INCIDENT” MEANS AN OCCURRENCE THAT:

25 (I) ACTUALLY OR IMMINENTLY JEOPARDIZES, WITHOUT  
26 LAWFUL AUTHORITY, THE INTEGRITY, CONFIDENTIALITY, OR AVAILABILITY OF  
27 INFORMATION OR AN INFORMATION SYSTEM; OR

28 (II) CONSTITUTES A VIOLATION OR AN IMMINENT THREAT OF A

1 VIOLATION OF LAW, SECURITY POLICIES, SECURITY PROCEDURES, OR ACCEPTABLE  
2 USE POLICIES.

3 (B) (1) NOTWITHSTANDING ANY OTHER LAW, IF THE STATE  
4 ADMINISTRATOR HAS REASON TO BELIEVE THAT A SECURITY INCIDENT HAS  
5 OCCURRED INVOLVING AN ELECTION SYSTEM OWNED, OPERATED, OR MAINTAINED  
6 BY THE STATE BOARD OR A LOCAL BOARD, OR AN ELECTION SYSTEM PROVIDED,  
7 SUPPORTED, OR MAINTAINED BY AN ELECTION SERVICE PROVIDER, THE STATE  
8 ADMINISTRATOR SHALL NOTIFY THE FOLLOWING WITHIN 7 DAYS AFTER BECOMING  
9 AWARE OF THE SECURITY INCIDENT:

- 10 (I) THE STATE BOARD;
- 11 (II) THE GOVERNOR;
- 12 (III) THE PRESIDENT OF THE SENATE OF MARYLAND;
- 13 (IV) THE SPEAKER OF THE HOUSE OF DELEGATES;
- 14 (V) THE EDUCATION, HEALTH, AND ENVIRONMENTAL AFFAIRS  
15 COMMITTEE;
- 16 (VI) THE COMMITTEE ON WAYS AND MEANS;
- 17 (VII) THE DEPARTMENT OF INFORMATION TECHNOLOGY; AND
- 18 (VIII) THE OFFICE OF LEGISLATIVE AUDITS IN THE DEPARTMENT  
19 OF LEGISLATIVE SERVICES.

20 (2) A NOTIFICATION UNDER THIS SUBSECTION SHALL:

- 21 (I) PROVIDE THE DATE AND DURATION OF THE SECURITY  
22 INCIDENT;
- 23 (II) DESCRIBE THE SPECIFIC ELECTION SYSTEMS AFFECTED  
24 AND INFORMATION ACCESSED;
- 25 (III) LIST SPECIFIC ACTIONS TAKEN TO RECOVER FROM THE  
26 SECURITY INCIDENT AND PREVENT SIMILAR FUTURE SECURITY INCIDENTS; AND
- 27 (IV) BE UPDATED CONTINUOUSLY AS NEW INFORMATION  
28 BECOMES AVAILABLE.

1           **(3) NOTWITHSTANDING ANY OTHER LAW, THE SECRETARY OF**  
2 **INFORMATION TECHNOLOGY MAY REQUIRE THAT THE INFORMATION CONTAINED IN**  
3 **A NOTIFICATION PROVIDED UNDER THIS SUBSECTION BE WITHHELD FROM THE**  
4 **GENERAL PUBLIC IF THE SECRETARY DETERMINES THAT THE PUBLIC INTEREST IS**  
5 **SERVED BY WITHHOLDING THE INFORMATION.**

6           **(C) IF AN ELECTION SERVICE PROVIDER HAS REASON TO BELIEVE THAT A**  
7 **SECURITY INCIDENT HAS OCCURRED INVOLVING AN ELECTION SYSTEM PROVIDED,**  
8 **SUPPORTED, OR MAINTAINED BY THE ELECTION SERVICE PROVIDER, THE ELECTION**  
9 **SERVICE PROVIDER SHALL:**

10           **(1) NOTIFY THE STATE ADMINISTRATOR WITHIN 7 DAYS AFTER**  
11 **BECOMING AWARE OF THE SECURITY INCIDENT; AND**

12           **(2) COOPERATE WITH THE STATE ADMINISTRATOR IN PROVIDING**  
13 **THE NOTIFICATION REQUIRED UNDER SUBSECTION (B) OF THIS SECTION.**

14 9-305.

15           (a) A voter may request an absentee ballot by completing and submitting:

16                   (1) the State Board approved absentee ballot application;

17                   (2) a form provided under federal law;

18                   (3) **SUBJECT TO SUBSECTION (B) OF THIS SECTION,** a written request  
19 that includes:

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

21                           (ii) the address to which the ballot is to be mailed, if different from  
22 the residence address; or

23                   (4) [as specified in subsection (c) of this section,] the accessible online  
24 absentee ballot application provided by the State Board.

25           **(B) A VOTER WHO USES THE ONLINE ABSENTEE BALLOT APPLICATION TO**  
26 **REQUEST THAT AN ABSENTEE BALLOT BE SENT BY ANY METHOD OR WHO USES ANY**  
27 **METHOD TO REQUEST TO RECEIVE A BLANK ABSENTEE BALLOT THROUGH THE**  
28 **INTERNET SHALL PROVIDE THE FOLLOWING INFORMATION:**

29                   **(1) A MARYLAND DRIVER'S LICENSE NUMBER OR MARYLAND**  
30 **IDENTIFICATION CARD NUMBER, THE LAST FOUR DIGITS OF THE APPLICANT'S**  
31 **SOCIAL SECURITY NUMBER, AND ANY OTHER INFORMATION IDENTIFIED BY THE**  
32 **STATE BOARD THAT IS NOT GENERALLY AVAILABLE TO THE PUBLIC BUT IS READILY**

1 AVAILABLE TO THE APPLICANT; OR

2 (2) IF THE APPLICANT IS AN ABSENT UNIFORMED SERVICES VOTER  
3 OR OVERSEAS VOTER AS DEFINED IN THE FEDERAL UNIFORMED AND OVERSEAS  
4 CITIZENS ABSENTEE VOTING ACT OR A VOTER WITH A DISABILITY AND DOES NOT  
5 HAVE A MARYLAND DRIVER'S LICENSE OR MARYLAND IDENTIFICATION CARD, A  
6 SOCIAL SECURITY NUMBER.

7 (C) THE STATE BOARD APPROVED ABSENTEE BALLOT APPLICATION AND  
8 THE ONLINE ABSENTEE BALLOT APPLICATION SHALL REQUIRE THE APPLICANT TO  
9 CHECK A BOX ACKNOWLEDGING THE FOLLOWING STATEMENT:

10 "I UNDERSTAND THAT IF I REQUEST TO RECEIVE AN ABSENTEE BALLOT  
11 ONLINE OR BY FAX, THE BALLOT I PRINT AND RETURN BY MAIL WILL NOT BE THE  
12 SAME BALLOT THAT IS COUNTED. THE BALLOT THAT I PRINT AND RETURN WILL BE  
13 DUPLICATED BY ELECTION OFFICIALS ONTO AN OFFICIAL BALLOT THAT IS MACHINE  
14 READABLE. IF I WANT AN OFFICIAL BALLOT THAT WILL NOT NEED TO BE  
15 DUPLICATED, I MAY REQUEST TO RECEIVE AN ABSENTEE BALLOT BY MAIL."

16 [(b)] (D) An application for an absentee ballot must be received by a local board:

17 (1) if the voter requests the absentee ballot be sent by mail or facsimile  
18 transmission, not later than the Tuesday preceding the election, at the time specified in the  
19 guidelines;

20 (2) if the voter requests the absentee ballot be sent by the Internet, not  
21 later than the Friday preceding the election, at the time specified in the guidelines; or

22 (3) if the voter or the voter's duly authorized agent applies for an absentee  
23 ballot in person at the local board office, not later than the closing of the polls on election  
24 day.

25 [(c)] The online absentee ballot application provided by the State Board shall  
26 require the applicant to provide:

27 (1) a Maryland driver's license number or Maryland identification card  
28 number, the last four digits of the applicant's Social Security number, and other  
29 information identified by the State Board that is not generally available to the public but  
30 is readily available to the applicant; or

31 (2) if the applicant is an absent uniformed services voter or overseas voter  
32 as defined in the federal Uniformed and Overseas Citizens Absentee Voting Act and does  
33 not have a Maryland driver's license or Maryland identification card, a Social Security  
34 number.]

1 9–308.1.

2 (a) In this section:

3 (1) “online ballot marking tool” includes a system that allows a voter to:

4 (i) access a blank ballot through the Internet;

5 (ii) electronically mark the ballot with the voter’s selections; and

6 (iii) print a paper copy of the marked ballot for mailing to a local  
7 board; and

8 (2) “online ballot marking tool” does not include a system that is capable of  
9 storing, tabulating, or transmitting votes or voted ballots by electronic or electromagnetic  
10 means through the Internet.

11 (b) The State Board may provide an accessible optional online ballot marking tool  
12 for use by a voter who requested to have the absentee ballot sent by the Internet.

13 (c) (1) Except as provided in paragraph (2) of this subsection, the State Board  
14 shall certify that an online ballot marking tool satisfies all of the certification requirements  
15 under § 9–102(d) of this title before approving an online ballot marking tool for use by  
16 voters.

17 (2) An online ballot marking tool is not required to satisfy the requirements  
18 of:

19 (i) § 9–102(d)(2) of this title if the U.S. Election Assistance  
20 Commission has not approved specific performance and test standards for online ballot  
21 marking tools; or

22 (ii) § 9–102(d)(1)(iii) of this title.

23 **(D) A VOTER WHO CHOOSES TO RECEIVE A BLANK ABSENTEE BALLOT**  
24 **THROUGH THE INTERNET SHALL BE REQUIRED TO CHECK A BOX ACKNOWLEDGING**  
25 **THE FOLLOWING STATEMENT BEFORE CHOOSING WHETHER TO MARK THE BALLOT**  
26 **BY HAND OR USE THE ONLINE BALLOT MARKING TOOL:**

27 **“I UNDERSTAND THAT IF I CHOOSE TO MARK MY BALLOT ON MY COMPUTER**  
28 **USING THE INTERNET, IT IS POSSIBLE THAT MY CHOICES COULD BE VIEWED BY**  
29 **OTHERS WITHOUT MY KNOWLEDGE. IF I WANT TO BE CERTAIN TO KEEP MY CHOICES**  
30 **SECRET, I MAY PRINT OUT MY BALLOT AND MARK IT BY HAND.”**

31 **[(d)] (E)** (1) This subsection applies if an online ballot marking tool utilizes a  
32 bar code that is used to generate a ballot that is acceptable for machine tabulation.

1           (2) A local board shall compare the vote in each contest on the ballot  
2 marked by the voter to the vote in each contest on the ballot generated from the bar code  
3 during the canvass.

4           (3) If there is a discrepancy in any contest between the vote on the ballot  
5 marked by the voter and the vote on the ballot generated from the bar code, the vote on the  
6 ballot marked by the voter shall be considered valid and shall be counted.

7 10-302.

8           (a) In a timely manner for each election, the local board shall provide for the  
9 delivery to each polling place the supplies, records, and equipment necessary for the  
10 conduct of the election.

11           (b) Each polling place shall be equipped with a computer device that contains a  
12 record of all registered voters in the county and that is capable of being networked to other  
13 polling place computer devices.

14           **(C) EACH POLLING PLACE AND EARLY VOTING CENTER SHALL HAVE A**  
15 **PAPER COPY OF THE ELECTION REGISTER AVAILABLE FOR THE USE OF THE**  
16 **ELECTION JUDGES IF THE COMPUTER DEVICES REQUIRED UNDER SUBSECTION (B)**  
17 **OF THIS SECTION DO NOT FUNCTION PROPERLY DURING AN ELECTION.**

18           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July  
19 1, 2018.